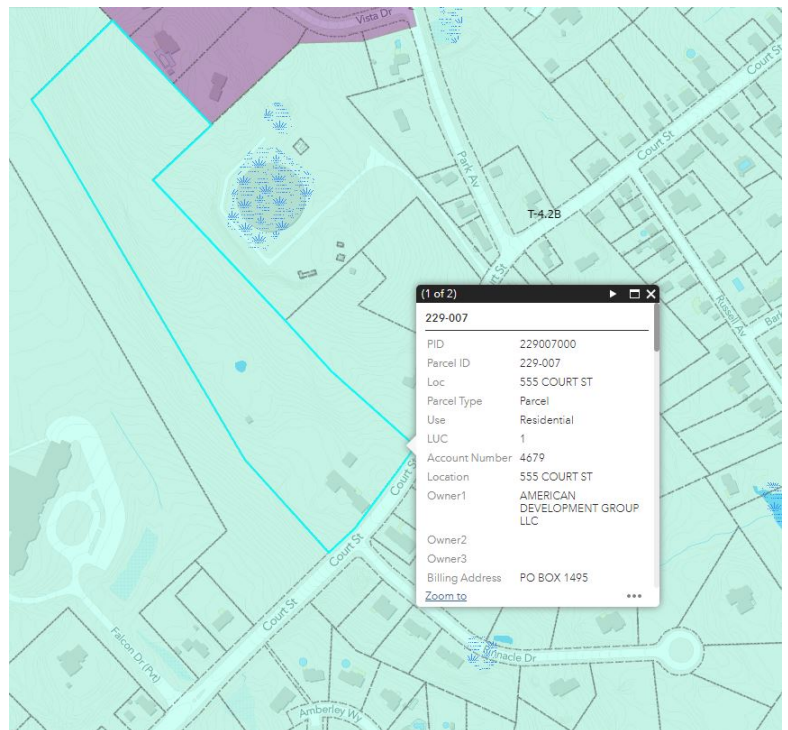


To: Auburn Planning Board  
 From: Eric J. Cousens, Director Planning & Permitting  
 Re: Phase 2 Stable Ridge, 60-Unit Multifamily Project at 555 Court Street  
 Date: March 14, 2023

**I. PROPOSAL:** The parcel is in Formed Based Code T-4.2B Zoning District and is shown on the city GIS system as (Parcel ID 229-007) with an address of 555 Court Street.

The property is currently owned by American Development Group (ADG) and, by survey, currently contains 13.25+/- acres on one single lot. The existing lot has about 400' of frontage on Court Street. The parcel is shown on the survey prepared by Survey Works Inc. and presented by Stoney Brook Consultants. Since there is one parcel and this is a division of a new structure, subdivision approvals will not be required. See attached Staff Report from 2/14/23 Public Hearing for additional project details.



On February 14, 2023, the Planning Board reviewed the project, held a public hearing and deliberated on the project. The deliberations concluded that night with a motion to approve the project subject to the findings and conditions suggested in the Staff report (attached). The Board voted on the motion and it failed to pass with 3 in favor and 4 opposed. This vote did not include findings and did not constitute a final as action as required pursuant to Zoning Ordinance Section 60-1304 below:

**Sec. 60-1304. Same—Public hearing; findings.**

The planning board shall, within 30 days of receipt of a completed application, hold a public hearing. Notice of a hearing shall be given in the manner provided for in division 3 of article XVII of this chapter. The planning board will take final action on the site plan within 60 days of receiving a completed application, or within such other time limit as may be mutually agreed to. Such final action shall consist of either:

- (1) A finding and determination that the proposed project will constitute a suitable development and will not result in a detriment to the neighborhood or the environment; **or**
- (2) A written denial of the application stating the reasons for such denial, upon a finding that:

- a. The provisions for vehicular loading, unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will create hazards to safety.
- b. The bulk, location or operation of proposed buildings and structures will be detrimental to and adversely affect the use and values of existing development in the neighborhood or the health or safety of persons residing or working therein.
- c. The provisions for on-site landscaping are inadequate to screen neighboring properties from unsightly features of the development.
- d. The site plan does not adequately provide for the soil and drainage problems which the development may give rise to in accordance with section 60-1301(14).
- e. The provisions for exterior lighting create safety hazards for motorists traveling on adjacent streets, or are inadequate for the safety or occupants or users of the site, or will create a nuisance affecting adjacent properties.
- f. The proposed development will unduly burden off-site sewer drainage or water systems.
- g. The proposed development will create a fire hazard by failing to provide adequate access to the site, or to buildings on the site, for emergency vehicles.
- h. The proposed development violates provisions of the zoning regulations applicable to the site or other applicable laws, regulations or ordinances.
- i. The proposed development will unduly impact the ability to provide municipal services.

To complete action on the project as required by the Ordinance, the Board must either vote to approve the project subject to the requirements of Section 60-1304(1) or deny the project subject to the requirements of Section 60-1304(2). Either way, the Board must adopt findings that support its decision in accordance with the Ordinance.

As a process to move forward, Staff suggests that Board members who voted in opposition to the motion to approve the project explain the concern/question/issue that lead to their “no” vote on February 14, 2023. As the meeting minutes indicate, it was evident that one or more Board members were missing or unable to locate traffic tables describing the trip generation distinctions between Phase 1 and Phase 2 of the Stable Ridge Development. That report was available online and was included in at least most Planning Board member packets, but to correct the apparent omission for at least some members, we are providing the report again to all Board members. The complete report, including the Phase 1 and Phase 2 breakdown of Traffic tables, are attached in the Traffic Impact Study from William Bray, PE at B&L dated November 1, 2022; the tables are located on page 3 of the Traffic Impact Study. There may have also been remaining questions regarding the traffic mitigation required by the increase in traffic of new residents to the City that would occupy the proposed dwellings. The Traffic Impact Study explains the mitigation required, in the opinion of the licensed Professional Traffic Engineer, to support the project in the report. To evaluate the project, it is necessary to know that the traffic improvement plan provided in the presentation incorporates the project driven traffic needs and elements that the City desires to mitigate existing traffic concerns and to improve the pedestrian experience in the Court Street Corridor. If there are remaining questions related to the project, Staff and the Applicant will be available to answer them at the meeting.

**Excerpt from February 14, 2023 Planning Board Meeting Minutes**

*2/14/23 Planning Motion by Paul Jacques, 2<sup>nd</sup> by Darren Finnegan to approve the Site Plan for the 60-unit multifamily housing project consisting of building 5-16,000 square feet buildings with 90 parking spaces, which meets the requirements of Sec. 60-1277, and further that the application meets the requirements of Site Plan Ordinance, Sec. 60-45, Sec.60.549 and Sec. 60-554 Multi-Family-Permitted Uses Under Division 14, T-4.2B of the Formed Based Code. Auburn’s Municipal Site Plan and Special Exception Review sets forth a process for determining whether a development*

*meets certain specified criteria, which include criteria regarding stormwater management, sewage disposal, water supply and vehicular access and other environmental effects, layout, scale, appearance, and safety, with the following:*

*Findings:*

*The Board finds that the development has made provisions for:*

- (1) Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust, and vibration; and preservation of light and air;*
- (2) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;*
- (3) Adequacy of the methods of disposal for wastes; and*
- (4) Protection of environment features on the site and in adjacent areas.*

*The Board further finds that the conditions prerequisite to the granting of a special exception have been met and the applicant has provided the required evidence needed to find that:*

- (1) That the special exception sought fulfills the specific requirements set forth in the zoning ordinance relative to such exception.*
- (2) That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard, or any other safety hazard.*
- (3) That the special exception sought will not block or hamper the master development plan pattern of highway circulation or of planned major public or semipublic land acquisition.*
- (4) That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.*
- (5) That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301(14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.*
- (6) That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the city building code and by the provisions of this chapter.*
- (7) That essential city services which will be required for the project are presently available or can be made available without disrupting the city's master development plan.*
- (8) Auburn's Municipal Site Plan and Special Exception Review sets forth a process for determining whether a development meets certain specified criteria, which include criteria regarding stormwater management, sewage disposal, water supply and vehicular access and other environmental effects, layout, scale, appearance, and safety to meet the requirements of Maine Revised Statutes Section 4402. 6 referenced above.*

*Conditions:*

- a. No development activity until any bonding or inspection fees is determined by the Auburn Engineering Department.*
- b. The applicant complies with AWSO letter dated January 19, 2023*
- c. In-lieu fee for off-site improvements related to transportation of \$37,809.30 to be paid upon the Certificate of Occupancy for the first constructed building in phase II.*

d. *Sheet #6, Level Lip Spreader on perimeter drain outlets & adjusting CB#4 to uphill side of tip-down*

### **Staff Recommendations to Move Forward**

Staff recommends the following process for taking action on this project:

1. Open Board deliberations up again and ask for Board Members to identify remaining questions or deficiencies.
2. The Board may request that Staff or the Applicant direct the Board to information in the provided application that relates to or addresses the question or deficiency. (Note: If there is extended back and forth between the Board and the Applicant on a question, it may be necessary to reopen the public hearing for the limited purpose of allowing the public to comment on the colloquy back and forth between the Board and the Applicant.)
3. If questions or deficiencies remain, the Board may request that Staff or the Applicant answer questions. (Again, see note above about the possible need to reopen the public hearing if the Board chooses to engage the Applicant during its own deliberations.)
4. Determine if any additional conditions would address any identified deficiencies.
5. Determine if any deficiencies cannot be addressed with conditions or project modifications.
6. Make a motion to approve or deny the application with findings. If the Board does not have a consensus on a group of findings for a motion, then a vote on each individual finding should be taken. The Planning Board made a motion to approve the project at the 2/14/23 meeting (failed by vote of 3 in favor, 4 opposed) that is detailed above. An alternative motion to deny the project is below. The motion to deny the project should be determined by the Board by selecting from the list of review criteria (a)-(i) below (derived from Section 60-1304(2) of the Ordinance) and explaining why the Board finds that the project fails to meet a criterion. The motion does not need to include all of the findings (a)-(i), but it must include at least one of them with an explanation of why the project fails to meet the chosen finding and reference to the specific factual evidence in the record of the Planning Board proceedings that supports the chosen finding. Staff will support the Board and help with this process at the meeting.

### **Proposed Alternative Motion to Deny the Project**

Motion to deny approval of the Site Plan for the 60-unit multifamily housing project consisting of building 5-16,000 square feet buildings with 90 parking spaces the upon a finding pursuant to Section 60-1304(2) of the Ordinance that:

- a. The provisions for vehicular loading, unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will create hazards to safety.
- b. The bulk, location or operation of proposed buildings and structures will be detrimental to and adversely affect the use and values of existing development in the neighborhood or the health or safety of persons residing or working therein.
- c. The provisions for on-site landscaping are inadequate to screen neighboring properties from unsightly features of the development.
- d. The site plan does not adequately provide for the soil and drainage problems which the development may give rise to in accordance with section 60-1301(14).
- e. The provisions for exterior lighting create safety hazards for motorists traveling on adjacent streets, or are inadequate for the safety or occupants or users of the site, or will create a nuisance affecting adjacent properties.
- f. The proposed development will unduly burden off-site sewer drainage or water systems.
- g. The proposed development will create a fire hazard by failing to provide adequate access to the site, or to buildings on the site, for emergency vehicles.

- h. The proposed development violates provisions of the zoning regulations applicable to the site or other applicable laws, regulations or ordinances.
- i. The proposed development will unduly impact the ability to provide municipal services.

(Again, whatever review standard is selected as the basis for a denial of the application must be accompanied by statements of the Board linking the specific facts covered in the findings of fact to the specific legal standard.)