

**TOWN OF COLCHESTER****FINDINGS OF FACT & DECISION**  
**Final Plat, Site Plan, and Conditional Use Applications**  
**FP-26-06 / SP-26-11 / CU-26-05****I. STATEMENTS OF FACT**

1. The Colchester Development Review Board held a public hearing on January 7, 2026 to review the Final Plat, Site Plan, and Conditional Use Applications for a major Planned Unit Development to construct a 20-room Inn (Use 1.550) with associated Restaurant (Use 8.110) and Event Facility (6.150) uses. Existing marina and recreational uses to remain. Proposed project includes the 1) dissolution of the boundary line between 166 and 180 West Lakeshore Drive, and 2) construction of seven (7) buildings served by pedestrian ways, modified circulation, municipal sewer and water, and parking. Proposed project is supported by an off-site building and parking lot located at 135 West Lakeshore Drive approved under Site Plan Application SP-25-23. Subject properties are located in the Lakeshore One (LS1) and Shoreland Districts (SD).
2. Subject properties are located at 166 and 180 West Lakeshore Drive, Account #65-019002-0000000 and #65-020002-0000000.
3. The owner of the subject properties is: Hazelett Strip Casting Corporation.
4. The applicant for the project is: Hazelett Strip Casting Corporation.
5. The consultant for this project is Greenfield Growth LLC.
6. The applicant submitted the following documents for review:
  - a. 6-page Application for Final Plat Review;
  - b. 5-page Application for Site Plan Review;
  - c. 5-page Application for Conditional Use Review;
  - d. 14-page Abutting Property Owners List and Map;
  - e. 2-page Narrative titled, "Project Overview: "The H"" as prepared by Greenfield Growth Consulting with no date;
  - f. 5-page Narrative titled, "Final Plat Review Criteria Narrative: The "H" at Malletts Bay" as prepared by Krebs & Lansing Consulting Engineers dated October 3, 2025;
  - g. 40-page Plan Set titled, "The H At Malletts Bay" inclusive of an 11-page Architectural Plan set prepared by Scott + Partners Architecture with Sheets A1, A2, A3, A4, A5, A6, A7, A8, A9, A10, and A11 earliest dated September 29, 2025, and last revised October 6, 2025, an 9-page Landscape Plan set prepared by T.J. Boyle Associates with Sheets L1.0, L1.1, L1.2, L1.3, L1.4, L2.0, L3.0, and L4.0 dated October 7, 2025 and last revised January 5, 2026, a 1-page Boundary Survey Sheet B-1 prepared by Krebs & Lansing Consulting Engineers dated February 25, 2025 and last revised October 3, 2025, and a 19-page Civil Plan set prepared by Krebs & Lansing Consulting Engineers with Sheets C-1.0, C-1.1, C-2.0, C-2.1, C-2.2, C-3.0, C-3.1, X-1.0, X-1.1, CD-1, CD-2, CD-3, CD-4, CD-5, CD-6,

- CD-7, CD-8, CD-9, and CD-10 earliest dated March 3, 2025 and last revised October 3, 2025;
- h. 2-page Document titled, "Hazelett Inn (The "H") Wastewater Flows Worksheet with no date;
  - i. 1-page Document titled, "The H – Planting Schedule Cost Estimate" prepared by T.J. Boyle Associates dated January 5, 2026;
  - j. 39-page Document inclusive of Stormwater documents (HydroCAD files dated March 3, 2025, Narrative, Location Map and Soils Map, and Vermont Operational Stormwater Permit -Standards Compliance Workbook, and email from Brodie Henke dated October 1, 2025)
  - k. 16-page Memorandum titled, "Re: H Residential and Restaurant Traffic Impact Memorandum" from Jennifer Conley, PE, PTOE of VHB dated January 21, 2025, last revised October 23, 2025;
  - l. 1-page Memorandum titled, "Re; Hazelett Inn – Shared Parking Summary" from Michael J. Buscher of T.J. Boyle Associates dated October 31, 2025;
  - m. 1-page Document titled, "The 'H' At Mallets Bay – Shared Parking Calculations" as prepared by T.J. Boyle Associates dated July 11, 2025;
  - n. 4-page Memorandum titled, "RE: The H Project's Compliance with Town Definition of "Inn"" from Christopher D. Roy, Esq. of Downs Rachlin Martin, PLLC dated October 3, 2025;
7. In reviewing the applications, the following technical review memos were provided to the Development Review Board:
    - a. 36-page memo from Zachary Maia, Development Manager titled, "Staff Notes for the January 7, 2026 Meeting" dated January 2, 2026;
  8. The meeting was held in-person in accordance with Open Meeting Law and was noticed pursuant to the requirements of 24 V.S.A. § 4464. Adjoining property owners were mailed notice of the meeting on December 17, 2025, and a legal warning for the hearing was published in the Seven Days on December 17, 2025.
  9. The subject properties are bound on the north by Lake Champlain, on the west by a marina with boat storage and numerous single-unit dwellings fronting along Shore Acres Drive, on the south by a large vacant parcel containing wetlands and forested areas, and on the east by a large property with radio broadcasting structures, lands including the Colchester High School and Town-owned Bayside Park, a single-unit dwelling on West Lakeshore Drive, a 102-site campground, and an Inn.
  10. The subject property at 180 West Lakeshore Drive previously included a motel and office in close proximity to both West Lakeshore Drive and Lake Champlain. The structures were demolished in September of 2017.
  11. The property at 166 West Lakeshore Drive includes a dock and parking area with lake access.
  12. The property at 135 West Lakeshore Drive includes an industrial manufacturing building with additional supporting infrastructure. Subject properties are located in the Lakeshore One, Two, and Shoreland Districts. While parking and an accessory building were approved under Site Plan Application SP-25-23 at 135 West Lakeshore Drive to

support the properties at 166 and 180 West Lakeshore Drive, no change of use is proposed at 135 West Lakeshore Drive.

13. The proposed project consists of seven (7) buildings. The buildings will be built into the existing slope and will appear as 2-stories at the road. The main building will include a 40-seat Restaurant on the lower level, an event facility on the ground floor, and an accessory fitness/spa area on the upper level. Cottages 1, 2, and 4 will have the same layout, which will consist of 2 studio units on the lower level, 2 studio units on the ground floor, and one 2-bedroom suite on the upper level. Cottage 3 will have an alternate layout consisting of one 1-bedroom unit and one studio unit on the lower level, one 2-bedroom suite on the ground floor, and one 2-bedroom suite on the upper level. Cottage 5 will include a 3-story, 2-bedroom suite. The total project will result in 20 rooms for the Inn use. The bathhouse appears to be an accessory structure to support the existing recreational use of the property.
14. The subject property obtained Preliminary Plat approval on September 3, 2025 for, “a major Planned Unit Development to construct a 20-room Inn (Use 1.550) with associated Restaurant (Use 8.110) and Event Facility (6.150) uses. Existing Marina and recreational uses to remain. Proposed project includes the 1) dissolution of the boundary line between 166 and 180 West Lakeshore Drive, and 2) construction of 7 buildings served by pedestrian ways, modified circulation, municipal sewer and water, and off-site parking...”
15. The property at 135 West Lakeshore Drive obtained Site Plan approval SP-25-23 on September 3, 2025, “to 1) construct a one-story, 1,536 square foot accessory maintenance building and 2) construct a 67-space parking lot. Proposed structures to support existing manufacturing facilities on the subject property and the proposed Inn, Restaurant, and Event Facility off-site. No change of use of the subject property is proposed.”
16. The hearing was opened on January 7, 2026.
17. As of the date of issuance of these Findings of Fact and Decision, the following person(s) participated in the hearings with either verbal or written testimony:
  - a. Benjamin Avery, Greenfield Growth LLC (consultant on behalf of property owner);
  - b. Scott Homsted, PE, Krebs & Lansing Consulting Engineers (consultant on behalf of property owner);
  - c. Rosanne Putnam (76 Ellies Way, Colchester, VT 05446)
  - d. Jeff Lefebvre (1429 East Lakeshore Dr, Colchester, VT 05446)
  - e. Marilyn Sowles (1528 Porters Point Rd, Colchester, VT 05446)
  - f. Nancy Cloutier (431 Church Rd, Colchester, VT 05446)
  - g. Faith Brown (118 Al Shir Rd, Colchester, VT 05446)
  - h. Jeanne Welch (412 Broadlake Rd, Colchester, VT 05446)
  - i. Ralph Costanza (no address provided)
  - j. Jeff Spengler (463 Shore Acres Rd, Colchester, VT 05446)
  - k. Lori Barg (1601 West Lakeshore Dr, Colchester, VT 05446)
  - l. Jack Scully (PO Box 470, Colchester, VT 05446)

- m. Courtney Casserly (no address provided)
  - n. Eric Schulz (176 Buckingham Dr, Colchester, VT 05446)
  - o. Katie Backus (216 Rudgate Rd, Colchester, VT 05446)
  - p. Lucie Paquette (no address provided)
  - q. Marion VillaLibby-Hendrix (no address provided)
  - r. Mary Jane Rossi (no address provided)
  - s. Maureen McNeil (no address provided)
  - t. Thomas & Lynn Coutermarsh (11 West Porters Point Rd, Colchester, VT 05446)
  - u. Tom Berry (76 Old Sawmill Rd, Colchester, VT 05446)
  - v. Doug Ellwood (27 Marsh Ln, Colchester, VT 05446)
  - w. Brian Costello (101 Smith Rd, Colchester, VT 05446)
  - x. Jonathan Carolin (93 Sandy Shore Terr, Colchester, VT 05446)
  - y. Steve Shapiro (426 Broadlake Rd, Colchester, VT 05446)
  - z. Lynn Mansfield (118 Al Shir Rd, Colchester, VT 05446)
  - aa. Bobbi Holzel (194 Shady Ln, Colchester, VT 05446)
18. At the July 23, 2025 hearing, a motion was made by A. MacDonald and seconded by C. Gendron to close the hearing on Final Plat Application FP-26-06, Conditional Use Application CU-26-05, and Site Plan Application SP-26-11. The motion passed with a vote of 5 – 0.
19. The Board utilized deliberative session and issued a vote. A motion was made by E. Fitzgerald and seconded by C. Gendron to approve Final Plat Application FP-26-06, Conditional Use Application CU-26-05, and Site Plan Application SP-26-11 with conditions. Motion passed with a vote of 5 – 0.

## II. BOARD FINDINGS

The Development Review Board finds that the project will not have any undue adverse effects as defined by the criteria listed in the general provisions, zoning district, subdivision, or additional criteria of the Town of Colchester Development Regulations.

### **Article 2: General Provisions**

§ 2.08 Multiple Structures: Multiple (principal) structures on a lot shall be subject to the requirements of Planned Unit Development in Article Nine. The applicant is proposing seven (7) structures and is undergoing Planned Unit Development review. See §9.07.

§ 2.09 Accessory Buildings, Accessory Structures, and Accessory Uses: The proposed project includes the construction of a bath house. The bath house is depicted on the plans and would appear to meet the definition of an Accessory Building. The square footage of the first (ground) floor of the accessory building shall be included in the computation of lot coverage. It was clarified at the preliminary plat review level that the entire accessory bath house structure was included in the calculation of lot coverage. The minimum setback of an accessory building to other buildings or property lines is 10 ft, and this setback appears to have been met. The accessory building does not appear to exceed 50% of the size of any principal building. Detached

accessory structures shall not exceed 25 ft in height, and the structure appears to measure 10 ft per Sheet A10. The accessory building is not located in the front yard.

§ 2.17 Building Code and Building Safety Ordinance: The project will be expected to comply with the applicable provisions in Chapter 4 of the Colchester Code of Ordinances. The pool provided as part of Cottage 5 shall comply with Sec 4-22 through Sec 4-29 of Chapter 4.

§ 2.18 Signs: As part of the Preliminary Plat Decision, it was determined that the Main Building included an “H” design that appeared to meet the definition of “Sign” in Article 12 (see end of the Staff Notes): “...shall include any letter...used or placed as an announcement or declaration to identify, advertise or promote the interest of any person when the same is placed where it may be viewed by the general public from outside the structure on which the sign is placed.” Wall signs shall comply with the standards of §2.18-J. Sign Permits are issued by the Administrative Officer per §11.03-C. Since the preliminary plat decision, the applicant has submitted a revised architectural plan set that no longer includes a golden “H.” The design of the buildings is consistent with the prior submittals, but the colors and materials appear to be cohesive and minimal, such that the design no longer “announces” or “declares” the business name.

#### **Article 4: Zoning District Standards**

§ 4.05 Lakeshore One District (LS1): The purpose of the LS1 District is, “To regulate the use and development of lakefront property primarily for recreation, tourism and entertainment purposes in a manner that:

- (1) Protects and enhances water quality;
- (2) Mitigates flood hazards;
- (3) Preserves and expands public access;
- (4) Maintains and improves views of the lake from public vantage points;
- (5) Maintains and improves views of the shoreline from the lake;
- (6) Is oriented primarily to boater, pedestrian and bicycle traffic and secondarily to vehicular traffic;
- (7) Promotes “greening” of shorelines, lot frontages and parking areas;
- (8) Limits the amount of impervious surface and associated stormwater runoff; and
- (9) Reduces the quantity and improves the quality of stormwater flowing into surface waters.”

The proposed project includes development located in this District. The proposed uses: Inn (Use 1.550) with associated Restaurant (Use 8.110) and Event Facility (6.150) are all subject to Conditional Use review in the LS1 District. A Conditional Use application was submitted with the Final Plat application, and was reviewed as part of this Decision.

§ 4.05-E Area, Density, and Dimensional Requirements: In the Lakeshore One District, all requirements of this §4.05 and Table A-2 shall apply. The applicant has depicted the minimum 15 ft front and 15 ft side yard setbacks of the LS1 District, and the buildings appear to be sited in order to conform to these setbacks. Per Additional Consideration (11) on Table A-2, “In the application of this table for primary building height max in the LS1 and LS2 district, use...1.550...”

shall be considered [a] commercial use.” For commercial buildings, the maximum height of buildings within the LS1 District is 40 ft to the ridge or 35 ft flat. The applicant has provided elevations of each building with calculations of average grade and proposed height. Based on the numbers provided, the maximum height from average pre-construction grade ranges between 28.2 ft and 39.2 ft in height (40 ft maximum for ridge roof). Per §2.06-D, Rooftop apparatus such as chimneys shall be included in the height measurement. All elevations measure height inclusive of rooftop apparatus.

Per §4.05-E(1), a structure encroaching into setbacks, including all applicable overlay districts may be rebuilt in the same footprint within ten years of demolition provided that the demolition is duly permitted. The property previously included a motel and office building with accessory structures. These structures were demolished through a permit process, and a Certificate of Occupancy was issued on September 25, 2017. Per §4.05-E(2), lot coverage may be increased over 40% as listed in Table A-2 in accordance with subsection 4.05F herein. If a project is deemed to comply with subsection 4.06-F lot coverage maximums do not apply. The applicant included Plan Sheet C-1.0, which identifies lot coverage calculations. Lot coverage is proposed to increase from 22.3% at 166 & 180 West Lakeshore Drive to 30.4% (maximum 40%). Front yard coverage is proposed to decrease from 46.8% to 46.7%. Per Table A-2, Additional Consideration (1): “In all districts, total front yard coverage shall not exceed 30%.” It should be noted that the pre-existing front yard coverage appears to be a non-conforming structure and the property owner has certain rights to maintain such structures in accordance with §2.12 and §4.05-E(1). Once demolished, the applicant will need to construct the paved areas within the front setback within ten years of demolition in order to retain rights to the existing front yard coverage percentage. The Board included this as a condition of this Decision.

§ 4.05-F Green Infrastructure Requirements: The proposed project includes the construction or replacement of a principal building, as well as increasing the amount of impervious surface on a lot by 1,000 square feet or more over a 5-year period, and will be expected to utilize the Vermont League of Cities and Towns Green Infrastructure Simplified Sizing Tool for Small Projects to demonstrate that 90% of annual storm events, or the first inch of rainfall from impervious surfaces, are adequately treated on the site and do not overwhelm off-site drainage areas or otherwise cause erosion. The applicant has provided a narrative, along with supporting calculations, that outline the proposed stormwater mitigation measures. The applicant has noted that 1.26 acres of impervious surface will require treatment, and this will be under the jurisdiction of the State of Vermont. Sites that require a State Stormwater Permit will be deemed to have complied with §4.05-F(1) upon issuance. As requested under the Preliminary Plat decision, the proposed stormwater infiltration system (Gravel Wetland) is located at 135 West Lakeshore Drive and has been consistently altered to accommodate the requested easement area for the future multi-use path.

§ 4.05-G Building Placement and Design Standards: Applicants shall submit a site plan and elevation drawings for new or expanded principal buildings to demonstrate that:

- (1) To the maximum extent feasible, buildings are designed to fit into the natural terrain and to minimize any change in grade on the site.
  - The applicant provided Plan Sheet L1.3 which depicts cross-sections of the buildings along the existing slope and depicts cuts and fills. It appears that the buildings are designed to fit within the existing terrain, and some cut and filling appears to be required, but it appears that the general slope is maintained. During the preliminary plat hearings, J. Owens explained that the proposed re-grading is necessary to construct the buildings but aims to fit buildings into the slope and minimize backfilling.
- (2) Buildings are located near the street with at least one entrance readily accessible and connected visually as well as by sidewalk.
  - The applicant is proposing six principal buildings to support the proposed uses, and the elevations beginning on Plan Sheet A1 depict the buildings with at least one entrance readily accessible. The Site Plan on Sheets L1.1 and C-2.0 depicts a central crosswalk across West Lakeshore Drive and an internal sidewalk providing circulation to each building's main entrance. The buildings appear to be in close proximity to West Lakeshore Drive, while complying with the minimum setback of the LS1 District.
- (3) Open space is oriented to the lake to the maximum extent feasible.
  - The applicant has provided Plan Sheets L1.1 and C-2.0, which depict most impervious surfaces located between West Lakeshore Drive and the principal buildings, while most development is outside of the minimum 100 ft setback from the mean water mark.
- (4) Proposed land development is located and designed to provide views of the lake from the street.
  - The applicant has provided elevations from West Lakeshore Drive on Sheets A1 and A3, which depicts the Lake being visible between buildings. The buildings appear to have been designed within the maximum height allowances for commercial buildings in the LS1 District. During the preliminary plat hearings, J. Gasek explained the design of the buildings and how the spacing between them will be open to allow for views of the Lake. The applicants explained that landscaping within these areas will not be planted to obstruct this view. Sheet A3 includes photographs showing the existing condition as viewed from West Lakeshore Drive, which appears to have mature vegetation blocking most of the view.
- (5) The street-facing and lake-facing facades of buildings are comparable in design and appearance, exterior materials and finishes, and amenities.
  - The applicant has provided architectural plans on Sheets A1 through A10, which provide details on the design of each proposed building. The applicant has proposed building materials consistent on both sides, with a mixture of wood, metal, and glass materials. During the preliminary plat hearings, J. Gasek explained the architectural design of the buildings, and the focus on

- providing views of the Lake for guests, while providing for privacy at the street level.
- (6) Exterior wall surfaces facing a public roadway or parking area, or otherwise publicly visible, employ windows that offer views into the building interior to the maximum extent feasible given the intended function of the interior space.
- The applicant has provided windows on the street-side of the structures, but these windows do not appear to provide views into the building interior. During the preliminary plat hearings, J. Gasek explained how the windows will facilitate the guest-room use. The applicant has provided for views into the main building, which include uses that are more public-facing.
- (7) All sides of a structure shall receive design consideration. The front, sides, and rear of buildings shall be attractively designed and articulated to eliminate large spans of blank exterior wall.
- The applicant has provided architectural plans on Sheets A1 through A10, which provide details on the design of each proposed building. The buildings appear to include a mix of materials and do not include large spans of blank exterior wall.
- (8) The mass of large buildings is broken up by incorporating visible changes in wall plane and roof form. Traditional roofline types such as gabled, hipped, and gambrel are strongly encouraged. Type, shape, pitch and direction of roofs should be considered in the design. Flat roofs are discouraged.
- The applicant has provided architectural plans on Sheets A1 through A10, which show the architectural design of each building. The applicant has included changes in materials on the vertical façade and has included awnings to break up the façade. A non-traditional pitched roof has been provided.
- (9) The building facade includes elements such as porches, awnings, windows, outdoor seating, landscaping and/or similar features that will add visual interest and contribute to creating a pedestrian-oriented environment.
- The applicant has provided awnings and windows on the street side of the buildings, decks, windows and outdoor seating on the lake side of the buildings and has provided extensive landscaping throughout the site.
- (10) The building incorporates architectural features and details including but not limited to cornices, columns, corner trim, porticos, display window, awnings, dormers, or porches shall be considered in every building design. Traditional features and details associated with Vermont's architectural heritage are strongly encouraged.
- During the preliminary plat hearings, J. Gasek provided an overview of the building design elements and goals of the project. It was explained that the buildings incorporate porches and awnings and include windows to allow for views of the Lake. The applicant has included a design that utilizes columns and overhangs to create a unified treatment of each building based on the proposed use.

- (11) The building incorporates different exterior textures, colors and materials that add visual interest. The use of traditional building materials such as granite, brick, fieldstone, wooden clapboard, wooden shingles, etc. is strongly encouraged. Alternatively, contemporary materials that simulate traditional materials, and that have the same visual effect, may be utilized. The use of colors traditionally associated with the building style is encouraged.
- The applicant has provided a color elevation Sheet on Sheet A1, which identifies a mixture of wood, wood-like materials, and metal siding, with stone veneer at the foundation level. It appears that the design leans on greys and browns.
- (12) All new vehicle use and parking areas are located to the side of principal buildings. Applicants are strongly encouraged to relocate or remove pre-existing parking areas located between the building and the street to the maximum extent feasible.
- The subject property was previously developed with parking directly between the motel and West Lakeshore Drive. The applicant is proposing to remove most of the existing parking lot and instead allow for temporary loading in front of the cottages and main building. Two garage spaces will be located within Cottage 5. An off-site parking area is proposed across the street at 135 West Lakeshore Drive.
- (13) Any new vehicle or service entrances are located to the side of principal buildings and will be screened as viewed from the lake and the street.
- A garage entrance is proposed with Cottage 5. The overhead doors will be placed parallel to West Lakeshore Drive, on the side of the building, and will be screened from the Lake. The street façade is depicted on Sheet A9, which includes person doors and siding material to blend the façade with the other buildings. Landscaping is depicted between the building and the street.
- (14) Any new trash storage, building equipment, utilities or similar service functions are located to the side of principal buildings and will be screened as viewed from the lake and the street.
- The applicant has not depicted any trash facilities to serve the new uses and previously noted that “trash will be stored internally and/or immediately transferred offsite.” A trash enclosure was reviewed and approved off-site at 135 West Lakeshore Drive. It appears that a trash enclosure is provided within the reconfigured lakeside access area, and this will be expected to comply with §10.06. The applicant has depicted the new utilities on Sheet C-2.0. The utilities will be underground, and the new transformers will be screened by eastern red cedars and a mix of basswood, gray birch, and white cedars.
- (15) All new or expanded storage areas and structures that will not be fully enclosed will be located outside required setbacks. Applicants are strongly encouraged to relocate or remove pre-existing storage areas located between the building and the street to the maximum extent feasible.

- No storage areas are proposed at this time.
- (16) All new or expanded outdoor storage areas will be screened as viewed from the lake and the street with a combination of fencing and landscaping. Boat storage areas should prioritize screening of the base or cradles of boats realizing that the size of boat precludes options for full screening.
- No storage areas are proposed at this time.
- (17) All new or expanded storage structures that are not fully enclosed and have any open sides that face the street or lake will be screened from view with a combination of fencing and landscaping.
- No storage areas are proposed at this time.

### **Article 6: Other District Standards**

§ 6.03 Floodplain District (FP): The purpose of the Floodplain District is, “In accordance with the purposes of 10 V.S.A. Chapter 32 and 24 V.S.A. §4424 to minimize adverse impacts of development upon the sensitive natural areas adjacent to Colchester's various watercourse and waterbodies. It is the purpose of this District to promote the public health, safety and general welfare, to prevent increases in flooding caused by the development of lands in areas of special flood hazard, and to minimize losses due to floods. Only open space uses not involving structures and impervious surfaces are intended for these areas.” The Floodplain District is generally located below the 102 ft elevation on the subject property. No new development appears to be located below the 102 ft elevation on the subject property. A cursory review of the FEMA Flood Map Service Center (Panels 50007C0136D & 50007C0137D dated 7/18/2011) confirms the general location of the Floodplain District.

### **Article 7: Overlay District Standards**

§ 7.03 Shoreland District (SD): The purpose of the SD District is to, “to preserve the natural growth and cover of the shorelines, to preserve water quality, to prevent pollution, to regulate development and appearance of the shorelines, to prevent erosion, to prevent nuisance, and to preserve the property rights of the shoreline property owners. The boundaries of the Shoreland District shall include all lands within 250 feet from the mean watermark of Colchester Pond, and Lake Champlain. This district overlays all other districts along the shoreline.” The properties are located in close proximity to Lake Champlain and will be expected to comply with the standards in this section.

§ 7.03-C Permitted Uses: The applicant is proposing to construct new buildings within the Shoreland District, with some encroachment into the 100 ft setback from the mean water mark of Lake Champlain, which is delineated on the plans. This is permissible under §7.03-C(4) and complies with the setback established under §7.03-E(1). The applicant has revised the plans since the Sketch Plan submittal to remove the network of retaining walls and instead provided a path, which will be reviewed under §7.03-C(8), and a large re-planting plan that will be reviewed under §7.03-F(2).

§ 7.03-D Conditional Uses: Enlargement of structures that increases the degree of encroachment within the 100 feet from the mean water mark shall be subject to Conditional Use Review. Such portion of the structure encroaching shall not exceed 10% of the building as measured from the exterior face of exterior walls excluding appurtenances such as decks, porches, overhangs, and stairs in existence at the time of application within a 10-year period. The applicant outlined on Sheet L1.0 a pre-existing encroachment of 740.5 sf, of which 92.6 sf is in the previously existing buildings, and 649.9 sf is in appurtenances. The pre-existing encroachment is clarified on Sheet X-1.0, and is calculated based on the footprint of the previously existing pool and shed. The allowance under this section states that “such portion of the structure encroaching shall not exceed 10% of the building...” Under Article 12, a building is defined as “a structure designed to be used as a place of occupancy, storage or shelter.” Plan Sheet L1.0 depicts the proposed encroachments within the 100 ft setback, of which Cottage 1 will be 99.12 sf. This appears to be within the allowable 92.6 + 9.26 (10%) increase through Conditional Use. The applicant is proposing to utilize the remaining encroachment of appurtenances for similar appurtenances on Cottages 1, 2, 3, 5 and the Main Building, which is detailed on the Encroachment Summary Table on Sheet L1.0 for a total of 635.87 sf. The Board found that the proposed increase in the degree of encroachment was allowable through the Conditional Use process.

§ 7.03-F(2) Tree Removal: Existing natural shoreline vegetation should be incorporated into the project when reasonably possible. Native plants and wildlife habitat should be considered and preserved to the greatest extent possible. No more than 25% of existing trees, both native and non-native invasive species, one-inch caliper or greater shall be removed along the shoreline for a distance of 100 ft from the mean water mark within a ten-year period. The Development Review Board may permit more than 25% removal of existing trees of one-inch caliper or greater in conjunction with a 1:1 replanting plan if it is determined that the removal of the trees will not have adverse impact on shoreline stability and the character of the area. Removal of more than 25% of existing trees one inch caliper or greater shall require a survey of existing conditions including the size, location, condition and type of vegetation specifically indicating non-native invasive species versus native species. Phasing of tree removal is encouraged, including for non-native invasives, to allow for replanted trees to become established and assist with bank stability. Tree removal and replanting plans must take into account bank stability, stormwater runoff, and erosion control. The replanting plan shall be prepared by a licensed Landscape Architect, Arborist, or Environmental Ecologist and shall have at least a one-to-one replacement ratio for all trees over one inch caliper with native trees. A Landscape Improvement Agreement will be required to provide surety for the proposed plantings.

The Narrative provided by the applicant states that the slope will be rebuilt with slopes not to exceed 2:1 and that a survey of the existing trees with greater than 1” caliper has been conducted. Plan Sheet L1.5 depicts the location and survey analysis of the trees within the project area. Plan Sheet L1.1 states that 124 trees 1” caliper or greater exist within the 100 ft setback from the mean water mark, and 54 (43%) are to be removed as part of this project. As such, a 1:1 replanting plan is required. During the preliminary plat hearings, J. Owens explained

that the proposed plantings will improve slope stability. The applicant is proposing to plant 64 trees 1" caliper or greater, and 321 woody shrubs. It appears that a significant number of trees will also be planted outside of the 100 ft setback. During the preliminary plat hearings, the applicant confirmed that a majority of native species are proposed, with regional species included as well. It appears that this plan was proposed by a licensed landscape architect. The landscaping plan sheets were updated for clarity prior to the final plat hearing. See §9.05-I regarding the required landscape improvement agreement.

§ 7.03-F(6) and (7) Stairs and Paths: Stairs shall be no more than 48 inches in width with associated platforms being no more than 48 inches in width and 48 inches in length. All stairs shall have a handrail on at least one side. Flexibility will be exercised with regard to the rise and run of stairs permitted under this section to accommodate pedestrian access yet minimize visibility from the lake and preservation of natural features. Paths shall not exceed 48" in width. All stairs and paths shall minimally disturb existing contours on the site and where possible follow existing contour lines. Stairs and paths shall make use of the natural vegetation and topography to blend with the shoreline. All stairs and paths shall be screened from the water body through the use of landscaping. The applicant has proposed a 48" path and 48" wide steps with a handrail within the 100 ft setback. The proposed location appears to minimize topographical changes. Significant landscaping is proposed along the slope where the stairs will be located.

#### **Article 8: Site Plan and Conditional Use Regulations**

§ 8.07A(1) Water/Air Pollution (Septic): See §9.05-H for more discussion under this criterion.

§ 8.07-A(2) Water: See §9.05-G for more discussion under this criterion.

§ 8.07-A(3) Coverage/Stormwater: See §9.05-N for more discussion under this criterion.

§ 8.07-A(4) Traffic /Access/Circulation: See §9.05-J and §9.05-M for more discussion under this criterion.

§ 8.07-A(5) Setbacks: The Board shall evaluate the adequacy of landscaping, screening and setbacks in regard to adjacent properties. Landscaping and screening are discussed under §9.05-I. The proposed development appears to conform with the minimum setbacks of the LS1 District.

§ 8.07-A(6) Historic Sites / Natural Areas: See §9.05-B for more discussion under this criterion. The subject property is not located in a historic district.

§ 8.07-A(7) Scenic Beauty/Aesthetics: The Board shall determine whether the proposed project will have an undue adverse effect on scenic or natural beauty of the area and aesthetics, per the following:

- (a) Describe how the project is suitable for its surroundings, the locations from which it can be viewed and the potential impact on open space.
- See discussion under §4.05-G. The applicant has provided numerous architectural renderings that depict the proposed impact on view and open space. At the preliminary plat hearings, J. Gasek explained the design of the buildings and the views made through the placement of the buildings. B. Avery explained the surroundings of the property at the final plat hearing, which generally include marinas, tourism-focused residential rentals, and open space recreational uses.
- (b) Does the project violate the Town's Municipal Plan, Development Regulations, Town Official Map, Town Overlay Map, Chapter Four "Building Code and Building Construction Ordinance", Seven "Fire Prevention and Protection", Eight "On-Site Sewage Disposal Regulations", Ten "Sewers", or Fourteen "Construction Standards Applicable to Land Development" of the Colchester Code of Ordinances, or other applicable regulations intended to preserve the aesthetics or scenic beauty of the area?
- See discussion under other staff notes. The Board concluded that positive findings have been made under the above-referenced criteria related to aesthetics or scenic beauty of the area.
- (c) Is the project out of character with its surroundings or does it significantly diminish the scenic qualities of the area?
- See discussion under §4.05 and §9.05-S. The Board concluded that the proposed project conforms to the dimensional standards of the LS1 District and is not out of character with its surroundings, which primarily include smaller-footprint lake-side dwellings utilized for tourism purposes. The Board concluded that the proposed development does not significant diminish the scenic qualities of the area.

§ 8.07-A(8) Public Facilities: See §9.05-Q for more discussion under this criterion.

§ 8.07-A(9) Municipal Services: See §9.05-Q and §9.05-R for more discussion under this criterion.

§ 8.07-A(10) Character of the Area: In the 2019 Colchester Town Plan, the project is located within the Village Mixed-Use Future Land Use Area, which states "These are primarily existing developed areas with a mix of residential and business use (see Appendices Map 3: Future Land Use). Future development is meant to be compatible with existing uses. Additional public infrastructure will generally not be required to support desired levels of growth and density. Within a subset of the Inner Bay neighborhood in the Lakeshore Districts, a change in wastewater treatment systems is needed to remediate water quality issues from existing development. Uses appropriate for village mixed use include residential, small office, restaurant, small retail, agriculture, and many businesses integrated into neighboring residential uses. Appropriate industrial uses should be conditioned on their ability to fit with neighboring uses...Depending on their densities, mixed use areas can be walkable, and

depending on their proximity to other more dense areas, they can be connected via bike/ped paths and in some cases public transit to create alternatives to single-occupancy trips. These areas are generally zoned LS1, LS2, GD1, GD2, or GD4..” The proposal to redevelop a site previously occupied by a motel and office with an Inn with accessory restaurant and event facility uses appears to be in conformance with the planned character of the area.

§ 8.07-A(11) Town Municipal Plan: In the 2019 Colchester Town Plan, the project is located within the Inner Bay Neighborhood and Village Mixed-Use Future Land Use Area, which states “The West Lakeshore Drive neighborhood area will remain a focal point for tourism and recreation with opportunities for infill development as designated on the future land use map. Commercial uses in this area serve recreational activities, local residents and regional commuters...Services and recreational access for residents and tourists should be improved. The Hazelett Company should remain as an employment center in this area and expand as needed. Small businesses are important to maintaining the economic vibrancy of this neighborhood area. Development must be balanced with environmental impacts. Views and access to the Bay should be preserved and enhanced. Green infrastructure requirements for redevelopment and new development will help to improve or maintain water quality. With existing on-site septic, this goal for infiltration may prove difficult given some of the smaller lot sizes; however, the planned sewer service area will help create more space for infiltration.” The proposal to redevelop a site previously occupied by a motel and office with an Inn with accessory restaurant and event facility uses appears to be in conformance with the goals of the municipal plan for the Inner Bay neighborhood.

§ 8.07-A(12) Landscaping: See §9.05-I for more discussion under this criterion.

§ 8.07-A(13) Parking: See 8.07-A(15) for more discussion under this criterion.

§ 8.07-A(14) Lighting: See §9.05-P for more discussion under this criterion.

§8.07-A(15) Compliance with Article 10: The application is expected to comply with Article 10 of the Colchester Development Regulations.

§ 10.01 Off Street Parking, Loading, and Circulation: Parking must comply with the standards of §10.01 as the application includes new structures and new uses. Parking appears to be provided primarily off site via the Site Plan Approval SP-25-23 and will be reviewed under §10.01-F. Per §10.01-B(6), insofar as practical, pedestrian and bicycle circulation shall be separated from motor vehicle circulation. Safe and convenient pedestrian circulation, including appropriate sidewalks, shall be provided on the site and its approaches. The pedestrian circulation plan shall be designed to minimize conflicts with vehicular traffic. It appears that pedestrian circulation is critical to facilitate access to the uses from the proposed parking area.

§10.01-C Layout Requirements for Parking Spaces, Aisles, and Circulation: The proposed new parking area will be expected to comply with these standards. The proposal is to construct 73 parking spaces. 67 parking spaces will be located off-site at 135 West Lakeshore Drive, 2 parking spaces will be located within the garage at Cottage 5, and 4 parking spaces will be located on the existing/re-designed marina area for a total of 73 parking spaces. The 67-space parking lot at 135 West Lakeshore Drive was approved under Site Plan Application SP-25-23. No changes are proposed to this parking lot. The proposed parking spaces comply with the size requirements established in Appendix B of the Colchester Development Regulations (See Figure VII - 9 ft x 20 ft for 90-degree layouts). Per §10.01-C(4), it appears that the parking area is located outside of the front setback. All parking areas appear to comply with the minimum 5 ft side yard setback under §10.01-C(6).

§ 10.01-D Determination of Parking and Loading Spaces: The applicant shall provide sufficient off-street parking in accordance with Section O. The following table was provided by Staff to summarize the parking requirements for the proposed uses:

Use	Parking Requirement (§10.01-O)	Applicable Parking Calculation Factor	Parking Spaces Required
Restaurant, Standard	22 spaces per 1,000 GFA	2,000 GFA	44
Spa (Personal Service)	2 spaces per treatment station or 4 spaces per 1,000 GFA (whichever is greater)	1 treatment station*	2
Meeting Space (Community Center)	0.33 spaces per maximum permitted occupancy	60 occupants	20
Inn (Bed & Breakfast)	1.5 spaces per guest bedroom plus 2 spaces	20 rooms	32
Total			98

The Inn and Meeting Space do not directly correspond to the listed uses in Table 10-2, and in accordance with §10.01-D(3)(d), “the requirements shall be the same as for the most similar use listed, as determined by the Administrative Officer.” It appears that the most similar uses have been selected by the applicant, especially since the Meeting Space appears to support the hospitality use, and results in the same per-occupancy parking requirement as a banquet room in a hotel.

The applicant has provided 2 spaces for the “Spa” use, but Staff noted that the requirement is “2 spaces per treatment station or 4 spaces per 1,000 SF GFA whichever is greater.” The applicant explained that the spa use is accessory to the

Inn use for guests of the Inn only. Staff recommended that the 2-space provision appears to meet the requirement.

It was noted at preliminary plat review that the amount of parking provided (73 spaces) is insufficient to meet the requirements of this section. With the final plat application, the applicant provided supplemental information on Plan Sheet C-1.1, indicating that 185 parking spaces presently exist on the property to serve the existing uses at 135 West Lakeshore Drive, and 31 spaces will be striped to formalize the parking spaces at 135 West Lakeshore Drive. With the addition of the new parking lot and additional parking at 166/180 West Lakeshore Drive, a total of 289 parking spaces will be provided, which is under the minimum 339 spaces required per Table 10-2. The Board reviewed the proposed shared parking and reserve parking against the requirements under Reserved Parking (§10.01-H).

§ 10.01-E Shared Parking on Two or More Lots: The Development Review Board may approve a plan for a single adjacent facility serving two or more lots pursuant to the requirements of this section. Per §10.01-E(3), the following shall be met:

- a) The applicant(s) provides an acceptable overall design and an accurate site plan for all properties affected by the shared parking proposal. Such design and plan shall be approved by the Development Review Board. The owner or owners of the property where the off-site parking will be provided are co-applicants to the site plan application. The lots shall be adjacent. However, at its discretion, the Development Review Board may consider a shared parking plan where the parking serves a Planned Unit Development, college, or hospital use.
  - The proposed parking facility is adjacent to the subject properties, and is owned by the same entity. A Site Plan application was approved under SP-25-23 for the portion of the project at 135 West Lakeshore Drive. The applicant provided more information with the application on all parking available at 135 West Lakeshore Drive on Sheet C-1.1.
- b) The applicant shall record appropriate legal documents to ensure that the off-site parking spaces shall be available for use by the user or users for which the off-site parking spaces are being sought. Such legal documents shall be acceptable to the Town Attorney in form and content. The Town of Colchester shall be a party to the legal document.
  - The applicant will be expected to provide these legal documents as a condition on the decision. All legal documents shall be subject to review and approval by the Town Attorney, and shall be provided prior to recording the plat.
- c) Such legal documents shall assure the continued existence of the parking lot or facility to serve said structures or land uses as long as they may exist. Such agreement shall also guarantee that upon termination of such joint use, each subsequent use of the premises will provide off-street parking

for its own use in accordance with the requirements of this section and Section O.

➤ See above.

- d) The required number of parking spaces is to be provided and spaces that are paved must be striped and must be shown on an approved plan. The number of required parking spaces may be reduced provided that a reserved parking plan is approved as per Section H.
- Parking area shall be paved and striped. Prior to recording the plat, the applicant shall provide a reserve parking plan and covenant per §10.01-H subject to review and approval by the Town Attorney.
- e) In no event shall parking and loading spaces for a non-residential use be located in any residential district.
- The proposed parking is for a non-residential use located in the LS1 District, and the parking is located in the mixed-use LS2 District.

§ 10.01-F Shared Parking on a Single Lot: Where the Development Review Board determines that a proposed development consisting of two or more uses located on a single parcel will generate different hourly, daily and/or seasonal parking demand due to the varied hours of operation of each use and frequencies of customer and employee occupancy of available parking spaces, the Development Review Board may approve a site plan utilizing shared parking. The applicant shall provide the parking space count and justification analysis. Approved shared parking requires the present construction of a lesser number of spaces, provided that:

- (1) The applicant shall provide the Development Review Board with a shared parking plan which shall be based upon the following:
- (a) A complete and accurate description of the proposed uses, floor areas devoted to such uses, the number of seats or rooms assigned to each use, and the days and hours of operation of each use for each day of the week and for any seasonal variations in operations.
- The applicant has provided a Shared Parking Calculation Sheet and Cover Letter that incorporates all uses on the property. The applicant has included the uses under review, as well as the Manufacturing, Office, and (pre-existing, non-conforming) Marina uses.
- (b) A complete and accurate description of the number of employees and their respective shifts.
- The applicant has provided two tables on the Shared Parking Calculations document: Recommended Time-of-Day Factors for Weekdays, and Recommended Time-of-Day Factors for Weekends. All information is standardized via the ITE Parking Generation Manual, and appears to depict the parking generation on a 1-hour basis for each use on both weekdays and weekends. It

does not appear that any additional information is needed under this section.

- (c) A complete and accurate description of the projected total peak hour or daily period of occupancy by patrons for each proposed use during weekdays, Saturday, Sunday and any seasonal variations in peak hour or period of occupancy.
  - The applicant has provided two tables on the Shared Parking Calculations document: Recommended Time-of-Day Factors for Weekdays, and Recommended Time-of-Day Factors for Weekends. The tables assign usage factors for each included use on an hourly basis from 6am to 12am. The general summary is that the Inn is busiest in the mornings and evenings; the spa is busiest in the late mornings, the meeting space is most utilized in the evenings; the manufacturing and office space is most utilized during mid-day weekdays; the marina is busiest on the weekends; and the restaurant is busiest in the evenings, and is busier on weekends compared to weekdays. All data was derived from the ITE Parking Generation Manual, 5<sup>th</sup> Edition.
- (2) In all cases, at least two-thirds (2/3s) of the number of required parking spaces shall be provided. A reserved parking plan shall be required. The Administrative Officer may order the property owner to construct the reserved parking spaces if need arises as per Section H.
  - The property owner is proposing to use 289 parking spaces, which is less than the required 339. This meets the minimum 2/3 requirement. A reserve parking plan has been provided for the remaining 50 parking spaces, which are depicted on Plan Sheet C-1.1. The applicant will be expected to comply with the requirements of §10.01-H.
- (3) The approval of such shared parking shall be automatically terminated upon the termination of the operation of any of the involved uses.
  - The applicant is advised of this condition.

§ 10.01-I Accessible Parking Spaces: Parking spaces for handicapped persons shall be provided for all non-residential uses. The size, number, and location of spaces shall comply with the ADA Accessibility Guidelines. Handicap accessible spaces are required to be eight feet (8'0") wide, with an adjacent access aisle five feet (5'0") wide. One in every six (6) accessible spaces must have an access aisle eight feet (8'0") wide and must be signed "van accessible". As 67 spaces are provided at 135 West Lakeshore Drive, 3 accessible spaces are required and 4 have been provided. No accessible parking spaces have been provided, nor are required, at the subject properties (166/180 West Lakeshore Drive).

§10.01-K Bicycle Parking or Storage Facility: A bicycle parking or storage facility shall be provided for properties with twenty (20) or greater parking spaces. One bicycle parking space should be provided for each twenty (20) car spaces required by these regulations. Bike racks shall be clearly visible to employees and visitors; where practicable and safe, they should be located in proximity to the main entrance of the building. With 73 spaces, 3 bicycle parking spaces are required, and 3 have been provided. The bicycle parking has been provided with the off-site parking area permitted under Site Plan Application SP-25-23.

§10.01-H Reserved Parking: The applicant will be expected to comply with this section as part of the request to utilize Shared Parking under §10.01-E. When this subsection is utilized, the site plan shall contain a statement, signed by the applicant in such a form as shall be approved by the Town Attorney, consenting to the provisions contained herein. In addition, the property owner shall be required to submit a covenant, for filing in the Town Clerk's office, in such a form as shall be approved by the Town Attorney indicating consent to the provisions of this subsection.

§ 10.06 Trash Containers: All commercial, industrial, and multi-unit dwelling unit trash containers shall be centrally located on a concrete pad and enclosed with an opaque screen that is the minimum height of the containers. The location of the trash containers shall not be in a visually prominent area and shall generally be behind a building and not visible from the right-of-way. Trash containers shall be located so as to not interfere with circulation on the site. Where feasible the trash container screening shall also include a latching gate. The applicant is proposing to replace a trash enclosure near the Lake.

The applicant provided Plan Sheet CD-10 with the final plat application. The proposed enclosure measures 6 ft in height and includes an opaque screen constructed of cedar boards. A concrete pad has been provided. The enclosure does not appear to be visible from the West Lakeshore Drive right of way. A latching gate has been proposed.

§ 10.07 Numbering Systems: All properties shall comply with the Colchester Street Naming and Street Addressing Regulations within the Colchester Code of Ordinance and amended from time to time. Multi-unit dwellings and commercial or industrial suites shall contain appropriate directional signs, as defined in the Colchester Sign Ordinance, and numbering systems at major entrances. All directional signage, street name signs, and unit numbers shall be installed prior to issuance of a Certificate of Occupancy.

§ 8.10-E(1) The proposed use, in its location and operation, shall be consistent with the planned character of the area as defined by the Town of Colchester Municipal Plan: In the 2019 Colchester Town Plan, the project is located within the Inner Bay Neighborhood and Village Mixed-Use Future Land Use Area, which states "The West Lakeshore Drive neighborhood area will remain a focal point for tourism and recreation with opportunities for infill development as

designated on the future land use map. Commercial uses in this area serve recreational activities, local residents and regional commuters...Services and recreational access for residents and tourists should be improved. The Hazelett Company should remain as an employment center in this area and expand as needed. Small businesses are important to maintaining the economic vibrancy of this neighborhood area. Development must be balanced with environmental impacts. Views and access to the Bay should be preserved and enhanced. Green infrastructure requirements for redevelopment and new development will help to improve or maintain water quality. With existing on-site septic, this goal for infiltration may prove difficult given some of the smaller lot sizes; however, the planned sewer service area will help create more space for infiltration." The proposal to redevelop a site previously occupied by a motel and office with an Inn with accessory restaurant and event facility uses appears to be in conformance with the goals of the municipal plan for the Inner Bay neighborhood.

§ 8.10-E(2) The proposed use shall conform to the stated purpose of the district in which the proposed use is to be located: The project is located within the LS1 District. The purpose of the LS1 District is, "To regulate the use and development of lakefront property primarily for recreation, tourism and entertainment purposes in a manner that:

- (1) Protects and enhances water quality;
- (2) Mitigates flood hazards;
- (3) Preserves and expands public access;
- (4) Maintains and improves views of the lake from public vantage points;
- (5) Maintains and improves views of the shoreline from the lake;
- (6) Is oriented primarily to boater, pedestrian and bicycle traffic and secondarily to vehicular traffic;
- (7) Promotes "greening" of shorelines, lot frontages and parking areas;
- (8) Limits the amount of impervious surface and associated stormwater runoff; and
- (9) Reduces the quantity and improves the quality of stormwater flowing into surface waters."

The proposed project includes development located in this District. The proposed uses: Inn (Use 1.550) with associated Restaurant (Use 8.110) and Event Facility (6.150) are all subject to Conditional Use review in the LS1 District. The Board concluded that the proposed development is located outside of the Floodplain District, will protect and enhance water quality through the inclusion of a stormwater treatment system to treat presently untreated stormwater runoff, will allow for views of the Lake through the placement of the buildings, will include a robust landscaping plan that will "green" the shoreline and improve the view of the shoreline from the Lake, includes adequate provisions for pedestrian and bicycle traffic. The proposed project conforms to the purpose of the LS1 District.

The purpose of the SD District is to, "to preserve the natural growth and cover of the shorelines, to preserve water quality, to prevent pollution, to regulate development and appearance of the shorelines, to prevent erosion, to prevent nuisance, and to preserve the property rights of the shoreline property owners. The boundaries of the Shoreland District shall include all lands within 250 feet from the mean watermark of Colchester Pond, and Lake

Champlain. This district overlays all other districts along the shoreline.” The properties are located in close proximity to Lake Champlain. The proposed development appears to focus development outside of the 100 ft setback from the mean water mark, and appears to improve the appearance of shorelines through plantings and construction of the buildings into the slope. The project includes off-site stormwater treatment improvements that address presently untreated stormwater runoff.

§ 8.10-E(3) The DRB shall take into consideration minimum lot size, size, design, and location of structures and service areas; and distance from adjacent or nearby uses: The proposed project includes the merging of the lots at 166 and 180 West Lakeshore Drive. The new lot will measure 2.46 acres in size, which meets the minimum lot size of the LS1 District. The proposed lot design includes a circulation lane and off-site parking located at 135 West Lakeshore Drive. The property is bound by residential, industrial, and marine uses. It does not appear that any additional considerations are warranted due to proximity to other uses.

§ 8.10-E(4)(a) The proposed use shall not result in adverse effect on the capacity of existing or planned community facilities: See §9.05-Q.

§ 8.10-E(4)(b) The proposed use shall not result in adverse effect on the character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located and specifically stated policies and standards of the Municipal Plan: See responses to criteria one and two above.

§ 8.10-E(4)(c) The proposed use shall not result in adverse effect on the traffic on roads and highways in the vicinity: See §9.05-M. The Director of the Department of Public Works has reviewed the proposed traffic study and found the study to be acceptable.

§ 8.10-E(4)(d) The proposed use shall not result in adverse effect on the Bylaws and ordinances in effect: No adverse effect anticipated if project is found to be in conformance with site plan review criteria and conditional use review criteria under Article Eight of the Development Regulations. See associated findings.

§ 8.10-E(4)(e) The proposed use shall not result in adverse effect on the utilization of renewable energy resources: The proposed project will not result in adverse effect on the utilization of renewable energy resources.

### **Article 9: Subdivision Regulations**

§ 9.04 Application, Review and Approval Procedure: The proposed project includes the development of two lots with six (6) principal buildings and one (1) accessory building that will require review under §9.07 Planned Unit Developments. The proposal is for a multi-use commercial facility, which falls under the definition of “major subdivision” and required preliminary plat and final plat hearings. A technical review committee meeting was conducted on May 10, 2024. As a major subdivision under §9.04E, a preliminary plat submittal shall be

submitted within one (1) year of the hearing date for the sketch plan application (November 13, 2024) pursuant to §9.04-H. The Preliminary Plat application was submitted on March 6, 2025, which complies with this section. Staff recommended that the applicant submit a Site Plan application for the associated parking at 135 West Lakeshore Drive with the preliminary plat application, and this application was approved on September 3, 2025. In accordance with §9.04-H, the applicant shall submit a final plat application within one year after approval of the preliminary plat application or the preliminary plat application shall become null and void. The preliminary plat application was approved on September 3, 2025, and the final plat application was submitted on October 7, 2025 and deemed complete on December 9, 2025, which complied with this timeline.

§ 9.05-A Required Improvement List: The following are required improvements:

- Monuments;
- lot markers;
- landscaping;
- Water supply infrastructure as specified in Chapter Eight of the Colchester Code of Ordinance and / or the Chapter Fourteen of the Colchester Code of Ordinances (Public Works Standards) and / or septic and / or sewage infrastructure as specified in Chapter Eight of the Colchester Code of Ordinance and / or Chapter Fourteen of the Colchester Code of Ordinances and / or Chapter 10 of the Colchester Code of Ordinance;
- Roadways and associated improvements, such as but not limited to signage, as specified in Chapter Fourteen of the Colchester Code of Ordinances;
- Street trees as specified in Chapter Fourteen of the Colchester Code of Ordinances;
- Sidewalks and paths as specified in Chapter Fourteen of the Colchester Code of Ordinances;
- Street lighting as specified in Chapter Fourteen of the Colchester Code of Ordinances;
- Stormwater infrastructure as specified in Chapter Fourteen of the Colchester Code of Ordinances;
- Fire hydrants as specified in Chapter Fourteen of the Colchester Code of Ordinances;
- Other capital improvements as required by the Board.

The proposed project is for a major commercial Planned Unit Development. No public improvements appear to be required as part of the proposed project, but the proposed work in proximity to and within the West Lakeshore Drive ROW will be expected to comply with the standards in Chapter 14 of the Colchester Code of Ordinances. Monuments, lot markers, and water and wastewater infrastructure will be required as part of this proposal.

The applicant provided a Boundary Survey on Sheet B-1. The Boundary Survey has been updated to include the land at 135 West Lakeshore Drive and denotes the existing easement area that terminates 1 ft past the existing sidewalk. The Boundary Survey has also been updated to include the requested easement area as discussed under §9.05-Q.

§ 9.05-B Suitability of Land: The subject properties are in close proximity to Lake Champlain. The existing lots are shallow in depth and there is limited developable area on the properties. The subject property does not appear to include any Significant Natural Communities or Rare, Threatened or Endangered Species per the State Natural Resource Atlas. There do not appear to be any wetlands or surface waters on the subject property. Development within the Shoreland District will be expected to comply with the standards outlined in §7.03. Slopes do not appear to exceed 1:1 or 45 degrees, as modified.

§ 9.05-C Lot Layout: The proposed project includes the merging of the lots at 166 and 180 West Lakeshore Drive. The applicant has depicted the minimum 15 ft front and side yard setbacks of the LS1 District on the plan sheets, and it appears that the proposed new development can be sited to comply with these setbacks. The applicant has also included the 100 ft setback from the 95.5 ft elevation of Lake Champlain. The buildings are sited to minimize encroachments, which is discussed under §7.03.

§ 9.05-D Building Envelopes: The Development Review Board may require the designation of building envelopes that limit the location of buildings, structures and parking areas to one or more portions of a subdivided lot. The applicant has proposed a general building envelope on the subject properties inclusive of the LS1 District setbacks and the 100 ft setback from the 95.5 ft elevation of Lake Champlain. There do not appear to be wetlands, buffers, or streams on the subject properties that would warrant additional setbacks under §7.04.

§ 9.05-E Monuments and Lot Corner Markers: Permanent right-of-way monuments shall be set at all street intersections, and at all angles and curves or other critical points in street lines as will enable a land surveyor to correctly stake out any lot in the subdivision. Each monument shall be a precast concrete post four inches by four inches (4" x 4") at the top by forty-eight inches (48") long. The top shall have a center mark which shall be the point of reference. The monuments shall be set in place after all other street improvements are completed. Lot corner markers shall be set at corners and angle points of all lots, plots, or parcels, and located in the ground to finished grade. Per the provided Boundary Survey on Sheet B-1, it does not appear that any new monuments and lot corner markers are provided.

§ 9.05-F Energy Conservation: The project is for a redevelopment project on properties located in close proximity to West Lakeshore Drive, and the proposed structures will be sited close to the road, minimizing the amount and length of new driveways. Prior to issuance of a Certificate of Occupancy, a certificate shall be required to be recorded in the Colchester Land Records certifying compliance with the Residential or Commercial Building Energy Standards, whichever is applicable.

§ 9.05-G Water Supply: The Board is tasked with determining whether or not "adequate potable water exists on or off site to serve the proposed subdivision." In their narrative, the applicant stated that the project is located within the Colchester Fire District No. 2 service area,

and that the fire district has previously indicated that there is adequate water capacity to serve the project. The applicant, in their narrative, stated that CFD No.2 previously indicated that the District could serve the proposed use. As part of the subsequent submittal, the applicant has obtained an updated ability-to-serve letter from Jeff Bessette of Colchester Fire District No. 2, indicating an ability-to-serve the 4,340 gpd allocation. It appears that adequate potable water exists on or off site to serve the new uses.

§ 9.05-H Sewage Disposal: The subject property is located within the area to be served by the Malletts Bay sewer project. The subject property previously obtained WW-C-0671 to construct an off-site wastewater system at 135 West Lakeshore Drive to serve a 3,000 sf, 166-seat restaurant serving 2 meals per day at 180 West Lakeshore Drive. The design flow for this system was 4,482 gpd. The applicant is proposing to utilize 4,462 gpd to serve the proposed uses, and the Department of Public Works confirmed this in their July 16, 2025 review memo. Staff recommended including the following from that memo in this decision:

1. According to the policy statement I issued to the Planning and Zoning Director, Cathyann Larose on July 15, 2024. This project would fall within the policy statement category of:
  - a. Redevelopment within Assigned Allocation: Any property owner of a site that has been assigned wastewater allocation within the Malletts Bay Sewer Service Area(MBSSA) who is seeking approval of Development prior to the System being constructed and operational to provide wastewater service to that specific property, where the proposed project would be fully supported by the amount of wastewater allocation their property has been assigned, shall be reviewed for wastewater-related purposes in the following manner:
    - i. If possible, prior to submitting a request for Development approval, the property owner should be directed to contact the Public Works Director to determine if a sewer service connection has been designed for their property. If yes, design information shall be provided to the applicant.
    - ii. The application shall not be deemed complete by Planning & Zoning until either documentation that the proposed development is compatible with the Town-designed service connection for the site, or detailed design information regarding upgrades needed to the Town-designed sewer connection to accommodate the proposed development, has been provided. This information shall be provided to the Public Works Director for review, comment and approval. The Town, at its sole discretion, may require a Third Party Review of this information, which would be paid for by the property owner per Chapter Six and a Half of the Colchester Code of Ordinances. No permit shall be issued until the Public Works Director recommends approval to Planning & Zoning.

The Department of Public Works Memo prepared in July 2024 was intended to inform property owners how best to coordinate transitioning from an existing private sewer treatment systems with a specified sewer allocation, to the proposed municipal sewer system. In this case, the property:

- a. Has a sewer allocation assigned to the property,
- b. Does Not have an existing private sewer system to decommission,
- c. Does not have an existing private sewer system to discreetly establish a timely appropriate sewer connection aligned with the Town's Contract 1B West Lakeshore Sewer Service project schedule.

Therefore:

- a. the Town can only provide to the property owner, a sewer service connection stub to the Right of Way limits.
- b. The cost to design and construct a sewer service connection is left to the property owner.
- c. The referenced sewer service connection can only be made active at a future date that aligns with the Town's ability to receive, convey and treat the properties wastewater.

Given the above constraints, I do not recommend that the Town grant building permit approval until:

- a. the Malletts Bay sewer is operational and able to receive flows from the new development at 166 and 180 West Lakeshore Drive, and until the Town is done connecting all existing and permitted buildings in the Malletts Bay Sewer Service Area on West Lakeshore Drive, which is not anticipated until at the earliest until 2027; and
  - b. the Town's Department of Public Works has deemed the proposed sewer service connection and on site equipment is compatible with the existing municipal sewer system; and
  - c. Any required third-party review of the sewer connection and associated on site equipment is completed and paid for by the property owner.
2. The Department of Public Works provides only a cursory review any wastewater and water designs. The Town has reverted its authority to administer the Wastewater Rules back to the State of Vermont. A Wastewater and Potable Water Supply Permit may be required for this project. If so, a copy of the permit approval is required prior to the issuance of any building permit. The State of Vermont is the Authority Having Jurisdiction over wastewater permitting in the Town of Colchester.
  3. Occupancy of any structure shall not be granted until a wastewater installation certification letter is received, or the project is deemed exempt from this requirement by the authority having jurisdiction. Prior to the issuance of a certificate of occupancy, the Department of Public Works (DPW) shall be notified of any new connections to the sewer system. A copy of the wastewater installation certification letter shall be forwarded to DPW.

The preliminary plat decision included Condition 10, which was as follows:

10. The subject property includes a pre-existing, non-conforming marina. No expansion of the marina is permitted at this time, and any requests for modifications to the use shall be subject to review under the Colchester Development Regulations. Users of the marina shall not utilize new wastewater

and water facilities, unless separate approval is sought and obtained under the Colchester Development Regulations.

In response, the applicant provided an analysis of the wastewater flows for 135 West Lakeshore Drive, which includes an accounting of the 2,865 gpd design flow, of which 240 gpd is allocated to serve the "existing marina (with no showers)" at 60 slips. Considering that no showers have been allocated to serve marina users, Staff recommended that this condition remain in place. At the final plat hearing, B. Avery explained that marina users will not be using the bathhouse structure. The Board concurred and included this condition as part of this Decision.

§ 9.05-I Site Preservation and Landscaping: The development shall have adequate landscaping, screening and setbacks in regard to adjacent properties in accordance with §10.04. The Narrative provided by the applicant states that the slope will be rebuilt with slopes not to exceed 2:1 and that a survey of the existing trees with greater than 1" caliper has been conducted. Plan Sheet L1.5 depicts the location and survey analysis of the trees within the project area. Plan Sheet L1.1 states that 124 trees 1" caliper or greater exist within the 100 ft setback from the mean water mark, and 54 (43%) are to be removed as part of this project. The applicant is proposing to plant 64 trees 1" caliper or greater and 321 woody shrubs within the 100 ft setback. It appears that numerous trees will also be planted outside of the 100 ft setback. More discussion is under §7.03.

The proposed use appears to be consistent with the previous use of the property. The property is located in proximity to a similar Inn use to the east, and in proximity to a marina to the west. The commercial activities at 135 West Lakeshore Drive appear to be set back far from West Lakeshore Drive. It does not appear that additional screening between uses will be required, although the applicant has identified additional plantings on the eastern property boundary. Per §10.04-F: "The Development Review Board shall require minimum planting costs for all site plans: three percent of the construction or improvement cost. In evaluating landscaping requirements, some credit may be granted for existing trees or for site improvements other than tree planting as long as the objectives of this section are not reduced. The landscaping budget shall be prepared by a landscape architect or professional landscape designer." The applicant has provided a landscaping plan and budget provided by a professional landscape architect. The budget is \$292,902.88, which meets the 3% minimum on the projected \$9,685,000.00 project cost (\$290,550).

Prior to obtaining a building permit for the project, the applicant shall provide a suitable escrow, letter of credit, or similar form of surety, with such form to be at the Town's sole discretion, to guarantee the performance and completion of all planting required pursuant to the Section for a period of no less than two years from the date of landscape installation. Prior to issuance of a certificate of occupancy, all landscaping shall be installed.

§ 9.05-J Streets: The proposed project includes the development of a new private driveway system to provide interior circulation at 166/180 West Lakeshore Drive. No public infrastructure

is proposed; however, the project does include installation of a crosswalk to facilitate pedestrian connectivity between the parking area and the new buildings. Since the preliminary plat decision, the applicant updated Plan Sheet CD-3 to align with the MUTCD standard for longitudinal bar pavement markings for crosswalks. Per the memo provided by the Department of Public Works dated December 12, 2025:

- (1) Plan Set Revisions-Incomplete: Civil Plan Sheets continues to require revisions to include Detectable Warning Surfaces at each sidewalk crossing. Refer the applicant to Department of Public Works Specifications and Standards, 3.14 Cement Concrete Sidewalk, C. Construction Methods last paragraph.

The applicant shall update the plans to include Detectable Warning Surfaces at each sidewalk crossing prior to recording the plat.

§ 9.05-K Pedestrian Access: The applicant is proposing pedestrian connections internal to the property, to facilitate access between the off-site parking and the principal uses. See §9.05-J for physical standards related to crossings, §9.05-M for mid-block crossing discussion, and §9.05-Q for the discussion on the requested multi-use path easement.

§ 9.05-L Utilities: All utilities shall be underground. It appears that all utilities will be located underground.

§ 9.05-M Traffic: The development shall not cause unreasonable highway congestion or unsafe conditions with respect to use of the highways existing or proposed. Per the memo provided by the Department of Public Works dated December 12, 2025:

- (1) Traffic Impact Assessment-Complete: The traffic impact assessment has been revised, and determined to be complete with no further comments.
  - a. A traffic analysis warranting the RRFBs has been included in the traffic study and meets with public works approval.
  - b. The full traffic count data was provided as requested and meets with public works approval.
  - c. The applicant has satisfactorily accounted for the 60-person event facility and the associated traffic operational impacts assessment meets with Public Works approval.
- (2) Street Lighting-Incomplete: Applicant has submitted a Street Lighting plan to ensure proper visibility during the evening hours. Street Lighting in public streets must meet all applicable standards referenced in the Department of Public Works Specifications and Standards, § 3.16 Street Lighting.
  - a. The current plan set dated October 7, 2025, on Sheet L1.2 specifies two fixtures for the West Lakeshore Drive.
    - i. Canopy Light-Kim(Manufacturer)-Ouro, 3,000 Lumen, 3000K, Post Top LED Lamp
    - ii. Pedestrian Site Light-Cree(Manufacturer)-Guideway Series 13,000 Lumens, 3000K,

Neither Lighting fixtures specified do not meet Town Standards and Specifications. Further discussion required.

Since providing this comment, the applicant has coordinated with the Director of Public Works to review the lighting plans. A revised Plan Sheet L1.2 was provided, which includes a Public ROW Lighting Plan inset. The proposal is to utilize four (4) Lumec MetroScape Site Fixtures within the Town ROW and the existing street light to illuminate the pedestrian crossing. This proposed lighting plan has been approved by Norm Baldwin, Director of Public Works per the provided December 31, 2025 email.

Per the previous memo from the Department of Public Works titled, "PP-25-09 Hazelett Strip Casting Corp, DRB Review" dated March 26, 2025:

- (1) Stopping of traffic on adjacent public roadway shall not be permitted without necessary traffic control measures in accordance with MUTCD including approach signing and flagmen. Deliveries and hauling operations shall be coordinated not to occur during times of peak traffic volumes (7:30am -8:30am & 4:30pm – 5:30pm). This note shall be included on plans submitted with Site Plan Application.

The requested note has been included as Note #16 on Sheet C-2.0.

§ 9.05-N Storm Drainage & Erosion Control: The applicant has noted in the Final Plat application that approximately 1.6 acres of land will be disturbed and that the project will be under the jurisdiction of the State of Vermont for both stormwater management and erosion control. The proposed project includes the development of 0.66 acres of new impervious surface at 166 and 180 West Lakeshore Drive, as well as 0.60 acres of new impervious at 135 West Lakeshore Drive. The total new impervious area will be 1.26 acres. The applicant is proposing to construct a gravel wetland at 135 West Lakeshore Drive to treat 2.17 acres. The applicant is proposing to utilize "site balancing" to avoid additional disturbance in the Shoreland District.

Per the previously provided memo from the Department of Public Works titled, "PP-25-09 Hazelett Strip Casting Corp, DRB Review" dated July 16, 2025:

- (1) The following thresholds apply for impervious surfaces:
  - a. It was noted by the applicant that the proposed impervious surface at 166 and 180 West Lakeshore Drive (cottages and surrounding development) is 0.66 acres, with an additional 0.60 acres of new impervious at 135 West Lakeshore Drive (new parking lot), bringing the total proposed area of impervious to 1.26 acres.
  - b. As such, the work proposed will create or redevelop ½ acre or more of impervious surfaces. Therefore a State Stormwater permit will likely be required.
  - c. If the applicant is under the jurisdiction of an existing State Stormwater Permit, other thresholds may apply. A copy of the permit application documents, and a copy of the permit approval shall be provided to the Town prior to the issuance of a building permit.

- (2) The following thresholds apply for land disturbance activities:

- a. Based on the area of proposed impervious, it can be inferred that the project will result in 1 acre or more of land disturbance.
  - b. As such, a State Construction General Permit will likely be required. A copy of the permit application documents and a copy of the permit approval shall be provided to the Town for review prior to the issuance of a building permit.
- (3) It was noted the proposed gravel wetland proposed at 135 West Lakeshore serves as stormwater treatment offset to stormwater impacts occurring on the opposite side of the street at 180 and 166 West Lakeshore.

Prior to the issuance of any certificate of occupancy, the applicant or their agent shall provide a written certification from a professionally licensed engineer, or a state certified erosion control technician, certifying compliance with the approved Construction General Permit. Prior to the issuance of a certificate of occupancy, the applicant or their agent shall provide a written certification from a professionally licensed engineer, certifying compliance with the approved stormwater permit.

It was required in the preliminary plat decision that the “Applicant...document coordination with the Vermont Department of Environmental Conservation’s Stormwater Program to demonstrate that the proposed stormwater treatment method (site balancing) will comply with the State’s standards.” In support of this, the applicant provided an email from Brodie Haenke, Environmental Analyst for the Vermont Agency of Natural Resources dated October 1, 2025. The email states, in part, “...we are comfortable with you moving ahead with submitting an application that incorporates site balancing into your treatment strategy given the site constraints in the redevelopment/expansion project area.” At the hearing, S. Homsted and B. Avery explained the overall approach to stormwater treatment.

§ 9.05-O Excavation & Grading: No new public infrastructure is proposed. Per the previous memo from the Department of Public Works titled, “PP-25-09 Hazelett Strip Casting Corp, DRB Review” dated July 16, 2025:

- (1) Excavations within or across public highways for purposes of installing or replacing utilities are generally prohibited. In all possible instances, such work shall be achieved through jacking and boring beneath the road surface, without disturbance to any paved portion of the roadway. If jacking and boring is not feasible, the applicant must present justification for excavation to the Director of Public Works for review and approval. This note shall be included on plans submitted with Site Plan Application.
- (2) The plans submitted with the Site Plan Application shall include the following note “The contractor shall notify “DIGSAFE” at 1-888-DIG-SAFE prior to any excavation. The Town of Colchester is not associated with Digsafe and shall be contacted separately prior to excavation.”

These notes have been included as Notes #14 and #15 on Sheet C-2.0.

§ 9.05-P Outdoor Lighting: The applicant is proposing to construct outdoor lighting as part of this project. All outdoor lighting will be expected to comply with §10.02. Lighting was approved

at 135 West Lakeshore Drive under SP-25-23. Discussion below relates to lighting proposed at 166 and 180 West Lakeshore Drive only. Per §10.02-C(3), the subject properties are located in Lighting District #3. The applicant appears to be proposing parking lot lighting, walkway lighting, and canopy lighting.

- Parking lot lighting shall comply with §10.02-D. The applicant is proposing seven (7) fixtures for parking lot lighting. The mounting height for the fixtures is 15 ft (maximum 15 ft). Average illumination appears to be 1.0 fc (maximum 1.0 fc). Uniformity ratio appears to be 19.3:1 (maximum 20:1). The proposed parking lot fixtures appear to be downcast.
- Walkway lighting shall comply with §10.02-H. The applicant is proposing twelve (12) fixtures for walkway lighting primarily located on the path to the lake. Average illumination appears to be 0.5 fc (maximum 0.5 fc). The walkway lighting down to the Lake appears to be limited to the 4 ft path and 3 ft on either side. The walkway lighting fixtures appear to be downcast and shielded.
- Canopy lighting shall comply with §10.02-J as applicable. The applicant is proposing eighteen (18) canopy-mounted fixtures, which are located at the entrances to each building. Average illumination appears to be 1.6 fc (maximum 3.0 fc).

§ 9.05-Q Municipal Facilities & Recreation Areas: According to the Colchester, Vermont Official Map (2017), there is a planned separated path along West Lakeshore Drive. Per the previously provided DPW memo:

1. Acknowledging the existence of a scoping study entitled Malletts Bay Stormwater Management System & Transportation Scoping Study dated November 2017, on pages 92\* & 94. The Study had identified two improvements specific to the Right of Way along 135 West Lakeshore:
  - a. Construct a 10 foot Shared Use Path on the south side of West Lakeshore Drive
  - b. Design and construct stormwater improvements on the south side of West Lakeshore. More specifically calling out the development of a Bioswale at 135 West Lakeshore.

The Town presently holds an easement over the greenbelt and sidewalk that ends 1 ft after the sidewalk. The Town will require an additional 13 ft of easement area beyond the existing easement area to support the development of a 15 foot bioswale, 10 ft Shared Use Path and a 1 foot buffer for maintenance purposes. An example of the alignment is attached. The applicant shall provide the Town with an Irrevocable Offer of Dedication for the easement measuring 13 ft to accommodate the above improvements prior to recording the plat. Draft legal instruments shall be provided with the final plat application. The plat shall be updated to include the existing and proposed easements prior to final plat submittal. All easement language shall be subject to review and approval by the Town's Attorney prior to recording the plat for the project.

The plan set indicates an area measuring 26 ft from the edge of the road to accommodate the requested improvements. The applicant shall provide the requested legal documentation prior

to recording the plat. All legal documents shall be subject to review and approval by the Town's Attorney.

§ 9.05-R Governmental Services: The subject property is located in close proximity to an existing hydrant located within the ROW near 135 West Lakeshore Drive. The proposed access will be expected to comply with the requirements of Chapter 7 of the Colchester Code of Ordinances. The proposal is to serve the new development with a private driveway, which would be considered a Type III Private Driveway under Chapter 7. The circulation plan includes a 19 – 20 ft wide lane, with mountable curbs. The circulation lane appears to provide for emergency entrance/exit per Plan Sheet C-2.2. The driveway entrance was relocated during the preliminary plat process such that a turnaround will not be required. As part of the preliminary plat decision, the Fire Chief requested that the awnings protruding into the travel lane be modified or removed so as to comply with Chapter 7 of the Colchester Code of Ordinances. With the final plat submittal, the applicant has increased the vertical clearance to be 13 ft 6 in., which meets the minimum requirement per Sec 7-10(e). The Fire Chief has requested that the awnings be built so as to support the weight of a firefighter, as the general design of the building limits access on all other facades. At the final plat hearing, B. Avery noted that the applicant would be amenable to designing the building with the structural engineer to accommodate this request. Prior to the issuance of a building & zoning permit, the applicant shall include architectural plans confirming that the awnings will be built so as to support the weight of a firefighter in the event of an emergency.

Each building on the property will be expected to comply with Sec 4-30 of the Colchester Code of Ordinances as applicable: Emergency Access Boxes shall be required for new structures and existing structures except Accessory structures; and Residential structures containing three (3) or less units, unless otherwise required in Section 7-10 and 7-11 in Chapter 7 of the Colchester Code of Ordinances.

- (a) Knox Company box specified by the Colchester Fire Chief or his or her designee and shall be installed at a location specified by the Fire Chief or designee.
- (b) If there is a gated perimeter fence on the property, the access box shall be located immediately adjacent to the exterior of the gate. The property owner shall be responsible for ensuring that the keys are updated whenever locks are changed. Keys must be provided for all rooms and areas of a facility. Each box shall contain the following keys:
  - (1) Perimeter gate access key (where applicable).
  - (2) Fire alarm panel access key (where applicable).
  - (3) Structure alarm key (where applicable).
  - (4) One (1) master key for each floor of the structure.
  - (5) Structure sprinkler shutoff key (where applicable).
  - (6) Elevator key (where applicable).
  - (7) Keys to exterior controls for automatic overhead doors.
  - (8) Additional keys as determined necessary by the Fire Chief.

§ 9.05-S Aesthetics: The development shall not have an undue adverse effect on scenic or natural beauty of the area and aesthetics. The development shall be suitable for its surroundings as defined by the locations from which it can be viewed and the potential impact on open space. The development shall not be out of character with its surroundings. The development shall not significantly diminish the scenic qualities of the area.

The proposed project will be highly visible from Lake Champlain. The applicant has provided lake-facing photos to show how the project will be viewed from this area. It appears that the new buildings will be located approximately 100 ft from the mean water mark of Lake Champlain. The new buildings appear to be scaled to fit into the dimensional standards of the LS1 District, and will be built into the slope. While highly visible from the Lake, the proposed buildings appear to be in character with the surrounding development pattern. The Board concluded that the development will not significantly diminish the scenic qualities of the area.

§ 9.05-T Town Plan: In the 2019 Colchester Town Plan, the project is located within the Inner Bay Neighborhood and Village Mixed-Use Future Land Use Area, which states “The West Lakeshore Drive neighborhood area will remain a focal point for tourism and recreation with opportunities for infill development as designated on the future land use map. Commercial uses in this area serve recreational activities, local residents and regional commuters...Services and recreational access for residents and tourists should be improved. The Hazelett Company should remain as an employment center in this area and expand as needed. Small businesses are important to maintaining the economic vibrancy of this neighborhood area. Development must be balanced with environmental impacts. Views and access to the Bay should be preserved and enhanced. Green infrastructure requirements for redevelopment and new development will help to improve or maintain water quality. With existing on-site septic, this goal for infiltration may prove difficult given some of the smaller lot sizes; however, the planned sewer service area will help create more space for infiltration.” The proposal to redevelop a site previously occupied by a motel and office with an Inn with accessory restaurant and event facility uses appears to be in conformance with the goals of the municipal plan for the Inner Bay neighborhood.

§ 9.05-U Owners Association: The applicant is not proposing an association as part of this application, and as there are no individual residential units, it does not appear that one will be required.

§ 9.07-C General Standards: The project, a Planned Unit Development (PUD), includes a mixture of commercial uses. The PUD meets the minimum overall size of 1.5 acres at 2.47 acres. There are no underlying density requirements under review as the uses are commercial. There is no buffer requirement for the LS1 and LS2 Districts.

§ 9.07-D(1) Specific Standards: The applicant may request waivers of PUD Buffer, Lot Coverage, Public Road Frontage, Lot Size, or Internal Setbacks as part of a PUD. Under this application, the applicant is not requesting waivers or reductions for PUD Buffer (not

applicable), Lot Coverage (not requested), Public Road Frontage (not applicable), internal setbacks (conforms at this time), or lot sizes (no changes at this time).

§ 9.07-D(2) PUD Buffer Requirements: As the project is located within the LS1 District, a planned unit development buffer is not required (the project remains vested under Supplement 47 of the Colchester Development Regulations, which did not require a PUD Buffer for LS1 properties).

§ 9.07-D(3) Lot Size and Dimensional Requirements: No modifications to lot sizes or internal setbacks are requested at this time.

§ 9.07-D(4) Open Space: The project is located in the LS1 and LS2 Districts, but the property size of 2 acres is under the 3-acre threshold to require a set-aside open space.

§ 9.07-D(5) Recreation Areas: The proposal is not residential, and recreational amenities are not required as part of the PUD.

§ 9.07-D(6) Varied Types of Dwellings: Identical replication of structures, textures and color are strongly discouraged in PRD/PUDs as well as the proposed building should blend with the existing character of the area. While dwelling units are not proposed, the applicant is proposing multiple structures that will be expected to comply with the building design standards of the LS1 District. Identical replication of these structures is discouraged. It appears that the design is consistent between buildings.

#### **Article 12: Definitions:**

The following definitions apply to the proposed uses and staff notes:

**EVENT FACILITY:** A facility that primarily functions to host business or social gatherings that typically consists of one or more multi-purpose meeting rooms, kitchen facilities and/or recreational facilities that are available for use by various private groups for conferences, meetings, parties, weddings, receptions, reunions and similar group functions.

- The proposed project includes a main building (Sheets A4 and A5) that includes three multi-function spaces on the ground floor, as well as a multi-function room and kitchenette on the upper level. The applicant has requested approval for an event facility along with the other uses on the property.

**INN:** An establishment containing at least 6 rooms, but no more than 20 (twenty) rooms for living or sleeping accommodations primarily for transient occupancy for compensation available to the general public. No more than 40% of the rooms may contain typical apartment type furnishings such as a kitchen, bath, living space and separate bedroom. Units must be available on a daily, weekly and monthly basis and shall not be rented to the same occupant for more than thirty (30) days in any three hundred sixty-five (365) day period. An inn shall offer services typical to the use,

including at least 12 hours per day of on-site registration and similar hosting services, as well as housekeeping. Inns shall provide for at least one indoor common area available to all guests and of sufficient size, attraction, and usability, such as a dining area, lounge, game room or library. Permitted accessory (and clearly incidental) uses include restaurants or other public dining facility, bars or lounges, meeting rooms, pools, and recreational facilities customary to such use.

- The proposed project includes a 20-room Inn. The applicant has included 5 cottage buildings (Sheets A6, A7, A8, and A9). Cottage buildings 1, 2, and 4 will have one 2-bedroom suite on the upper level, two studio units on the ground floor, and two studio units on lower level. Cottage 3 will have two 2-bedroom suites, one studio unit, and one 1-bedroom unit (with kitchen). Cottage 5 will be a standalone 2-bedroom unit with a kitchen. The total number of rooms rented will be 20. In reviewing the floorplans, the 1-bedroom unit in Cottage 3 is the only unit with a kitchen, although a kitchen is labeled in Cottage 5. These two units represent 10% of rooms having “typical apartment type furnishings such as a kitchen, bath, living space and separate bedroom” (maximum 40%). The main building includes a reception desk on the ground floor. The applicant has provided a memorandum from Christopher D. Roy, Esq. titled, “RE: The H Project’s Compliance with Town Definition of Inn” dated October 3, 2025. This memo confirms that at least 12 hours of on-site registration will be available. A restaurant will be available to the guests, as well as a massage area and fitness room. At no point shall any of the involved rooms be utilized as a standalone Dwelling Unit for independent, non-use-related occupancy.

**RESTAURANT, STANDARD:** An establishment offering the sale of foods or beverages for consumption within the restaurant building and whose operation is characterized by service by a restaurant employee at the same table or counter at which food or beverage is to be consumed. Standard restaurants shall have no substantial carry-out, no substantial delivery service, and no drive-up service. This establishment may sell alcohol by the drink for consumption on premise until 11PM (see Bar).

- The project includes a 40-seat restaurant. The applicant has explained that this restaurant will be open to the public as well as available to guests. The applicant will be expected to comply with the definition. This definition was amended to remove the prohibition on alcohol sales after 11PM in Supplement 48 of the Colchester Development Regulations, and this restriction is not included as part of this Decision.

### III. BOARD DECISION

Based upon the aforesaid Statements of Fact and Board Findings, the Colchester Development Review Board hereby grants approval of the Final Plat, Site Plan, and Conditional Use Applications for a major Planned Unit Development to construct a 20-room Inn (Use 1.550) with associated Restaurant (Use 8.110) and Event Facility (6.150) uses. Existing marina and recreational uses to remain. Proposed project includes the 1) dissolution of the boundary line between 166 and 180 West Lakeshore Drive, and 2) construction of seven (7) buildings served by pedestrian ways, modified circulation, municipal sewer and water, and parking. Proposed project is supported by an off-site building and parking lot located at 135 West Lakeshore Drive approved under Site Plan Application SP-25-23. Subject properties are located in the Lakeshore One (LS1) and Shoreland Districts (SD). Subject properties are located at 166 and 180 West Lakeshore Drive, Account #65-019002-0000000 and #65-020002-0000000.

The approval is made with the following conditions:

1. All previous approvals and stipulations which are not superseded by this approval shall remain in effect.
2. All plans, studies, and other materials required by this approval shall be submitted to the Colchester Planning and Zoning Department.
3. Pursuant to §9.04-H(4)(a), the final plat plan shall be recorded in the Town of Colchester land records within 180 days of this approval or this approval will be null and void. The final plat plan shall be in the form of a Mylar copy (18" by 24") depicting meets and bounds survey of the approved subdivision and shall identify a minimum of three witness monuments located, or to be located on, the property with boundaries referenced to the Colchester Plane Coordinate System (coincident with the Vermont Plane Coordinate System) based on the 1983 North American Datum. Such monuments shall be established at a minimum survey error of closure of 1:10,000. All plans to be recorded shall meet the requirements of the Town of Colchester's "Specifications for the Submission of Survey or Boundary Line Adjustment Mylars to be recorded in the Town Land Records" Policy. The plan shall be signed by the Development Review Board Chair or Clerk prior to recording.
4. Prior to recording the plat for the project:
  - a. The plans shall be revised to include Detectable Warning Surfaces at each sidewalk crossing. Please refer to Department of Public Works Specifications and Standards, 3.14 Cement Concrete Sidewalk, C. Construction Methods last paragraph.
  - b. The applicant shall apply for and obtain a State of Vermont Wastewater System and Potable Water Supply Permit.
  - c. The applicant shall provide executed warranty deeds for all rights-of-way and easements to be dedicated to the Town, and a Certificate of Title showing the title

- to be free and clear of all encumbrances. All proposed deeds, easements, association documents and Certificate of Titles shall be submitted to the Colchester Planning and Zoning Department in digital Word format. Deeds and certificates shall be approved by the Colchester Town Attorney. Approval of deeds by the Town does not constitute acceptance.
- d. The Town shall be granted an Irrevocable Offer of Dedication for the future multi-use path and stormwater improvements as outlined by the Director of Public Works under §9.05-Q.
  - e. The site plan shall contain a statement, signed by the applicant in such a form as shall be approved by the Town Attorney, consenting to the provisions of §10.01-H Reserve Parking. In addition, the property owner shall submit a covenant, for filing in the Town Clerk's office, in such a form as shall be approved by the Town Attorney indicating consent to the provisions of this §10.01-H.
  - f. The applicant shall record appropriate legal documents to ensure that the off-site parking spaces shall be available for use by the user or users for which the off-site parking spaces are being sought as required under §10.01-E. Such legal documents shall be acceptable to the Town Attorney in form and content. The Town of Colchester shall be a party to the legal document.
5. Per §4.05-E(1), a structure encroaching into setbacks, including all applicable overlay districts may be rebuilt in the same footprint within ten years of demolition provided that the demolition is duly permitted. This condition shall apply to the presently-existing, non-conforming driveways that exceed the maximum front yard coverage of 30% at 46.8%.
  6. The Decision includes approval of Shared Parking in accordance with §10.01-F of the Colchester Development Regulations. The approval of such shared parking shall be automatically terminated upon the termination of the operation of any of the involved uses at 135, 166, or 180 West Lakeshore Drive.
  7. The subject property includes a pre-existing, non-conforming marina. No expansion of the marina is permitted at this time, and any requests for modifications to the use shall be subject to review under the Colchester Development Regulations. Users of the marina shall not utilize new wastewater and water facilities at 166 and 180 West Lakeshore Drive, unless separate approval is sought and obtained under the Colchester Development Regulations.
  8. The subject property includes an Inn. The Inn Use shall comply with the definition in Article 12 at all times. At no point shall the Inn contain more than 20 rooms for living or sleeping accommodations for transient occupancy for compensation available to the general public. No more than 40% of the rooms may contain typical apartment type furnishings such as a kitchen, bath, living space and separate bedroom. Units must be available on a daily, weekly and monthly basis and shall not be rented to the same occupant for more than thirty (30) days in any three hundred sixty-five (365) day period. The Inn shall

- offer at least 12 hours per day of on-site registration and similar hosting services, as well as housekeeping.
9. At no point shall any of the involved rooms be utilized as a standalone Dwelling Unit for independent, non-use-related occupancy.
  10. The subject property includes a 40-seat Restaurant. The Restaurant Use shall comply with the definition in Article 12 at all times.
  11. The subject property includes a 60-person Event Facility. The Event Facility Use shall comply with the definition in Article 12 at all times.
  12. No excavation, site development, or building construction shall occur until the applicant has obtained all necessary permits from the Town of Colchester in accordance with the Building, Development, Health and other applicable ordinances that may be required.
  13. A building & zoning permit for the project shall not be issued until:
    - a. The Malletts Bay sewer is operational and able to receive flows from the new development at 166 and 180 West Lakeshore Drive, and until the Town is done connecting all existing and permitted buildings in the Malletts Bay Sewer Service Area on West Lakeshore Drive, which is not anticipated until, at the earliest, 2027; and
    - b. The Town's Department of Public Works has deemed the proposed sewer service connection and on site equipment is compatible with the existing municipal sewer system; and
    - c. Any required third-party review of the sewer connection and associated on site equipment is completed and paid for by the property owner.
  14. Prior to issuance of a building & zoning permit:
    - a. All conditions under 13(a) through 13(c) shall be satisfied.
    - b. The applicant shall enter into a landscape improvement agreement and provide a suitable escrow, letter of credit, or similar form of surety, with such form to be in the Town's sole discretion, to guarantee the performance and completion of all planting required for a period of no less than two years from the date of landscape installation.
    - c. A copy of the Stormwater Discharge Permit approval shall be submitted to the Town.
    - d. A copy of the Construction General Permit approval shall be submitted to the Town.
    - e. All property front line corners for each lot shall be established with witness stakes or iron pins.
    - f. The buildings at 135 West Lakeshore Drive shall be connected to the municipal sewer system and the septic system in the project vicinity shall be decommissioned.

- g. The applicant shall update the architectural plans, confirming that the awnings will be built so as to support the weight of a firefighter in the event of an emergency.
  - h. All applicable impact fees shall be paid at the time of issuance of individual building permits.
  - i. In accordance with Colchester's Fee Ordinance Chapter 6 ½ - 4 (9) the applicant is responsible for payment of all permit fees as well as for the costs of reviews conducted by third-party consultants/experts requested by the Town.
15. Prior to the issuance of a Certificate of Occupancy:
- a. All landscaping shall be installed.
  - b. All parking spaces and circulation lanes shall be striped.
  - c. Emergency Access Boxes as required under Sec 4-30 of the Colchester Code of Ordinances shall be installed on all applicable buildings.
  - d. The applicant shall provide a copy of the wastewater installation certification letter, unless the project is deemed exempt from this requirement by the authority having jurisdiction.
  - e. The Department of Public Works (DPW) shall be notified of any new connections to the sewer system.
  - f. The applicant or their agent shall provide a written certification from a professionally licensed engineer, certifying compliance with the approved Individual Stormwater Discharge Permit.
  - g. The applicant or their agent shall provide a written certification from a professionally licensed engineer, or a state certified erosion control technician, certifying compliance with the approved Construction General Permit.
  - h. The applicant shall file a Residential or Commercial Building Energy Standards (RBES/CBES) Certificate for the structures in the Town Clerk's Office.
  - i. Each residence or commercial building shall have the E-911 number of the building displayed so as to be seen from the road if a porch light is on. If the building cannot be readily seen from the road the number must also be placed at the start of the driveway such as on a mail box.
  - j. Property line corners shall be established with permanent monumentation.
  - k. The public right of way shall be delineated with 4" x 4" concrete monuments at all property corners as well as points of curvature and tangency proposed along existing or proposed public streets.
16. All new construction shall meet the Vermont Residential and Commercial Energy Code requirements.
17. All utilities shall be underground.
18. If footing drains are proposed to be connected to the Town's storm sewer, prior to connection, the property owner or applicant shall execute and record an easement

document with the Colchester Town Clerk that can be provided by Colchester Public Works upon request.

19. The stopping of traffic on adjacent public roadway shall not be permitted without necessary traffic control measures in accordance with MUTCD including approach signing and flagmen. Deliveries and hauling operations shall be coordinated not to occur during times of peak traffic volumes (7:30am -8:30am & 4:30pm – 5:30pm.) All new driveway entrances shall be constructed in conformance with Figure 3.10 of the DPW Specifications and Standards.
20. A sign application must be submitted by the applicant and must be reviewed and approved by the Colchester Zoning Administrator prior to the erection of any signs. No signage is approved at this time.
21. Disposal of excavated earth material, stumps, brush, or other material removed from this site shall take place at a location properly permitted for such activity. Placement of fill material in Colchester requires a permit to be obtained by the owner of the land to be filled. Improper placement of material from this site shall constitute a violation of this approval.
22. Per §9.04-H(4)(b), substantial construction must be undertaken within 3 years of the date of the Findings of Fact and Decision for the Final Plat Approval or said approval shall become null and void.
23. By acceptance of these Findings of Fact and Decision, the applicants agree to allow representatives of the Town of Colchester access to the property covered by the approval for the purpose of ascertaining compliance with all local regulations and with this Decision.
24. The project shall be constructed and operated in accordance with the submitted application documents, the stamped approved plans, the Findings of Fact and Decision, the Colchester Development Regulations. There shall be no change in the proposed use or approved plans without prior approval of the Town. The Development Review Board reserves the right to review and issue supplementary Findings of Fact and Decision for any substantial change in the project approved herein. Any unauthorized change from the approved plans shall be grounds for revocation of the Order and approval pursuant to 24 V.S.A. § 4455, as may be amended. The Town reserves the right to petition the Environmental Division of the Vermont Superior Court for revocation of this approval and any permits granted hereunder, or to seek other enforcement action, if the Town believes the applicant/permittee has violated the terms of approval, or has obtained approval based on a misrepresentation of material fact.

**IV. APPEAL RIGHTS**

The owner of the project property and interested persons have a right to appeal this decision, within 30 days of the date this decision is issued, to the Vermont Environmental Court, pursuant to 24 V.S.A. § 4471 and V.R.E.C.P. in writing to the Vermont Environmental Court, 32 Cherry Street, 2<sup>nd</sup> Floor, Suite 303 Burlington, VT 05401 and a copy to Colchester Development Review Board at 781 Blakely Road, Colchester, Vermont 05446. The fee is payable to Vermont Environmental Court. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 V.S.A. § 4472 (d) (exclusivity of remedy; finality). This also applies to any interested person(s) who may have had a right to appeal.

**Dated at Colchester, County of Chittenden,  
State of Vermont, this 18<sup>th</sup> day of February, 2026**

Signed by:  
  
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Kathy Cawley

Signed by:  
  
97085804C000458...  
Evan Fitzgerald

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Angela MacDonald

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Christopher Gendron

DocuSigned by:  
  
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Zafir Bludevich

DEVELOPMENT REVIEW BOARD