

The Planning Board for the Town of Derry held a public meeting on Wednesday, January 16, 2008 at 7:00 p.m. at the Derry Municipal Center (3rd Floor) located at 14 Manning Street in Derry, New Hampshire.

Members present: Virginia Roach, Chair; Neal Ochs, Vice Chair; David Granese, Secretary; Beverly Ferrante, Council Representative; Phil Picillo, Town Administrator Designee, Ann Evans (7:35 p.m.), Jim MacEachern (7:01), and David Nelson.

Alternates present: Jan Choiniere, and Richard Tripp.

Also present: George Sioras, Director of Community Development; Elizabeth Robidoux, Planning Clerk; Todd Connors, Keith Coviello, Sublime Civil Consultants; John Hajjar, Foxcroft; representatives of The Goddard School, and several members of the public.

Chairman Roach called the meeting to order at 7:00 p.m., and the meeting began with a salute to the flag. Mrs. Roach advised of emergency exits, the location of additional agendas, and introduced the Board members and staff to those present.

Escrow

LOC 08-04 Omnipoint Communications PID 05007, 133 Rockingham Road

The request is to approve and establish cash escrow in the amount of \$8968.32 for the above noted project.

Motion by Ochs to approve as presented seconded by Granese. The motion passed with all in favor.
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LOC 08-05 Omnipoint Communications PID 05007, 133 Rockingham Road

The request is to establish a ~~as~~-removal bond in the amount of \$25,000.00 to be held in perpetuity, or until such time as the telecommunication tower requires replacement, removal or relocation.

Motion Ochs to approve as presented, seconded by Nelson. The motion passed with all in favor.

Minutes

The Board took a few minutes to review the draft of the January 2, 2008 minutes. As no corrections were noted, Mrs. Roach advised the minutes would be accepted as written.

Mr. Ochs abstained.

Correspondence

Mr. Granese acknowledged the following correspondence: the January 2008 edition of *Town and City*, a "save the date" announcement regarding the Spring Planning and Zoning Conference to be held on Saturday, April 26, 2008, at the Raddison Hotel in Manchester. Registration begins February 16, 2008. Topics covered will be Basics for Planning and Zoning Boards, PB and ZBA role plays, Elderly Housing, Economic Development, Energy and Natural Resources and more. Mr. Granese thought it would be a good idea to sign up for this conference. There is also a memo from SNHPC with regard to a workshop to be held on Wednesday, January 23, 2008 at the PSNH Energy Park. Topics of discussion will be the Housing and Conservation Planning Program and the Inclusionary Zoning Implementation Program. Those interested in attending should speak with Mr. Sioras.

Other Business

Mr. Picillo had a question with regard to the previously approved letter of credit for Omnipoint. If the removal cost of the bond is \$25,000.00, has anything been put into place to account for inflation in the future? He understands the agreement is binding. Is there any protection for the town beyond that \$25,000.00? Mr. Sioras said he would check on that. The original number came from Attorney Clark. He will pursue this and have an answer for the next meeting.

Mr. Nelson inquired with regard to the workshop that is being offered by OEP on January 23rd. He understands it involves the need for affordable and workforce housing, efficient land development and the preservation of historic areas. This seems to be workforce housing, conservation development, or Smart Growth. Where are they going with this? Mr. Sioras advised that in the past year, State Representatives have placed a Bill into the legislature that deals with affordable housing. They spent two years looking at this and how conservation development and open space can tie in with affordable housing. This is the version that was approved by legislature. Derry has a good argument that it provides affordable housing. This workshop is geared towards the communities that do not have affordable housing. Mr. Nelson inquired if this type of development is optional? Mr. Sioras stated it is not mandatory for towns to implement these programs.

Mr. Sioras advised the Town Council approved the proposed fee increase for plan reviews on Tuesday evening.

Two weeks from this evening, on January 30, 2008, there will be a joint meeting between the Town Council, the Planning Board and the Conservation Commission. If the Board members have any issues they would like discussed, please forward them to Mrs. Roach or let Mr. Sioras know so that it can be placed on the agenda.

For the Board members still interested in attending, the Open Space site visit will take place on Saturday, January 26, 2008 at 9:30 a.m. Those attending will car pool to Auburn to view several open space developments. The meeting point will be the Derry Municipal Center. An email reminder will be sent and Mr. Sioras is still working on obtaining the bus/van from the Recreation Department.

Request for Extension, Middleridge Road Subdivision

Mr. Sioras advised this is a second request for extension. The first extension was granted in the fall. He introduced Joseph Maynard, of Benchmark Engineering, who was present to represent the applicant in this request.

Mr. Maynard advised there was also a representative from the applicant, H&B Homes, ~~the applicant~~ present to answer any questions from the Board.

Mr. Maynard explained the original approval was granted on March 3, 2007. In September, they asked for a six month extension to obtain the Town of Windham approvals. On October 3rd, the Windham Planning Board conditionally approved the 95 lot subdivision plan. The Town of Windham process works a bit differently than in Derry. In Windham, they obtain the state permits after or sequentially while obtaining Planning Board approval. Currently, they are waiting for the Water System approval from the State. They need to iron out the issue of the zone of influence. It takes time because they need to meet with residents in Derry and Windham to set up a time to install a device in their wells for the monitoring process [8 day pump test]. It is taking time to get this done. He anticipates obtaining the well permit by the fall of this year. They are also working on the Dredge and Fill permit with the Army Corps of Engineers and the State. They are working towards the permit approvals but it will take a few months. The intent is to do everything that was part of the conditions of approval from the Derry Planning Board, including the off site improvements to Route 28.

Mr. MacEachern noted it is the Board's habit to allow one extension. Normally, for the second extension the applicant needs to come back to the Board. He is not inclined to grant this approval for another six months because it looks like this will take up to eight months to complete the process. He can infer from statements made in their (January 8, 2008) letter that the process may exceed the one year period. He understands the ramifications with Windham and Derry. He would want the applicant to come back and restart the clock.

Mr. Ochs agreed. He has always felt the Windham approval should have come first. He is also not inclined to grant the extension. From all that has been said, he is not confident that the conditions will be met within the next eight to twelve months.

Mr. Nelson said he would be curious as to the end game. He understands the Windham process. The Town of Derry requires permits ahead of time so that the approval is not dragged out or conditions are not changed. What happens if this drags out or the state permits require substantial changes to the plan? He wants to be sensitive to the needs of neighboring towns, but he is not used to the process dragging out. What is a realistic time frame to obtain all of the necessary permits and approvals?

Mr. Maynard reported he has worked on this plan for five years. He is on top of the permitting process, but is at the mercy of others. The state agency will sit on the application for two months before taking any action on it. Many abutters were notified of the well monitoring process, but it took time to find the appropriate number of abutters who would allow the monitoring device to be placed in their well. They have finally found the people in Derry they need in order to perform the pump test. He feels that most of the permits will be in place within the next four months. The well permit is the hang up.

Mr. Nelson said he would like Mr. Maynard to give him the number of months, at a 95% confidence level, this will take to complete. Mr. Maynard said about eight to nine months for the well permit.

Mr. Nelson said he assumes if this Board declines to renew the approval, or only grants it for six months, the approval will be withdrawn. He assumes Windham made their approval contingent upon the Town of Derry's approval. If Derry removes its approval, the approval in Windham would be invalid. He does not want to be a bad neighbor to Windham, but wants to protect the interests of the Town of Derry.

Mr. Ochs felt it was a waste of time to grant a six month extension if the approvals and permits won't be in place. The extension would need to be granted for another year. If something falls apart in Windham, the applicant would need to come back to the Derry Planning Board. At that point, there would probably be different members on this Board who would hold a different viewpoint.

Mr. Maynard indicated his client is willing to build the Derry portion of the plan now, posting all the appropriate bonds etc. They are trying to avoid beginning the entire process over.

Mr. Ochs said he was trying to be reasonable. Mr. Picillo said the Board is faced with either a 12 month extension or the development moving forward in Derry. He would rather see the development move forward in Derry than grant a twelve month extension. Perhaps Mr. Sioras or Mrs. Roach could get in touch with the Windham Planning Board and see what obtain their thoughts ~~are~~.

Mr. MacEachern recalled the Derry portion included four house lots. Mr. Maynard advised they would be willing to construct the four house lots at this time and will complete all the off site improvements when they make the connection in Windham. Mr. Nelson inquired if they were then looking for the six month extension in Derry for that portion of the project? Mr. Maynard said they would use that time to obtain the appropriate bonds but would need to allow time for weather conditions.

Mr. Ochs felt the motion would be to grant a six month extension conditioned upon the portion of the project, located in the Town of Derry, be completed when the spring construction season commences.

Mr. Tripp recalled that when this plan was approved, it was with a through road into Windham. What happens when it dead ends in Derry? Mr. Maynard stated he has spoken with the abutter. She granted an easement to allow a hammerhead at her driveway location until they can connect to Windham. The hammerhead would remain for about one year. Mr. MacEachern asked if they would also construct the upgrade to Route 28 near the daycare once they begin in Windham?

Mr. Sioras provided the following information. The NHDOT ten year plan cut out that project for Windham Road/Route 28 at Kilrea Road. The improvement of that intersection was so critical, it was duplicated in this plan, so it will be constructed even though NHDOT cut it out of their plan. Mr. Maynard stated that per the agreement, the off site improvements will be completed by the time they connect Derry to Windham. The Derry approval stated that no more than 34 homes could be constructed by the time the third connection was completed in Windham. Mr. MacEachern said he wanted to protect from excessive traffic.

Mr. Tripp inquired what would be escrowed for the Derry portion of the project? Mr. Maynard said it would be for the four lot subdivision. Mr. Picillo noted that if the Windham portion never gets completed, Derry will have gained a four lot subdivision with a hammerhead. Mr. Tripp inquired if a modified plan would need to be submitted showing the temporary hammerhead? Mr. Maynard indicated the original approval covered that contingency and required a compliance hearing.

Motion by MacEachern to allow the approval extension for Middleridge Road Subdivision off Windham Depot Road, contingent upon the construction of a four lot subdivision with a hammerhead to begin in the 2008 construction season, seconded by Ochs.

Picillo, Ferrante, Ochs, MacEachern, Nelson, Granese and Roach all voted in favor.

Mrs. Choiniere was seated for Ms. Evans who was not present at this time.

Public Hearing**The Goddard School
Parcel ID 08079-006, 12 Tsienneto Road
Acceptance/Regional Impact/Review, Site Plan**

Mr. Sioras advised the developer is Foxcroft, Incorporated and the applicant is The Goddard School. The land is located in the General Commercial II district; the plan is for an 8000 square foot daycare/early educational facility. All town departments have reviewed and signed the plan. The plan was also reviewed by the Highway Safety Committee. There are no waiver requests. No state permits are required. A variance was granted by the ZBA on September 20, 2007 to allow this facility in this district. The property is on town water and sewer. The plan meets the technical requirements of the site plan regulations. However, the major issue to be discussed is the entrance and egress in relationship to the property across the street, and the parking requirements based on the number of employees and children who will be on site.

Todd Connors of Sublime Civil Consultants presented for the applicant. He advised that representatives of both the developer, land owner, and the applicant were present this evening. He gave a general overview of the project.

The location is Tax Map and lot 08079-006. The street address is 12 Tsienneto Road. The property is located to the northeast of the Center for Life Management (CLM) project. This is the middle lot of the original three lot subdivision, approval for which was granted in 2006. The proposed is a site plan for the Goddard School. The building has 8000 square feet, and will house students ages 6 weeks to 6 years. Kindergarten would be the final classroom level. The plan is for 9 classrooms in the facility, which can accommodate a total of 132 students and a staff of 20. The facility is served by public water and sewer with a connection to the natural gas main. There will be underground electric, cable, and telephone service from Tsienneto Road. The project includes a large playground area in excess of 14,000 square feet. It will have playground equipment, umbrella areas and open areas with various access points. The lot is served by two different driveways. One is a common driveway shared with CLM to the south. The second is along the northern property line and will be shared with the adjacent lot, which has yet to be developed. Cross easements were granted for all three lots on the original subdivision. The design accommodated three site plans and protected the ability to construct a traffic signal at some point in the future.

Their traffic report included data collected from NH DOT, and accounted for the projected values if Exit 4A was constructed. They looked at queuing length with a traffic signal installed. They also looked at the distance between the two driveways to make sure there was adequate spacing. The traffic study was updated for this use, rather than the originally proposed use, which was a bank. This use has decreased traffic

projections. There is a higher AM peak and a lower PM peak than what was originally projected for the bank use.

As mentioned earlier, the location as it related to the undeveloped property across the street has been taken into consideration. They have only seen conceptual plans for the property located across the street. The Department of Public Works wrote a memo on May 24, 2006, and addressed the need to coordinate the curb cuts with the two locations.

The driveway to the north currently has 2 lanes. In 2006, the plan showed 3 lanes. When the last property to the north is developed, the driveway will allow for one entrance and one dedicated left turn lane as well as one dedicated right turn lane. That third lane has been accommodated, but is not shown on this plan.

Ms. Evans entered the meeting.

With regard to drainage, Mr. Connors advised they will collect stormwater with an underground pipe which will lead to a treatment swale.

Lighting and landscape designs were submitted. They focused along the front of the property and did not place many plantings within the play area. There will be landscaping along the parking area and the frontage. There is an existing large wooded area to the rear which will remain.

With regard to the lighting, the intent is to have 6 wall mounted fixtures and two pole mounted fixtures, which will provide adequate levels of light through the parking area and around the building. Steve Keach, of Keach-Nordstrom in his review of the plan, raised the issue of what he felt was a lack of lighting in one area. They would like to address that by adding a couple of small, decorative poles at the north and south curb cuts, which will add light to the two areas and the space to the south as one approaches CLM where the lighting is low.

Signage will include the normal 'stop' and 'handicap' signs, as well as an identification sign, which will be 6 feet tall and 6 feet wide. There will be a small panel on the bottom of that sign to allow for announcements.

Mr. Connors reported they met with the Technical Review Committee and feel they have satisfied all of the concerns. They also met with the Highway Safety Committee, which had no concerns with the common driveway. Mr. Connors felt they could adequately address all of the issues raised in the KNA report dated January 11, 2008. The only remaining issue to address is the lighting issue.

With regard to parking, they have provided two spaces per staff person, plus drop off spaces for the students. They originally started with 30 spaces total and were going to ask for a waiver. The original numbers were based on standard Goddard School program requirements. There are 250 to 300 of these facilities nationwide. Typically,

parents will park and deliver their children into the facility and sign them in. There is no curb side drop off; it is not allowed. They anticipate staff will utilize parking spaces, as will the parents dropping off. They have provided 40 spaces on this plan. The original number of 30 was discussed with the traffic engineer as well as how they could address peak demand and they added 10% more parking spaces.

The Goddard School provided information on three facilities located in New Jersey. One had 30 parking spaces filled at peak, one had 32 spaces. The highest peak had 35 spaces occupied, during the peak 15--20 minute period. They added 10%, which brought the parking spaces required to 39 spaces. They are comfortable with providing 40 spaces. The Goddard School is very confident that 40 spaces is more than adequate for their needs. Mr. Connors went on to add more information with regard to the traffic report.

They looked at peak traffic hours and the curb cuts. The AM peak has 106 trips, which equates to 53 vehicles over the course of the peak AM hour. They anticipate it will take between 5 and 10 minutes to drop off a child. They feel they have enough parking to meet the demand of 53 vehicles for 20 spaces over the course of an hour.

He inquired if all members had a copy of the architectural rendering? They all did. The architect reviewed the architectural regulations and tried to address all areas for compliance. He has included color renderings of the elevations. The general style of the building is the traditional New England style, utilizing clapboard-type finish, a hip roof and dormers. The roof will be constructed of architectural asphalt shingles. Trim items will be utilized to break up the mass of the building and there will be many windows and doors along the sides of the building. The portico is a covered entrance and ties to the surrounding structures. Many of the local buildings use brick. With regard to color, the roof shingles will be barkwood, the siding, which is a cement fiber, is tan, and the trim will be white with some detail on the lintels and sills. He did not include a landscape plan as part of the 11 x 17 architectural packages as that is included in the site plan set. The Goddard School architect understood what the Board was looking for with regard to information.

Mrs. Roach noted for the record that Ms. Evans has taken her seat as a member and Mrs. Choiniere has stepped down.

Mr. MacEachern asked for clarification as to the ages of the children attending the school. Mr. Connors advised there are classrooms for ages 6 weeks up to kindergarten. Kindergarten is intended to be the last level of schooling provided. Mr. MacEachern inquired as to the driveway. It looks like both driveways are shared with the adjacent parcels? Mr. Connors advised that is correct. There are two curb cuts for three parcels. They anticipate that CLM's traffic may travel through the site particularly if a traffic light goes in. Mr. MacEachern thought the Board needed to look at that. The northern lot will share the north driveway. The road will eventually fill in across the street. The Board should discuss where signals and exits will be placed and need to look at where the other driveway across the street will be. He does not want to see

driveways off set from this one, which may interfere with a future signal. The Board can look at this side of the street. There is the Post Office, Merrimack Tile, the empty lot, this lot and then CLM and Overlook; all with developed driveways. The Board needs to make sure that on the south side of the street, the driveways all line up. When all the lots are divided on the south, the Board needs to consider future driveways and a potential traffic light. A light won't work if drives are offset.

Mr. Connors stated they went through the exercise in 2006 when they proposed subdividing the parent lot into the three parcels. The Board knew that CLM was coming in with a potential bank and a retail use. With the retail use, they knew there might be a light; it enhances a retail use. They placed this driveway to correspond with placement of a light. DPW reviewed the traffic information and requested this driveway be placed in this location to match up with the potential driveway across the street. The DPW memo was written to Mrs. Roach from Michael Fowler on May 24, 2006 regarding the 10 Tsienneto Road Traffic Study. Mr. Connors read the memo into the record:

"Smith Jackson LLC has commissioned a traffic study in an effort to coordinate future curb cuts within the Tsienneto Road corridor. The existing 10 +/- acre parcel will be subdivided into three lots. Lot 1 has a site plan application pending for the relocation of the Center for Life Management which required a full access curb cut. Lots 2 and 3 do not have site plans pending but the applicant has agreed to the concept of a shared access for both lots. The curb cut for Lots 2 & 3 was moved in a northerly direction to accommodate a traffic signal in conjunction with any future development plans for 11 Tsienneto Road.

Stephen Pernaw & Company prepared the study using a projected development mix for Lots 2 & 3. The study also incorporates projections for the traffic generated in an Exit 4A build scenario. The Department of Public Works endorses this study and has no objection to the location of the two proposed curb cuts for three subdivision lots."

The Board members were provided a copy of the memo.

Mr. Connors stated he looked at this and if one looks at the locus the right hand line shows the straddle of the lots. He believes the two lots at 11 Tsienneto Road have common ownership. They want to properly plan this driveway and intersection. This would be the spot for a signal and it would be expected that the other lots line up with it.

Mr. MacEachern said he would like to see funds set aside for a future light. That light will work for these properties and they should share in the cost. It is not necessary to install a traffic light now and it is not fair to say that this lot should pay for the whole installation. Maybe there should be a contribution from this development and the future developments across the road because the light will be needed for the three lots.

Mr. Ochs asked why Mr. Connors did not feel a light was required at this time? Mr. Connors explained his traffic engineer looked at the traffic signal and intersection warrants at this northern driveway in 2006. At that time, they had a bank generating 700 more trips than this school will generate. The light was not warranted for the bank. The updated traffic report points out the school generates less trips than a bank would

and therefore warrants for a light are still not met. Depending upon the intensity of the retail use on the northern lot, that may change, but the retail use application should have a new study and be re-evaluated at that time.

Mr. Ochs asked if Mr. Connors agreed that traffic will happen~~ed~~ during the 7 to 8:00 a.m. and 5-6:00 p.m. rush hours? Mr. Connors said the full cycle will take place in the morning when everyone shows up for school. About 30 to 40% of the students will leave around noon. The balance will leave during rush hour. This use is reducing the peak PM projection from what was estimated for the bank use. Tsienneto Road has heavier traffic in the evening. He feels the use is complimentary to Tsienneto which runs lighter in the morning and heavier in the evening.

Mr. Ochs noted people will still need to cross over the traffic during the busy time. Mr. Connors anticipated people will use the middle turn lane and wait for a break in traffic. Mr. Ochs stated he was more concerned with traffic exiting the site.

Mr. Connors commented with regard to the turning movements, left hand turns are of greater concern. If the flow in the morning is migrating more towards Route 93, the morning would have heavier traffic and the PM traffic would turn into traffic to go with the flow. There would be more right hand turns in the morning and more left hand turns in the evening. Mr. Ochs felt given that fact, now was the time to put the light in. This use was not planned for this zone originally. He suspects the majority of people will want full time kindergarten and day care.

Mr. Connors stated the traffic light was not warranted through the original study which has ~~since~~ been updated since 2006. The originally proposed branch bank had no numbers during the AM peak and a high volume in the evening commute. This proposed use is a better fit with the traffic at Tsienneto Road.

Mr. Ochs felt there was a lot of traffic at schools. It would be more like 15 minutes to drop off a child of two years, warranting 45-50 spaces and a traffic light.

Ms. Ferrante stated she drives this road every day between 7:00 a.m. and 9:00 a.m. as well as in the evening. The amount of traffic for the Post Office is high turning left and right, and at the Medical Center. There is a lot going on during the day. Noon time is also busy in that area of the road at Overlook Medical and at the Post Office. She feels the Board needs to look at a light now versus later.

Mr. Connors agreed there is a lot of traffic on the current road but this use as a traffic generator is comparable to other uses on the road. There is no light at Barka Elementary. A traffic light is not the only fix. They did engineering work to look at the standard. A light is not necessary now ~~nor~~ when the retail use goes in, but it may be needed later. He disagrees that traffic right now warrants a traffic light; one would not hurt, but it is not warranted.

Mr. Nelson noted the capacity for the facility is 132 students and 20 staff members. The morning drop off will generate about 53 through trips during the peak hour. Is this assuming one student per vehicle? Mr. Connors advised the school drop off will be between 7:00 and 9:00 a.m. 53 trips will take place during the peak hour. The standard used was 0.8 trips in the peak hour per student. Mr. Nelson noted all the students need to be there by 9:00 a.m., but they can come earlier. The drop off will be spread out over two hours. What about evening hours? Mr. Connors said they will depart between 4:00 and 6:00 p.m.

Mr. Nelson commented on the quality of the architectural design; the architect did what the regulations called for and he applauds that. In terms of a traffic light, he would like a second opinion as to when there are warrants for a light, rather than the Board's personal judgment. Traffic lights can cause additional problems if one is not really needed. If the study done indicates the likelihood was high that a light was needed, it may make sense to come up with a fair share improvement assessment for all parcels that would benefit that is proportional to the impact. He would need to know the anticipated cost of installing a light and how long funds would be retained before installation, inflation would need to be taken into consideration if the light was not installed in the near future. The Board did this during the Victory Supermarket subdivision. The town can't go back and collect from the Post Office and Overlook Medical Park, but would need to get numbers in terms of cost. The Board also needs to determine a time frame as to how long the funds can be held before the installation of a light. He would support looking at that type of information.

Mr. Tripp agreed with Mr. Nelson. He likes the site plan itself but agrees the traffic study may be based on assumptions that are not correct. The Barka School is half a mile away from Route 28, which allows for a good traffic queue. These driveways are short and there could be people queuing on Tsienneto Road. He agrees 53 trips at the peak may be a low estimate. People will come all at once within an hour. It takes longer than 5 minutes to drop off a child of this age.

Mr. MacEachern felt a light would eventually be required at this intersection. He is not sure one is needed right now. He would want to see the data before making a decision before this plan gets to the approval process. He feels it is owed this developer and other developers, past and future on Tsienneto Road, to look at this.

A light was not placed at the Post Office because of its proximity to the existing light, nor was one placed at Overlook because of that lot's proximity to Shaw's. He knows this is where a light would go; it had been discussed when the zoning was changed on Tsienneto. It is not fair to make this developer pay the full cost of a light. There needs to be a fair share contribution from future developers as well. If the Board decides to put in a light now, then 2/3 of the burden would go to the Town until it can be recouped, so the Board needs the figures. The Board would also need to make sure this happens in three to four years. This is similar to what was done for Osco Drug. That was controversial and the thought was to put it in, prove it works, and if it does not, shut it off. He would like to go out and look at this site. He would also like to see what was

done in 2006. It would be nice to see it all staked out. He does appreciate the photos that were supplied. Maybe Mr. L'Heureux can work up the numbers as they did in 2006 and develop a proposal. He feels it would be okay to ask for a fair share contribution towards a traffic light from this applicant.

Mrs. Roach noted the sign plan indicates 4" changeable copy? ~~Is this electronic?~~ Mr. Connors confirmed with the applicant this is for the clear letters that are slid into place. The sign is not intended to be electronic. Mrs. Roach advised she is also concerned with regard to parking. There are 20 spaces available to drop off children with 53 trips during the peak hour. Some of those spaces will be lost during the winter months. She does not feel there is sufficient parking.

Ms. Ferrante asked how parking would be handled during family events? Mr. Connors stated that all events would be hosted off site because there would not be enough space for everyone for things like a large Christmas pageant. Ms. Ferrante asked if there would be things like a petting zoo in the back? Mr. Connors said no. Ms. Ferrante noted that when you exit the Post Office there is a double lane so that you can turn left or right. Can the right hand driveway on this property be widened to accommodate something similar? Mr. Connors directed the Board's attention to Sheet C1. They anticipate a third lane will be necessary and have left room to accommodate that when the third and final lot is developed. It is planned for, but not part of this project.

Ms. Ferrante recalled that Pinkerton Academy had an interest in tapping into the egress for additional parking across the street. Mr. Sioras indicated it is not definite but it may still happen. Traffic patterns have changed and increased over the last two to three years. Previously, there had not been a lot of development on Tsienneto Road. Over the last two years, since the Barka School opened, traffic patterns have changed. The intersection is busier with students and staff going to Pinkerton Academy and the new elementary school. Changes will happen in this area quickly. Even if Super WalMart does not happen, Route 28 will be widened to four lanes from the Police Station north. What has happened is that interest has been generated in that part of town and the north part of town. The Board may need to look at that corridor again. This would be a 4A corridor connection. Fair share contributions were done for Applebee's and Citizen's Bank. An analysis can be done and the Board can look at it. The applicant has done a great job on the plans and the architectural rendering. He does see a change in the traffic patterns and feels the residents of Sunview Condominium can attest to that.

Mr. Ochs said he can live with the light not being constructed now, but the Board needs to plan for it. He felt a new traffic study is warranted. He would support a fair share effort. If this is postponed he does not feel the Board would be looking out for the best interest of the town.

John Hajjar, Foxcroft, Inc., advised that Peter Smith owns the property next to this one. Mr. Smith knows there may be a future need for a light ~~in the future~~ but why hold up this project for what may not happen? How can the government equitably apportion the

cost of the light? This is a small development of 8000 square feet. Mr. Smith knows that if his development was the tipping point that required a light, it would be up to him to pay for it. Mr. Hajjar stated he looked at the traffic study and there is no indication a traffic light is warranted. Why hold up this development? It is better for him [Mr. Smith] to speak with the owner across the street rather than to sit on an escrow account. He said the Board should allow Mr. Smith to deal with it when he develops the next lot. This use has less trips than the previous use proposed for this lot. The operators of the daycare are here this evening. They have a lot of money tied up in this and not opening on a date certain on September 1st will cause them hardship. Mr. Hajjar said it would also cause him hardship and there is potential for the deal to fall through. He applauds the pre-planning. Mr. Smith knows his next project may need a light and he has indicated he will deal with it then. Mr. Hajjar asked that the Board approve this site plan and let the other issue be dealt with at the right time.

Mr. Ochs noted the applicant had been told this use was not zoned for this area. These are the reasons. It appears that Mr. Hajjar wants it his way, but Mr. Ochs wants it for the benefit of the town. Mr. Hajjar attempted to refute the statement and both parties were informed by the Chair there would be no running debate on any issue.

Mr. Nelson stated he understood the cost and impact of a traffic light to the business plan. But it is not appropriate to wait to the end of development to assess costs. The concept of fair share is that it takes multiple developments to cause the need and all contribute, because all benefit. If the town is to fairly allocate funding it should be done now. If the cost is estimated, each group pays a fair share. It is not appropriate to hit up the last person. In terms of holding up the plan, he does not feel this does that, nor does it substantially delay it.

Mr. MacEachern reiterated there is no intent to hold up the plan. It is not unusual when the Board sees this type of plan to go through two rounds of hearings. This plan, because of where it is located, has long term potential impacts, as opposed to being off on a side street. The Board also looks at this because it is on a major road in Derry that has potential to be a major access point to Route 93. The Board needs to look at this from the long term perspective. This road will undergo major changes once the other side of the street is developed. It behooves the Board now to look at this. He does not want to tie up the plan any longer than necessary, so proposes the fair share contribution approach. He would like this all documented as part of the approval so they can lay out the conditions. Mr. Hajjar said don't hold up the plan. Mr. MacEachern continued, stating he wants to make sure it happens and the Board assesses a fair share contribution as has been done in the past. This is not unusual. The Board needs to look at this quickly so construction is not delayed. It will only take a few weeks. The Board needs to review the data from 2006 for Tsienneto Road, the lots across the street, Mr. L'Heureux and his team can address the cost of a light and assess the lots accordingly. What this group puts in would not change even if the light is not installed for five years. The assessment needs to be looked at in terms of the number of square feet or frontage. It needs to be equitable.

Ms. Evans asked if DPW commented on the traffic study? Mr. Connors advised he has a copy of the May 24, 2006 memo from Mr. Fowler who looked at Tsienneto and recommended the driveway location be moved to its present position. Ms. Evans inquired why is there no emergency access around the building? Mr. Connors explained they did not want to introduce vehicular traffic against pedestrian traffic. The building will be sprinkled and there is vehicular access available through the gate.

Ms. Evans felt this use was too intense for this road. She would hate to see a light go in on this road. Can there be a right turn only lane for cars exiting the facility so cars don't have to cross over? The parents can then find the right artery to get to work. She can see the potential for accidents as people try to cross the traffic and make a left hand turn. Mr. Connors stated he would not support a right turn only lane going in/out because it would interfere with the left turn only and would add to traffic at the other interchanges. Ms. Evans disagreed. She felt her solution would work if people utilized the arteries at Ross's Corner. Mr. Connors felt the fewer choke points the better. People will take the easy way and he does not want to cause additional traffic on the other lots. Ms. Evans stated this concerned her enough that she may not vote on this because of the intensity of traffic at the drop off; she felt restrictions needed to be placed on the project.

Mr. Connors indicated any other retail use would be a more intense use. The bank would have had twice the traffic that this use will generate during the course of the day. The Board members were quick to point out the key phrase was "during the course of the day".

Mr. MacEachern said he would suggest a bank use would have required a light. Mr. Connors disagreed, stating their original traffic study accounted for a bank *and* for Exit 4A traffic and a light was not warranted.

Mr. Hajjar advised he spoke with Dean Jackson. He understands that his plan might not be approved if they need to put in a light. He does not know how the town can apportion fairly a light because the town does not know what the future uses will be or the future square foot amounts on the undeveloped parcels. Mrs. Roach advised it is the purpose of this Board to plan for the future of Derry.

Mr. Picillo agreed with apportionment from a traffic perspective with all due respect for the applicant's concerns. If drop offs at this facility would have people turning right all the time, he does not see traffic as a huge issue. He does think the other side of the street will be developed and will have a higher burden because people will be turning left. Apportionment has been done in the past and this is no different than asking someone to widen a road or put in sidewalks. There are additional costs that may be incurred that were not anticipated at the time of development. It is the responsibility of this Board to look at future issues. The Board needs to look at a light. If the Board does not do it now, the last person to develop will get stuck with the entire cost and that is not fair. The Board needs to find a fair formula.

Mr. Granese stated he had an issue with the parking. He did not feel there was enough on site. There is also an issue with traffic flow. When entering the site, could traffic flow from right to left in one direction only? More parking is needed. There needs to be a lot of traffic for a light. The light would also add to the safety of the small children who will be crossing this parking lot. He likes the idea of escrowing funds for a future light. If it is not done now, they would need to figure out the fair portion. He agrees a site walk would be helpful to visualize the curb cut. He would like to see a new traffic study.

Mr. Connors reiterated the traffic study has been updated from 2006. It was recalculated and revised. The trip generation and analysis says a light is not warranted. Mr. Granese asked if there was an actual traffic count or was it computer generated? Mr. Connors did not believe it was updated based on actual traffic counts at the location. Mr. Granese thought the new study should forget the past and focus on what is there now. Mr. Connors stated their study makes use of the DOT model for Exit 4A. They used the DOT traffic projections. Their calculations assume that 4A is built. If it does not happen for 20 years, then they don't need a light for this project or for the future retail use. He can appreciate the planning but the Board does have an accurate study and accurate projections for the project. It was reviewed by the Board's engineer. They can update the counts but he does not feel it will change the outcome.

Regarding the one way from right to left, there is a long leg of driveway to the right to accommodate the queue length. The CLM side has only room for 2-3 cars to stack. If they went one way, right to left, it would eliminate access for CLM employees and clients to travel through this site to a traffic light. Mr. Granese asked if Mr. Connors was saying he agreed there needed to be a light at this location? Mr. Connors stated their study says the light is not warranted and that is their position.

Mr. Tripp noted that the traffic study cites Land Use Code 565. What is that? Mr. Connors explained ITE (Institute of Traffic Engineers) describes that as a day care center. He read aloud the description of a day care center, as defined by ITE. An alternative would be Code 520, Elementary Schools. They had determined the day care center code and calculations was more appropriate for this specific use.

Mr. Picillo noted the site plans presented are fantastic. However, Derry and Londonderry suffer from an error in judgment when Burger King and The Cracker Barrel were built. There is no more horrendous an intersection to exit than that one. It is hard to exit that site. Everyone would agree that area should have had a traffic light. The Board does not want to see a repeat of that here. From a requirement standpoint planning of a light needs to be part of the overall plan for this area. Any side agreements made by developers take that out of the jurisdiction of this board.

Mr. Hajjar stated he did not want to be argumentative. There was not a side agreement.

Mrs. Roach stated the Board will not discuss Mr. Hajjar's agreement or discussions with another party as that is not on the plan being discussed this evening.

Mr. Hajjar said there will be a lot of conjecture as to what will be a fair apportionment of the cost for a light. The person who builds the lot that needs the light should pay for it. Mrs. Roach explained the Board needs to plan for the future of this town and developments and the roadways in the town. At this point, she would like to open the floor to the abutters.

Public input was invited.

Nancy Burns, Sunview Condominiums, asked the Board to consider putting in a light sooner rather than later. Exiting Sunview Condominiums is dangerous at both locations. She has sat for a while at a safe time of day trying to get out onto Tsienneto. When they count cars, they forget the practical problems. In the winter, it is very dangerous to pull out onto Tsienneto when the roads are icy and slippery. If children are put into that area, she would not want to see someone getting hurt. She does not agree that there will only be 53 cars at the peak time. Parents all come at the same time because people all go to work at the same time. It is not just a matter of counting cars; road conditions need to be considered. With regard to the matter ~~of~~ the retail use the Board will need to consider the 212 units who exit onto the road between the hours of 6:00 and 7:00 a.m. If it is made one way, they won't be able to exit. If a light is put past Sunview people won't be able to get out. She asked the Board to please consider the existing property owners.

As a separate question, why were all of the property owners not notified? As taxpayers, the residents felt they should have been notified. What are the requirements? Mr. Sioras explained that the notices go to the Board of Directors and the management company. That is how an abutter is defined.

Kathy Floyd, Sunview Condominiums, did not understand how a day care center was approved on Tsienneto Road. Mrs. Roach explained that approval was a separate action taken by the Zoning Board of Adjustment and that decision had nothing to do with this Board. Ms. Floyd reiterated that traffic on this road is horrible.

There was no additional public comment and the review went back to the Board.

Mr. MacEachern felt there was a need for a site walk. He supports the 2006 study and updates, but would like to see the overall plans from 2006, which are not available this evening, so that he can be up to speed. He said he was trying to understand the trip figures, meaning the 53 trips at the peak hour. Drop off ~~are~~ is between 7:00 and 9:00 a.m. 132 children would be dropped off. If there are 53 at the peak, then there are still about 80 children to be dropped off. Mr. Connors noted that the children range in age from 6 weeks to 6 years and there will be some siblings. They estimated 598 trips per day, or 300 cars into and out of the site over the course of a day. Mr. MacEachern asked if that meant 110 cars in the morning and 110 cars at night? Mr. Connors said they anticipate 150 cars in the morning, and 150 at night. The teachers will show up during the same hours with some staggering. Mr. MacEachern thought that equated to about 75 cars an hour coming in during those morning hours. Mr. Connors reiterated

they estimated 300 cars over the day with 53 during the morning peak time. Mr. MacEachern thought, given the number of children and staff in the building between 7:00 and 9:00, there would be more than 53 trips during the peak hour. Mr. Connors noted that 30 to 40% would leave at noon. Mr. MacEachern said 132 children would be in the building between 9:00 and noon. Mrs. Roach added that during that time, there will only be 20 spaces available. Mr. MacEachern commented a bunch of the children will leave at noon. It is the morning rush that causes concern because that will be 75 cars an hour. He wanted to point that out.

Mr. Nelson indicated he did not have a problem with a site walk, but did not feel he will see anything that will influence him. At the next meeting, he would like to see a report from KNA or DPW, that reviews the updated study. He needs to see figures. When he looks at the current study, there is zero contribution from the driveways of other lots. He would like to see those estimates. If the figures do not meet the light warrants then one might not be needed. He would like to see engineering data from staff that says they took a reasonable look at traffic data for all the lots and it is reasonable to assume that in year X it is warranted to have a light. If the Board does not feel a light is required, then the discussions over a light can stop. If one is required, the Board has to figure out when it would be installed, how much it would cost, and what would be the fair share contribution. That is what will motivate him. He needs to know all the factors have been accounted for with regard to traffic and if a light will be required over the next two years.

Mr. Sioras advised Mr. L'Heureux's department does not perform traffic studies, but the Board can obtain a second study at the cost of the applicant. This has been done before. Mr. Fowler can go out and get data from traffic engineers that the town currently works with. It may end up that a light is not warranted, but the Board does have the authority to ask Mr. Fowler to do that.

Mr. MacEachern stated his other concern is the shared driveway. He needs to know what will happen to the north. This is the exit and entrance to the last undeveloped lot of the subdivision. The Board had subdivided the original lot into three parcels. What goes on that lot will utilize that driveway as the entrance and exit and that information is important to the traffic study. Mr. Connors advised a 26,000 square foot retail space had been accounted for in his study, but he is not sure if anything was accounted for across the street.

Mr. MacEachern said if the updated study did not anticipate the most aggressive use on the empty lot, then the Board needs those figures and the figures for across the street as well. The Board needs to account for the safety as well because of the number of trips. The traffic is just one element. This street was not designed for this use.

Mr. Connors asked for a clarification of the use. Is the problem this use in this location? This was Industrial five years ago. So he is not following the argument of the use versus the road. Mr. MacEachern said he is just saying this particular use was not envisioned for this area. He is not saying it is good or bad. He is asking staff to look at

the adjacent lot with an aggressive use, and the same for across the street and see what the study says. What is the maximum and the minimum potential uses that can go on those lots to see what might be the likely outcome. The study needs to look at what is current and what is known, then look at the most intense use for the zone and the least so that there is a clear idea of the minimum and maximum traffic impacts, and then determine at what point is a light installed? The study may find one is not required. The Board needs to figure out what is likely to happen given what is known today, and determine from there. It may seem unfair to the school, but the Board needs to plan appropriately.

The Board discussed continuing this hearing to a date certain. Mr. Sioras noted that it might take longer than two weeks to pull the traffic study together although he did not want to delay the applicant. Mr. MacEachern asked Mr. Sioras to speak with Mr. Fowler to see if he feels a new traffic study is required or not. Mr. Sioras stated Mr. Smith has had discussions with the owner across the street, and the Board needs to consider what will happen if that area is used for an exit from the theatre at Pinkerton. Mr. MacEachern noted if Pinkerton utilizes access across the street, it will take traffic from the theatre and student parking and place it on Tsienneto. Mr. Sioras said it is possible that there will be access across the street for a retail facility and parking for the students and as well as an entrance and exit for traffic to and from the [Stockbridge] Theatre. Mr. MacEachern indicated that is information that would be required to supplement a warrant for a light. Mr. Sioras noted that Mr. Fowler had recommended the location for a traffic light based on that information. Mr. Nelson confirmed the Board is requesting Mr. Sioras and Mr. Fowler to produce this information and authorizes them to hire a consulting engineer if necessary at the applicant's expense to produce this information.

Motion by MacEachern to continue this hearing to February 20, 2008 and to authorize Michael Fowler and George Sioras to hire a consulting engineer, if deemed necessary, at the applicant's expense to produce information to determine if a traffic light is warranted at this location. The motion was seconded by Ochs.

Picillo, Ferrante, Ochs, Evans, MacEachern, Nelson, Granese, and Roach all voted in favor.

The Board noted that no site walk would be conducted on this lot at this time.

A motion was made, seconded and passed in favor to adjourn at 9:14 p.m.

Minutes recorded by Elizabeth Robidoux, Planning Clerk.