

The Planning Board for the Town of Derry held a public meeting on Wednesday, April 25, 2012, at 7:00 p.m. at the Derry Municipal Center (3rd floor meeting room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman, Frank Bartkiewicz, Secretary; David Milz, Town Council Representative; John P. Anderson, Town Administrator; Jan Choiniere, Darrell Park, Jim MacEachern, Members; Ann Alongi and Joe Donahue, Alternates

Absent: John O'Connor, Randy Chase

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning Clerk, Mark L'Heureux, Engineering Coordinator

Mr. Granese called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. He introduced the staff and Board members present, and noted the location of the exits and meeting materials.

Mr. Donohue was seated for Mr. O'Connor.

Escrow

#12-07

Project name: Derry Walmart

Developer: Walmart Real Estate Business Trust

Escrow Account: Walmart Real Estate Business Trust

Escrow Type: Letter of Credit

Parcel ID/Location: PID 08279, 11 Ashleigh Drive

The request is to renew Letter of Credit L5LS-484307 in the amount of \$2,368,414.08 for the above noted project. The Letter of Credit is drawn on JP Morgan Chase Bank. The expiration date will be June 1, 2013.

Motion by MacEachern, seconded by Bartkiewicz to approve the request as presented. The motion passed with all in favor.

Minutes

The Board reviewed the minutes of the April 11, 2012, meeting.

Motion by Bartkiewicz, seconded by Donahue to accept the minutes of the April 11, 2012, meeting as amended. The motion passed in the affirmative with Choiniere abstained.

The Board reviewed the minutes of the April 14, 2012, site walk.

Motion by Anderson, seconded by MacEachern to accept the minutes of the April 14, 2012, site walk as written. The motion passed in the affirmative with Park, Milz, and Granese abstained.

Correspondence

Mr. Bartkiewicz advised the Board is in receipt of a brochure from The Local Government Center (LGC) regarding RSA 91:A (Right to Know). The Board members should look it over and be familiar with this RSA. More information is available on the LCG website. The Board has also received the April, 2012 edition of *Town & City* which also has a good article on the Right to Know Law. Members can access the article on the LGC website. A copy of a letter sent to Covey Run, advising that the current Letter of Credit will expire on June 20, 2012, was provided to the Board.

Other Business

2nd Review of Amended Policy & Procedures

In accordance with the Board's Policy & Procedures, the Board reviewed for the second time the proposed changes. Mr. Granese advised this can now move forward for a vote at the next meeting.

Motion by Anderson, seconded by Donahue to schedule a vote on the revisions to the Policy & Procedures for the May 9, 2012 meeting.

Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motion passed.

Schedule Public Hearing for revisions to the LDCR

Mr. Granese advised the Board has a copy of the proposed changes to the LDCR with regard to the waiver provisions. If there are no additional changes, this can move forward to a public hearing.

Motion by Anderson to schedule the public hearing on the proposed revisions to LDCR Section 170-11, Modifications and Waivers and 170-50, Waivers, to Wednesday, May 9, 2012. The motion was seconded by MacEachern.

Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motion passed.

Public Hearing

**Pinkerton Academy
PID 43005 and 43001, North Main Street
Acceptance/Review, Site Plan
Addition of Career & Technical Education Buildings**

Mr. Sioras provided the following staff report. The purpose of this plan is for the construction at Pinkerton Academy of two new Career and Technical Education (CTE) buildings and a new CTE storage building to replace existing classroom structures. All town departments have reviewed and signed the plan. There is a waiver request to allow the use of 24 x 36 plan sheets where the regulation calls for 22 x 34 sheets. The applicant has an application in process for the NHDES Alteration of Terrain and for a sewer connection permit. Mr. Sioras stated he would recommend approval of both the waiver request and the site plan application.

Jay Heavisides of Meridian Land Services presented for the applicant. Also in attendance were Mary Anderson, Headmaster; Glenn Neagle, Finance Administrator; and, Jack Grube, CTE Director of Pinkerton Academy. Also present was Paul Marinace, of Frank P. Marinace Architects. Mr. Heavisides provided the following overview of the project. The construction will take place in three areas: the south, middle or Quad area, and the north. There will be two classroom buildings, one on the south end of campus and one in the Quad area. They will remove two small buildings on the south end: Room 30 and the greenhouse. The new building will house Cosmetology and Animal Sciences. The slab for the greenhouse will remain and possibly become the foundation for a future sugar house. The building will be one story, 6600 square feet in size. There will be access to the building from the front and utilities will come in the rear of the building. Roof runoff will be collected in stone drip edge around the building, routed to a large diameter pipe and then into the storm water collection system.

The second building will be located in the Quad area where the “temporary” portables had been located. It was noted the “temporary” classroom portables had been in use for 30+ years. They were removed last year when the Freshman building was constructed. The Quad building will be two stories, 8200 square feet in size. There is no parking attached to this building; access will be via foot traffic. There is a fire lane that leads to the building. The Fire Department has reviewed the access which will have 12 feet of pavement. Of note is that grass pavers will be used to make the access 20 feet wide. The pavers will support the fire apparatus and outriggers. There is a handicap route accessible from behind the Pinkerton building. There is handicap parking in front of the Pinkerton Building and people will be able to make their way to the Quad building. There will be access to other buildings, but they could not provide access from the Field House. Because of the steep grade, they could not make it handicap accessible. This building will also have stone drip edge leading to a large diameter pipe that outlets beside the Library to an existing catch basin.

The last building will be constructed where the Building Trades currently assemble product in a large gravel area. This will be a 2000 square foot, one story building with four garage doors.

The building will be used for storage. It will be built on the gravel lay down area. There will be no water or sewer to this building. Mr. Heavisides noted Glenn Neagle and Paul Marinace were in attendance if the Board had questions with regard to the buildings' designs and functions.

Motion by Anderson to open the public hearing, seconded by Choiniere. The motion passed with all in favor and the floor was open to the public.

There was no public input.

Motion by Milz to close the public hearing, seconded by MacEachern. The motion passed with all in favor and the plan came back to the Board for review.

Mr. Anderson asked if the Board could be advised of the long term plans for the campus, as there has been mention of the removal of the greenhouse. Glenn Neagle, Finance Administrator, advised that during the first year, they will keep the greenhouse and use it to house the students from Room 30. Once the new building is complete, they will take down the greenhouse, retaining the foundation, and will utilize that area as a potential location for the sugar shack. One of the new classrooms in the Quad area will have a greenhouse bump out for the Natural Resources students.

Mr. MacEachern asked if there could be more elaboration on the relationship between this project, and Senator Rausch, who he believes has been active with this. How did this come about? He understands there is state funding involved. How will this project affect the tax rate?

Mr. Neagle stated Senator Rausch was instrumental in Pinkerton obtaining the funding for this project. The entire project is state funded. The cost is 7.8 million dollars to complete the project. Typically, there is a 70/30 split, with the state putting up the 70%. In this case, the state recognized the Freshman Academy (Culinary Arts, Audio Visual, Allied Sciences) as Pinkerton's 30%, so the school did not have to come up with the 30%. Nothing is coming from Pinkerton Academy or the taxpayers. Mr. Anderson noted the funds are from the capital budget at the state, so it is taxpayer dollars coming back to the town from the state.

Mr. MacEachern noted this project will not affect the tax rate of the Derry residents. He wanted to recognize the hard work of the staff team from Pinkerton and Senator Rausch to ensure there was no local impact.

Mr. Anderson asked if any of the programs are being expanded? This is a great thing for our students. Will there be any classes added that are not currently offered?

Jack Grube, CTE Director, advised that the plan is to add four programs to the existing CTE curriculum over time. The programs include Animal Science, Law/Public Safety/Security, Manufacturing, and Cosmetology. They will also look at the teaching project and revamping business technology, morphing into software application programs. Nashua and Manchester are slightly ahead of Derry in terms of the number of students and courses offered, but with the addition of these courses, Pinkerton will be close to second in the state.

The Quad building will house Natural Resources, which will move from the Piper Maintenance Building. Electrical, Engineering, and Architecture will move from the Low Building to the Quad building. The open spaces in the Low Building will be used to add Education, Law/Public Safety and the computer application programs.

Mr. Sioras noted an email was received from an abutter to the project, who is unable to attend this evening. Mr. Sioras read the email into the record. Concerns include the location of the emergency generator for the new building as the abutter can hear and smell the generator at the Field House during its weekly test; drainage from the Quad area and the introduction of salt into the environment, and a request to move the building approximately 100 feet to the west. Mr. Sioras advised the email was forwarded to Mr. Heavisides. He asked Mr. Heavisides to address the concerns.

Mr. Heavisides indicated the abutter lives near the Quad area. With regard to the generators, the one installed for the Quad building will run on natural gas, so fumes will not be an issue. Regarding the run time, that can be adjusted to anytime of the day or night. The runoff from the old portables ran from this land area, to a culvert and then to a wetland. Runoff from the new building will be collected and sent to a detention system. The only runoff from this area will be from the fire access road, which is an existing service driveway. The majority of traffic on this road is foot traffic. With regard to moving the building forward, the building was located to create a green, quad area. They would not gain anything with regard to access if the building were moved. The Fire Department is satisfied with the location. Mr. Neagle stated that with regard to the generator located at the Field House (Hackler ~~Gynasium~~Gymnasium), this is the first he has heard that there was an issue. There have been abutters in the past who have phoned the school to advise of issues and they are addressed. He stated they can set the generator test to any time.

Mr. Sioras advised the Planning Department was also in receipt of a letter from Mr. Neagle indicating Pinkerton would maintain and plow the proposed driveway and walkways in and around the Quad building. This includes the pavement and the grass pavers. Mr. Sioras stated he has discussed this with James Kersten in Fire Prevention and he has no issues.

Motion by Anderson to accept jurisdiction of the site plan application before the Board for Pinkerton Academy, North Main Street, PID 43001 and 43005, seconded by MacEachern.

Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and ~~Choiniere~~Granese all voted in favor and the motion passed.

Motion by Anderson to grant a waiver from LDCR Section 170-23 to allow 24" x 36" plan sheets rather than the required 22" x 34" plan sheets as this plan will not be recorded. The motion was seconded by MacEachern.

Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and ~~Choiniere~~Granese all voted in favor and the motion passed.

Motion by Anderson, seconded by MacEachern to approve the above noted site plan application, pursuant to RSA 676:4, I, Completed Application, with the following conditions: Comply with the VHB (town consultant) report dated April 17, 2012, subject to owner's signature, subject to on site inspection by the town's engineer, establish appropriate escrow as required to complete the project; subject to receipt of state or local permits relating to the project (AoT, Sewer Connection); that the above conditions shall all be met within 6 months and improvements shall be completed by October 31, 2015. In addition, the applicant shall work with the abutter to schedule the generator maintenance. Discussion followed.

It was noted the waiver is requested from Section 170-60.1, site plan regulations, rather than 170-23, which are the subdivision regulations.

Anderson moved the amendment to the waiver request approval, seconded by MacEachern and the amended motion passed.

Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and ~~Choiniere~~ Granese all voted in favor and the motion to grant conditional approval passed.

Forest Avenue Properties, LLC

PID 32025, 37 Crystal Avenue

Acceptance/Review, Site Plan Determination

Change in Use: 800 SF of retail to office space for used car sales

Mr. Sioras presented the following staff report. This is a follow up plan to the March 14th approval of a parking lot expansion plan at Plaza One, 37 Crystal Avenue. The purpose of this plan is to change the use of 800 square feet of the existing 10,400 square foot retail building into an 800 square foot office for used car sales. There will be 11 used cars on site in designated spaces. No town department signatures were required for this plan, and there are no waiver requests. Mr. Sioras said he would recommend approval of the site plan determination application. The plan is back at the request of the Planning Board. There is a copy of a memo from Bob Mackey, the Code Enforcement Officer, answering questions from the last meeting. He read the memo into the record.

Todd Connors, of Long Beach Development Associates presented for the applicant. This is a site plan determination application for a change in use for tenant space at Plaza One, located at 37 Crystal Avenue. Mr. Connors advised the exhibit shown on the overhead is slightly different than the plan submitted with the application. He has shaded in the tenant space, which operates as "Crystal Auto." Up until this point, almost all of the sales have been over the internet. There is retail space available and the tenant would like to display a few cars. The previous plan showed a parking lot expansion to the rear of the building and reconfiguration of parking spaces to the front and north side. They added 750 square feet of landscaping and three display spaces for used cars. The current hours are Monday through Saturday, 11:00 a.m. to 6:00 p.m.; he is closed on Sunday. The tenant would like to operate 10:00 a.m. to 7:00 p.m., Monday through Saturday, remaining closed on Sunday.

Motion by Choiniere to open the public hearing, seconded by MacEachern. The motion passed with all in favor.

There was no public input.

Motion by MacEachern, seconded by Bartkiewicz to close the public hearing. The motion passed with all in favor and the plan came back to the Board for review.

Mr. Anderson noted Mr. Connors had mentioned the unit the tenant rents is on the right (south) side of the building. The proposed display area is to the north. Would this cause confusion for customers? Mr. Connors did not feel it was confusing as there is a sign over the door and customers can find the office. The display area is the space they have that does not take away from prime tenant parking spaces. There is no place on the south to put the display area that would not compromise parking spaces.

Mr. Anderson asked if there is shared access along the boundary to the right? Mr. Connors said they are showing a one way arrow exiting their back parking lot, as that was recommended by the town's engineer. Mr. MacEachern asked if there should then be a One-Way sign placed at the top of the access? Mr. Connors explained they can add striping on the final exhibit of the other plan if that is the desire of the Board. However, that is the only way for the abutting insurance company to reach their parking lot which is located to the rear of their building. He would like an opportunity to speak with staff on that. He would hesitate to put a "do not enter" sign there. Mr. Anderson asked if there is a shared deeded easement? Mr. Connors did not believe there was any legal protection. Both lots have paved to the property line and people have been going in and out using that access for over ten years. There is no written agreement he is aware of and he is unaware of any dispute between the neighbors. That issue is more relevant to the last plan, not this one. That is not an important access for them as they have access to the rear of their building on the left side. They can un-connect to the right side if that is a problem for the Board.

Mr. Anderson asked for confirmation that the intent is to display the majority of the vehicles to the rear of the site. Mr. Connors said the last plan identified 8 spots to display the used cars for sale. At the public hearing for the parking lot expansion, he believes he was told to not designate them and just use them. They would like to have 8 display spaces behind the building and three in the front. Mr. Anderson asked if they are looking for no more than 11 spaces? Mr. Connors advised they are asking for eleven spots. If more are placed on the site, the Code Enforcement Officer can point out that they are in violation of site plan approval. His understanding is that Mr. Mackey allowed one car to be parked in front and four to the rear.

Mr. L'Heureux stated this is a difficult site as it exists. His intent in the recommendation for the directional arrows was to maintain site circulation because there are no modifications planned. That makes it difficult to bring the existing site into compliance with today's regulations.

Mr. Granese asked with regard to the north side of the building – those are plantings and a curb? Mr. Connors said there is no curb. There are two proposed beds shown on the north side and around the building. The beds will be cut into the pavement. Mr. Granese asked for the distance

to the proposed landscape beds on the site? Mr. Connors advised the distance between the display area and the front left side of the building is 24 feet. It meets the minimum aisle width requirement for a parking lot. To the left rear, the dimension is the same, and on the bottom right of the plan, the distance is 11 ½ feet from the southern face of the building to the property line.

Ms. Alongi asked for identification of the abutters on either side? Mr. Connors stated T-Bones is to the north and Benway-Johnson Insurance is to the south.

Mr. Milz recalled that the Board approved the parking lot expansion plan with a set number of spaces, but did not approve the auto sales use because the Board did not know if the tenant had a license to operate or not. That is why the Board wanted the use to come back tonight as a separate application. Mr. Sioras agreed. Mr. Milz thought that the issue of the signs had been addressed during review of the parking lot expansion plan. Mr. Connors said he understood the issue of the signs was a condition of approval on the parking lot expansion plan; the smaller sign is to be moved out of the right of way. Mr. Milz confirmed this application is a change in use of 800 square feet of retail space to office space.

Motion by MacEachern to accept jurisdiction of the Site Plan Determination application before the Board for Forest Avenue Properties, LLC, 37 Crystal Avenue, PID 32025, seconded by Milz.

Park, Donahue, MacEachern and Choiniere voted yes; Anderson, Milz, Bartkiewicz and Granese voted no. As the vote was deadlocked, the motion failed.

Mr. MacEachern advised that anyone voting no should explain why they voted no for the record.

Mr. Anderson said he did not like the plan. Mr. Milz had a concern not so much with the expansion to the rear, but with the three designated spaces as a display area. He felt if they were standard parking spaces and three cars were placed in them and designated for sale, it would not be an issue. He had concerns with the display area because it removes three parking spaces; if the tenant goes away, then there is no clear defined plan. He is comfortable with three pull-in spaces but not with the display area as it is designed. Mr. Bartkiewicz had concern with the overall plan, mainly the three spaces to the front. Mr. Granese also did not like the three spaces to the front and had an issue with the one way traffic to the south side of the building. He has no issue with the landscaping.

Mr. Bartkiewicz asked if there was clarification as to who owns the right of way between this building and the insurance company? Mr. MacEachern suspected there was some form of shared easement. It appears that is the only access for the insurance company. Mr. Connors said he was not aware of an easement between the two properties. Is the Board suggesting that the pavement be torn up? Why is it okay for the insurance company to drive on this property, but Forest Avenue tenants can't drive on the insurance company property? Mr. MacEachern asked if Mr. Connors knew what the arrangement was? Mr. Connors said pavement has been placed across the property lines and they have been good neighbors. The parking lot behind the insurance company was constructed about 5 years ago, so it did not appear the access was an issue for this Board at that time.

Mr. Granese asked for clarification of the lack of jurisdiction. Mr. Sioras explained that by not accepting jurisdiction, the Board has stated this is not a complete application and can request more information. If the Board accepted the application and denied it outright, that would be more clean. The Board has given the applicant direction as to what it feels is missing and the applicant can come back with another application.

Mr. Milz said his concern is not with the one way travel to the south side of the building. This is not a high traffic area. He concern is that the three car display area is not designed as regular parking spaces. If the three cars are in place as this is designed and someone parks in the left hand handicap parking space, it will cause a conflict. The display area can't be used as regular parking spaces. He does not feel traffic will flow well in that corner of the property. Two of the display spaces become locked in if someone parks in the handicap parking space. He does not care if three cars are parked there in regular parking spaces; he does not like the display area.

Mr. Connor noted the Board has not accepted jurisdiction; what exactly is missing? If nothing is missing from the application, then it should be accepted as complete. Mr. Granese said the issue is the three spaces to the front. Mr. Milz said he would like to see those spaces as ones you can pull in and out of, not a static area.

Mr. Connors said he does not have jurisdiction, but there is no denial. Should he come back on a specific date so they can work on these issues? Mr. Sioras said that because there is no jurisdiction, it would be appropriate to come back on a date certain with more information. Mr. MacEachern asked if the Board can deny the plan? Mr. Sioras said it cannot, there is no jurisdiction. The applicant can withdraw the application without prejudice, or the Board can vote to continue the hearing to a date certain.

Motion by Anderson to confirm that jurisdiction has been denied and when the applicant complies with the Board's comments, he can reapply. Donahue seconded. Discussion followed.

Mr. Connors said his client would prefer to come back on a date certain. The Board discussed the request and stated the next available agenda for this plan, based on what was already anticipated and scheduled, would be June 6, 2012.

Mr. Anderson advised with regard to the amendment of his motion to bring the application back before the Board on June 6, 2012, he would leave that to the pleasure of the Board.

Park, Anderson, Donahue, Milz, Choiniere, and Bartkiewicz voted yes. MacEachern and Granese voted no and the motion passed.

BSS Properties, Inc.
PID 08278-001, 4 Linlew Drive
Acceptance/Review, Site Plan
Conversion of building to Burlington Self Storage

Mr. Sioras provided the following staff report. The purpose of this plan is to convert one of the former Sanmina buildings into a self storage facility. The building is currently vacant. All town departments have reviewed and signed the plan. There are two waiver requests; no state permits are required. Mr. Sioras said he would recommend approval of both of the waivers as this is an existing site. He would also recommend approval of the plan. This is a good improvement to the building. Frank Monteiro of MHF Designs is here to present for the applicant, Chris Capozzoli, who is also present. The building will be similar to the other Burlington Self Storage facilities in Burlington, Massachusetts and Salem, New Hampshire.

Frank Monteiro presented. This is a site plan amendment for a change in use at 4 Linlew Drive. There are two parcels that are currently owned by Sanmina. 4 Linlew is the subject of this plan. Sanmina maintains 6 Linlew Drive as office and manufacturing space. The applicant would like to convert the existing building at 4 Linlew to a self storage facility. In 1997, there was a site plan application for this lot and approval was granted to allow the construction of a parking lot to the rear of this facility. The building was used as a manufacturing warehouse. They will not change the building footprint or existing parking facilities. Access to the site is via the existing driveway that is shared with Sanmina via an easement. The fifteen existing parking spaces to the side will remain, and they will re-delineate the handicap parking. This use will have a small retail component and office area. They only need 8 spaces per the parking calculation, but will be providing 15; therefore, they exceed the regulation. The internal storage area is accessed through an overhead door on the side of the structure, that has an outdoor keypad. This is a drive-in facility. There are floor plans included in the packets. Traffic will circulate internally to the rear of the building to another overhead door which was a former loading dock. Currently, there is a 4 foot grade drop so they will construct a ramp to the exterior parking lot. They will remove a few of the existing spaces in the rear parking lot in order to do that.

The rear parking area has 90± parking spaces. That area will be utilized for an outdoor storage area. There will be an 8 foot high, black vinyl coated fence and a 24' wide slide gate that is activated by a keypad. There will also be a keypad inside the fenced area so that people can exit.

The only other site changes are minor and include a trash enclosure near the former loading area and an upgrade to the building facade. Mr. Monteiro presented revised architectural exhibits to the Board. They have changed the proposed paint scheme.

The front of the building will be brick. Architectural elements will be added to the brick facade and they will repaint the other three sides a two-toned beige. They felt it was better to stay with beige than to make the entire building a brick color. They have also included a summary letter from Annino, Inc., describing the changes. They will add a glass facade to the right front corner; this is where the customer entrance will be. The front of the building will not have doors. Some of the existing doors will be bricked in. They will add a silver metal shade awning to add

horizontal interest. It will have back lighting to add a backwash of light onto the wall. The existing loading docks face Sanmina and are non-functional. They will be left in place, painted, and an awning will be hung over the overhead doors. Mr. Monteiro alter corrected this statement and advised that the loading area located on the right side of the building will be functional.

There are two signs proposed: one is on the front of the building facing Linlew, the other is facing Route 28. Both signs will have internal illumination.

Motion by Anderson to open the public hearing, seconded by Milz. The motion passed with all in favor and the floor was open to the public.

There was no public input.

Motion by Anderson to close the public hearing, seconded by Bartkiewicz. The motion passed with all in favor and the plan came back to the Board for review.

Mr. Granese asked what would be in the proposed outdoor storage? Mr. Monteiro said the intent is to provide an area to park vehicles, boats, tow behind trailers and RVs. Mr. Granese commented the building looks good and will be a nice addition to the area. He asked if it would be two stories inside? Mr. Monteiro advised that internally, there will be a second floor mezzanine on the left side of the building.

Mr. Anderson commented that if the plan is approved, he would like to see one of the conditions of approval be a fair share assessment, as recommended by the Public Works Director, for the improvements on Route 28. The town does this for all projects in that area. Mr. Monteiro confirmed the amount is based on trip generation.

Mr. Donahue asked how many vehicles would be inside the facility at one time? Mr. Capozzoli said the internal aisle is 23 feet wide, with one way in and one way out. A vehicle can pull to the side and there is room for another to pass. There may be between 6 and 8 cars per day at the facility; this use does not generate much traffic.

Mr. Milz asked if a typical moving truck will fit inside the building? Mr. Capozzoli said a 22' Penske truck will fit. A Mayflower truck would use the loading dock area. He feels this is a great component because customers can unload away from the weather.

Mrs. Choiniere confirmed this property is located in the TIF district. Ms. Alongi asked if the internal units are climate controlled? They are. Mr. L'Heureux confirmed there were no issues from the DPW standpoint. Mr. Donahue asked if DPW or the Fire Department had any issues with the number of vehicles? Mr. L'Heureux advised that during TRC, staff went over the plan, in particular with regard to the exits and access. They worked through most of the concerns. There is not a lot of external elements with this plan. Most of the focus is internal, which will be dealt with by Code Enforcement and the Fire Department. There is not a lot of utility work that DPW would oversee.

Motion by Anderson to accept jurisdiction of the site plan application before the Board for Burlington Self Storage, 4 Linlew Drive, PID 08278-001, seconded by Bartkiewicz.

Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motion passed.

Motion by Anderson to grant a waiver from the following sections of the LDCR: Section 170-24.A.12, HISS mapping, 170-24.A.13, Wetland mapping, as this is an existing site. Bartkiewicz seconded the motion.

Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motion passed.

Motion by Anderson to approve the above noted site plan application, pursuant to RSA 676:4, III, Expedited Review, with the following conditions: subject to owner's signature; subject to on-site inspection by the town's engineer; establish appropriate escrow as required to complete the project; subject to fair share assessment review by the Public Works Director for the Route 28 improvements; note the approved waivers on the plan; subject to receipt of state or local permits relating to the project; that the above conditions shall all be met within 6 months and improvements shall be completed by October 31, 2013. Bartkiewicz seconded the motion and discussion followed.

Mrs. Choiniere asked if the completion date should be 2012 rather than 2013? Mrs. Robidoux advised the completion date is tied to the escrow dates.

Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motion passed.

**Michael and Michelle Demers
PID 36016, 34 Pinkerton Street
Acceptance/Review, Site Plan Determination
Change in use from Porky's & Petunia's to Windham Auto Sales Annex**

Mr. Sioras provided the following staff report. This is a continuation of a site plan from March 28, 2012. A site walk was held a few weeks ago. The Board wanted to look at the site and make some suggested changes to the plan. Tim Peloquin, the Land Surveyor for the project, is not available this evening but advised ahead of time that the space to the rear of the building under the canopy would be eliminated as parking, as well as the four spaces in the middle of the lot. The owners are here and will present the plan. The Board has before it revised plans. There is a waiver request letter. In general, Mr. Sioras said he supported the wetland waiver but felt the Board should discuss in more detail the waiver requests for the parking spaces and setbacks. He felt it was important to hear input from members who attended the site walk.

Mr. Anderson noted this is a tight space. There was a fire truck available for the site walk and it was apparent there was hardly any way to get a truck onto this site. With the original plan, a truck could definitely not get around the building. This is a tight space for the number of vehicles proposed for the site. His sense is that the volume of cars for the site is too great. It was noted during the site walk that across Peabody Street (perhaps 85' away) there is a small wetland.

Motion by Milz to accept the revised plan received by the Planning Department on April 19, 2012, seconded by Park.

Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motion passed.

Motion by Anderson to open the public hearing, seconded by Bartkiewicz. The motion passed with all in favor and the floor was open to the public.

There was no public input.

Motion by MacEachern to close the public hearing seconded by Park. The motion passed with all in favor and the plan came back to the Board for review.

Michael Demers advised he would be representing himself this evening. Mr. MacEachern noted that if Mr. Demers represents himself without the Surveyor present, he will be lacking professional opinions and may be in jeopardy of saying the wrong thing. He would advise delaying the hearing until the Surveyor can be present. Mr. Demers felt he could proceed this evening. He advised he owns the property with his wife, Michelle, who ran the former Porky's & Petunia's. This is a change in use to make a small, used car lot. He advised Mrs. Demers ran Porky's & Petunia's for the past 8 years with 28 spaces on the lot, with more cars on the lot during Saturdays and Sundays. This plan is for a small used car lot and he felt the use was minimal. With regard to the fire truck, he can't see one pulling onto the site. He felt the Fire Department would pull onto Peabody Road, which is close to the building. By closing the front gate, they have eliminated the traffic cutting through the site from Pinkerton Street. They are not looking for a lot, just to make use of the building which has sat empty for a year. Most of the cars are small, foreign autos. They don't want to jam the lot full of cars. He runs a clean operation and wants to make the lot accessible to the public.

Mr. Granese asked how many cars were on the site before? Mr. Demers said there had been 28 cars on the site for the restaurant business. Mr. Milz asked how many cars are proposed now, after the plan revision? Mr. Demers said they originally requested 30, which included the customer parking. Mrs. Demers felt there had been confusion during the very first meeting with staff. During the TRC, before closing the gate on Pinkerton Street, they were looking at a horseshoe. They don't like to have that gate open because people cut through the site to Peabody. Keeping the gate closed allows them an additional four parking spaces near the gate. They need to leave a gate open at the top of Peabody for Fire Department access. There is a hydrant on Peabody. They gave up the four spaces in the middle and moved them to the site near the Pinkerton Street gate. Her husband has been in the car business for forty years. The cars will

be lined up safely and the lot will not be overcrowded. They want customers to be able to pull in during inclement weather. They have measured this site numerous times and a car can get around the building. They moved everything that was behind the building. Employees used to park there. They would like to have between 28 to 30 spaces and to keep the gate at Pinkerton Street closed. Mr. Demers said they did not put it on the plan, but would like to put a few cars near the Pinkerton Street gate for visibility. He feels 30 cars will fit comfortably on the site.

Mr. MacEachern brought attention to Note 5 on the plan which states a total number of 28 cars for the site. He noted none of the spaces just described to be near the Pinkerton Street gate are depicted on the plan, therefore, cars cannot be parked there. Mrs. Demers said the Police Department agreed the gate should be closed. Mr. MacEachern said he is not disagreeing with regard to the closing of the gate. Mrs. Demers felt there was confusion regarding that area. The gates were put in because people parked there.

Mr. L'Heureux advised that during TRC, the Fire Department wanted to make sure the gated area is accessible from Pinkerton Street.

Mr. Milz noted Note 5 states, "There are a total number of parking spaces for autos depicted herein at 28. Of this 28, 4 are reserved for an office (2 employees and 2 customers) as well as 1 space reserved as handicap accessible. As a result, 23 autos for sale is what is intended to be approved at this date." Everyone needs to be on the same page. If the applicant says they want two more cars in front of the Pinkerton Street gate, that is not what the Board has before it for consideration.

Mr. and Mrs. Demers stated they were in agreement with Note 5. Mr. Demers said that would be workable. Mr. Anderson pointed out if they have 24 cars for sale, they would be in violation of the site plan. Mr. Milz stated he would like to discuss Mr. Sioras' concerns.

Mr. Sioras said he had questions with regard to the setbacks and internal islands. Mr. Peloquin has provided a waiver request letter and outlined the reasons he believes the waivers should be granted. There had been some discussion of the waiver requests and the need to limit the number of cars on site. This is a tight site. This lot was constructed prior to the regulations for site plan review. There are no records for this site. It is hard to apply some of the new rules to this existing site. He is okay with a certain number of cars. His concern was the elimination of the spaces from under the back overhang and the spaces to the middle. There is an existing landscape area to the front. He feels 23 cars for sale is a good number for this site.

Mr. Anderson recalled that during the site walk, a few Board members discussed the landscaping and the 5% interior requirement. This is one of the better landscaped locations on Pinkerton Street. At the last meeting, he stated he was not in favor of granting the waivers. In light of the site walk and the decrease in the number of cars for sale down to 23, he still does not feel this is a good location for car sales, but he would listen to the rest of the Board.

Motion by MacEachern to accept jurisdiction of the Site Plan Determination application before the Board for Michael & Michelle Demers/Windham Auto Annex, 34 Pinkerton Street, PID 36016, seconded by Choiniere.
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Park, Anderson, Donahue, MacEachern, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motion passed.

The Board determined the waiver requests could be taken together for this application.

Motion by MacEachern to grant a waiver from the following sections of the LDCR: Section 170-24.A.11, two foot contours; 170-24.A.12, HISS mapping; 170-24.A.13, wetland mapping; 170-62.B.1, internal access drive width; 170-63.A.2, parking spaces less than 10 feet from side/rear and less than 15 feet to the front lot line; 170-63.A.6, curbed islands for parking spaces along public access; 170-63.A.8, 5% interior landscape requirements for parking lots; 170-64.D.1, striping in parking areas; 170-64, landscaping, blanket waiver. The motion was seconded by Milz. Discussion followed.

Mr. MacEachern said this is a difficult lot and a tough spot. It is difficult to do some of the things listed here. Mr. Milz said he was originally not in favor of the use at this location but the owner is within his right to be there and has been very accommodating to the wishes of the Board. Mr. Bartkiewicz was glad to see the number of autos for sale reduced to 23.

Park, Donahue, MacEachern, Milz, Choiniere and Bartkiewicz voted yes. Granese voted no stating he does not feel all of the hardship is met to grant a waiver. Anderson voted no. The motion passed.

Motion by MacEachern, seconded by Choiniere to approve pursuant to LDCR 170-51, subject to the following conditions: Address comments as indicated in the Fire Inspector's (James Kersten) memo dated March 20, 2012; subject to owner's signature; obtain written approval from the IT Director that the GIS disk is received and is operable; note approved waivers on the plan; note hours of operation on the plan; subject to receipt of state or local permits relating to the project; that the above conditions are met within 6 months and improvements shall be completed by September 30, 2013.

Park, Donahue, MacEachern, Milz, Choiniere and Bartkiewicz voted in favor. Granese voted no stating he did not feel this was a good location for a used car business. Anderson voted no, stating he agreed with the Chairman. The motion passed.

There was no further business before the Board.

Motion by MacEachern, seconded by Choiniere to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:39 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____