

The Planning Board for the Town of Derry held a public meeting on Wednesday, August 15, 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; John P. Anderson, Town Administrator; David Milz, Town Council Representative; Jan Choiniere, Jim MacEachern (7:12. p.m.), Members; Ann Alongi, Alternate.

Absent: John O'Connor, Darrell Park, Lori Davison, Joe Donahue, 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 7:02 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 exit and meeting materials.

Ms. Alongi was seated for Mr. Park.

Escrow

#12-18

Project Name: Plaza One Parking Lot Expansion

Developer: Forest Avenue Properties, LLC

Escrow Account: Same

Escrow Type: Cash

Parcel ID/Location: PID 32025, 37 Crystal Avenue

The request is to establish cash escrow in the amount of \$51,014.64 for the above noted project.

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

#12-19

Project Name: Middleridge Subdivision

Developer: H&B Homes

Escrow Account: Same

Escrow Type: Cash

Parcel ID/Location: PID 03011, Windham Depot Road

The request is to approve Release #4 in the amount of \$52,948.08 plus any accumulated interest. The amount to retain is zero. This is the final release.

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

Minutes

The Board reviewed the minutes of the July 18, 2012, meeting.

Motion by Milz, seconded by Bartkiewicz to accept the minutes of the July 18, 2012, meeting as written. The motion passed in the affirmative.

Correspondence

Mr. Bartkiewicz advised the Board is in receipt of the most recent edition of *The Source* newsletter, published by the New Hampshire Department of Environmental Services. A copy can be found online or by requesting one from the Planning Office.

Other Business

Voluntary Merger – Barbara Hoyt, 1 & 3 Lake Shore Road

Mr. Sioras advised this is a straightforward request. The two parcels are owned by Barbara Hoyt. It is common practice when two parcels of land are owned by the same owner to combine them by voluntary merger. The Board discussed the map provided from the town's GIS system and expressed concern that the lot lines appeared to be through the existing home. Mr. Sioras explained the layers on the GIS system are not exact, especially when looking at the older lots.

Motion by Anderson to approve pursuant to LDCR 170-20, the Voluntary Merger of Parcel 55038, 1 Lake Shore Avenue and Parcel 55037, 3 Lake Shore Avenue. Parcel 55038 shall be deleted and Parcel 55037 shall be retained. Bartkiewicz seconded the motion.

Alongi, Anderson, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motion passed.

Applebee's Facade Change

Mr. Sioras advised that Applebee's is proposing a new look to the existing building at 14 Manchester Road. They are changing the awnings, and adding a new front elevation with stone masonry to the front entrance.

Lita Hogan of Apple American Group, was available to answer questions from the Board. Mr. Anderson inquired if the stone would be New Hampshire Granite? She was not certain but would find out and get the answer back to Mr. Sioras. She advised Applebee's had been purchased by Apple American Group and as part of the sale agreed to remodel all 66 locations; there are 20 left to remodel. Mr. Granese inquired if there would be any interior renovations? Ms. Hogan explained the intent is to replace the carpet, install new booths, update the wall art

and add murals. The emphasis will be on local sport teams from Derry and Londonderry. The interior color scheme will be green, terra cotta and gold.

Mrs. Choiniere asked with regard to what looked like a glass enclosure on the left elevation. Ms. Hogan explained the windows have always been there, but are difficult to see with the existing brown blinds. Mr. Anderson asked if there would be any landscaping upgrades? Ms. Hogan said the majority of that work is done, and Applebee's was waiting for the road upgrades on Manchester Road to be completed on their side of the road before completing the rest. Mr. Granese asked if there would be LED lighting on the outside? Ms. Hogan said the neon sign was LED and there are lights under the awnings. Mr. Anderson commented this will be a significant change to the look of the building.

Mr. MacEachern entered the meeting.

Motion by Anderson to approve pursuant to LDCR Article XIV, Architectural Design Review, the facade improvement plan presented to the Board this evening for Applebee's, 14 Manchester Road, PID 08287, as contained in the plan prepared by HiltonDisplays, dated October 20, 2011. Bartkiewicz seconded the motion. The Board requests Applebee's consider New Hampshire granite.

Alongi, Anderson, Milz, Choiniere, Bartkiewicz and Granese all voted in favor. MacEachern abstained. The motion passed in the affirmative.

Walmart Exterior Signage – Addition of Subway and Service Credit Union Signs

Mr. Sioras advised that when the Ashleigh Drive Wal-Mart was approved, the applicant had indicated there would be tenants in the building and approval was granted with the stipulation that the tenants come back and show the sign rendering and locations to the Board. The Board has before it renderings for the two signs. One is for Subway the other for Service Credit Union. Matt Beaulieu and Col. Richard Martell (Ret.) of Service Credit Union and Derek Barreiro of Subway were available to discuss the signage. The Board had before it color renderings of the Service Credit Union sign and its proposed location on the front facade of Walmart. It will be located on the right side of the building.

Mr. Granese asked if the existing Subway on Manchester Road will remain open? Mr. Barreiro said it would. They did the same thing in Hooksett and it has proven to be very successful. Mr. Milz asked where the Subway sign would be located as it was not shown on the renderings the Board had before them. Mr. Granese passed a rendering around to the Board members that showed the location of the Subway sign which will be to the left side of the building; the Service Credit Union sign will be to the right.

Mr. Granese asked where the other local Service Credit Union locations were? Mr. Beaulieu advised there are branches in Salem, Bedford, and Manchester.

Mr. MacEachern expressed concern with the location of the Subway sign and thought it would be hidden by a facade element and that it would only be seen from the left side of the parking lot.

Mr. Anderson explained the entrance is to the left side of the building so the Subway sign will be visible. It was confirmed the intent is to open to the public on September 12th. Mr. Barreiro advised Subway had its soft opening today and is open for the employees who are working at Walmart only; not for the general public. Mr. Anderson advised there are still issues that need to be addressed for the Fire Department before the facilities can be open to the public.

Motion by Anderson, seconded by Bartkiewicz, pursuant to LDCR XIV, Architectural Design Review, to approve the exterior sign elevation plan presented to the Board this evening to add signage to the front facade of the Walmart facility located at 11 Ashleigh Drive, PID 08279, specifically, the addition of two small signs: Subway and Service Credit Union.

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

Acceptance of Middleridge Road

Mr. Sioras advised the Board has a request before it to approve acceptance of Middleridge Road as a public road. If the Board approves the request, it is then forwarded to Town Council for final approval.

Mark L'Heureux stated the Middleridge subdivision is a 4 lot subdivision located off Windham Depot Road that was approved by the Board about four years ago. The Board just approved the final release of escrow. All improvements are complete as per the plan, and all of the houses have been built. There is a connection to a cul de sac that is located in Windham. The Windham portion of the project, known as Spruce Pond, still has a few roads to be built, but the Derry portion is complete. The Board has been provided with an overview of the subdivision and the road plan.

Mr. Anderson asked if there is a dead end or is a cul de sac in place? Mr. L'Heureux explained that the cul de sac has been built and is functional. It is built to base course. The cul de sac will remain as shown. The roads are interconnected.

Motion by Anderson to accept Middleridge Road as a town road, seconded by Bartkiewicz. Discussion followed.

Mr. Anderson asked if the addresses comply with E911 addressing? Mr. L'Heureux said the addresses were not originally provided through E911 because they were existing buildings at the time the regulation changed. Mr. Anderson asked if "Middleridge" is close to any other road name? Mr. L'Heureux did not believe so.

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

Mr. Granese confirmed this will now be moved forward to Town Council for their consideration.

Request to Extend Approval – Kerri Gross, 8 Birch Street

Mr. Sioras advised the Board has before it a letter requesting an extension of an approval for a Site Plan Determination. The property is located across from Dr. Bannister's and used to house the counseling center. They added another office space and a residential apartment. This is the first request to extend, and the applicant is requesting an additional six months.

Motion by MacEachern to extend the approval for an additional six months, seconded by Bartkiewicz. Discussion followed.

Mr. Anderson asked why the four parking spaces have not yet been designated? What is the hold up? Tim Peloquin of Promised Land Survey, representing the owner, Kerri Gross, explained that the owner had not been aware that she had to set poles and placards to designate the spaces. She is working on it now and they should be in place soon.

Motion by MacEachern to amend his previous motion to indicate the extension is as noted in the letter from Promised Land Survey dated August 15, 2012, regarding the demarcation of parking spaces. Bartkiewicz seconded the amendment.

Alongi, Anderson, MacEachern, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motion passed. Mr. Granese noted the conditional approval is now good until February 22, 2013.

Public Hearing

Victor & Gail Violette

Hampstead Road & Harvest Drive, LLC

PID 10019-001, 10024-026, 10024-027, & 10024-028

207 Hampstead Road, 8, 6, & 4 Harvest Drive

Acceptance/Review, Lot Line Adjustment and Subdivision

Mr. Sioras provided the following staff report. The purpose of the plan is for a lot line adjustment and re-subdivision of the above mentioned parcels. One new building lot is being created. A variance was granted by the ZBA on May 3, 2012 to allow for a 2 acre lot. All town departments have reviewed and signed the plan. There are no waivers requested. NHDES state subdivision approval has been obtained and a copy has been placed in the file. He would recommend approval of the lot line adjustment/subdivision plan.

Tim Peloquin of Promised Land Survey presented for the applicants. He advised this plan is a bit confusing because there are a series of lot line adjustments, the extinguishment of a cistern easement, the subdivision of the 4.6 acre lot, and the creation of a new lot. A variance was granted to allow for the creation of a two acre lot in a zone which requires three acres. Every attempt has been made to get everything in place for this evening's meeting and they hope to obtain approval this evening.

The series of lot line adjustments are important because house lots are being sold along Harvest Drive and this plan affects that. The Violette's are selling a portion of their back land to the developer of Harvest Estates. All of the improvements for the Violette's property will be contained in the three acres they are retaining. They have an operational septic system on their lot. There is a small wetland on the lot and that is marked on the plan. For the proposed lot, the driveway will be to the left of an existing, small, wetland. HISS mapping was performed and the lot sizing is sufficient for the lots.

Mr. Granese asked with regard to the cistern easement? Mr. Peloquin explained that when the original subdivision was approved, they had planned for cisterns. The Board approved a water expansion plan into this subdivision a year or so ago. Pennichuck Water Works will be supplying water to these homes and the cistern easement is now unnecessary.

Mr. Anderson asked Mr. Peloquin to walk through the lot line adjustments and to confirm that all of the affected land owners have agreed to the proposed changes. Mr. Peloquin advised that the lots affected on Harvest Drive are all still under the ownership of Hampstead Road and Harvest Estates, LLC, who is developing them. The Violette's own the other affected lot and have agreed to the change. Mr. MacEachern noted that on Sheet 3, it appears as though the 4 acre lot is being divided into a 2 ½ acre lot and a 2 acre lot; is that what is happening? Mr. Peloquin said the 4.61 acre lot, owned by the Violette's will be subdivided, keeping 3 acres with the existing house and associated improvements. The remaining 1.61 acres will be combined in a series of lot line adjustments on the lots fronting on Harvest, to create a 2 acre lot. They are extending the lot lines on the other two sides of the new lot. Mr. MacEachern asked what is the zoning for the 4.6 acre lot? It is Low Density Residential which is 3 acre zoning. Lot 27 is LDR. Lot 28 is on the zone line change and to the left of that it is Low Medium Density Residential which is 2 acre zoning. This lot will be the first lot in the three acre zone. The ZBA approved a variance request to create the two acre lot in the three acre zone. Mr. Peloquin stated that it would have been possible to create a three acre lot here and could have accomplished this through a series of lot line adjustments but it would have created irregular shaped lots. Understanding the Planning Board has no authority over that decision, Mr. MacEachern felt that since there was an alternative, there was no hardship and the ZBA should not have granted the variance. Mr. Anderson said that since the ZBA made the decision to grant the variance, the Planning Board has to live with that decision. It can't be changed. Mr. Peloquin explained one of the reasons the ZBA granted the variance was that even at two acres, the lot was able to meet the lot sizing soil requirement and all of the applicable setbacks. The lot looks normal and is adjacent to a two acre zone. Mr. MacEachern agreed that the ZBA was generous in its decision. However, someone will always be the next lot over. He does not see hardship in this instance.

Motion by Bartkiewicz 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 comment.

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

Motion by Alongi to accept jurisdiction of the lot line adjustment and subdivision application before the Board for Victor and Gail Violette and Hampstead Road and Harvest Drive, LLC, 207 Hampstead Road, 8, 6, & 4 Harvest Drive, Parcel IDs 10019-001, 10024-026, 10024-027, and 10024-028. Anderson seconded the motion.

Alongi, Anderson, Milz, Choiniere, Bartkiewicz and Granese voted in favor; MacEachern abstained. The motion passed.

Motion by Alongi, seconded by Anderson to approve, pursuant to RSA 676:4, I, Completed Application, with the following conditions: Subject to owners signature, subject to on-site inspection by the Town's Engineer, establish escrow for the setting of bounds or certify the bounds have been set, obtain written approval from the IT Director that the GIS disk is received and is operable, subject to receipt of amended subdivision approval, that the above conditions shall be met within 6 months, improvements shall be completed by February 28, 2014, and a \$25.00 check, payable to Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement, along with the appropriate recording fee. Discussion followed.

Mr. Granese asked if DPW had any issues with this plan? Mr. L'Heureux said all of their comments had been addressed.

Mr. Peloquin advised that all of the potential conditions of approval had been met. The bounds have been set and are shown as set on the plan before the Board. He has provided the appropriate recording fee checks. If the Chair is generous, he would request that the mylar be signed tonight if the Board approves the plan. Mr. Anderson noted even if all conditions were met, the plan would still be subject to the 30 day appellate and any decision of the Board would then be stayed. Mr. Peloquin asked what would happen if the Board approved it, recorded it, and there was an appeal? He had not heard of a mylar being held for 30 days. Mr. Anderson said the recording at the Registry would be at risk.

Mr. L'Heureux added that the Harvest Estates project is ongoing. There are sufficient funds in place to cover the improvements planned for the new lot. New escrow would not be requested for this plan.

Mr. Anderson asked what is the total size of this subdivision? Mr. Peloquin said 29 lots; 18 are yet to be developed. Mr. Granese asked if the Board was being asked to sign the mylar tonight to assist with the closings? Mr. Peloquin said he tried to get everything done before tonight's meeting to prepare for it. Mr. Sioras said if the plan is signed, the applicant is aware of the risk of appeal. The Planning Board has the ability to revoke the approval. The Board can sign the plan tonight if all of the conditions are met. It has occasionally happened in the past. Mr. Granese felt that if the Board signed the plan this evening, it would be setting a bad precedent. Did any of the Board members have an issue with the Chairman and Secretary signing the plan this evening? Board members felt that the applicants would be proceeding at their own risk if they closed on the affected property and this decision was overturned. Mr. Peloquin explained the developer wanted to close on Lot 26. The Board noted lot 26 already exists and if this

decision was overturned, the lot lines would revert back to the original position on the plan that is already recorded.

Alongi, Anderson, Milz, Bartkiewicz, Choiniere, and Granese all voted in favor; MacEachern abstained; he did not support the ZBA's decision. The motion passed.

Mr. Granese said he would confer with Mr. Sioras, Mrs. Robidoux, and Mr. L'Heureux after the close of the public hearings and decide at that point whether to sign the mylar or not.

**K&M Michael Realty Trust
Ronald & Marlene Michael Trustees
PID 06001, 20 Lawrence Road
Acceptance/Review, 3 lot subdivision**

Mr. Sioras provided the following staff report. The purpose of the plan is for a three lot subdivision located in the Low Medium Density Residential District. All town departments have reviewed and signed the plan. There are no waiver requests. NHDES state subdivision and wetlands approvals have been obtained and copies are in the file. He would recommend approval of the subdivision plan.

Tim Peloquin of Promised Land Survey presented for the applicants. This plan was before the Board in 2006 with a near identical application. There is a small wetland crossing near the edge of the wetland, which was approved by the State. In 2006, abutters appealed the state's decision, and the state's decision was upheld. The Coopers intend to develop these three lots in a manner similar to the lots they have developed across the street. One house with a garage exists today on the property. The intent is to raze the buildings and construct a home similar to what is across the street.

Mr. Peloquin stated the plan before the Board tonight is unique in that he has provided two options noted on Sheets 2A and 2B as well as 3A and 3B for the Board to consider. When they were before the Conservation Commission it was asked that the applicant provide an option to access the lot that does not cross the wetland. They can do so, but would need to provide an access easement across the middle lot to reach the lot on the left. The driveway would skirt the wetland and access the lot to the rear. Sheets 2A and 3A show the topography of the lots. The driveway as shown on Sheet 2A crosses the wetland and is approved by DES; it also meets the town regulations and provides access to the lot along its own frontage. This option requires a Conditional Use permit. If the Planning Board sought to approve the alternative which avoids the wetland as proposed by the Conservation Commission, shown on Sheets 2B and 3B, a waiver would be required to allow a driveway access on another lot. Mr. Peloquin felt the second option was reasonable and would be the preferred option to avoid the wetland. The wetland is standing water with tree stumps. The access is at the edge of the wetland and seems reasonable. The access location will be at the Board's discretion.

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

There was no public comment.

Mr. Anderson asked if the developer had a preference as to the driveway location? Mr. Peloquin said Mr. Cooper did not and indicated to Mr. Peloquin that he would be fine with the Board's decision.

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

Mr. MacEachern spoke with regard to Sheets 2A and 2B. Sheet 2A shows the driveways located on their proper lots. For Lot 06001, the driveway bumps into the wetland. With a large rainstorm, water might cross the driveway, is that why the Conservation Commission wants the driveway moved? He has no issue with the option shown on Sheet 2B, so long as the neighbors don't fight over the access. He does not want a property owner to not be able to get out of his driveway because of water. Mr. Peloquin advised that Sheet 2B shows the driveway for 06001 at a slightly higher elevation in its location on 06001-001 than it would be on its own lot. This would not be a shared driveway. The access would just be on a different lot.

Mr. MacEachern asked if the driveway could be located on its own lot if the lot line was moved over to the right? Mr. Peloquin said they would not be able to meet the frontage requirements for the zone. Mr. MacEachern said he felt it would be preferable to move the lot line over, and grant a variance for the frontage, rather than creating an easement. Mr. Sioras noted the Planning Board cannot waive the frontage requirement; that would be an issue for the Zoning Board. Mr. Anderson confirmed this area has two acre zoning. Mr. MacEachern suggested sending the plan to the ZBA for a variance before acting on it. Mr. Peloquin suggested the access easement serves the same purpose.

Mr. Anderson said he would prefer to see the driveway located to the east (option B) on the middle lot for public safety access. It makes more sense than having a driveway go through the middle of a swamp.

Mr. L'Heureux said that DPW did not support the waiver request that would be necessary if the driveway for lot 06001 was placed on lot 06001-001. There is no hardship. The area can be filled adequately and not create a flood issue. This is the edge of a wetland. DES has approved the crossing as proposed. Mr. Anderson felt if part of the wetland was filled, the water needs to go somewhere and it will go onto Lawrence Road. The edge of wet is currently very close to Lawrence Road. This will cause a problem for the town. Mr. L'Heureux said this is a marginal property and stretches the limits of development.

Mr. MacEachern commented he felt this should be a two lot subdivision instead of a three lot subdivision. He understands the area allows 2 acre zoning, but this creates a potential bad situation. Mr. Peloquin stated the topography and soils indicate there is potential for five lots to be created at this location if they were to build a road to provide the frontage. There is substantial land to the rear. Mr. MacEachern felt that would be a better solution: to put a street in the middle and create four lots along it. It made more sense.

Motion by Anderson to accept jurisdiction of the three lot subdivision application before the Board for K&M Michael Realty Trust, 20 Lawrence Road, PID 06001. The motion was seconded by MacEachern.

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

Mr. Anderson began a motion to grant a conditional use permit to allow a driveway access through a wetland but did not complete the motion. The motion died on the table.

Mr. MacEachern preferred option A and felt it was another situation of buyer beware if the driveway goes through another lot. He deferred to Mr. Anderson's comments that a driveway on lot 06001 would cause issues on Lawrence Road. Mr. Granese asked for a poll of the Board to see which way the majority wanted to go with the driveway location, option A on its own lot, or option B on the lot to the left. Mr. MacEachern, Ms. Alongi, Mr. Anderson, Mrs. Choiniere, and Mr. Bartkiewicz preferred option B; Mr. Milz and Mr. Granese preferred option A. The Board moved forward with review of option B, locating the driveway for parcel 06001 on lot 06001-001 with an access easement.

Motion by Anderson to grant a waiver from LDCR Section 170-25A.5 to allow the driveway access for Lot 06001 to be beyond the frontage of that lot, as after review of the waiver request the Board finds that specific circumstances relating to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations. The motion was seconded by Alongi.

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

Motion by Anderson to approve the 3 lot subdivision plan, pursuant to RSA 676:4, I, Completed Application, with the following conditions: Comply with the Keach-Nordstrom report dated August 14, 2012; subject to owner's signature, subject to on-site inspection by the Town's Engineer, establish escrow for the setting of bounds or certify the bounds have been set, establish appropriate escrow as required to complete the project, obtain written approval from the IT Director that the GIS disk is received and is operable, note approved waiver on the plan, note common driveway easement on the plan, delete sheets 2A and 3A from the plan set, provide written confirmation from Assessing and Fire Administration that the proposed address and parcel ID numbers for the new lots are still acceptable, that the above conditions be met within 6 months, improvements shall be complete by February 28, 2014, and a \$25.00 check, payable to the Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement, along with the appropriate recording fees. Bartkiewicz seconded the motion.

Alongi, Anderson, MacEachern, Milz, Choiniere, Bartkiewicz and Granese voted in favor and the motion passed.

**Route 28 Custom LLC
PID 03035-001, 230 Rockingham Road
Acceptance/Review, Mixed Use Development/Self-Storage Buildings**

Mr. Sioras provided the following staff report. The purpose of this plan is for a mixed-use development of the existing office, car sales and U-Haul rentals, and 15 individual self-storage buildings totaling approximately 70,800 square feet. The existing tree timber business and timber piles are being removed from the site and will no longer be a part of the development. The property is located in the General Commercial district. All town departments have reviewed and signed the plan. There are several waiver requests noted in the letter dated July 31, 2012 from Civil Design Consultants, Inc. Waivers are requested from LDCR 170-64.C.2.II, driveway access in the 35 foot residential buffer; 170-26A.14, to allow for bituminous concrete curb along portions of the access driveway in place of vertical granite curbing; and 170-26A.17 to allow for side slopes in excess of 4:1 along portions of the proposed access driveway. There are also two conditional use permit requests. The first is to allow for the self-storage use pursuant to the Zoning Ordinance Section 165-32.F.1, and one to allow for the filling of 3,254 of wetland for the proposed access driveway pursuant to 165-80B.3. NHDES Alteration of Terrain and wetlands permit applications have been submitted to the state and the approvals are pending. Additionally, a NHDOT curb cut permit application has been submitted to the state and the approval is pending. Mr. Sioras stated he would recommend approval of the waiver requests, the conditional use permits and the site plan application. This plan is also unique and the applicant would like to discuss phasing options.

James Hanley of Civil Design Consultants presented for the applicants, Paul and Peter George, who are also present this evening. Mr. Hanley provided the following overview of the project. The property is located at 230 Rockingham Road (Route 28). The area has a mix of vacant land, commercial, and residential uses around the property. The project parcel is within the General Commercial District, the Groundwater Resource Conservation District, and the Wetlands Conservation Overlay District. The property is also on the boundary line between the General Commercial district and the Low Density Residential District. The parcel contains 21 acres. There is 2000 feet of frontage on Route 28, and there is 50 feet of frontage on Kilrea Road.

There is an existing three story office building totally about 3000 square feet, with associated parking, driveways and landscaping. The current uses on the lot are professional office, used vehicle sales, U-Haul rental, and timber storage. There is a high point and ridgeline that holds the driveway centerline. One fourth of the property drains to the wetland to the east, 3/4 of the property drains to the wetland to the west. When they originally submitted the Technical Review Committee application in May, it took two to three revisions of the plan to evolve to what the Board sees before it today. The original submission had a component that involved boat and RV storage, as well as the timber storage business which were intended to be located to the right of the office building. After discussions with the Conservation Commission, those elements were pulled from the plan. This resulted in a savings of 1 1/2 acres of disturbance and 1/4 acre of impervious surface area.

Mr. Hanley explained the current proposed uses include office, used vehicle sales with 20 spots dedicated to the vehicle sales operation, a display spot for one U-Haul and a staging area that can

accommodate up to 10 U-Haul trucks. The largest portion of the project will be devoted to self-storage. The intent is to construct 70,800 square feet of storage in 15 separate buildings. The buildings range in size from 1600 SF to 9800 SF. To accommodate the sloping lot, several of the buildings will be two story storage buildings. Utilizing the two stories allowed them to retain the existing topography on the site. All of the buildings will be located 75 feet from the wetlands. Regarding the access drive, the edge of pavement begins at Rockingham Road and they will eventually construct about 700 feet of access that will meet town standards. The access will be 24 feet wide, with two, 12 foot wide lanes, with a maximum grade of 3% and a minimum grade of 1%. With regard to utilities, they will only be running electricity back to the buildings; there will be no water or sewer. They have carved out a 20 x 50 foot cistern area that is shown on Sheet D4. Regarding stormwater, all of the flow from overland will be directed to swales or pipes, into detention basins with fore bays or micro pools. For the 2, 10, 25, or 50 year storm events, they are at or below pre-construction peak discharge rates and are providing the water quality volume as required by DES.

There are three waiver requests. The first is to allow the access driveway in a portion of the 35' residential buffer. It was felt that it would be better to go into the buffer than to impact the wetland. Mr. Hanley noted the plan shows wetland impacts. The second waiver is to allow bituminous concrete curbing along the access way rather than vertical granite curbing. This is an access road that will be constructed to town standards, with the exception of the curbing. It will be privately built and maintained and they feel that the berm will allow the access to drain to the catch basins just as effectively as vertical granite curbing. The third request is to allow side slopes in excess of a 4:1 slope. They can install a grassed, 3:1 slope, with retaining walls in some locations. In some areas the 4:1 requirement does not work; it creates greater impacts. The slopes are not large, they are two to three feet high; 3:1 slopes are common.

Mr. Hanley advised when they filed their wetland permit with DES, it was noted that there would be wetland impacts within 20 feet of the abutting property line. DES requires concurrence from the abutter that they do not have a problem with the proposed work in that area. They have obtained sign off from the affected abutter (Radford) and that is in the file.

There are also two conditional use permit requests as part of the application. One is for the self-storage use which is allowed by conditional use in the General Commercial district. There is also impact to the wetlands. They have made every attempt to mitigate the impacts and have reduced roadway impacts as much as possible.

Vanasse Hangen Brustlin provided a review of the plan last week. They did a good job reviewing the plan set and have highlighted some inadequacies and suggested some changes to the plan. He has no issues with any of the changes with the exception of two or three. 90% of the items have already been addressed and he will make the appropriate changes to the plan; most of the items are detail related. The DOT permit has been amended and received. A copy was forwarded to the town. With regard to the wetland permit, the state is awaiting revised plans but he wanted to wait to see if the Board had any suggestions that should be incorporated before he sent the plans to the state.

The last issue to discuss is the bonding. They have put time into showing all of the site work and

want to phase the project over a five to six year time frame. They would like to build as the economy dictates. They would ask the Board to please allow them to bond for each phase as they go. It would create a financial burden to have to bond the entire site.

Mr. Granese asked with regard to phasing. If they indicate each part of Phase I, the Board can approve Phase I and then once all the items in Phase I are complete, they can come back to the Board for Phase II. Mr. Hanley said they want to get all the permitting done in one shot and want to show all the phases at once. The phasing plan is shown on the cover sheet. Phase I consists of the vehicle sales, U-Haul business and the addition of two buildings to the front. Phase II is the nine buildings to the rear. Phase III is the four additional buildings to the front. They would like to work on the development and come back between Phases I and II and Phases II and III to set up the surety for each phase. Mr. Granese said the Board can approve the whole plan and hold compliance hearings to set up the escrow for each phase. Mr. Sioras agreed that it might be best to grant an overall approval, subject to phasing, with a compliance hearing to establish the escrow for each phase of the project. Planning, Code Enforcement, and Public Works staff discussed this today and were in agreement. Mr. Anderson asked if that had been run by the Treasurer? Mr. Sioras said it had not been. Mr. L'Heureux said they would only be approving segments of a project. Mr. Anderson thought the Treasurer might have some feedback. Mr. Granese noted the Board has done this in the past. Mr. L'Heureux agreed this would not be unusual.

Mr. Granese asked where the tree service business would be moving? Paul George indicated they are not sure yet. His son purchased the business from Mr. Roy. That particular business does not fit in with what they want the site to look like. They have a model home and self-storage. They need to have a certain image and the tree business does not fit. They will come back to the Board later for the tree business once they have found a location. It will not be on Lawrence Road.

Mr. Anderson noted the "Welcome to Derry" sign is on Mr. George's property. The town plans to replace the sign and wondered if there was a problem with keeping it in that location? Mr. George said he would like the town to keep it there. He hopes the new one will stay up. He likes the location of the sign.

Mr. Milz understood the upper part of the lot will have self-storage. What about the rest of the lot? Mr. Hanley said the other uses will be professional office, vehicle sales and the U-Haul business. Mr. Milz asked if there was a caveat regarding the existing building on the previous site plan approval? Mr. Sioras said the wetland located to the right will now have open space around it and there can be no residential use on the lot.

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 comment.

Motion by MacEachern 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 and discussion.

Mr. Milz asked with regard to the filling of the wetlands. Mr. Hanley said they have filed the application with the state. They met with the Conservation Commission two times, held a site walk, and the Conservation Commission Chair has signed the plan. Mr. Anderson commented they have the revised NHDOT permit, what about the DES permit? Mr. Hanley explained they have received the review letter from DES but did not want to submit revised plans until they had a chance to see if any of the Board comments would affect it. They have received the comment letter from the Alteration of Terrain bureau and will have all revised plan submitted back to VHB and the state shortly.

Mr. Anderson asked if DPW had an issue with the waiver of the vertical granite curbing? Will it set a precedent and has the Board approved this type of request in the past? Mr. L'Heureux said based on the nature of the use it should not be a problem. This is a common access drive, not open to the public in the manner that a commercial retail development would be. There will not be a great variety of traffic on this driveway. Mr. Anderson asked if Phase I is completed, and Phase II and III change, can the plan be revisited? It can.

Ms. Alongi asked with regard to the abutter to the west, which is John Deere. Will the back buildings be able to be seen from Route 28? Mr. Hanley said there is a wetland area in between. They will not be touching this wetland. They will maintain the existing vegetation along Route 28 per the TRC comments. Mr. Milz asked with regard to the access from Kilrea Road. Are there any plans to access the site from Kilrea? Mr. Hanley said there are no plans to access the site from Kilrea. That is a residential area and the topography does not lend itself to providing good access.

Mr. MacEachern noted there are no renderings of the buildings. This will be located on Route 28, he would like to be able to see what they are going to look like. The Police Department also had comments with regard to the lighting. This plan set does not include lighting details or lumens. Mr. Hanley said the lighting plan was not submitted in this set. They do show the lighting locations and are still working on that. It is one of VHBs comments. They could supply general photos of different building styles from the various manufacturers. Mr. MacEachern indicated he has no issues with the overall plan or phasing, but he would not move to accept the plan until the site lighting and renderings had been provided. This is a significant location in town. Mr. Milz felt the Board could move to accept the plan as is; however, when it is time to discuss the phasing, it should be brought back and the details shown to the Board. Mr. MacEachern said he would like to see Phase I include the building and lighting plan before it gets built. Mr. Granese asked what would be included if they moved forward with Phase I? Mr. George said there will be two buildings to the front and the parking that goes around the existing building. They can come back and show the Board the designs. They have not gotten that far yet as they still have to pick the manufacturer. They can come back for a condition compliance hearing. Phase II includes the buildings to the rear, the associated parking areas and access. Before they can build that, they can come back. Mr. Milz suggested the Board consider a concept approval and then the applicant can bring back the renderings. Mr. MacEachern thought the concept was fine. Mr. Sioras said it would be similar to what the Board did for Boomer Wolf. The Board approved a concept with building locations and sizes for the overall plan and

then the applicant came back to the Board with renderings for Goodwill and Panera. The applicant can bring a sketch of the buildings back to the Board.

Mrs. Choiniere asked if there would be a fence on Route 28. Mr. Hanley said no. Mrs. Choiniere thought someone could just walk onto the property. Mr. Hanley said the self storage would be managed from the existing office building. There will be gates along the access road and there will be closed circuit cameras. Mr. MacEachern asked if the land is flat? In Windham, there is a self-storage facility located on flat land, but there is a large culvert adjacent to Route 28 which makes it difficult to walk onto the property. Mr. Hanley said there will be an eight to ten foot grade change. Mrs. Choiniere asked if they can add plantings to the buffer? Mr. George said they are keeping the existing vegetation. Mr. Anderson said this is one of the nicest looking properties on the south end. Mr. George explained they have been working with some national chains; the cameras are already up.

Mr. MacEachern said he would still like to see the architectural rendering and lighting plan. Mr. Hanley said they do show plantings on Sheet C3A in the existing 15 foot vegetative buffer. They will move and relocated some of the existing trees.

Motion by Anderson to accept jurisdiction of the mixed use development site plan application before the Board for Route 28 Custom, LLC, 230 Rockingham Road, PID 03035-001. MacEachern seconded the motion.

Alongi, Anderson, 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: LDCR 170-64.C.2.II to allow for a portion of the proposed access driveway to be located within the 35 foot wide residential buffer as specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations; LDCR 170-26.A.1.14 to allow for bituminous concrete curb along portions of the proposed access driveway in place of vertical granite curbing as strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; and LDCR 170-26.A.17 to allow for side slopes in excess of 4(H):1(V) along portions of the proposed access driveway as specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations. MacEachern seconded the motion.

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

Motion by MacEachern to grant a conditional use permit to allow for the self-storage use pursuant to the Town of Derry Zoning Ordinance, Section 165-32.F.1.a, as the proposed use provides reasonable architectural and landscape features that in the opinion of the Board will not devalue abutting properties; the proposed use will not cause an undue or unmitigated impact upon its surrounding neighborhood in terms of pedestrian or vehicular traffic, unusual noise, or excessive light levels, based on the design standards and existing capacity of the adjacent

roadways; the proposed use complies with site plan requirements for the General Commercial district; the proposed use augments and complements the other permitted uses within the neighborhood and the district; and, the proposed location and size of the use would not be essentially incompatible with the neighborhood. As part of the granting of this conditional use permit, all restrictions contained in Section 165-32.F.4 apply.

MacEachern also moved to grant a conditional use permit to allow the construction of the access drive across very poorly drained soils, pursuant to the Town of Derry Zoning Ordinance Section 165-80.B.3 as the proposed construction is essential to the productive use of the land not in the Wetlands Conservation District; the design and construction methods will be such as to minimize detrimental impact upon the wetland and the site will be restored as nearly as possible to its original condition; no alternative exists which does not cross a wetland, or has less detrimental impact on the wetland; and, economic advantage alone is not reason for the proposed construction. Milz seconded the motions.

Alongi, Anderson, MacEachern, Milz, Choiniere, Bartkiewicz and Granese all voted in favor and the motions passed.

Motion by MacEachern, seconded by Bartkiewicz to approve pursuant to RSA 676:4,I, Completed Application, with the following conditions: comply with the Vanasse Hangen Brustlin (the town's consulting engineer) report dated August 7, 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; obtain written approval from the IT Director that the GIS disk is received and is operable; if phased, each phase of this project shall be considered a separate portion of the plan and shall be approved as such. This approval is for Phase I. Subsequent phases will require a Condition Compliance hearing and the establishment of escrow for each phase of the project; note the approved waivers on the plan; note the Conditional Use Permits on the plan; subject to receipt of state and/or local permits relating to the project; that the above conditions be met within 6 months and improvements for Phase I be completed by February 28, 2014. The applicant shall come back before the Board for each phase (including Phase I) and provide the Board with renderings of the building, as well as planting and lighting plans prior to formal approval of each phase of the project. Discussion followed.

The Board discussed how best to word the approval of the phasing of the project while retaining the intention that the applicant had to come back before the Board to establish escrow for each phase and that the further intent of the approval tonight was to approve the concept of the overall plan as shown on the plan before the Board this evening.

Mr. Milz suggested substituting the wording, "This approval is for the conceptual plan, Phases I through III. Each phase" in place of "This approval is for Phase I. Subsequent phases". Mr. L'Heureux noted that as the construction will be phased, the applicant may want to have an area that is disturbed outside of the phasing area; that can be fine-tuned when it comes time to escrow that portion of the project. Mr. MacEachern accepted Mr. Milz' friendly amendment to his motion.

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

There was no further business before the Board.

Motion by MacEachern, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:48 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____