

**Official  
As of 12/06/10**

**HOOKSETT PLANNING BOARD  
MEETING MINUTES  
HOOKSETT MUNICIPAL BUILDING  
Monday, November 1, 2010**

**CALLED TO ORDER**

Chair J. Gryval called the meeting to order at 6:05pm

**ATTENDANCE – PLANNING BOARD**

Chair J. Gryval, Vice-Chair R. Duhaime, Town Administrator, Carol Granfield, D. Marshall, M. Cannata, J. Mudge, Town Council Rep. N. VanScoy, F. Kotowski, and T. Walsh.

Excused: D. Hemeon.

Absent: Y. Nahikian and B. Perry.

**REPRESENTING TOWN OF HOOKSETT**

Town Planner, Jo Ann Duffy, and Stantec Engineer, Dan Tatem.

**APPROVAL OF MINUTES OF 10/18/10**

*D. Marshall motioned to approve the minutes of 10/18/10. Seconded by J. Mudge. Vote in favor. F. Kotowski, Chair J. Gryval, and Town Administrator, Carol Granfield abstain.*

**EXTENSION REQUEST**

**1. WEBSTER WOODS II (#07-37) – EXTENSION REQUEST**

Residential site plan to improve and develop phase II of “Webster Woods” to include 23 duplex ranch style buildings totaling 46 units and 7 single ranch style units for 55 & older person housing:

- One year extension of the 11/02/09 approval
- One year extension for vesting rights

J. Duffy: We (developer, Town, and homeowner’s association rep. Don Ingalls) met with DES on October 27<sup>th</sup>. DES agreed something needed to be done. Stantec and the applicant’s engineer should get together and the plan should be reviewed by Stantec. If there are conflicts between the two engineers, Collis Adams and Ridge Mauck @ DES will be mediators for what the Town and applicant agreed to. We received a proposal from the applicant’s engineer on Friday Dan made some comments that the applicant didn’t agree with. Today there are still two outstanding comments that need to be addressed: 1) language and 2) design. Dan can speak to that. The applicant was advised by DES to revise their wetland application they applied for and also to apply for an AOT. Their 1989 permit is not

valid because it was revised and issued in 1996 with a 2-yr. expiration. Technically the wetland dredge and fill and AOT are due two weeks from last Wednesday. AT the DES meeting, Mr. Ingalls from the homeowners association also attended and said there is undermining from another section of the slope. The Town asked this be put in the plan for a temporary fix and they said they will provide plans in a few days to Stantec. Dan hasn't seen the plan yet. DES stated for the runoff from the roofs and patios to seek out gutters and plantings so water doesn't rush off. It was suggested that the plan be presented and the homeowners work with the wetland scientist and also be present at the meeting. This is all I have to say for the drainage issue.

D. Tatem: DES determined there are two areas that need to be fixed immediately this fall. Mike (Gospodarek) provided plans on Friday and he contacted me today by e-mail. He said he will address my comments, and I think we will have plans for the immediate fixes. The overall plan for erosion will not done until winter with construction for next summer. The only outstanding item is the possible break in the drain line may be causing erosion. They hired a contractor to excavate the pipe and find the damage. Originally their letter said their contractor will fix it. There should be a note on the plan: "The AOT design engineer to come up with a solution and the contractor to fix it."

J. Duffy: I want to bring the Board up-to-date for the request at hand. They are asking for two extensions:

**1) 1 yr vesting** – they have to prove active and substantial development within 1 yr of approval or they lose their vesting status. If they lose vesting, they would need to comply with any new zoning ordinances or development regulations. On 09/08/10 they asked for a 1 yr extension due to the economy and the banks' reluctance in loaning funds. The first time this erosion problem came up, April 2009, the Town made a complaint with DES that the applicant had gone in and cleared some land in phase II (an area not yet approved). The Board had Stantec (Rene & Dan) go out to the site and it was discovered they did some type of site work out there. Rene and Dan submitted a report to state that during their site walk they found the erosion issue. We had a meeting with Peter Zohdi to inform him of the erosion as of April 2009. The phase II plan was approved Nov 2009 with 16 conditions. The applicant is saying the economy is why they need an extension, however we went through the conditions the other day and most of them in my view have nothing to do with the economy. The phase II conditions include but are not limited to:

- trail easement \$64.00
- Conservation Commission comments for trail easement
- Bernice slope easement and gate
- DOT expires November 2010
- Sewer discharge to expire in February 2011

J. Duffy: The items have never been done and the plans have not been signed and recorded.

**2) 3 yr approval** - The other 1 yr extension request is to their 3 yr approval, however they still have 2 yrs left (11/02/12). I am not sure why they want to extend now when there are 2 yrs remaining.

Sharon Summers, Atty. @ Donahue, Tucker & Ciandella: I am here on behalf of Miacomet Development and Mike Gospodarek. With me here tonight are the principals of Miacomet Eric Nickerson and John Elleso.

J. Gryval: The engineering issues for the wetland have been taken care of and settled with DES. There are temporary plans being checked by both engineers. Stantec is reviewing and overseeing as requested by the Town at your expense. Tonight I would like to just stick to the two extensions that you are requesting.

S. Summers: The primary issue before the Board was to grant extensions, however there was concern from the Board on erosion control issues. I agree with the Chairman, and have addressed the erosion with Jo Ann Duffy, that the applicant and Town have made great strides with DES. That is why I wanted to discuss erosion control for the interim and more permanent solutions. As for reasonableness, we believe we met the standards for that. For the previous erosion control, we understand the concerns of the phase I residents. For interim and permanent solutions, comments just made by staff, I think have to be viewed in a broader context. It seems to me in a practical matter to proceed with conditions as part of the project. Mr. Nickerson's September 8<sup>th</sup> comments are all true. There are financial difficulties in the market. To meet conditions of approval, it is not customary or practical to meet one at a time when we are not sure of the overall status of the project. We want certainty that this project (phase II) will move forward. To put it in context with the Board, the first phase was a great benefit for tax revenues to the Town. Granting our extension requests will allow us to move forward to address the erosion concerns and meet conditions of the project (phase II), as well as bring more revenue to the Town. For time periods of vesting and to ensure validity of approval in a timeframe to build out, we do need to have these extensions. Their vesting expires tomorrow, which will make it difficult to contact lenders for financing, and in addition to be realistic to expect DES approvals some time for build out. Hopefully this will be done within 2 yrs, but we need to address variables as they come up. That is why we think the reasonableness has been met by those standards. Both Mr. Gospodarek and Mr. Nickerson can address further.

J. Gryval: When you came here for approval, we went out of our way to provide a conditional approval. Why prolong this any further?

S. Summer: The conditions once met will allow the project to be built out and be a benefit to the Town. We understand certain conditions have not been met. We need to address other concerns first before signature and recording of plan. We are working with DES and the erosion issues.

J. Gryval: DES approval on erosion, I wasn't sure that was a condition of phase II. You had a slope easement for Bert St. and a gate on Bert St. to address. How long do you expect the Board to wait?

R. Duhaime: Being 6-7 yrs on this Board, in a good economy I didn't like to grant conditional approvals. We let one, two or three conditions go, however on your project you are talking over a dozen here. For conditional approval we hope they don't come back to bite us. Why should we extend this? From my point I am sorry we ever granted this conditional approval. There is uncertainty and things haven't been met. We have already heard that line. I want to hear something new.

F. Kotowski: How long will it take Miacomet to comply with things holding up this approval? We have been waiting for months, and you are asking us to bend on this?

S. Summer: My response to some of these questions such as the Bert St. gate are to address all of these things at the same time as a package. The way this project unfolded, it is not unreasonable some of these things didn't get addressed right away. In reply to Mr. Kotowski's comments, he

wants evidence that we will meet all of these things and that is what we proposed for an interim solution if the Board grants the extensions tonight. As soon as weather permits (3 clear days) we are prepared to do the interim fix.

J. Gryval: We know the interim fix will be taken care of, because that is overseen by DES. As soon as you do what DES says for interim complete it and do the permanent fix next year. We want to go over the conditions for the extension request. The plan has to be signed and properly recorded and there has to be active and substantial development. I never signed the plans because you haven't met the conditions of approval from November 2009; a year ago. There are some simple things to meet to have the plans signed. How long can we prolong something like this?

E. Nickerson; Conditions of approval in general for projects that we have done in many towns, we meet when closer to getting the plans signed and recorded. I never thought the Town wanted these things taken care of. I understand it is a conditional approval. We work in many, many towns and for conditions of approval we submit conditions to get the plans recorded. We didn't feel there was an urgency to get these plans recorded.

S. Summer: I have to apologize to the Board, because I was not involved in the approval process. I can read the notice of decision, and I can speak and endorse what Mr. Nickerson has said that conditions are typically operated as conditions precedent (before plans are signed and recorded). Mr. Nickerson's normal sequencing for these things can take several months before the developer and Planning Board are in a position to sign the plan. I don't know what was discussed in 2009 when this plan was approved. The approval letter doesn't suggest conditions needed to be provided in 3 months, 6 months, or a specific timeframe. This is a new issue. Staff was concerned with the erosion issue.

J. Gryval: In this Town we have Development Regulations and there is no reason why you shouldn't know what to do.

D. Marshall: For vesting you have one year from approval to vest, not from the plans being signed and recorded. You can't vest because you did not proceed with getting conditions to have the plans signed and recorded. You killed the plan. You needed to meet the 16 conditions then substantial work so your vesting was protected. Your vesting is over. Key to this Board, failure for us to grant a 1 yr extension to the vesting deadline, what exactly will happen if we don't grant it?

S. Summer: Stantec's comments are addressed to satisfaction and erosion to Stantec's satisfaction. Plans have not been designed for phase II issues. I don't think this condition can be met. Spring issues for erosion can't be met until it is processed more.

J. Gryval: I don't think you know what was settled with DES last week. You have until next summer for the final erosion fix and DES will make sure you do it.

J. Duffy: The erosion problem was brought to the Town's attention in April 2009, and then we notified the developer. Nothing was done. April 2010 the Town filed a complaint with DES and DES did a site walk. The applicant had still not filed a dredge and fill application until two weeks ago. The applicant filed for an extension on Sept. 8, 2010. Now they are here again for the extension. 1 yr and 7 months and the erosion issue is still there and getting worse every day. They say we will do this really soon, but we haven't seen anything happen.

D. Marshall: I am trying to throw out the erosion, because that is already done with DES. What will happen if we don't grant the vesting extension?

S. Summer: The approval will still be valid but the vesting will no longer be in play.

D. Marshall: Have we made any changes to the regulations that would affect this project if we don't grant the extension?

J. Duffy: They have two extension requests: 1) vesting (expires 11/02/2010), and 2) approval (doesn't expire until 2 more years 11/02/2012). On November 8<sup>th</sup> we are meeting to modify the Development Regulations and that will have an impact to this development if the vesting is not extended.

D. Marshall: Their plan would be invalid because they would have to meet the new regulations.

J. Duffy: They would have to meet the new drainage regulations.

S. Summer: Conceptually we lose vesting rights, and potentially if the proposed regulations are passed we are subject to that amendment. Sitting here tonight, I don't know if the new regulations would be positive, negative, or neutral.

***D. Marshall motioned to grant a 1 year extension to the 3-year approval from 11/02/09 with an expiration date of 11/02/12 to a new expiration date of 11/02/13. Seconded by R. Duhaime. Vote all opposed. Motioned failed since there are 2 years left on approval (expires 11/02/12).***

***D. Marshall motioned to grant a 1 year extension to the vesting with an expiration date of 11/02/10 to a new expiration date of 11/02/11. Seconded by C. Granfield.***

### **Open Public Hearing**

Darren Brown, Atty. in Concord representing Webster Woods condo association the owners of the completed units. The homeowners have a lot of concern that things don't fall through the crack and financially things fall back on them. Since the identification of the problems, within the last two weeks a lot of work has been done to find a solution. The issue is with the construction divisions (phases). In construction division I there are general conditions. I understand and applaud the Board to get their ducks in a row and then approve. In working with my clients, the general economic conditions have affected people in a not normal and not usual way. Board members, \$64.00 fee, a fence, those are typically assigned to someone to manage a project. I haven't spoken with Miacomet or Mr. Nickerson. Generally projects are in the hand of division I general conditions. When you start laying off people, small things don't get done. I don't see from our point of view, the developer has made an intentional disregard. I think someone was not minding the store for this project. For the Webster Woods project, Elessio has come on board since July for Miacomet and has been getting things done. When this man says to the Board we will get this done, things are getting done. Despite the economic turmoil and conditions, things are getting done. Most of my clients have ups and downs from the economy and conditions, as irritating as they can be, but small things can get missed when someone is not there to take care of them. I don't see that they are purposely not getting done the conditions. The uncertainty for some of these folks in their backyards is stressful. The other thing is the financial impact. I keep trying to explain to them that if something is done wrong for construction the burden is not on them but on the developer. If the Webster Woods association is larger, this will take some burden off them. More people will be adding to the kitty and that will help. The more units you have the less negative impact. Having sat through this and listened and watched and kept up with these e-

mails, the position of the Webster Woods Homeowner's Association Board is they are in favor of whatever is reasonable to take care of the erosion issue and conditions of phase II.

D. Marshall: Are you telling me most residents would not oppose us (Planning Board) granting a 1 yr extension to their vesting?

D. Brown: We are not opposed.

Don Ingalls, 4 Hickory Court: I have been a resident of Webster Woods since early 2008. At no time have I heard that we oppose the success of phase II. Our only concerns are the protection of phase I. One condition is the erosion issues as evidenced in a letter from Stantec in September 2009. In November 2009 it was approved for phase II. Many residents wanted Miacomet to satisfy the erosion issue before an extension is granted. The Long-term issue is the southern ravine. At no time did we oppose phase II. We just want some assurance for phase I erosion issues.

J. Gryval: They didn't expect to get approval right away and that is why they didn't get done the conditions of approval. They weren't in any hurry and there is no active and substantial development. They didn't get it recorded.

S. Summer: I don't believe that was said by Mr. Nickerson, and what I indicated, and what Atty. Brown indicated. The normal course is to handle all the conditions when the plans is going to be recorded. In no way has Mr. Nickerson been cavalier to get things done. Collis Adams @ DES stated that we have been appropriate and haven't got things done in a timely manner.

E. Nickerson: Drainage and erosion problems, these are contrary to what everyone thinks here. DES in August stopped us from working on this plan. There is a laundry list from conditions of the phase II approval. We are working on the one biggest item to get completed. As I said before, \$64.00 here and a gate there, every other town we work to get these conditions done when the plan is going to get recorded.

S. Summer: The unit owners are looking for certainty. We are looking for certainty to shop for appropriate financing. Extending the vesting issue is critical. I understand you denied the request for a 1 yr extension to the 3 yr approval. Vesting is critical in the long run to move forward with this project.

J. Gryval: When the plans are signed and recorded, your vesting rights will start.

J. Duffy: It is in the regulations. For vesting they have 1 yr from the date the plan is approved to start active and substantial development then they are protected for 4 yrs (substantial completion good forever). The Town Atty. said they are two separate things, but they do come together at some point.

R. Duhaime: Dick mentioned the legality part with the 16 conditions. DES and DOT takes time. It has been over a year and I don't see any effort to get something done on these conditions. Since April 2009 we have been talking about the erosion issue. We need some certainty when conditions will be met. We should not have approved this site unless there were 3-4 conditions. Now there are 16 conditions and you should have say these "x" conditions will be knocked off this week, then next week knock off another "x" conditions.

S. Summer: Tomorrow their vesting expires. If we wait a month from now, we can't discuss the vesting because it would have been too late. For a comfort level with the Board, I respectfully disagree that we have not been working on these conditions. We can come up with a commitment to knock off these conditions, if this will help the Board in rendering a decision, we can do that.

Gerry Ouellete, 11 Dogwood Dr.: I have lived at Webster Woods since Dec 2006 and my unit is back-to-back with phase II. In August 2009 the project mgr. and sales rep. asked for signatures to extend the construction time for the convertible land and I think everyone signed that. As it stands, being back-to-back with phase II I have a very private back yard. The reality is good things must come to an end. Our condo fees were subsidized. Phase II will be built in the near future based on the real estate market and added conditions. If in good faith they plan on doing what they say they will, I am in favor to grant a 1 yr vesting extension with the condition that they address the erosion issue.

### **Close public hearing**

*Vote to extend 1 yr vesting unanimously in favor.*

D. Marshall: For developers in general, vesting starts the date you are approved. If you choose to sit one year and do nothing, a year later you need to meet anything that changes in the Development Regulations. I am sure after discussion with Jo Ann, that doesn't happen in other Towns.

### **SITE COMPLIANCE**

#### **2. DAVID BURL – LAND CLEARING CO. (#03-45) 150 Londonderry Tpke, Map 43, Lot 49**

J. Gryval: My niece owns the business with her husband and her daughter runs the business. Tonight there is no Board vote taken just a consensus of the Board. I don't feel I have to step down for this discussion.

Board consensus: No objection to J. Gryval not stepping down from this discussion.

Karen Burl: I am the manager at Burl's. The current site plan doesn't show a designated area to store grindings. The CEO stated last week we couldn't stock pile in certain areas.

J. Duffy: The Burls were in front of the ZBA recently for a variance for stump grinding and the ZBA meeting was continued. The ZBA meeting is not part of this discussion. Peter Rowell, CEO, went out to the site, because an abutter made a complaint about noise and dust. The approved site plan from 2003 did not show where materials were to be stored. They have a second building on the site that was approved but never built. The trailer storage never happened. They have piles of stumps, chips and various piles of logs all around different areas. Peter sent me a memo that he thought they were in violation of their site plan. I went out to the site and the only thing I found is there is no note on the plan where the storage is located. I thought they should come to the Planning Board to see if they need to amend their site plan. It is a logging business. The abutter on the north side complained about logs being stored on the perimeter of the property as you drive up the property between

the two property lines. This site is not abutting the neighbor who is complaining. There is another lot in between. You can see the logs from his yard. Peter's concern is that the logs are in the 25 ft setback, however that setback is for buildings. The plan from 2003 doesn't fall into our new buffer criteria. The zoning used to be commercial to abutting residential needs a setback. The new criteria is if the site is abutting a residential zone or use they need to provide a setback, but this plan is grandfathered from the new zoning changes. They are just here for clarification to see if the Board believes they need to amend their site plan or not, because it is a logging business.

D. Marshall: Plan site pad 2 and pad 1, what is supposed to be there? In that sense you need to redefine the pads. The detention basin was never constructed and that needs to be addressed. Peter has defined his business as industrial in commercial. I thought you could only have commercial in industrial, but not the other way around.

J. Duffy: The issue came up with stump grinding and Peter said that is industrial use. When a CEO changes to a different person, you can't change the site plan from how the previous CEO approved it.

D. Marshall: The plan needs to be adjusted to show pad 1 & pad 2 or remove the pads from the plan.

J. Duffy: I provided an aerial of the site. They can explain more what they are doing.

K. Burl: We sell our wood chips to a couple of school districts for heat. We also sold to PSNH for energy. We store trailers, equipment, chips, and logs. We are a logging company. We are not storing far from the site plan. We need a little flexibility where it will be stored.

C. Granfield: When this issue came up Jo Ann, is it similar to other situations or is this any different than that? I am looking for consistency, and I think we have done that in the past.

J. Duffy: Peter got involved because of the variance, not because something was needed from the Planning Board. Peter sent me a memo that he went out to the site because of a complaint. It is the same type of business from the 2003 site plan and not different other than the storage is somewhat in a different area. I can count how many businesses are being somewhat different.

C. Granfield: Typically the Planning Boards sends Peter out and we address via an amended site plan, but we are not going out to every business. If they are willing to amend their site plan how it is, that should suffice.

F. Kotowski: When you started your business from the approval to do whatever you do, have you substantially changed what you do now?

K. Burl: There are several different areas of storage for logs and wood. There is nothing specific on our plan for storage.



F. Kotowski: Are you stump chipping?

David Burl: When we store logs and firewood, it is 3,000-4,000 chords at a time. We are maxed out for storage due to the economy.

J. Gryval: When the stump chipping came up they asked for a variance. Since then they found another location to do this and they are going to ask the ZBA if they can just finish up the grinding for the supply left on site.

R. Duhaime: #5 from Peter's comments, as a Hooksett resident driving by on Rte 28, I noticed they weren't screened. We are always changing regulations in this Town. Per today's regulations, you would have to leave a 25 ft buffer on your property. You are pushing limits, because you are grandfathered, to a certain percent. You can't be skirting rules all along. I would love to see an evergreen hedge (screen) go in. One abutter wants to see something done on this site where you buffer is most needed. He can see your logs, so appease him with screening. You say the economy is maximizing your site. When the economy is better, we would like to see you improve your site.

J. Gryval: That abutter and the Burl property, there is another commercial piece in between. That abutter is on Wayne's Way, but the small commercial strip is in between at that is the lot that is responsible on the north side (lot 50) to maintain the buffer.

D. Burl: The abutter had issue with headlights from our site and that has been fixed.

J. Gryval: What are the circumstances that Peter thinks it is industrial use?

D. Burl: We are registered with State as an agricultural business.

J. Duffy: I can't speak for Peter, but I think the industrial use was due to the stump grinding.

D. Burl: It is a fine line in the wood business. You cut my piece of wood in half, is that a different business?

J. Gryval: The buffer is all set except if you get complaints on the other two sides.

J. Duffy: The buffer not required on the site plan. Peter is referring to logs in the 25 ft setback and that is a setback for buildings only.

R. Duhaime: On the site plan, plant the evergreens where they are supposed to be located.

J. Duffy: The Burls agreed to plant white pines.

D. Burl: There are natural trees already coming up from the slope on the road.

J. Duffy: The site plan just says trees every 10-15 ft; 2 in caliber white pines.

K. Burl: There is a nice vegetation growing there now.

R. Duhaime: Plant on the north part on Wayne's Way.

N. VanScoy: Staff, if we ask them to amend their site plan, is there just a statement to add for storage in certain areas? What will we be looking for?

J. Gryval: An amended site plan is costly.

J. Duffy: They can hire whoever did the 2003 plan and remove the items such as the building that hasn't been built. They can almost do an as-built of what is out there now. As for the area where detention ponds are shown on the plan, I don't believe those ponds have been built.

D. Burl: The plan has to extend the lower detention pond. Up to today, I have never seen water in it. There is an area up top if it is decided to have the building dump water into it.

K. Burl: In case we build the building, those ponds are needed.

J. Gryval: If no buildings, that could be taken off as well on the plan.

D. Burl: We would like to store product in open parking spaces.

R. Duhaime: Wood chips hold water. For the rest of the area is this site OK for drainage as it is now?

D. Tatem: When you built the access road, there was supposed to be a slope there.

D. Burl: There is an area 10-12 ft high with crushed stone and big boulders that we built.

D. Tatem: Does the site look like the site plan? The existing row of logs, is that where the evergreen buffer is shown on the site plan? Rob I couldn't give you a detailed opinion on the drainage.

J. Gryval: Any other questions or comments? I would like to get something definite tonight, so that when these minutes are read there won't be other complaints. I will take a consensus of the Board, do you feel that there is a problem with them stacking logs in places other than the plan shows? Do you want them to do an amended site plan? Do you want something dropped off of that plan that shows on there? I would like to put this thing to bed and get it over with.

Board consensus: Agreed that no amended site plan needed.

R. Duhaime: Jo Ann, would you like to see an as-built?

J. Duffy: It is not necessary for an a-built. They have a site plan for a 2<sup>nd</sup> building and if they take it off, and like Dave said if they ever want to build it in the future, he would have to come back whereas if he leaves it there he still has an approved site plan for the building.

J. Gryval: We want to make sure that whatever we do tonight satisfies the CEO, so he won't be back tomorrow.

M. Cannata: I would like to know that CEO is informed of the result of this meeting #1 and #2 the abutter who appears to be the source of maybe generating CEO going there is up to date as to what the decision is relative to no more grinding at a short point in time. I think that would absolve the issues as far as I am concerned. These people need as much flexibility on their site as possible due to a number of things, a matter in which they working, at least I am interpreting it that way. So my sense of it is leave well enough alone. If it is not broken, don't fix it.

J. Duffy: I did tell Peter the Burls were coming tonight to speak with the Board and said that was a good idea to get the Planning Board's opinion. The Burls are scheduled to meet with the ZBA next week. From my conversation with the Burls, they told me that they would be withdrawing their variance request. That would put that issue to bed.

D. Burl: I have a large pile of top-soil probably 7,000-8,000 yards, would I be considered industrial if I screen that? How does that work, being a landscaper (R. Duhaime), you would know that.

R. Duhaime: As long as it is temporary.

D. Burl: Well once that is gone, I am not going to have anymore, because it came with the stumps.

D. Tatem: The abutter complained of the stump grinding because of noise. What amount of time do you need to screen?

D. Burl: A couple of weeks. Stump grinding itself we will be doing in winter and it is less of a burden to neighbors. It is not as loud as what you think it could be. We are always running equipment up there and we will always create noise, but within the decimals.

J. Gryval: Jo Ann any more comments.

J. Duffy: No not as this time.

R. Duhaime: We are just going to notify the CEO, we don't need to send him a letter from this Board do we?

J. Gryval: No he will get the minutes and be at the ZBA meeting, he is always there. As far as locating the pile of logs in an area other than what it says on the site plan, if we don't take issue with that, then he shouldn't either. Is that true Jo Ann?

J. Duffy: I would assume.

J. Gryval: I guess for now you are all set continue doing it and we will see you at the ZBA meeting and see if we can get that squared away.

Karen and David Burl: Thank you very much.

J. Gryval: Good luck.

### **DISCUSSIONS**

#### **3. SOUTHERN NH PLANNING COMMISSION (SNHPC) Timothy H. White, AICP, Senior Transportation Planner 10-year highway plan**

Tim White, SNHPC: Mr. Chairman, thank you for letting me address the Board this evening. I am the senior transportation person at SNHPC. I have an updated power point I just handed out to everyone. I am here to talk to the Board about the beginning of the development 2013 fiscal year 2022 highway plan. A couple of members on the Board are familiar with metropolitan, and joint air quality along with other state EPOs. Transportation long range plan, 2011 & 2020 highway plan, will be completed at the end of this year. DOT has a 30-day public comment period. I am here at the beginning of the 10 yr highway plan. The 2<sup>nd</sup> page has a flowchart where we are incorporating projects for our region into the transportation improvement program 2011 fiscal year and 2020 highway plan. SNHPC sent a letter to Towns and other organizations for input for which projects within the 10 yr. highway plan, evaluate and rank projects during the technical advisory meetings. Then we will send a letter by May 1, 2011 to DOT. The Board looked at projects that you currently have in the transportation improvement program and are moving toward implementation. The list of projects is on the 3<sup>rd</sup> page of the handout.

R. Duhaime: On the plan they are not funded. Go through which ones are the most important based on accidents and safety.

D. Marshall: The item listed as “widen north of Benton Road” should read “south of McDonald’s”. There are questions on the projects 1-7 in the existing plan. 1-4 lower set projects we identified in the regional plan or identified as a Town ourselves and those projects should go forward. In the cycle, are we running a month or two behind?

T. White: We usually begin January, February, and March of New Year, however we are actually early now.

D. Marshall: In the fall of even years, there are no new projects by this Town?

T. White: That is why I am asking for new projects from this Board tonight. Unfunded – traffic studies for master plan and proposed developments in Town. There are no bridge

projects. We are asking the Town to look at a list of projects in the 10 yr plan, in the regional plan, and what other projects you would like to see in the next 10 yr process end of this year and early part of next year.

D. Marshall: This Board had identified the project that ran from Shaws' (Granite State Market Place) south. First segment is built to Benton Road. Whitehall Road segment is scheduled for next year. Whitehall Rd. to West Alice Dr., that may need to be broken down again from Whitehall Rd. to Mammoth Rd., and then Mammoth Rd. to West Alice Ave.

T. White: For the next version of the DOT plan, there is not a lot of money. We need better information on a long range plan to have a better case to get funded.

D. Marshall: Legends Drive to Hunt St. north. That project DOT received a set of plans from MS&G, they will continue for their project. Then there is a small gap between Hunt St. and Granite Hills that could be taken care of with DOT. Back off Legends Drive to Hunt St. until MS&G opens their land for development.

R. Duhaime: Sidewalks for the connector road?

T. White: That is through a CMAQ grant. If that is still a priority for the Town, put it in the next version of the 10 yr plan & 3A corridor study.

F. Kotowski: We need sidewalks to connect one area of Town to another for safety. Do you want to hear about that?

R. Duhaime: For State roads.

T. White: We want to know anything the Town would like to have for transportation. CMAQ applications are being considered by DOT.

D. Marshall: When that DOT meeting happens, we should be there.

T. White: There will be just one meeting statewide with the DOT. You were ranked 4<sup>th</sup> or 5<sup>th</sup> out of 6 applicants for this region.

D. Marshall: For Frank's benefit, future rounds are not only for CMAQ, but also for transportation.

M. Cannata: 1-4 is the second group; West Alice Dr. to Martin's Ferry Rd.

R. Duhaime: 6 & 7 are being implemented right now.

T. White: Thank you.

#### **4. McDONALD'S**

**Christopher Rice, TF Moran, Inc.**

1254 Hooksett Rd., Map 30, Lot 26

Conceptual for demolition of existing McDonald's restaurant and construction of new 4,300 sq ft+- McDonald's restaurant

Chris Rice, TF Moran and Adam Guilmette, McDonald's.

C. Rice: The new McDonald's is larger for prep and operations. There will be the same number of seats as the existing. There will be a reduction in parking spaces. We will be requesting a waiver for parking; 41 required and the Zoning Ordinance requires 72 parking spaces. Our concept plan shows 54. Their business is 70-80% drive-thru. I live in Hooksett and the existing parking lot is never half full.

D. Marshall: How many spaces are there now?

C. Rice: 98 spaces now. The new site will function better and have less impervious to help with drainage issues in Town.

R. Duhaime: The dumpster apron area, can this be looked at to accommodate buses and traffic flow?

D. Marshall: The traffic flow seems unusual. You come in from Rte 3 then go all the way around the building to get to the drive-thru line. I noticed a split in the drive-thru; enter earlier vs. going all the way around.

C. Rice: During high rush, we don't want stacking of vehicles on Rte 3.

D. Marshall: I am fully in favor of putting a new building there. It allows the widening of Rte 3 much easier.

C. Rice: It is more centrally located on the site.

A. Guilmette: McDonald's has thousands of restaurants across the country. We reference near a corner lot. Typically what we do is block the entrance from the drive-thru from Rte 3 for one way stacking. The food is prepared quicker than taking the order. If we dedicate a lane from Rte 3, we could stack out onto Rte 3. This proposed flow allows us to generate a large amount of stacking.

R. Duhaime: On the conceptual there is a red and a white car. Are these two separate order stations?

C. Rice: Yes.

C. Granfield: If this site is the same as Derry, it seems to work well.

R. Duhaime: Front corner of lot, I want a landscape view and flow. Since you want less parking anyways, take out those two spaces also.

C. Rice: We can look at eliminating those two spaces.

R. Duhaime: McDonald's does a great job with landscaping.

N. VanScoy: Jo Ann, how many spaces are needed?

C. Rice: 1 space per 60 sq ft = 72 spaces.

J. Duffy: Performance Zone Article 10-A, you will need a waiver for the 18 spaces, possibly 20 spaces if you take out two more spaces out front.

N. VanScoy: You are cutting out a lot of parking spaces with this current plan.

D. Tatem: If this conceptual proceeds to a TRC, you should look for historical documentation with a similar restaurant and parking. On your waiver request show where you can build additional parking if there is a problem of not enough spaces in the future.

C. Rice: Parking to the north, if we get rid of the island we could get another 20 spots.

A. Guilmette: The existing lot is underutilized. Parking is not favorable. This new design will use most of the lot. Drive-thru % will go up and traffic will increase due to the grand opening. Within a short period of time the drive-thru will be at 70%.

M. Cannata: Has there been a consideration of signage?

C. Rice: The existing signage will stay and we will refurbish it. It is just being relocated.

D. Tatem: The State is asking them to move their sign, therefore they are allowed to move it as is within the taking.

J. Duffy: Staff already signed-off on the sign. It is just moving back.

D. Marshall: The new signage location is much closer to Martin's Ferry Rd.

J. Duffy: But it is out of the area the State is taking.

D. Marshall: This is a golden opportunity to have a monument sign.

J. Duffy: I have a concern with the entrance onto Martin's Ferry Rd. The PZ says a corner lot access should just be from the side road and not Rte 3. The Board will need to decide if the Rte 3 access should be taken away. If they keep the Rte 3 access, they need a waiver. For traffic flow, see if anyone has safety concern issues.

D. Marshall: Several restaurants have their exit by the drive-thru lane.

R. Duhaime: In Lincoln, NH most of the handicapped spaces are near the building. None of these spaces have a walkway except the handicapped spaces to enter the building.

A. Guilmette: We would be happy to have sidewalks.

C. Rice: Do we need a waiver for access off Rte 3?

J. Duffy: Yes.

R. Duhaime: For CVS across the street we had them put in special islands so no one would take a left turn lane onto DW Highway.

C. Rice: This is an access that currently exists.

D. Marshall: The hill on Martin's Ferry Rd., you are coming out of McDonald's onto Martin's Ferry Rd. and there is not much room. A DOT barrier is going to be there on Rte 3, therefore taking a right onto Rte 3 is fine.

A. Guilmette: We want the traffic to exit off Martin's Ferry Rd.

D. Tatem: One comment in the preliminary meeting, the entrance off Rte 3 is wide. Get rid of the concrete island and replace with a standard 24 ft access. That will reduce the impervious even more.

C. Rice: We will look at the width for truck turns.

D. Tatem: It is a much bigger entrance than what the regulations require.

D. Marshall: This will go before the TRC. What is the timeframe for construction to opening?

A. Guilmette: Destruct to opening is 100 days.

D. Tatem: Do you propose to start in the spring?

A. Guilmette: We propose starting after school vacation in February and open in June 2011.

C. Rice: Elevations?

D. Tatem: Show similar sites for architecture.



M. Cannata: I wonder if we can reconsider the signage for the road and have a sign that looks like what was presented tonight.

R. Duhaime: PZ for landscaping, I see sidewalks but no screening? There should be a building screen.

N. VanScoy: Rte 3 aesthetics, that side should have a break in it. The main entrance faces Martin's Ferry Rd. The side facing Rte 3 should also have similar aesthetics to the main entrance.

C. Rice: We will look into the Rte 3 side for aesthetics.

### **WAIVER REQUESTS**

- 5. NEW SUNSET REALTY, LLC (#10-03)**  
"Mega X", 1560 Hooksett Road, Map 13, Lot 46-1  
Waiver request to Article 10-A Performance Zone (PZ) canopy signage

Doug MacGuire, Woodland Design: We came in front of the Board about a month ago on the signage for Mega X, which is currently under construction. The Board acted on the free standing signage and building signage. One remaining signage issue is the canopy. It was unclear at the time we last presented as to how it would be visualized for the ban and size of the canopy signage. Distributed the aesthetic look of the canopy depicting the accent band. Only the yellow band will be illuminated. The blue canopy will not be lit. There are two logos; one on each side. Before I go over the dimensioning, I would like to quickly distribute a couple of pictures of existing Irving gas stations; day time and night time view. My client is trying to mimic the industry standard. Both of those pictures are shots of the Irvings in Hooksett. I can take questions. The logos were 2'x4'; one on each end. Now we are proposing 2 ½ ft diameter logos, one on each side.

R. Duhaime: Did the Mega X size stay the same?

D. MacGuire: It fits within the limits. "Mega X" is one on the front right of the canopy. For the logos, there is one on each end and can be seen by the side you are approaching. They are smaller than the width of the canopy.

R. Duhaime: Are the "Mega X" letters lit only?

D. MacGuire: Yes, just the letters.

D. Marshall: We have all of the building signs too that we have already approved. What is with the bird? Shell gas station has a shell.

D. MacGuire: The bird is for recognition.

D. Marshall: How many Mega X gas stations are there in NH?

D. MacGuire: It does seem that the Board is concerned with the logo, but he is sticking to it and wants that recognition. The applicant brought that up to me after the last meeting. There is a lot of signage, however the canopy can obscure some of the other signage depending on the angle.

J. Gryval: PZ idea is to get rid of some of these signs.

D. MacGuire: I did perform a couple of quick calculations, because the signage is important to the Board. There is no regulation for canopy signage. This is considered a structure under the ordinance. We are allowed 4x 32 sq ft building signs, because this is a corner lot. We are allowed two signs per side per use. We are proposing 16.5 sq ft of signage. Now the canopy signage comes to 55.8 sq ft. We are proposing a total of 116.3 sq ft of signage. We are not trying to grossly add signage.

R. Duhaime: There was extra sq ft added to the sign in front of the canopy.

***N. VanScoy motioned to approve the canopy signage. Seconded by C. Granfield. Vote in favor. R. Duhaime and D. Marshall opposed. Motion carried.***

D. MacGuire: How does the Board feel about river stone vs. mulch for this site?

R. Duhaime: As long as the stone is not 5 different colors.

D. MacGuire: The river stone is more permanent and easier to maintain.

R. Duhaime: As long as the stones are neutral colors.

J. Duffy: Also, you will need to submit an amended site plan to show the dimension and location of all the signage. This amended site plan will need to be signed and recorded.

**6. MERCHANTS LEASING – AUTOZONE, INC. (#10-09)**  
1279 Hooksett Road, Map 25, Lot 46  
Waiver request to Article 10-A Performance Zone (PZ) building signage

Kevin Polka, Icon Identity Solutions: I am representing AutoZone for their building signage. The ordinance states we are allowed a 32 sq ft building on the front wall and another for the shared tenant. AutoZone would like a total 67 sq ft building sign. There is 100 ft of total building frontage between AutoZone and the future tenant. AutoZone is taking a larger % of the building frontage, and therefore needs a larger sign. The code allows a 2<sup>nd</sup> sign on the sidewall. AutoZone just decided to add footage to the front building signage and have no side signage. Only the letters will illuminate.

J. Gryval: You are asking for double the size?

K. Polka: Slightly over double.

R. Duhaime: CVS came back for signage on the north side of their building. In this case, we are trying to get a certain look in Town. You will find this business with the required sq ft.

D. Marshall: This building is on top of Rte 3 and not like the strip mall up the road (USA subs). That strip mall is meeting their signage regulations of 32 sq ft. According to a letter from AutoZone, they want a total 67 sq ft for them, however the other tenant could ask for the same. Why would we approve you and deny the other tenant? That seems unreasonable.

J. Gryval: I do a lot of business with these parts stores and they also have window signage too. This request is a little too much.

K. Polka: The main intent for the larger sign is it would fit the intent.

R. Duhaime: PZ, after talking with McDonald's, we already have a minimum for screening and landscaping, because this site is grandfathered.

***R. Duhaime motioned to grant the waiver request for 67 sq ft building signage. Seconded by D. Marshall. Vote all opposed. Motion failed.***

J. Duffy: Also, you will need to submit an amended site plan to show the dimension and location of the building signage if it is permitted in the future. This amended site plan will need to be signed and recorded.

### **CONTINUED PUBLIC HEARING**

- 7. MICHELLE FERMIN (#10-12)**  
50 Whitehall Rd., Map 25, Lot 31  
Subdivision plan for one new building lot from the subject parcel.

J. Duffy: At the last meeting, we had a discussion about whether or not to restrict single-family rather than allowing a duplex for the existing lot (convert). Peter had sent comments that he believed the lot was restricted to single-family homes, even though he previously met with Peter and he had Ok'd the lot for a duplex. Peter met with the applicant's atty. and sent a memo that he reconsidered his position and feels that a 150 ft of frontage is OK for the use requested.

D. Marshall: A duplex for the existing building. The other lot is only for single-family.

J. Duffy: Dan's letter today recommends we approve with conditions.

Joe Wichert, surveyor: I am here tonight with Michelle Fermin (land owner) and Norris Viviers (property mgr). We spoke with the Sewer Commission on the 19<sup>th</sup> and they OK'd

a two-family for the existing building and a single-family on the new lot. We have no excavation permit yet; it is pending. The driveway permit was issued. The gravel parking area was 7,280 sq ft and we have reduced it by 6 spaces to 3,990 sq ft. Stantec's 2<sup>nd</sup> review letter has comments for the impact down stream. We have made a reduction in the impervious; 3,200 sq ft gravel and removal of 28x52 screen house.

D. Marshall: Central Hooksett Water Precinct (CHWP) letter?

J. Wichert: CHWP said we need to submit a \$1,100 escrow amount to be paid, then we can hook up.

R. Duhaime: I remember you didn't want to be limited on size. You were going to tear down some existing structures.

D. Tatem: Joe, what was your decision on limiting the impervious?

J. Wichert: To limit would require some deed restriction that would need to be enforced. We proved the existing structures on the new lot will be removed as well as the removal of 3,200 sq ft of gravel. We have tried to accommodate the Board.

J. Gryval: You won't add water?

D. Tatem: The Berry Hill drainage analysis states % of impervious per lot.

### **Continued public hearing**

No comments.

### **Close public hearing**

#### ***D. Marshall motioned to approve the application conditional:***

- All review fees are paid-in-full
- \$25.00 LCHIP check payable to Merrimack County Registry of Deeds is submitted to the Planning Dept.
- 2 mylars, 11 paper copies (22x34), 1 paper copy (11x17), and 1 digital
- All outstanding comments from Stantec are addressed to Stantec's satisfaction (see letter dated October 28, 2010 from Stantec)
- All outstanding Federal, State, and local permits are obtained and submitted to the Town and Stantec
- Letter from Central Hooksett Water Precinct stating they have capacity and approve this project
- Letter from Hooksett Sewer Commission stating they have capacity and approve this project
- Applicant agrees to attend a required pre-construction meeting after (a) all bonds are submitted and approved, (b) site plan compliance monitoring escrow is in

- place and the Inspection Funding Agreement is signed and submitted, and (c) the plans are signed and recorded
- Applicant agrees to site plan compliance monitoring
  - Applicant agrees to remit “x” in impact fees 10 days prior to the issuance of the Certificate of Occupancy subject to NHRSA 674:39. Amount to be determined by Town Planner.
  - All waivers noted on plan
  - Note on plan “Approval of this plan shall expire three (3) years from the date of the Planning Board approval, as recorded in the Planning Board Minutes, unless the right to develop has vested.”

*Seconded by F. Kotowski.  
Vote unanimously in favor.*

### **OTHER BUSINESS**

#### **8. CIP COMMITTEE 2011-2012 – APPOINTMENT OF ADDITIONAL MEMBER**

*D. Marshall motioned to appoint Steed Celio to the CIP Committee 2011-2012. Seconded by N. VanScoy.  
Vote unanimously in favor.*

### **UNIVERSITY HEIGHTS**

J. Duffy: Provided an update on University Heights punch list. An as-built is not required now, but will be in 2012.

*D. Marshall motioned for as-built to be provided in 2013. Seconded by N. VanScoy.  
Vote unanimously in favor.*

### **CRANTON VERNON**

J. Duffy: Provided an update on the Cranton Vernon litigation.

### **TOWN COUNCIL MEETING WITH PLANNING BOARD/CIP COMMITTEE**

N. VanScoy: The CIP is a 6 yr plan. We can't continually say no to a 6 yr plan.

*D. Marshall motioned to have Robert Duhaime act on behalf of the Planning Board at the November 3, 2010 Town Council meeting. Seconded by M. Cannata.  
Vote unanimously in favor.*

### **ADJOURNMENT**

*R. Duhaime motioned to adjourn at 9:10pm. Seconded by D. Marshall.  
Vote unanimously in favor.*

### **ADJOURNMENT**

Chair J. Gryval declared the meeting adjourned at 9:10pm. The scheduled Planning Board Meetings in November are at the Hooksett Town Hall Chambers, room 105 @ 6:00pm on November 8, 2010 (Development Regulations public hearing), and November 15, 2010.

Respectfully submitted,

Donna J. Fitzpatrick,  
Planning Coordinator