

LONDONDERRY, NH PLANNING BOARD

MINUTES OF THE MEETING OF DECEMBER 7, 2016 AT THE MOOSE HILL COUNCIL CHAMBERS

I. Call to Order

Members Present: Art Rugg, Chair; Mary Wing Soares, Vice Chair; Scott Benson, member; Jim Butler, Town Council Ex-Officio; Leitha Reilly, member; Al Sypek, member; Ann Chiampa (alternate member); Ted Combes (alternate member)

Also Present:

Colleen Mailloux, Town Planner; John R. Trottier, P.E., Assistant Director of Public Works and Engineering; Laura Gandia, Associate Planner; Michael Ramsdell, Town Attorney

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance. He appointed alternate member, T. Combes to vote for C. Davies.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES

Member M. Soares made a motion to approve the minutes of November 9, 2016, as presented. S. Benson seconded the motion. The motion was granted, 7-0-0. The Chair voted in the affirmative.

B. REGIONAL IMPACT DETERMINATIONS:

Subdivision Plan – Rear Colonial Drive, Map 5 Lot 20, Zoned AR-1, QCM, LLC (Applicant) and Moreau Living Trust (Owner): Town Planner Mailloux explained that the subdivision was to divide one parcel into two single family residential lots. She stated that the project is not one of regional impact as it does not meet the criteria for regional impact as set out by the Southern New Hampshire Regional Planning Commission (SNHPC).

M. Soares made a motion to accept Staff’s determination that this project is not a development of regional impact.

S. Benson seconded the motion.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

C. DISCUSSIONS WITH TOWN STAFF: N/A

III. OLD BUSINESS:

- A. Application acceptance and Public Hearing (continued from November 2, 2016) for a formal review of a subdivision plan to subdivide one lot into two, 566-574 Mammoth Road, Map 17 Lot 7, Zoned Ind-II – Fortin Realty Trust (Owner & Applicant)

Chairman Rugg read the case into the record, noted that the application was continued from the November 2, 2016 meeting.

Attorney Patricia Panciocco, Baroff & Craven Professional Association, 740 Chestnut Street, Manchester, New Hampshire and Michael Hammer, Professional Land Surveyor, Meridian Land Services, Inc., 31 Old Nashua Road #2, Amherst, NH, presented for the applicant. M. Hammer addressed some of the outstanding comments from last month's meeting. He spoke of the waiver request for the setting of the monuments. He stated that he spoke to Robert Talon, Licensed Land Surveyor, NH DOT, Bureau of Right of Way, who offered guidance in retracing ancient roads as part of his job duties. M. Hammer discussed and reviewed with R. Talon, the laying down of concrete in 1923 on Mammoth Road. He noted that at that time, the State which attempted to retrace the 1830 layout. He stated that he followed the State's retracing, and concluded that his approximation of the centerline location was fairly close to the State's which led him to withdraw the waiver request for setting monuments along the right-of-way. He then addressed Mr. Merrill's concern. He attempted to contact Wesley Aspinwall from Edward Hebert Associates who prepared the plans for the Merrill family and learned that he died from cancer in 2014. M. Hammer stated that someone from Edward Hebert Associates stated that would get back to him but no one did.

He then addressed the sight distance. He noted that Town Staff requested that the sight distance be expanded to 365 feet which resulted in the findings of some obstructions to the sight lines as follows: (1) **north driveway** – to the north there is adequate sight distance of 365 feet but an additional 1 ½ foot needed for all sight distance. He explained that there is a rise in the roadway obstructing the 1 ½ foot sight distance requirement and to remove that rise in the road would require significant reconstruction of the road. He noted that the applicant is seeking a waiver from the all seasons sight distance requirement; (2) **center driveway**: a large oak tree, a significant landscaping element in the area which helps separate the residential and industrial uses, is 10-15 inches in the sight southerly line. He noted that the applicant is seeking a waiver from the sight distance requirement to allow the tree to remain.

He also noted they are awaiting Attorney Ramsdell's opinion.

Attorney Panciocco approached the Board with current photographs of the site with a view from the north and the south. She commented on the unique situation being presented before the Board, and noted there is no change use in of the property – they are simply drawing a line. She referenced the 1960 Union Leader photo, the sworn affidavits, the 60 foot wide right-of-way on Mammoth Road noting how the vehicles can be parked without interference, and the submitted letters from Town stating there are no problems with plowing or accidents from vehicles parked in front of the Morgan Linen building. She contended that the use predates zoning and is therefore protected. She informed the Board that 16-18 people work and park at this building, and the only other alternative is for these people to park on the shoulder of the roadway. She asked the Board which situation causes more interference.

Chairman Rugg asked the Town Staff for input. J. Trottier noted that on November 2, 2016, the Planning Board accepted the application as complete. He then reviewed the two waivers regarding the obstructions to the sight distance requirements. He noted that Town Staff does not support the granting of these waivers. J. Trottier also noted that in addition to the tree and rise in the road, the vehicles parking in the right-of-way are also obstructions to the sight distance requirements.

Member A. Chiampa referenced the Adams Road situation where the Board denied a waiver to the sight distance requirements. Chairman Rugg noted that this situation is different as Morgan Linen already exists. T. Combes asked about accidents. Attorney Panciocco referenced the August 16, 2016 Londonderry Police Department letter from Deputy Chief Gerry Dussault which stated the property was trouble free over the past 15 years and there were no accidents (except a minor accident in the parking lot behind the premises).

Member M. Soares asked for clarification with the monuments waivers. M. Hammer stated that that request is for the purpose of not setting monuments inside the swamp area. He noted that he can set the monuments on the right-of-way.

Member L. Reilly asked about the sight impediments from the parking. J. Trottier stated that he was not able to determine from the pictures presented if the cars parked on the side of the road would be a sight impediment. He referenced that the Town's regulations do not allow for on-street parking in commercial areas. J. Butler referenced the safety issue with the parking, and setting a precedent with other cases, also commented that the tree should be removed.

Attorney Panciocco stated that she understands that the goal of the Town is to strictly apply its regulations. She reiterated that this is an existing site and the conditions are not going to change – this is not a new use but rather a lengthy existing use. She contended that a relaxing of those standards is appropriate.

Abutter Bob Merrill, asked to see copies of the 1923 map and 1831 map. M. Hammer explained that in 1830 there was a written description of the right-of-way, and the NH DOT's archives contain information regarding the 1923 map. He stated he would be happy to provide a copy to B. Merrill. B. Merrill informed the

Board that in 1923, his grandfather was told that the State discussed the stonewall boundary and would not go behind the stonewall to avoid paying damages. He commented on various deeds which referenced the stone wall such as the deed to the south of the house in 1835 and another 1931. He stated he is of the opinion that the stone wall is the property line and the Edward Hebert Survey is the most accurate. He also referenced a 50 foot buffer on the north side of the Fortin property which is not properly listed.

Chairman Rugg asked if there was any additional public input, and there was none. He then asked for Staff input. Town Planner Mailloux explained to the Board the procedures necessary for approval of this application. She stated that the Board would first have to decide: (1) if there was enough evidence to determine that the parking spaces pre-dates zoning and are therefore protected under RSA 674:19. If the Board finds this, then the applicant would then need to go before the Town Council to obtain approval to leave the parking spaces in the right-of-way as they are in violation of the Town's Municipal Code. She noted that the Planning Board does not have jurisdiction to approve an obstruction in the right-of-way. She added that if the Board finds that there is not sufficient evidence to support that the use predated the zoning ordinance, then a condition of the approval would be the applicant to obtain a variance from the ZBA to allow the parking to remain or removal of the parking spaces. Under this circumstance, the applicant would still need to go before the Town Council to obtain approval to leave the parking spaces in the right-of-way.

Chairman Rugg asked for any other questions. M. Soares asked if there was any other place to park on the property. Mark Fortin, Trustee of the Remi Fortin Trust stated there is no other viable place to park on the property. Attorney Ramsdell addressed the Board explaining that the question before the Board is a finding of fact, not an issue of law, and that the Board had the opportunity to review more material than he did. He noted that it is the applicant's burden to prove that the spaces predated zoning. He noted that the evidence was not clear to him.

Chairman Rugg asked the Board to consider the waivers. J. Trottier explained that a modification request to the waiver 5 was sent at the 11th hour. M. Hammer apologized for the untimeliness of the request. M. Hammer explained to the Board that waiver number 5 relating to the monuments was modified based on new information he received from NHDOT. Town Planner Mailloux clarified the modification request with the applicant and all agreed that the modification to waiver 5 was that bounds will be set as required along the Mammoth Road right-of-way but not in the wetland area where a concrete bound to the North and to the south on Route 28 right-of-way as well as a drill hole in the west will be used to tie in that corner.

M. Soares made a motion to grant waiver request 5 (modified as presented above), and waiver requests 6 and 7 as referenced in the Staff Recommendation's memo dated December 7, 2016.

J. Butler seconded the motion.

The Board discussed the motion. L. Reilly explained the difference between Adams Road and the present case as one being brand new and the other being in existence for 50 years. M. Soares noted there were no accidents in the past 15 years. Attorney Ramsdell noted safety and consistency issues. He also explained the uniqueness of every situation and how the Board can give considerable weight to the Londonderry Police report letter, and the lack of change of use without appearing inconsistent or changing precedent. He stated that whether the parking is conforming or not, the applicant will still need to go to Town Council to seek approval to allow the parking to remain in the right-of-way. He added that if the Board found that the parking was nonconforming, then the applicant would then need to go to the ZBA to obtain a variance, and then proceed to the Town Council.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

M. Soares made a motion to approve the subdivision at 566-574 Mammoth Road and NH Route 28 from one lot into two, Map 17 Lot 7, Zoned I-II, Remi O. Fortin Trust (Owner/Applicant), in accordance with plans prepared by Meridian Land Services, Inc., dated December 19, 2014, last revised December 7, 2016, with the precedent conditions to be fulfilled within two (2) years and prior to plan signature and subsequent conditions of approval to be fulfilled as noted in the staff memorandum dated December 7, 2016.

Seconded by A. Sypek.

Chairman Rugg noted that the Board found that the parking was lawfully existing nonconforming use protected by RSA 674:19 which would remove condition no. 2 from the Staff Recommendation memo dated December 7, 2016. Town Planner Mailloux clarified the last revision date on the plan as December 7, 2016. M. Soares also requested that the questions relating to boundaries with the stone walls be resolved, and M. Hammer agreed.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Tighe & Bond review memo dated November 2, 2016.

2. Proper approval be obtained under Londonderry Municipal Code, Title 1, Chapter XVIII, Section II.B to permit an obstruction within the Right of Way.
3. The Applicant shall provide the Owner's signature(s) on the plans.
4. Monuments shall be set in compliance with Section 3.02 of the Subdivision Regulations and be indicated on the plan per Section 4.12.C.4.ii.
5. Required permits and permit approval numbers shall be noted on the plan.
6. Easement deeds shall be provided for both proposed easements for review by the Town and shall be recorded as such time that the property is transferred.
7. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
8. The Applicant shall provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
9. The Applicant shall note all general and subsequent conditions on the plans.
10. Third-party review fees shall be paid within 30 days of conditional site plan approval.
11. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
12. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
2. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of

this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

IV. New Plans

- A. Application and acceptance and Public Hearing for a formal review of a site plan for a multi-family workforce housing rental project comprised of twelve (12) twenty-four (24) unit buildings containing a total of 288 rental units, 30 Stonehenge Road & 13 Hardy Road, Map 12 Lots 120 & 131, Zoned AR-1, First Londonderry Association, LLC (Owner & Applicant)

Chairman Rugg read the case into the record, and noted that this starts the 65 day timeframe in which to render a decision.

J. Trottier stated that there are no outstanding checklist items and Staff recommends that the application be accepted as complete.

M. Soares made a motion that the Planning Board accept the application as complete per the Staff's recommendation memorandum dated December 7, 2016.

Seconded by A. Sypek

The motion was granted, 6-0-0. S. Benson momentarily left the room and returned immediately after the vote.

Mark Fougere, Fougere Planning & Development, 253 Jennison Road, Milford, NH, Raja Khanna, First Londonderry Associates, LLC, Jeffrey Merritt, P.E., Keach-Nordstrom, 110 Commerce Park North, Suite 3B, Bedford, NH 03110, and Steve Pernaw, Pernaw & Co., 47 Hall Street #3, Concord, NH presented for the applicant. M. Fougere briefly reviewed the procedural history of the project including but not limited to appearances in front of the Zoning Board of Adjustment (three variances were granted for 24 unit buildings in 2015). He noted that the workforce housing project involves a 65 acre site on Stonehenge Road with 12 - 24 unit buildings (three story buildings) with a clubhouse and a pool. He also explained that the project involves rental property with no public funds being used and the project is not subsidized. He noted that the ZBA granted variances to allow 50% market rate and 50% workforce housing units in the buildings (144 market rate units and 144 workforce units being evenly distributed in the buildings – each building will have 12 market rate and 12 workforce housing units with no distinguishable characteristics between the two). He noted he met twice with the Heritage Commission, and made several changes to accommodate its concerns resulting in a favorable recommendation.

J. Merritt introduced himself to the Board. He noted that the project involves merging two separate parcels located in the AR-1 district (Map 12 Lot 120 which is 43.5 acres and Map 12 Lot 131 which is 17.3 acres) into

one single lot. He explained that the multifamily workforce project contains 12 proposed buildings each with 24 units for a total of 288 units. He explained that the units are mostly two bedrooms, and the buildings closest to Stonehenge Road are set back considerably from the road. He pointed out the clubhouse, exterior inground pool, fitness room, meeting room, locker room, access to the development from Stonehenge Road, sidewalks throughout the site, internal crosswalks, bike racks at each building, and the two driveways (the driveway to the east is the main driveway which will be open all the time, and the driveway to the west is a gated emergency driveway for emergency vehicles with an opticom gate which can be accessed by the Londonderry Fire Department). He noted that there are 508 parking spaces with handicap spaces at each building as well as parking at the clubhouse. He described the 10x15 bus stop structure for the children with a sidewalk to and from the development. He explained that there are 30 acres of land being placed into a conservation easement, and that the project has over 80% open space with over 50% being classified as useable.

He described the utilities to the project referencing the off-site improvement plan. He stated that Stonehenge Road does not have any public utilities. He explained that at the intersection of Stonehenge Road and Mammoth Road there is a stub of a water main near Prairie Lane where the water will be picked up and fed onto the Eversource Corridor for 550 feet on Stonehenge eventually poking out onto the site on the northwest corner of the property where a booster station will be located to help with the water pressure to the site. He noted that the water main will be brought out to Stonehenge Road at the location of the main entrance with a hydrant. He stated that they are working with Eversource to secure an easement to run on its corridor. He added that ultimately, Pennichuck will own and operate the facility.

For sewer, he noted that municipal sewer is located on the east side of Mammoth Road and the sewer line will be constructed from that point through the intersection all the way up Stonehenge Road to where the emergency access driveway is allowing for gravity fed sewer. He stated that gas is very similar. He stated that there is an existing gas main on the west side of Mammoth Road and they will pull that up to the shoulder of Stonehenge Road to the site entrance. He noted there will be significant upgrades to Stonehenge Road with a full box reconstruction (1100 feet) from Pinto Lane up to the emergency access driveway. He explained that all drainage will be handled on the site noting the drainage patterns and the topography flowing north to south. He pointed out the storm water detention basin. He noted an Alteration of Terrain Permit is required and those requirements are more stringent than the Town's regulations.

He described the extensive landscaping on the project which received a favorable recommendation from the Heritage Commission. As part of the plan, the Heritage Commission asked that any stone walls moved during construction be incorporated into the landscaping design. He referenced the McGregor Cut monument which will not be impacted. For the lighting

plan, he noted that the LED mounted light fixtures which will be LED. He referenced the waiver for light trespass for the entrance. He then described the three phases for the project: (1) Phase 1 is for buildings numbers 2, 4, 10 and 12, the clubhouse, the bus stop, 181 parking spaces, all utility improvements, and the booster station, (2) Phase 2 four buildings and 176 parking spaces, and (3) Phase 3 four buildings and 147 parking spaces.

He explained the required State permits for the project: NHDES Alteration of Terrain permit for disturbances in excess of 100,000 SF which was obtained, temporary minimal wetland permit for the extension of the water main from the booster station cross country to the site affects a small amount of wetlands 77 SF which was obtained, NH Sewer Discharge for the sewer main which starts at the Town level and then to Manchester and then to NHDES for final approval which is in the approval process, and Excavation Permit for sewer within Mammoth Road which is in the approval process.

He then explained the six waivers: (1) section 3.07.g.1 to allow pipe sizes less than 15" where connected to PVC yard drains instead of concrete; (2) 3.07.h to allow a flow structure outlet detail that does not comply with the vertical slotted weir of the Town's typical detail Exhibit D109; (3) 3.11.g.5 regarding maximum 75' spacing for perimeter shade trees noting that the project has the required amount of shade trees but those trees are scattered in other areas due to the grading of the land by the parking spaces; (4) sections 3.13.c.12 and 3.13.c.3 to allow site lighting at the driveway entrances that exceeds 0.2 footcandles into the right-of-way; (5) section 4.01.c to allow a plan scale greater than 1"=40' for the Overview and Phasing plans; and (6) sections 3.09.c.2.iv and Exhibit D4 to allow a sidewalk with sloped granite curb where vertical granite curb is required for maintenance purposes. He then asked Steve Pernaw to address the Board.

Steve Pernaw introduced himself to the Board. He noted that he prepared the traffic impact study for the project. He explained that the report he will be discussing has a revision date of August 15, 2015 and since that time there have been some additional memorandums produced. He referenced five intersections studied in the report: (1) Litchfield Road/Bartley Hill Road/Route 128 signalized intersection; (2) main site driveway intersection; (3) Hardy Road intersection; (4) Perkins Road intersection; and (5) NH Route 28 intersection plus the 23 Stonehenge Road apartment driveway intersection which was not requested by the Town. He explained that weekday am and pm peak hour traffic were reviewed along with daily volumes and rate of traffic flow from midnight to midnight which showed a predominant peak of 7-9 am in the morning and 3-6 pm in the afternoon (this information helped form the basis for the study). He noted that in the current existing conditions study, the peak hour from 4:45-5:45 p.m. revealed 900 cars at the 128 intersection, 577 cars on Stonehenge Road to the east of 128 and 467 cars on the other side, and 1,700 cars on NH Route 128. At the site there were 468 cars going back and forth. He explained the 10 year projections using 2016 and 2026 using a peak month condition (11% increase in projection) along with studying four other background

developments. He estimated 179 vehicles to enter and exit during 4:45-5:45 peak hour. He explained the associated increases in traffic in the area. He explained the technical analysis for each of the intersections:

Main site intersection: operating at level of service A, B or C at peak hour, operating well below capacity;

Hardy Road intersection: operating at a level of service B approaching from the south in the morning for departures and operating at a level of service from C to an E at pm peak hour traffic below capacity with increase in delay and queuing);

Perkins Road intersection: operating at a level of service B during PM peak hours coming out of Perkins with and without development;

Route 28 intersection: operating at a level of service F and over capacity during PM peak hours currently with significant thru traffic especially when making a left turn out of Stonehenge Road (he noted that signalization with a turn lane on Stonehenge or construction of a roundabout are possible mitigation solutions);

NH Route 128 intersection: operating at a level C with or without the development but with a small increase in delay.

He stated he was asked to go back and study the Route 28 intersection to determine if it meets the criteria for traffic signal control. He conducted a supplemental count of 12 hours in length and all three criteria warrants for a signal were met. He was also asked to assist in mitigating these concerns and to conduct a topographical survey of the intersection as well as a right-of-way survey. He provided the following recommendations for the site driveway: stop sign controls exiting the site driveway with a double yellow line on the driveway to separate incoming and outgoing traffic, installation of advance warning signs on both sides of Stonehenge, and night time illumination. He welcomed questions. S. Benson asked if the data was skewed given the July data collection month. S. Pernaw explained the seasonal adjustment factor - 11% in the morning and 4% in the evening. J. Butler asked for the basis of the 11% factor, and S. Pernaw stated that the factor is derived from the State's database from data collected over a three year period. L. Reilly commented about the units being owned verses being rented, and questioned the reliability of the data based on people moving in and out. S. Pernaw stated that the numbers were collected during peak hours not hours during the course of the day, and noted that her concerns were already factored in the generated numbers. A. Sypek expressed concerns over traffic and the slope on Stonehenge Road. T. Combes asked about the intersection of Stonehenge and Route 28. S. Pernaw spoke of the reconfiguration of the intersection with a traffic control signal with the necessity of travel lanes, the widening the Stonehenge Road approach, and the possibility of a modern single lane roundabout. T. Combes asked what S. Pernaw would recommend, and S. Pernaw recommended signalizing the intersection with two through lanes of travel in each direction. J. Butler

expressed concerns over when the Town would actually see the signal. J. Butler questioned the unknowns that were not part of the study such as inclement weather. He noted that the applicant has an obligation to do more off-site improvements. L. Reilly expressed concerns over people using Perkins Road to avoid traffic. S. Pernaw stated that during the PM peak hour, there are approximately 2000 cars going through the 28/Stonehenge intersection and that development adds 54 cars for a 3% increase.

At the request of Jim Butler, Deputy Chief Gerry Dussault addressed the Board. Deputy Chief noted that the 28/Stonehenge Road intersection is at failure, the traffic is heavy heading to Derry, the queues are long, and the road is narrow. He noted that the Mammoth Road intersection improved with the installation of the light. He also added that the number of accidents on Stonehenge have increased particularly on Hardy Road and NH Route 28. Chairman Rugg noted the pass through traffic from Pettengill area. Deputy Chief stated that a four way stop sign at Hardy would be helpful. A. Chiampa commented on the utility of the speed markers, and suggested that those be used on Stonehenge. She also mentioned relocating the speed limit signs on Stonehenge Road.

David DeBaie, Stantec, the Town's third party reviewer and engineer, addressed the Board. He referenced the applicant's study which allowed the Town to ask more questions, identify the problem areas and offer comments. He commented on the heavy traffic at 128 and 28 intersections and the lack of capacity at the 28 intersection. He noted the utility of the traffic signal on 128 and meeting with NH DOT to bring this matter to its attention while focusing on the safety concerns and possible alternatives.

Chairman Rugg asked for Staff input. J. Trottier reviewed the waiver requests as outlined in the Staff Recommendation memo dated December 7, 2016. J. Trottier noted that Staff does not support the granting of the waiver involving 3.07.h regarding allowing an outlet structure that does not comply with the vertical slotted weir of the Town's typical detail Exhibit D108 and explained his concerns over possible clogging. J. Trottier also informed the Board that the Staff as well as the Building Inspector does not support the waiver request of section 3.09.c.2.iv and Exhibit R103 for a slope granite curb. He also reviewed the engineering comments and Staff comments.

Chairman Rugg asked the Board for input. A. Chiampa asked about the waiver concerning shade trees. J. Merritt stated that he is seeking to move the shade trees from the rear of the site that is not conducive to growth due to the slope and dispersed those trees throughout the site. She questioned the view of the buildings from the Mammoth Road. J. Merritt stated that there is a considerable amount of vegetation as part of the existing forest. He also stated the southwest slope on the property towards Mammoth is 38 feet. She then asked about the fencing around the parking areas. J. Merritt stated there are guardrails and a six foot fence. T. Combes asked about designated snow areas. J. Merritt stated that there are numerous

snow areas designated on the plan. T. Combes appreciated the amount of sidewalks on the site. M. Soares asked if there was a play area for the children. J. Merritt said there is no designated play area. She asked that this concept be further discussed with the applicant. L. Reilly echoed M. Soares' sentiments and appreciated the structure for the children at the bus stop. She expressed concern over the topography of the land and the scale of the building especially from Faye Lane and Mammoth Road. J. Merritt and M. Fougere stated that the scaling and distance makes a difference as well as the existing and mature forest. She also expressed concern over the character of the neighborhood. J. Butler echoed L. Reilly's concerns. S. Benson commented on the traffic issues, water run-off, and the amount of impervious surface. J. Merritt stated that he is required to do a storm water analysis comparing pre and post development. A. Sypek asked about the accessibility of the main water line if it was to break. J. Merritt explained that the line could be made accessible if it broke noting that it is located below the frost line. He explained that you are not likely to get a break going cross country because that area is not plowed and the snow acts as an insulator. A. Sypek asks if the booster station will have an emergency generator, and J. Merritt stated that it will. A. Sypek asked Chief O'Brien about the emergency entrance and opticom gate. Chief O'Brien explained the process of activating the gate. Chief O'Brien stated that Brian Johnson reviewed the plans. The Board discussed the possibility of having a balloon test.

Chairman Rugg asked for public input.

Londonderry resident, Martin Srugis, 17 Wimbledon Drive, addressed the Board in opposition to the project. He expressed concerns over increases in traffic flow and the difficulty of turning left onto NH Route 28. He also contended that Perkins Road and Stonehenge Road are not set up to handle this additional traffic flow. He noted safety concerns for school busses and bicyclists.

Nearby resident, Deborah Paul, 118 Hardy Road, addressed the Board in opposition to the project. She asked what portion of the land being put in the conservation easement was useable. J. Merritt responded that he did not have the percentage on hand and noted that the land was put in an easement at the request of the Town. He noted that that the conservation land is accessed by building five where there is a small maintenance path. She asked about the number of fire hydrants. J. Merritt stated that the fire hydrants are shown on the plan in locations requested by the fire department. She asked if the tax payers were responsible for any costs associated with sewer, water and gas installation. J. Merritt stated that the sewer, water and gas extensions costs are covered by the applicant. She asked if the lights in the parking lot will be on all night and was informed that they would be. J. Merritt stated there would be no light pollution except for the site driveway as requested in the waiver. J. Trottier informed her that the property is subject to the same regulations as the other properties in the area. She also expressed concerns over the character of the neighborhood, traffic, taxes and schools. She asked about the number

of trash compactors. J. Merritt stated there was one trash compactor on the site with no plans for recycling. She noted a 3.5% population growth. She asked about outside storage. Rajah Khanna, First Londonderry, LLC, stated there will not be any outside storage but noted that the common facility will have an outside facility with a grill, and each unit will have a deck. She compared the development to the Fairways in Derry. L. Reilly clarified that the schools have expressed concerns over the growth of schools to the Planning Board and Town Council.

Abutter, Greg Stanley, 112 Hardy Road, addressed the Board. He asked about adding turning lanes to access the property. He expressed concerns over light pollution and quality of the neighborhood. He asked the Board to consider traffic mitigation.

Nearby resident, Ray Breslin, 3 Gary Drive, addressed the Board in opposition to the project. He referenced other projects in Town and the ability of the Town's infrastructure to handle additional development. He commented on the elevation and blasting at the site. Chairman Rugg noted that advance notice will be given prior to any blasting, the process associated with blasting. R. Breslin also asked about the rip rap. J. Merritt noted that there is a rip rap slope primarily on the south and west side with a slope of 15 feet on the south and on west 40 feet slope. R. Breslin also noted concerns over the watershed associated with Cohas Brook. He also asked about water for the fire system. Chairman Rugg and J. Merritt stated that the fire department has reviewed the plans to ensure adequate capacity and pressure. R. Breslin asked if the site was level. J. Merritt stated that the topography falls from the north to the south, and run-off will be captured in the detention pond which was reviewed by the State via the Alteration of Terrain permit process.

Nearby resident, Jim Wisniewski, One Meetinghouse Drive, addressed the Board in opposition to the request. He expressed concerns over the density of the project, light pollution, and the topography of the site.

Londonderry resident, Amy Wheeler, 11 Darrow Way, addressed the Board, and spoke of school enrollment concerns. L. Reilly commented on the school's projections for growth which are located on the school board's website. Chairman Rugg also referenced the Capital Improvements Plan.

T. Combes asked about traffic within the development. S. Pernaw stated that the main driveway was evaluated to determine how many exit lanes were needed and determined one was sufficient. S. Pernaw noted that the exit will operate at level of service B and the queuing will not be extensive.

Nearby resident, Chris Paul, 118 Hardy Road, addressed the Board in opposition to the project. He asked about the location of gas line on Mammoth Road. J. Merritt stated it is on the west side in the right-of-way. C. Paul noted the sun glare with traffic concerns during the summer evening hours. J. Trottier noted that this is not a factor used in determining traffic issues. Chairman Rugg noted that the Town has a third party reviewer for

traffic issues and concerns. C. Paul stated he did not agree with the traffic studies. M. Soares noted that the applicant is doing off-site improvements. J. Merritt stated there is 1100 feet of full box construction being done by the applicant. C. Paul contended that the applicant is only rebuilding what it dug up. C. Paul asked about the slope and topography of the driveway. J. Trottier noted that the driveway is fairly flat with approximately a one percent slope. J. Trottier welcomed C. Paul to come in to review it.

Nearby resident, Deborah Paul, addressed the Board referencing the Board's concerns over a Verani project that was previously in front of the Board and the off-site improvements associated with that project, and contended that the present applicant should be required to do more off-site improvements.

Chairman Rugg asked if there was any other public input and there was none. A. Chiampa expressed concern over salt run-off into the detention pond. J. Butler commented on possible traffic issues with the school bus stop. Chairman Rugg explained that this matter would be continued and more work on the traffic issues needs to be done.

M. Soares made a motion to approve the Applicant's request for the above waivers 1, 2, 3, 4 and 5 to the Site Plan Regulations as outlined in Staff's recommendation memorandum dated December 7, 2016

Member A. Sypek seconded the motion.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

M. Soares made a motion to deny the Applicant's request for the above waivers 6 and 7 to the Site Plan Regulations as outlined in Staff's recommendation memorandum dated December 7, 2016.

Member A. Sypek seconded the motion.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

M. Soares made a motion to approve the Applicant's request for a Conditional Use Permit as outlined in Staff's recommendation memorandum dated December 7, 2016.

Member A. Sypek seconded the motion.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

M. Soares made a motion to continue the case until the January 4, 2017 meeting.

Member A. Sypek seconded the motion.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

The Chair noted that this was the only official notice of the continuance of the public hearing to January 4, 2017 at 8 PM in the Town Hall. Board noted that the 12/14/16 Planning Board meeting was cancelled.

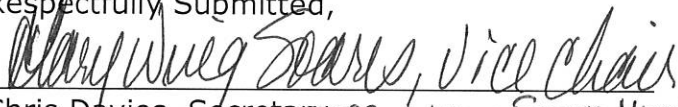
M. Soares made a motion to adjourn the meeting at approximately 10:40 p.m. Seconded by S. Benson.

Motion was granted, 7-0-0. The Chair voted in the affirmative.

The meeting adjourned at approximately 10:40 PM.

These minutes were prepared by Associate Planner Laura Gandia.

Respectfully Submitted,


Mary Wing Soares, Vice Chair
~~Chris Davies, Secretary~~ Mary Wing Soares, Vice Chair

These minutes were accepted and approved on January 4, 2017 by a motion made by M. Soares and seconded by R. Brideau.

STAFF RECOMMENDATION

To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Date: December 7, 2016

Application: Application Acceptance and Public Hearing for formal review of a subdivision of one lot into two, Map 17 Lot 7, Mammoth Road and NH Route 28, Zoned I-II, Remi O. Fortin Trust (Owner/Applicant)

- Completeness: **The Planning Board accepted the application as complete on November 2, 2016**

- Waivers: The Applicant has requested the following waivers to the Subdivision Regulations:
 1. The Applicant has submitted a waiver request from Section 4.16.A.2 of the Subdivision Regulations to not provide topography over the remainder portion of Lot 17-7. Staff **supports** this waiver as sufficient topography has been provided to demonstrate that the lot meets minimum lot sizing criteria.
 2. The Applicant has submitted a waiver request from Section 4.16.A.32.iii of the Subdivision Regulations to not provide HISS mapping over the remainder portion of Lot 17-7. Staff **supports** this waiver as sufficient HISS mapping has been provided to demonstrate that the lot meets minimum lot sizing criteria.
 3. The Applicant has submitted a waiver request from Section 4.17.A.27 of the Subdivision Regulations to not depict the location, type, size and inverts for existing utilities on the plans. Staff **supports** this waiver as there are no proposed changes in the on-site utilities proposed as part of this subdivision.
 4. The Applicant has submitted a waiver request from Section 4.01.C of the Subdivision Regulations to allow the use of a scale of 1"=60' for the topographic map. Staff **supports** this waiver as the plans are legible at the scale presented and can be shown on one sheet.
 5. The Applicant has submitted a waiver request from Section 4.12.C.4.ii of the Subdivision Regulations to not identify monuments to be reset. Staff **does not support** this waiver request and recommends that monuments be set as required and, if monuments to be set are located within the Right of Way, offset monuments be set.
 6. (New) The Applicant has requested a waiver from Section 3.09.F.2 to allow a driveway that does not meet the specifications for all season sight distance for the existing north driveway. Staff **does not support** this waiver request and recommends that appropriate improvements be made to ensure appropriate all season sight distance is provided.
 7. (New) The Applicant has requested a waiver from Section 3.09.F.2 to allow a driveway with a tree that is an impediment to the sight distance for the existing central driveway. Staff **does not support** this waiver request and recommends that appropriate improvements be made to ensure appropriate all season sight distance is provided.

Board Action Required: The Board APPROVED waiver requests #1 through #4 on November 2, 2016. **Action is required on waiver request #5 and the new waiver requests #6 and #7.**

Motion that the Planning Board DENY waiver requests #5, #6 and #7 as outlined in the Staff's Recommendation Memorandum dated December 7, 2016.

- Background:

Past site plan approvals by the Planning Board have led to the current development of the subject parcel which is comprised of 12.5 acres with frontage on Mammoth Road and NH Route 28, with access being provided from Mammoth Road. The existing lot has a mix of residential, commercial, warehousing and light manufacturing uses with a one-single family residential home and several non-residential structures currently present on the property. Site plans previously approved by the Planning Board depicted the parking along the Mammoth Road frontage on the northern portion of the property as being located on the property, outside of the Mammoth Road Right of Way.

The Applicant is before the Planning Board with a request to subdivide the parcel so that the residential structure is on a separate lot of record from the commercial uses. The survey provided for the current application indicates that the parking improvements are not located on the property and are within the Town's Right of Way.

Under the Zoning Ordinance (Section 3.10.3.A.1), "parking on public rights of way, unless specified as part of an approved PUD, or parking where it will obstruct property or public rights-of-way access is not permitted". The Town of Londonderry initially adopted its Zoning Ordinance in 1963, and in 1965 the Ordinance included provisions requiring off-street parking.

Further, the Board should be aware that Londonderry Municipal Code, Title 1, Chapter XVIII, Section II.B states that "no person shall erect, place or raise any signs, billboards, or other obstruction on or within the Town Right of Way. The General Code is under the authority of the Town Council, with the authority of Chapter XVIII specifically being delegated to the Director of Public Works and Engineering.

In July 2016, the Applicant held a design review meeting with the Planning Board to discuss the proposed subdivision. At that time, the Planning Board requested additional dated photographs and documentation regarding the existence of the parking area prior to the Town's adoption of a Zoning Ordinance in 1963. The Applicant provided the attached letters and affidavits regarding the parking area in the Right of Way as a demonstration that the parking was lawfully in existence prior to adoption of zoning and thus is a lawfully existing non-conforming use that is protected under RSA 674:19. The Applicant failed to provide a dated photograph as requested by the Board.

*The Planning Board must first determine if the Applicant adequately demonstrated that the existing parking in the right of way was in existence prior to the adoption of the Zoning Ordinance that the use is a lawfully existing non-conforming use protected under RSA 674:19. If the Board determines that the use is protected under 674:19, **Condition #2** in the recommended conditions of approval below should be eliminated.*

- Recommendation: Based on the information available to date, Staff recommends that the Planning Board first make a determination regarding the status of the parking in the right of way, and upon that determination Staff recommends **APPROVAL** of this application with the Notice of Decision to read substantially as follows:

Board Action Required: **Motion to approve the subdivision at 566-574 Mammoth Road and NH Route 28 from one lot into two, Map 17 Lot 7, Zoned I-II, Remi O. Fortin Trust (Owner/Applicant), in accordance with plans prepared by Meridian Land Services, Inc., dated December 19, 2014, last revised October 6, 2016, with the precedent conditions to be fulfilled within two (2) years and prior to plan signature and subsequent conditions of approval to be fulfilled as noted in the staff memorandum dated November 2, 2016.**

“Applicant”, herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Tighe & Bond review memo dated November 2, 2016.

2. **The existing off-site parking located within the Town Right of Way be relocated to comply with the Zoning Ordinance**

-or-

a variance be obtained from the Zoning Board of Adjustment from Section 3.10.3.A.1.

3. Proper approval be obtained under Londonderry Municipal Code, Title 1, Chapter XVIII, Section II.B to permit an obstruction within the Right of Way.
4. The Applicant shall provide the Owner’s signature(s) on the plans.

5. Monuments shall be set in compliance with Section 3.02 of the Subdivision Regulations and be indicated on the plan per Section 4.12.C.4.ii.
6. Required permits and permit approval numbers shall be noted on the plan.
7. Easement deeds shall be provided for both proposed easements for review by the Town and shall be recorded as such time that the property is transferred.
8. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
9. The Applicant shall provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
10. The Applicant shall note all general and subsequent conditions on the plans.
11. Third-party review fees shall be paid within 30 days of conditional site plan approval.
12. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
13. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
2. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

MEMORANDUM

To: Planning Board

Date: October 26, 2016

From: Planning and Economic Development
Department of Public Works & Engineering
Tighe & Bond, Inc.

Re: Map #: 17 Lot #: 7
Fortin Subdivision
Formal Site Plan Application
566, 570, 572 & 574 Mammoth Road

Owner: Remi O. Fortin Trust
Applicant: Remi O. Fortin Trust

Meridian Land Services, Inc. submitted plans and supporting information for the above-referenced project. The DRC and the Town's engineering consultant, Tighe & Bond, Inc. reviewed the submitted plans and information, and review comments were forwarded to the Applicant's engineer. The Applicant submitted revised plans and information and we offer the following comments:

Checklist Items:

1. None

Design Review Items:

1. The Applicant has submitted a **Waiver Request** from Section 4.16.A.2. of the Subdivision Regulations to not provide proposed contours on the plans.
2. The Applicant has submitted a **Waiver Request** from Section 4.17.A.32.iii. of the Subdivision Regulations to not provide HISS mapping remainder portion of Lot 17-7.
3. The Applicant has submitted a **Waiver Request** from Section 4.17.A.27. of the Subdivision Regulations to not depict the location, type, size and inverts for existing utilities on the plans.
4. The Applicant has submitted a **Waiver Request** from Section 4.01.C. of the Subdivision Regulations to allow the use of a scale of 1"=60' for the topographic map.
5. The Applicant has submitted a **Waiver Request** from Section 4.12.C.4.ii. of the Subdivision Regulations to not identify monuments to be reset.
6. The required permits and associated permit approval numbers should be listed in accordance with Section 4.11.K of the Subdivision Regulations.
7. The Owner should sign the Boundary Plan in accordance with Section 4.12.C.16 of the Subdivision Regulations.
8. An easement deed should be submitted for both of the proposed easements.
9. The Applicant should coordinate with the Department of Public Works for any off-site work that may be required as part of the subdivision.

10. The Applicant should verify the DRC comments for the project have been adequately addressed by providing written confirmation from department as applicable:
 - a. Please verify that the comments of the Assessing Department have been adequately addressed;
 - b. Please verify that the comments of the Fire Department have been adequately addressed;
 - c. Please verify that the comments of the Planning Department have been adequately addressed.

Board Action Items:

1. The Applicant is requesting **Five (5) Waivers** to the Subdivision Regulations as noted in their letter dated October 6, 2016. The Board will need to consider each waiver under this application.