

1 **LONDONDERRY, NH PLANNING BOARD**  
2 **MINUTES OF THE MEETING OF JANUARY 8, 2014 AT THE MOOSE HILL**  
3 **COUNCIL CHAMBERS**  
4

5 Members Present: Art Rugg; Mary Soares; Lynn Wiles; Laura El-Azem; Chris  
6 Davies; Tom Freda, Ex-Officio; Rick Brideau, CNHA, Ex-Officio; Scott Benson;  
7 Maria Newman, alternate member; and Al Sypek, alternate member  
8

9 Also Present: Cynthia May, ASLA, Town Planner and Planning and Economic  
10 Development Department Manager; John R. Trottier, P.E., Assistant Director of  
11 Public Works and Engineering; and Jaye Trottier, Associate Planner  
12

13 A. Rugg called the meeting to order at 7:00 PM. He appointed M. Newman to vote  
14 for M. Soares until she arrived.  
15

16  
17 **Administrative Board Work**  
18

19 A. Approval of Minutes – December 4 and December 11, 2013  
20

21 **L. Wiles made a motion to approve and sign the minutes from the**  
22 **December 4, 2013 meeting. R. Brideau seconded the motion.** No  
23 discussion. **Vote on the motion: 7-0-1.**  
24

25 (L. El-Azem abstained as she was absent from the December 4, 2013 meeting).  
26

27 **L. Wiles made a motion to approve and sign the minutes from the**  
28 **December 11, 2013 meeting. R. Brideau seconded the motion.** No  
29 discussion. **Vote on the motion: 5-0-3.**  
30

31 (L. Wiles, S. Benson, and M. Newman abstained as they were absent from the  
32 December 11, 2013 meeting).  
33

34 Minutes for December 4, 2013 and December 11, 2013 were approved and  
35 signed at the conclusion of the meeting.  
36

37 B. Plans to Sign – Gontarz Condo Conversion; Gladys M. Gontarz and Steve  
38 Gontarz (Owners and Applicants), Map 18 Lot 15-6, 6 Walton Circle, Zoned  
39 AR-I. [Conditionally Approved October 2, 2013]  
40

41 J. R. Trottier said all precedent conditions for approval have been met and that  
42 Staff recommends signing the plans.  
43

44 **L. Wiles made a motion to authorize the Chair and Secretary to sign**  
45 **the plans. R. Brideau seconded the motion.** No discussion. **Vote on the**  
46 **motion: 8-0-0.** A. Rugg said the plans would be signed at the conclusion of  
47 the meeting.  
48

49 C. Extension Request – Nevins Retirement Cooperative Association Site Plan

1 Amendment, 2 Wesley Drive, Map 7 Lot 122

2  
3 C. May referenced a letter from Attorney Morgan Hollis, representative of the  
4 Nevins Retirement Cooperative Association, requesting a 90 day extension of  
5 the conditionally approved site plan amendment that will expire on January 31,  
6 2014. During that time, the applicant will be seeking to finalize the agreement  
7 with the Town regarding the removal of the public walking trail from the  
8 original site plan. She said Staff recommends the Board approve the extension  
9 request.

10  
11 **L. Wiles made a motion to grant a 90 day extension to May 1, 2014. R.**  
12 **Brideau seconded the motion.** No discussion. **Vote on the motion:**  
13 **8-0-0.** The extension for **90 days** was granted.

14  
15 D. Regional Impact Determination – Aranco Oil Company, Inc. Site Plan, Map 16  
16 Lots 66, 73 & 75

17  
18 A. Rugg noted that this site plan involves a redevelopment of the gas  
19 station/convenience store on that site. C. May stated that Staff recommends  
20 this project is not a development of regional impact, as it does not meet any of  
21 the regional impact guidelines suggested by Southern NH Planning Commission  
22 (SNHPC).

23  
24 **L. Wiles made a motion to accept Staff's recommendations that this**  
25 **project is determined not to be of regional impact under RSA 36:56.**  
26 **R. Brideau seconded the motion.** No discussion. **Vote on the motion:**  
27 **8-0-0.**

28  
29 E. Discussions with Town Staff

- 30  
31
  - Woodmont Commons Annual Report

32  
33 C. May explained that as part of the approval of the Woodmont  
34 Commons Planned Unit Development, the applicant is to provide an  
35 annual report to the Planning Board at the second meeting in January.  
36 As there is only one meeting in January, the presentation has been  
37 scheduled for the first meeting in February.

- 38  
39
  - Request for Proposals (RFP) for 3rd party review of land development  
40 applications

41  
42 C. May stated that the Town Manager has been working with Staff and  
43 the Town Attorney to implement this RFP since it was last discussed by  
44 the Planning Board on December 4, 2013. The RFP will be posted on the  
45 Town's website and issued for newspaper advertisement on January 9.  
46 Several modifications were made to the document since December 4,  
47 including those based on comments from L. Wiles. February 7 is the  
48 deadline for responses and, under the direction of the Town Manager,  
49 the review committee will include himself, Planning and Public Works  
50 and Engineering Staff, and a member of the Planning Board. A. Rugg

1 asked for a volunteer and R. Brideau offered his assistance. There were  
2 no objections.

3  
4 [M. Soares arrived during the following presentation at 7:25].

5  
6 **Public Hearings/Workshops/Conceptual Discussions**

7  
8 A. Judith P. MacNeil Trust (Judith P. MacNeil, Trustee and Owner) and Cedar Crest  
9 Development LLC (Applicant), Map 3, Lot 45-18 – Application Acceptance and  
10 Public Hearing for formal review of a request for Planning Board approval to  
11 remove the restriction on lot 3-45-18 regarding its status as a buildable lot at  
12 13 Windsor Boulevard, as indicated in the Quitclaim Deed, Book 2920, Page  
13 1896, Zoned AR-I.

14  
15 C. May stated that Staff recommends the application be accepted as complete.

16  
17 **L. Wiles made a motion to accept the application as complete. R.**  
18 **Brideau seconded the motion.** No discussion. **Vote on the motion:**  
19 **8-0-0.** The application was accepted as complete.

20  
21 A. Rugg mentioned that this starts the 65 day time frame under RSA 676:4.

22  
23 C. May explained that applicant Aaron Orso of Cedar Crest Development is  
24 seeking to purchase the property at 13 Windsor Boulevard and construct a  
25 single family dwelling. She provided the Board with a history of the lot (see  
26 Attachment #1), noting that the deed contains a restriction that declares the  
27 lot as unbuildable, however there is no such restriction on the subdivision plan  
28 approved by the Planning Board in 1982. No record has been located that  
29 connects that restriction to any Planning Board approval associated with that  
30 property. Additionally, the applicant received state approval of a septic design  
31 in 2013, confirming that the lot is in fact buildable. A. Orso noted that he also  
32 received septic plan approval from the Town in addition to the state. The Town  
33 Attorney has recommended that the Planning Board release the restriction to  
34 allow the applicant to pursue a building permit.

35  
36 C. May stated that the applicant is first seeking a waiver from the subdivision  
37 regulation requirement that a formal subdivision plan be submitted. Staff  
38 supports granting the waiver since there is nothing to amend on the 1982  
39 subdivision plan, i.e. the restriction is only found in the property deed.

40  
41 A. Rugg asked for Board input. C. Davies verified that there is no new  
42 subdivision request and that the lot was subdivided in 1982. R. Brideau noted  
43 that the leachfield of the abutting property, lot 45-16, lies partially on lot 45-  
44 18. Members of the public offered comments on the issues, therefore the  
45 Board curtailed their questions to allow public comment.

46  
47 A. Rugg asked for public input.  
48

1 John Nickerson, owner of lot 45-16 (4 Bretton Road), confirmed that a portion  
2 of his leachfield is on lot 45-18 and that an easement is in place as a result.  
3 He expressed concern for the impacts to his septic system and well, along with  
4 the drainage on his property if a new house is constructed on 45-18. T. Freda  
5 stated that those issues would have to be discussed between the two owners  
6 and were not directly germane to the current request to remove the  
7 aforementioned restriction.

8  
9 Bob Spiegelman, 18 Windsor Blvd., provided a copy of a letter from the  
10 Building Department dated September, 1986, which noted that lot 45-18  
11 should still be considered unbuildable. He also offered a copy of neighborhood  
12 covenants which prohibit any further subdivision within Windsor Estates. A.  
13 Rugg noted that these documents are not in the jurisdiction of the Planning  
14 Board.

15  
16 There was no further public comment.

17  
18 C. May read the waiver request into the record from the Staff Recommendation  
19 memo:

- 20  
21 1. The Applicant is requesting the Planning Board waive the requirement  
22 for a formal subdivision plan amendment, since Lot 3-45-18 is identified  
23 on the Subdivision Plan of Sunstone Inc., which was approved by the  
24 Town of Londonderry on May 5, 1982 and recorded at the Rockingham  
25 County Registry of Deeds as Plan #D-10768. Staff supports granting the  
26 waiver because there is no condition of the approval to amend  
27 addressing the restriction.

28  
29 A discussion ensued about the ability of the Board to remove a restriction from  
30 a property deed. A release document for the Board to sign prepared by the  
31 applicant's attorney and vetted by the Town attorney was found to be beyond  
32 the purview of the Board. The two associated motions listed in the Staff  
33 recommendation were therefore found to be inappropriate. What the Board  
34 agreed was possible was to vote on a reaffirmation of the 1982 subdivision  
35 plan which does not restrict the development of any of the lots included. The  
36 applicant could then pursue a building permit, at which time the Building  
37 Inspector could make a determination regarding the lot's buildable status as it  
38 is solely within his authority to do so.

39  
40 **M. Soares made a motion to grant the waiver request based on Staff's**  
41 **recommendation. L. Wiles seconded the motion. No discussion. Vote**  
42 **on the motion: 8-0-0.** The waiver was granted.

43  
44 **M. Soares made a motion to reaffirm the Subdivision Plan of Sunstone,**  
45 **Inc., which was approved by the Town of Londonderry on May 5, 1982**  
46 **and recorded at the Rockingham County Registry of Deeds as Plan**  
47 **D-10768. L. El-Azem seconded the motion. No discussion. Vote on the**  
48 **motion, 8-0-0.**

49  
50

1 B. Ballinger Properties Five-N-Association General Partnership (Owner), Milton  
2 CAT (Applicant) Map 28 Lot 17-4 - Conceptual discussion of a proposed  
3 warehouse with sales/rental and service of equipment at 30 Industrial Drive,  
4 Zoned GB

5  
6 Brad Farrin, Corporate Facilities Manager for Milton CAT, and engineer Gary  
7 Collette of Amec provided the Board with a conceptual presentation for a  
8 proposed Caterpillar warehouse/equipment sales and service facility on map 28  
9 lot 17-4. B. Farrin gave an overview of the family owned Milton CAT business  
10 which is the authorized dealer for Caterpillar in New England and Upstate New  
11 York. A PowerPoint presentation highlighted some of the existing facilities in  
12 Massachusetts and New York, and B. Farrin noted that the Clifton Park facility  
13 (see Attachment #2, page 5) would be the one most similar to what is  
14 envisioned for Industrial Drive.

15  
16 Because the project is in its due diligence phase, the exact size of the proposed  
17 buildings is not known at this point, although a conceptual plan (p. 9) depicted  
18 a main building of 70,150 sf and a utility building of 14,160 sf. Brad Farrin  
19 said the potential exists for the main building to be as large as 100,000 sf.  
20 The uses within the main facility would be split into thirds; one for  
21 warehousing, one for equipment service, and the last for equipment sales. A  
22 determination from the Zoning Administrator has classified the primary use as  
23 "warehouse," which is allowed in the Gateway Business district up to 250,000  
24 sf (see Attachment #3). The current frontage on Industrial Drive for lot 17-4  
25 is by a right of way, which the land owner could develop into a private road to  
26 provide adequate frontage and access to the development. While some  
27 equipment would be stored outside, the majority of that would be behind the  
28 main building at the rear of the lot to reduce its visibility. A small strip of  
29 display area would run parallel to the new right of way, but the applicant is  
30 prepared to provide sufficient screening. The view of this area would further  
31 be screened by the three acre lot 28-17-3 which fronts on Industrial Drive to  
32 the east. B. Farrin explained that in most towns where Milton CAT has built  
33 facilities, the aforementioned zoning/use issue and the ability to adequately  
34 screen display areas are typical and scenarios with which the company is used  
35 to dealing.

36  
37 A. Rugg asked for Staff input.

38  
39 J. R. Trottier stated that the applicant and their development team met with  
40 Staff and the Town Manager at the beginning of December, 2013, at which  
41 time such issues of zoning and other potential obstacles were examined. C.  
42 May noted that under the GB zoning district, the Planning Board has  
43 jurisdiction over such dimensional aspects as display areas via a conditional  
44 use permit.

45  
46 A. Rugg asked for Board input.

47  
48 Board members were enthusiastic about the concept and supportive of the  
49 proposal, citing it as a "good fit" for the area. M. Soares verified that the  
50 applicant felt confident they could adequately screen the outside storage

1 aspects of the development. She also expressed concern for possible impacts  
2 on the nearby Little Cohas Brook. G. Collette said the development team is  
3 well aware of the environmental aspects of the project, as they have been in  
4 other towns. S. Benson asked about hours of operation and B. Farrin replied  
5 that the warehouse portion typically opens around 7 AM to accommodate  
6 contractors. Other dimensional questions were answered with approximations,  
7 however B. Farrin reiterated that until the exact size of the building is known,  
8 he could only provide estimates. With the due diligence and zoning aspects  
9 taken care of, he said the design stage can commence. Milton CAT's goal would  
10 be to ideally break ground in the fall of 2014. The Board expressed eagerness  
11 for a future application and presentation.

12  
13 **Other Business**

14  
15 M. Soares stated that the deliberative sessions of the SAU and Town will take  
16 place respectively on February 7 and 8, 2014.

17  
18 **Adjournment:**

19  
20 **L. El-Azem made a motion to adjourn the meeting. R. Brideau seconded**  
21 **the motion. Vote on the motion: 8-0-0.**

22  
23 The meeting adjourned at 8:25 PM.

24  
25 These minutes prepared by Associate Planner Jaye Trottier

26  
27 Respectfully Submitted,

28  
29  
30  
31 Lynn Wiles, Secretary

**STAFF RECOMMENDATION**

To: Planning Board  
From: Cynthia A. May, ASLA, Town Planner

Date: January 8, 2014

Subject: **13 Windsor Boulevard – Lot Restriction Removal**

---

**Application:** Judith P. MacNeil Trust (Judith P. MacNeil, Trustee and Owner) and Cedar Crest Development LLC (Applicant), Map 3, Lot 45-18 – Application Acceptance and Public Hearing for formal review of a request for Planning Board approval to remove the restriction on lot 3-45-18 regarding its status as a buildable lot at 13 Windsor Boulevard, as indicated in the Quitclaim Deed, Book 2920, Page 1896, Zoned AR-I.

**Background:**

The applicant proposes to purchase and build a house on Map 3 Lot 45-18, a lot of roughly one acre in size. With the current restriction, a building permit can't be issued; however, this lot received state septic approval on August 5, 2013, confirming that the parcel is buildable.

At issue is that the lot has historically been conveyed with the abutting parcel (Map 3 Lot 45-16) "as one buildable lot". These lots (plus one additional) were originally deeded to the Town of Londonderry as part of a phased development and satisfied the 10% open space requirement in place at that time (please see the attached deed recorded August 14, 1979 at the Rockingham County Registry of Deeds, Book 2345 Page 1348.) As the Windsor Heights development proceeded to further phases, alternate land satisfied the 10% provision and these lots were returned to the developer.

There appears to be nothing in the record to explain why the condition that these lots be treated as one lot is still in place. There is no history found in the minutes, and the signed plan treats the two lots as separate lots of record. The two parcels have transferred over the years from the developer to individuals. In 1986, the developer (Sunstone Inc.) filed a release with the Registry to drop the condition that these lots be treated as one (please see the attached Release signed September 19, 1986 and recorded September 25, 1986 at Rockingham County Registry of Deeds, Book 2632, Page 2791). This required that the Town take a similar action; however, there appears to be no record that this took place.

The current quitclaim deed has been in place since 1992 (please see the attached Quitclaim Deed, Book 2920 Page 1896.) The applicant is requesting that the Planning Board remove the restriction regarding the status of Map 3 Lot 45-18 as a "non-buildable" lot.

**Completeness:** *The applicant is requesting removal of a lot restriction regarding its status as a buildable lot. Staff recommends application acceptance as complete.*

- **Board Action required:** Motion that the Planning Board Accept the Application as Complete per Staff's Recommendation memorandum dated January 8, 2014.

- Waivers: The applicant has requested the following waiver to the Subdivision Regulations:
  1. The Applicant is requesting the Planning Board waive the requirement for a formal subdivision plan amendment, since Lot 3-45-18 is identified on the Subdivision Plan of Sunstone Inc., which was approved by the Town of Londonderry on May 5, 1982 and recorded at the Rockingham County Registry of Deeds as Plan #D-10768. Staff supports **granting** the waiver because there is no condition of the approval to amend addressing the restriction.
- Board Action required: **Motion to Approve Applicant's request to waive the requirement for a formal subdivision plan amendment as outlined in Staff's Recommendation memorandum dated January 8, 2014.**
- Recommendation: Based upon the information available to date, Staff recommends **FINAL APPROVAL** of this application with the NOTICE OF DECISION to read substantially as follows:
- Board Action Required: **Motion to grant Final Approval of the request to remove the restriction on Map 3 Lot 45-18 regarding its status as a buildable lot at 13 Windsor Boulevard, as outlined in Staff's Recommendations Memorandum dated January 8, 2014.**
- Board Action Required: **Motion to authorize the Planning Board Chair to sign the associated Release as an instrument to convey the Planning Board's approval of the removal of said restriction on Map 3 Lot 45-18, to be recorded in the Rockingham County Registry of Deeds.**



The background of the slide features a large, stylized logo for Milton CAT. The word "Milton" is written in a large, blue, sans-serif font, and "CAT" is written in a smaller, blue, sans-serif font to its right. The logo is set against a dark blue background with a light blue border. The text of the slide is overlaid on this background.

**Milton CAT**  
**Sales and Service Facility**  
**Industrial Drive**  
**Londonderry NH**

Brad Farrin  
Corporate Facilities Manager

# Milton



Massachusetts  
Rhode Island  
New Hampshire

Vermont  
Maine  
Upstate New York



Founded in 1960 by Jack Milton, led today by Chris Milton, Dealer Principal  
800 employees, 13 locations  
Earthmoving Equipment and Power Systems  
Senior Management team members average 20+ years at the company



**Existing Facilities**



North Reading, MA Facility

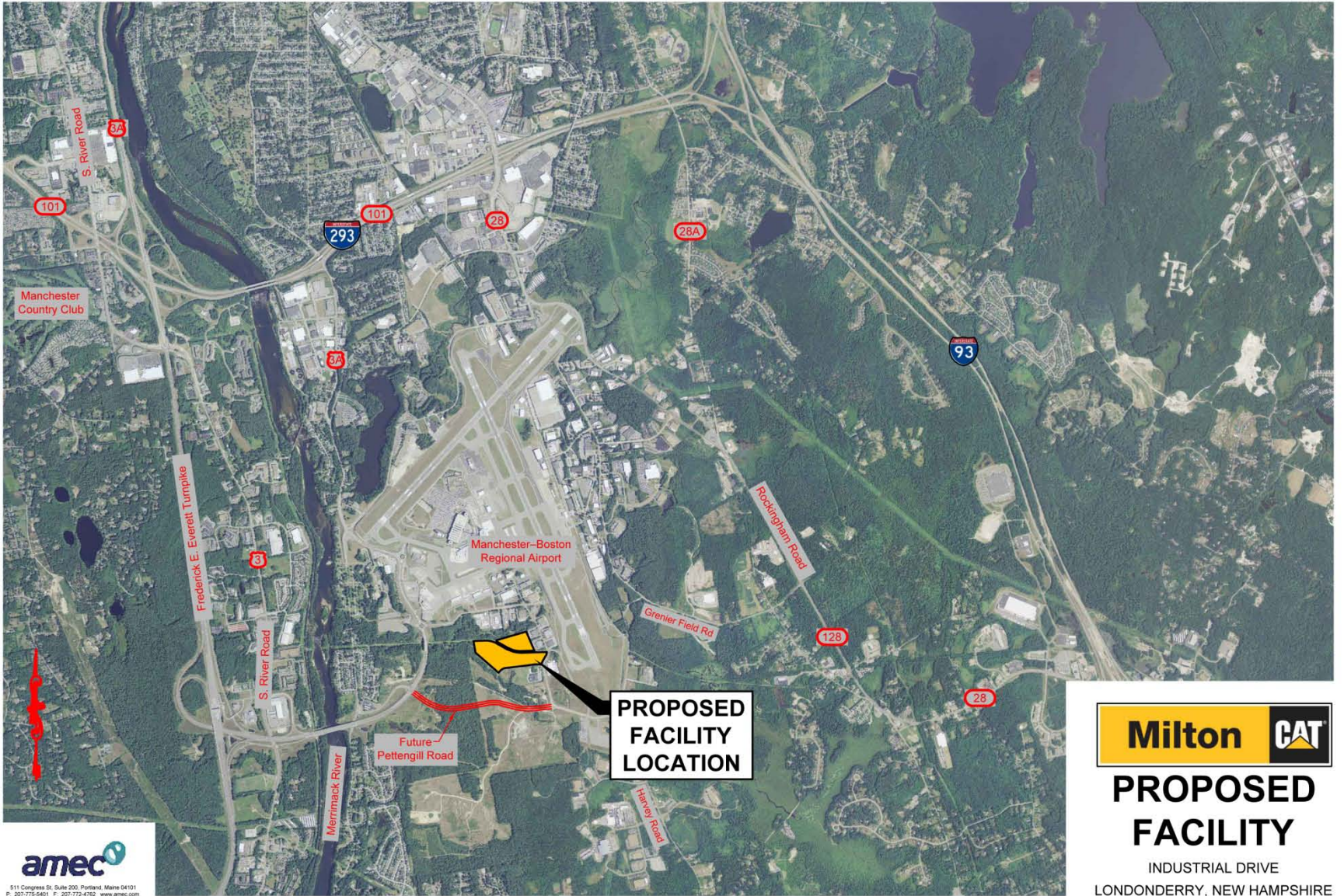


Clifton Park, NY Facility



Batavia Park, NY Facility

**Proposed facility for  
Industrial Drive**



**amec**  
511 Congress St, Suite 200, Portland, Maine 04101  
P: 207-775-6401 F: 207-772-4762 www.amec.com

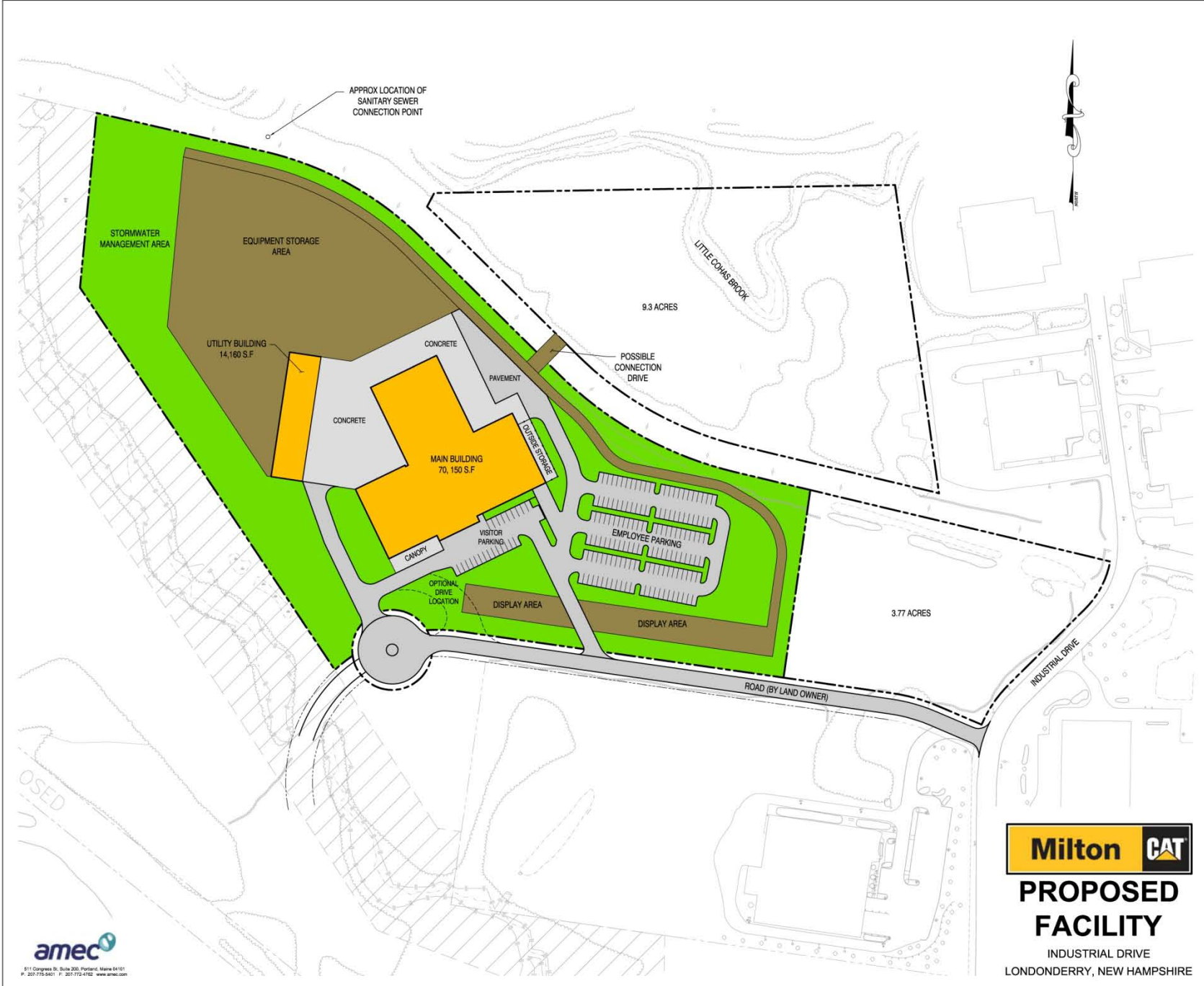
**PROPOSED  
FACILITY  
LOCATION**

**Milton** **CAT**

**PROPOSED  
FACILITY**

INDUSTRIAL DRIVE  
LONDONDERRY, NEW HAMPSHIRE





APPROX LOCATION OF  
SANITARY SEWER  
CONNECTION POINT

STORMWATER  
MANAGEMENT AREA

EQUIPMENT STORAGE  
AREA

UTILITY BUILDING  
14,160 S.F.

CONCRETE

CONCRETE

PAVEMENT

MAIN BUILDING  
70,150 S.F.

OUTSIDE STORAGE

CANOPY

VISITOR PARKING

EMPLOYEE PARKING

OPTIONAL  
DRIVE  
LOCATION

DISPLAY AREA

DISPLAY AREA

9.3 ACRES

POSSIBLE  
CONNECTION  
DRIVE

3.77 ACRES

ROAD (BY LAND OWNER)

INDUSTRIAL DRIVE

USED



611 Congress St, Suite 200, Portland, Maine 04101  
P: 207-775-9401 F: 207-772-4162 www.amec.com



**PROPOSED  
FACILITY**

INDUSTRIAL DRIVE  
LONDONDERRY, NEW HAMPSHIRE

**Questions/Answers**

**Milton**

**e**



**TOWN OF LONDONDERRY**  
**Building, Health & Zoning Enforcement**

268 Mammoth Road  
Londonderry, New Hampshire 03053  
432-1100 ext. 115 Fax: 432-1128

December 27, 2013

Gary Collette  
Project Manager  
AMEC Environmental & Infrastructure, Inc.  
511 Congress Street, Suite 200  
Portland, Maine 04101

Re: Proposed Milton CAT Facility

Dear Gary:

This is in response to your inquiry regarding the classification of the use for the above referenced facility proposed to be located in the Gateway Business (GB) zoning district.

As I understand, the main function of this facility will be the storage of heavy equipment and associated parts, with equipment sales/rental as well as repair and service of equipment as incidental uses. Although the function of this facility involves a number of related uses, a single primary use must be identified for proper zoning application.

Considering the main use of this facility, in comparison to those uses allowed in the GB district, I would best describe the primary use as Warehouse. As defined by the zoning ordinance, warehouse is; *“a use engaged in storage, (wholesale, and distribution) of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable or explosive.”* Warehouses and Storage up to 250,000 square feet (as listed in the Table of Uses, Section 2.2) is a permitted use in the GB district.

The Sales of Heavy Equipment is a use allowed in the GB district by Conditional Use Permit (CUP) approved by the Planning Board in accordance with the provisions of 2.7.3 of the zoning ordinance. The other uses associated with this facility; the Outside Storage of Goods and Material, and Equipment Repair, are considered accessory uses that are allowed by the same CUP approval process.

Through the CUP review process the Planning Board has authority to allow relief from certain dimensional requirements with consideration for the goals of the GB district. For example, the board may allow an increase in the percentage of outside storage area.

Gary Collette  
December 27, 2013  
Page 2

Hopefully, this adequately clarifies my zoning determination for this facility. Should you require further clarification, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Canuel". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Richard G. Canuel  
Senior Building Inspector  
Zoning Administrator

Cc: Bradlee Farrin, Milton CAT  
James Petropulos, Hayner/Swanson, Inc.  
Cynthia May, Town Planner