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5 **Stratham Planning Board**
6 **Meeting Minutes**
7 **December 16, 2015**
8 **Hutton Meeting Room, Municipal Center**
9 10 Bunker Hill Avenue
10 Time: 7:00 PM
11

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13 Members Present: Mike Houghton, Chairman
14 Bob Baskerville, Vice Chairman
15 Dave Canada, Selectmen's Representative
16 Jameson Paine, Member
17 Tom House, Member
18 Lee Paladino, Alternate
19

20 Members Absent: Nancy Ober, Alternate
21

22 Staff Present: Glenn Coppelman, Interim Town Planner
23
24

25 **1. Call to Order/Roll Call.**

26 The Chairman took roll call. He informed the Board that Chris Merrick had resigned due to
27 work conflict, but there is a new member, Lee Paladino. The Board welcomed Ms. Paladino.

28 **2. Review/Approval of Meeting Minutes.**

29 a. November 18 2015

30 Mr. Paine made a motion to accept the meeting minutes for November 18, 2015. Motion
31 seconded by Mr. Baskerville. Motion carried unanimously.

32 b. December 2, 2015

33 The Chairman suggested the Board review the December 2, 2015 minutes and give any
34 feedback.

35 **2. Public Meeting(s).**

36 a. **Andrew Birse, 313 Portsmouth Avenue, Stratham, NH 03885 for the property**
37 **located at 313 Portsmouth Avenue, Stratham, NH 03885, Tax Map 22 Lot 29.**
38 Preliminary consultation for site plan for Stratham Hill Stone in accordance with Town
39 requirements.

40 Mr. Andrew Birse introduced himself as the property owner and Daniel Gordon who is
41 now the owner of Stratham Hill Stone, the business on the property. Mr. Gordon said
42 they are there to explain what the property is currently used for.

1 Mr. Houghton asked Ms. Audrey Cline, Code Enforcement Officer for the background
2 to the property as it has existed for a number of years and typically a business needs site
3 plan approval before they begin operating.

4 Ms. Cline explained that the Board of Selectmen felt that in order to withhold the current
5 enforcement action, the Birses would need to come for a site plan review as it was
6 discovered there was never a zoning approval for what appears to be the current uses on
7 the property: the zoning history goes back to 1972.

8 Mr. Houghton asked Mr. Birse to talk about what is going on now. Mr. Birse said they
9 had a meeting which resulted in 2 conditions: to put together a preliminary plan to show
10 how inventory will be displayed going forward and to close an electronic recycling
11 business on the property that was found to be in non-compliance with the zoning
12 ordinance, by May 1, 2016. Mr. Birse said that was underway and they will utilize that
13 part of the property for storing the inventory they have to move.

14 Mr. Baskerville said he doesn't understand what the enforcement actions were. Ms. Cline
15 explained that in 1972 the zoning board approved the storage of equipment and vehicles
16 in the building as a zoning variance; it did not speak to anything on the lot outside of
17 those buildings. Over time the activity outside of those buildings has changed, grown,
18 moved and a number of elements have been added. The site plan has never been
19 approved by the Planning Board. The intent is to see what would be approved if this was
20 looked at like a new use so Mr. Birse can scope and scale what they would be approved
21 to do and see what that looks like. Ms. Cline said she doesn't know if this is whole sale
22 or retail.

23 Mr. Canada said the Board of Selectmen asked themselves if they wanted to put them out
24 of business because a strict interpretation of the 1972 rules would do that. Their answer
25 was no for a couple of reasons; they are not in the business of putting people out of
26 business and secondly they feel that the Town let this business operate for a number of
27 years and it would be unfair to take that all away. However, they felt that the Town has
28 an eyesore here, and it was appropriate for them to have a site review.

29 Mr. Coppelman said this is just a preliminary and Mr. Birse needs some guidance on the
30 next steps.

31 Mr. Baskerville asked if Mr. Birse was planning to change any buildings, add any gravel
32 or pave any more. Mr. Birse said apart from the cell tower, this has been like this for a
33 long time. Mr. Baskerville said to Mr. Birse that he will probably have to hire a surveyor
34 to do an existing conditions plan, and get a survey plan with a stamp. Ms. Cline pointed
35 out that even though the buildings have existed since 1972, they never underwent site
36 plan review and were never approved; this should be looked at as an empty lot and what
37 would be approved if they were coming through the site plan approval process today
38 including setbacks, display areas, inventory and everything along with that.

39 Mr. Baskerville agreed and said a parking calculation should be done as part of the
40 survey, setbacks should be looked at and if waivers are needed, they should be applied
41 for. He said requiring drainage calculations could be difficult as there isn't a proposed
42 and an existing scenario; there is just existing. Mr. Baskerville doesn't mind if they have
43 an engineer do an assessment of drainage and erosion problems and conditions and

1 proposed fixes. Mr. Houghton said it is a current use that is not residential. Mr. Canada
2 said it wasn't a home occupation either; the ZBA allowed him to operate his business out
3 of there. It was primarily a well drilling business with retail on the site apparently to
4 some extent. Mr. Canada agreed looking at the drainage and erosion was a good idea.

5 Mr. Baskerville said that for the record he has a plan in front of him which is a stamped
6 lot line relocation plan approved by the Board on April 16, 2003. That changed the lot
7 shape by consolidating some lots. It does show the existing building and a 100' set back.
8 The building is located in front of that, so it was obviously a variance situation at the
9 time. It shows a building in the back but not within a setback.

10 Mr. Paul Deschaine, Town Administrator said the variance that was granted in 1972 was
11 more of a use variance because it was in a residential/agricultural zone. The well drilling
12 business was permitted as a home occupation, but the owner wasn't going to live there.
13 The buildings conformed to the setbacks required in 1972. Mr. Deschaine said there
14 were 2 conditions placed on the variance that was granted; one if the use ever changed,
15 they had to come back to the ZBA, but it wasn't clear. The second condition was the
16 setback line that it stayed in terms of no paving or structures were to occur in front of the
17 building line. In 2007 the new use was proposed and at the time Terry Barnes found the
18 original 1972 decision. He thought they were changing the use so told them they needed
19 to go back before the ZBA to meet the conditions. Mr. Birse went to the ZBA to seek an
20 administrative appeal against that decision. Based on that the ZBA decided that the use
21 was similar enough as proposed to not be a change in use. Back in 2007 it might have
22 been found appropriate, but what has transpired since then has been above and beyond
23 what was represented; hence a violation notice was sent and a new administrative appeal
24 occurred and a lot of new facts and issues came to light; everybody concerned decided
25 the best way to resolve it was to bring it to a site plan review before the Planning Board.
26 Mr. Deschaine reminded the Board that the property has the cell tower site too now that
27 went in last year.

28 Mr. Paine said he has concerns with setbacks from the property line and the inventory
29 layout falls within some of that. Mr. Birse said those are pallets of materials such as rock
30 and are moveable. Mr. Paine asked the applicant to show the setbacks that are appropriate
31 for those kind of uses in the area from the adjacent property line to give a better
32 understanding of how those two interact. Mr. Baskerville asked if the neighbors were
33 residential homes or businesses. Mr. Birse said there is a condo behind them and they
34 have the blueberry farm to one side. Mr. House referred to the inventory shaded gray on
35 the plan and asked if he was moving it behind the building. Mr. Birse confirmed that.
36 Mr. House said it would be helpful to know where Mr. Birse is putting it behind the
37 building. Mr. Baskerville said that the inventory is right up to the property line and today
38 there would be buffer and landscaping requirements. Mr. Houghton said if he traced this
39 back to 1972, and everything that has happened, the applicant needs to come back and
40 describe the intentions for the use of the property and look at ordinances and request
41 waivers as applicable and go through the site plan review process. Mr. House said the
42 septic needs to be shown as well and reminded Mr. Birse that for the formal site plan
43 hearing, a stamped plan by an engineer would be required. Mr. Houghton mentioned the
44 kinds of things they would expect to see on the plan.

1 Mr. Deschaine added that the previously approved cell tower site had specific conditions
2 and requirements attached to it so that should be depicted on sheet 2 so it's clear that
3 nothing has changed from that approval.

4 Mr. Tim Mason, resident said that when this site was all together, there were 2 lots cut
5 off for this business, so there may be something on file with the Town. Mr. Mason added
6 he had heard they sell sand and salt at night and during storms, but they need to be
7 mindful that it is a residential zone so they don't want a 24 hour operation going on there.

8 **b. Seacoast Imported Auto, Inc, 34 Portsmouth Avenue, Stratham, NH 03885 for the**
9 **property located at 34 Portsmouth Avenue, Tax Map 9 Lot 118.** Preliminary
10 consultation application for possible future site utilization.

11 Mr. Mike Donahue, attorney for the applicant took the floor. He said this plan has been
12 prepared trying to consider the future. It includes taking a look at a potential location for
13 the Gateway road in the rear of the property, but is mostly based on the recognition that
14 the Town is making strong efforts to develop water and sewer capability; this plan is to
15 envision how the area that is currently devoted to septic might be able to be used in the
16 future. There is no building addition associated with this; this whole focus is on the area
17 behind the Citizens Bank.

18 Bruce Scamman, Emanuel Engineering said they took a look at ways of improving the
19 site and looking at the overall picture of where Stratham is heading as a town. There is
20 some need for parking right now so they have phased the parking in 2 phases. They wish
21 to extend the existing pave area back by about 100' to the slope where the leach field is
22 currently. When the Town gets public sewer the leach fields will not be required so they
23 would take that area and expand the parking lot out further. He talked about the future
24 Gateway road and said it would have to go through the rear of the property and try to stay
25 to the side of Parkman Brook that runs there. One of the abutters would like the Gateway
26 road to stay at the far side of the Gateway district to maintain as much of the Gateway
27 district on their property as possible. There is also a conservation easement that was
28 granted to the Town at the rear of the lot. He does know there are a few options to work
29 around that and he referred to the option they have chosen for now on the plan. He
30 referred to the fire pond and said once water comes to Town they may not need that
31 anymore. They have chosen a 75' width for the Gateway road. The width varies under
32 the regulations.

33 Mr. House reminded Mr. Scamman they will need to appear before the Technical Review
34 Committee.

35 Mr. Houghton asked if there was a need today for the parking. Mr. Scamman said they
36 are trying to get Phase 1 started. Phase 2 is to satisfy the dealership requirement for more
37 parking. Mr. Roger Groux, principal of Seacoast Imported Autos, said the thought was
38 to build Phase 1 first, but they haven't planned for when sewer and water is available.
39 They want the Town to know they have a plan. Mr. Scamman added that some of the
40 storage parking in the back would be removed by the Gateway road being built so they
41 have to balance that also.

42 Mr. Houghton asked if they had a rough idea of net subtractions and addition for the
43 parking. Mr. Scamman said they haven't calculated that yet, but if he had to guess, it

1 would be a net take away of between 100 and 200 cars. He continued there are leach
2 fields behind Kingsway Plaza and other concerns; does the Gateway road take a turn,
3 does it go out and run in front of Burger King and T.D. Bank or does it run behind? Mr.
4 Houghton said providing the provision for the future Gateway road is important and
5 appreciated. He is not sure how to navigate the conservation easement. Mr. Scamman
6 said there is approximately 10' of elevation behind the Citizens Bank down to the area
7 he is talking about so there is an earth berm along with the bank which continues to go
8 up to the front of the road so you won't be able to see any of this from Portsmouth
9 Avenue. Mr. Canada said he has no problem with phase 1, but he does have questions
10 about phase 2; they are going to be allowing 2 uses in one spot at the same time and it
11 seems like it will be years before they have the opportunity to use it; nobody knows what
12 is going to transpire with regulations between now and then. Mr. Groux said you can't
13 pull the trigger on the septic system until you have sewerage and you can't build the
14 Gateway road through the water treatment ponds and fire pond until there is water. They
15 are all man made though and according to the Conservation Commission are not
16 subjected to conservation so they should be able to alter that. Mr. Canada said he is
17 talking about giving permission to do something years before it could possibly be used.
18 Mr. Groux said the second phase would be conditioned upon the arrival of sewerage.

19 Mr. Jeremy Ricks asked what the view scape would be coming from Frying Pan Lane.
20 Mr. Scamman said he believes it's about 1000' and there's a knoll area before you get to
21 Munroe and Sherwin Williams, so he can't imagine you could see it from Frying Pan
22 Lane, plus there's a tree line.

23 Ms. Cushman said that having dealt with a lot of car dealerships, she finds it refreshing
24 to see someone with a large parcel of land beginning to plan ahead.

25 c. **W. Douglas Scamman Jr., 69 Portsmouth Avenue, Stratham, NH 03885 for the**
26 **property located at 9 River Road, Stratham, NH 03885, Tax Map 9 Lot 7.**
27 Preliminary consultation application for the construction of a 36' by 100' auto detailing
28 building and parking lot.

29 Mr. Bruce Scamman, Emanuel Engineering representing the applicant took the floor.

30 Mr. Scamman said this property is located just past the new section of Gateway Road on
31 approximately a little over an acre and a half of land. There are existing residents on that
32 lot. This is in the Gateway district where they are proposing to put in an auto dealing
33 building. There will be 6 bays across the back, a couple of bays in the front, the existing
34 driveway will be maintained, there will be driveways off of the Gateway Road, there will
35 be customer and employee parking, and also storage parking in the rear.

36 Mr. Baskerville asked about wetland impacts. Mr. Scamman said a new full survey has
37 been done and there are no impacts. He reminded the Board that easements were granted
38 for the Town to be able to put this section of the Gateway Road in, and temporary
39 construction and slope easements that come across onto this piece of property. Mr.
40 Baskerville asked what restrictions come with the gas line that runs through the property.
41 Mr. Scamman replied that for parking they need to work with the gas company and get
42 an agreement of understanding with them. They have worked with them before.

1 Mr. Paine said it appears that the building itself is in the front with some landscaped areas
2 in the front and behind the building the rest looks paved. Mr. Scamman confirmed that
3 was correct. Mr. Paine asked if there would be opportunities to introduce some vegetated
4 islands to break some of that up. Mr. Scamman said they could do that or work on buffers
5 around the exterior. The next lot and half the lot above it are also commercial lots and
6 in the Gateway Central district. They haven't got into the level of detail for landscaping
7 at this point yet. Mr. Paine suggested looking at Subaru's proposal to have trees line the
8 side of the road. He asked if the applicant would be able to complement that. Mr.
9 Scamman said there are some existing trees. Mr. Paine asked if the building would have
10 some architectural component to it. Mr. Scamman said when they move forward with
11 the full design, he can put that in.

12 Mr. House said they will be required to go before the Technical Review Committee
13 (TRC) and advised Mr. Scamman to read the Gateway regulations, because he doesn't
14 think they are allowing the idea of having garages in front of a building. Mr. Baskerville
15 said there are 2 full entrances onto the Gateway Road and 2 more onto a residential road
16 which seems a lot. Mr. Scamman said they are willing to work with the Board to address
17 those issues. Mr. House said if customers don't need to drive through, there are multiple
18 bays in back, and they could get rid of the entrances to the bays. Mr. Paine referred to
19 the parking and asked if it is the intention to service auto dealerships and do they have a
20 proposed number of parking spaces. Mr. Scamman said it was their intention and a rough
21 calculation has shown somewhere between 160 and 170 spaces. Mr. Paine hoped they
22 are able to turn some of those into green space.

23 Mr. Scamman said he believes they meet the Gateway zoning for the amount of coverage
24 on the lot; the thought process is that this will be a secondary use for several of the
25 automotive uses in the area. It would make this lot more viable if there could be some
26 auto storage on the lot also. Mr. Paine said personally he isn't in favor of that idea.

27 Ms. Cushman, resident and Chair of the TRC commented on Mr. Paine's not being in
28 favor of the storage lot. She said if this storage area could be screened, it would be back
29 from the main road on a secondary road which is yet to be built, it might not be a bad
30 place for car storage. She added that she drives down Frying Pan Lane often and doesn't
31 really see the storage lot on that road anymore.

32 Mr. Jeremy Ricks, resident, commented that they may want to talk to Group 1 as they are
33 in desperate need for storage.

34 Mr. Houghton said he would like to reiterate the screening aspect and he'd be more
35 inclined not to have curb cuts on River Road and leave it to 2 on the connector road, with
36 some heavy screening on River Road. There is a residence behind that property so the
37 applicant should be prepared to heavily screen that and lighting would be a major
38 concern. Mr. Baskerville said the first driveway in off of the future Gateway road should
39 have the building behind it over to where the customer parking is shown on the plan and
40 put parking in the front. There followed some discussion about relocating the building.
41 Mr. Baskerville said the intent of zero setbacks is to have that all along the Gateway road
42 so there is a uniform look. Mr. Paine asked if there was any consideration with teeing
43 up the driveway from the Subaru entrance for safety, rather than piece-mealing the
44 intersections together. Mr. Scamman said they didn't do that because of the location of

1 the gas line, so the turning movements wouldn't be over the gas line. Mr. Scamman said
2 the other thing consider is that this would be 2 separate businesses. Mr. Paine asked if
3 Mr. Scamman envisages the storage being its own thing with fencing. Mr. Scamman
4 said they haven't got into that detail yet.

5 Mr. Jeremy Ricks asked if tractor trailers would be off loaded on the Gateway road. Mr.
6 Scamman said absolutely not, although the driveways could be built to handle them, but
7 that hasn't been part of their thought process yet. Mr. Ricks said that was something to
8 consider when they come back before the Board.

9 d. **Group 1 Realty, Inc, 800 Gessner, Suite 400, Houston, TX 77024 for the property**
10 **located at 5a, 5b, and 5c Raeder Drive, Stratham, NH 03885, Tax Map 13 Lots 2-1,**
11 **2-2 and 2-3.** Preliminary consultation application for a fully screened inventory lot for
12 Stratham BMW Dealership.

13 The Chairman explained that this will not be discussed this evening. The applicant was
14 not able to get all their information in on time for it to be available for the Board and
15 Planner to review and as such is not ready for tonight's agenda.

16 e. **Citizens Petition;** To amend the zoning district from the Gateway Commercial Business
17 District Outer Zone to the Residential/Agricultural district for Tax Map 13 Lots 2, 3, 8,
18 9 and portions of Lot 4.

19 Mr. Coppelman explained that this came in before the dead line and was verified by the
20 Town Clerk; as such it needs to come before the body at a public meeting at the first
21 available opportunity which is tonight. A public hearing date needs to be set for it.

22 Mr. Baskerville made a motion to place upon the agenda for the Planning Board meeting
23 of January 6, 2016 the review and consideration of the citizens' petition to amend the
24 Stratham Zoning Ordinance by changing the zoning of the properties identified as Tax
25 Map 13, Lot 2, Tax Map 13 Lot 3, and portions of properties identified as Tax Map 13,
26 Lot 4, Tax Map 13, Lot 8, Tax Map 13, Lot 9 to the Residential Agricultural district from
27 the Gateway Commercial Business district Outer Zone zoning district. Motion seconded
28 by Mr. Paine. Motion carried unanimously.

29 Mr. Baskerville asked what the procedure is for this. Mr. Deschaine said the purpose of
30 the public hearing is to have the petitioners make a presentation of the content and the
31 purposes of their petition as such time as is appropriate, the Planning Board has to take
32 a vote to either recommend it or not recommend it. It moves forward regardless of whether
33 the Board recommends it or not.

34 Mr. House asked if it required just one public hearing. Mr. Deschaine said if the Board
35 feels it needed more time it could be continued to another public hearing, but either way
36 the Board has to report to the Town Clerk by February 2, 2016.

37 Mr. Baskerville and Paine both said they hoped a map would be available showing the
38 district to help them in their considerations.

39 Mr. Mike Donahue said he represents the abutting property owner, Group 1 and when
40 the Board sees the map it will all become clear. He agrees with everything Mr. Deschaine
41 says, but mentioned that this will be an opportunity for public input too.

1 Mr. John Baker, Raeder Drive said he was very interested hearing the next steps and he
2 is hoping the Board will recommend it. He asked for clarification on what happens once
3 it is recommended. Mr. Deschaine said it will be on the ballot for Election Day along
4 with all zoning amendments which is March 8, 2016.

5 Mr. Houghton said the application for Group 1 will be on the same agenda as the citizens'
6 petition.

7 Ms. Cushman explained that Group 1 have been before the TRC for technical review and
8 were told the TRC would need to see them again, but now they seem to be bypassing that
9 by coming before the Planning Board. She wanted to know if that was the procedure
10 now. Mr. Deschaine said there is an express purpose behind the recent flood of
11 applications. He explained that there is a provision in the statutes that permit applicants
12 to apply for preliminary review and if it is done and noticed to the newspaper and
13 abutters, prior to the posting of any hearing on said amendments, they are not affected by
14 those amendments and have to move forward within a year with a finalized proposal.
15 Mr. Coppelman added which would include such things as the TRC. Mr. Donahue said
16 the statute that outlines this does not say anything about a requirement for technical
17 review. Group 1 has been for technical review and said in their filing letter that they
18 would be intending to return to technical review after the design review session; they felt
19 when they got the minutes and heard from various people, the Town was considering de-
20 zoning or eliminating car dealerships, that they should act to get the input of the Board
21 about this proposal. The citizens' petition would not apply to the particular proposal but
22 that doesn't mean they won't go ahead with it. They are coming in good faith for a design
23 review with a plan that has been significantly engineered to get the Board's input. That
24 is in no derogation to the TRC.

25 Mr. Ricks said he was at that TRC meeting and he felt that they were trying to jump the
26 gun; they were told to come back to the TRC. He thinks they had some help from the
27 Town with some advance notice although he can't prove it.

28 Mr. Houghton said he will yield to staff about the TRC issue. Mr. Coppelman said that
29 it wasn't the intent to eliminate those TRC steps, but as Paul explained, the reason for
30 scheduling these was to get them in, in time to provide the protection from any pending
31 zoning ordinances that might affect them.

32 Mr. Glenn Greenwood, RPC said it seems to him that the citizens' petition affects less
33 than 100 property owners so there is a requirement that if there's a zoning amendment
34 with a boundary change that affects less than 100 property owners those property owners
35 that are affected need to get personal certified mailings beyond having it posted the
36 normal way. Mr. Coppelman said the NHMA indicates that that noticing requirement
37 does not apply to citizen petitions. Mr. Greenwood said the other thing he wished to
38 point out is that the actual language the Planning Board should use is to approve or
39 disapprove and not, to recommend or not recommend.

40 Mr. John Baker asked that should the second meeting with the TRC doesn't yield success
41 for Group 1, will this Board hear that proposal in January. Mr. Coppelman said this is
42 still at a preliminary design review stage so it's not a final submittal. Mr. Deschaine
43 added that neither are the 2 processes mutually exclusive. Mr. Baker asked if they are
44 always sequential. Mr. Coppelman said that ideally, they are.

1 Mr. Donahue said technical review is a predicate to filing an application duly noticed
2 with the Board for an approval. He is determining whether to pursue that and the State
3 Law and regulations allow them to undertake and to come in on a non-binding basis and
4 have what is called a design review with the Planning Board. It happens to be that process
5 also triggers the exemption. Mr. House added that the TRC are a pre cursor to the
6 Planning Board and the TRC want to make sure that whatever the applicant is doing, falls
7 within the Gateway guidelines. If for any reason they are not falling within those
8 guidelines, their application gets booted up to the Planning Board. The TRC makes
9 recommendations.

10 Ms. Holmes, resident wants the citizens group to know what it is they need to be prepared
11 to present at the January meeting. Mr. Coppelman said basically a presentation of the
12 change that is being proposed, perhaps a discussion of the reasons for it and if that group
13 could provide a visual graphic of the affected properties, it would be helpful. It will be
14 a public hearing so anybody who wants to comment on it can whether it's a pro or a con.
15 That is all put into the record and then the Planning Board votes whether to approve or
16 disapprove the article. Either way it goes onto the ballot; it's just a case of whether or
17 not the Board approves or disapproves it.

18 f. **Planning Board Workshop** – Draft Zoning and Land Use Regulation Amendments.

19 **Wetlands**

20 The Chairman explained that the Wetlands Ordinance Work Group had held another
21 session with the public and have an update.

22 Mr. Robert Roseen, Horsley Witten Group introduced himself and Ellie Baker. He said
23 since they were at the December 2, Planning Board meeting they have convened a
24 number of times with the working group and most recently held a stakeholder meeting
25 with large landowners and folks from the development community. The group's
26 recommendation at this point is to reconvene in the spring and continue the workshop
27 and provide routine updates to the Planning Board through the Conservation
28 Commission; there will be future opportunities for input. Mr. Roseen said when they
29 continue the workshop in 2016, they will look to expand the working group to include
30 other people that have been additional stakeholders to help develop this.

31 Mr. Roseen said as part of this, there is an examination of the storm water regulations.
32 In many respects the wetland and storm water regulations are complimentary. In terms
33 of sequencing, focusing on the storm water regulations next will probably be more
34 beneficial.

35 Mr. Canada asked if all of this was done through a grant. Mr. Roseen said it was a
36 combination of a grant and Town funding. Mr. Canada asked if the continuing work
37 would need to be funded. Mr. Roseen replied some of both. There is continued funding
38 under a grant for the storm water regulations and there would need to be a new contract
39 in place for the continued wetlands workshops. Mr. Paine thanked the group for their
40 efforts.

41 Mr. Houghton said that anybody interested in helping to shape the wetland regulations
42 should contact the Planning office with their contact details.

43 **Agricultural Amendments**

1 Mr. Glenn Greenwood explained that over the past 7 months or so a group of municipal
2 officials and members of the Stratham general population that are involved in agricultural
3 enterprises have been meeting and talking about what sort of municipal oversight would
4 be involved with the proposal of new agricultural endeavors going into the future. One
5 of the spurs for that is a portion of State law was added 2 years ago that sort of defined a
6 type of agricultural activity on farms as agro-tourism. It's a concept that many farms
7 have been doing for years and some not at all, but are now starting to do to make their
8 farms viable. Those newer enterprises can rub up against regulatory scheme in a
9 municipality for dealing with non-residential uses i.e. uses that a Town would normally
10 look at as retail, commercial or industrial, but when set in the framework of an
11 agricultural endeavor, may not require the same standards.

12 Mr. Greenwood said that what is proposed this evening are some changes to the zoning
13 ordinance that would make the definition of agriculture the same as the State definition,
14 throughout the zoning ordinance wherever agricultural activity is discussed. Even though
15 throughout these discussions there has been some feeling that the State definition has
16 some serious flaws in it; it might be better if the Town steps back and creates its own
17 definition for agro-definition; that unfortunately will take more effort at this juncture.

18 Mr. Greenwood continued that there was a substantial amount of discussion on the
19 permitting process for agricultural activities. At one point there was the thought that no
20 permit would be required for the construction of agricultural buildings, but when you
21 take into consideration those enterprises that are done under the auspices of agro-tourism,
22 the idea is to get the general public to come to the site. The thought of not having the
23 building permit process be engaged in the construction of buildings that will be used for
24 the general public, just didn't seem viable. Since the State building code has a building
25 process for agricultural structures, there is an amendment proposed that discusses making
26 it clear that the agriculturally related appendix of the State building code would be
27 applied if someone was going to build an agricultural building that did not envision use
28 of the general public in the future. For structures to be used by the general public, the
29 standard building process would be utilized.

30 For the most part there is a 3-phased process through the site plan review process by the
31 Town to look at agricultural endeavors and that process changes according to the
32 intensity of the proposed use.

33 Mr. Greenwood explained that the last section in the handout are amendments to the site
34 plan review regulations and don't require Town meeting vote, just a public hearing with
35 a Planning Board vote. The first 2 pages are actions that would require a legally
36 published notice and if changes were made, it would require a second public hearing.

37 Mr. House asked if this related to the Gateway district. Mr. Greenwood said the Gateway
38 district is the only district that states agricultural activities are allowed in the zoning
39 ordinance. Mr. House says does it reflect the need to come before the TRC. Mr.
40 Greenwood said if that requirement is in the present zoning ordinance that will not
41 change. The only thing that differs is when an agricultural use is in the Gateway Business
42 Central Zone versus the Outer Zone, Mr. Greenwood said the only zoning change being
43 proposed is to add a line for agricultural endeavors that require a conditional use permit
44 (C.U.P.) that they do not require an engineered plan.

1 Mr. Paine asked if that allowance for no engineered plans applies for any agricultural use
2 requiring a C.U.P. within the business district and the Town Center. Mr. Greenwood
3 said yes. Mr. Paine asked if it falls within a MS4 area for the Town or anything that may
4 have storm water concerns, it won't require any kind of site plan. Mr. Greenwood said
5 a site plan is not required with an application for a C.U.P. The standards of the C.U.P.
6 still allow the Board to require some sort of engineered plan if they deem it would be
7 necessary. Mr. Paine said he thought there was going to be a disclaimer that would say
8 something to that effect. Mr. Greenwood said language could be added that would inform
9 an applicant that additional information required through a C.U.P. process may require
10 work by professional consultants. Mr. Paine said something to that effect that protects
11 the Town from somebody who comes in and for example says they want to put in a
12 100,000' barn.

13 Mr. Paine said that within the Gateway district under both the central and outer zone, and
14 the Town Center, if the State RSA for farming is included, currently the Town has certain
15 items within those districts that are not allowed specifically for agricultural uses. Mr.
16 Greenwood said in one of them, the only allowed use is the tilling of the soil. These
17 amendments would open that up to the entire definition of agriculture as stated. Mr.
18 Paine said the Town is trying to have compatible uses in this area; if they have something
19 that was disallowed previously, that could be a conflict adjacent to other uses in that area.
20 Mr. Greenwood said if there is an agricultural endeavor that could be economically viable
21 within that business district, surrounding uses would be protected because the market
22 forces are what would come to bear. Mr. Paine said if somebody proposed something
23 that is not the same as something around it, they may have a right based on what is being
24 stated here and that would go against the previous re write of the Gateway district and
25 the form based code.

26 Mr. Paine pointed out that signs should be externally lit and not internally lit. Mr.
27 Greenwood said that still stands.

28 Mr. Deschaine asked Mr. Greenwood if he had looked at the proposed amendment for
29 the sign ordinance on agricultural signs. Both Mr. Coppelman and Greenwood didn't
30 believe there would be an issue.

31 Mr. Kirk Scamman, farmer in the Gateway district said in his opinion the current
32 regulations are designed for spot zoning and to put him out of business. He believes what
33 the Board is trying to do is not constitutional and the U.S. Department of Agriculture
34 regulates agricultural practices; he believes the Town is over stepping its bounds which
35 is why there are so many car dealerships; it's easier to have one of those than farming.
36 Mr. Greenwood said the goal is that in those districts where it is not explicitly allowed,
37 that it becomes explicitly allowed. Mr. Scamman said that is not how he reads that.

38 Mr. Baskerville confirmed that if an agricultural use is an existing use, then the owner
39 doesn't need to do anything. Mr. Greenwood confirmed it to be so. Mr. Baskerville
40 continued that if somebody teared down a building and wanted to make it a farm, then
41 they would have to come before the Board with a sketch and explain that. There is no
42 site plan approval or engineering with these amendments. Mr. Greenwood said that was
43 correct, but if that farming enterprise was going to include a farm to table restaurant, then
44 site plan review would be invoked.

1 Mr. Houghton said he felt comfortable bringing this forward for public hearing. Mr.
2 Greenwood said he would make the changes discussed in time for the next public hearing.
3 Mr. Deschaine added that the new language would have to be readily available in the
4 planning office for any interested parties. Mr. Greenwood confirmed that was correct.
5 Mr. Greenwood said if the Board would like to see some alternate language for the public
6 hearing discussion, it would be helpful to have those during the next couple of days.

7 Mr. House asked if it would be possible to email the participants from the agricultural
8 meetings with the notification in case they do not all see the notice in the Portsmouth
9 Herald. Mr. Greenwood said it was a great suggestion and easy to do.

10 Mr. Nate Merrill, resident and farmer said there had been an all-inclusive process to look
11 at these regulations. One of his main goals was for agriculture to be treated fairly in the
12 Gateway district and is pleased with what the group has come up with and hopes the
13 Board supports it. Mr. Deschaine added that procedurally the public hearing on January
14 6, 2016 permits the Town to have a second public hearing on January 20, 2016.

15 Mr. Bruce Scamman confirmed that any agricultural use in the central zone will require
16 a conditional use permit. Mr. Coppelman said that was correct apart from tilling the soil.
17 Mr. Scamman said if they moved their corn maze from one field to another field would
18 they need a conditional use permit. Mr. Greenwood said he didn't believe so. Mr.
19 Scamman said what if they doubled the size. Mr. Greenwood said that would require a
20 conversation with the Board. Mr. Scamman asked about cows being put in the field; Mr.
21 Greenwood said it would require a C.U.P. Mr. Scamman asked what if 2 goats were
22 added. Mr. Greenwood asked if those goats were existing; Mr. Scamman said yes. Mr.
23 Greenwood said then a CUP would not be required. Mr. Scamman said he is trying to
24 find out what the threshold is. Mr. Greenwood said once there is an established use, it is
25 not a number issue; if you went from having 12 dairy cows to having 900 and that would
26 necessitate a new milking barn, that would require a discussion with the Board. Mr.
27 House asked if that was because of the barn or the cows. Mr. Greenwood said it would
28 be because of the expanded use of that property. He returned to the corn maze example
29 and explained it is not so much about the corn maze, but the extra traffic it would create.
30 Mr. Scamman asked about the permitting process. Mr. Greenwood reminded him that
31 that will apply if it is a building that has a public use. Mr. Deschaine explained that in
32 the past, the zoning amendments are formatted as a red line version. Mr. Greenwood
33 said he would do that.

34 Mr. Merrill said he didn't recall CUPs being discussed in the groups and thought they
35 had agreed to remove that requirement. Mr. Greenwood said it had been discussed. Mr.
36 Merrill said that Mr. Paine's opinion seemed to be in the minority and he thought they
37 were not going to have that. Mr. Doug Scamman said he remembered it the same way
38 as Mr. Merrill. He feels the Town are overdoing what they need to do for farming. They
39 have a conservation easement on their property that allows agricultural uses. He
40 understands the need for a building permit if a building is used for the public, but for
41 strictly agricultural purposes he thinks the need for an engineered plan is going too far.
42 He doesn't feel if he wants to put cows on his farm that he should have to come to the
43 Board. Mr. Merrill said that the Goodrich Farm has a conservation easement as well.
44 Technically if they wanted to put horses on there, they would have to come before the
45 Board. Mr. Houghton said the CUP relates to the central zone and the Goodrich Farm

1 falls outside of that so nothing is needed. Mr. Merrill said portions of both properties
2 fall into the central zone. Mr. Houghton said unless your farm is entirely in the central
3 zone, you are not being excluded from doing things. He continued that these
4 amendments will make things less restrictive for farmers, but folks don't seem to like it.
5 If that is the case, then we're not ready to take this anywhere despite working on it all
6 year. Mr. Greenwood disagreed as the discussion is really about that one part referring
7 to the CUP and a lot has been accomplished. It is incumbent upon him to draft the
8 language to make people feel comfortable with that particular part.

9 Mr. Deschaine added that he would advocate the Board bringing these forth as separate
10 amendments because he thinks the reason this failed last time around is that the Board
11 was tempted to do too much for each amendment. Mr. Greenwood said that was good
12 advice. Mr. Houghton agreed. Mr. Greenwood said for the first public hearing he could
13 bring an either/or scenario and then come out with something from that discussion in
14 time for the meeting on January 20, 2016.

15 Mr. Baskerville made a motion that knowing that some of the wording is going to be
16 word crafted yet it may be split into separate amendments and that those amendments be
17 placed on the January 6 Planning Board meeting for public hearing. Motion seconded
18 by Mr. House. Motion carried unanimously.

19 **Auto Dealerships**

20 Mr. Coppelman explained that the previous Planner had agreed to provide amendments,
21 but he doesn't know how that came about. There are 2 options outlined. Mr. Deschaine
22 said that at some point in time Mr. Daley was asked that if one was to consider some
23 restriction on that use, how the Town would go about it. Mr. Canada said as a selectman,
24 the number one complaint in Town is about the proliferation of car dealers especially the
25 satellite parking and there is another application for satellite parking tonight. His concern
26 is that the Town ends up with a whole load of megastores and shares the same concern
27 as those who have raised them as it totally defeats the Gateway plan that everybody
28 worked so hard on. The reason for so many dealerships is that the land is relatively
29 cheap, and they don't have a huge demand for services; they are also good corporate
30 neighbors and provide jobs so Stratham is fortunate to have them come into Town. It
31 seems though that manufacturers are pushing to have bigger stores and more storage.

32 Mr. Groux, Honda Barn said they are relatively small. He quoted several statistics which
33 show there won't be enough buyers around in the future to warrant superstores. He is
34 adding onto his building, but he won't sell any more cars than he is selling now. The
35 only reason he is doing it is because the manufacturer said he had to. He referred to the
36 recession and how everybody has forgotten that dealerships were folding during that
37 time. Mr. Groux shared a handout showing the economic impact of the 7 auto dealerships
38 in Town. He said there is a total of 238 employees with a total of \$18,000,000 payroll
39 being dumped into the economy. The Town is being paid \$384,000 in taxes a year from
40 them. In the last 10 years, \$750,000 has been donated to local charities. Mr. David
41 Yanofsky, Subaru said the dealerships are the only ones in Town who are going to build
42 the Gateway road. He added that they are all doing beautiful projects and quoted his own
43 dealership as an example of that. He understands there are 2 sides to the story and as a
44 homeowner he gets it, but a compromise has to be found. Mr. Marshall Jespersen, Audi,

1 Porsche and Mitsubishi said it is true that the manufacturers do push them to build,
2 however, they do respect the Town's laws and guidelines so it is in the Town's purview.
3 To stop it altogether gives the manufacturers the idea there is no future in Stratham which
4 is really limiting to future business here. They are a very low traffic business.

5 Mr. Ricks said if other citizens had known this was going to be a topic of discussion some
6 of the folks who had left might still be here. He has an article from 2000 which talks
7 about the BMW and the lighting. The Planning Board didn't listen and put in stopgap
8 measures that didn't work so they lived with a bad lighting situation for 15 years. He
9 understands the pressure from manufacturers, but asked if they are really going to walk
10 away from a 33,000 car per day location that is making them money. He knows that
11 Subaru in Portsmouth was prohibited from opening a new dealership. He read that the
12 Subaru in Manchester was talking about putting in underground parking. He feels for
13 the loss of business but the people who live in the Town every day and deal with going
14 by these places daily are living with it. He hopes the Board will put this forward because
15 he thinks it would pass hands down if put to public vote.

16 Mr. Bruce Scamman said his concern is that unless water and sewer go in, to start limiting
17 anything in the Gateway district is bad for the economy and tax base in Stratham. If we
18 start eliminating people from moving in, the Town will start hurting itself. If water and
19 sewer do come to Town, a lot of different businesses will open up in town.

20 Mr. Michael Keane, resident said he will be at the next meeting advocating for limitation
21 on an expansion of a car dealership. When he was on the Planning Board 12 years ago,
22 they were faced with similar legislature looking at gas stations and car dealerships. The
23 CUP was introduced so the Board could hold dealerships to a higher standard and look
24 at them as a case by case basis. He can't advocate that the Board accepts or denies these
25 amendments. However, he does think that the larger the parking lots get within the car
26 dealerships, the further we move away from the Gateway zone. Mr. Yanofsky said if
27 these amendments were to be considered, wouldn't it be better to consider them once the
28 Town gets water and sewer.

29 Mr. Kirk Scamman said he owns a lot of the land around the car dealerships and his only
30 option is to sell his land to them; they're the ones who have the money. The Scammans
31 have paid taxes on this open space for 75 years and hopefully there will be another 75
32 years, but when stuff gets put in that takes value away, it puts the farmers against the
33 Town because they need the ability to function. Until water and sewer comes to Town,
34 car dealerships are the only egg in their basket if they want to retire. Mr. Nate Merrill
35 said he understands both sides as he is a resident and a business owner in Town. He
36 agrees that car dealerships are the highest and best use currently and would be opposed
37 to these zoning changes until such time water and sewer is available to that district.

38 Mr. Paine asked for a quick update on water and sewer. Mr. Canada said they fully
39 anticipate having something to propose on water this coming March, but sewer will take
40 a little longer. Mr. Mike Donahue said on behalf of his clients, the problem is one of
41 perception; he would find it hard to believe that this Board has a problem with car
42 dealerships in this community. He talked about how much one of his clients had done to
43 satisfy the TRC and the Town. He thinks it's premature to go forward with something
44 like this; the citizens don't know what it is and he assumes the Board just got it. He asked

1 why the Board would jeopardize the results they've obtained from these dealerships;
2 they've done the most for the Gateway zone. If water and sewer comes, their use may
3 be converted to another more valuable use. He said the new Subaru dealership is a huge
4 improvement on what was there before and Mr. Yanofsky spent \$750,000 for Gateway
5 Road. Mr. Donahue doesn't feel it is right and he thinks this should be posted so people
6 who don't like dealerships can take part.

7 Mr. Houghton said people are passionate about their wants, needs and desires for this
8 Town and what they would like to see; car dealerships and parking lots are not what they
9 want. Mr. Houghton said he is on the Economic Development Committee too and
10 encouraged people to spread the word to people to come and join the committee because
11 they could do with some help; part of the solution is attracting alternative businesses.
12 From an economic perspective, these zoning amendments are a bad decision for this
13 moment in time. It doesn't mean he wants more dealerships or parking lots, and said the
14 Board does have the ability to make sure the dealerships are held to high standards.

15 Mr. Baskerville said this is the first time he has seen these suggested amendments and
16 Option 1 is to drastically stop all car dealerships, option 2 is to limit car dealerships to a
17 certain number. He doesn't remember the Board ever discussing these and it seems more
18 drastic than the wetland committee. He hears what people are saying, but he is not willing
19 to make a decision on something so drastic so he won't be moving to move this forward.
20 Mr. Paine agreed. Mr. House said he was on the tail end of the Gateway Committee and
21 is on the TRC now so can help with Gateway guidelines. Until the Town gets water and
22 sewer, not much else can happen. He said they can do something about lighting.

23 Mr. Ricks referred to the lighting issue at BMW and said back in 2000, he discussed
24 lowering the light wattage and using full cut off lights but the manager claimed it
25 wouldn't display their up market cars well enough.

26 Mr. Houghton said he thinks there is an opportunity for residents and car dealership
27 owners to get together to talk about co-existing. Mr. Yanofsky suggested Mr. Ricks take
28 a look at the Subaru to see their lighting which is a result of the input from this Board.
29 Mr. Ricks has seen it and agrees it is much better than the BMW's dealership.

30 Mr. Donahue shared that they had met with the abutters affected by the Group 1
31 application for satellite parking and one of the topics discussed was making adjustments
32 to the lighting at the BMW dealership. When they come before the Board on January 6,
33 they may in a position to include that in the design discussions.

34 The Board decided not to move this amendment forward. No motion was made.

35 **Signs**

36 Mr. Coppelman explained that there was a case that went to the Supreme Court in
37 Arizona and the Court decided the first amendment is being violated if you are regulating
38 signs by size and amount of time they are posted depending on the content of that sign.
39 The way the Town regulates commercial signs appears to be fine, but there is a section
40 of the ordinance that varies. Mr. Coppelman said if the Board wants to move this forward
41 to Town vote, it should be reviewed by Town Counsel.

42 Mr. Coppelman referred to the sections that talked about institutional signs, real estate
43 signs, service/civic organization signs and yard signs. These are treated differently when

1 it comes to size and length of time they can be posted. Mr. Deschaine said the ruling
2 goes to what we feel are community related signs and we have made provisions for those.
3 The Court is saying we will have to read a sign to determine what to do. Mr. Deschaine
4 said the purpose behind the amendments is to avoid unnecessary litigation.

5 Mr. Baskerville asked how many square feet can all these people now have if that is taken
6 out of the equation. Mr. Coppelman said he picked 10', but it can be whatever the Board
7 feels is appropriate. Mr. Baskerville asked what to do about signs that currently exist
8 and are larger than what the Board may decide upon. Mr. Coppelman said they'd be non-
9 conforming, but constitutionally illegal.

10 Mr. Houghton said he thinks this is important, but he isn't sure it would be practical to
11 have a public hearing on this on January 6, 2016. He suggested getting this to the
12 attorney, ask for feedback for the January 6 meeting so another work session can be had
13 and defer a public hearing until January 20, 2016. Mr. Canada wondered about just
14 waiting to see what will happen in other communities. Mr. Coppelman said they could
15 do that, but they may need to be careful about how they implement code enforcement
16 and try not to kick that hornets' nest. Mr. Baskerville suggested adding a paragraph that
17 states that the Planning Board realizes there are new court cases and they are in the
18 process of reviewing them. Mr. Houghton said the problem is that would have to be a
19 warrant article regardless.

20 Mr. Houghton said it should be kept as a Planning Board agenda item, but he doesn't
21 think it will make it as a warrant article. Mr. Canada doesn't feel it is a burning issue
22 and can wait another year.

23 The Board decided not to move the sign zoning amendments forward.

24 **3. Miscellaneous.**

25 There were no miscellaneous items to report

26 **4. Adjournment.**

27 Mr. Baskerville made a motion to adjourn at 10:52 pm. Motion seconded by Mr. Paine.
28 Motion carried unanimously.