

CANDIA PLANNING BOARD
MINUTES of April 19th, 2017
APPROVED
Public Hearing

Present: Tom Giffen, Chair; Al Hall III, Vice Chair; Ken Kustra; Joyce Bedard; Rudy Cartier; Carleton Robie, BOS Representative; Dennis Lewis, Road Agent; Dave Murray, Building Inspector; Dean Young, Fire Chief.

Absent: Judi Lindsey; Mike Santa, Alt.

Chair Tom Giffen called the meeting to order at 7:00 pm immediately followed by the Pledge of Allegiance.

Minutes March 1, 2017:

C. Robie made a **motion** to accept the minutes of March 1st, 2017 as presented. J. Bedard **seconded**. K. Kustra and R. Cartier **were in favor**. A. Hall and T. Giffen **abstained**. **Motion passed (4-2-0)**.

Minutes April 5, 2017:

T. Giffen made a **motion** to accept the minutes of April 5th, 2017 as presented. R. Cartier **seconded**. K. Kustra; A. Hall and C. Robie **were in favor**. J. Bedard **abstained**. **Motion passed (5-1-0)**.

Present: Bryan Ruoff of Stantec; John and Stephanie Helmig of 75 Fieldstone Lane, Gregory Herbert of 81 Fieldstone Lane; David Baldessari of 64 Fieldstone Lane. Craig St. Peter; Joe Sobol; Doug MacGuire of The Dubai Group; Cory Hill; Carmel Druchniak; Colleen Bolton; Carol Ogilvie.

Previous Planning Board Case 16-010 High Street 9 lot Subdivision - Surety Bond Estimate:
Applicant: 66 Vinton Street, LLC – Cory Hill. Intent: To finalize the Surety Bond amount for High Street.

C. Hill said at the last meeting the Board wanted a little more backup to my argument. When we spoke an exact breakdown wasn't necessarily required but I had him break down all the line items as Stantec broke them down. I also attached the quote from Miche Corp for the box culvert, the actual cost of that. T. Giffen said it looks like we still have a substantial disparity between Stantec's numbers and yours. Bryan have you had a chance to look at Cory's numbers? B. Ruoff commented I've seen the estimate. The numbers are pretty far apart. Most of our numbers are based on NH DOT unit average prices so we use that as a basis. Are they higher numbers? Potentially but not unreasonable from the standpoint if the Town needed to hire a contractor to perform the work at a later date, they're in line with the prices that you would get to do that work, in our opinion. Escalation factor basically covers the Town from the standpoint if the Town needs to do the work in five years, these are based on current prices, we don't know in five years what those prices are going to do; in essence it covers the Town. Contingency covers anything that we didn't necessarily see or the design engineer didn't see from the plan. It's consistent with what we do for other Towns. We did a similar bond estimate for a road in Auburn that's about a 20% longer road and it was about one million dollars for that. It's in line with linear footage price, typically what we would recommend to Towns to secure.

T. Giffen said so we have an escalation factor and a contingency factor in there, each of which is 10%. So if we look at the pricing itself, without those factors, which are normally included in this type of work because of the uncertainty, if, when and if it goes on for a few years, we need some kind of a cushion, that's what that is. If we look at that, we still have a disparity of roughly \$300,000 on an estimate that Stantec has at \$667,000, you've got \$362,600. So there is still a wide divergence there. B. Ruoff replied my general impression looking at the unit prices, not necessarily say the work can't be done at those prices, but to me, a lot of these unit prices look like more material unit prices and not necessarily installed prices for

these types of items, that's the biggest difference in my opinion. C. Hill said for example that Miche Corp box culvert, the actual cost is \$18,000. That's the highest price we got, delivered. That has to be installed. B. Ruoff said I think we assigned \$60,000. C. Hill replied that leaves \$42,000 to install a box culvert. T. Giffen asked C. Hill if his numbers showed a breakdown anywhere for the box culvert. C. Hill replied the breakdown is \$25,000, so they figured \$8,000 to install. That's reasonable. This isn't a large item to be installed and I think \$42,000 to leave on the table, if I could charge that, I'm doing pretty good. T. Giffen replied obviously you're in the business to make money and you control costs; that's what you do and you get things done without spending any extra. The Town comes at it from a different perspective in that we don't know if it will be necessary to do it and we don't know when that might become necessary so we have 20% built in for contingency. C. Hill said when I came in, I wasn't asking my number's \$360,000, this is what I want but I was looking for a little bit of a break; it's not anywhere near the \$800,000. Not even close and I think the Town's going to be well protected with a more reasonable number.

C. Robie suggested that 1845 feet of road at \$300 a foot, is \$550,000 plus 10%, a little over \$600,000, that's my suggestion. T. Giffen asked what's the source of that number. C. Robie replied I think \$300 a foot in the Town of Candia at this point in construction costs is pretty close.

D. Lewis said he actually has 2020 feet because you have to have a cul-de-sac out there. \$300 a lineal foot seems to be a reasonable average. C. Robie said so that's \$606,000 plus 10%. C. Hill confirmed \$60,600. T. Giffen replied we have an escalation factor to account for, that could go up 10% who knows. C. Robie stated we just added 10%. T. Giffen continued and then we have 10% contingencies in Stantec's number as well. At 2020 feet, using an assumed reasonable number of \$300 per foot, we're within a modest distance of Stantec's number. What does the Town need to do to protect itself? I don't dispute the fact that you could get it done at a low cost but does the Town have a similar ability and the answer may not be yes simply because we're not in the business and heaven forbid we have to go out and find someone. I want to see you succeed and we don't want to be harsh or make life difficult for you but we're here to protect the Town's interest. If the wheels fell off and we had to pick up the slack, I'd want to make sure the bond was sufficient. If we use \$300 a foot, we're within spitting distance of Stantec's number and then we have the 2 fudge factors for contingency and escalation. Stantec's number was coming in total with those two factors added in and was \$500,000 more. C. Robie clarified Stantec was at \$800,000. C. Hill said plus 10% so it's closer to \$900,000. T. Giffen continued so that was the total with both of the adjustment factors built in, we're at 66,7 plus another 66,7 plus another 66,7 for the escalation and the contingency coming in at \$800,000. Without the factors, we're comparing \$667,000 with \$362,000 with a variance of about \$300,000. We're within 10% of Stantec before the factors are added. C. Hill stated if an insurance company has to come in to put up the bond to finish this road, I can guarantee you it will be the 360 number, they're not paying \$600,000 for the road, I can assure you of that. Again, I wasn't looking for the 360, but was just looking for a little break. I think \$500,000 to do that road is more than fair. Plus the 10%, that's \$50,000. So \$550,000.

C. Robie said I'm sticking with my comment so if you want to split the difference between 550 and 650. T. Giffen reiterated \$300 per foot, 2020 foot road, that's about \$600,000, not too far from Stantec. Is there a reason to forgo the escalation and contingency factors?

R. Cartier asked about a time limit. When would it expire, is it one year for approval? C. Hill thought it was a year. R. Cartier continued if there's a time limit for when this project has to get started and finished or expires and has to come back, do we need the escalation of 10%. It's either done or gone. J. Bedard referred to D. Lewis regarding the bond amount and time limit. D. Lewis said you already have my opinion on the cost the problem is this there is a four year time limit on this. (*4 years is from our subdivision regulations*) So if this wasn't finished, we would have to step in after 4 years. So what those costs might escalate to, we don't know so we need to be protected. \$300 a foot is a reasonable amount of money for someone to hire a contractor to come in and build that road from start to finish. But he has 4 years to complete the project and after 4 years if it's not done and we have to step in, we have no idea what costs are going to be in 4 years which is why we need to be protected. C. Robie commented this gentleman

is thinking \$400,000 to build a road, Stantec was at \$800,000. Splitting it in the middle at \$600,000 there's some contingency built into that.

More discussion ensued about incorporating an escalation factor due to increased costs in the future and making sure the Town is protected.

C. Robie said with the economy now, it would be in the best interest of this gentleman to get that road in this summer and build 9 houses. C. Hill said in 60 days this better be done. C. Robie said if the economy goes the other way and he can't build 9 houses and sell them, gravel might be a lot cheaper. There may be someone dying to come out here to finish that project. C. Hill stated there is a line.

R. Cartier asked Bryan, the prices that you use are DOT numbers or best estimates. B. Ruoff said DOT to average prices for a similar dollar value job in a similar area basically. DOT breaks it up into 5 different categories for projects so we take the project value closest to the type of project and in the closest area to this and use their average prices. Now depending on what projects are being bid by DOT, those numbers could be skewed high or low depending on average bid projects but generally with the volume of data, it's pretty reliable for estimating. R. Cartier asked so the estimates you have in here for DOT, are average, it's not for the standards that 101 has been built to, it would be more in line with a rural highway. B. Ruoff said no that's a much bigger project with larger prices. R. Cartier continued so it is reasonable to do a road that the Town's going to have to live with for the next 100 years. B. Ruoff said I would say so. The box culvert that isn't something where DOT has an item for that so it's a best guess estimate on that based on the quote that the applicant received, it is reasonable that it should be a lower number based on that backup data. C. Hill replied that was my question on those DOT numbers, those jobs are rated, hourly rates with fixed numbers. Guys love to get on the state jobs because their rated their overtime, the labor rates are much higher. I don't know if the DOT numbers are apples to apples. I can't answer that.

A. Hall asked relative to the cost of the premium of the bond. It goes from 300,000 to 400,000, have you evaluated if we had 399,000 would we get the same protection as 300,000? I'm looking for the break. C. Hill said I don't know. I haven't approached the insurance company with the \$800,000 number yet. What I apply for is what it's going to be and they've seen both numbers. They do this for a living; they provide insurance to fulfill that. Obligation shouldn't be called upon. J. Bedard asked this road is going to be done quickly, so if you have to pay for the bond and you finish in 2 months, wouldn't the bond only be for 2 months. If you're completed, the bond is not needed. C. Hill said there will be a period of time.

D. Lewis said we have a certain retainage that we keep for a period of 2 years for latent defects but it's not the total amount of the bond. As the road get's completed, we reduce the bond along the way. So in one month and he's up to gravel grade and he comes in to ask for a release, Stantec and myself will go out, calculate a bond release amount and it get's lowered. T. Giffen said so a percentage of completion. C. Hill agreed and then at the end, there's some money held back like Dennis said. But it's a minimum amount of money. T. Giffen stated 10% maybe. Ok. So it sounds like we need to discuss what a reasonable number may be given the fact that our goal is to protect the Town without putting a strangle hold on this guy. C. Robie reiterated \$660,000 with some contingencies built into that. That was 10% of the 600,000. \$666,000. I think we'd be safe with that.

D. Lewis said Bryan and I discussed the issue and agreed to \$650,000-\$700,000 would be the lowest we felt comfortable with.

B. Ruoff said there was some confusion on the pavement thickness. On the original submittal had 4" of pavement and at some point, it was changed to 3" of pavement. Town standard as described in the subdivision regulations calls for 4" of pavement. Appendix B which is a cross sectional detail of the Town standard road shows 3". The current plans show 3" of pavement. My understanding and interpretation from reading the regulations and talking to Dennis, is Town standard is 4". I understand that the plans haven't been finalized as of now, that's something that's going to be changed, it should be changed now and made clear, that's what needs to change to build this road to Town standard. D. Lewis agreed. I noticed that in your calculations, I picked up 3 in here and our regulations call for 4". C. Hill said I just got that email today and it was my understanding that I don't believe we changed those numbers, I think it showed 3" the

whole way through. I don't think it got picked up. B. Ruoff said the plans submitted in September did show 2.5" base and 1.5" and then in November it was 3". C. Hill asked if September was an informational meeting. I don't think it was a submission. B. Ruoff said we did a full review. I should have caught it either way. C. Hill said we understand that. The price difference for an inch of asphalt at \$60 a ton is what we'll pay for it or a little less, its peanuts; it's not a real issue. B. Ruoff agreed with that. T. Giffen said it would have to be built to meet spec anyway. C. Hill replied correct. D. Lewis said 250 ton. C. Hill said \$12,000. C. Robie said Mr. Hill has 1 inch of finished asphalt, 250 ton, at \$15,900, so if he has to double that, it's under \$16,000 because they have to put it out anyway, \$12,000, that's what you said. C. Hill said yes, just about that, maybe a little bit more.

MOTION:

C. Robie **motioned** Mr. Cory Hill's surety bond is set at \$666,000 for the project. A. Hall **seconded. All were in favor. Motion passed (6-0-0).** C. Robie said your bond agent will draft that and send that to the Selectmen's office for review.

C. Robie asked about the conditions. C. Hill said we had the engineer run the plan down to the registry to make sure they were okay with it so Andrea wasn't stuck running back and forth with a plan they didn't like. They wanted us to move a few things for logistics, the way it lays out and we have everything in line to bring it in for signatures. And the bond.

17-002 Major Site Plan Application: Applicant: Wildcat Land Development Services, LLC 43 Lawson Farm Road, Londonderry, NH 03053; Owner: same; Property location: 285 Old Candia Road, Candia NH 03034; Map 410 Lot 137 & 137.1 Intent: Convenience store expansion.

Abutters Present: John and Stephanie Helmig of 75 Fieldstone Lane; Gregory Herbert of 81 Fieldstone Lane; David Baldessari of 64 Fieldstone Lane.

Present: Doug MacGuire of The Dubai Group; Craig St. Peter and Joe Sobol of Wildcat Land Development Services, LLC.

D. MacGuire (*handed out updated 11 x 17 plans*) these are the updated plans from what Bryan and I worked on. I'm Doug MacGuire I'm with the Dubai Group, the engineer of record for these plans. The applicants of Wildcat Land Development are here. I want to do a quick overview of the plan. The Board is familiar with this property and we recently did the excavation permit, we tried to be upfront as possible and that was intending to lead to this, something like this. What we're proposing is an expansion to the existing convenience store, expansion to the existing sandwich shop/restaurant, additional storage and accommodations for the truckers; additional bathrooms and whatnot because they are expecting to expand their operation a little bit. On sheet two are the existing conditions, what's there today. There are only 5 spaces for tractor trailer trucks. It's a pretty popular, hopping place all the time. The goal is to expand the truck parking area to accommodate additional trucks but do it in a more conventional truck stop type manner. Having a larger circulation area, an area for the trucks to back into is a more standard practice than stacking in a line. Depending on the size of the trucks, they can't turn out sufficiently. This allows every trucker to have a designated space and be fully accommodated across the area. We're trying to completely separate the uses as much as possible. Truck parking doesn't mix well with pedestrians or vehicles just getting gas or grabbing a jug of milk. So we're proposing a secondary access. As it is right now, the trucks, everybody coming in is practically driving through the drive through lane as it is right now. We're proposing a bypass lane in the back (*see cover sheet*), trucks can come in the back, park and fuel up and then they're not meandering through and around the store. We've created an additional parking lot area directly adjacent to the restaurant and the convenience store so people aren't walking all across from different areas and combining that circulation with the trucks. Hopefully we have sufficient parking based

on this expansion use to accommodate the necessary pedestrian vehicles directly adjacent to the store and the truck parking would be separate from that. That was a big goal of this expansion. I need to make this clear as well because there was some confusion and I cleared it up with Bryan during our meeting that we had prior to this hearing; the phase II plan, (*Note: this comment was incorrect. Sheet 6 is actually Phase I of the plan*) we have a grade, drainage and utility plan on sheet 6 and then we have a phase II grade, drainage and utility plan on sheet 7. The intention of this, there is some potential for future expansion. The applicant has no immediate desire to expand these areas but my suggestion to them that when we're master planning this development out and because utilities will be crossing through, drainage will be going to the same areas, there would be a lot of ripping up of pavement if they were to expand these areas after the fact. So what we're proposing is some future areas of development that are not locked down. The applicant and I fully intend to return to the Board with updated plans when we know what those uses are. There were several comments on Stantec's letter that were we need architectural for this building, what's going on with this. They were good comments but at this stage we're not proposing to move those sections forward. The only thing we're proposing to build at this stage is the grading and drainage plan, the site plan that shows the limits and what we're doing is master planning all the drainage, all the utilities are going to be stubbed and accommodating of the future development. If we come in with whatever use it may be in the back, it will be accommodated with the drainage system because we're factoring in this drainage system with the design, with the AOT permit, everything is factoring the full scale development. So as long as we aren't over that, which would be hard to do because we're 100% impervious in those areas, we'll be at the same or less than what we're designing for today. That was the plan and I wanted to make that clear because we are missing some detail assuming that that was going to be a full build right now. But we do have the necessary detail for the site plan that's shown, Phase I. I would like to address the Stantec letter. We had 74 comments but I was able to meet with Bryan on April 12th and had a productive meeting and we were able to mutually resolve a vast majority of these comments. These plans that are before you today address 80% of the comments. There were some comments that required some clarification. I have less than 10 comments that need some direction or input from the Board or just some general discussion. We knocked 65 comments off the list here that are either addressed or eliminated by discussion by Bryan and I.

T. Giffen asked if the gentleman's (*Doug's*) representation of the meeting was accurate. B. Ruoff agreed.

A. Hall asked about future building 120 x 80 is that conceived as an overnight truck stop, so the driver's overnight there. D. MacGuire said that's not the intent. We've looked at many different commercial options, anything from a medical facility to a quick stop oil change facility. Because they're still evolving, this was a push on my end to the applicant. They're focused on wanting to expand our operation and our truck parking. That's there #1 focus. I suggested if you have any future intent now would be the time. The two areas we have all the drainage going to, the water is going through those areas. There would be a lot of alteration or ripping up of the system if it wasn't master designed as one option right now. I tried to make it as impervious as possible to be as conservative as possible. We'll most likely have more green space than what is even shown here. A. Hall commented that I park at the gas pump to go into the store, so is there a concept to expand that and requested access to the right turn only to the DOT. D. MacGuire replied there hasn't been a shortage on "parking at the gas pump" but there is a shortage in circulation for the trucks and the restaurant. The expansion of the building is expanding the restaurant portion, not the convenience store. I hope nobody parks at the pump and eats at the restaurant. A. Hall asked I heard two things, one was a full liquor license and the other was a beer and wine license. C. St. Peter replied we haven't decided yet but it could accommodate a full bar. A. Hall said if you lean that way, go full blown. D. MacGuire replied to the DOT, as of right now we're going to master plan design for that and it will take a little bit more permitting time than we're comfortable with as far as them getting this moving forward and getting the restaurant expanded. It won't be something that can be done as part of this application right now. From a site plan standpoint, it wouldn't be a major issue. Everything would be designed to accommodate that. It's more of a DOT permitting issue. Our plan is to discuss this with DOT.

We have a limited access highway so technically it's not a by right option so it's going to be handled by the applicant, we're going to be meeting with DOT. It would be a safety benefit to allow the trucks to egress out that way and not come back through. Now the 18 wheelers are more than accommodated at the existing drive but we are going to try to push for that but it won't be part of this application. A. Hall replied with the existing operation, you have a problem with the big trucks, especially at the busy times. D. MacGuire said I think a lot of that is the circulation of the in and out. I don't see on paper how they circulate around the building but they do it. I've seen it. That problem is going to be alleviated. Also, they won't have to, unless they're gassing up, but if they're pulling in to grab a sandwich or whatever, they won't have to use any of the front of the store. They'll be able to go out back through the bypass we're providing, so hopefully you won't have 100% of the truck traffic circulating through the front of the site if we are able to get that slip ramp but again, we're at the mercy of DOT on that. A. Hall commented on sheet 7, where would the right turn exit be. D. MacGuire said it's by the pond. Sheet 5 and the cover sheet show it. It would be a right out; I can't imagine that would cause any issues. It's a slip ramp. We're hoping we can get that in. We made some calls but it can't be permitted in a timely fashion so we couldn't do it at this point. R. Cartier said it would be similar to what they have at the Rite Aid in Raymond.

R. Cartier said I had a chance to look at the updated plans yesterday (*regarding the application review*). The leach field test pit information is still missing but I understand it was done yesterday? D. MacGuire replied I didn't bring a copy with me but we performed 6 test pits out there and got good results. We got 6 feet to water table so our assumption, our design is on a 36" water table so we're significantly better so we are in the clear on that. That validates our design. R. Cartier asked that it be added to the plans. D. MacGuire replied we are planning to have those survey located next week and on the plan. Test pit logs as well. R. Cartier continued on the construction completion schedule it said 10-12, was that months? D. MacGuire confirmed 10-12 weeks. Severino's made progress already. R. Cartier continued and on sheet 5 it says all improvements will be done in 2 years. D. MacGuire replied that was a comment from Bryan and it's a Town requirement that says they don't want to see a project like this linger on through construction so it has to be done within 2 years. That's why that's there. R. Cartier continued just getting the test pits done you don't have the septic system permits yet, a requirement of the application. D. MacGuire replied we don't and would ask that it be a condition of approval if the Board was comfortable with that. That's a required state permit, you can't move forward without it. They can't install it without it. The test pit validates our design. That's sized for their use. The proposed septic design will not cover the intended future use as we don't know what the flow needs would be but we can accommodate future septic locations for those buildings which would be part of the permitting process. We have to come back to show where we're proposing the septic system for that use. There's a big difference between a car wash use vs. a Verizon Wireless kiosk with regard to septic load. R. Cartier asked when fire protection analysis...it would have to be looked at again, that the cistern is acceptable for use of size of building etc. D. MacGuire replied my understanding is that the Fire Chief did review the plan and provided a letter stating that he didn't have any issues with it. R. Cartier said the cistern is fine for the use now but any new buildings may need a second system. It's preliminary right now, it's not an issue. D. MacGuire said we will keep that in mind for future expansion. R. Cartier commented it would be NFPA F11:42 I believe. The other thing was the parking space requirements weren't consistent. D. MacGuire said we can talk about those. My guess is that there was a state of flux. Bryan and I walked through the parking calculations as shown today, which are different from what was originally submitted, partially to address some of Bryan's comments and we went through this at our meeting. Bryan was comfortable with what we revised the calculations to. Sometimes uses don't fit well into the calculations. This is a gas station but there are no service bays. We try to look at different options. I changed the convenience store to a retail value to accommodate that. We were being conservative; we weren't including the truck parking. We're not counting the truck spaces towards the parking count numbers. We're not counting the spaces of the pumps. R. Cartier replied at first it was 106 spaces and then it was 83 spaces now you're at 68 spaces. Ice cream shop, 17 spaces. I think there are 19 or 20 showing on the plan. D. MacGuire replied the parking numbers haven't changed; we haven't added or

removed any spaces from the original application. I think it was in how they were being calculated. Originally I was including the truck spaces; the numbers probably fluctuated so I apologize if that is confusing. We have 68 spaces, vehicular spaces, 24 truck spaces and 14 dispenser spaces. We have more adjacent parking to the restaurant and the convenience store and a separate parking area for the ice cream area. Hopefully there's enough parking in the vicinity for each use.

There was discussion regarding overnight trucks. C. St. Peter replied nothing that isn't already happening. D. MacGuire added but with the designated truck parking, the trucks will be backed up and out of the way. This will accommodate truckers that need to sleep but the hours of store etc. will remain the same.

R. Cartier asked about an increase of traffic that would require a traffic analysis. C. St. Peter replied we went through that again it's less than the master plan that was done previously. D. MacGuire replied we're trying to accommodate the existing uses, organize parking.

S. Helmig of 75 Fieldstone Lane said we're a direct abutter to the property. I would just like the Board to consider another condition of approval. Back in 2006 when this was being developed there was an agreement made with the current owners, the previous owners, the neighborhood and lawyers on both sides made an agreement for a 35,000 square foot buffer that has not been submitted to the Town and we would like that re-added back on the plans so that it doesn't get lost in translation throughout the years. We would like it documented so that we're protected with our original agreement. D. MacGuire said that's a good comment and I have an exhibit that will work well because it's one of the comments I need to talk about to the Board. I have a color graphic here that will help detail exactly what we have going on here and the proximity to the other surrounding uses. This is an aerial to scale the site. You can see the existing site underneath and a black line on top which is what we're proposing to expand. What I wanted to address was the proximity of this expansion to the residential abutters. There are two residential abutters directly adjacent; one is touching by a point (*Helmigs property*). What we have, that existing house is 186' from the property line. From that property line to the limits of where we're disturbing, where we're tying back into grade, is another 235 feet. It's important to note that we're talking about a significant change in elevation as well. The corner is at 586' so where we tie into the slope, we're at 560' and the more substantial number is where the pavement is proposed to be is at 522'. There will be a significant cut there, we have ledge there. I don't know if this helps the abutters with a level of comfort but the previous design had a difference of grade separation. You had the gas station in the front, you were driving up a hill to get into the back and you had pad elevations in the back that were much higher. In this the whole thing, give or take a few feet for grade changes for drainage purposes, you're at the elevation of the gas station. They're at elevation 522', the lights, even at 20 foot poles, will be below the ledge cut of that area. This abutter and the abutter adjacent, when they look out into their back yard, they aren't seeing a sprawling building, everything is set significantly lower. There's upwards of 60' vertical drop from the edge of their property downward. They seem to have a decent amount of evergreen cover up to their property. We're talking a significant distance, 400+ feet to edge of impact, to where we're disturbing.

J. Helmig said I'm Stephanie's husband and we want this documented, that's all. To your point, this is about what the buffer was on the plan and agreed to. The concern was that at the last meeting that I was unable to attend but Stephanie was, is that there was no intent to honor that agreement. That agreement has benefitted First Stoppe. That's how it was able to happen in the first place. We were asked to look away on a few things and we came to an agreement so First Stoppe could happen. To be clear we love First Stoppe, I don't have any problem with the development we're seeing here, that's not why we're here. We're here to make sure this goes on record since it didn't like we were told it would in 2006. We want the agreement that we already had to stay in place and be adopted by the Town. J. Bedard asked J. Helmig to repeat the agreement. J. Helmig stated we came to an agreement with Mr. St. Peter as well as the previous owner. C. St. Peter replied it wasn't with me. No I wasn't an owner, I was just an engineer. J. Helmig continued well to be clear, unfortunately there's been a lot of shell game that's happened with this property, there's a history that's a little bit shady, unfortunately, which is why lawyers got involved in the first place. I'm

under the impression that we shook hands on this and we all signed off on a plan, I know you were involved in that. I realize you're saying you weren't the owner at the time but the agreement was to benefit First Stoppe. Which you, obviously now we know at the time, you knew you were going to own. I guess what I'm talking about is the spirit of the agreement more than actual details of it. I think we all know, are you disagreeing with me, I don't want to get into an argument about it. C. St. Peter said yes, I guess I am a little bit. D. MacGuire said I don't know the history of the agreement, from my standpoint when I look at this project, if it were asked of me by my client to say "Hey should we voluntarily add in this buffer on your property", the issue I have is that we still don't know what the uses are for the expansion and I don't expect them to be blasting in any further, but we have to be aware of septic siting and where they can go for those future uses. I don't think it would be an intensive use that would affect the abutters but if we were to say we won't alter any soil in that area, that limits the septic placement on the site for future uses. The current system is a pump system pumping to the lower left hand corner of the site and we have good material there. I don't know how much we test pitted in that area, that's a limitation that would be put on the property that would affect the potential build out for their future uses. I don't see exactly what the benefit would be of a restriction there due to the height difference, the separation right now. I would love for them to be able to build a septic system there if they needed to.

J. Helmig replied there's a benefit to you but there has to be a benefit to us too, that's all. J. Sobol replied I think what we know, an agreement between Danais and Gene Bouton, I believe. J. Helmig said we were abutters. J. Sobol said I'm sorry. That line that was thought of back in 2006 and agreed to is significantly North of where we're planning to develop with the plans that we're presenting. D. MacGuire said was it 100' buffer? S. Helmig replied it was 35,000 square feet. J. Sobol said which is less than an acre. S. Helmig replied which was more than because we agreed to call off the hounds I guess. C. St. Peter said let me try to help here. We have the plan right here. It's a master plan. S. Helmig said the problem is the boundary was supposed to be submitted to the Town and it never was. 2006. So now I don't want it to fall through the cracks again, that's all. And they're saying its fine, its beautiful ok so document it, that's all. J. Sobol replied we just want to be clear that Craig and I did not become owners of that parcel until 2016. We could not have had that agreement with you. Craig could not have had it. S. Helmig said you were involved. J. Helmig said I understand there's a technicality there. C. St. Peter said we're not trying to be shady; we're not shady by the way. You did say that and I'm a little offended by that. J. Helmig said no I said that there's shady involving the entire property I said. C. St. Peter responded Joe and I aren't shady. I want to educate the Board. There was a development, there's a master development (2006), and Rudy was involved. This is a Danais...I was an engineer at the time and I worked on this project. I wasn't a land owner. They did reach an agreement with Danais for a buffer for development that got encroached further to the North. The Danais's agreed to have a buffer here to protect the land and as Doug presented, the land that was developed went higher toward their homes. Our site is low and further away. Ours is level into the ground.

T. Giffen said it sounds to me like the agreement was made with Romeo Danais at the time as the owner. I don't have familiarity with the agreement but it sounds to me like if it were done in a normal fashion that there may have been a deed restriction placed that should have been recorded at the registry. Then it would have carried with the property. Trying to chase the agreement along a chain of subsequent owners could prove to be a challenging exercise for anyone attempting to enforce the agreement. J. Helmig said I agree. What I'm asking for in a court of law would not be admissible. What we're asking for is no mystery to these current owners. T. Giffen asked I don't know if there was something recorded? J. Helmig said it was supposed to be. We were told it would be and we signed a set of plans. T. Giffen reiterated a deed restriction of some kind? C. St. Peter confirmed as an easement. T. Giffen said an easement, so it wasn't recorded. J. Sobol and C. St. Peter said the project never went forward. C. St. Peter said it was for that project. J. Helmig said what we signed didn't have plans on it. S. Helmig said what we signed was to keep our mouths quiet, call off our lawyers and building of what is currently there. The agreement

benefitted the First Stoppe and it benefitted the two homeowners by a boundary so there was common benefit but now our benefit is not on record.

T. Giffen said the difficulty I see, is that back in 2006 it would have been great to get that recorded as a deed restriction otherwise it's very difficult to get it to carry forward to another owner. J. Helmig said I don't know why it didn't, we were told it would. D. MacGuire said probably because that project never moved forward. J. Helmig replied it wasn't about the project, ultimately it was but what we were looking at was just property because they were going to draw new plans and before they drew new plans we agreed upon a buffer that they then drew plans from. T. Giffen commented I'm sympathetic to both parties but the problem is if it should have been done as a deed restriction and it wasn't, do we have authority to try to enforce something that should have been a deed restriction 10 years ago is that the function of the Planning Board. S. Helmig said our hope was that the agreement would be honored and like they had said the boundary is here but it's not wanting to be recorded. So our next thought is the building and the use of the land, its light industrial. There are bylaws in Candia that allow certain things and don't allow certain things. It would have to be investigated before you make a vote to see if this is functioning property as light industrial. D. MacGuire replied the uses that we're proposing are permitted uses within the I4.

T. Giffen said we're clear on that but what you have is an agreement between yourselves and a former owner that wasn't properly recorded and now you have somebody new. J. Helmig said not entirely new. T. Giffen continued well they helped the original owners in an engineering capacity and they got paid to do that. You could easily come to believe that there was some sort of a business relationship, but what does that really get you. To be reasonable, we as a Board can't enforce anything, it sounds like there's a wish on both parties to have amicable relationships with abutters. J. Sobol said that's correct. T. Giffen continued you've presented yourselves as reasonable, straightforward honest individuals. It sounds to me like it's something that needs to be worked out legally between the parties, with hopefully a fair degree of success on both sides. I'm not sure it's anything the Board can help with. We're being asked to enforce a legal agreement that fell through the cracks going back 10 years ago with a former owner. I'm not sure if we have a legal ability to do so. I'm sympathetic. S. Helmig said we're not trying to stop anything from going on we want it to be clear. R. Cartier asked C. St. Peter if he had seen the agreement. C. St. Peter replied I can't recall the agreement, I know there was an agreement, there was something. I did the site plans; that's what I worked on. I attended the meetings and Gene Boutin at his home. They reached an agreement and I was there, I'm not disputing any of that which occurred but it's a different development now. As I said to Stephanie at the store and here, we're more than happy to talk to you on this stuff and understand what you're looking for. We're not unreasonable. We have a desire to work with people. J. Sobol added by the same token, we're not encroaching anywhere near where this line is so we would ask that we're not held up and we would like a chance to speak to the neighbors, we need to be good neighbors. As business people, we'd be stupid not to be good neighbors. We'd be crazy so we will meet with you folks. A. Hall said let's so note the discussion and let them take care of it and move on.

T. Giffen reiterated about the unrecorded easement, not within Boards purview, throw it back to two interested parties to work out on their own and we can't hold you up, it becomes moot.

D. MacGuire said I brought this exhibit to discuss one of Stantec's comments. Related to this area there was a comment by Bryan that said we were showing some clearing of trees in the back corner of where we're encroaching and rounding out our development. He referenced a section of the zoning ordinance. There's a section under the L2 Light Industrial Zoning Ordinance that says *"A vegetative buffer of trees and shrubs 100 feet wide shall be maintained along the boundary of the district to separate light industrial use from existing residential dwellings."* Bryan brought that up. We have two residential uses; those residential uses both exceed 100' from our property line. B. Ruoff said the residential dwellings. D. MacGuire said from the dwellings, correct. I wanted to clarify. Is the intent met here and I'd like feedback from the Board. The dwellings are greater than 100' from our property line. So there is 100' of separation, a buffering on their own property, let alone what's on our property. So I just wanted to make sure that that is the interpretation that we had. This wasn't brought up in my own zoning review in preparing the project

because I know what the master plan just showed the Board and substantial encroachments, more so than what we have here so I assumed that the interpretation met the intent.

T. Giffen read the ordinance “**Zone L2 – Light Industrial:** *The purpose of this district is to foster the diversification of the Town’s economic base by encouraging a variety of light manufacturing uses and light industries with good access to transportation facilities, thereby improving employment opportunities within the community and making a valuable contribution to the Town’s tax base. All residential dwellings that existed prior to the effective date and establishment of this District may continue as legal permitted uses in the District subject to the requirements of Section 2.02 of this Ordinance. A vegetative buffer of trees and shrubs 100 feet wide shall be maintained along the boundary of the district to separate light industrial use from existing residential dwellings.*” Which side of the boundary does it go on? The regulation appears to be ambiguous in that respect. D. MacGuire said it’s also making reference to dwellings. Typically if I saw some type of blanketed buffer that was along a property line it would be from a residential boundary or a residential use, meaning that the whole entire property is encumbered by that. But they’re speaking to a residential dwelling. My argument would be it would be quite an encumbrance for us to hold on our own property a 100’ buffer down here in the corner which is not buffering anything. Right or wrong, I thought that there was some precedence in the previously approved master plan that there were encroachments in that area and that’s why it didn’t come up in my review. T. Giffen replied I would submit that the regulation’s probably not as well written as it might be, it’s ambiguous and it’s hard to determine the intent of the writer at this juncture. I’m not sure if the boundary of the zone coincides with your property line, I don’t know. J. Sobol and C. St. Peter confirmed that it does. B. Ruoff said that light industrial 2 and residential is split by the northern property line. Residential is to the north of that property line, light industrial to the south of the property line.

R. Cartier said when the zoning came in and this plan came there were no buffers between commercial industrial and residential structures. I would check to see when that was added in to see if that was done after the approval of the original complex. T. Giffen said that would tie into whether or not the old Master Plan which did encroach had this to consider as part of it. R. Cartier I remember discussions about the buffer zones and I agree with Bryan, it was a buffer from industrial zone in, not on the other side or from a residential structure.

S. Helmig asked along the boundary of the district, the boundary is the property line. T. Giffen said yes and in this case they coincide. S. Helmig continued residential boundary line/industrial so it would be 100’ from the boundary. T. Giffen said so the question is which side of the boundary is it on? D. MacGuire said so why does it say residential dwelling. Using the current abutter; if the interpretation was that it was along the boundary line, I would argue that it would be a cone shape buffer on our own property, if that’s the interpretation, which would come from, that property corner. I would hope that the interpretation because it says residential dwelling, wouldn’t include an area down here. To me, I don’t see the merit of that buffer being there. I think with that interpretation, we would have grounds from relief on that requirement.

R. Cartier commented that it was a poor choice to put in residential structure. S. Helmig asked does the Board interpret this or do you send it on to the Town lawyer to do the final ruling? T. Giffen commented I’m thinking about where an avenue for relief could be found and who would interpret this. If I were reading this, if we weren’t talking about this specific instance, it tells me that it’s on the side of the Industrial Zone and that the buffer would be contained within the Industrial Zone to separate it from the Residential Zone. That’s my own initial first read. It’s ambiguous as it really doesn’t specify. The word dwelling is in there and is inappropriate. I would suggest it should say existing residential zone. B. Ruoff commented that would make it clear. D. MacGuire replied you brought up a good point about when it was enacted. If that’s been there the whole time, I think we have to reflect on the plans that were approved and encroaching much more significantly than this.

T. Giffen said A) we may wish to look at the dates; that’s a good idea. This may not have been relevant at the time of the original plan presented in 06’. Second, if it was in effect or not, here we are

today, you're within a 100' of the property line if this is to scale. D. MacGuire said we're about 40' away in that corner. T. Giffen continued the venue for relief would be the ZBA. D. MacGuire said understood.

D. Baldessari (*a neighbor of theirs but this doesn't encroach on me*) said this issue is going to show up again with other applicants and turn it over to your Town lawyer and have them clarify this once and for all.

T. Giffen agreed that some of the regulations and how they are written are an issue. My goal as the new chair to get the ZRRC to look at this type of thing and what needs to be done to reflect the intent, and to protect the Town and our Master Plan. The Town attorney would have input as to what is enforceable, ambiguous.

J. Sobol asked how would you determine when the regulation was written. Light Industrial district was in place prior to 2006. T. Giffen said I'm not even sure it's relevant. I'm not sure if it can be looked at as a grandfathered issue or not. I would think that as a current regulation we need to interpret it and enforce it as best we can. D. MacGuire said can we circle back to this one. There are 2 more clarifications of regulations I have. R. Cartier asked with regards to ZBA, don't we have the possibility to waive requirements if it's in the best interest for what's going on. T. Giffen said we'll address when we circle back.

D. MacGuire said that was #17. #19 is in regard to the *parking spaces shown in the front yard space*. Section 9.02 and to me on this issue, there was some conflicting discussion. This is about the off street parking, the parking located for the ice cream stand. 9.02 states: *Off-street parking spaces required by this Ordinance shall not be located within a required front yard in the "R" and "LI-1/LI-2" Districts; and in any District such spaces shall be at least ten (10) feet from the side and rear lot lines except as provided in Section 9.03. This provision shall not apply to one family dwellings. 9.03 Commercial and Light Industrial: Required off-street parking spaces for commercial and industrial uses are contained within the Planning Board's Site Plan Regulations. New commercial and light industrial development (which we have) shall provide ample parking and loading spaces on the premises to accommodate vehicles of employees and customers, spaces to be located not closer than ten (10) feet from any lot line unless as a continuation of a parking area on a contiguous lot, and shall be designed so as to require no backing or maneuvering in a public street.*

T. Giffen said we have a setback of 10', unless it's a contiguous lot that's used for that same parking area. That's cut and dry. We're clean on this one.

D. MacGuire continued we are maintaining a 10' setback. #21 there's something written in the ordinance that says wetland soils need to be mapped to the standard of High Intensity Soil Maps (HISS). This is a bit of an outdated requirement but Bryan is just doing his due diligence. These wetlands were delineated by a wetlands scientist. The entire site was delineated with Site Specific Soil Mapping, a more specific to the site and soils on the site. That's a requirement of AOT. These were delineated correctly but they weren't given a designation of a HISS level. We want to make sure that the Board is comfortable with how we delineated this. R. Cartier suggested they request a waiver. D. MacGuire said the wetland scientist could give it a HISS if you prefer. It's rated as poorly drained soil. We could give it a HISS designation so if that's easier. T. Giffen asked B. Ruoff is what they've done sufficient to meet the spirit of the rule. B. Ruoff replied yes, the zoning ordinance is outdated but so the Town doesn't have a situation with a grievance from an abutter going forward, all bases be covered. I would say the applicant should just request a waiver that would be the easiest thing to do. R. Cartier asked the AOT uses, site specific soil mapping, would it be advantageous for the Town to adopt the AOT levels. B. Ruoff said the Town has already updated the site plan and subdivision regulations for site specific soil mapping but zoning ordinances are just behind. T. Giffen said motion to grant them a waiver on this. D. MacGuire was asked to fill out a waiver request first.

D. MacGuire continued #23 *the proposed Ice Cream Shop building is required to be at least 100 feet away from the existing wetlands/poorly drained soils, per Ordinance 10.06B*. Section 10 of the zoning ordinance is titled *Wetlands Protection*. I had a different interpretation than Bryan. There's a section in

10.06 Buffer Provisions within this section of the ordinance, which says, *No building activity (building does not include septic systems) shall be permitted within 100 feet of any pond, flowing stream or very poorly drained soil and within 50 feet of any poorly drained soil.* We have a wetland, it's a poorly drained soil so does that require a 50' buffer. However, this is my understanding of the ordinance. Typically when you have an article, you start with the purpose of an intent. You then go through the definitions of that. Then it starts with what are we defining as what these requirements fall under. And that would be the district boundaries. *Establishment of a District* it reads: *the limits of the wetland conservation district (that's what the buffers would relate to) are hereby determined to be the following:*

1. *all areas of very poorly drained soils;*
2. *areas of poorly drained soils 1/2 acre or more in size, and;*
3. *areas of poorly drained soils of any size if contiguous to Surface waters such as lakes, ponds and streams subjected to high water tables for extended periods of time*

My interpretation of this ordinance, this is 4,530 square feet. Significantly under a half acre. This does not fall under the conservation overlay ordinance. So the buffering associated with that should not apply. We can't impact a wetland but as far as a 50' buffer, I think that would only apply to poorly drained soil that's a half acre or more or a very poorly drained soil. That's my interpretation. I can see where Bryan flagged it but to me it has to be a half acre.

B. Ruoff said I think the overlay district is existing wetlands mapping that's in the Town's database. You read further it says in all instances wetlands need to be field verified and based on high intensity soil. I could be wrong but that's what I remember. R. Cartier asked just the ice cream shop or the parking area. D. MacGuire said per the requirements, only a structure, the building. 50' would limit the possibility of that structure being there. I didn't show that setback here because my interpretation was that it didn't apply to this particular wetland. I see where Bryan's coming from but in my years of experience, when you have an Article X, Wetlands Protection and you go through purpose of intent, definitions, district boundaries and then location of the district, permitted uses of this district, buffer provisions. It does say 50' of any poorly drained soil but it's within the sub-section of the ordinance. I'm not sure why it would say of a half acre or more. Why would they quantify that? It seems like it's concerned with a poorly drained wetland that's over half an acre. R. Cartier asked what the difference is. D. MacGuire said I think we're at 25'. This is a wetland that was created on site that got worse due to an existing sub-surface drainage system that was put in as part of the original application adjacent to this wetland. There was fill brought in and this area was sloped down to that wetland. We're trying to stay within that. I would argue that flattened area that's being used actively now, pumpkins sold there, supplemental parking. We were trying to continue the existing use but make it correct, pave it with curbing. Collect all the drainage. Drainage will not be running off to this wetland at all. The parking is sloped away from the wetland. It's going to be collected in the existing sub-surface system that's right there. I don't think we're providing any impact to the wetland. A poorly drained wetland (very poorly holds more water year round), half acre or more, this isn't close to a half acre. If you read that sections, it says all poorly drained soils but I don't think it falls in that.

D. Murray replied the wetlands that are shown on the plan, no structures within 50' of any wetland, that's the way I've been doing it for 5 1/2 years. That's my interpretation. I see there are gray areas but somewhere you have to draw the line. Fifty feet from wetlands for a structure. C. Robie asked if the ice cream stand would still be on wheels and be mobile. J. Sobol said it wasn't going to be. B. Ruoff said it wouldn't require the same setbacks if it were mobile. D. MacGuire said if the Board took the interpretation of the Building Inspector, I guess there would be a variance? T. Giffen said it may be a special use permit but I'm not sure what the grounds would be for it. D. MacGuire continued I've seen this in other towns where there will be a buffer wetlands of a certain size and then under a certain size there is no buffer, you can go right up to it because there's a different value between different sized wetlands. Auburn has 100', 75', 25' and none if it's small enough. T. Giffen responded I'd like to defer this to our Town attorney to interpret. I think it requires more input.

J. Sobol said as the applicant we have concerns about these interpretations of 100' buffer, wetlands, which is ambiguous, neighbors who want...we aren't going to have a site left. We have an excavation permit. I'm exaggerating and I admit that. That's why we can't cut a deal tonight with the neighbors because we don't know the interpretation of some of this other stuff and what we're going to have left. We don't mean to be un-neighborly. It's very expensive to go there. It's cheaper to go near this little 4500 sq. foot template and put our little building there and sneak up in the corner and do a little work in the NE corner where there are no dwellings. We tried to make those judgments to create a plan that was viable.

R. Cartier said the boundaries are set as a half acre or more. I think that's a key point. T. Giffen replied I'd look to Bart or one of his associates to tell me that. Then the Board has done its due diligence to follow the ordinances.

D. MacGuire continued #26, we were proposing from a cost savings and aesthetic standpoint to utilize boulders to buffer the parking area from the detention pond that we're proposing. Currently on site that's what's being used. Bryan cited a regulation that said all debris needs to be removed from a site. In his interpretation that would include boulders. *Regulation section 8.09. Specifically Bryan was citing, 8.09 is Disposition of Excavated Waste. All excavated waste including boulders, rubble and debris should be removed from the site unless the Planning Board authorizes otherwise.* We would be looking to use sizeable boulders to use as a barrier instead of putting in a metal guardrail along the perimeter. J. Sobol said we have that right now around our pond and it's worked well. R. Cartier said it showed on the landscaping plan as being part of the landscaping details. Then it's not considered rubble. Add size boulders. D. MacGuire said 3-4 foot boulders on the site plan, sheet 5. Maybe I should specify 3-4 foot diameter. R. Cartier suggested put same note on sheet 9, landscaping plan and you're fine. Board agreed.

D. MacGuire continued #41 *on the site lighting plan there is a note indicating that the exterior lighting is not considered in the foot-candle calculation grid. Existing lighting is required to be provided, confirming that the proposed lighting is in conjunction with the existing lighting.* That was done intentionally. We're expanding this existing site and there's existing lighting on site. Our lighting plan shows the expansion areas and how we're going to light those and how we're conforming. We weren't in a couple of small areas but that's been fixed Bryan. The areas that we're expanding, we have a full lighting plan. Existing site is compliant? Well that was approved; site's been in operation and has not been an issue so we're hoping to just cover the expansion, which is what we can calculate. We have point 2 foot candles in all areas of parking and access and more than that. We have pole lights over the truck parking area, lights in the island for the pedestrian parking areas etc.; sheet 11. T. Giffen reiterated so we are to consider the existing lighting to be acceptable on the basis that it was previously approved and to simply cover the new area. D. MacGuire agreed. We're not trying to be lazy, when these foot candle calculations are provided they need to have an IES file of the existing light and this light doesn't exist with the vendor I'm using so they don't have that compatibility. T. Giffen confirmed so it's a light fixture that's discontinued and you can't get the charts anymore. D. MacGuire responded it may not be discontinued but my vendor doesn't carry that particular light so he would be making something up so that's not the intent either.

R. Cartier asked there's no lighting in the ice cream shop area. D. MacGuire replied that was a comment by Bryan and we've addressed that. These plans don't reflect that because our lighting vendor hasn't gotten that back to us but he's adding pole lights in the ice cream area and we're adding a couple of more pole lights to that rear access drive so it's fully lit as well. R. Cartier said and the pedestrian crossing area and the entrance. D. MacGuire said there's an existing pole by the cistern. R. Cartier asked with the down lights are they dark sky compatible. D. MacGuire confirmed they are and will be LED dark sky compliant fixtures. T. Giffen commented that will be part of a waiver request.

D. MacGuire continued #64, these are kind of all lumped together and Bryan and I have talked about these. These are drainage related. A comparison done in my drainage analysis, I represented that existing site as what was approved. There were two ponds there and I assumed based on the previous design, I had access to the Hydro-cad Analysis that was done as part of that project. I used those figures for the developed area. That's the only way I could compare apples to apples. Under post development, I

modeled the entire area. What Bryan was getting at with that comment #64 when you look at pre and post development the numbers don't equal each other because I wasn't modeling the whole area. But I did account for it with the previous analysis. I also, on pre-development drainage plan, 20 and 21 of the plan set; you can see there's a limit of previously approved developed area. That area has a square footage which directly correlates to the differential between the post development and the pre-development. We're utilizing the previous data. That made sense to Bryan. B. Ruoff agreed that's correct. He's providing calculations and backup twice as conservative. Once he explained that, it was fine.

D. MacGuire continued #65 and stems through #66 and on related to drainage, the pipes on the site do surcharge during some of the higher storm events. That means a pipe is 18" in diameter, it's flowing at full capacity and then some. Typically, we don't want surcharge because we don't want a pressure situation where we're forcing water out this pipe, being pressurized by a head building up behind the structure. In this case, that's not what's happening. The outlet to the detention pond is backing up, we're at a set elevation, working with what we have, existing drainage structures. We have a set elevation of our pond at say 504. If our pipes coming into the pond are at 504, inherently when we have a 25 year storm event, the pond is going to back up and be a 507. That means it's completely surcharging these pipes but not in a pressurized situation but a hydraulic situation. If I were designing this site today, fresh, I would have raised the whole site two feet. That would have helped but we have an existing building and structure and we can't do that. We do have surcharge situations in a lot of the pipes going to the pond. What we don't have is surcharging out of the catch basins. Everything is contained within the catch basins. You're getting some capacity being stored within the pipe systems. It's not a pressurized situation but equilibrium of the hydraulic grade line. Pond goes up, catch basins go up. There's no requirement in Candia that we can't surcharge but the system needs to be designed to a 25 year storm. Bryan and I agreed if we could prove during our 50 year storm, which is step above the 25, that we aren't getting any surcharge out of the catch basins, that's a fair compromise and it's saying it is functioning during all storm events, including a 50. B. Ruoff said I concur with what Doug's saying. The conventional methodology for a certain storm event is that it clear passes the pipe, it doesn't back up over the top crown of the pipe. If this was open drainage, I would be concerned due to erosion on side slopes. Where it's contained in catch basins, I'm less concerned if he can demonstrate that good catch basins don't overtop during the 50 years storm, one storm event greater than what the Town design requires. I see this as a non-issue and a fair compromise. I think a waiver should be requested that outline exactly what's done so it's clear and documented. I feel he can demonstrate that. D. MacGuire said the purpose of a drainage system is to make sure the water goes away from the pavement. That's happening. You may look in the basin and it's only a foot down but it's not going to come out because of that hydraulic grade line, metered by the pond outlet. I can request a waiver. The Board agreed.

D. MacGuire #66 the site is discharging to 3 culverts, those are our design points but we're not modeling the actual capacity of those culverts. As an engineer, I don't like doing that because I need to make sure an existing site matches from a pre and post development drainage condition. We're modeling what's going to each one of these culverts from our site. We're not modeling the uphill drainage conditions of the DOT drainage system and further beyond. You have to draw the line. It looks like this pipe is surcharging in the 50 year storm, if it is, it's doing that right now, today and were' not providing any additional issue to that. T. Giffen reiterated so as a non-engineer, it would seem that if the flow from the site pre development and post development remains constant and is working now, we're good. D. MacGuire agreed. B. Ruoff replied the regulations word it a little differently where it says if you're tying into existing drainage and that drainage can't pass the design storm event, you need to update that drainage piping. I'm not aware of any issues with these culverts, Route 43, and the applicant is actually reducing the flow to all of them. It seems like a non-issue to me.

R. Cartier asked B. Ruoff this more impervious area, the parking lot area, will that result in more flow to the pond than what is there currently. B. Ruoff replied in the detention ponds yes, but not to the outlet culverts, AOT permits require a decrease in flow or identical flow to what's coming off the existing

property and Doug modeled the site from a drainage standpoint to hold back enough water so there is a decrease in flows to those culverts under Route 43. R. Cartier asked your drainage pipe coming out of the detention pond is 24" and the pipe going across the highway is 18". Is that of any concern? B. Ruoff said it's not ideal. D. MacGuire said I can look at that. When you're doing analysis you have to make those pre post numbers work and sometimes a larger diameter pipe will allow water to leave the pond in an easier manner, more controlled manner. I think that's why I had it sized that way. There's an L1, L2 and an L3. Those are my links, my modeling points. We are reducing the flow to L1, L2 and L3. If we designed the site as to what was actually going there, we'd have to hold back less water. I was doing this in a more conservative way. The Board agreed.

D. MacGuire continued #67 is the last drainage related one. *A foot of free board*. This is similar to hydraulic grade line issue. In a sub-surface system we're not going to have a foot of free board. They're not really designed to do that. They are designed to flow up to the full capacity of that chamber system. You wouldn't want to keep a foot of free board within the chamber because then you're losing a foot of capacity so we're filling them up to the brim but nothing is surcharging out the top. I can lump that in with the waiver. B. Ruoff said #67 isn't a Town requirement it's NHDES, so as long as NHDES AOT is fine with that design and that free board, that meets their requirements for a permit.

D. MacGuire continued #68 *drain manhole*; as far as treatment goes, you bring the water to an isolator row and the water is routed to one row of the system as opposed to all the rows first. It's directed there first and then that area has special matting that allows you to vacuum that row out and you have manholes on both sides of that structure and that row of chambers. You can provide maintenance. What I'm proposing to do Bryan is the catch basin that will go to the outlet control structure. I propose directing that flow by modifying the header pipe. We'll unearth that area and we can provide an off-set adapter so that the water will flow down the header, to that first isolator row before it fills up and goes down the other chambers. You'd have an 18" header with 12" offsets and the 12" would be higher. Until it fills up that 6" it won't enter the other chambers. B. Ruoff commented that it seems reasonable. D. MacGuire said this is an existing system and we're matching the flow that's coming out of it to what was coming out in the pre-condition. Does it meet full treatment AOT maybe not but it's an existing system. B. Ruoff stated that would come up in the AOT review process that they would probably comment on. D. MacGuire replied and my response would be the same or if they have a suggestion, I'm happy to work with them. T. Giffen stated so there would be a second set of eyes on this. D. MacGuire agreed.

T. Giffen reiterated so you have a list of waivers that you're going to request and we've got a couple of things we want to run by the Town attorney.

C. Robie asked when do you expect the AOT permit. D. MacGuire said hopefully soon, we submitted it to AOT the same time we submitted it to the Town. They have a 30 day review time.

J. Sobol since the abutter, our neighbors are concerned about that area in the NW corner of the site, I would offer we could come to some agreement with them. Can we get some relief in the NE corner of the site, where there are no dwellings? Where there never will be dwellings. I don't think you can get approval to put a dwelling there now, there's no frontage to the back lot. C. Robie asked how many square feet does the plan show of undisturbed area now. Outside of the site perimeter where you show the yellow arrows. T. Giffen said you're well above 3,500. D. MacGuire agreed. C. Robie continued you have to square that off 100' out there and do the math. D. MacGuire said my apprehension is that I'm concerned with septic placement. Maybe they can have a discussion and say "Hey we just don't want a building staring at us in that area but if you need to put a septic bed, that will re-naturalize, we don't care about that."

J. Sobol commented again the area that we're disturbing is nowhere near the line that was agreed to at the time and we can come to some agreement with the landowners there but we're more concerned about this constraint over here. If we can get relief on this and come back to you and say "Yes we've come to an agreement of some kind here", that's far more important to the viability of this project. There's no dwelling, this is light industrial owned by the forestry people. They don't want to develop that. We're right up to the line and we can be and we're 40' away here. There's no need for buffer here to any structure. The

neighbors concern is here, we'll come to an agreement and we need your help here to make this project go forward. There's a concern here of 100' of buffer slanting this way although the interpretation could be that way, it could be we split the difference, it's subject to interpretation. C. Robie said we were going to revisit that but it's going to legal to get an interpretation of the buffer. I'm going to interpret the buffer on the commercial side. And then in that corner, I would say you could negotiate with your neighbors, request a waiver on the NE corner. Possibly. C. St. Peter said John and I talked and I understand his concern, he explained it to me and we are willing to work with the abutters on a triangle of some sort, maybe a different configuration to honor the spirit that was before us, before we owned it. I think Joe just explained if that helps with the issue on this corner, which is more critical.

T. Giffen commented looking at the aerial, irrespective of how our Town attorney interprets the regulation as to which side of the line it falls on, even if it were an unfavorable interpretation to you and the buffer would be interpreted in the L1 side rather than the residential side, I think it will come down, the intent of the regulation is still met simply by the nature of the build out on the lot. And that's not likely to change and we may find a way to grant a waiver. There's nothing there to protect, nor will there be.

R. Cartier said we also wanted to see when that particular section was adopted. When the original design was being contemplated and in process, there wasn't a buffer zone in 2006. From what I remember. The buffer was put into the zoning requirements. If it was that way because this project was laid out at that time before that came in does that enter into too and that's going to be up to legal to decide.

G. Hebert said if that zoning requirement was a residential zoning requirement would I be allowed to do something and there was a potential easement on my property and I just put it right up along my property line and said well you have 10' on your property line with trees that easements required. Why would it be put into the light industrial section but have it applied to my side of the property line? That has no bearing. I'm confused as to why people don't recognize that. If there was a Town line and my line and I said there's 10' of trees on the Town side, I'm putting my fence right up here against that, it would be an issue. In my mind there's no doubt about the interpretation of that law, it's written into the light industrial zoning ordinance so why would that apply to my residential side. I'm not being difficult. I have no problem.

D. MacGuire said I don't disagree with the abutter, but when you talk about this corner here, we're talking about buffering from a residential dwelling, not a residential zone line. So here's a residential dwelling so let's put a buffer on our side for those abutters but when we come down to this corner, we're not buffering from any residential dwelling. So I think that's where I need clarification. T. Giffen said we'll put that into the request (*to the attorney*).

Case 17-002 Major Site Plan Application: Applicant: Wildcat Land Development Services, LLC was continued to May 3, 2017.

Informational: Applicant: Tobin Farwell, 265 Wadleigh Falls Road, Lee, NH 03861; Owner: William Tremblay; Property Location: 293 Chester Turnpike, Candia, NH 03034; Map 411 Lot 51 Intent: To subdivide a 14 acre parcel into 2 lots.

Present: T. Farwell of Farwell Engineering; Steve and Heather Tremblay

T. Farwell introduced himself I'm Tobin Farwell of Farwell Engineering and passed out plans with a conceptual property line for this residence. So Mr. William Tremblay owns this property. With us tonight is Steve and Heather Tremblay. There is a 14 acre parcel, we have had the wetlands delineated on site and located. It's a large site with a large area of upland. We have adequate frontage, 480' on Chester Turnpike and we need 200' per lot. But if we did that, we would force the driveway to cross the wetlands area. We'd like to propose that we create a common driveway and create a driveway easement to the rear lot. The

aerial photo shows I'm creating a flag lot, 200' of frontage on Chester Turnpike, having a common driveway with an easement over the driveway to service the back lot. That's what we would like to do. Typically the driveway should be within the 200' of frontage but because it is all wet, your regulations allow you to put a driveway through a wetland but we would like to eliminate that problem. Mr. Tremblay's father owns the lot we could certainly write up an agreement for maintenance and whatnot for that driveway, which could be passed on with the deed.

S. Tremblay confirmed to K. Kustra that the lot is almost a mile and half to Old Candia Road.

T. Giffen reiterated so you're looking for the sense from the Board as to whether or not the driveway easement is an approach that would be considered acceptable when you go to do this minor subdivision? J. Bedard asked so this is where the potential house would be. T. Farwell said this black line, it lines up nicely; you can see the tree, vegetation change where the wetlands are. It's like half the lot. C. Robie asked so you'll subdivide off a 3 acre lot. S. Tremblay replied the current dwelling is on a single lot and the new one whatever it has to be. T. Farwell said we'd do the minimum of the existing house and give the rest to the...C. Robie said you'll have some wetlands in there and you have to have an acre and a half of contiguous. T. Farwell agreed.

T. Giffen said it's a worthwhile goal to minimize disruption of a wetland for 2 reasons. 1) Protecting the wetlands and 2) minimizing the cost of putting the driveway through. The only question 50 years down the road with 2 parties that might not be thrilled with each other own these pieces of property, good luck battling it out as to who is shoveling out the driveway. T. Farwell replied obviously and agreement would have to be created. T. Giffen suggested it be in a deed. T. Farwell agreed and said there are all kinds of ways of doing that. Does the Town have boiler plates that have been successful in the past? They can form an association and bind in together. The association's responsible for maintaining. T. Giffen commented like a condo association. C. Robie replied that's a tough one; that proposed driveway is really close to that house. S. Tremblay said this property has been in my family for 40 years. My father and mother bought it in 1977 I believe. My father's getting older and his intention is to gift that house to my sister. There are two of us, my sister and I. My sister's lived there for quite a long time as well so part of the goal is to give the land to myself and my sister and that's how we're going to delineate it. Post our lives it may pose a problem but for the foreseeable future, it would be in the family. R. Cartier asked on the survey, 50' right-of-way. Is that yours? S. Tremblay replied no. We own about 10' feet of it and the other neighbor owns 10' of it but we do not own the whole thing. R. Cartier continued this is similar to another project that came up with Sis Richter's property. She has a landlocked area that she'd like to subdivide off for a house. T. Giffen stated she didn't have the frontage. R. Cartier suggested if the driveway came up along the property line. We've discussed having a zoning variance that allows for a private road or whatever so you could access the two lots. I agree with the driveway easement here might be prone to problems. S. Tremblay replied and I may have misspoken there. How wide does the road have to be? R. Cartier said under the current regulations it's 60 feet. S. Tremblay said so turn this right-of-way into a road so that the folks back here, 7 people I think, would have access to their land. T. Farwell replied I didn't think that was part of your property. That's access for these people to get to their land out back here. We can't, it would be difficult to come to them to try and gain access to this, just as it's difficult to do a driveway easement. You can put the issue off for a long time and once people get used to it, things get settled over time. R. Cartier responded I meant put it along your property line, not on the right-of-way. T. Farwell asked what would that gain you. R. Cartier replied because you have 480 feet, you could cut off 50' over here to put your own right-of-way in for those 2 lots.

C. Robie said Mr. Cartier does have a good idea. Put your driveway in along the left hand property line out to that back lot. Both houses, your back lot will have a driveway and your parent's house will have a driveway. Write an easement for that driveway on your parent's lot. Then they're 2 separate driveways. The proposed driveway you're showing is close to that house. You can get your 200', get your folk's house 200' and still have 80' on that right hand side to put a driveway in and everybody's happy. Then down the road, 2, 3 generations, we grant these shared driveways but we have the same discussion every time. It's

great today but it isn't always going to be that way. T. Farwell said I think its two separate items. They've already cut this into a trail that's there now, rather than cutting a new trail. This is a little misleading. The blue line is supposed the property line but that road is not on the property line so everything is shifted. So then you'll have this guy's trail that goes out back. Another 30' you'll have his driveway, it just seems...I appreciate your input. I think I'm missing what the difference is. T. Giffen replied drives. One for the existing house and one for the house out back and then it would... C. Robie said he already has a driveway. R. Cartier said the driveway up the left side of the lot to come up to the house and then get an easement, there's no question. T. Giffen said it's on the deed. C. Robie said they're not sharing it. T. Farwell said I did say a shared driveway. But there's a mark right here on the aerial photo that there is a driveway here and my white tape is a second driveway. I'm with you, two separate driveways but I'm trying to utilize the existing trail that's here now. That's why. S. Tremblay confirmed so you're contention is that the proposed driveway is too close to the house? And if we do it on the other side of the property it won't be as close. C. Robie reiterated and then put an easement and then that owner of the house in the back always has an easement without driving by the neighbor's window. S. Tremblay asked what's the setback from the right-of-way. C. Robie asked for a driveway, I think you can be right on the setback. You can't build in the setback but you can build a driveway in the setback. R. Cartier said you just have to build it to Town specs for driveways. S. Tremblay said I just want to make sure there's enough land there so if we can get the easement we have enough land there. T. Farwell replied that's the issue, there's a second wetland. This little finger of wetland, we want to avoid that. C. Robie replied you have room between the wetlands and the property line to put a driveway in. T. Farwell said we'll have to get some more information. T. Giffen replied so think about that approach and then come back when you're ready to do something. T. Farwell summarized so you would support a separate driveway creating an easement. Town Counsel has to review the easement language is that typically how you do it? C. Robie said it's up to us. You write an easement and put it in the deed and that's that.

Other Business: Grant Application

Present: Carmel Druchniak; Colleen Bolton; Carol Ogilvie.

C. Druchniak introduced herself, Colleen Bolton and Carol Ogilvie. Colleen and I were both on the Master Plan Review Committee. We are here to ask the Board to consider recommending to the Board of Selectmen that the Town allocate \$2,500 to help us apply for a \$10,000 grant. The grant is a Municipal Technical Assistance Grant (*MTAG*) and it's going to make possible a professional review of our planning and zoning regulations related to residential development. In the new Master Plan we had a lot of debate about residential development and diversity of housing and work-force housing. It was a big topic of discussion and an area of concern in terms of Candia and did we have our fair share according to the state. This grant could help us be pro-active in terms of what do our zoning regs look like now, what might they look like to put us in a good place so that if residential development becomes an issue or someone knocks on the door and wants to do something, have the regs in place so we don't react and we are well positioned. The cash match is \$2,500 for the \$10,000 grant. Plan NH, is offering the grant, has indicated we're a good candidate to get that money. SNHPC that worked with us on the Master Plan, their primary planner has left and their trying to hire more planners and are in a re-building stage. In a state of flux and Robin LeBlanc from Plan NH has suggested Carol, who is a professional planner, to take on the roll of applying for the grant and administering the grant and coming up with doing the work, devising a report, sharing that with the Town. I'll let Carol introduce herself and tell you what she would do as part of this initiative.

C. Ogilvie said this grant money comes from HUD initially through NH Housing Finance Authority and Plan NH has been tasked for this particular grant program to administer so they'll review the grant applications and make the decisions. The primary purpose of it is to help towns strengthen their ability to ensure that they have adequate housing opportunity for all residents at all income levels. But it isn't just for

that. I've done some review of your Master Plan and Community Profile and there was a lot of discussion in Town regarding a village district perhaps or even a couple of village nodes in separate places. Initially I'm thinking that this could be a part of the grant application. If the Board agrees to this, I would write the application with input from all of you. The Selectmen have to be the ones to submit it to Plan NH and the deadline is May 9th. If the application is successful, then I would come back to Town and work with the Board and perhaps with the Steering Committee to oversee the project. It really would largely consist of a public outreach and engagement; going back out to people, asking people to come in. Basically re-confirm what people said in 2016 that's in the 2017 Master Plan, "is this really what you want?" If that's what we hear then I would start drafting zoning amendments which would then go through the standard public hearing process with the goal that the Planning Board would vote to put those amendments on the ballot for March.

C. Druchniak replied our concern is that the Master Plan document, like the previous incarnation, it was overwhelming and unwieldy. It was really hard to take that plan and make it an action plan. With the new Master Plan, this is one of many steps that will be taken to take it and make it a document that we can work with and go through it and say one of our vision statements was diversity of housing. I don't think this grant means we're going to throw open the doors and anyone can come into town and we'll have development run amuck. The goal here is to see what we have in place, see what we might put in place so that we're well positioned and don't have to react when the situation arises. T. Giffen replied as chair, what I'm seeing is that we have a lot of regulations that need to be revisited with a view towards enforceability and benefit to the Town, two-fold. That's the job of the Zoning Review Committee but help is welcome and professional help is wonderful in my opinion.

C. Robie asked does that make it a \$12,500 grant or does it make it a \$10,000 grant. C. Ogilvie replied it would be \$10,000. Because the Town needs to provide 25%. It's 25% of however much the Town asks for. You can ask for up to \$10,000, not more. C. Robie replied I think this came before the Board of Selectmen a year ago and I think the Board said they were going to wait until we had adopted our new Master Plan. The Selectmen did appropriate money in the budget for planning. The 2017 planning, \$10,000. It's in the budget for this year's planning. If the Planning Board recommends this to the Selectmen, the Selectmen budgeted for an opportunity to plan. T. Giffen said it looks like a good opportunity. R. Cartier asked what would be the outcome. C. Ogilvie reiterated the outcome would be zoning amendments that would be intended to achieve the goals that were expressed in the Master Plan, specifically relative to housing and a village district if that's what we hear from the public outreach. R. Cartier continued my concern is that we have a 3 acre minimum building lot size. Changing the zoning of different areas, just because it would be a good thing to do, might not be practical because the infrastructure can't handle it, there's no water. We tried to get 55 housing and it went down the tubes because there's no water. If you look at our zoning requirements and make some recommendations for zoning change, what's going to be the science behind that, how can it actually and physically be put into play? C. Ogilvie replied in the first instance whatever would come out of this would be small scale and not a town wide re-write of the zoning. I think that would be too much. This would be targeted and limited, at least as far as the village district is concerned, if that goes forward, would have a very specific location. As far as housing overall we may come up with recommendations to change regulations for what kind of housing is allowed and where it might be allowed, that might apply town wide but maybe not. A lot of what would happen would be dependent upon what we hear from the public. R. Cartier said we did do a grant application last year with SNHPC to do something very similar to this. C. Robie corrected we did the grant application so SNH could do the Master Plan but we didn't get that. It didn't get applied for, it didn't go. I would say that 3 acre zoning came from the Zoning Revision Committee and the public voted on it and that's how we got that. C. Ogilvie clarified *with regards to timing and getting it on the Selectmen's agenda* was that that Select Board would actually not sign off on it until the application is complete. That would be the meeting right before the deadline. If the Selectmen sign on that night then May 9th it gets sent off. C. Robie said the Planning Board needs to recommend this to the Selectmen, if that's what you want to do. C. Bolton commented that

one of the things for me that came out of the Master Planning Committee at the risk of being dramatic, a little bit horrifying, is that we had somebody come in that talked about work force housing and there's a general feeling that we may be in compliance for ownership but we're way out of compliance for renting. What I walked away with was that if we don't plan and determine that somebody can come in and put in an apartment something, somewhere, and we don't say where that would be and what it would look like, a developer could come into town and say I want to do this and if we turn them down, they could sue the Town and they would win. And then they get to put it where they want and it gets to look like whatever they want it to look like. That is really unsettling and the cost of a grant like this that could help us beats the heck out of the Town paying legal fees to end up with whatever. If we're proactive we get to drive the bus whereas if we're not someone else can come in and tell us what we're going to do whether or not we like it.

C. Druchniak replied and part of this process ensures community input. It requires it.

R. Cartier said I'd be cautious on that it's like beating a dead horse. There was a lot of involvement with the Master Plan and the Candia Profiles and things like that, it almost sounds like to me, that's what we just did, why are we doing this again? You already have your public input. We have the Master Plan, that's what we did the public input for, now we want to start implementing it. I'm a little concerned on how it would be approached because I don't want people getting exasperated again; like this is never going to end.

C. Druchniak replied but the Master Plan document is not the zoning regs. It's the guiding principal that should be used to look at the zoning regs and amendments and modifications and everything else. You're right, I totally agree that some people will say been there done that. But I think this is the logical next step. R. Cartier said I think it would help a lot with the Zoning Review Committee; they have to do a lot of work. T. Giffen replied I don't feel that there's any question that there's value in this and it's quite desperately needed. I would ask for a motion from a member of the Board that we recommend this to the Board of Selectmen.

MOTION:

A. Hall **motioned** that we recommend to the Board of Selectmen the \$2,500 be allocated to the Town's application for the \$10,000 Municipal Technical Assistance Grant (MTAG). T. Giffen added recommend to the Selectmen that they expend \$2,500 in matching funds towards the grant of \$10,000. R. Cartier **seconded**. **All were in favor (6-0-0) Motion passed.** A. Hall asked what does this do that SNHPC couldn't do for us. Could they not apply for this grant in the same way for us? C. Ogilvie said if they were up to capacity with their staff absolutely. They have and had very qualified people in the past but losing their principal planner as I understand has put them in a position where perhaps this is a bit challenging for them. The reason my name was put forward because I have experience with this. Robin recommended me and I did a grant like this last year in Peterborough and I've done other grants with NH Housing Finance Authority and Plan NH. I have 30 years of experience as a planner in NH writing zoning ordinances. A. Hall said full disclosure I'm on the SNHPC and Executive Committee. So anyway I can assist in that regard.

Future Procedural Review: T. Giffen suggested at another time to review current procedures; to discuss the responsibility of the applicants to round up all the letters from police the fire, tax collector and to think about some guidelines for a fair number of conditions allowed on a plan for conditional approval and more.

MOTION:

J. Bedard **motioned** to adjourn at 10:35 pm. K. Kustra **seconded**. **All were in favor. Motion carried (6-0-0).** *****A Zoning Review & Revision Committee Meeting did not take place, continued.

Respectfully submitted,
Andrea Bickum,
Land Use Secretary
cc file