

**CANDIA PLANNING BOARD
MINUTES of October 3, 2018
APPROVED**

Present: Rudy Cartier, Chair; Al Hall III, Vice Chair; Ken Kustra; Mark Chalbeck; Joyce Bedard; Josh Pouliot, Alt.; Scott Komisarek, BOS Representative.

Absent: Judi Lindsey; Mike Santa, Alt.

Present: Dave Murray, Building Inspector; Dennis Lewis, Road Agent; Bryan Ruoff of Stantec; Richard (Dick) Snow, resident; Scott and Tracy Blevens of 39 Donovan Road; Jim Lindsey of North Road;

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

Alternate Josh Pouliot sat in for Judi Lindsey.

Minutes September 19th, 2018:

Note: Joyce Bedard was excused at 8:55 pm and was not present to vote on accepting the minutes.

MOTION:

A. Hall made a **motion** to accept the minutes of September 19th, 2018 as presented. S. Komisarek **seconded. All were in favor. Motion passed (6-0-0).**

MOTION:

A. Hall made a **motion** to accept the memo/minutes of the site walk from September 26th, 2018. S. Komisarek **seconded. All were in favor. Motion passed (6-0-0).**

Applicant requested a continuation via email on September 5th, 2018:

Continuation of 18-006 Preliminary Major Subdivision Application: Applicant: Ashwood Development Companies, Inc. 740 Pine Street, Manchester, NH 03104; Owner: The Lodi Trust, Christine Tancreti, Trustee, 266 Donovan Road, Candia, NH 03034; Property Location: 266 Donovan Road, Candia, NH 03034; Map 411 Lot 40; Intent: To subdivide lot 411-40 an 18.74 acre parcel to create 4 lots; 3.28 acres, 4.93 acres, 4.96 acres, and 5.54 acres. Upon a finding by the Board that the application meets the submission requirements of the Candia Preliminary Major Subdivision Regulations the Board will vote to accept the application as complete and a public hearing on the merits of the proposal will follow immediately. Should a decision not be reached at the public hearing, this application will stay on the Planning Board agenda until such time as it is either approved or disapproved.

Present: Chad Branon, Civil Engineer with Fieldstone Land Consultants; Bryan Ruoff from Stantec Engineering.

Abutters Present: Amy Spooner Hebsch of 291 Donovan Road.

C. Branon said we actually submitted a letter today requesting another continuance but also giving a brief update on where we stand with the project. We have received a couple of reviews, outlined in the letter, from the Town's consultant and unfortunately what is being requested in the letter I submitted today is my client strongly believes there is a conflict of interest that exists between his company and the Town's review consultant. We are requesting per RSA 674:4b that the Board strongly consider a different review consultant for this particular application. I do outline in the letter and I'd be happy to read it if you like, I do outline more details in relation to the conflict. Apparently my client did a project, he's a developer,

Ashwood Companies Inc., did a development in Milford NH and at that time members of the same company, Rene LeBranche in particular was the review consultant at the time with Dufresne & Henry and through the course of that particular project, Dufresne & Henry got terminated at the local level so there's a conflict there and on top of that, in reviewing with my client and we document it in the letter, the Town of Milford Director of Public Works at the time also shortly thereafter parted ways and that happens to be a close relation to the Town Engineer for Stantec in this particular application. Professionally we don't have any professional issues with Stantec or any of their representatives but as an agent for my client we do have to represent his concerns and share his concerns. He did voice those early in the process and I did share that with some correspondence with the Town staff. Through our guidance he elected to proceed and unfortunately the latest letter that was submitted by Stantec has changed his thought process in terms of trying to work through with the consultant currently reviewing the project. That letter is the one that created some real concerns, dated September 4th. It implies that we have to go before the Selectmen to get approval for any improvements to Donovan Road, which is in fact true. But goes on to further state that the subdivision cannot go forward until the road is reclassified, which we do not believe is true and my client's attorney does not believe is true because if you look at subdivisions in general, if somebody came before this Board with a proposed subdivision with a proposed road, that proposed road does not have to go before the residents of Town and be accepted before somebody can go through with their subdivision so likewise the upgrade of an existing road does not have to go through that process either. It's not a process we've ever partaken in. So he feels that that was a real step in the direction of a conflict not to mention through our research we don't understand the basis of that letter meaning we don't know where it was solicited because it doesn't seem to be consistent with the prior letter dated July 23rd.

So we've spent since September 4th we've spent time reviewing the local regulations trying to get a solid understanding of what the process is.

At this time we don't believe that presenting this project to the Planning Board is the appropriate path. We think we should be before the Selectmen working with them on the improvements to Donovan Road and ultimately getting their approval for a subdivision on that road subject to us ultimately back before this Board for subdivision approval. That's the premise of my request for a continuance. We're acknowledging that we should probably be before the Selectmen at this time but with that request for continuance in mind, we do also request the Board consider a different consultant for this particular project and application. So we appreciate your consideration of that and again, just speaking professionally we don't have any issues but we have to represent our client's interest and that's how they feel.

R. Cartier asked does the Board want me or Mr. Branon to read the letter. The Board had all read the letter. R. Cartier said I have a couple of questions. The applicant right now is Ashwood Development for the subdivision correct? But they don't own the property. C. Branon said correct, they do own it, through a different entity. The Lodi Trust, Christine Tancreti is the wife of Mike Tancreti who is the owner of Ashwood Development so it is the same entity. If there's any concern relative to that I could get additional documentation for the Board.

R. Cartier replied there is. The way that it is right now without having any documentation that Ashwood is authorized to act on behalf of the owner, the way that it's listed in here, the owner is Lodi Trust, its two separate entities. We would need something to authorize Ashwood to be either representing the Lodi Trust or they own the property in and of themselves. C. Branon said I thought there was a letter of authorization but I can definitely look into that. R. Cartier replied there is for you to represent Ashwood and for the Lodi Trust but there isn't one that ties the two together, the applicant and the owner. In that respect, we'd have to say the application is null and void because the applicant doesn't own the property but taking care of that then by having the letter authorizing. Basically the same as the two did to you, then that would cover that section of it. C. Branon replied okay.

R. Cartier continued the other question is on the road, correct me if I'm wrong, you felt that doing the due diligence that you did that the road doesn't have to be upgraded before we approve the subdivision, if we do approve the subdivision. C. Branon replied no, I believe in the first letter that Stantec issued dated

July 23rd; it referenced the Town's policy for Class VI roads and developments on Class VI roads. That was not a document that was available to us prior but certainly the outline in that letter that there would need to be some improvements to Donovan Road contemplated or at least an approval from the Selectmen to the existing conditions or some form of improvements. We do not contest that which is the reason why we believe the first step in this process would really be before the Selectmen now that we have that policy, have a solid understanding of what those standards should be for the upgrade of a Class VI road, we're not contesting that; the content of that.

R. Cartier responded the way the policy and the RSA's are written; yes the Selectmen do have the final say on what needs to be done to a Class VI road to bring it up to a Class V road. Having said that though part of the process is that the Planning Board has to give their opinion on what needs to be done and what should be done to be submitted to the Board of Selectmen for their hearing on that. I'm not sure if a public hearing is required on that...No, not on that one it would be if we're reclassifying the road from Class VI to a Class V but this is going to be the Selectmen doing an existing Class VI highway to Class V so what are their processes. We'll have to discuss that and make a motion on what we want to recommend to the Selectmen on that.

C. Branon replied sure, we understand that process we just think dialogue with the Selectmen is a good way to initiate the...*process? (Unintelligible)*. R. Cartier agreed no question.

K. Kustra asked which comes first what you just said or a third party consultant. R. Cartier said what I just said in here. They'll have to do a couple of things before they go to the Selectmen's meeting, they'll have to have the authorization to go before the Board of Selectmen. K. Kustra continued a third party consultant would have to be voted on first before it goes to the Selectmen. R. Cartier said good point. C. Branon commented I don't want to misspeak but my understanding in reviewing the Town's policy for the Class VI road is that it clearly outlines the standards within that policy that the Town would be looking for and it doesn't make any mention at all of third party consultant in that review. The Selectmen certainly have the right to consult with an engineer in that process as the Planning Board does in your process. I think the Planning Board review would be independent of the Selectmen's review meaning that you would have the opportunity to review and comment and approve what we kind of laid the foundation for before the Selectmen and at that time, that's when the consultant that the Planning Board is utilizing would review that particular portion of the project. They would likely be reviewing it against the Town's policy which was shared from Stantec as they are currently the consultant for this project. We're not contesting the process that they outlined in their July 23rd letter; we are contesting the process that was outlined in the September 4th letter. A portion of that.

A. Hall asked relative to the issue of conflict of interest within an employee of Stantec, my understanding is that Stantec is multi-national engineering firm that has many engineers. Would your client agreeable to have another Stantec engineer do the work or is there something further that we don't know. R. Cartier asked to hold off on that for now. We'll have to bring up that point in a few minutes. I want to make sure we have the process right in conjunction with that. A. Hall replied Mr. Chairman I would think that would take precedence over the so called Selectmen issue. We need to resolve that first before we discuss. We have two issues here. S. Komisarek said let's stay on Rudy's track. J. Pouliot said we'll come back to that when you're done.

A. Hall said my point is if we resolve the consultant issue irritating the applicant would that be considered agreeable to the applicant or does he want a different consultant other than Stantec altogether.

C. Branon answered the applicant and land owner would like a separate consultant. The senior principal that oversees the whole review process is the primary conflict with this project, that being Mr. Rene LaBranche. There is an apparent history between my client and him that extends many many years but particularly came to a head on that project in Milford where the Town decided that their position was unreasonable and decided to part ways with that company at the time. It's the same individual, he's a senior principal at Stantec in their office that oversees the same process so we don't see, assuming there is a conflict, which I have to assume, I've been told that from my client, I outlined that in my letter, that I do

believe there is a conflict here and I think it's reasonable, the RSA clearly says that the applicant may request that the Planning Board choose a different third party consultant. The Planning Board shall exercise reasonable discretion to determine whether this request is warranted and I think it's reasonable, a reasonable request. The other level of that conflict, I'm not sure how much emotion is there, but the Director of Public Works at the time is Mr. Ruoff's father so there is a connection there as well. I can't have a conversation with my client and talk him into continuing down this path. That's ultimately what I did early on and then that letter on September 23rd threw them over the top because it's our understanding that that letter wasn't solicited by the Planning Board or planning staff so we don't know where that letter came from so the only opinion at that point is that it's just feeding that conflict, question and concern.

A. Hall again suggested my point is that from reading your letter, that's a conflict one to the other and personalities and my point is would your client be acceptable say a Stantec engineer from Maine or New York, completely independent of the Stantec New Hampshire. C. Branon replied he would not. J. Bedard added the question's been answered. He doesn't want it. A. Hall said it sours the whole Stantec... it's unfortunate. C. Branon replied I got in trouble for talking them into it prior and then the September letter came out and that's the reality. J. Bedard said we get it. A. Hall said I yield.

R. Cartier said going back to the Class VI road policy.

Abutter Amy Hebsch of Donovan Road commented it's my understanding, I believe in 2006 we passed an ordinance where you couldn't subdivide on a Class VI road that you'd have to bring a Class VI road up to a V and when my family and I tried to subdivide the land on Donovan Road so we could give the land to each sibling, we were told that in order to do a subdivision we'd have to bring Donovan Road up to a Class V road with the guidelines of the state and that road from that point on would be maintained by the Town.

R. Cartier replied you're pretty much right on target. The problem as I read it, in the Class VI and Private Road Policy, it doesn't have a tie in to development. Basically the way the policy is if there's an existing Class VI road and you own property on it you could build a house with the approval of the Selectmen and bring it up. There are two different issues in here. You brought up one of concern to me. There's a precedent set that past Board's have not approved subdivisions on Class VI roads, that's the bottom line. The road would have to be brought up to Class V. The Selectmen would have to take a look at it from the standpoint if it's not maintained now as a Class VI road, do they want to add another dirt road, gravel road and have it maintained and plowed by the Town. That's a decision the Selectmen would have to make so there's two issues in here right now. Personally, from my standpoint being on the Board, I don't believe the Class VI road and Private Road Policy applies in this case. It would be coming back to the Board that if there was a subdivision that would be approved, the road would have to be brought up to a Class V, it couldn't stay a Class VI road. It's going to be up to the Board of Selectmen to make that determination but the Planning Board needs to discuss to see what our recommendations are going to be based on what we know for our policies. So that could be an issue.

C. Branon said yeah, we've been reviewing that as well so I'm not contesting that. The level of detail that we're currently evaluating in preparation to request a meeting in front of the Selectmen. R. Cartier said one of the positives, if it was a new subdivision with a new road, you'd be talking a much higher level of detail and construction on that road. I'm not sure what the length of the road is or how much work needs to be done but there's a certain point where it's Class VI and continues on.

D. Lewis replied the only Class V portion is on Route 27 end and that only goes in a short distance. R. Cartier said that will be one thing that will be of consideration both to the Board of Selectmen and Planning Board if and when it comes back to us. A. Hall said the regulations are quite specific about Class VI roads and to me if we make an exception here that we're not opening Pandora's Box to Aunt Mary's Lane, Baker Road and other roads in Town and I would be against that.

C. Branon responded we're not asking for any exceptions, we're just looking to get the project on the right path. R. Cartier said it would set a precedent so we have to be careful from our standpoint on how we would address it?

J. Bedard asked did we accept this application as complete. R. Cartier replied no. R. Cartier said the application hasn't actually been submitted formally. These items needed to be addressed before we got to that point. J. Bedard continued okay.

R. Cartier continued does the Board want to discuss and make a recommendation to the BOS what we consider to be this portion of what this project is going to entail. I'm open to ideas. J. Bedard said you said the application was null and void so that's why I asked that question. R. Cartier agreed, correct. J. Bedard said so should we even be discussing this without that paperwork not being...R. Cartier said we can. It's a little tricky because Mr. Branon is authorized by the owner of the land to represent her or the trust. From that standpoint we can because he's looking to see how that would pan out and what would have to be done for that application. But on the other hand, he can't act for the applicant in this case because the applicant is not authorized by the landowner. It's not clear cut. But we can give him some ideas. When are you on for the Board of Selectmen?

C. Branon said we'll be submitting materials to get before them and that would put us on their second meeting in October? A. Bickum asked do they have to notice it. It would be the 22nd. It depends on if they have to notice it. C. Branon said potentially looking at November. A. Bickum said November 12th.

C. Branon said this particular application hasn't even been accepted so it doesn't really need a continuance. We could just resubmit the application at this point, there's been such a long process it would be worthy of re-noticing the abutters anyway. I'm not sure it's a good time to be talking about the road upgrades as I think it would be reasonable to talk to the Selectmen and present a concept that was discussed before the Selectmen and see if the Planning Board felt that that was reasonable instead of trying to invent the dialogue tonight without having any benefit of any of those details and specifics we may be discussing with the road, drainage, stuff like that.

R. Cartier said that's what I was going to suggest. I think the Board needs to take a look at the Road Policy and see how applicable it is and we can either all go or whoever wants to go to the Planning Board (*meant Select Board?*) once that preliminary application is done and make our feelings known on how it would be affecting the subdivision application. Let's table that for now knowing that that's going to be an issue in there. The open issue now is the authorization for Ashwood to represent Lodi Trust and then the other issue we need to address is the request for a different third party consultant to do reviews of the application.

J. Bedard said I do think it's a conflict of interest and per the RSA should allow him. He made an effort, they talked him into it. I don't see why we wouldn't do it if it's in the RSA. K. Kustra asked who do you suggest for a different consultant.

C. Branon replied we did make one recommendation in the letter. I know in a lot of surrounding communities I believe Keach-Nordstrom Associates does reviews for some municipalities. They're a consultant, professionally we don't have an issue with any consultant but that's a consultant I believe does reviews for neighboring towns in the area and we've worked with them before. That's a consultant my client mentioned as well because he's run into him in other areas as a review and felt that they were reasonable. I just want to point out the one thing I didn't mention, there will be an outstanding balance for Stantec and my client understands that and has agreed to pay for their services for the outstanding balance but he doesn't want to pay for the time put into that September 23rd letter. I put that in there on his direction, I may have authored that letter but it came under good guidance. K. Kustra said so you don't see a conflict with this new consultant since you mentioned you're client or the owner has dealt with him in the past. C. Branon replied they do municipal reviews so if you do work in other communities you're liable to work with other consultants and that's the relationship they've had in the past. It could be any other consultant that's a decision the Board has to make. The RSA allows us to make recommendations. It's just one name that came to mind when we were having the discussion.

A. Hall said I think the Town of Candia should look to our Building Inspector and the Road Agent to be completely independent. R. Cartier replied I have a concern with it. The concern is you're right we have good consulting firms in NH. My only concern is how experienced are they in the Town of Candia

planning regulations would be my major concern. We use Stantec because we have used them for a long time and they are very comfortable with our regulations. I want to make sure we don't miss anything because a consultant who hasn't worked in Candia isn't well versed in our regulations and might miss something that's detrimental to the Town. That's my fear. J. Bedard said on the other hand when you have a new set of eyes looking at stuff you can get a fresh perspective. J. Pouliot said we have Stantec's opinion on a few steps. R. Cartier replied we do but they didn't do a technical review. They've done a completeness review. That would be my only concern. J. Bedard said have we figured out why that letter was written? Who asked Stantec to do that? R. Cartier said the letter was dated September 4th? J. Bedard confirmed, yes, I think the date was misspoken earlier.

B. Ruoff replied I can answer that. So our cost estimate letter and our notice to proceed letter has a lot of language in it like we'll deliver a letter within 2 weeks upon the initial submission of the application. We'll provide any follow up review letters within 7 days of introduction of new information. Just to stay true to those things that we identify in that letter, we were coming to a point where if the case was going to be discussed that the Board that night and we didn't have anything new to discuss. Essentially it was an update for the Board to let you understand where we were at and why we had not performed a review to date, which is beyond the two weeks from the initial submittal. R. Cartier replied it seems reasonable to me that that would be in there because that would have been the meeting on the 19th if we had continued on. The continuance was on September 5th.

B. Ruoff said it was scheduled to be heard on the 5th, a letter on the 4th just to update the Board that we were unable to perform a technical review to date. R. Cartier replied so it was done in anticipation of the applicant coming in for the Preliminary Major Subdivision Application which to me would set it for the initial cost and not the technical review cost. B. Ruoff replied either way we didn't bill our time for this letter, it was done just to update the Board, it's a moot point. R. Cartier reiterated so you didn't bill for that. B. Ruoff agreed, no. R. Cartier said you can let your client know that they don't have to pay for the letter from September 4th because there was no charge for that letter. C. Branon said okay. We would just need to know what their invoice is. A. Bickum said \$397.85. Invoice number 1395119. We pay that so that payment just comes to the Town of Candia and we pay the invoice.

R. Cartier said so the other item is the request for a different third party consultant. You know my feeling on it, what's the Board's feeling on it. I'd entertain a motion either way. J. Pouliot replied I agree with Joyce I think it's reasonable to have another company look at it. R. Cartier said we'd be setting a precedent so keep that in mind. S. Komisarek said but Rudy they passed the RSA for this particular reason. R. Cartier said they did but...S. Komisarek said despite the RSA it's still the discretion of the Board? R. Cartier agreed. They may request another 3rd party review and they can include the name of the preferred consultant but the Planning Board shall exercise reasonable discretion to determine whether the request is warranted. So the question that the Board has to determine is is it warranted under this particular set of circumstances.

K. Kustra said if I can recall correctly when this first came into being the Planning Board discussed the fact of approving any consultant put up before them and checking them out so to speak as well as voting to accept same.

A. Hall said that's why I suggested we have input from the Building Inspector and the Road Agent, they have further knowledge than we do. D. Murray replied I can tell you right now I don't have any knowledge of these requested engineers and I agree with Mr. Kustra that we do some research on whoever. It might be recommended by them and see if they meet our qualifications. S. Komisarek said Rudy your concern is their familiarity with the regs and you want to make sure the Town's protected and that's a good point. You said surrounding towns are they over in Hooksett? C. Branon said Hooksett, Auburn. Any consultant that does municipal reviews, the foundation for that is that state statutes and they seem like a very knowledgeable firm. I would recommend talking to CLD, Comprehensive Environmental Inc., there's other consultants out there that do municipal reviews. I'm not telling you who to use, per the RSA that's one consultant you could consider. A. Hall mentioned Dubois & King? R. Cartier said they don't exist

anymore, they're Stantec (*Inaccurate reference: Dufresne & Henry was purchased by Stantec, not Dubois & King. Dubois & King is actually out of Bedford, NH.*)

C. Branon clarified they're in Vermont (*there is a Dufresne Group out of Vermont*). R. Cartier said that's a good point. I'm familiar with most of the engineering firms that you talked about. My hesitation is that the recommendation came from Ashwood Development. C. Branon replied we talked about 3 or 4 different companies and I didn't want to put a laundry list in the letter and I know that Keach-Nordstrom does reviews in I think the closest towns to Candia. I felt like you may be familiar with them because of their proximity to Town. It doesn't matter who it is, we deal with it on the same level from our standpoint. Like I said before, I personally and professionally have no issues with Stantec, I'm representing a conflict from my client.

M. Chalbeck said where there is a conflict I agree have Dave and Dennis look at a different one as a separate 3rd party because there is a conflict and see if they meet our Town standards and if they can prove that, we can use them. It doesn't have to be the one listed but maybe one of the three.

D. Lewis said Keach-Nordstrom has been before the Board before representing an applicant so they are a bit familiar with Candia's regulations. I would add that we would want to make sure that Keach-Nordstrom has not worked for your applicant in the design stage and then come here to approve the work. We want to make sure of that. We've had the reverse situation in Candia before where a design engineer worked for the applicant, presented the design and then went to work for Stantec and was overseeing the work and I had them removed from the job and we put another representative from Stantec in charge because there's clearly a conflict there. I want to make sure that Keach-Nordstrom has never worked for them.

R. Cartier said from an engineering standpoint, Mr. Branon a registered professional engineer and so am I, we're under a code of ethics and if any of the ethics are violated that company could lose their license totally. If we decided to go with them, they would have to give us a letter stating if there any conflicts of interest whatsoever. D. Lewis said that's why I'm bringing it up to make sure there are no conflicts.

S. Komisarek said I thought rather than Dave, he doesn't really understand the process, it's most important that the Planning Board is comfortable that they're going to represent the Town and that they understand the regs and that's a very good question. If we're going to consider somebody, we should talk to them, interview them, have them come in and say we've had Stantec forever and these are our concerns. If they say gee the regs are really complicated or not, I don't know what they would say but it's the Board that needs to be comfortable. It's our responsibility. R. Cartier asked so you're suggesting we'll take the recommendation for Keach-Nordstrom and have them come in to meet with the Board at the next meeting? S. Komisarek said or CLD and another one. There may be a conflict, you should check with your client too, which one of these firms has done work?

C. Branon replied I do know that Keach-Nordstrom tends to do design work, they tend to do it on the western side and they do municipal reviews on the eastern side if you will. Ultimately that would have to be disclosed, as you said Mr. Chairman, just as a matter of a conflict of interest and especially if it's asked. I strongly encourage that that's asked. I'm now aware of that being the situation but I'm not privy to that detail either. I didn't put them on that letter with any knowledge that there was so I think it's important, and this is just my opinion, that you consider talking to 2 or 3 companies. The benefit there is we're planning on going to the Selectmen so we probably won't be back before this Board until late November or December. There is some time to do that. I would like tonight that there be at least be a motion that another consultant be utilized, I don't need to know who it is but I would like to report that back to my client so that he feels some comfort with that. A. Hall said your client is aware that this will incur additional expense on his part. C. Branon replied he's aware that it's going to be bringing a new engineer on board to review the project and it's his responsibility to cover that cost. A. Hall added a lot of duplication. J. Bedard said it hasn't gone very far. C. Branon replied the completeness side of it is done but if they redid that it's another 300 or 400 dollars so that's not a large expense. R. Cartier said there will be because the application will

have to be resubmitted. The fly in the ointment is that Ashwood companies is requesting another company to do the review and they're not authorized to do that yet because they're not the owners of the property. C. Branon said I don't have that file with me but the owner of Ashwood, Mike Tancreti, is an owner of the property. I could submit; the Board could entertain a motion subject to me supplying you with that letter. R. Cartier replied I don't think that's an unreasonable request. That's the whole tie in to this because right now, the developer is asking for something he has no authorization to do because with the way that it was presented, they're not the owner. I understand what you're saying but from a legal standpoint they are two separate entities at this point in time so it would have to be....C. Branon we can clean that up. R. Cartier said its relatively minor and an easy thing to do but I want to make sure that we are legal and doing it properly.

MOTION:

M. Chalbeck **motioned** we are going to accept another engineering firm of our choice for this development on the contingency that Fieldstone provides the letter authorizing Ashwood to represent the owner. R. Cartier added the request is being granted because of a perceived conflict of interest with Ashwood Development and Stantec Engineering. J. Bedard **seconded**. A. Hall was **opposed**. The remaining Board members **were all in agreement. Motion carried (6-1-0)**.

Dick Snow commented I think I should make something very clear for everybody about what Amy said. The Planning Board cannot legally create a lot on a Class VI road because the definition of frontage in the zoning ordinance says it has to be on a Class V or higher road. So everybody creates liability for somebody if the Planning Board takes some kind of action.

R. Cartier said that's what the Selectmen will have to address. We'll give input to them and go from there. Good point.

THIS WAS NOT READ INTO THE MINUTES – FOR REFERENCE ONLY:

Letter from Fieldstone Engineering

October 3, 2018

***Town of Candia Planning Board Candia Town Offices 74 High Street Candia, NH 03034 RE: Ashwood Development Companies, Inc. Residential Subdivision of Tax Map Parcel 411-40 288 Donovan Road, Candia NH
(Project Update, Third Party Review Request and Continuance Request)***

Dear Planning Board Members,

As agent for Ashwood Development Companies, Inc., Fieldstone Land Consultants, PLLC is hereby submitting this letter to provide a project status update. On July 15th of this year we made a formal submission to the Board in order to review a proposed subdivision over Tax Map Parcel 411-40. Our first preference was to review a conceptual plan regarding a subdivision over the subject parcel but we were told that we could not review a specific proposal on a specific lot in a conceptual forum and that this would have to be handled through a preliminary submission so we proceeded in this direction.

On July 17, 2018 we received a copy of an estimate from Stantec outlining their proposal to provide third party review services for this project. We immediately shared this with our client and he expressed some concern regarding this firm's involvement due to history that he has experienced with members of this firm.

On July 23, 2018 we received a letter from Stantec addressing their completeness review for this project where they claim that the project is incomplete and recommend that the Planning Board not accept the application and take jurisdiction on the project. On July 24th we were informed by Mrs. Bickum that the project would not be noticed for The August 15th Planning Board hearing because the project has been deemed to be incomplete.

On August 7, 2018 we submitted an email outlining our client's concerns and requesting that the Planning Board consider another third party review consultant due to an apparent conflict of interest. In this email we also expressed our concern with the review consultant's work prior to our client approving of the review fee. And in the last part of the email we addressed Stantec's completeness review and our concern and frustration with the fact that we were not afforded an opportunity to address this in a public setting. Our experience has been that all completeness reviews occur at a public hearing and this affords the applicant and/or their representative an opportunity to address any perceived issues with the submission package. We were told by Town Staff that in order to discuss our concerns regarding the review consultant with the Board this would have to be noticed and would require another month delay so after some discussion with the client he decided to stay the course and monitor the review activities closely.

On September 4, 2018 we received another letter from Stantec stating that this project could not go forward until Donovan Road is upgraded to meet Town Roadway Standards and would require an approval by the Selectmen. On top of this Stantec's letter further explains that a reclassification of Donovan Road would be required in order for the subdivision to go forward and that this can only be done with a majority town vote. Upon receiving this letter we reviewed this with our client and his attorney and ultimately performed some research on a local level. We do not believe that Stantec's letter accurately represents the requirements per our review of the local regulations, the state statues and our discussions with Town Officials. When a new development proposes a new roadway this does not require a town vote for the project to go forward as long as it is designed and constructed to town standards. Similarly the upgrade of an existing roadway to town standards does not require a town vote in order for a project to move forward. The work to Donovan Road will require Selectmen approval though and we intend to move forward in this direction. What is of great concern with this latest letter from Stantec is its basis. Who solicited the letter? From our research we understand that it was not solicited by the Planning Board or Town Planning Staff.

Given this our client now feels very strongly that there can be no advancement of his project with Stantec as the Third Party Consultant. Our client has agreed to pay for the initial completeness review but does not believe that they should be required to pay for any costs associated with the September 4, 2018 letter. As a result of this latest letter and our client's assertion that there is an undisputed conflict of interest with Stantec and the parties directly involved with this project's review we are hereby requesting that the Board chose a different third party consultant for this project. This request is being made per RSA 676:4-b which states that "The applicant may request the planning board choose a different third party consultant and the request may include the name of a preferred consultant. The planning board shall exercise reasonable discretion to determine whether the request is warranted". Since this RSA allows the applicant to request a company our client would ask that the Board consider contacting Keach-Nordstrom Associates as they perform municipal reviews in many other Towns. In regards to the validity of this request, our client permitted a large residential subdivision in Milford, NH Ashwood Development Companies, Inc. in the early 2000's and the review and approval of this project resulted in the firing of Dufresne & Henry as the Town's consultant and shortly thereafter apparently the Town's Public Works Director was also released. At the time Rene LaBranche was the manager at Dufresne & Henry and the Town's Director of Public Works was Brian Ruoff's father. Stantec purchased Dufresne & Henry in later years but Rene LaBranche is still involved with this portion of the business and is a Senior Principal and Brian Ruoff is the

Project Manager for the Town and just so happens to be the son of Bill Ruoff. Given these details we respectfully request that the Board consider my client's request for a different third party consultant.

With this said, our plans for this project is to proceed before the Selectmen and work with them on the required upgrades to Donovan Road and the approval of building permits for the proposed lots subject to obtaining a Subdivision Approval from the Planning Board. Once we work through these details with the Selectmen we will be back before the Planning Board. Given this new approach we respectfully request a continuance of this application to your November 7, 2018 Planning Board meeting.

Thanks for your consideration.

Very truly yours,

FIELDSTONE LAND CONSULTANTS, PLLC

Chad E. Branon

Project Manager

18-009 Application for Preliminary Major Subdivision Preliminary Layout and Review: Applicant: Michael Thompson, 564 Old Candia Road, Candia, NH 03034; Owner: same; Property Location: same; Map 413 Lot 46; Intent: To subdivide lot 413-46 into 4 residential lots; 5.148 acres, 5.513 acres, 5.657 acres, and 25.878 acres. Upon a finding by the Board that the application meets the submission requirements of the Candia Preliminary Major Subdivision Regulations the Board will conduct a review of the proposed subdivision during a regularly scheduled public meeting. No action to approve or disapprove will be taken at the preliminary meeting.

Present: Chad Branon of Fieldstone Land Consultants; Bryan Ruoff from Stantec Engineering.

Abutters Present: Linda Cooper of 7 Hook Road.

C. Branon said I'm Chad Branon Civil Engineer with Fieldstone Land Consultants and I'll be representing Michael Thompson with his application to subdivide tax map 413-46; physical address of 564 Old Candia Road located at the intersection of Old Candia Road and Brown Road. The property consists of 42.197 acres and is currently occupied by a single family home located along Candia Road. With associated site improvements, driveways, a well and subsurface disposal system, propane tank etc. These improvements are situated in the northwest corner of the site. Zoning for the property is residential. R which has a minimum requirement of 3 acres with 1-1/2 acres of contiguous upland and 200' of frontage and again my client is proposing to subdivide the 42+ acre property into four single family residential lots. The existing home on the subject property is proposed to be situated on a 5.148 acre parcel which is in this location here. That parcel will have 250.16' of frontage on Old Candia Road. The access to the property will be maintained along both of the locations. The three new lots will consist of lot 1 at the intersection of Old Candia Rd. and Brown Rd. That lot comprises of 5.513 acres of land with 516.7 linear feet of frontage; Lot 2 which is situated along Brown Rd. consists of 5.657 acres of land with 425.51 linear feet of frontage and the last lot is lot 3, along Brown Rd. consists of 25.878 acres of land and has 862.76 linear feet of frontage. The new lots will be serviced by onsite wells and subsurface disposal systems. Lot 3 will be accessed by a driveway that will require crossing some jurisdictional wetland areas. All of the lots meet the dimensional requirements as outlined in the Town ordinances and regulations. We are requesting one waiver with the application. That waiver pertains to the requirement for a drainage analysis. Our argument is that minor subdivisions with 3 lots or less do not require that analysis. This is a 4 lot subdivision, which is technically a major subdivision but it's a 4 lot subdivision over 42 acres of land so when you look at the land area, you're looking at 1 lot per 10 acres of land almost, it's a very large acreage subdivision. We don't believe

that we should need to do a drainage analysis for the development of the property and are therefore requesting a waiver. I did submit a formal waiver request for that.

K. Kustra asked what's the percentage of wetland in that 4th piece to the total. C. Branon said lot 3 is a 25.9 acre piece. It's got 15.13 acres of contiguous dry land. It's got additional upland areas because this area here is upland not jurisdictional and this area here is upland. It's very buildable; it has a lot of upland area; 15-1/2 acres of contiguous upland. The property certainly has a fair amount of jurisdictional wetlands on it. When we look at the total property it's about 42 and change acres and of those 42 acres about 16 acres of that is wetlands. But there is still a large percentage of upland buildable area and the development meets all your regulations.

R. Cartier asked one of the concerns when we did the site walk on September 26th there's a lot of wetlands in the area that are part of the Massabesic Water Shed. There are letters from the Water Works from previous proposals to do the lots over there. C. Branon asked did they submit a letter with this application Mr. Chair. R. Cartier replied no, not yet. I don't think they've been notified yet. C. Branon said they've been notified for tonight's meeting.

R. Cartier continued with the 25 acres in there with the one lot. In requesting the waiver for the drainage analysis what's the possibility of reducing the lot sizes and putting the rest of the land in a conservation easement or restricted use or something along that line. I think Water Works might have an issue. There's also the possibility of that lower right hand corner that's still buildable through one of the other lots and that could open up another 2 or 3 houses in that area too. It's a large area and the Board has to look at this and part of the reason it's a major, there's a large lot of land left and as you said there's still 15 acres of buildable land on that.

C. Branon said there's 15-1/2 acres of buildable land but if you recall from the preliminary (*informational*) there was a proposal quite a few years back that was 7 lots and one of the biggest concerns that was raised when it was 7 lots was we were proposing common driveways and one of those common driveways was crossing wetland in this location here. I know at the time with that particular application, the Merrimack Village District did write a letter and we met with them back then but they did write a letter that their primary concern had to do with this crossing this wetland and doing work in this area of the wetland because this is where all the drainage comes through the site. They haven't issued any letter to date and we're technically before the Board with a formal application so they have been notified. My suspicion is that similar to us addressing many of the concerns that the Board raised with the prior application we by default have addressed many of the concerns that they raised which primarily had to do with this crossing, but also 7 lots. We had 2 lots back in this zone here with that prior application. I think from a marketability standpoint and from a landowner standpoint easements and restrictions are not often favorable when you're looking at selling a property but I think the existing features of this property, the history of this property, kind of restricts it from further development being that the reason why we're at 4 lots is that the Board denied 7 (seven). They denied it because of some of the complications that were required in order to get more development in the back here which was crossing the wetlands, long common driveway. One of the things I didn't touch on there is a 100 year flood plain line which is this pink line that comes up into the project here. It's actually a tail water condition. This line was developed by FEMA because this area is in a zone where the 100 year flood was not defined so we actually gave them information and they supplied us with that. So we know it's a tail water condition from working with them. That driveway that we were proposing previously crossed that and that was a large concern that the Board had. Speaking to that point, I know there were some concerns raised with the elevation of this driveway and trying to make sure that all of those elevations are of equal or higher heights to the existing topography along Brown Rd. We did take a look at that since the site walk and I think we can accommodate that request with that design because it only consists of raising that driveway about 2 feet from what it was previously designed at so it's not a large adjustment. We do plan on coming forward with those details. We did get the review letter from Stantec on this project. We don't have any issues with their letter. We did make a number of revisions that they had requested. We didn't have time to make a formal submission and meet with them to get them to

submit a letter but since this is the preliminary consultation we thought it would be great to get some Board feedback and then we would work diligently with the Town consultant. R. Cartier confirmed that that was the September 20th letter, the technical review letter. C. Branon agreed.

K. Kustra asked where is the old railroad bed. There's no conflict with the railroad. C. Branon said it's this brown line here. We worked closely with the railroad when we put together the prior plan; we were in communication with them primarily because we were doing boundary surveys so we were getting information from them at the same time. R. Cartier asked did everyone review the site walk letter. Joyce and I did a walk-through of the site with Dennis the Road Agent, Richard Snow a citizen, Chris from Fieldstone and Bryan from Stantec. We'll make sure you get a copy of that. There were some issues and I'll read them, there were five comments:

1. Fieldstone shall confirm if a modification to the existing NHDOT driveway permit is required and if required shall obtain an amended driveway permit for proposed tax map lot 413-46-1. One of the driveways is on a state right of way and the other is on a town right of way.
2. Fieldstone shall confirm whether a shared driveway is intended to be provided for the benefit of lot 413-46 through lot 413-46-1. If a shared driveway is intended an easement is required to be provided. That's the one with the circular driveway.
3. Fieldstone shall review whether the elevation of the driveway for proposed Lot 413-46-3 can be provided above 12-inches above the elevation of the low point of Brown Road to avoid flooding to that lot/property. Again, we'll give you a copy of this letter too.
4. Fieldstone shall provide the proposed grading for the driveway for the proposed Lot 413-46-3 to determine if culverts are required and additionally to ensure that the driveway and lot will not flood in the proposed location. There was concern about it being flooded and getting calls from the Fire Dept. and evacuating people from their flooded houses.
5. Fieldstone shall discuss with the owner/applicant on whether he would be amendable to creating smaller lots and leaving the remainder deeded to the Town or provided with a restriction for the un-developed lot areas.

S. Komisarek asked could we address that on the large lot by having the plan state no further subdivision. All those homes right there, your concern is that the back acreage could be combined. But someone coming in and buying a house there is not looking at this for future subdivision potential. The value is in the lot. I agree; it's a substantial wetland. R. Cartier said the problem with putting it on as a condition of approval here it doesn't have the same level of protection as say a conservation easement or a deed restriction. We've done deed restrictions where that particular lot can't be further subdivided with a deed restriction and it's a cheaper way of doing things and would probably give us the protection for the wetlands that I think we should be addressing. C. Branon offered to present that to the landowner and report that as a potential, especially if it's linked to the waiver and the drainage analysis. I can present that to him.

A. Hall asked if he had a copy of the Road Agent's letter from October 3rd. C. Branon replied he did not. *A. Bickum handed him a copy of the Road Agent's letter and the Site Walk Minutes from September 26th that had the 5 issues pointed out.*

R. Cartier read the Road Agent's letter: This is from Dennis Lewis the Road Agent in reference to the subdivision plan.

Date: October 3, 2018

To: Candia Planning Board

From: Dennis Lewis, Road Agent

Re: Subdivision plan for Michael Thompson, 564 Old Candia Rd., Candia, NH

Tax Map'413, Lot 46

Having reviewed the subdivision plans for Michael R. Thompson Tax Map 413, Lot 46, I have no sight distance concerns on lots 413-46-2 or on lot 413-46-3. Lot 413-46-1 has frontage on a state maintained roadway so, the NHDOT should be contacted for any concerns they may have.

Lot 413-46-3 will require a wetlands permit and I am recommending that the driveway elevation be at least 18 - 24 inches above the lowest point of Brown Road to avoid any flooding of the driveway in the future. Brown Road has experienced flooding at this location in the past.

Dennis Lewis, Road Agent

R. Cartier commented it's interesting that it's not in the 100 year flood plain because it floods all the time. D. Lewis added it's flooded twice. C. Branon replied it's not in the 100 year floodplain but I think over the last 10 years, we've certainly had over 100 year storms and I don't believe that that has flooded during those storm events but I do understand and it could be consecutive situations, I do understand there is a flooded condition at the low point of Brown Road, 18-24" I would feel more comfortable if we were around 12" above the lowest elevation on Brown Road. The only reason I mention that, that's going to have a direct correlation to wetland impacts too if we start going too much higher. But that's just for discussion. D. Lewis responded the reason for the 18-24", if you look at Brown Road right there, the curve in Brown Road is super elevated. There's no crown to the road, one side of the road is higher than the other so if you go by the low point of Brown Road, you go to the other side of the road, which is probably 8" higher so if you were only a ...it went over there almost a foot on the high side so on the low side you are close to 18-24" over. That's the reason behind that statement. So if you were just to go 12" you'd still have 8-12" of water over that driveway if you went to the low point of Brown Road.

A. Hall said FEMA as of today has been informed of our Road Agent's letter personal experience on two different occasions of which the 100 year flood plain FEMA map is in error. FEMA has chosen to ignore that. It's happened twice in our lifetime that Brown Road has been completely submerged and we must take that into consideration. You can talk until the cows come home about 100 year flood plain but until you experience what our Road Agent has experienced, we have to take the current day experience into consideration.

C. Branon replied but I think we are. I'm not disagreeing with Dennis's analysis of the super elevation so if he's saying 18" above the lowest point on Brown Road and that's on the low side of the super elevation, that's reasonable, that's really in my interpretation 12" above the lowest point because as soon as the water crosses over Brown Road, we're talking the same thing. I'm acknowledging that this is the 100 year flood plain, we can't dispute that. FEMA's the one that determines that information. It could very well be, we do construction inspections as well and we got 6" of rain in 12 hours last week or the week before, far more intensity than a 100 year storm event in a short period of time. So those situations happen but I think the benefit of this plan, we are listening to the feedback. We're not contesting that and we're going to incorporate that into our design. We are being more conservative with this design than what FEMA is indicating and being respectful of what people have witnessed along Brown Road.

R. Cartier said a couple of points from the past with the last request that was in here. Water Works had felt it appropriate that a drainage study be done on the property from when there were 7 lots. C. Branon said they didn't like that 7 lot subdivision. With all due respect Mr. Chairman, that letter is not current. It doesn't reflect the plan that we're presenting and they have had the opportunity to re-issue a letter if they

had concerns with this particular proposal so I think we do need to take that into consideration because we have been quite sensitive to their concerns. Just to reiterate, I think their primary concern with a drainage study had to do with us crossing the 100 year storm here and ultimately when you're crossing a wetland, you are bringing storm water to that wetland crossing because you have a driveway converging down and then inclining out of that so they had some concerns relative to potential erosion and sedimentation with that particular crossing. We have eliminated that. The benefit of this singular crossing over here is we're impacting really the fringe wetland, there's no flow through there. I think we will design culverts in those crossings just to make sure there's no impoundment of any kind of water on the uphill side. That was discussed at the site walk and is a good engineering practice. So we will design for that. It's a better place to cross. There isn't a true crossing that anybody has to worry about from a long term maintenance standpoint. I think it will be very stable and be constructed under good practices.

R. Cartier replied I think you're right because the way you've addressed it is that they're big concern was the number of wetland crossings is the first thing that they noted on there and the proximity of the development for both reduction in quantity and quality of runoff.

A. Hall commented I understand a request had been perhaps a little late but by the Candia Conservation Commission Chair to participate, for a variety of reasons was not allowed to participate (*meant site walk*; would your client have any objection to the Candia Conservation Commission, which I know is very concerned about this lot.

C. Branon said I think the next step is focusing on the wetlands permitting for the project and I think they would be involved in that review so we will likely be reaching out to them and I can certainly talk to my client about trying to arrange to visit the site with them as well. The next step is designing the driveways as long as the feedback is favorable. I think have everything located in the right locations. We have to provide a driveway design for lot 3's driveway to make sure we are at that elevation and also to evaluate the wetland impacts and then take that through the appropriate process for approval and that typically involves a meeting before the Conservation Commission.

J. Pouliot asked about the house location on lot 3 and which direction it would face, Brown Road or the railroad. C. Branon said with houses, we're showing representative locations. The house and layout could change. As long as it meets all the setbacks, they have to file for a building permit. We're saying here's the anticipated building envelope but they could put a home over here, there could be some adjustments to that and that's not something we want to finalize. We want to leave some flexibility to a future homeowner as to how they want their home laid out. The important part is making sure we can get there and you can get there in a safe and responsible fashion.

S. Komisarek asked could you explain what is going on with the drainage on that site, which way it goes, where the culvert is crossing Brown Road and which way the water flows and what really happens there when we get a lot of rain. C. Branon replied that's a great question. In general the storm water on this site flows east to west; so from the top of this page down to the bottom of the page. There is a 24" reinforced concrete pipe under Brown Road in this location here that flows in this direction (*down*) so that feeds the wetland area on the site. There's another 24" culvert here; and many of the culverts are associated drainage with the 101 interchange, the storm water comes down from that onto this site. There's another 24" culvert here so these 3 culverts feed into this wetland and runs through the wetland in this direction to the west. There is also a culvert under Old Candia Road here that's a 30" culvert and that feeds through the wetland in this direction here. There's a lot of water that funnels through this property to the west. There's no disputing that; there's a lot of water that goes in that direction. When I say the flooding is a tail water condition, the way that FEMA's analysis ran is that the water, there's a downstream restriction and I don't know if that's been corrected over time or not. There's always improvements going on but we have to assume it hasn't and so during a 100 year storm event water starts to back up into the site. I'm guessing during really high intense storms there is flash flooding that might occur and that is probably associated with water coming over Brown Road, a large intensity happening at once. The nice part about this project, we're proposing to fill some fringe wetlands to access 15-1/2 acres of upland area. As a landowner you do

have a right to access your property so we believe this is a responsible location to accomplish that. We've agreed to adjust the driveway design accordingly. But we're not impacting wetland areas that receive that water, we're impacting a fringe area and we're not impacting the 100 year flood plain.

R. Cartier asked what do you estimate that length of that driveway is going to be. C. Branon replied about 500-600 feet to that location. I should take a scale. R. Cartier said a rough idea is fine. B. Ruoff said it's 650. I'm just guessing. R. Cartier said if you're going to have the driveway a high elevation it will be critical to have the driveway design to be able to handle fire apparatus coming down there. We're looking at 10' plus 2' plus 2'. That would be a concern that it wouldn't wash out. D. Lewis replied maximum grade can only be 10% and I didn't see anything out there that would exceed that. C. Branon responded if we're raising the driveway up it will be pretty flat across that area adjacent to the rail trail through there. Part of that design will consist of a construction detail for the driveway that will spec out ample base material and stuff that would support fire apparatus and then some grading. They'll be a balance between designing a manageable slope so we can manage the wetland impacts accordingly but it will definitely be if I had to guess, shoulder to shoulder at least 16' which is typically is a good standard for fire apparatus.

D. Lewis said there have been improvements to the tail water situation in Auburn because all that water has to cross under Hook Road with the Candia Auburn line. They did replace the culverts under there since this problem and down on Chester Turnpike they replaced the situation there. The ground through there is relatively flat and it feeds from a lot of different directions and this pond or swamp or whatever you want to call it, acted as a detention basin. When that road flooded, it flooded in a tail situation. I was there watching it when those storms happened and it would build up and go over the road in reverse of the flow of the culverts. Maybe that is a little better now, but I feel the driveway should be higher than the lowest point.

R. Cartier continued back in February, we were talking about this in the Planning Board meeting and there's a note in here about wetland delineations; you had noted they should be done every five years, have you redone the wetlands delineations on that? C. Branon replied we did, we had our wetland scientist Chris Guida who walked the site with you is our soils and wetland scientist. He did go out and we did re-delineate some of the areas. Many of them were the same but there were some modifications that were made to this plan since the last time we were before you. That has been updated and he has sealed, stamped the plans accordingly.

R. Cartier said my final question; this has to do with information from legal counsel on administrative finality doctrine that what the Board needs to know and be comfortable with is that this application is substantially different than the one that was denied with the 7 lots. You feel that this is different than that. I would point out; the wetlands crossings are much less than they were. The lots are smaller. If there is something that can be done to preserve the wetlands that are in there, I think that would be helpful. When we do the application in the final review we need to be comfortable with that. C. Branon replied that particular document if I recall correctly, essentially points out that a reduction in density would be adequate to satisfy that requirement. We've gone from 7 to 4 and made significant changes in designs relative to; we got rid of all common driveways, which was a big concern. There were quite a lot of wetland impacts that were associated with the common driveway designs because of the way Town regulations are, the common driveways, the common driveway had to start on the common boundary so that was forcing some of the wetland impacts so by getting rid of those, that was a big improvement. The other concern was the length of the common driveways. We got rid of that, there have been a lot of changes. I don't believe we're looking at anything close to the same proposal in my opinion so I would hope that the Board would agree with that.

A. Hall said I'm concerned that there's been no comment from Manchester Water Works and am I correct that we must wait for their input before we formally consider the application or this is just an informational meeting, not an application. R. Cartier said you sent a set of plans to Water Works. C. Branon replied well we sent notification to them, there's no requirement in the Towns regulations that we solicit abutting property owners. The path that we've taken today is the same path back when it was a 7 lot

subdivision and they felt compelled with that proposal to write a letter. When we received the letter and we met with them at the time but they were definitely notified so technically there is no requirement to get a letter from them. I think the lack of a letter speaks volumes I believe. Our preference is to carry the project forward and until we here otherwise from them. Our plan wasn't to reach out to abutters necessarily, we think we've put together a really good proposal this round. R. Cartier said technically you're correct but the Board can request other information that they feel might be appropriate for a particular development but if the Board feels that the lack of a letter indicates that they are not concerned, then so be it. J. Bedard agreed. M. Chalbeck agreed. A. Hall said we don't even know if they received a letter. R. Cartier confirmed they did. They were on the abutters list. A. Hall said and they responded that they received the letter. A. Bickum confirmed I received the signed receipt/card. R. Cartier said they have been notified. J. Bedard said it definitely changed a lot.

C. Branon said I want to touch on one thing. There was a comment or question pertaining to this being a common driveway here and our thought is that we would maintain that as a common driveway. This is really just a secondary access to the existing home because they have a walkout basement in this location. Their primary driveway is here but rather than doing separate curb cuts along a DOT highway I know DOT would prefer that that existing be maintained and shared and I wanted to get the Board's feedback on that because that will help us determine how we proceed.

A. Hall said the applicant is well aware that he's in violation, technical violation to the state for curb cut regulations. R. Cartier said if I remember correctly, that lower driveway is Town of Candia and the upper one is state. They're legal because it's not on the same road owned by one entity. An easement would need to be drawn up. C. Branon replied yes, we would do that, yes.

Abutter Linda Cooper of Hook Road asked to turn the plan around so they could see the driveway plans, are they different from what proposed all the other times. The one by the railroad is that the same as it was before. C. Branon answered this driveway here is no longer a common driveway, it's a single driveway and the alignment has changed slightly because we didn't have to start on a common boundary so we're not coming through the wetlands as much as it did in the prior design. But this is the best location to access the 15 ½ acres that's back there but it has been modified so it is substantially different. L. Cooper asked so what is the lot size for that one. C. Branon replied that lot is 25.9 acres in size with one house. L. Cooper replied so what's saying that that lot's not going to get subdivided because wasn't that one of the ones where there was going to be more lots in that 25 lot plan that you're laying out there. C. Branon replied this is all wetlands along the front of the property. The Town regulations require a common driveway to originate on the common boundary line so if we came down a couple hundred feet that would put it right in the middle of the wetlands and we'd never be able to get that approved. Similarly in this direction it would put us right in the middle of the wetland. So by default, I would say the regulations in place yield that lot undevelopable from the standpoint of being further subdivided. Not to mention if somebody chose to try, they would be right back here before the Planning Board and they would likely the end up with same decision that we ended up in the first case where we were trying to get more lots. The driveways that accessed two additional lots back here originated in this location here, which is now part of lot 2. They originated here because we didn't have to go through this big wetland; we were crossing at the narrowest point. Now this is part of a separate lot.

L. Cooper asked is that what they called the logging road for that driveway because I've seen water on the logging road. C. Branon said the logging road goes through the wetlands so you'll see water seasonally on the logging road. Mr. Chairman asked us to question to the owner to see if we can put a deed restriction in no further development to take it out of the equation as well so I can present that to the landowner. I feel pretty safe in saying this is really a one lot subdivision it would take a miracle to get another lot approved on it. L. Cooper said we have a culvert on the other side of the railroad bed near our home and a lot of times, we'll have water there. Are we going to end up with more water? C. Branon said it's a single lot subdivision and the storm water in this location comes down and runs along the railroad and comes into this wetland here. This is the high spot of the property so it comes from this direction and runs

to the wetland so none of the storm water would make it to the other side of the railroad bed. L. Cooper said so we're not going to end up with more water coming through that culvert that we already have now. C. Branon replied no. What lot are you on? L. Cooper replied the corner of Hook and Brown, there's a culvert that is Town property but we're right there and we get water in there. C. Branon said that culvert drains onto your property presumably and makes its way into this wetland. Water from our site is not going to go uphill to your property. It's going to go come down to the wetland and go this way so we won't be contributing to any water. L. Cooper asked won't it be a huge impact to the wetlands to have the driveways because you have to fill in some of the wetlands to do those driveways so how much? C. Branon said we're proposing to put culverts in the wetland crossings so we aren't going to have any impact on storm water flow on your property. We'll be able to accept all that runoff that comes on site right now. There's not going to be any impact on your property. R. Cartier said they'll also need a wetlands permit from DES. L. Cooper said if you have to build up 18-24" and you're in wetlands who's to say that's not going to give; different things impacting the wetlands and that's a major concern. R. Cartier replied and DES would take a look to make sure it won't negatively impact the wetlands. L. Cooper continued concerns I've brought up in the past people have their septic and wells, what's that going to do to us. R. Cartier said they will be looking at that, that the wetland permits are properly completed.

D. Snow said for the applicant's information to the owners that taking the Chairman's suggestion is of significant value to the decision as to whether that's a major or a minor because 100 years from now, the topography could change substantially and then you would have another subdivision there. So if they're just looking at further subdivision in the future I'd say it's a major and not a minor. Trying to get some kind of conservation easement on that is of significant value to everybody. Maybe they get some money for it, who knows.

J. Pouliot said I'm referencing the September 4th letter for asking for a waiver are we not addressing that today. R. Cartier replied no, they haven't submitted the application. We wouldn't address the waiver until it came part of the application. C. Branon said we submitted the application, the preliminary application so we'll submit the final. Just for discussion the preliminary application seems quite final. It's basically the resubmission of the final for preliminary.

B. Ruoff commented the Board still votes on the preliminary application and accepts it so I would say for the Board to accept this preliminary subdivision application you need to make a determination on the waiver request or else the submission could be considered incomplete without a drainage analysis. From our standpoint, we're fine with what Fieldstone is proposing, the only thing we would ask for is culvert sizing and it could be informal calculations, it doesn't need to be a formal report but I think from the standpoint of abutting properties and how the storm water flows to the site is fairly critical for this property.

J. Pouliot said I'm bringing it up because I'm uncomfortable with waiving, it seems like the only issues we're dealing with are drainage issues and wetlands and I think we shouldn't be making a decision based on finances for not doing a drainage report for an area like this that has a lot of drainage concerns. C. Branon replied the rationale for the waiver is a 3 lot subdivision doesn't require a drainage analysis. A 4 lot subdivision does. We have four lots over 42 acres and the fact that we do have some jurisdictional wetlands that runs through the property the storm water has a place to go if it doesn't infiltrate in the larger storm events. The rationale for the waiver has to do with the magnitude of the development meaning we have large lots which means with a large lot you have a lot of area that you're not developing so there's a lot of area that's going to be maintained in its natural state so there is a benefit to this subdivision in the context in that it's a large lot subdivision. So we're proposing only 3 new lots on this property. Two of the lots are quite compact in that they're located along the existing road and we have one lot that goes into the back. In my opinion, the rationale of agreeing to some kind of restriction on this development, no further development, I'm comfortable with that being tied to the waiver request. My preference is that it's a deed restriction and not a conservation easement. Landowners like to own property. They don't like to have restrictions. With a conservation easement, sometimes there are allowances that allow the public to come

onto the property and it changes the dynamics of somebody's property. I'm comfortable if the Board wants to entertain a condition to the waiver pertaining to no further development on that property or a deed restriction on that property but I think there is good rationale over the waiver in terms of the drainage analysis. Josh is right, there has been a lot of conversation about water but it's not water related to development, its water related to what exists and how we're working around what exists and I think the fact that it's a large acreage subdivision is a good thing for what is currently there and we've been sensitive to a lot of the concerns. There is definitely water here, we can't contest that. You have a 30" and three or four 24" culverts that come onto the property. The reality is as an engineer if I do this drainage analysis, the fact that there's water on site right now, is going to make it really easy for me to show that this project doesn't have an impact because there is a base flow right now. The problem is that's an exercise that practically, I don't see any need for which is why as an engineer I agree with the waiver request, obviously, I've submitted it. I don't know if that helps but I wanted to share those details.

L. Cooper said what were you referring to when you said abutters could write letters, when things come up like this abutters can write letters, what was that. R. Cartier said you can submit written comments if you so desire for an application, anytime. I think the point was the Water Works submitting a letter for whatever their concerns were. L. Cooper asked will they be submitting a new letter. R. Cartier said no, they've been advised of the project and they've chosen not to address any issues.

S. Komisarek said I want to be clear on what Bryan was saying about the waiver request. I thought you said it was reasonable but then at the end of what you said, you talked about all the water going *onto (or off-unintelligible)* the site can you just clarify?

B. Ruoff replied this existing site and the subdivision and what's being proposed is maybe 1% of 1% of the existing watershed and I don't really see it as having any impact on the water that's going off the site. It's concentrated to that one point central west off the lot so it's not like there's multiple locations where there could potentially be increases. Impacts to abutters, the only thing we would be concerned about is making sure the culverts for the driveways are sized appropriately so they don't impact the abutters. That doesn't need to be a formal drainage report it could just be a drainage calculation showing that the culverts are sized appropriately for the Town standards.

C. Branon added just to clarify we are okay completing that level of a study because that was actually addressed in their review letter and we're comfortable with the contents of that letter. But to speak to what Mr. Ruoff said, I do believe that technically the preliminary application needs to be accepted and then we would like, I think the waiver or at least an opinion has to be rendered relative to the waiver so that we can go on to the final.

M. Chalbeck said in the packet there is DES stamped documentation about drainage so I feel comfortable. R. Cartier said I know I reviewed it. The application review checklist everything was addressed the only comments I had at the time are the following:

10.06i: The preliminary drainage analysis in the watershed areas was not addressed but there's a waiver request for that.

10.06m: We didn't get the tax letter for current use. We did receive that it's in the package.

10.06n: Police Chief's letter, that's been received. The Fire Chief's letter has been received and the letter from the Road Agent has been received. In my opinion the application is complete so we can vote on accepting or denying the application.

MOTION:

J. Bedard **motioned** to accept the application as complete. M. Chalbeck **seconded**. J. Pouliot was **opposed**. **The remaining Board members were all in favor. Motion carried with a vote of (6-1-0).**

R. Cartier read the waiver request:

September 4, 2018

Town of Candia Planning Board Candia

*Town Offices**74 High Street Candia, NH 03034**RE: Michael R. Thompson Residential Subdivision of Tax Map Parcel 413-46**564 Old Candia Road, Candia NH**(Waiver Request)*

Dear Planning Board,

As agent for Michael R. Thompson, Fieldstone Land Consultants, PLLC hereby requests a waiver from Section 10.06L regarding the requirement for a preliminary drainage analysis and watershed plans. This proposal consists of subdividing Tax Map Parcel 413-46 into a four lot residential subdivision with one of the lots comprised of the existing residence. Three of the four proposed lots will range in size from 5.1 acres (the existing residence) to 5.7 acres in size with a fourth large remaining lot of 25.8 acres. Given the size of this development and the fact that these lots are all well over the minimum 3 acres lot size we respectfully request that the Board consider waiving this requirement. Requiring this analysis will result in a financial hardship to my client and we don't believe the nature and size of this development should warrant this analysis since it is over-sized and only one lot larger than a minor subdivision which does not require this evaluation.

Thanks for your consideration.

Very truly yours,

FIELDSTONE LAND CONSULTANTS, PLLC

Chad E. Branon, PE Project Manager

S. Komisarek said I understand what Josh is saying. I walked this site years ago when it came to the Planning Board as seven. People look at this and there's a lot of water there. I was initially thinking like Josh that we should probably have the drainage analysis but once Bryan gave his input and if the Town Engineer is comfortable and he said 1% of 1% of an impact from what he's doing so I'm fine with it. J. Bedard agreed. R. Cartier asked do we want to add to the motion having that lot.....Board agreed that no further subdivision on that lot.

MOTION:

M. Chalbeck **motioned** to grant the waiver with one contingency that the deed has the restriction of no further subdivision on that 25 acre lot. S. Komisarek **seconded**. J. Pouliot and A. Hall were **opposed**. The remaining Board members **were all in favor. Motion carried with a vote of (5-2-0).**

R. Cartier said so the waiver request is granted with the stipulation.

C. Branon said so we'll work on submitting the final application.

R. Cartier said Joyce Bedard is excused at approximately 8:55 pm and Joyce Bedard left the meeting.

Other Business

Planning Board permission to have SNHPC change one of the Transportation Plan rail trail maps as it conflicts with private property, specifically of Becky Hopkins on Baker Road. *See BOS minutes of September 24, 2018.*

M. Chalbeck said I do not recommend that we follow that. By changing the multi-use trail we're going to alienate landowners from access to their wood lots and their properties, which are off these railroad beds, which is now because of the past year, would become a violation of state law. There are people in the Town that own pieces of property that would become landlocked. That's the violation of the RSA, you cannot legally land lock these people. That multi use trail is when roads are flooded are the only access they have to their properties. Now if we land lock their property, their properties de-value besides

violating the state RSA so I vote that we don't accept changing that. I was at the Select Board meeting. What they want to do is take it from a multi-use trail and revert it back to private property. You do that now you're land locking people and they no longer have access to their property. People have done that on Class VI roads, they've posted it where you used to be able to go out Baker Road and go down to the railroad bed and access that way on a Class VI Town Road, now it's posted, you can no longer do that. So what makes me think why wouldn't they once we revert or take the multi-use trail out. It's multi-use for people to access the wood lots, their property, ride horses, ride bikes, there's Town Forest out there.

D. Lewis clarified that this one is not a multi-use trail, its private property. It's never been a multi-use trail. It was abandoned in 1853 or 1856 and it reverted back to the land owners. So basically this person's particular deed has no reference to a rail bed on it. It was deleted years ago and there's no access to it from Baker Road or anyone else's property because it doesn't exist anymore. There are portions of it when you get to the Hooksett line that are privately owned, just a strip owned by one landowner and then there's two or three other land owners and it just disappears in their property. No one uses it anymore. This particular one goes through a swamp. When you get to the other end from Stump Street in there are some private land owners there too and no one uses that end. You have a hard time finding it there. But this person's property, most of it goes through a pond and a swamp. It's private.

Tracy Blevens of 39 Donovan Road and we're here because we heard about this and we own a 7 acre wood lot off of the railroad bed. The only access we have is through that railroad bed. That would actually make that property worthless and landlocked.

Scott Blevens said and it's in the deed that it's a wood lot accessible through the rail trail. D. Lewis said but that's in your deed but in this person's property that's non-existent. That's the only portion they want to eliminate on the map. If you look at the tax map you can see where that rail bed...where you're talking about shows it, then it comes to a certain point and it's non-existent because private landowners chose to take it back, purchase it or whatever, way back in the 1800's but someone else purchased the strip you're talking about and that still shows on the tax map and if your property references that's your access, you still have that access. The problem is here these private landowners that own it further down where it doesn't exist anymore, they don't want this to become a trail right through their property because it's not deeded that way. It's still going to show on the map where you're talking about. S. Blevens said I understand that. Dave and Darrell Cummings own across and they have it gated off.

D. Lewis said that's another issue not pertaining to this. What this is about it showed up in our Town Transportation Plan as a potential corridor for a bike route or whatever and we weren't aware it was going to show up in here so it's referenced in here as maybe being reopened in its entirety to whatever use. This person's complaining about that. So we wanted the portions that are privately owned discontinued taken off the map. T. Blevens said that wouldn't impact access to our woodlot. D. Lewis reiterated not at all.

R. Cartier clarified if you look at the tax maps there's a corridor that goes up from Donovan Road and comes up and then it makes a left hand turn and then there are 2 lots where that corridor doesn't go through and then it starts again over on the 3rd lot. The concern was that basically the right of way there now would turn into a multi use trail which would be a totally different thing than what you're talking about access to your property in the back because you have an easement to get there. That wouldn't change with a multi use trail. That won't change if we don't do the multi use trail, you'd still have legal access to get to that lot. D. Lewis said that would never change. Your access would never change, even if the whole thing was taken off the map. T. Blevens reiterated I just want to make sure that we still have access to our back lot.

M. Chalbeck said this trail, it's still there; physically it's there. D. Lewis said not on these two pieces of property. M. Chalbeck said physically it's still there and wasn't it part of the old Margaret Wentworth.

Jim Lindsey of North Road said if you look at the tax map there are map and lot numbers for the railroad bed that was all bought up in 1950 by Paul Sargeant. The railroad sold it to him. Almost all of it is

private property. All of it is private property. The lady that has concerns about the rail trail, that's the Heron Rookery right? Her land sits in the Heron Rookery. The 1980 tax maps shows the railroad bed going across her property. It got dropped when they came out with the new 2000 series. Even though her deeds do not exclude the railroad bed that's not uncommon for the people to do that, after they sold the land to the railroad they just kind of forgot about it when the railroad went away, nobody cared until Paul Sargeant bought most of it up.

D. Lewis said he didn't buy this particular person's piece. J. Lindsey said actually he did. D. Lewis said she claims there are no records. J. Lindsey replied there are deeds on file and just because it doesn't show up as exclusion to her deed doesn't mitigate the fact that there is a deed out there showing that Paul Sargeant bought it. That deed takes precedent. D. Lewis said she claims she did all the title searches and it doesn't...*(unintelligible)*. J. Lindsey said in her title search it doesn't mention the deed once until you get back to when the land sold to the railroad bed, about 1852 or 1853.

D. Snow said the Town has got in the middle of two private disputes. Paul Sargeant has land which may go across Becky Hopkins. The Town is now saying oh no it doesn't. That puts us in a position of liability. If two landowners have a dispute the cops come and say civil issue and I think that's what we should be doing. We don't know because I don't believe the Board of Selectmen did the deed research to come up with what Paul Sargeant might have done to say wait a minute that's my land and Becky says no that isn't your land. If we start screwing around with maps, the maps that are put together by Southern New Hampshire Planning Commission probably came out of Granit. And you're not going to tell Granit they're going to be changing stuff. I would strongly suggest to the Board of Selectmen that they say not my problem go see your lawyer. She may have a legal issue with the people that did her deed research but that's not a Town issue. That's her issue and his issue. Just my suggestion, don't screw around with it.

R. Cartier asked Dennis from a Transportation Planning; how critical is having that multi use trail to our overall project. D. Lewis said we didn't even think it was going to be on there. We had no idea, that's really our position here. We did not know that was going to show as a multi use trail or anything that could be used by the general public. It got put in there without us being aware of the fact that this information was going to be put on there. That's why we wanted at least the part that doesn't show on our tax maps removed.

R. Cartier replied it sounds like if we take it off of the multi use trail designation in there, nothing will change and everybody will still have access to their property. D. Lewis said if they have a deeded access to it over the old rail bed that's through private property and it won't change that no matter what. M. Chalbeck said it could if the private property owner decides they don't want to let people go over. D. Lewis said if it's a deeded easement you can't. M. Chalbeck said it sounds like it could be a problem where someone's trying to claim they have property that they don't have. We shouldn't give in to a dispute. We shouldn't change it, it's done and it's already there. Leave it alone, let them dispute their disputes. D. Lewis said I'm just the messenger here. A. Hall suggested sending it to legal counsel. R. Cartier replied no, I don't want to spend any money on legal issues on this one at all. S. Komisarek said the Select Board could. I'm not sure that I'm grasping the whole thing yet. I wasn't here for the whole discussion. Jim can you review what you were saying before?

J. Lindsey reiterated Paul Sargeant bought up most of the railroad bed from the railroad companies in the 1950's. That is private property. Dick Snow and I both contacted the current owners about five or six years ago trying to see if they would deed it to the Town so that we could have the railroad access for everybody. D. Snow said she was 94 years old when we talked to her and she's up in Laconia. J. Lindsey said she deeded it to her two children. They've taken possession of the property so most of it is owned by one family. There are a few spotty pieces. There were two pieces I chased down that the railroad didn't take them conventionally, they took them by condemnation and when the railroad went out of business the land went back to the people who owned the land. There are two small pieces, one guy who put up the barricade, that is one of those two pieces. The way the railroad took it. I know if the one person who's barricaded anything along that trail up until you get to South Road the first lot next to the old railroad station, they've

redone it so the public can't access. You can normally access a railroad bed because it's not posted but the one person has posted it, he's posted it and barricaded it to keep the snowmobiles and four wheelers out.

T. Blevens said we have talked to him and he has granted us access through the barricade. We have no issue with that. S. Blevens said but what's to say someone else blocks it.

R. Cartier said we can't include this in the rails trail because it's privately owned property. Even the railroad bed so it's a moot point because railroad beds, the one out here with the trail is owned by the State of New Hampshire so that's how we get that trail over here. The one you're talking about now is a privately owned piece of property from start to finish. D. Snow said that's an old rail trail and it shows on topos etc. R. Cartier said that doesn't matter, it's owned by a private individual not the state. J. Lindsey asked but didn't the state take all that land to make the railroad. This one over here, they took the land. R. Cartier agreed. J. Lindsey said so if they want to make another rail trail they can do that also but we're not involved with that.

R. Cartier said they got that from the railroad, from B&M. That other one over there, the private landowner already bought that from the old Manchester Concord rail line. So to me, it's almost a moot point that it shouldn't have ever been on there and if it stays the way it is now, everybody seems to have access and everybody's happy. D. Lewis said except for this one individual who doesn't want it shown on the map. M. Chalbeck said but she doesn't even own the property she's talking about.

D. Snow said maybe you want to just eliminate the reference as a rail trail. You have something that's been published that shows that two owners have conflicting views of who owns that particular piece of property and the Town now gets involved if they say take it off. If you want to change the description, the Planning Board has the authority to say the piece of paper that we put out we want to change. I don't know what you'll get when you go to SNHPC, they took it off of Granit and it's probably in there as Granit but it's got a different name on it, it says old trail that's out of a topo.

R. Cartier said I'd be partial to taking it off because I don't want to get involved with a property dispute. D. Lewis said that's what this individual wants, taken off as a rail trail or a potential rail trail through the property. It's up to the Board what you want to do. She was concerned about it and wanted it taken off; I'm just the messenger.

R. Cartier asked what's the feeling of the Board. J. Pouliot said I agree with Mark. There's way too much unknown here to make a decision on it. I don't think we should get involved. A. Hall agreed, don't touch it. S. Komisarek said I'm not sure. I don't have enough information about what the right thing to do is. You think there's a land dispute between Becky Hopkins and Sargeant is that what you're saying. J. Lindsey said Sargeant's long dead but the heirs of Sargeant. It's also the Heron Rookery it's all under water, it's a moot point. S. Komisarek said right, nobody's going to use it. And like Dennis was saying, I was on that Transportation Committee and it didn't show but it seems it's really of no consequence either way. If you have it, no one's going to go out and use it if it's under water and if it's not a commonly used trail. D. Lewis said this came out of the blue about a week or so ago. R. Cartier said about a month ago is when I heard about it.

J. Lindsey said but from what you're saying the issue is you're calling it a rail trail, you're calling it something it isn't and then people start believing that that's what it is and think they have rights to it. Even if they don't. Now you have a deeded right to it, that's a different issue. S. Komisarek said so you feel it's mislabeled. J. Lindsey said it is mislabeled, it's private property. It's not a rail trail. S. Komisarek said Dick you were saying don't get involved. Don't change it.

D. Snow said I said you can change the title. Paul Sargeant left it to his heirs in a trust. They're up in Laconia and the lawyers up there were the ones that told the 93 year old woman, no we're not going to do that now so you say they're not going to do anything. I've driven that and I've seen all that water out there and I brought to the Board a possibility of using some of that money with Manchester Water Works to put conservation easements out there. We didn't do that, maybe we should have but at some point in time, wherever that water comes from, there's about 4 miles of water that's 6 inches deep; there's a beaver damn somewhere. That beaver damn disappears it's going to become an emergent meadow again. Paul's heirs are

going to say now's the time and they'll develop that area down there and somebody should be doing something to make that not happen. You're in the midst of something and there are people that have value in that piece of property. If the Planning Board wants to ask SNHPC to go in and change something in a document that they produced; #1, it's a governmental document; you can't get rid of it. It sits out there and somebody will look at it so why bother. But if you want to you certainly can but you can't change the location because the location comes from the tax maps.

M. Chalbeck said I think if we tell them to touch it it opens up a can of worms. I don't think we want to do that.

D. Lewis said two or three years ago we never had a reference to this and everybody lived just fine with access to where they were going and now the fact that it's labeled as something it's become an issue. I think the only thing we want to do is remove the label. S. Komisarek said so it's not that anyone's going by her property because it's impassible, it's just that she happened to look the map and saw it. D. Lewis confirmed she looked at the map and saw it as a potential trail whether it's for snowmobiles, bicycles or whatever. It lends itself and I think someone made reference to that, you're used to the Rockingham Rail Trail why don't we use this one for the same thing. I think that's where her worry is coming in.

R. Cartier said I've changed my philosophy in here. This is a document that's been approved that's out there and it's subject to review and revision at some point in time. It might be prudent to just leave it alone and the next time it's reviewed then we take it out at that time. It doesn't say it's going to be a multi use trail; it could be a multi use trail. No matter what happens, if it wound up to be a multi use trail, we'll have to go to every single owner of the properties and get easements from them or buy the property one or the other. The lady might be upset that we left it in there but it would have to go through public hearings and all kinds of other stuff before you even consider doing it.

D. Lewis said but as part of the Transportation Committee that produced this document, we didn't know this was going to be put in there. We didn't discuss this as a potential trail. Scott was there, there were like four of us on there and it wasn't there, no one had an issue with that trail until it showed up in print and we had to go back and look through there and say where did this come from, we didn't put this in here. I guess that's where the problem comes in. It's in here; it's causing a controversy that we never knew was going to be here. R. Cartier said that's okay and I understand that. D. Lewis added until you talk to the landowner that's in dispute here. When you get done talking to her you're going to realize she isn't going to accept what our answer is tonight.

R. Cartier said the way that it looks right now because it is an approved document, if we did a revision we'd have to reprint the whole thing. Or we'd have to submit an addendum that would have to go to every single person who's ever received a copy of it. D. Lewis said it's a couple of maps. I think this is going to go way further than what we're thinking.

R. Cartier said my suggestion would be the Board would basically come up with a motion or whatever that we've reviewed the Transportation Plan and looked at the situation that the landowner is looking at and say we'll address the proposed designation of that the next time the plan is reviewed but we realize no rail trail or multi use trail can be done on that property based on the fact that it's all private property; the whole thing is privately owned property and it would take a lot of work to do it. It's not in there that says we're going to do it, correct me if I'm wrong, it doesn't say we are going to do it, it's just a possibility and I would leave it at that. D. Murray said she's already been told that.

M. Chalbeck said the problem is if we say private property we need to delineate that because she's thinking that rail trail is hers and if it's somebody else's we don't want to try to make a mix of words we acknowledge your claim on that property because that's someone else's property, we don't want to acknowledge that. It's dragging the Town into a dispute we don't want to get into.

R. Cartier said then we can say the property ownership is in dispute. D. Snow said in contention. R. Cartier continued we don't want to get involved in the middle of this. I don't think we need to take it out of the Transportation Plan. You guys did a good job and it was something thrown in that you didn't realize and its there. The Board can make a motion that we understand the issues going on there and it would take

more work than we want to do to try to do anything on that trail. Don't take that as a motion, I'm throwing out ideas. I definitely understand what she's talking about, I looked at the maps, one map and the trails come here and then they stop and then there's a thin line that goes across.

J. Lindsey said did you notice if you walk out there on the rail trail and you come up to the Heron Rookery it disappears. It's not that it goes underwater it disappears before it gets to the water. It's almost as if the railroad bed wasn't in there and there was water in there in the first place. D. Lewis said the trestle was 400' long. J. Lindsey said and it picks up on the other side. There's no rail trail bed or anything, it's just water. R. Cartier said if they did a multi use trail they'd build a bridge, like they did in Manchester across the Merrimack. T. Blevens commented I can guarantee that will never happen.

A. Hall it's going to be in contention however you look at it and I feel that for us to be on solid ground we need to have an opinion from legal counsel for the Town whether the Planning Board requests it or the Selectmen request it. Until he says something, we're always going to be tossing this around and getting no place.

S. Komisarek said the Selectmen never max out the allotted amount of time we have with Bart so if it will make us feel more confident in a complicated matter.

R. Cartier said that's not the point, I don't feel it's in our ball park to be concerned with this. As Dick said it's a private landowner deal in here. I fully understand what you're saying but right now there's no Town involvement whatsoever. It just says somewhere along the line maybe you could have a multi use trail over there. So we're still hands off from it at this point in time. If it said in the plan we're going to do this that would be a totally different thing. Then we'd say no we can't do that.

M. Chalbeck added the contention, the landowner where it says multi use trail, the landowner who owns it isn't even complaining. The landowner is claiming she owns that, you don't want to get into that. That's someone trying to do a land grab and I don't want to get in that. S. Komisarek said okay, I got it. T. Blevens said as long as we have access to our wood lot, I'm good. M. Chalbeck said the owner of that property isn't complaining it's someone trying to grab that property.

MOTION:

K. Kustra **motioned** to leave the Transportation Plan alone. J. Pouliot **seconded**. **All were in favor (6-0-0)**.

Informationals: K. Kustra wanted the Board to discuss informational meetings. I'm opposed to having someone come in here and ask I want an informational meeting and they take up the Board's time, 40-45 minutes, an hour. It's happened several times. Should we limit, accept an informational time but limit the time. Let's discuss. M. Chalbeck said but they're looking for our opinion, if it takes 45 minutes. K. Kustra said in lieu of submitting an application. Give them 15 minutes instead of 40. J. Pouliot said what if they're not done in 15 minutes. K. Kustra said they can come back another time when they have more information.

R. Cartier said we're trying to be more efficient and trying to avoid applications coming in here incomplete and keep sending them back over and over again. That's a valid point, depending on what it is, sometimes we've gone a long time but it's more of a customer service type of thing. When Sis Richter and Matt came in here looking for some guidance from the Board we spent some time and I got a call both from Matt and Sis that they were very pleased with how the Board handled the request and was courteous to the whole thing and felt that we were doing a good job. I'd hate to limit things in case we needed more time but maybe we should let them know ahead of time; set it up so that between 7:00 and 7:15 is the time we'd be looking at an informational. If need be we could go a little longer. S. Komisarek agreed with Rudy. Respectful of our time but... A. Hall added keep the meetings moving along.

R. Cartier said why don't we do that as a procedure that if we do have informationals we'll schedule them first from 7:00-7:15 pm and let them know that we have to limit the time.

MOTION:

A. Hall **motioned** to adjourn at approximately 9:35 pm. J. Pouliot **seconded**. **All were in favor. Motion carried (6-0-0).**

A Zoning Review & Revision Committee Meeting work session will take place on Monday, October 29th at 6 pm at the Town Hall Meeting Room, Town of Candia, NH. The ZRRC meeting for October 17th, 2018 following the Planning Board meeting has been cancelled.

Respectfully submitted,
Andrea Bickum
Land Use Secretary
cc file