

**CANDIA PLANNING BOARD
MINUTES of December 5, 2018
APPROVED**

Present: Rudy Cartier, Chair; Al Hall III, Vice Chair; Judi Lindsey; Joyce Bedard; Joshua Pouliot; Carleton Robie, BOS Representative.

Absent: Mark Chalbeck; Scott Komisarek; Mike Santa, Alt.

Present: Dave Murray, Building Inspector, Dennis Lewis, Road Agent; Bryan Ruoff of Stantec.

Chair Rudy Cartier called the meeting to order at 7:00 pm immediately followed by the Pledge of Allegiance. A moment of silence was observed in honor of the former 41st President, George H. W. Bush.

Minutes November 7, 2018:

A. Hall **motioned** to accept the minutes of November 7, 2018 as presented. J. Lindsey **seconded**. **All were in favor**. J. Bedard and C. Robie **abstained**. **Motion passed (4-0-2)**.

7 pm – Sign Lot Merger, Mylar and Plans from approved Major Site Plan 18-010 – JCC Legacy which was approved with conditions on 10/17/18. Additional plans: An approved CoPart site plan not signed by the Board. They want the owner of record on the plan in place of prepared for CoPart: should be prepared for Candia South Branch Brook holdings just to make it clear who the owner of the property actually is.

7:05 pm - Informational: Scott Davis, 93 Critchett Road, Candia, NH 03034; Tax Map 406 Lot 148, Residential District. Intent: Minor or a Major subdivision? To subdivide 1 lot creating 3 new lots and leaving the remaining 43 acre lot never to be subdivided.

Present: Scott Davis, owner/applicant; Jim Franklin, surveyor.

S. Davis had blueprints from 1954 by William A. Gunnarson. J. Franklin had an 8.5 x 11 sketch of what Scott would like to do. J. Franklin reviewed: I took the information from the tax map except for the red lines. Lot lines, contours, adjacent map and lot numbers and all we're doing is having a Lot Line Adjustment between map 406-149-1 and a portion of lot 148. The dashed line that's black is existing and that will be the lot line to be eliminated. We combine the 2 portions there and would have 11.8 acres. S. Davis added that will join my house. J. Franklin and then create two 5 acre lots and have the residual; all the lots will have about 205 feet of frontage depending on survey measurements; 5 acres in size, approximately 1100 feet deep. S. Davis confirmed my house is on 406-149-1. John's property is on that adjacent parcel that we would want to just assume.

R. Cartier said you'd be creating 2 lots. J. Franklin agreed, plus the residual. J. Bedard said this says 3. J. Franklin said there's one now, have a total of 3 after so an increase of 2. R. Cartier said it's one lot; J. Franklin confirmed 149-1 as part of this then yes, there are 2 lots. But that's a separate lot, Scott's house. That lot line adjustment as well would be part of the application process. J. Bedard said so the lot line where it would be eliminated, lot 148 is one piece and 149-1 is one piece. J. Franklin agreed.

R. Cartier asked about a two step process. The first for a lot line adjustment for 406-149-1, which would then have that as its own lot and then it would be taking 406-148 and making that go from one lot to three lots, so an increase of two lots. J. Franklin said that can happen all at once. R. Cartier said if you do it all at once, it looks more like a 4 lot subdivision. J. Franklin reiterated there are two lots 149-1 and 148. When we get there will be 4 lots; two going to four; two additional lots. R. Cartier said I understand but I want to make sure we don't inadvertently get into trouble if we try to make it too simple. The simplest thing to be clean is to do a two step process; lot line adjustment first and once that's approved, then 406-149-1 is clean. J. Franklin asked can we do them concurrently with two separate applications. R. Cartier

said I don't see why we couldn't. J. Franklin said if the first one was not approved, both of those parcels could stand on their own but we don't anticipate any problems. R. Cartier agreed; lot would be adequate to meet the regulations. J. Franklin said we need to do survey work; topography, soil work, look for wetlands and add them if they are there; add them to the plan because of zoning. S. Davis said this corner, that was surveyed by Ladd and Associates so there is a survey mark in that space. J. Franklin said we'll be asking for waivers of some of the regulations; complete perimeter survey because we have one here. I have the field notes for all of Gunnarson's work so we can go through and get the dimensions for everything he did. There is a survey and subdivision on file for lot 149-1.

Board confirmed: The two step process in the same night is fine and submitting them at the same time.

7:20 pm - 18-012 Application for Preliminary Major Subdivision Preliminary Layout and Review:

Applicant: Richard Holt, Edward Holt, April Caswell & May Erwin, c/o Richard Holt, 79 Diamond Hill Road, Candia, NH 03034; Owner: same; Property Location: Patten Hill Road & Diamond Hill Road; Map 409 Lot 228; Intent: To subdivide lot 409-228 into 3 new residential lots; 3.48 acres, 4.06 acres, 4.78 acres, leaving 73.7 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 review meeting.

Present: Richard Holt; Edward Holt; Dave Erwin (May's husband); Joe Wichert, Surveyor.

R. Cartier said there is one issue; it's not going to affect what we can do tonight. Andrea had sent in the notices to the paper to have this noticed, it's posted in two places in town, we paid for the notice, the paper never published it. There's no action on this tonight so we can continue with the review and the technical review at this time. Scott Komisarek and I met with Mr. Wichert on November 14th and we took a look at the information we had. The application checklist pertains only to the 3 lot subdivision; waivers for details pertaining to the 73.7 acre parcel of the sub-divider parcel have been submitted. We were missing some information on the driveway culvert and plans needed to show the stream flow direction. J. Wichert said we added an additional curb cut off of lot 2.

MOTION:

A Hall **motioned** to accept the application as complete. J. Lindsey **seconded**. **All were in favor. Motion carried (6-0-0).**

J. Wichert suggested I can do a brief overview and go into the comments from Stantec and from there, get some resolution and by the next hearing tie everything up. The plan on page 2. Lot 228 on tax map 409. Assessing records show 86 acres with frontage on Diamond Hill Road and this piece on Patten Hill Road. The old railroad, now State of NH rail trail, runs through the property. We were in front of you in July or August asking for a determination for a major or a minor and our position was the railroad was owned in fee by previously the railroad and now the state so the two parcels were separate. The Town attorney disagreed so we're working under the major subdivision guidelines. We have a substantial list of waivers, 10 or 12 waivers, the majority happen north of the old rail trail. Very few waivers we're asking for on the parcel being developed which is approximately 12.3 acres or so. The intent is to subdivide this parcel on the Patten Hill road frontage side into 3 building lots. When we were here originally, the back of this property where the large wetlands are in a Zone A floodplain line; it's a special flood hazard area but it's base flood area is undetermined. Topographically that was a 70 foot rise and that's not practical so when FEMA maps these properties on areas that are less populated or less major waterways, they don't necessarily put in a Z value or a base flood elevation. It's a graphic representation. You can send a packet to FEMA and get a LOMA, letter of map amendment. We did that and this was the old flood line. We

applied to FEMA and it eliminated the .78 acres from the graphic representation of the flood plain. So when you look at sheet 1 of the plan set. You have this part of the line is the Zone A, current line on the FIRM maps. This part of the line is what went to FEMA and was adjusted so topographically it matches more. In this case it went up to 418. If this entire water area went to an elevation of 418 there would be a lot more problems than just the corner of our property. The lots we're proposing will all have on site well and septic. We have some well radii shown. We have submitted a dredge and fill permit for a wetlands crossing up in here; it's 375 feet. That was submitted to the Conservation Commission. They met with the Conservation Commission but because we hadn't gone to the Planning Board yet, that packet didn't get submitted. I'm assuming, I'm not sure if got submitted after that as not expedited or if they were going to wait until they heard back from the Planning Board. So hopefully after tonight, if it hasn't been sent up we'll have enough so at least the Conservation Commission can process the application and give us a 30 day head start with the wetland bureau.

There are 3 lots: 1 through 3. Lot 1 = 3.48 acres and 3.27 acres of contiguous non-poorly drained soil. Lot 2 = 4.06 acres with 2.33 acres of contiguous non-poorly drained soil. Lot 3 = 4.78 acres with 1.69 acres of contiguous non-poorly drained. We checked it to make sure if we had to exclude the flood zone area and we're at 152 or 153 above the 1.5 required by your ordinance. Frontage: Lot 1 = 299 ½ feet of frontage; Lot 2 has 207 and Lot 3 has approximately 240. We're zoned residential which requires the 200 foot frontage and 3 acres of which 1.5 acres of that has to be buildable by your ordinance. That's the overview. Sheet 2, everything we're proposing is south of the rail trail. Most of the waivers are relative to the parent tract:

Waivers requested so we do NOT have to do the following:

- Section 10.06b.2- Boundary survey for entire parcel (done for land being subdivided)
- Section 10.06e.1- Contours for entire parcel (done for land being subdivided)
- Section 10.06f- High Intensity Soil Survey
- Section 10.06g.1- Buildings within 200' for entire parcel none for land being subdivided
- Section 10.06g.2 - Roads, streets & drives within 200' only for land being subdivided
- Section 10.06i.5- Buildings & acc. buildings within 200' only for land being subdivided
- Section 10.06k.1- Road profile. No new road proposed.
- Section 10.06k.4- Fire protection facilities. Only 3 new lots. We're asking for a waiver for requirement for cistern or sprinklers.
- Section 10.06l.1- Preliminary drainage analysis. Road front subdivision only.
- Section 10.06l.2- Watershed areas. Road front subdivision only
- Section 10.11f - Wasting site. Individual lots only
- Section 10.12c- Fire protection & emergency access plan

J. Wichert continued if we had just subdivided this 12 acres and we didn't have the remainder; it's a road front subdivision under the minor threshold; we wouldn't have had to do many of those things. Stantec's initial review memo from November 16, we got that last week. We submitted plans and I met with Bryan on Monday morning to go through it (*December 3rd*). We started with 20 and we're down to 16 or so. J. Wichert went through the Stantec letter items:

Stantec Letter:

December 4, 2018 File:

195113323

1. *The submittal is required to provide a pre and post drainage analysis and watershed area as specified in Regulation Section 10.06L. It should be noted that the Applicant is requesting a waiver for this requirement. Based on the proposed driveway locations it appears that driveway culverts are required for proposed lot 413-46-2 and 413-46-3, we would recommend that at a minimum, culvert sizing calculations prepared by a professional engineer licensed in the State of New*

Hampshire be provided for these culverts. Comment requires a determination by the Board; the applicant is seeking a waiver. J. Wichert said we asked for a waiver on this as its only 3 house lots and not building a new road and a comment on the driveway culvert. The initial plan showed a driveway that T'd off where this curb cut was to service lots 1 and 2 and we had this driveway on lot 3. After meeting with the owners, we went with a curb cut here, a second curb cut for lot 2 and the same curb cut for lot 3. We've shown the 3 culverts but they weren't sized by the engineer which is what Stantec was asking for. There's not a lot of ditch line on the driveway for lot 3 so that culvert is set back in a low spot but minimal flow. The driveway on lot 2 is on the north side, flatter side, not sure it would have a lot of flow so I think the 15" size will work. Lot 1 is at the toe of the slope already so looking for input from the Board on that. Comment 2 is the list of waivers.

2. *The applicant is requesting a waiver from the following Regulations (see previous page for all waivers).*
3. *Given that the proposed lots are within the 100-year flood zone, a pre and post comparison must be performed to confirm no advertise impacts the flood plain. Additionally, it is recommended that construction fencing be specified at the limit of the 100-year flood zone and that a note be added to the plan indicating that no disturbance will occur in the 100-year flood zone. Additionally, the plans show a portion of the site is within the 100-year flood hazard boundary, however the boundary shown is based graphically representation from the FEMA Flood Insurance Rate Map (FIRM). However, the flood hazard boundary must be shown based on the listed elevation in the FIRM study.*

Comment partially addressed, additional clarification is required regarding the actual and/or historical limit of flooding on the site, specifically on the proposed Lot#3, which has an apparent history of flooding due to beaver dams. J. Wichert said Mr. Holt remembers flooding north of the property. Dennis had told Bryan said he thinks it's in this area. That's one in play.

4. *The Applicant is required to provide the following statement on the plan:
"This Preliminary Layout Application is accepted as complete this ___ day of
_____, 20__ . By: _____ Candia Planning Board"*

Comment not addressed. J. Wichert said we were trying to do this in one hearing but we won't be able to do that now with the notice issue. We can put one in there, typically when we did the last one as a major; it was more of a checklist item for the file versus the plan itself. This is a preliminary so the final would supersede it but whatever the Board wants.

5. *A 75-foot setback is required for all septic systems, leach fields or other waste disposal facilities, as specified in Ordinance 10.06A; a note must be added to the plans specifying this requirement.*

Comment not addressed. J. Wichert said we're aware of that. We're not showing septic systems, we're showing the 4,000 square foot suitable leaching areas. We moved this one further away and closer to this pit but we may end up having to do another test pit over here. I think we have 60-65 feet off of the wet but it's only 4,000 square foot suitable leaching area. **We can add a note for wetland setback** but I'm not quite sure of the comment so we're looking for what that is. Test pit for lot 1 is about 8-10 feet away. DES will give us leeway. All 3 pits are similar but we shifted this line over during the layout so we're trying to get over it, if not, we can do another test pit.

6. *The plans must show wetlands soils as poorly drained and/or very poorly drained. Poorly drained soils must be provided with a 50-foot setback, while very poorly drained soils must be provided with a 100-foot setback, as specified in Ordinance 10.06B.*

Comment partially addressed, the wetlands in the front of the lot are not designated as "poorly" or "very poorly" drained and the plans are not stamped by the soil or wetlands scientist(s) as required by the Regulations. J. Wichert said the only very poorly drained on the property is out back. That's the limits of the poorly drained. The only area where the 100 foot very poorly drained setback is more restrictive than the 50 foot poorly drained setback is this little area here where we added a 100 foot dimension to. We did have in this front area we added a PD label there. We had tried to label it poorly drained. All the setbacks off of wetlands are 50 except for this little area where it's 100. **I think that comment is resolved.**

7. *The location of wetland boundary was determined using the standards of Site-Specific Soils, however it is required that wetlands boundaries be determined by on-site inspection of soil types and vegetation with data prepared by a qualified soil scientist using the standard of High Intensity Soils Maps for New Hampshire as specified in Ordinance 10.03B. It should be noted that the Applicant is requesting a waiver for this requirement, a determination is required by the Board.* **Comment requires a determination by the Board.** J. Wichert commented we disagree. The wetlands are determined most times by the Army Corp Standards by an on-site investigation. Not by High Intensity which is a further breakdown of the mapping. The general process is the soil scientist/wetland scientist would go out to the site, hang the flags. We look at the flags. Once we have the flags located with the topography, then you have the soil scientist draw in the high intensity soil lines after the fact. The wetlands note is here, it's not stamped on this one because by the time we got the comments back from Stantec, I didn't have time to meet up with Bruce Gilday, who is both a wetlands scientist and a soil scientist. I'm not sure how that comment gets resolved but we can talk about that.
8. *Driveway locations are required to be confirmed by the Road Agent, as specified in Ordinance 2.04.* **Comment not addressed.** J. Wichert said we were waiting on the letter from the Road Agent.
9. *The project is pending NHDES Subdivision and Wetlands Dredge and Fill Approvals, and permit numbers added to the plan.* **The noted permit approvals are pending.** J. Wichert commented we can't get state subdivision until we get this and we haven't processed the dredge and fill application because we needed the conservation commission sign off to move forward.
10. *The plans must be stamped and signed by the Soil Scientist of record, as Specified in Regulation Section 10.06F.* **Comment not addressed.** J. Wichert said we did ask for a waiver on it. Not sure what the intent of your ordinance needing a HISS requirement. My assumption is that we're in a major subdivision and you're doing a road and you're looking for an Alteration of Terrain permit and the HISS would be a requirement of that but under your ordinance you don't have a soil based zoning so typically if we're in a town that requires a HISS map there zoning isn't flat 3 acres with 1-1/2 contiguous, it might be floating depending on the type of soils so I'm not sure on comment 10.
12. *A review letter is required to be provided by the Town Police Chief, Fire Chief and Road Agent as specified in Regulation Section 10.06N.* **Comment partially addressed, to date we have only letter has only been received from the Police Chief.** J. Wichert said we were waiting on Town review letters.
13. *The Subdivision Regulations require that a Sediment and Erosion Control Plan be provided as specified in Regulation Section 16.03. Additionally, it is recommended that the Town's specifications for Sediment and Erosion Control Standards be provided on the required Erosion Control Plan, as specified in Regulation 16.02.* **Comment not addressed. The applicant's**

designer, JMW has responded that they don't believe this regulation applies to the type of subdivision for this project, we recommend that an Erosion Control Plan be provided for the subdivision. J. Wichert section 16.02 and 16.03 in the ordinance seem to cover; for construction process list the silt fence etc. The owners are planning to create the lots but not build on the lots. At this time we have no idea what's going to be built or limit of disturbance. When you read the comment from Stantec; they want erosion control and on comment #19 they're talking about the placement of houses. All the erosion control measures that are going to be in place but without knowing the houses it's difficult to do. And if you do it now, you make an assumption about the house location and somebody comes in and builds something different, it's a waste of time and effort. I don't know how that gets addressed.

17. *The Applicant is required to provide a fire suppression water source for a major subdivision that is more than 1,000 feet from an arterial road, as specified in Regulations Section 19.14. **Comment not addressed.** It should be noted that the applicant is requesting a waiver from this Regulation.* J. Wichert continued we did ask for a waiver on this. When we met with Bryan and went through this and per your regulations; 4 to 9 requires one cistern, 10-18 requires 2 and 19-27.... We're doing 3 new houses so we're asking for a waiver but it's the Board's prerogative of what you want to do. My understanding from when we met the first time, the Fire Chief didn't have any major concerns about it but I didn't see his letter so we'd ask you to entertain that waiver request.
19. *The limits of disturbance must be shown on the plans to clarify whether a EPA NOI or NHDES AoT permit is required for the proposed subdivision. **Comment not addressed.** The applicant's designer has responded that the applicant is selling the lots and they will not know how each lot will be developed. Given the environmentally sensitive location and the apparent history of flooding on the property it is recommended that the driveways, building locations and limits of clearing be shown on the plans and that a note be added to the plan stating that 'Any proposed changes to the building, driveway or limit of clearing for the proposed lots shall be submitted to the Planning Board for review and approval.'* J. Wichert said so the two items that Bryan asked for AOT or EPA Notice of Intent. The thresholds for an AOT permit are 100,000 square feet of contiguous disturbed area because these lots are being developed individually and most likely sold individually; I don't think we'll make an AOT permit for 3 individual house lots, so it's not in the cards for us. The notice of intent, the threshold is lower at one acre. It depends on who builds what so we don't know that. I don't know if the Board could look at and entertain a condition of approval. If someone builds a house and opens up more than an acre, it's on that builder to pull the necessary permits. Us not doing it now isn't going to excuse someone from doing it in the future.
20. *It is recommended that a determination be provided by Eversource that there is sufficient vertical separation between the proposed driveway surface and the overhead electrical lines. **Comment not addressed.*** J. Wichert commented the curb cut for lot 1 the overhead wire goes across the road so I don't think that's in play at all. Lot 2 is right here, along the side of the road where it gets flat. I don't think it's an issue for lot 2. The comment seems to be for lot 3 because the road is built up between 4 to 6 feet in that area, it drops down and the power line runs along the side at the low spot. If we have to carry this road grade out are we going to have enough clear to get under the wire. Rick met with Eversource this week and if we need to we can lift the height of this pole up once we know where it's going and how it's going to be graded. R. Holt commented they said it was no problem. J. Wichert continued on the review memo we sent on the 28th we tried to go through and give a more definitive explanation of what we did.

R. Cartier commented with the rail road right of way, similar to our last informational, has there been any thought to doing a lot line adjustment to cut off that lower piece of land and then doing...the problem is and what created this issue to begin with is that the deeds were never properly done shall we say. I'm very sensitive to this because of the way it is and it looks to me that if this was a two step process and you cut that 12 acre piece off and cleaned up the deeds for here, it would avoid a lot of the issues that we're coming up with. We can keep going on with this. I know that Bryan and Dennis have done a lot of work and some of the issues would still be there even if it were a minor such as the driveways and the setbacks over there but that would turn it from a major into a minor if you wanted to go that route. I don't know how much work that would be or whether it would be practical to do.

J. Wichert replied I think we actually talked about it in July and I think one of the reasons why we opted for where we're at is we're going to need a lot of the same waivers. The difference is for us to subdivide the 12 acres off of the 86; I still need all the waivers for topo, boundary and everything on the outbound because we're not going to survey the other 74 acres. I think where it comes into play is going to be based on the input of the Board relative to erosion control and some of the other items. From our point of view we've already engaged Stantec; we've already gotten and tried to address their comments. Let's say for sake of argument that we've never granted a waiver on an erosion control plan in however many years and we're not starting now. That might be a reason why we'd look to re-group and come back in with an amended application. If the Board were to look at it and say it's the same plan, same project, and same everything and approve the waiver, then that would be a reason we wouldn't be looking to do it in a two step process. There's an expense to re-file, re-draw plans and come back. We're trying to keep it as low a budget as we can because the estate; the challenge is to do this to generate some revenue so we're trying to be as efficient as we can so we'll take your suggestion as to which way it goes. R. Cartier replied the general feeling of the Board has been we're reluctant to give waivers in there, we have, but it's something we discussed over the past year or so on waivers that we're concerned about doing a lot of waiver requests because the regulations are there for a reason. Not to say that Board wouldn't grant the waivers.

J. Wichert responded the benefit of doing a two step process: it eliminates the need for HISS, it eliminates the need for the erosion control plan and it eliminates the need for Stantec to review so I don't know if the driveway culverts become an issue or not an issue. It removes comment 4 about the preliminary layout application is accepted as complete. That being said, typically a HISS (High Intensity Soil Survey) is done if a Town has soil based lot sizing, which Candia doesn't, it's a flat 3 acres and of that 3 acres we have to maintain 50% contiguous and buildable. The erosion control plan is not generally employed for individual house lots as it is for a new road; rip up a new road and disturb 95,000 square feet of land then a formal erosion control plan is more important than best management practices that you would do on a small construction site. If we got a poll from the Board are the waivers going to be approved and if they are we go forward and if they aren't then I guess we step out in the hall and talk and come back in as to which way it would go.

R. Cartier replied I can't speak for the Board regarding the waiver requests because we have to look at each one of those individually. Also eliminated would be the fire protection facilities and emergency access would also go away; they automatically because it's only 3 lots. This is very unusual because of the way historically things have happened.

B. Ruoff commented there is a requirement in the ordinance for HISS soils; the 1½ acres of contiguous non-poorly drained soils is based on the HISS so it is required and has been stated a couple times and I'm not sure why that's being asked for but it is a requirement. It's not poorly drained wetlands, it's poorly drained soils that have at least 1½ acres of contiguous non-poorly drained soils based on the HISS mapping. I wanted to clarify that. J. Wichert disagreed. Typically a HISS is going to break out the different soil types; classification, parent material etc. A wetland scientist certainly can delineate the wetlands and they would delineate both poorly and very poorly drained based on the normal standard

which is 19 or maybe 7 Army Corps manual. If we were to do a road front subdivision, without the requirement for a HISS survey, the 1½ contiguous acres of non-poorly drained soils, that requirement still applies and I don't think it's ever been employed that you need to do a HISS map for that. The way I read it, it's typically done as a function of state permitting for AOT for a road; drainage classification better but not so much for individual lots. A wetland scientist can do poorly drained soils based on the soils, hydrology and the plant life on there. B. Ruoff stated for the last 3 years this has been a point of confusion. The zoning ordinance requires HISS but the subdivision regulations require site specific soil mapping. So for the last two years after an abutter complained that HISS mapping wasn't done on Currier Road that we bring it up every time. It's a waiver that is brought in front of the Board every time. If site specific soils are mapped that's an acceptable alternate as determined by NHDES but the ordinance still require it and a waiver is required for HISS mapping.

R. Cartier commented the way things are structured with the deed aspect of it whether you even need to come back to the Board for doing a lot line adjustment or whatever. You'd probably have to consult a real estate lawyer; whether there was a way to actually do the deeds properly without coming for a subdivision approval. There seems to be a lot of history and a lot of confusion. J. Wichert replied we did after September when we were here. *Sye (Unintelligible)* Dahar out of Manchester wrote a letter to the Town attorney and in his letter to the Town attorney he stated that he felt the properties were two lots. I never saw the letter but my understanding is that the Town attorney disagreed with that assessment or the Town attorney wanted additional information before they would agree with that assessment so there was a business decision on our part; we knew the cost of the review from Stantec. Do we spend more time and money legally trying to convince the Town attorney otherwise or just go in and ask for the waivers; we decided to ask for the waivers. I don't think the deeds were incorrect so you could probably deed out anything south of the railroad and north of the railroad. If we do that is the Town going to consider it an illegal subdivision so do we get an enforcement action or do we have some problem that is going to cause a title issue down the road. One of the things was its on one deed. There was a focus on because there is one deed, its one lot. We do surveys all the time with pieces on the east and west side of the road and common road is if they're separated by a road, they're two lots. To me, I didn't think it was that big of a deal but sometimes we're wrong and the Town attorney didn't agree with it and based on that this is the direction we went here. As far as erosion control, we talked about the past history and the issue you're having on the other project. Everything on this property goes to the back to the existing wet. There's always the chance someone could build a house, lift it 6 feet up and grade the entire front of the lot to drain to the road but I don't see that happening. We can't guarantee anything so it's up to the Board.

R. Cartier commented we won't be able to act on any of the waivers because it wasn't posted. We can go over the technical review portion of it. That would be the first step. My suggestion would be before the final is done is to check to see what other options there are to make this more streamlined for the owners and the Board. We're concerned about granting waivers. R. Cartier reiterated to investigate other options as the waivers would go away as they wouldn't be applicable anymore and it would make life easier all the way around. Board agreed to continue on with a technical review.

R. Cartier said there are 2 issues: 1) the driveway easement for lot one. We have had issues and been advised by legal to not do driveway easements because they create potential problems. 2) The area in here is very environmentally sensitive and it's prone to flooding so there are concerns about flooding.

B. Ruoff addressed the flood plain adjustment. I'm still not clear on it. My understanding of it was that the floodplain crosses 7 feet of contours essentially and that doesn't make any sense and it was adjusted to the lower limit of that flood range for lot 3 and a large portion of that was identified by FEMA as being an area of flooding was subsequently removed. I know that was approved by FEMA but I haven't seen or heard anything that that adjustment to that elevation in that location is appropriate. That confuses me. The other part is that there is the adjustment on lot 3, northerly most lot but then we go back to what's shown in the flood maps for what's shown on lot 2 and 1. Not really consistent and confusing why the adjusted flood elevation for lot 3 would be based on an elevation but then lot 1 and 2 would be based on

the old information. If we were to establish a new flood elevation it should be consistent along all 3 lots that would make the most sense for me. I don't know the limit of flooding on these lots. It could take into account for the beaver dam and the flooding associated with that but this was approved by FEMA what the recourse is, if a study should be done or what not. That leads into the drainage. Based on the flood plain adjustment the 3rd lot is barely viable, 1.5 acres is not in the flood plain. My concern would be any increase to storm water going to that location would that increase the flood elevation to that lot and make that lot less than 1.5 acres viable based on increased storm water. A waiver is being requested for the storm water calculation but it's somewhat critical in this location due to the flood plain. Lot 3 is the specific concern, what runoff is going to lot 3 and making sure there's no increase to that lot that increases the flood plain. Their argument that these lots are to be sold and they can't definitely say where the houses or driveways are going to be but I think it needs to be shown on the plans and if it's revised, because it's a hydraulically sensitive that that's something brought back in front of the Board. If the houses are put in the back versus the front that could totally change the drainage for lot 3. The Board needs something that any of the lots if they are not conforming to what's approved, they're brought back before the Board. Where all these culverts are proposed in the road right of way, they need to be sized appropriately. They're going to be owned by the Town and maintained by the Town and it's something I would want sized appropriately so you don't have to replace them every year.

C. Robie commented no driveway culverts are owned by the Town. They are not maintained by the Town, they are maintained by the landowners; owners. B. Ruoff apologized, my mistake.

Dave Erwin said regarding the location of the houses, we can draw them in but when people come to get their building permits and plot plan; that will come up again. You'll say you can't put your house back in lot 3 because of this and this and this. This will all be determined again, whoever buys this lot and they're going to determine or you're going to determine where they can put the house and what the limits are. R. Cartier corrected it's not that we want to limit where the houses would go, it's to take a look that this is an environmentally sensitive area with runoff and we've had some issues in the past. When they went and did the houses, the houses were moved and created a drainage issue. D. Erwin said when the people go to get their building permit and submit a plot plan that shows where the house will be and you're going to say no, we have a concern with drainage. R. Cartier said the problem is once we approve this, the Planning Board doesn't really have any jurisdiction after that, it would be the building inspector. I don't think it would be appropriate for the Board to put that weight totally on the building inspector in there you'd have to come back to the Board. I'm not sure how to exactly do it as I don't want to say you have to put the house here, we want to make sure it's not going to impact as these other lots have done in the past.

C. Robie said once these lots are approved in a subdivision, you're contiguous soils that are buildable is where the engineer who designs the septic system, if he uses you're test pit or digs another one in that contiguous area, the owner of that lot can rightfully layout wherever he wants his house and the building inspector will look at that and if it fits within the upland soils that this has been approved under is where that person can build. D. Erwin replied so you're saying you want us to map out a certain location...C. Robie said no, I'm not saying that at all. D. Erwin said everyone's worried about drainage. C. Robie continued if you have your contiguous upland soils, in my opinion, I don't know if we're going to shoot a new topo and make sure the flood plain isn't at 212 and someone marks it at 216 and picks up 4 feet somewhere, there's a discrepancy there. The only way to do that is have it shot back in and verified. Have we verified that topo Joe? J. Wichert replied that topo is based off of our survey. I was going to ask Dennis to speak to the road flooding; where's the road flood because Rick wasn't sure where. He's never seen it.

D. Lewis said it will flood almost up to the proposed driveway of lot 3. E. Holt asked does the road go under water there. D. Lewis replied oh yeah, the road goes underwater there for a distance of maybe 150 to 250 feet. If you look where your driveway location is on your plan, the ground is lower there, it floods right up to that level and the road floods...the water's not deep there but it equalizes on both sides. We don't lose the road because there isn't a drop off on the downstream side. There'll be a little bit of

erosion as the road goes down. There's a choke point on the rail bed, if the beavers have that damned up, it will flood back up and the big stone culvert that's under the road will be totally submerged on both sides. On your contours here, it floods up to almost 416 elevation, down by the driveway. It doesn't take a lot of flooding if the beaver activity is busy.

J. Wichert replied I think we have a misunderstanding of the letter of map amendment (LOMA) process. If you start with a zone A which is a special flood hazard area base flood elevation undetermined; even if you do a LOMA it's still a base flood elevation undetermined so the only way you can change a zone A to a zone AE which is an elevation determined, you'd have to do a letter of map change through FEMA. A letter of map change involves the community and it's a pretty large scale item. The intent of the LOMA process, this is like a 30,000 foot view. FEMA takes large maps, models them and graphically puts them on there and due to the scale of their mapping it doesn't account for small level changes of topography. So if you have a zone AE with a base flood elevation determined, the number is always the governing factor. So if FEMA says the number is 413, if you're 412.99 you're in it and if you're 413.02 you're not. So when you have a zone A, even though we amended this to say it's impractical to say it's going to go up 7-8 feet into here, it's still a zone A. If you look at the LOMA paperwork from FEMA that we included in the packet, what they removed from FEMA was a metes and bounds description. So it doesn't say we're moving the elevation line to 413. So if you look at our plan that we submitted to FEMA, basically the original graphic representation of this line almost came up to 419. We looked at it, GIS topo, Granit topo and edge of wet and what we saw on the ground and we brought it to here. We submit that to FEMA and they can ask for more data. We made one resubmission and I think they asked for a larger scale picture of it. We never shot the culvert so that may be something we need to look at and get a number on the culvert and how that translates on the ground. We only found out about that on last Tuesday or Wednesday when we got the comments. The Holts weren't aware of it flooding in that area. R. Holt said I've never seen it over the road. J. Wichert continued we need to look at that a little more.

R. Cartier said if the road floods up to the 416 roughly on a regular basis would it not be prudent to carry that 416 right along into where the area is because it's a known elevation of flooding. If Dennis says it floods to 416 elevation on a regular basis...D. Lewis commented it's not a regular basis, it's when we have a flood situation. It's probably flooded maybe 5 times in 22 years that I'm aware of.

C. Robie said let's take the beavers into consideration downstream, they could influence it. D. Lewis said beavers or not, if it floods, it floods. Abe Emerson marsh on one side and the volume of water that has to go through these narrow choke points along the rail bed you can see why it backs up.

E. Holt asked to be flooded where we are would have to be over the road and 10 feet deep of water on the road at that elevation, we're ten feet higher than the rail bed isn't it? It wouldn't be possible to drive the road if it got that high. D. Lewis said for the road to have 18 inches of water over it, it would bring it up to your 416 because it's very flat in there. We can go up and go over and take a look and I can show you the limits of the flooding.

J. Wichert asked what's the average depth when it floods. D. Lewis said it's hard to say. When the old guardrails were there, you saw two guardrails and a pond; 6 inches to a foot or more. It comes right up to that driveway.

C. Robie said so let's assume you go out there, shoot a topo and that 416 is going to be the number. If that's the case, that lot is going to be deemed underwater. Correct? You won't get 1.5 acres of contiguous soil. J. Wichert agreed, not at 416. Correct. C. Robie continued maybe a 3 lot subdivision versus a four might be the choice.

J. Wichert said I don't disagree. If you look at 416 on this plan, runs through here...I can't remember the size of that wetlands complex but you're talking 3.5 feet of water vertically for the area of that entire complex in order for the water to flood out that lot, which is statistically almost impossible. If there is some contributing factor dumping water on that roadway, you can't say 416 for the entire lot. I don't think that's the case. B. Ruoff replied looking at the contours there's a low pocket along the road and then it humps up. It is possible that the initial flooding map was based on that low pocket and then it goes

around it and then it doesn't flood that high on the rear side of the lot, just along the road. I'm just speculating. J. Wichert said so we need to look more at the road issue. The 75 foot setback, you want me to just add a note? B. Ruoff agreed.

D. Lewis said the comment (*on my letter*) regarding the easement on lot 2 for the driveway to lot 1. Our Town attorney has always recommended that the driveway be located on the frontage that created the lot. Gave examples.

J. Wichert said we'll move that driveway. When DOT rebuilt that bridge, there was an apron there so we were trying to re-use that; less of an issue for a utility crossing, its flatter. The wetlands permit we're going for will allow us to slide it more onto there and we can eliminate the need for an easement. We can do a HISS he's been out there. B. Ruoff said I don't think it's necessary, we've granted the waiver for everyone who's asked for it. The Town's looking for verification from a soils scientist that the soils shown on the site are appropriate; whether it's a HISS or site specific. J. Wichert replied I have no idea what that comment means. You do a HISS or we do the wetlands. We've done the wetlands and I offered to do the HISS because I got the impression we needed to and now you're saying we don't need to do a HISS.

R. Cartier said in a major now it says site specific soil mapping. B. Ruoff reiterated that the regulations say site specific and the zoning ordinance says HISS. It's always an issue so a waiver from the HISS soils for a major has always been granted. R. Cartier replied and do site specific instead.

A. Hall asked what keeps causing the flooding. J. Wichert commented in conjunction with rain, if the culvert is undersized and it build up...there's some road issue in addition to just straight elevation that's causing that. I don't think it's a uniform elevation. We'll have to work with Dennis on that and see what we can do. C. Robie commented Emerson Marsh, we have beaver dam. When you change the height of the dam, it changes the time it floods. The pond can hold so much and when it reaches saturation, it blows over the top and there's even more water to overtake the culvert, which is probably undersized so we can't determine...if the beavers change the height of the dam, we can't determine that.

D. Lewis said I will go out there with you; show you the limits of the flooding in the 22 years I've been doing this. It goes to the same elevation. We'll mark the limits. J. Wichert replied we'll do that; paint it and shoot it.

J. Wichert continued the two items we're looking for: fire suppression, where is the Board leaning? R. Cartier said not at this point, we'd have to look at it on the request for the waivers and look at each one separately in a public hearing. D. Erwin asked are you looking for sprinklers. R. Cartier said for a major subdivision there are 4 options; 1) cistern, 30,000 gallon cistern which costs 75,000 to 100,000 2) put a deed restriction on the building of a house that they'd put in a sprinkler system, which runs about \$2,500 dollars. D. Erwin commented my wife's been in touch with the state. Senator Boutin, he was one of the ones that put in the legislation that the town cannot mandate sprinkler systems. There's nothing in there that says it's grandfathered so I can't see why that's on the table. R. Cartier replied originally we put cisterns in our regulations and later asked is there an alternative to doing cisterns and sprinklers or a fire pond as an alternative. It's not that we're mandating you put sprinklers in there; it was a way to reduce the cost but still have fire protection in there. D. Erwin continued this major subdivision bothers me. When I think of a major subdivision I think of 50 houses. Somewhere along the line common sense has to come into play here. We're doing 3 house lots but because of the large land area that we're not touching, it ends up being four, it's considered a major subdivision and I don't think that's right. R. Cartier replied the reason is that there is that fourth lot with 70 something acres. If you sell that, a developer comes in and decides he's going to develop it so we have to look at it that the regulations could be circumvented, not by you, but situations can change. D. Erwin commented if someone comes in to buy this large parcel and do a major subdivision don't they have to come back before you? I would sign a paper saying we're never going to subdivide that. We'll sign a legal document; if this will clarify the giant subdivision. R. Cartier agreed. It would. We've had people come in and circumvent it by doing 3 lots. We have the regulations we have to go by and we can't just indiscriminately change them unless it's a really valid reason. Everyone on this Board is sensitive to this and common sense can be overruled by the regulations sometimes.

D. Erwin mentioned his property in Auburn and this erosion control plan. Isn't that part of when you go to build a house, aren't there conditions that a builder would follow. Why is it mandated in this instance? R. Cartier said have you been on New Boston Road, across from Walnut Hill. That's where that comes into play. We're not looking for a huge erosion control plan like you're building a road but the common sense things you just talked about; fencing etc. D. Erwin continued I have a 2.5 acre lot and Stantec came back with an estimate of \$18,000 for erosion control and then they want another \$5,000 to oversee the project on a 2.5 acre lot. I'm only using maybe an 1.5 of that lot. C. Robie commented this is a one thing deal. We need to reason with the next person that when they get a septic system approved on a contiguous house lot, if they have to go for an AOT permit, that becomes the next problem. That's not their problem on a subdivision for 3 house lots. They're not going to alter the terrain.

R. Cartier said we do have to worry about the next person coming down the road because on New Boston Road there was no plan put in place and then they clear cut the whole thing and we've got wipe out on North Road. C. Robie said that's not what I said, we can't scrutinize the next people coming in with a plan that has 8 feet of elevation change on a 3 lot subdivision compared to what happened one time on some lots that were subdivided with 50 to 60 feet of elevation change and someone went in and clear cut. They didn't do their due diligence. The Planning Board did theirs when they approved the lots because they were approvable lots. We can't control everybody's move and everything they do. There's no way we're going to do that. When the engineer designs a septic system on your contiguous soil; if it encroaches on the wetlands there needs to be a silt fence and erosion control in place and our code enforcement officer will enforce that. But you have to get to the point where the lots are sub-dividable and everyone's in compliance with what the regs say. The regs may say one thing that doesn't pertain to a 3 lot subdivision on a road that we already have. Most of the regs we're talking about and asking for waivers for; pertain to numerous house lots and roads. We all know that but our regs don't spell that out for us and we have nothing in place for the Planning Board to make a concession and say gee that doesn't apply.

D. Erwin said #13 says erosion control plan. C. Robie said in my opinion that doesn't apply here but there's nothing we can do because it's in the regs. Figure out a way to get that out of the regs for a specific case like this. This Board's hands are tied. The regs say one thing.

D. Erwin said so the regs say we're going to wait for an erosion control plan from Stantec. B. Ruoff replied no, an erosion control plan by your designer. There hasn't been any major subdivision that's been approved without an erosion control plan. C. Robie said we're not doing a per se major subdivision but we are because we don't have...that's the problem. R. Cartier said our regulations, article 16.02 standards, there's 7 items in there; that's what the erosion control plan is. It's an outline that you won't strip all the vegetation off the site etc. Just take this right out of here and it's not going to cost you \$18,000. It's maybe a half hour of Joes' time. If it's on the plans on the subdivision approval so anyone can see the guidelines later.

D. Lewis commented it's in the regulations and Stantec has to bring it up in their notes but if the Board feels that it doesn't apply to this 3 lot subdivision or any other subdivision that's why we have the waiver process and it shouldn't be much of a discussion. If the Board feels it doesn't apply the waiver is granted and it's over. Until it's out of the regulations that's the only way we can deal with it.

C. Robie said erosion control is not feasible here. You have 3 lots, selling to 3 different people. No one's going to follow the erosion control plan that affects lot 1, 2 or 3 because it's not their property. What Mr. Lewis just said is what we need to consider as a Board. We either grant the waivers or we don't grant them. D. Murray said we have 12 waivers here? I see 9 of them going to the wayside pertaining to this project with maybe 3 or 4 remaining. My recommendation is that most of these would go away.

J. Wichert asked does the erosion control plan does that have to be stamped by a PE. B. Ruoff replied no. R. Cartier said if it's on your plans, you stamp the plans, it covers it. J. Wichert continued so fire protection; flood plain; meet with Dennis and get back to you with a better understanding of it. Wetlands and soils, we'll have Gilday work something out. Erosion control; we have an answer on. The biggest unknown is the fire suppression and we can talk that one through at the next hearing.

R. Cartier said you know what waivers you'll be requesting and you need to notice the final.
A. Bickum replied January 16th meeting, deadline is December 16th.

Other Business

Letter re: Transportation Plan-Rail Trail: Vote to approve Chair Cartier's letter regarding the rail trail in order to pass it to the Board of Selectmen for their approval also.

R. Cartier said I'm not looking for an approval but I just want the Board to take a look at the letter. I talked to Chair Young on the Select Board and we thought this letter that says we don't have any intentions of doing a rail trail on the Concord to Manchester line. Then submit draft to legal counsel. In the Transportation Plan that was approved as part of the Master Plan there was a section of abandoned railroad right of way access from Main Street to Baker Road, cut across the pond to Hooksett. When the Transportation Plan was put in place, this was added in by SNHPC because they looked at one of the maps and saw an old rail trail and they put it in as being a potential rail trail for the state. One of the residents who owns property along that line had brought to the Town's attention that she owned that and she didn't want a rail trail going through there and the property was sold to the owners along the property. Some of the rail bed was bought by Paul Sergeant so he owns, or the estate, owns the rail trail up to a certain point. Ms. Hopkins was looking at it and on her property where it doesn't show there was a rail trail there; maybe a trestle was there over wetlands. So without going back and resurrecting the whole Transportation Plan and having to revise it with public hearings and revisions, Chair Young and I discussed submitting a letter to her that we've looked at it, she's brought the issue to our attention. We agree with her that that is not going to be a potential rail trail because of ownership issues. It's the intent of both Boards that we're not going to pursue doing a rail trail on that former railroad bed.

C. Robie commented the draft is fine but I think it ought to say in there that the Town or anybody can't make a trail through someone's property without their permission. Just because there's a map that shows a trail running through some property on Baker Road doesn't mean those people are going to concede to put a trail through there. They can do whatever they want out there. J. Bedard said I can understand her not wanting it to be a public document or record that it could be developed. C. Robie replied it couldn't be. They can't buy that strip of land, property. It reverted back to the property owners. The Transportation Plan says "possible". D. Lewis said I was on the Transportation Plan and we did not discuss putting in a rail trail and this just appeared in the final copy. The rail bed did get built, the trestle got built, it was used for 3 years and then it was abandoned because Manchester wanted the rail line and got it away from Concord to Portsmouth and got it from Portsmouth to Manchester by paying off the firemen on the boiler so the train couldn't make the hill on the grade to Candia. So there was corruption in 1853 that put an end to that railroad and that's written history.

R. Cartier said there were sensitivity issues regarding putting that in regarding property and just keep it clean and say we have no intentions of doing that. It shouldn't have been put in there.

Record show unanimous consensus of opinion of the Planning Board that R. Cartier sign this letter as amended. I'll send it to the Select Board and they can address it at their next meeting, make their comments and suggestions. I'll send that out.

Planning Board to discuss putting forth a warrant article for \$10,000 to use for future planning as the Budget Committee vetoed the line item "Master Plan Implement / Plan" \$10,000 on November 14th, 2018.

R. Cartier said Carleton went to bat but the Budget Committee cut the \$10,000 from the Planning Board budget. There is a warrant article that was drafted up. We can submit it to the Board of Selectmen to have them vote on it. C. Robie said the Budget Committee did a preliminary vote to take that \$10,000 out for planning. It doesn't necessarily mean it's to only implement the master plan. I was going to go to the budget committee meeting and lobby that this money needs to be in there. I did not make the meeting this year. We've appropriated about \$40,000 for planning and spent about \$34,000 and people think what have

we gotten for that but you can't stop now. We may not have received much but you have to have funding to research and plan, you can't just stop planning.

A. Hall said it's a great idea to consider a warrant article but it's premature. It might be put back in. J. Bedard said I spoke with one of the members and the only reason why they took it out because there wasn't anything specific, they wanted more details and they would put it back in with more details. *Board discussed funding and planning and what could be presented to the Budget Committee.* C. Robie said the costs coming in the next ten years will affect all of us and it's a serious issue. R. Cartier suggested that he and Carleton attend the Budget Committee meeting and see if they could get the funding put back in. R. Cartier said we'll put the warrant article on hold for now.

MOTION:

J. Bedard **motioned** to adjourn at approximately 9:03 pm. J. Lindsey **seconded**. **All were in favor. Motion carried (6-0-0).**

Respectfully submitted,
Andrea Bickum
Land Use Secretary

cc file