

The Planning Board for the Town of Derry held a public meeting on Monday, January 28, 2013, at 7:00 p.m., at the Derry Municipal Center (Cable TV Studio) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice Chairman; Frank Bartkiewicz, Secretary; David Milz, Town Council Representative; John P. Anderson, Town Administrator (7:13 pm); Randy Chase, Administrative Representative; Darrell Park, Member; Ann Marie Alongi, Alternate.

Absent: Jan Choiniere, Jim MacEachern and Lori Davison

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning Clerk; Robert Mackey, Code Enforcement Officer.

Mr. Granese called the meeting to order at 7:01 p.m. The meeting began with a salute to the flag. He introduced the staff and Board members present, and noted the location of the exits, and meeting materials.

Ms. Alongi was seated for Mr. MacEachern

Escrow

#13-01

Project Name: Plaza One Parking Lot Expansion

Developer: Forest Avenue Properties, LLC

Escrow Account: Forest Avenue Properties

Escrow Type: Cash

Parcel ID/Location: PID 32035, 37 Crystal Avenue

The request is approve Release #3 in the amount of \$3888.00 plus any accumulated interest. This is the final release. The amount to retain is zero.

Motion by O'Connor, seconded by Bartkiewicz to approve the request as presented. The motion passed with all in favor.

#13-02

Project Name: William Dearth Subdivision

Developer: Hampshire Ventures

Escrow Account: Hampshire Ventures

Escrow Type: Cash

Parcel ID/Location: PID 45010, 12 Old Chester Road

The request is to approve Release #2 in the amount of \$18,312.48. The amount to retain is \$16,640.64.

Motion by O'Connor, seconded by Bartkiewicz to approve the request as presented. The motion passed with all in favor.

#13-03**Project Name: Woods of Derry II****Developer: Ed Cooper/Mark Cooper****Escrow Account: Woods of Derry II****Escrow Type: Letter of Credit****Parcel ID/Location: PID 03119, Lawrence and Stark Roads**

The request is to approve Release #3 in the amount of \$25,239.60. This is the final release. The amount to retain is zero.

Motion by O'Connor, seconded by Bartkiewicz to approve the request as presented. The motion passed with all in favor.

#13-04**Project Name: Wetland Impact Plans – Driveway Crossing****Developer: Yvon Cormier Construction Corporation****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: PID 08280-004, 7 Ashleigh Drive**

The request is to establish Letter of Credit #121201, drawn on SalemFive Bank in the amount of \$241,869.89 for the above noted project. The expiration date will be December 03, 2013.

Motion by O'Connor, seconded by Bartkiewicz to approve the request as presented. The motion passed with all in favor.

#13-05**Project Name: Genarro Estates****Developer: Robert Allen****Escrow Account: Gennaro Estates, LLC****Escrow Type: Letter of Credit****Parcel ID/Location: PID 04074 and 04075, Gulf and Bartlett**

The request is to renew Letter of Credit #216930-3 in the amount of \$89,072.78 for the above noted project. The new expiration date will be January 2, 2014.

Motion by O'Connor, seconded by Bartkiewicz to approve the request as presented. The motion passed with all in favor.

#13-06**Project Name: Bunker Estates****Developer: JEMCO Builders & Development, Inc.****Escrow Account: JEMCO****Escrow Type: Letter of Credit****Parcel ID/Location: PID 02020-001, 65 Fordway**

The request is to renew Letter of Credit #20001082 in the amount of \$62,122.86. The new expiration date is December 11, 2013.

Motion by O'Connor, seconded by Bartkiewicz to approve the request as presented. The motion passed with all in favor.

#13-07**Project Name: Deer Run****Developer: JEMCO Builder and Developer****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: PID 12119-001, Adams Pond Road**

The request is to approve an amendment of the expiration date of Letter of Credit # 20005314. The expiration date will change from June 29, 2013 to October 31, 2013.

Motion by O'Connor, seconded by Bartkiewicz to approve the request as presented. The motion passed with all in favor.

Minutes

The Board reviewed the minutes of the December 05, 2012, meeting.

Motion by O'Connor, seconded by Bartkiewicz to accept the minutes of the December 05, 2012, meeting as written. The motion passed in the affirmative with Chase abstained.

Correspondence

Mr. Bartkiewicz advised the Board is in receipt of the 2012 Report of the Southern New Hampshire Planning Commission outlining services performed for the Town of Derry. The Board also received the final listing for the 2012 Change in Uses that did not require Planning Board review. The Board is also in receipt of the January/February issue of *Town and City*.

Other BusinessSchedule Elderly Housing Subcommittee Meeting

David Milz stated he would like to set a date for the Elderly Housing Subcommittee to meet, now that he has received the report from Robert Fleig. The subcommittee will meet on Thursday, February 7, 2013 at 2:00 p.m. in the Derry Municipal Center. Mrs. Robidoux will send a notice out with the location of the meeting once a room has been scheduled. Mr. Milz asked that Elmer Pease be invited to attend as he had expressed an interest.

Hazardous Mitigation Plan Memorandum of Understanding

Mr. Sioras introduced Fire Chief George Klauber, who is also Derry's Director of Emergency Management. The Hazardous Mitigation Plan is one that is updated every few years. Chief Klauber advised the purpose of the Memorandum of Understanding is to allow SNHPC and the Town of Derry to enter into an agreement to complete the update to the Hazardous Mitigation Plan, which is done every three to four years. The Hazardous Mitigation plan looks at all areas of the town that might require mitigation, including wetland areas and slopes, and forwards the plan to Mr. Sioras and the Planning Board for inclusion into long term planning for the Town, as well as budget planning for DPW and the Fire Department for emergencies. SNHPC will coordinate meetings with staff so that the committee can meet and update the plan. He is asking the Board to review the Memorandum of Understanding and authorize the Chairman to sign it.

Motion by O'Connor, seconded by Milz to authorize the Planning Board Chairman to accept the Memorandum of Understanding and to allow the Chair to sign it this evening. Discussion followed.

Mr. Milz asked if the town currently has a Hazardous Mitigation Plan? Chief Klauber said it does. Once the Plan is updated and accepted, it is forwarded to FEMA. He advised that by having the Plan, it allows Derry to apply for federal funds for emergencies. Mr. Milz confirmed the purpose at this time is to update the current plan.

Chase, O'Connor, Alongi, Park, Milz, Bartkiewicz, and Granese all voted in favor and the motion passed.

Mr. Anderson was now seated.

Request to extend approval – 20 Lawrence Road

Mr. Sioras advised the Board approved a 3 lot subdivision plan for K&M Michael Realty Trust on August 15, 2012. The land has been sold to Bella Vista Homes. They are currently working on establishing the escrow and are asking for a six month extension. This is the first request.

Motion by Anderson, seconded by O'Connor to approve a six month extension for Bella Vista Homes (formerly K&M Michael Realty Trust), 20 Lawrence Road, PID 06001, 3 lot subdivision approved on August 15, 2012. The conditions will then expire on August 15, 2013.

Chase, Anderson, O'Connor, Alongi, Park, Milz, Bartkiewicz and Granese voted in favor and the motion passed.

Next Meeting of the Planning Board

Mr. Sioras advised the next meeting of the Planning Board will be February 20, 2013.

Public Hearing

**Boomer Wolf, LLC
PID 08275, 19 Manchester Road
Condition Compliance Hearing
Architectural Review of 9000 SF Building**

Mr. Sioras advised the Board had approved an overall site plan for the Pinkerton Place project. This is the fourth building, the site of which has already been approved. As a condition of approval, the Board wanted to review the architectural design of the building. The building will be located just before the Walmart entrance on Ashleigh Drive. Board members have a copy of the rendering of the 9000 square foot building that was submitted by Jewett Construction who will head the project. Sam Amato of Jewett Construction presented. He introduced Kelly Davis, of Port One Architects. Mr. Amato advised the rendering is slightly different than what was filed with the Board. They have removed the sign "Pinkerton Place" and a few of the lights. The intent is to replicate the clapboard at Goodwill, therefore there has been a color change. The back side of the building will be all clapboard. The front will have EFIS and clapboard. They are pursuing four to five tenants total. The main color of the building will be the same two green colors as Goodwill. They have material left over from that building.

Mr. O'Connor noted the "Pinkerton Place" has been removed from the front of the building. Mr. Amato explained they did take it off the building; the main sign for the development identifies it as Pinkerton Place. Mr. Anderson asked if they have considered doing anything with the back of the building? People will be traveling by it coming from the other stores and it looks boring. Mr. Amato indicated the back areas of the units will likely be used for storage and they did not see a need for signs or things of that nature. There will likely be identification for the individual units. Mr. Anderson asked if they thought 90% of the customers would come in off Ashleigh? He thought the point of this development was to make it walkable and pedestrian friendly. There should be something on the back of the building to attract people. Mr. O'Connor asked Mr. Amato to take the recommendation back to the owner who may be receptive. Mr. Sioras asked Mr. Chase to discuss the identification on the rear of the building. Mr. Chase discussed the issue the Fire Department had when it responded to the fire at Papa Gino's, which is located at Hood Plaza. The identification to the rear of the building was not clear and they forced open doors to several units trying to find the correct one. Mr. Amato said he would take that information back to the owner as well. Mr. Anderson stated that there should be something on the west side near

Goodwill and Panera, otherwise they are losing an opportunity to enhance the look of the building.

Mr. Granese asked if they were open to changing the color of the building? Mr. Amato said he would bring that back to the owner as well. Mr. Granese asked if they were using granite? Mr. Davis said it was cultured stone but it would be mentioned the Board would prefer granite. Ms. Alongi asked if Mr. Amato could share what type of retail they were looking to attract as tenants to the building? Mr. Amato said the broker is working on it.

Motion by O'Connor to open the public hearing, seconded by Bartkiewicz. The motion passed with all in favor and the floor was open to the public.

There was no public comment.

Motion by Milz to close the public hearing, seconded by Bartkiewicz. The motion passed with all in favor and the discussion came back to the Board.

Motion by O'Connor to approve, pursuant to LDCR Article XIV, Architectural Design Review Regulations, the rendering presented for the 9,000 square foot building to be located at 19 Manchester Road. The motion was seconded by Bartkiewicz. Discussion followed.

Ms. Alongi asked if the Board could condition the items it had recommended? Mr. Milz said it could not, they can only be recommendations. Mr. Granese asked that staff be provided with a copy of the renderings presented this evening as they are different from the submittal.

Chase, Anderson, O'Connor, Alongi, Park, Milz, Bartkiewicz and Granese all voted in favor and the motion passed in the affirmative.

Proposed changes to the sign regulations Continued from December 05, 2012

A public hearing to discuss proposed amendments to the Town of Derry Zoning Ordinance, specifically:

To amend Article II, Word Usage and Definitions, Section 165-5, Definitions, to amend the definitions for Flashing Signs, Projecting Signs and Window Signs and to add definitions to define the following: Advertising Device, Billboard, Sign Permit, Abandoned Sign, Directional Sign, Digital Sign, Electronic Sign, Government Sign, Ground Sign, Interactive Digital Sign, Non-conforming Sign, Off Premise Sign, Residential Neighborhood Identification Sign, Sandwich Board Sign, Special Event Sign, Unsafe Sign, Wall Sign and Warning Sign.

To amend Article VI, District Provisions, to repeal the following sections of the Article and to renumber them accordingly: Section 165-32.2.E, General Commercial III; Section

165-34L, Office Business District; Section 165-37G.3, Neighborhood Commercial District; Section 165-45D.2.f, Medium High Density Residential Special Exceptions; Section 165-45.1.C.2.f, Medium High Density Residential II Special Exceptions; Section 165-46B.2.f, Medium Density Residential Special Exceptions; Section 165-46E.5, Medium Density Residential Campgrounds; and Section 165-49H, Traditional Business Overlay District Signs.

To repeal Article XII, Signs and Billboards in its entirety and replace it with the following: Article XII, Signs, Section 165-100, Purpose; Section 165-101, General Provisions; Section 165-101.1, Signs in Residential Districts; Section 165-101.2, Signs in Neighborhood Commercial Districts; Section 165-101.3, Signs in Business, Commercial and Industrial Districts; Section 165-101.4, Signs in the General Commercial III District; Section 165-101.5, Signs in the Traditional Business Overlay District; Section 165-101.6, Campground Signs; Section 165-101.7, Political Signs; Section 165-101.8, Off Premise Signs; Section 165-101.9, Nuisance Signs; Section 165-101.10, Interactive Digital Signs; Section 165-101.11, Electronic Signs, Section 165-102, Non-Conforming Use Signs, and Section 165-103, (Reserved for Future Use).

Mr. Sioras turned discussion over to Robert Mackey, Code Enforcement Officer, asking him to discuss the changes from the last meeting. Mr. Mackey commented that at the last public hearing, a representative from the International Sign Association provided input on the proposed changes to the regulation, and he had provided a letter to the Board. Mr. Mackey has reviewed the letter and Mr. Peskin raised a few points. In the Planning Board member packets the updated proposed changes to the ordinance have been noted in blue. The majority deal with setback conflicts and further clarification of definitions. In particular, there is clarification with regard to the window signs, and there have been additions made to the definition of an electronic sign. In the Traditional Business District Overlay, there was a conflict with the 5 foot setback and other sections of the ordinance. After further review, it seems the setback is not realistic because many of the buildings are up against the sidewalk. He felt it would be okay if the sign met the height requirement.

Mr. O'Connor asked Mr. Mackey if he was satisfied or needed to add anything under the enforcement section of the ordinance. Did the current text give Mr. Mackey enough enforcement power to correct any issues? Mr. Mackey directed the Board to page 6 of the proposed ordinance where it stated that violations of the Article are subject to the provisions found under Section 165-32, Violations and Penalties. Mr. Mackey added that there were enough changes to the document to warrant another public hearing.

Ms. Alongi asked if an establishment had an illuminated "open" sign in its window, would that take away from the total square foot allotment for the business? Mr. Mackey indicated that was correct. If a sign located in a window is meant to be permanent and can be seen and is intended to be seen from the outside, it does count. The square foot amount is normally very small and does not take away much from the total allotment.

Mr. O'Connor asked if the existing non-conforming signs will be grandfathered or will they have to come into compliance within a certain time frame? Mr. Mackey stated any existing sign

becomes pre-existing, non-conforming. The owner would only need to come into compliance if they were changing the sign, or a new business went into that location.

Motion by Anderson to open the public hearing, seconded by Milz. The motion passed with all in favor and the floor was open to the public.

Sheldon Wolff, 242 Rockingham Road, said he was impressed that someone from a national agency took the time to come to the public hearing and provide comment on the proposed changes. He thought it was commendable that the town took the time to review the comments. It shows a positive outlook on behalf of the town.

Peter March of NH Signs, 60 Old Derry Road, Londonderry, said he had some suggested improvements to the proposed changes. Regarding the abandonment provision, he felt 60 days was too short a period. Many businesses will cover over their sign for 120 days or longer when they are undergoing improvements. It can take longer than 60 days to refurbish a sign. He noted that he is familiar with argon and neon, but not krypton. It was noted krypton was a gas. Regarding electronic signs, code was originally set up to manage the movement from manual changeable text to electronic reader boards. The technology is now used as an alternative to regular graphic sign facing. Signs can flash, move and rotate. Many people say they don't want Vegas type signs or one that is similar to the sign located at the 293/South Willow Street exit. His firm is not interested in that type of sign, and he feels it would be adverse to this area. Those particular signs were installed before the codes changed. Limiting signs to text only will leave the code once again behind technology. The technology is changing and he would not be surprised to see LCD signs available in the near future. This limitation will leave Derry behind technology once again. He feels there should be an ability to have text and graphics with a change greater than five seconds or so. His suggestion reflects what will be changing in the industry and he believes the code could be used to limit animation which is different from transitions. He suggests imposing a brightness limitation of 0.3 candle parts over the other ambient signs in the area.

Mr. Anderson noted Section 165-101.11. He asked if Mr. March could forward his suggested changes in writing, as it would be helpful. He thought the suggestion of limiting the brightness to a specific candle part was more objective than what is in the current text. A measurement of 0.3 candle parts greater than the ambient can be measured with a light meter.

Mr. Sioras advised that any substantive changes this evening would necessitate another public hearing. Mr. Mackey noted that as written, electronic signs are only allowed in the Industrial IV and General Commercial zones. They are not allowed anywhere else in town. Some do exist, but are grandfathered. The thought was to allow electronic signs and to move forward with the new technology. If the Board would like to consider the changes with regard to graphic images, he can review them. Mr. Anderson asked the Board how did the members feel? Did they want to stay ahead of the technology curve? Maybe the Board should take the time to make this ordinance as current as possible. Mr. Mackey said he had no issues with that; ultimately Town Council will decide.

Cliff Conte, stated he is a sign designer for NH Signs. He noted he likes working in Derry because the town is business friendly and he appreciates that. In the downtown, the provision requiring signs at no more than 3 feet off the wall of the building is very limiting. It makes all of the signs tall and skinny. It would be nice to be able to take the 15 square foot requirement and work within that area to make the signs unique. This restriction will make all the signs in the downtown look the same. Mr. Granese asked if there were any signs Mr. Conte had designed recently in the downtown. Mr. Conte said he designed the new sign for Sabatino's, but that was one of the only free standing signs allowed. Most are restrictive. Every other sign needs to be small and skinny and it does not allow him the flexibility to add much in the way of creativity. He also thought that monument signs should be allowed in areas where they can be set back and not impede traffic.

Mr. Anderson asked what Mr. Conte felt would be the best solution, would it be the ability to use the total square foot allotment? Mr. Conte said he thought it would be best to allow flexibility and creativity. The intent is to make sure people can see the sign and be able to find the business. Mr. Mackey said that particular restriction is one that has been in place for years.

Mr. Conte said with regard to lighting, there are so many ways people in the sign industry can use lighting to make the signs look good. Sometimes, overly restrictive lighting can limit things. It may be that the customer would like to have a halo lit letter. It is nice to be able to design and create a downtown look without everything being the same. Mr. Granese said he did not mind internally illuminated signs, but some do look horrible. Mr. Mackey said some of the wording in the Traditional Business Overlay District provisions come from the original sign regulations. The intent was to have the carved signs in the downtown area. Mr. Conte said with the LED technology, they can down light into the sign and avoid all the spotlights and make it attractive. Mr. Granese said he thought the Board should look at this further as the overall goal is to upgrade the downtown. Mr. Milz asked that the suggested changes be shared with Mr. Mackey.

There was no further public comment.

Motion by Milz, seconded by Bartkiewicz to close the public hearing. The motion passed with all in favor and discussion came back to the Board.

Mr. Granese noted many changes have been suggested. Mr. Sioras said the changes can be incorporated if necessary and brought back at the February 20, 2013 meeting. Mr. Anderson asked Mr. Mackey to see if the suggestions could be incorporated into the proposed changes.

The Board agreed to continue the public hearing to the February 20, 2013 meeting.

Workshop

Continued discussion of proposed revisions to the Town of Derry Zoning Ordinance, specifically relating to the General Commercial Zone. **Continued from December 05, 2012**

Mr. Sioras noted this discussion is a continuation of the last workshop. He has received an email from Phil Abirached of Metro Plaza who had asked that comments from the owner of Second Car Center be read into the record, as he was unable to attend the workshop. Mr. Sioras read the following, "My feeling is that the 1000' buffer proposals currently being discussed aren't productive in realizing what needs to be accomplished. The South end of town community should work with the Town of Derry to establish a plan and a commitment to provide sewer and water on Route 28 up to the Windham town line. Preliminary dates and assurances would diminish most uncertainties of the current land owners and allow to plan for the future expansion and development of these parcels. A quick and smart decision to expedite the sewer and water project would eliminate the buffer discussions and provide a broader tax base for the town and much wider variety and appealing business prospects for future development. Mark Lovski, Second Car Center, 181 Rockingham Road, Derry."

Mr. Park stated he had several comments regarding the buffer zone and the single family residential use. When the Board first started to discuss changes to this area, the purpose was to combine two zones and to remove what the Board did not want to see as future permitted uses. At the last meeting, he hesitantly supported the 1000 foot buffer, but at this time, he would like to withdraw his support of that for two reasons. The only individuals who will benefit from the buffer are the current business owners who are asking the Board for a protection they currently don't have. It is not the Planning Board's purview to extend protection to business owners. The market should dictate the businesses that go in. He would not want to see new subdivisions on the currently undeveloped parcels, but there should be some way to allow the current property owners limited development opportunities to break off a piece of their property to build a home for their family members. He is open to defining that.

Ms. Alongi said she was not sure she agreed with Mr. Park in regard to the buffers, but likes what he had to say about allowing expansion on existing parcels for the landowners. Mr. Milz though this went back to deciding if the Board will allow housing in a commercial area where the town is investing money for a water and sewer expansion. Mr. Mackey said it was possible to add wording to the effect that no new residential dwellings or single family houses are allowed in the General Commercial zone as of the effective date of the amendment, but, for parcels containing a single family dwelling as of the effective date of the amendment, they would be legal because they predate that section of the ordinance. Those particular lots would then be able to expand without having to go to the Zoning Board for a variance. It would not allow for subdivisions, but they could add on.

Mr. O'Connor said when the Board discussed rezoning in the General Commercial zone in relation to residential additions, the Board talked about mixed use. The Board said it would go forward with the changes to the General Commercial zone, eliminating residential, and then it would come back to discussion of a mixed use overlay for specific areas in the General Commercial zone. That has been a topic of discussion. He still feels the need for a buffer around the auto uses, but it has not yet been defined as to where the buffer will start. Is it at the pump, or it is at the property line that might be located 200 feet away from the pump? He noted that the Board has been provided with sheets outlining all the properties in the General

Commercial zones town wide. Looking at those other areas, which are included in this discussion, raises other concerns for him, now that he has the whole picture.

Mr. Granese asked Mr. Park if he was asking to remove Section 165-32.A.1.a, b, c and k? Mr. Park said he would prefer to leave the uses in, but to remove the wording with regard to the buffer in those sections. Mr. Milz noted that even without Mr. Park's vote, it would not have changed the outcome of the consensus at the last meeting. Mr. Park said he felt the buffer could have unintended consequences. For example, if Walmart had expressed interest in the Smith property, many Walmarts also have auto service centers. Under the current proposed wording, Walmart would not be able to locate on that lot, if the buffer provision is included. That is one example of unintended consequences.

Mr. Granese polled the Board members to see if they wanted to keep the 1000' buffer restriction in the proposed wording. An answer of yes, meant to remove the buffer, and answer of no meant the buffer should remain. Chase and Park voted yes. Anderson, O'Connor, Alongi, Milz, Bartkiewicz, and Granese voted no. The 1000' buffer restriction will remain in the proposed language.

The Board held a short discussion with regard to mixed use development. Mr. Granese polled the Board to see if the members wanted to include a mixed use overlay as part of the discussion regarding the proposed changes to the General Commercial zone. The members all voted no; many of them noting that the concept is a valid discussion to have, but they wanted to discuss it separately. It should not be part of this discussion.

Mr. Chase said he was amicable to Mr. Mackey's suggestion about the existing residences not being considered a non-conforming use. It would ease the restrictions on the current homeowners so that they don't need to seek a variance for an addition. He felt it was a wise suggestion. Mr. Granese and Mr. Bartkiewicz agreed. Mr. Granese polled the Board members to see if they wanted wording added to the amendments such that no new residential development is allowed in the General Commercial zone as of the date of the adoption of the changes, but that allowed existing homeowners the opportunity to expand. Mr. Mackey would draft the appropriate wording. All the members agreed wording of that type should be added. Mr. O'Connor confirmed that if at the time of the adoption of the changes there was no residence on the land, then a new house could not be constructed.

Mr. Granese advised that in the continuing tradition of transparency, he would allow members of the public to speak, but he did not want to hear reiterations of statements made at the past workshops. The length of the comments should be limited and he reminded those present this was not a public hearing. The Board reserves the right not to answer questions. The Board will not vote on matters. He asked for new comments only, and then opened the floor to the public.

Gerry and Beth Siragusa, 49 South Main Street, spoke first. Mr. Siragusa noted the workshops have been ongoing since July. Many of his neighbors have made their opinions known to the Board. The Board was presented with a petition from the landowners stating they do not want these changes and that they want the market to dictate what happens in this area. He has spoken outside of the workshops with Mr. Anderson, Mr. Sioras, and Mrs. Robidoux. It seems like they

are open minded and willing to listen to his concerns and to the concept of mixed use. The Zoning Ordinance currently allows a wide range of options. He feels the Planning Board is not listening to them. Mr. O'Connor says that the Board is following the Master Plan. He has not heard one resident yet say they are in favor of the changes. He brought an attorney to the Board to talk about mixed use and Attorney Hollis was not able to speak. It is frustrating. The landowners are saying don't change anything and the market will dictate development. The Board is restricting what they can do and the value of their property. The landowners don't want the change. Tonight, the Board keeps putting off the mixed use discussion. He feels the Board is putting the cart before the horse. This area has been General Commercial for many years. They have paid taxes for a long time. Now, with water and sewer they are finally able to do more with their property, but they feel the Board is restricting them. It does not make sense in this economy. He wishes the other Board members would be more like Mr. Park. He is frustrated the Board would not even entertain discussion with Attorney Hollis. Mr. Granese said the mixed use is not going to be considered with these changes, the discussion will take place at another meeting. Mr. Siragusa said he was very frustrated because he felt this was the time to work out what can be done in this area. If everyone talks about it, maybe certain restrictions can be put in. Well respected real estate brokers provided written opinions stating these changes will not work, will restrict what they can do and will devalue property. He appreciates the ability to be able to add on to his home, but feels that is just a token. They can't build anything with a residential component. It is frustrating when the Board says it will make changes, and then says it will delay talking about mixed use. All of the affected property owners have said don't do this. The owners have been good to this community and now feel they are being restricted. He does not feel the Board is listening.

Mrs. Siragusa said many property owners have put blood and sweat into their businesses and have raised good families. They have been in town a long time; some of them longer than some Board members. Mr. O'Connor has said this is what the town wants. This is not what these property owners want. There are many affected owners here who pay a lot of taxes to this town. Mr. Siragusa commented he understood the residential component. School enrollment is declining. Does the town want income from single family homes, from the development suggested by Attorney Hollis and Dr. Butterfield? He does not want to see another Fairways situation. Once this is over and settled, he'll talk to a realtor and see what is available out there, based on this amendment. Mrs. Siragusa said they take pride in their property and their business, as do many of the landowners. She hopes the Board will listen. With all of the land they own, they cannot build a home for one of their children because this wording will be so restrictive. Mr. Siragusa added that in this economy, the town needs to allow for opportunity for development, not restrict it.

Dr. Tim Butterfield, 2 Humphrey Road, said he appreciated Mr. Park's open mindedness and appreciates the Board listening to Mr. Park and considering his comments. The end result is not what he would have liked to have heard. He noted the weather prevented people from attending this evening. He has spoken with many and their opinions have not changed. He asked Mr. Granese if he could poll the Board to see if they all have read Attorney Hollis' letter. He felt it was a thoughtful and balanced letter with a great deal of information in it. Based on the contents of the letter, it appeared that Attorney Hollis went through each meeting, analyzed them and presented his opinion. Did the Board have an opportunity to read it? Mr. Granese did not feel it

was fair to ask each Board member if they read material that was presented in their packets. It was in the material for the last meeting. He would hope the members have read their materials before the meetings. Mr. Anderson stated the members receive the materials in their packets. It appears Dr. Butterfield is asking if the members are doing their jobs. Dr. Butterfield asked Mr. Granese if everyone got copies of the letter? Mr. Granese said he believed they did. Dr. Butterfield said again that he felt the letter was balanced and presented a representation of how he and his wife feel in general with regard to the proposed amendments. The owners of the 26 parcels have petitioned the Board to leave the General Commercial as it currently exists. One hundred percent of the people, 26 out of 26 landowners, affected by the water and sewer expansion have petitioned the Board to please leave the General Commercial as is.

Sheldon Wolff, 242 Rockingham Road, said he was opposed to the changes proposed to the General Commercial zone and the buffer restriction. He is impressed with Mr. Park's example. He hopes the Board will take into account the scenario presented by Mr. Park with regard to Walmart. Regarding the buffer zone that currently exists in the General Commercial II area, that was put in because the landowners requested it. Conversely, twenty six out of 26 landowners signed Dr. Butterfield's petition. Mr. Wolff said he himself has brought in between 27-30 signatures of landowners from the Robert Frost Farm to the Windham town line. One or two landowners may say that these changes are a good idea but that is because they are in the business. People directly affected don't want the buffer or the changes. The Board is hearing but not listening. Mr. Granese has said that the Planning Board is the "yes" board, but when asked to eliminate the buffer that will limit trade, he is saying "no". He does not think anyone on the Board has a degree in Planning, other than perhaps Mr. Anderson or Mr. Sioras. The Planning Board wants to change things by adding water and sewer. By adding water and sewer the town will charge for the service. The town will spend money on the improvements, but it will also make money. He can see where the town may want to limit residential, but more residential and businesses will mean more income for the town. Water and sewer are a good thing for the town. It is paramount to get it into some areas for environmental reasons. Mr. Wolff said he has been researching this and has also spoken with people at the Southern New Hampshire Planning Commission. He is not sure what the town is doing to help the land owners. While he was at SNHPC he was made aware of the ReadySetGo! program. Mr. Wolff took a few minutes to explain the program as he understood it and provided the Board with a copy of a flyer for the program. Mr. Wolff finalized his comments by stating that he felt the buffer would limit free trade and that is what our country was built upon. He asked the Board to listen to the people and to say "yes" to the property owners and the community.

Deborah Smith Ladieux, 169 Rockingham Road, advised she was representing her family this evening. She agrees with Dr. Butterfield and the Siragusa's. The zoning should remain the same in this area.

Steve Dente, 131 Rockingham Road, said he wanted to speak against buffer. He has been in the painting business since 1973. He is looking at the expansion of water and sewer to this area as a godsend to his building, since the septic does not work well. He sees future potential to take the painting business elsewhere and to make the building better. To restrict the potential in five years is not what he wants. He wants to know what he can do at his property. He does not feel he should be restricted from having the same use as the adjacent property. He thinks the Board

should listen to everyone and make the best judgment on what is good for the entire town. He is asking the Board to not limit his ability to provide for himself.

Harland Brown, 205 Rockingham Road, advised he has been in town for fifty-five years and in business since 1986. He owns 190 and 205 Rockingham Road. One is an eleven acre parcel, the other has 43 acres. He has been paying taxes every year and he also owns a business in town on Tinkham Avenue. He has been to a few meetings. He knows the Board takes a lot of heat. He respects the views of the Board and hopes the Board will respect the views of the community and take them into account when they make their decisions. He is in opposition to the buffer and the elimination of single family residential. He understands where the Board is coming from, but people may want to separate out a parcel for their kids. He can see where the residents are coming from and can see how it will limit them. He does not feel it is right to limit or restrict these individuals. He can see bad things occurring from it. He has worked hard for what he has. He is disappointed in what he has heard during the last few meetings.

There was no other public comment.

Ms. Alongi said this came about because the town did not want to see Rockingham Road become an auto mile. She said she is concerned about housing development, schools, and taxes. She hears that the school numbers are going down, but her taxes are going up. She does not want to see Route 28 become all used cars and gas station after gas station. She would like to see New Hampshire when she comes down the hill; today you can see the spires of Pinkerton and the church. That should be retained. That is her position with regard to development in that area. It is not right to restrict people from living on their property and being able to do what they want to do on it. She thinks the Board may need to rethink the changes. The buffer is so that there are not gas stations on every corner. There could be a McDonald's on every corner. She would like to avoid what she saw in Europe where she expected to see an ancient village setting, but instead was faced with American chain restaurants on all four corners. Maybe the Board needs to have a discussion with just the Board; she does not want to restrict what people can do in their retirement. She does not want people so angry that they sell their property to the highest bidder. Maybe the Board needs to rethink this.

Mr. O'Connor spoke for a moment about taxes. He noted that there has been a decrease of approximately 1200 students in Derry, but the school portion of the tax bill is increasing. He noted the Deliberative Session is coming up and residents should attend and see how 67% of their taxes are being spent. He also mentioned the workshop to be held tomorrow evening with Town Councilors, School Board representatives, State Representatives, and Pinkerton Academy.

Mr. O'Connor said the community showed up when the Board was holding the visioning sessions for the 2010 Master Plan. The Board took each section of the plan and analyzed it. The Board held months of meetings and many people in town gave direction on where they wanted to see the community go. The Board met on each of these chapters. People wanted residential restrictions. In fact, the town has a Growth Management Ordinance that has been in effect for years. The Board is not making decisions off the cuff. This is not a taking. The Board may want to restrict auto uses and that is in place in the GC II. There is data that shows homes are more costly to the town than businesses. He believes that once water and sewer is instituted, the

used car dealers will go away. The properties aren't as valuable when serviced by septic systems. Some areas on South Main Street are encompassed in the 100 year flood zone and that will make it difficult to build there. The Board has not made a decision on this yet and the Board members are listening.

Mr. Wolff believed people do not show up to meetings because of apathy. Why did Derry lose 1200 students? Mr. Anderson explained over the last year, there are 8.5 percent less students in New Hampshire. The student population is declining, but expenses keep going up. The town continues to pay for mistakes that were made long before any of the Board members were involved. There are many housing units in Derry on very little land, which is why taxes are so high. School taxes will increase next year. The town is trying to strike a balance. The Board has moved significantly from the beginning of this process. Just because all of the landowners are not getting everything they want, does not mean the Board did not listen. The Board said it will talk about mixed use in the future. It will not be with this particular document, but it will be discussed when this document is finished. The Master Plan dictates how the Board should proceed. Just because the Board does not agree with all of the landowners does not mean it is not listening or moving forward.

Mr. Wolff asked what is the status of Pinkerton? It was explained Pinkerton Academy is a semi-private high school. Pinkerton bills the town for the Derry student's tuition. Mr. Anderson said that a finger can't be pointed at Pinkerton or the K through 8 system. Each student in Derry, in grades Kindergarten through 8, costs about \$14,000.00 per year. There are 5900 students in Derry; there are many students in the school system. The entire school system in Derry does what it can to reduce expenses.

Dr. Butterfield stressed he was speaking as a resident of Derry. He said he agreed with the comment that 35 people voted on a \$77,000,000.00 budget. With regard to the cost of education, he suggested looking at the cost of education for grades K through 8 for which Derry has direct control. Residents have the potential to control the budget for the students in grades K through 8. Pinkerton may provide a bill for Derry's students but the residents have a right to see how what they pay stacks up against the rest of the state and what the students are getting for an education. He added that he asked for the poll of the Board earlier because he thought the letter was so good and contained such good information from all of these meetings. His third point was that people are talking about single family housing developments in this discussion. The Sigagusa's take pride in their property. He takes pride in his property. The Planning Board is the guardian of the gate, but the Board members need to have faith in the market and be aware of unintended consequences. The town has lived with informal mixed use in this area for a long time. Suppose the Siragusa's wanted to add a restaurant with a residence or two over it for employees. That would not be allowed under these proposed changes. These are the unintended consequences. This is a lot bigger than that example. He wondered why the Board could not look at the General Commercial zone in tandem with mixed use, including a residential component. What is the rush? What would be wrong with looking at it now rather than later? It would be an example of good faith. Just because it says 'residential' does not mean single family residential; it may mean allow an apartment over the restaurant. People need a place to live and it may not always be in a single family residential home.

Mr. O'Connor explained he had a concern with an aspect of mixed use. If an employee is renting an apartment over the restaurant and the restaurant goes bankrupt, what happens then? The employee would then be evicted. Those are the concerns the Board needs to consider. The Board needs to protect both the land and the people.

Dr. Butterfield noted we are living in tough times. He hopes that decisions are not made from a point of paralysis where things don't move forward because of the worst case scenario. Mr. O'Connor explained he was just saying the Board needed to consider those factors. Dr. Butterfield believed the Board should be able to sit down and hash this out. He thought the workshops were great.

Mr. Siragusa commented that Mr. O'Connor had stated if water and sewer are put in place, the auto dealers will go away. This is a good argument for the elimination of the buffer zone; so leave that alone. He feels some members of the Board may have already made up their minds. He does not recall when the Board said it was going to table the discussion about mixed use and only deal with General Commercial. Mr. Granese noted it was two meetings ago and reiterated again at the last meeting. Mr. Siragusa felt this is not a negotiation. The Board has a right to do what it wants. His family hired Attorney Hollis because he has the reputation of being able to work on both sides of the table, not to fight with the Board. He asked the Board to not take away their future options. What the Board decides will be the way it goes.

Mr. Granese said the Planning Board is not here to pick on people; Town Council will have the final say on the proposed changes. March 6, 2013, will be the date of the next workshop.

Motion by Alongi, seconded by Milz to adjourn. The motion passed. The meeting stood adjourned at 9:14 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____