

The Planning Board for the Town of Derry held a public meeting on Wednesday, May 1, 2013, at 7:00 p.m., at the Derry Municipal Center (3rd Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; Frank Bartkiewicz, Secretary; John Anderson, Town Administrator; Randy Chase, Administrative Representative; Albert Dimmock, Sr., Town Council Liaison; Darrell Park, Jan Choiniere and Jim MacEachern, Members; Lori Davison, Alternate

Absent: Ann Marie Alongi, John O'Connor

Also present: George Sioras, Planning Director; Mark L'Heureux, Engineering Coordinator

Mr. Granese called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. Mr. Granese then introduced the staff and Board members present, and noted the location of the exits, and meeting materials.

Ms. Davison was seated for Mr. O'Connor this evening.

Escrow

#13-10

Project Name: New Walmart Superstore

Developer: Walmart Real Estate Trust

Escrow Account: Walmart

Escrow Type: Letter of Credit

Parcel ID/Location: 08279, 11 Ashleigh Drive

The request is to approve the final release of Letter of Credit Number L5LS-484307, drawn on JP Morgan Chase in the amount of \$5,184.00. The amount to retain is zero.

Motion by MacEachern, seconded by Bartkiewicz to approve as presented. Discussion followed.

Mr. Anderson noted there has been an issue with signs at the entrance to Walmart on Ashleigh. People are driving over the directional signs that are located on Walmart's property to the right of Ashleigh. He asked Mr. L'Heureux who was responsible for replacing/repairing the signs. Mr. L'Heureux thought the signs might be located in the town right of way. Walmart has been very cooperative in fixing signs that came down during a previous windstorm and he was sure they would take care of the issue. He confirmed they are part of the project.

The motion passed with all in favor.

#13-11

Project Name: Subdivision of 2 Howard Street

Developer: McMaster Development LLC

Escrow Account: Same

Escrow Type: Cash escrow

Parcel ID/Location: 31088-001, 4 Howard Street

The request is to establish cash escrow in the amount of \$8,942.40 for the above noted project.

Motion by MacEachern, seconded by Bartkiewicz to approve as presented. Discussion followed.

Mr. Anderson felt that the address shown on page 2 should be changed to 4 Howard Street rather than 2 Howard Street.

The motion passed with all in favor.

Minutes

The Board reviewed the minutes of the April 17, 2013, meeting.

Motion by MacEachern, seconded by Bartkiewicz to accept the minutes of the April 17, 2013, meeting as written. The motion passed in favor with Davison abstained.

The Board reviewed the notes of the site walk that was held on April 20, 2013.

Motion by MacEachern, seconded by Bartkiewicz to accept the notes of the site walk as written. The motion passed in favor with Davison and Granese abstained.

Correspondence

None

Other Business

Mr. Sioras reminded the Board that on June 5, 2013, the Board is scheduled to hold a workshop on mixed use development and sign revisions for the sign ordinance.

Review of Changes to Policy and Procedures

Mr. Sioras stated that per the Policy and Procedures, there needs to be a second reading of any proposed changes. Tonight would be the second reading. If the Board is comfortable with the

proposed changes, an actual vote to approve the changes can occur at the next meeting on May 15, 2013.

Motion by MacEachern to move this item to the May 15, 2013 meeting for adoption, seconded by Bartkiewicz. Discussion followed.

Mr. Anderson asked if the Board would consider changing the meeting night to the weeks where Town Council does not meet. Mr. Granese noted the Procedures state the Board will meet on the first and third Wednesday. The Board opted to keep the meeting night as is.

The motion passed with all in favor.

Request to extend approval – Bruce and Jackie Radford, PID 03152, 152 Kilrea Road

Mr. Sioras advised the Board is in receipt of a request to extend the approval granted for the Estate of William Radford. This is the first request.

Motion by MacEachern, seconded by Choiniere to approve the request and extend the approval an additional 180 days.

Chase, Park, Anderson, MacEachern, Davison, Dimmock, Choiniere, Bartkiewicz and Granese voted in favor and the motion passed.

Public Hearing

Yvon Cormier Construction Corp

PID 08280-004 & 08017, 17 – 27 Ashleigh Drive & 37 Scobie Pond Road

Acceptance/Review

Subdivision and Lot Line Adjustment

Mr. Sioras provided the following staff report. The lot is located on the right side of Ashleigh Drive, just past the new Walmart. The purpose of this plan is for a two lot subdivision and lot line adjustment between the referenced parcels. The parcels are located in the Industrial IV zoning district. It is the intent of the developer to market the newly created 2.494 acre lot for future development leaving a 21 acre lot. All town departments have reviewed and signed the plan. There are no waivers requested. He would recommend approval of the subdivision/lot line adjustment plan.

Chris Tymula, of MHF Design, represented the applicant. The overall lot is map 08280-004. They are proposing a lot line adjustment as well as a two lot subdivision. As shown, in the lower left of the lot there is red triangular piece adjacent to the Dumpster Depot piece that is just being squared off. There is no anticipated tenant for the remainder parcel; it is just being marketed. He did receive a letter from DPW prior to the meeting. As the Board is aware, there was a lot of

tree clearing on the lot and to the north. When the skidder was performing the tree clearing on 08280-004 and 08017, the road was damaged from the skidder. It is being recommended by DPW that any utilities that are constructed on the 2.5 acre parcel, that the road repair is performed after that. They have no issue with that.

Mr. Anderson asked with regard to the utilities that will be brought into the new 2.5 acre lot. What will be done for parcel 08017? Where are the utilities for that lot? Mr. Tymula stated the utilities are currently at the end of Ashleigh Drive now. There is a sewer stub, gas stub, underground electric, and the water will be extended for the Dumpster Depot site. He will go into that in more detail when the Board discusses that plan.

Mr. L'Heureux added that when Ashleigh Drive was constructed, all the utilities were extended to all the available lots. Now that this lot is being subdivided, a section of the lot won't have utilities to it. That is why they wrote the letter to the owner who is interested in doing the utility extension sooner rather than later so that they can get them off the pavement and tie in the project as well as repair the road from the damage caused by the skidder. Mr. Anderson asked when was the road scheduled for overlay? Mr. L'Heureux said originally the town had the final overlay scheduled for this season from the private access to the plaza.

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

Mr. MacEachern and Mr. Granese noted the Board was only discussing the lot line adjustment and subdivision at this time and not the building, which would be discussed later.

There was no public input.

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

Mr. Anderson asked what it is the long term plan for the remainder of 08280-004 so that the Board could have a better idea of the bigger picture. Mr. Tymula advised the applicant is actively marketing the lot. It is a tough site to market. There are no immediate plans of which he is aware. Mr. Anderson asked what Mr. Tymula realistically thought could be developed there. Mr. Tymula recalled that about a year ago when he was before the Board with the driveway access plan, they had shown a few conceptual plans with one large building and a few smaller buildings. This is a tough lot as it is at the top of a knoll and there will need to be a lot of site work to develop the lot. It is up in the air. Mr. MacEachern asked if a big building, such as a box store like the size of the old Walmart, could be constructed on the lot? Mr. Tymula said there is a lot of room on the lot and it was possible for something that size to be constructed. He confirmed the residual area would be about 19 acres once the subdivision was complete. The new lot is just under 2.5 acres. Mr. Anderson asked if the new proposed lot is dry? Mr. Tymula said there is an edge of wetland along the edge of the property but it is mostly dry.

Motion by MacEachern to accept jurisdiction of the two lot subdivision/lot line application before the Board for Yvon Cormier Construction Corporation, PID 08280-004 and 08017, 11-27 Ashleigh Drive and 37 Scobie Pond Road, seconded by Bartkiewicz.

Chase, Park, Anderson, MacEachern, Davison, Dimmock, Choiniere, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern to approve the plan pursuant to RSA 676:4, III, Expedited Review, with the following conditions: Subject to owner's signature. Subject to onsite inspection by the Town's Engineer. Establish escrow for the setting of bounds or certify the bounds have been set. Establish appropriate escrow as required to complete the project. Obtain written approval from the IT Director that the GIS disk is received and is operable. Comply with the Vanasse Hangen Brustlin report dated April, 2013. That the above conditions be met within 6 months. Improvements shall be completed by November 30, 2014. A \$25.00 check, payable to Rockingham County Registry Deeds should be submitted with the mylar in accordance with the LCHIP requirement, along with the appropriate recording fees. Bartkiewicz seconded the motion.

Mr. Anderson suggested including the letter from Mr. L'Heureux regarding the damages so that is also part of the record of conditions.

MacEachern amended his motion to include compliance with the letter dated May 1, 2013 received by the Planning Department, from Mark L'Heureux. Bartkiewicz seconded the motion.

Mr. Granese asked if there were any other issues to be addressed for Public Works. Mr. L'Heureux suggested that an additional recommendation be added that the utilities be extended to the lot in 2013 so that the town can overlay in 2014.

Mr. Anderson asked for an amendment such that all utilities to the existing lot shall be completed prior to December 31, 2013. Mr. MacEachern agreed to the amendment as did Mr. Bartkiewicz.

Chase, Park, Anderson, MacEachern, Davison, Dimmock, Bartkiewicz and Granese all voted in favor and the amended motion passed.

Accurate Transport, Inc.
PID 08017, 41 Ashleigh Drive
Site Plan – The Dumpster Depot

Mr. Sioras provided the following staff report. The site is located at the end of the cul de sac of Ashleigh Drive. The purpose of this site plan is for a 7200 square foot contractor/office building and exterior storage area for trash containers. The parcel is located in the Industrial IV zoning district. All town departments have reviewed and signed the plan. There are no waiver requests. The NHDES Sewer Extension permit and the Alteration of Terrain permit are pending. There are a lot of abutters he has either spoken to in person or via phone that have questions. He does

have two emails. One is from John O'Connor who is an abutter to the project on Arrowhead Drive who will not be at the meeting tonight. The Board was sent a copy of the questions he would like read into the record and answered. A second email was received from Kathy Beliveau on Donmac Drive. She also could not make the meeting. She would also like her comments read into the record. He would recommend approval with regard to the technical part of the site plan application. However, he would like to hear from the abutters.

Chris Tymula, of MHF Design, represented the applicant. David Paul of Accurate Transport was also present. The parcel is located at the end of Ashleigh Drive on Map 8, Lot 17. The existing conditions show the site is to the north of Ashleigh Drive, Scobie Pond Road is to the west, there are residential abutters to the north and northeast. The recently approved subdivision is to the south and there is a commercial development to the west. This plan shows more of a big picture of the limits of the existing tree clearing. The edge of wetlands is marked on the plan and the area in between the wetlands has been cleared. There is a thick wooded buffer to the east that starts at the edge of the wetland and goes to Greenwich Road. The remainder of the tree clearing is about $\frac{3}{4}$ through the site.

Mr. Tymula said the proposal is to extend Ashleigh Drive via a private driveway, approximately 550 feet. It will have access into the site via two driveway cuts, and access around the 7200 square foot building, which will be an office and vehicle storage facility. They are proposing 18 parking spaces for customers and employees. He stressed that not many customers actually drive to the site, but per the town's regulations, they need to provide the appropriate number of parking spaces. There are seven parking spaces in the rear under a roof canopy. Those are essentially for the vehicles that are picking up and offloading the dumpsters. There is also a large, 200' x 200' area set aside for the storage of the dumpsters. The area can hold up to 350 dumpsters. The surface will not be paved; it will be a combination of recycled asphalt and a gravel mix. For stormwater runoff and treatment, they have a combination of closed and open drainage systems. The roadway will be curbed and picked up via catch basins at two different locations discharged to an above ground infiltration system to the west and a treatment swale to the east which will capture the roadway runoff. On site run off will be sheet flow across the site via a vegetated filter strip and a wet detention basin to the rear of the site. Calculations show that there is no increase in post development drainage over the pre development conditions. The project will be subject to an Alteration of Terrain permit. Everything shown on site this evening is consistent with the DES recommendations for stormwater treatment and management.

The utilities will be extended to include a ten inch water line and an eight inch sewer line. They will also extend the underground electric and gas. The entire site will be serviced by underground utilities. There is also a comprehensive stormwater management plan. Silt fence will surround the site to protect the wetlands; catch basins will have inlet protection to ensure that during construction no sediment gets washed downstream and they will have measures in place to minimize any tracking of dirt onto Ashleigh Drive. In addition to the driveway extension, they will pave the entire bulb of the cul de sac on Ashleigh Drive. This decision was a result of conversations with DPW. The landscaping plan has native vegetation around the building; six new street trees along the driveway access, the remainder of the site will be loamed and seeded. The detention basin to the rear will have a wet pond mix.

Mr. Tymula showed a colored rendering depicting an overview of how this site sits in relation to the abutting properties. The green areas indicated the site; the mustard colors indicated the wetland. The building and dumpster storage area were also indicated and were located to the front third of the property.

Mr. Dimmock excused himself from the meeting at 7:26 p.m.

Members of the public took a few minutes to come forward and review the color rendering. Mr. Tymula also noted the location of Walmart, the cinema and Hannaford plaza in relation to the proposed development. The Dumpster Depot building and storage are located in a small area compared to the overall area. The area to the east has a thickly wooded buffer. The proximity of the dumpsters to the nearest dwelling unit on Greenwich Road is about 900 feet and almost ¼ of a mile to Donmac Drive. Mr. Tymula provided an architect's rendering of what the building will look like. There will be cultured stone on the base, an orange stripe and windows which are indicative of Dumpster Depot. The vehicle storage area was also shown, and there are two drive through doors for the interior truck storage.

Mr. Granese asked what was on the bottom half of the building? Mr. Tymula advised along the front of the building, on the side that faces Ashleigh, there will be split face architectural CMU, which is a cultured stone material. The rest of the building will be vinyl siding and aluminum. Mr. Granese asked if the stone could be New Hampshire granite. Mr. Paul said he would consider that. Mr. Anderson asked if the color had to be orange? Mr. Granese noted that is the company color. Mr. Paul explained that Dumpster Depot is a brand name.

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

Ms. Davison asked for clarification of the business. She wanted to confirm that the dumpsters were collected, washed and then returned to the site? Mr. Paul said they do not wash the dumpsters. The dumpsters are rented to businesses or homeowners that want to do a clean out or construction job. The dumpsters are taken to a facility to dispose of the material, and then sometimes, the empty dumpsters end up back at their facility. Mr. Anderson noted that several of the Board members were confused by the subdivision and had been under the impression this facility was going to go on the lot that was just created. He confirmed this site is to the northeast of the lot that was just created. Mr. Tymula added that this site is located at the end of the cul de sac, past the power lines. Mr. Anderson asked if during the subdivision, a small piece of this lot was given to the new lot. Mr. Tymula advised the triangular piece was transferred.

David Fischer, 19 Donmac, asked if this is an exercise in futility. If this is the Planning Board, this is a disgusting project that is going to destroy their neighborhood. Would the Board members want to live in the backyard of a dumpster facility? The statement that there is a thickly wooded buffer is incorrect; there are about three trees. He suggested the Board drive by his house and see the "thickly wooded buffer". He is concerned there will be garbage, vermin and a devaluation of his property as a result of this project. If this project is approved, who is going to pay the difference between what he paid for his property a year ago and the devalued property since he will now live in the backyard of a Dumpster Depot. He is concerned about 350

dumpsters. It has been said they will be a quarter of a mile from Donmac. Rats can walk a quarter of a mile from dumpsters. He is disgusted with this project and wants the Board to vehemently oppose it. It is a matter of business versus residents and he knows that he speaks for many in the community that do not want this to happen.

Mr. Granese asked if this project went before the Zoning Board? Mr. Sioras advised this is a permitted use in the zone.

Phil Sykes, 6 Donmac Drive. He wanted to confirm this was a storage and maintenance facility and not a trash transfer station. Mr. Paul confirmed this would not be a trash transfer station.

Brenda Wilson, 4 Greenwich Road. She has heard her street mentioned a few times this evening and has many concerns. She agrees with Mr. Fischer. She is upset about the project. To say that there is a buffer there is incorrect. Late last summer she heard trucks practically in her backyard with trees falling everywhere. She called the town and believes she was given Chris Tymula's name and number but no one ever got back to her. The trees that were coming down were extremely close to her lot line. She purchased her home off of By-Pass 28 not Route 28. She does not want to be near Route 28; she is off of it. Route 28 is practically in her backyard now that the trees have come down, prior to that she could not see Scobie Pond Road or anything behind Hannaford Plaza. Now all she sees at night is bright lights shining since they removed the trees. She absolutely does not want a Dumpster Depot in her backyard.

John Meyer, 17 Donmac Drive. He had a few questions regarding the site. He understands these are large metal dumpsters that will need to be moved around the site. What are the hours of operation where he could expect to hear the dumpsters being moved around? Mr. Paul said the current hours of operation are 7:00 a.m. when the first drivers come in, to 5:30-6:00 p.m., five days a week. Mr. Meyer asked if they were moved by a skid steerer? Mr. Paul advised they use a hook lift, which is a roll off truck. Mr. Meyer believed that would be a large, diesel engine truck that would be operating less than a quarter of a mile from his home. He confirmed the days of operation are Monday through Friday only. Mr. Meyer inquired about the site lighting. He was concerned there might be large street lights lighting up where the woods used to be. Mr. Paul noted for the record, he had nothing to do with the tree clearing. Mr. Tymula explained there are two light poles in the front of the building and two light poles to the rear of the building. They have provided a lighting plan as part of the application. Mr. Meyer asked if the lights are shaded on one side? Mr. Tymula said all the lights are down facing and are shielded so there is no open light. At the end of the pavement to the rear, the light will be at 0.5 foot candles and there will not be any visible light glaring onto Mr. Meyer's property. The light fixtures are on an 18 foot pole on a 3 foot base, so will be 21 feet tall. Mr. Meyer was skeptical that he would not see the lights. Mr. Tymula stated the building is set at an elevation 25 feet lower than any of the residential dwellings. He is not saying they won't see the light, but it will not be glaring onto their property. Mr. Meyer asked if there would be any type of fence between the proposed building and his home? Mr. Tymula said they are not proposing to erect fencing. Mr. Meyer asked if one had been considered to shield the back of the business from the residential neighborhood; or would they if they have not? Mr. Tymula said they have not looked at that or an additional buffer because of the long proximity to the neighborhood. Mr. Meyer disagreed and felt the distance was not that far. Mr. Tymula said he was on site today, sat at Greenwich

Road and took several photos down toward the site and could not see anything through the dense vegetation. He stated no trees were cut from the edge of wetland near the proposed building toward Greenwich. The limit of tree clearing was a few hundred feet from the edge of the property line toward Donmac. Donmac is a distance of almost 1200 feet from the edge of the proposed site. He has to put this into perspective. The site is low in elevation and is essentially over 1000 feet away from the abutting residential neighborhood. Mr. Meyer thanked Mr. Tymula for his answers and said he is also opposed to the project. He feels it will be a loud, obnoxious eyesore for the residents who live along Donmac, Arrowhead and the other streets. He wanted to voice his strong opposition to the project.

Mr. Granese reminded the audience that they should be respectful of people speaking and if they had comments to approach the podium.

Michael O'Connell, 18 Donmac. He also wanted to repeat what has been said. With all of the tree clearing in that area, understanding the building will be set lower, but the neighborhood has a clear sight to every one of the businesses now including Hannaford and the movie theater. If this project is approved, he does not feel it is acceptable to not have some kind of visual barrier. He is sure the Board members would not want to look out and see this. He went to the location in Manchester. It is not the neatest looking site as things are piled in the lot. He would hope that this Board requires some kind of visual barrier for the abutters, like a stockade fence, so that they don't need to look at it. It is an eyesore. Short of it not being approved, he hopes there can be a visual buffer. He agrees that his property values will decrease and does not believe anyone would want to purchase his house with piles of dumpsters behind it.

Mr. Granese asked with regard to the tree clearing that has been mentioned. Who cleared the trees? Mr. Tymula said the tree clearing was done by Cormier Development when the roadway development was being done. Mr. Granese asked for confirmation that the tree clearing has not been done in the last month. Mr. Tymula said his client has had nothing to do with the clearing. Mr. Anderson asked to correct the record in that most of the tree clearing was done in the last year, after the Super Walmart began. The Super Walmart went in, and an application came in to the Board within the last year from Mr. Cormier. To state the clearing has not occurred in the last year is incorrect; it has taken place in the last six to eight months.

Susan Salvaggio, 19 Donmac. They just moved to their home last year and loved it because of the home, the privacy and the neighborhood. It was beautiful. Little by little, all the trees came down and little by little, they were able to see the stores and lights across the way. It is disheartening because they like the natural setting. Now she would like to know what the applicant is going to do to be a good neighbor to block the light, make sure things aren't running through their yards, and to alleviate noise. If they decide to sell their home in a few years, they want to at least get back what they paid for it. She can see this project devaluing their property. She does not believe any of the Board members would want to see this in their backyard when they wake up in the morning. There is no longer a big, thick, buffer of trees; there are maybe twenty trees, and it seems the number gets less every day. They are vehemently opposed to this construction. They are very upset about it and feel it will affect their neighborhood and property values.

Brenda Wilson pointed out that she is the closest abutter on Greenwich Road and is the only house on that end. Despite what Mr. Tymula said, there is no buffer. The trees have all come down in the past year. She called town hall to complain because she was not notified that trees would be cut down that close to her property line. She reiterated there are no trees there now and she is just sick at the thought of looking out her window and seeing a Dumpster Depot, or anything else. Again, she did not purchase a home on Route 28; she bought a home on By-Pass 28. Ashleigh Drive is getting bigger all the time.

Mr. Sioras advised he had a few emails to be read into the record. The first is from Kathy Beliveau. There is no address, although she states she lives on Donmac Drive. The email is dated April 30, 2013. "To the Planning Board. I would like it to be known that as a taxpayer and resident on Donmac Drive in Derry, that I totally oppose the building of a Dumpster Depot facility on Ashleigh Drive, or anywhere in that vicinity. I oppose it for the following reasons: the noise of the dumpsters being loaded and unloaded all day long. This is a residential area. People do not spend hard earned money to pay mortgages to live here expecting a decent quality of life. I am concerned about the smell of the dumpsters. Yes, I understand that they will be cleaned off site but they are dumpsters. How clean can they get? On a hot day, the smell will travel. I also believe this facility will significantly lower our property values. If at any time a vote is taken from the residents for or against this facility, we firmly oppose it. I could not attend tonight's meeting, that is why I am sending this email. My husband accidentally threw out the letter the town sent us, so I did not get to read that, but this is so important to me that I felt I had to email you. Sincerely, Kathy Beliveau." Mr. Sioras stated he spoke with her on the phone and told her to send the email and that it would be read into the record.

The second email is from John O'Connor, 13 Arrowhead Drive. Mr. O'Connor is a member of the Planning Board and would have abstained from this hearing. He is in England and is unable to attend the meeting this evening and had asked Mr. Sioras to forward the email to the Board members. "Mr. Chairman: As a direct abutter to the proposed site plan of Accurate transport, Inc. on the new PID 08017, I'm pleased to see business move into to Derry and be added to the tax base. Since I'm unable to be there for the public hearing I would appreciate it if you could ask the following questions.

1. Will there be any wash facilities on site, if so will they be power washed outside or inside. If so I will assume both the DPW and our Environmentalist engineer will be reviewing these procedures for approval. Many of these dumpsters are used to remove both small and large home construction materials which could contain both lead paint or asbestos which could get into the streams or be airborne that would float into the adjacent neighborhood.
2. As to the containers and the storage of approximately 300 on site. Are the container doors lined with a tight fitting gasket to contain water or are they allowed to drain to the ground during rain fall. My concern is the retention of water which would be a breeding ground for mosquitoes, thus the potential for Triple EEE and West Nile virus. Hopefully George, you can ask the Public health officer for his opinion prior to the hearing. With favorable responses to these questions I would have no problem in acceptance to the site plan. John T. O'Connor, 13 Arrowhead Rd"

Mr. Sioras added he did receive calls from abutters, including those in the audience and he encouraged them to attend the meeting and ask their questions.

There was no further public input.

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

Mr. Granese had a few questions. Were the dumpsters placed at restaurants, places of business, homes, and anywhere people wanted to rent them? Mr. Tymula said yes and no. Mr. Paul said the dumpster that will be on site will be open top dumpsters that will go to a construction site or homeowner that is using it for clean out. As far as definitions of trash and garbage, there is nothing of that type that comes back to that facility. Those dumpsters don't even come back to that facility. Mr. Granese asked what "clean out" meant. Mr. Paul said normally it is for people who are handling estate cleanouts, foreclosures, or moving, that type of thing. Their dumpsters and trucks are smaller than most so that they can fit in driveways. As far as "garbage" of the type that people throw to the curb, those trucks do not come to that facility. Mr. Granese asked what if someone was cleaning out a fridge and put that material in the dumpster, could that happen. Mr. Paul said that could happen, but the dumpster would not come back to this facility with that kind of material in it. The dumpster would to a disposal facility and the empty dumpster would come back to this facility. Mr. Granese asked if Mr. Paul could explain the process of cleaning the dumpsters. Mr. Paul said there is not process to clean the dumpsters and he is not sure where that notion came from. The steel dumpsters are raised 22 feet in the air, and everything slides out of it. There is usually no residue or residual anything in the dumpster. In his career, which spans 13 years running this company and previous experience at his family's 45 year old company, there have only been two instances where a dumpster has gone to a facility and been rejected and the dumpster had to stay there and environmental people got involved to make sure the material was abated properly. He stressed that he wants to answer everyone's questions.

Mr. Granese said getting back to the cleaning of houses, if someone throws paint cans in a garbage bag in the dumpster, and it was spilled; or if a material that was not oil or a hazard was spilled in the dumpster, would that material be cleaned out? Or would it have to stay at the transfer station? Mr. Paul said the likelihood of that happening with their dumpster was minute. They spend a lot of time on the phone explaining to their customers what cannot go into the dumpster. On each of the four sides there are signs saying what can and cannot go in. They also recommend the customers call their city and state to see what is hazardous and what is not. Paint is not accepted in their dumpsters unless the cans are totally dry. Mr. Granese noted people will push the limits of what is allowed. At the transfer station today he noticed the employees were on the ball, and noticed that people were disposing of materials they were not supposed to be, including paint and bottles. Mr. Paul said they did not have employees policing everything that was put in the dumpsters. They also do not offer trash pick up as a service. They had intended to bring pictures of dumpster with them this evening. Mr. Granese said he looked at the company website which had pictures. Mr. Paul said if they had been able to bring the printed pictures, the pictures would have shown empty dumpsters. They are not dumpsters full of material; when they are at the proposed facility, they will be empty. Mr. Tymula offered to show the Board the pictures he had taken today, that were still on his phone.

Mr. Anderson asked if the need arose to clean out a dumpster how would that happen and what is the percentage of construction and demolition debris versus home clean out. Mr. Paul said 83% is construction debris; the remainder is children's toys, clothing, etc. The majority of the material is taken to multiple facilities, including Auburn, Salem, Epping, Allenstown, and Bow. Their intent is to move their Manchester operation to Derry.

Mr. Chase recalled that the last drivers normally come in between 5 and 6:00 p.m. At that time, most of the tipping facilities are closed. If the driver makes a late pickup, where does that loaded dumpster, on the truck, go? Mr. Paul said it would go back to the storage facility and the truck would be parked under the overhang. That is why he designed the building the way he did. He has spent tens of thousands of dollars on engineering to make sure that anything that is on the property stays within the state and federal regulations. There will not be any leaching. Mr. Chase asked where the trucks will be repaired. This is a sizable facility. Will the trucks be repaired here or just stored inside? Mr. Paul said the repairs are done off site; they have no mechanics. Mr. Chase asked what is the size of the largest dumpster? Mr. Paul said the largest is 30 cubic yards. Mr. Tymula noted they have scaled the various dumpster sizes onto the plan in the storage area.

Mr. Chase noted dumpsters are not gasketed to hold water, and only hold water when they are nose down. Is this facility set up to store the dumpsters nose up so that if they are outside they don't hold water? Is the storage area graded so that the dumpsters are tail down? Mr. Tymula said they looked at a few options when laying out the site. They have constraints given the PSNH easement and the location of the wetlands. They needed a flat area for the dumpsters. Any runoff is graded to go into the treatment areas. They are providing pre-treatment per the DES regulations. Mr. Chase understood that but wanted to know how that pad area that was to hold the 350 dumpsters pitched. Is it flat or is it pitched so that when the dumpsters are being stored, water does not collect in the front of the dumpster. Mr. Tymula said the site is pitched from right to left and the dumpster will not collect water in the front of them.

Mr. Granese asked if the filled dumpsters that did not make it to the transfer facility will be covered overnight underneath the overhang? Mr. Paul said yes and confirmed they have covers that roll over the top. Mr. Tymula added they will be under a 30 foot overhang as well. That area will accommodate up to seven vehicles. Mr. Granese asked if they have ever had more than seven vehicles come back to the site over night? Mr. Paul said not to his recollection. Mr. Granese asked if they are going to be stacked? Mr. Paul said they don't put dumpsters on top of each other. The tallest one is 5 ½ to 6 feet high. There are some square dumpsters but they are just for storage. They presently don't service customers who require that type of dumpster. For now, they sub those out. As of this time he has no intention to service that type of customer. Mr. Granese noted those are the types of dumpsters you see at McDonalds and other restaurants.

Mr. Granese asked if there were any issues to be addressed for Public Works? Mr. L'Heureux said all of their issues were technical issues regarding utilities. The only outstanding issue they are discussing is the area where the dumpsters are to be stored. They are talking to the engineer about recycled asphalt and they are talking about using reclaimed material which is more of a

gravel material or pavement millings that is more asphalt and packs together better and will create a more durable surface. They are still discussing that.

Mr. MacEachern said he is familiar with the area and has a few concerns. He knows it is a decent distance from this site to the abutting properties, but the abutting properties are located up higher. He would like to see and discuss some version of a buffer. He is not a big fan of fences but if that is what the residents want, he is okay with that. His personal preference is for some type of arbor vitae or fir tree that will grow to a reasonable height and provide a screen. Right now, it may look pretty full because the trees have leaves. In the winter there would be no trees; that is why he would suggest the two rows of staggered trees blocking the dumpsters. There is always going to be someone who abuts a commercial or industrial property and that is the case here. He is not trying to sound unsympathetic. That is why the town has buffer regulations. There is always someone in some neighborhood that abuts a commercial zone. That is what the Board will be discussing next. This is one of those circumstances where a neighborhood abuts an industrial park. For the neighbors who are here tonight, the Planning Board's job is to start with the answer of yes and if the applicant meets all the requirements in their documentation, then this Board has a legal obligation to say yes. The Board can't say no if the applicant meets all the attributes in the documents. If an application is taken to the Zoning Board, it is the exact opposite. The Zoning Board starts with the answer of no, and the applicant has the obligation to convince the Board to say yes. The Planning Board is opposite. If the applicant meets all the requirements, this Board has virtually no option but to say yes. That does not mean the Board does not have authority to ask for things such as what the abutters have requested this evening such as putting in buffer zones, looking at the lighting and the hours of operation. Mr. Granese has pointed out the option of using perhaps different façade materials and colors and things of that nature. Those are all things within the purview of this Board, in accordance with the documentation Mr. Sioras and this Board have created over the years. This lot is in the Industrial III zone. In the planning book there is a list of things that are allowed to be in that zone. He asked Mr. Sioras to read the list. So long as this use fits one of those criteria those are the types of facilities that can come into this area. This Board will make every effort to make sure there is good buffering and to address some of the concerns raised by the residents. The Board will look at what they are allowed to do. He would also recommend a site walk since there has been so much concern over what people can and cannot see in this area and look at it from the perspective of the residents if one of the residents would be kind enough to let the Board look at the area from their backyard. That would give him a better idea of what can be done to help both sides out to be good neighbors.

Motion by MacEachern to hold a site walk, seconded by Bartkiewicz. Discussion followed.

Mr. Sioras stated back in 2005, the Planning Board came up with buffering requirements. The Zoning Ordinance states [Section 165-23], "...before any building, parking lot, or driveway can be constructed that is non-residential in nature and abuts a residence or residential district, a buffer zone shall be established with the following minimum characteristics. A. It shall be a minimum of 50 feet wide. B. It shall be landscaped and maintained with the purpose in mind to diminish the effect of lighting, sound and odor created by the non-residential use. C. Minimum plantings for the buffer zone shall be three rows of coniferous type trees running parallel with the residential district. These trees shall have a minimum height of six feet, and be planted at a

distance of 12 feet to 16 feet on center. They shall be staggered so as to present a more dense buffer zone. Landscaping of the buffer zone shall be approved by the Planning Board. D. When the existing trees and under story vegetation in the buffer zone are sufficiently dense so as to provide screening at least as effective as the minimum plantings specified in paragraph (c) above, the Planning Board may opt to require the maintenance of the existing vegetative buffer in lieu of cutting it down to accommodate new plantings, or may opt to require a combination of new plantings and existing vegetative buffer.” This was put in to allow for a better buffer between industrial and residential neighborhoods.

Mr. Granese read from Section 165-41 of the Town of Derry Zoning Ordinance, current revision, which outlines the uses allowed in the Industrial III zone. “Only the following uses are permitted within the Industrial District – III: Manufacturing industries, warehouse and wholesale uses, professional office buildings of greater than 10, 000 square feet, public utilities, machinery and transportation equipment, sales service and repair, freight and trucking terminals, offices and brokers, contractor yards, parking garages, animal hospital, veterinary clinic, bulk fuel storage and distribution, printing establishment, contract cleaning establishment, industrial supply establishment, hotel/motel, breweries and bottling facilities, enclosed recycling of non-hazardous materials, wireless communication facilities.”

Mrs. Choiniere asked if there was any way to put an L shaped fence around two sides of the storage area to block the views? Mr. Paul said at this time he would consider planting some arbor vitae trees in that area. As far as a fence, he personally does not think a fence will be the best looking option for the image of his company as well as anyone else looking in. He would definitely consider planting the trees. Mrs. Choiniere asked if he would consider more than two rows? Mr. Paul said he would consider the three rows. Mr. Tymula said there are some limitations on the number of rows they could plant in the area of the detention basin.

Mr. Granese said there had been a motion and a second to hold a site walk and he polled the Board.

Chase abstained, Park, Anderson, MacEachern, Davison, Choiniere, Bartkiewicz and Granese all voted yes. The motion passed in the affirmative.

The Board discussed dates to hold the site walk. The site walk was scheduled for **Saturday, May 11, 2013** at 10:00 a.m. Ms. Davison said she would be out of town. The site walk will be noticed. The Board will meet at the cul de sac on Ashleigh Drive. The public is invited. He confirmed permission was granted by the abutters to walk on their property and from the owner to allow the abutters to participate on the site walk at the site.

Mr. Anderson asked a technical question. Theoretically, isn't the abutter to this project is Mr. Cormier, not the residents on Donmac or Greenwich. Mr. Tymula noted Mr. Paul intends to purchase the 62 acre lot from Mr. Cormier and thus they had to notify the abutters within 200 feet of the property of the hearing. There is a PNSH easement to the front. They have been working with PSNH, but can't do anything within that 225 feet. Because of the location of the wetland on one side and the fact that the land drops down on the other, the best location for the proposal was the knoll. There is still 60 acres of land this site could have been placed on. They

did understand there would be opposition from the abutters and tried to tuck the business as far away from them as possible. Mr. Anderson asked what is the thought process on the remaining 60 acres of land? Mr. Paul said he had no plan at this time. Mrs. Choiniere did not think there was much to work with. Mr. Tymula said there is a substantial amount of upland. Mr. Anderson thought there might be 30 acres of usable space out of the remaining 60 acres. Mr. Anderson also noted there is another street at the end of Greenwich. What was the thought process with that? Mr. L'Heureux said it is an old right of way so that the land is not landlocked.

Mr. Chase asked that the four corners of the dumpster storage be staked out. Mr. Sioras recommended the Board continue the hearing to May 15, 2013 since there will be a site walk.

Motion by MacEachern, seconded by Bartkiewicz to continue the public hearing to May 15, 2013.

Chase, Park, Anderson, MacEachern, Davison, Choiniere, Bartkiewicz and Granese voted in favor and the motion passed.

Mr. Granese noted there will be no further notification of the continuance of the hearing. A site walk notice will be posted.

Proposed amendments to the General Commercial zone Continued from April 17, 2013

To review the following proposed zoning amendments to the Town of Derry Zoning Ordinance:

To amend Article II, Word Usage and Definitions, Section 165-5, Definitions to ADD the following terms to this section of the Zoning Ordinance: Clinic, Bus Depot, Daycare, Health Service Facility, Library, Medical Office, Open Space, Private Educational Facility/Private School, Radio Broadcast Facility, and Sale of Travel Accommodations.

The purpose of the amendment is to define terms used in the Zoning Ordinance, not previously defined.

To AMEND Article III, General Provisions, Section 165-14, Churches.

The purpose of the amendment is to resolve a conflict with other sections of the Zoning Ordinance.

To AMEND Article VI, District Provisions, Section 165-35.B.4, Office Medical Business District.

The purpose of the amendment is to resolve a conflict with proposed changes to the General Commercial District.

To AMEND, Article VI, District Provisions, Section 165-32.A through B, General Commercial.

The purpose of the amendment is to revise the permitted uses within the zone to encourage town wide business, commercial and employment growth. Additionally, this amendment will allow for expansion and opportunities for future office, business, commercial and employment growth with the availability of water and sewer to the Rockingham Road/Route 28 area of town. It is intended that the types of land use activities proposed will not have a severely detrimental impact on the existing uses within and adjacent to this district. For these reasons, certain prohibitions, restrictions, limitations and requirements are deemed to be necessary and appropriate.

Anderson moved to approve the proposed changes to the Derry Zoning Ordinance, Article II, Word Usage and Definitions, Section 165-5, Definitions, Article III, General Provisions, Section 165-14, Churches, Article VI, District Provisions, Section 165-35.B.4, Office Medical Business District, and Article VI, District Provisions, Section 165-32.A through B, General Commercial, and to forward those changes to Town Council for their consideration. Choiniere seconded the motion.

Mr. Granese noted this is a continuance of the public hearing; he wanted to make sure the Board was following the correct procedure. Mr. Sioras advised the Board made changes at the last meeting and took out the 1000 foot buffer and added the process for a change of use for a private educational facility. Mr. Granese confirmed that procedurally, they should open a public hearing.

Mr. Anderson and Mrs. Choiniere withdrew their motion and second.

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

Mr. Granese asked that anyone who came forward to speak to not repeat what has been stated before because it is in the record. If there are any new comments, questions or concerns, people should feel free to come forward.

Sheldon Wolff, 7 Fairview Hill Road, Atkinson, wanted clarification. What was on the agenda and in the materials provided this evening is that what the Board is voting on tonight? Mr. Granese said the Board is continuing the discussion from the April 17th meeting. Since the Board made changes to the wording they needed to hold another public hearing. Tonight, the Board will be voting yeah or nay to send the changes to Town Council for their consideration. After tonight, depending on the vote, the proposed changes can go to Town Council. Mr. Wolff said he has always opposed the buffer zone since it is not the town Master Plan. Mr. Granese noted the buffer has been removed. Mr. Wolff said he received a call from Tim Butterfield of Humphrey Road, who asked him to relay the message that he would like the Board to maintain the overlay. Mr. Granese said that is a different topic for another evening and separate from what the Board is discussing this evening. The Board will have workshops on the mixed use overlay district on another date.

There was no further public input.

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

Anderson moved to approve the proposed changes to the Derry Zoning Ordinance, Article II, Word Usage and Definitions, Section 165-5, Definitions, Article III, General Provisions, Section 165-14, Churches, Article VI, District Provisions, Section 165-35.B.4, Office Medical Business District, and Article VI, District Provisions, Section 165-32.A through B, General Commercial and forward those changes to Town Council for their consideration. MacEachern seconded the motion.

Chase, Park, Anderson, MacEachern, Davison, Choiniere, Bartkiewicz, and Granese voted in favor.

Mr. Granese thanked the Board for working on this and thanked the members of the public for attending meetings and speaking. Mr. MacEachern thought it was important to note when this goes before the Town Council it will be read by the Town Council and they will hold a public hearing on the matter. If anyone has any questions, comments or concerns they have another opportunity at the Town Council public hearing to talk about it.

Motion by Anderson, seconded by Bartkiewicz to adjourn. The motion passed and the meeting stood adjourned at 8:28 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____