



# TOWN OF HUDSON

## Planning Board

Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison



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## HUDSON PLANNING BOARD MEETING MINUTES July 10, 2013

### I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:03 p.m. on Wednesday, July 10, 2013, in the Community Development's Paul Buxton meeting room in the Hudson Town Hall basement.

### II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Ms. McGrath to lead the assembly in pledging allegiance to the Flag of the United States of America.

### III. ROLL CALL

Chairman Russo asked Secretary van der Veen to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

#### **Members**

**Present:** James Barnes, Glenn Della-Monica, Vincent Russo, Ed van der Veen, and Richard Maddox (Selectmen's Representative).

#### **Members**

**Absent:** George Hall (excused) and Tim Malley.

#### **Alternates**

**Present:** Irene Merrill, Marilyn McGrath, Jordan Ulery, and Nancy Bruckerman (Selectmen's Representative Alternate).

#### **Alternates**

**Absent:** None. (All present.)

#### **Staff**

**Present:** Town Planner John Cashell.

**Recorder:** J. Bradford Seabury.

#### IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Russo seated Ms. Merrill in place of the absent Mr. Hall and seated Ms. McGrath in place of the absent Mr. Malley.

#### V. MINUTES OF PREVIOUS MEETING(S)

Chairman Russo addressed the minutes for the meeting of February 27, 2013, asking if there were any changes or corrections.

Mr. Della-Monica requested the following changes:

- Page 6, 3<sup>rd</sup> paragraph, 2<sup>nd</sup> line — The actual quotes should be put in quotes to make it easier to read, saying it did not make sense as English.
- Page 12, 3<sup>rd</sup> paragraph, 2<sup>nd</sup> line — Quotation marks should be added before “Readers Digest.”
- Page 14, 1st paragraph, 7<sup>th</sup> line — The article “a” should be removed, as the phrase “on a subdivision plans” did not make sense.
- Page 19, 5<sup>th</sup> paragraph, 1<sup>st</sup> line — The first line should say 6:00 a. m., noting that the “a” designation was missing.
- Page 25. last paragraph, 7<sup>th</sup> line, — The record should be checked to make sure whether it should say singular “envelope” or plural “envelopes.”

Chairman Russo expressed a belief that Mr. Wolters’ name should be spelled with an “o” instead of an “a” as the second letter. Recorder Seabury said he had always spelled it that way but had been informed of the error at the previous meeting.

Mr. Barnes requested the following changes:

- Page 3, 6<sup>th</sup> paragraph 6<sup>th</sup> line — It should say that the UPS did not work on weekends.
- 7<sup>th</sup> paragraph, last line — The word “deliver” should be “delivery.”

No further changes or corrections being brought forward, Ms. McGrath moved to accept the minutes as amended; Mr. Barnes seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members present voted in favor, and Chairman Russo declared the motion to have carried (7–0).

Chairman Russo addressed the minutes for the meeting of June 12, 2013, asking if there were any changes or corrections.

Mr. Barnes requested the following changes:

- Page 8, 4<sup>th</sup> paragraph, 2nd line — The word “trees” was misspelled.

- Page 11, 2<sup>nd</sup> paragraph, 1<sup>st</sup> line – He said he believed he had been referring to landscaping in the cul-de-sac, not in the collection pond, and he asked that the audio recording be checked.

No other change requests being brought forward, Mr. Barnes moved to approve the 06-12-13 minutes as mended; Ms. McGrath seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7–0).

**VI. CASES REQUESTED FOR DEFERRAL**

No cases had requested deferral from this scheduled date.

**VIII. PERFORMANCE SURETIES**

No **Performance Sureties** items were addressed this evening.

**VIX. ZBA INPUT ONLY**

No **ZBA Input Only** items were addressed this evening.

**X. DESIGN REVIEW PHASE**

No **Design Review Phase** items were addressed this evening.

Chairman Russo said he would take up **Other Business** Item A at this time.

**XV. OTHER BUSINESS**

**A. GIS Update Proposal — Prepared Collaboratively by James Michaud, Asst. Town Assessor; Lisa Nute, IT Director; Patrick Colburn, Town Engineer; and John Cashell, Town Planner.**

Chairman Russo read aloud the published notice, as repeated above.

Mr. James Michaud, the Assistant Assessor, gave a presentation on the plan to improve the Town's GIS system and process, as developed by a collaborative team, including Mr. Jayson D. Brennan, GIS Project Manager, CDM Smith (Camp Dresser & McKee, Manchester, NH), the GIS consultant who had developed the original 15-year-old system being used by the Town. Mr. Michaud said the impetus dated back to the spring of 2012, when the loading of the NH-DOT flyover imagery into the system was found to require updating of the interface. He said they were requesting support from the Planning Board to upgrade the interface to a contemporary Esri ArcGIS format, to implement a GIS application that would allow the GIS data to be placed on the internet for viewing by the general public. If the Planning Board granted support, he explained,

they would go to the Board of Selectmen meeting of July 23rd for approval by that board. He noted they could not upload the available NH-DOT imagery without upgrading the interface, noting that the core matrix had not been updated since 1998. He said there were more than 1600 new properties that were not yet entered and were not represented on the existing planimetrics, not counting changes in roads, contour changes, etc. He noted that this would be Phase 1 of a multi-year approach, saying they did not have a defined cost but had an idea, noting that the Town of Derry had gone through a full flyover and planimetrics process in 2008, which had cost \$90,000, but the expectation was that the cost would be less for its scheduled 2014 update and the Town of Hudson could possibly go in with that town for a full flyover in the spring of 2014 and budget for 2015 the development of planimetrics from that new flyover— noting that that would be Phase 2, which was not in front of the Board this evening. He then outlined future possibilities that could be implemented to ensure that Hudson did not fall behind again, stating that at least 89% of local government decisions were geographically based. He then discussed the need to have an updated GIS format so that it could be tied to other systems, saying this was updating an investment that had been made 15 years ago.

Chairman Russo asked if there were any questions from Board members.

Mr. Barnes noted that the request for \$11,000 was for the contract, to get the software to put the information on line. Mr. Michaud expressed agreement. Mr. Barnes asked if the Town currently had enough server and storage capacity to support that. Mr. Michaud noted that Vincent Guarino, the Town's IT Specialist, was nodding in affirmation.

Mr. Della-Monica asked if the Fire Department and Police Department were on board with this, with respect to any requests they might have. Mr. Michaud said they were on board and used it, but tended to go to Google for newer information. He noted that those departments had several layers, covering fire hydrants and other things, that they had not been able to load into the system.

Selectman Maddox said the \$11,000 would get the software, asking if they would be asking for \$90,000 over several years. Mr. Michaud responded in the negative, saying it had cost Derry over \$90,000 but costs had come down, noting that the Town of Milford did a flyover and planimetrics two years ago for \$55,000. He provided estimates of \$15,000 for the aerial flyover and \$40,000 for the planimetrics, but reiterated that this would be Phase 2, which was not before the Board tonight.

Selectman Maddox asked if the State would have flyovers that Hudson could utilize, and he then expressed a belief that it would be cheaper to go to Google Earth. Mr. Michaud noted that Google Earth did not give the sort of data that the Planning Board and other departments used, saying it did not list lot numbers, property owners, property values, etc. Selectman Maddox pointed out that the Planning Board had gone for five years without it, saying this seemed like an awful lot of money.

Mr. van der Veen asked if Google Earth could be used as a layer.

Mr. Jayson Brennan, from CDM Smith, said Google Earth typically was not used as the basis, because it did not use the standards which municipalities needed to use and did not have the accuracy requirements needed for engineering. He said municipalities

typically did flyovers to get that accuracy, noting that the City of Nashua had saved more than \$400,000 in survey costs for sewer work and other things because of the information provided by their updated system.

Mr. van der Veen said he thought the Google Earth accuracy had been improved. Mr. Brennan said even the Google Earth Pro version, which costs about \$200 a year, still did not give the needed accuracy, saying it did not give better quality data but just more function and buttons.

Mr. Della-Monica said he had gotten the same "We've got along without it" in other endeavors, saying the amount of information that was theoretically possible but which the Town did not have now was considerable. He then asked Mr. Brennan to describe what GIS was, for the benefit of the viewing audience.

Mr. Brennan said GIS stood for Geographic Information System, saying it was basically a combination of computer hardware, software, and data that allowed mapping out where streets, water lines, sewer lines, etc., were, depending on data behind the scenes that identified lot ownership, etc., adding that it brought all the information from various departments into one system that made getting information simpler. He said GIS had become the norm for at least 75% of the communities in New Hampshire, with larger communities having their own GIS staff as well. He said the new system being proposed would provide more information more easily, making it available on smart phones, iPads, etc. He also pointed out that Hudson was using an old technology at this time.

Mr. Della-Monica said using Google for anything meant the users could not check everything, whereas with GIS everything would be verified.

Selectman Brucker asked how it would change what the Planning Board did and what the advantage would be. Mr. Brennan said the software being used by Hudson right now had been discontinued, was no longer supported, and could not be upgraded, so any new data that came in the new format could not be read. He said the old data base format meant that new readers could not view it, adding that the software being used by the Town's IT department also was stuck on an older version of the software, because if they upgraded their new version could not be used with the current system. Once the Town moved up, he added, the Town would be able to access free data from the State or Federal resources, which it currently could not use.

Mr. Ulery said he thought DOT was able to read everything. He then referenced some recent flooding up in Lebanon, which had washed out some roads. If that were to happen here, he said, and this proposed program were up and running, Hudson's Highway Department and Police Department could pull up the information and see who lived there, what needed to be done, etc., from their PDAs. He said the system also would allow each resident to take a look at their property or others and see how it compared with other properties. He noted it would also allow Planning Board members to put the overlay on the screen to see the plan and the topography at the same time. Mr. Brennan agreed. Mr. Ulery referenced an area of new construction on Route 111, noting there had been discussion about how the water line tied in, and he suggested this would eliminate that confusion. Mr. Brennan noted that what they would be able to see would be what existed, not what was proposed.

Mr. Michaud said consultants could join in if the system were matched up. Town Engineer Webster said this information existed but was not available on the website with the current system.

Ms. Merrill asked, if for some reason people chose not to put up the money, would they not be able to use the information. Mr. Brennan said Phase 1 was just to get the latest software and make the Town system compatible with everyone else in the State. If the Town did not do Phase 2, he said, they would still have the existing and added information, but would not be getting the information that could be seen from the air. He said it could be used for a number of things.

Selectman Brucker asked about the \$40,000 planimetrics. Mr. Brennan said a plane would take a couple hundred pictures, which would then be digitized to identify all the data that could be seen, producing planimetrics as layers. He said they would also provide two other deliverable, contours for the whole town and typical aerial imagery.

Mr. Michaud noted as a further example that buildings built since 1998 would not appear on the overhead data now available, as planimetrics had not been done off the 2005 aerial views. Mr. Brennan said planimetrics should be obtained every five to ten years. Mr. Michaud noted that the pace of growth also determined the need.

Mr. Della-Monica said another answer to Selectman Brucker's question was that the Planning Board would not have to switch between applications in order to display different types of data.

Mr. Ulery said the question before the Board was whether or not to spend \$11,000 updating the software. Town Planner Cashell said the Board could take the \$11,000 from the tax map updating account, which had \$23,000, or from the Board's expendable account, which had \$59,000. Mr. Ulery said there would be no tax impact; Mr. Cashell concurred—but said the Board might want to consider taking the \$11,000 out of the tax map account, instead, saying there would still be a strong balance.

Mr. Barnes moved to favorably recommend to the Board of Selectmen the expenditure of up to \$11,000.00 from the Town's Tax Map Updating Account, and for said funds to be used for the purpose of having CDM Smith complete the update of the Town's GIS System, as set forth in the "Proposal for GIS Implementation Services as prepared by CDM Smith and dated December 10, 2013.

Ms. McGrath seconded the motion.

**VOTE:** No further discussion being brought forward, Chairman Russo called for a verbal vote on the motion. All members voted in favor except for Selectman Maddox, who abstained, and Chairman Russo declared the motion to have carried (6–0–1).

XI. OLD BUSINESS

A. 63 Derry Street/Ledge Road Subdivision Map 165/Lot 159  
SB# 04-13 63 Derry Street

**Purpose of plan:** To subdivide the 2.48-acre subject property into seven single-family residential lots. Hearing. Deferred Date Specific from the 06-12-13 Planning Board Meeting.

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell said he had nothing to add to his staff report.

Mr. Jeffrey Burd, PE, of RJB Engineering, 15 Pleasant Street, Concord, New Hampshire, representing the applicant, provided full-size plans to the Board members. He said there were a number of issues discussed at the last meeting, with the biggest being that the waiver of a traffic study was not granted. He noted that he had traffic engineer Steve Pernaw here tonight, who had done a traffic study. He said they had received a response of confirmation that there was capacity available from Pennichuck Waterworks, confirmed by the Town Engineer on June 26, with a few minor comments, adding that the sewer allocation had been approved by the Sewer Utilities Committee and the Board of Selectmen. He said there had been an error on the plan about sight distance at the driver's-eye height, saying it should have read 3'6" instead of 3'9", and the height of the approaching vehicle should have been shown at 4.35 feet. He referenced changes made on Sheet 6, saying it did not affect the outcome and they still met sight distance requirements. He said the road was not opposite the driveway, so headlights of cars coming out the proposed street would not go into the house. He said they had walked the site with a tree contractor, who had confirmed that most of the large trees were a potential liability and that he had recommended clearing the large trees, adding that he had said he would work with abutting landowners if they desired. He said there were a number of saplings, anywhere from 4 inches to 12 inches in range, which were at a lower level and would provide some attenuation, and they would work with the contractor to preserve those trees. He then distributed photographs of the perimeter.

Referencing the concern about sound attenuation, he said research had shown that trees did not offer much sound attenuation, saying he would expect the property owners to preserve trees on their lots. He said the new homes themselves would provide some sound attenuation, so they felt that addressed that concern.

He noted questions about drainage, saying the infiltration basin would be a dry pond, designed to hold water temporarily during rainstorm events; he said it would measure 70 feet by 10 feet at the bottom, saying the maximum depth would be 30 inches before reaching the overflow, with the maximum depth from a 2-year storm being eight inches and up to 25 inches in a 25-year storm. He said the drawdown from a 25-year storm would be two hours, so there would be about two feet of water at its peak. He added that he had used fairly conservative figures, so he would not really expect any water on this fairly sandy soil.

Referencing questions about density, he said the lot sizes met the intent of the Zoning Ordinance, noting that setbacks in the TR zone reflected traditional New England town or village lot development patterns. He noted this was filling in development on vacant land in an ingrowth area, saying this same builder had done this in many other locations.

Chairman Russo opened the meeting for public input and comment, in favor of the application. No one coming forward, Chairman Russo asked if anyone wished to speak in opposition or to provide comments or questions concerning the application.

Mr. Gerry Demaris, 3 Lindsey street, said he had a question about large trees straddling the lot lines. Mr. Burd said he suspected it was shared ownership, saying they could not cross the line, so the tree would stay up if on the line.

Mr. Della-Monica said in many if not most instances the owner of one side would prune.

Ms. Karen Nooman, 6 Ledge Road, referenced the orange flag markers, asking if they were to delineate the road. Mr. Burd said they had one marker out there to mark the center, right opposite her garage. Ms. Nooman asked about another one further up; he said that might be an old lot designation. She asked how wide the street was planned to be; Mr. Burd said it would be 22 feet. She referenced the online printout of a draft motion to approve, saying she thought they had said they would not do construction on Saturday. Mr. Burd said they had suggested they would work within the Town guidelines. Chairman Russo said the Town requirements had a noise ordinance, but this Planning Board also took consideration of the concerns of abutters.

Ms. McGrath said she thought what was reasonable was Monday through Friday, with no work being done on weekends, as homeowners deserved to have some privacy on weekends. Chairman Russo said his recollection was that certain things done without machines would be acceptable (interior work,, painting, etc.). Ms. McGrath noted that Sheet 3 showed a 50-foot right-of-way. Mr. Burd said the pavement would be 20 feet wide, referring to the physical cross-section shown on Sheet 9. Ms. Nooman asked if the Town required a 50-foot right-of-way; Chairman Russo said it was required for emergency vehicles. Ms. Nooman referenced the electrical connections. Chairman Russo said the Town standard required underground utilities for new construction, although the outlying first houses might be connected to a pole.

No one else coming forward, Chairman Russo asked if there were questions from the Board members.

Mr. van der Veen asked about the sight distance requirement. Town Planner Cashell said it was 400 feet at 3 feet 6 inches. Mr. van der Veen asked if it was supposed to be 3 feet 6 inches at 400 feet from the intersection. Mr. Burd said it was 400 feet from the driver's eye. Mr. Della-Monica said the reason for not going to the ground was that no house would ever see the ground on the other side of a slight swell, so the height was determined for average vehicles at the lowest point.

Selectman Maddox said there had been a question about speeding cars on Ledge and Lindsey, saying he had contacted the Police Department, with the top speed being recorded at 40 mph, and with the majority in the low thirties. He said the Police Department would be monitoring the area through the next few months.

Mr. Barnes said Mr. Burd had said the pond would drain within a few hours, in general, asking if he were saying there would in general be no standing water in that pond. Mr. Burd concurred. Mr. Barnes said Mr. Burd had said the developer would try to maintain the saplings—but he noted that this was voluntary, and people purchasing homes in the lots could remove those saplings if they so desired. Mr. Barnes then asked about stacking on Ledge Road, saying he saw no information about that in the traffic study—adding that he was concerned that people would see a queue and turn down Lindsey Street. Mr. Burd said it was addressed in the study, and he asked for input from Mr. Stephen Pernaw, the traffic engineer, who discussed what they had observed in morning and afternoon peak periods, saying the most common queue length was zero, with the next most-common being one, although during the evening peak hour they had noticed a couple of times with two, three, or four cars would come together, saying this happened three or four times. He said overall nothing was going to change from this development, which was a low traffic generator.

Chairman Russo said he believed, because of the traffic that had been generated to date, the observed pattern of a small queue was because the existing drivers already were familiar with the problem. He concurred that the traffic generated by these six new houses would in effect be negligible.

Mr. van der Veen asked how the study came up with only six vehicles in the morning and evening peak traffic times, with six houses. Mr. Pernaw said they used the ITE trip generation manual, saying there would be six in the morning and six in the evening. He said not everyone left to go to work at the designated hour, saying it could be deceiving. He said they had been compiling actual trip rates in New Hampshire for years, usually finding them well below the ITE figures.

Mr. Della-Monica said it was trips per hour.

Ms. McGrath said Mr. Burd had said lights would not be shining into Ms. Nooman's house. Mr. Burd referenced Sheet 2, showing the building locations.

Ms. McGrath asked about plantings in the cul-de-sac, saying she had thought they were going to correct that, as the Town of Hudson would not maintain landscaping in the cul-de-sac. Mr. Burd said he had thought there was an agreement either to provide maintenance-free landscaping or to have a property owner assigned responsibility. Ms. McGrath said she thought a note needed to be added to the plan, as the Town of Hudson certainly was not going to maintain it. She then asked Town Planner Cashell for a hard copy of the draft motion, saying she wanted to make some changes.

Chairman Russo referenced the 10-foot by 70-foot drainage basin, asking why the cul-de-sac was not used for the storage basin. Mr. Burd said there was a grading issue, adding that utilities going through the center of the cul-de-sac meant they would not want standing water over the utilities. He said water could affect the integrity of the roadway itself. Mr. Della-Monica added that the current location offered a place for water from a 100-year storm to go. He then noted that cars making a left turn would have car lights briefly shining into the abutter's house.

Selectman Maddox said he thought there had been discussion about a hydrant not shown. Mr. Burd said there were several things that needed changes, saying he had not made some of those yet, as a layer had been turned off. Selectman Maddox

predicted the Board would see more and more of these, saying the Board needed to be cognizant of the fact that this was an existing neighborhood, so he thought the request to have no construction on weekends was reasonable. He suggested there should be some sort of bond to ensure that the perimeter trees were preserved. He said those two items might help alleviate some concerns among the neighbors. Ms. McGrath asked what bond amount would be reasonable. Selectman Maddox suggested staff could come up with that, as they would not be looking for approval tonight. Mr. Burd protested that they were looking for approval tonight, saying the remaining changes were very minor, and he wanted to do them all at once. He said whatever minor additions were needed could be addressed with Town Planner Cashell.

Chairman Russo said the Board needed to check the plans, and if things were left it did not work, as they might be forgotten. To get approval tonight, he said, they would have to make notes of everything, which was not fair to the Board or to the Town Planner. He said he would agree with Selectman Maddox that there were things to be taken care of, so the next time they came before the Board it would be an in-and-out situation. He noted that there had been discussion about the hours, for example.

Mr. Della-Monica said the simple way to address the tree issues was to identify the size. Mr. Burd said he would look to leave 12 inches and under. Mr. Della-Monica said some would have to come down, but the Board could say that 90% would have to be left—and, if less than 90% were left, the developer would be required to plant new trees to make up the difference before the first Certification of Occupancy was granted. Selectman Maddox said he had just been going to use the photographs provided and compare them later. He said they should not clear cut, but the Board should not have to get into plotting trees. Mr. Della-Monica said that still could be done as a stipulation. Town Planner Cashell said trees get in the way, adding that they should be willing to preserve as many perimeter trees as they could and should be able to identify them and present them on a plan. Chairman Russo noted that Mr. Burd had said 25 feet, but the building setback was 15 feet, which would be more workable.

Ms. McGrath said they might not want to put the houses right up to the 15-foot setback line, as new people coming in would want to add sheds, decks, pools, etc., and they would have no room. She said putting houses up to the line would be creating a condition such that incoming property owners would have to come seeking a variance, which was not fair to the home owners or to the Zoning Board of Adjustment. She said this was why she had stated at the last meeting that this plan was too dense.

Town Planner Cashell said the other reality, referring to Sheet 5, was that there really was not much room in the back yards. He said another realistic issue was that some people liked trees and preserved them and others did not.

Ms. McGrath noted that she had marked some changes on Town Planner Cashell's draft motion, saying she agreed with Chairman Russo that the approval should not be granted this evening. She read aloud her changes to the construction hours in note 12 to allow construction from 7:00 a.m. to 6:00 p.m., Monday through Friday, with construction activities prohibited on Saturdays and Sundays. She said she had added two notes based on the discussion: #14, saying a note should be added to the plan stating that the Town of Hudson shall not be responsible for maintaining any landscaping within the cul-de-sac; #15, saying that a bond in the amount of \$54,000

should be established to preserve trees 12-inch diameter and under within the 25-foot perimeter. Chairman Russo said he had suggested 15 feet; Ms. McGrath said she liked the 25 feet.

Mr. Della-Monica suggested changing Note 12 to allow interior or quiet work.

Ms. McGrath suggested "Exterior construction activity ...." The consensus of the Board was in agreement.

Selectman Maddox moved to defer further action on this matter to the meeting of July 24<sup>th</sup>. Ms. McGrath seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Town Planner Cashell said he would send a copy of the new notes to Mr. Burd.

Chairman Russo declared a break at 8:45 p.m., calling the meeting back to order at 9:01 p.m.

## **XII. DESIGN REVIEW PHASE**

No **Design Review Phase** items were addressed this evening.

## **XIII. CONCEPTUAL REVIEW ONLY**

No **Old Business** items were addressed this evening.

## **XIV. NEW BUSINESS/PUBLIC HEARINGS**

### **A. Nashua Subaru Lot-Line Relocation                      Map 216/Lots 11 & 13 SB# 05-13    193 Lowell Road**

**Purpose of plan: To adjust lot line to separate current Nashua Subaru dealership (193 Lowell Road) from existing commercial/retail building at 199 Lowell Road and merge this latter property with the south abutting parcel having a street address of 201 Lowell Road, Map 216/Lot 11. Application Acceptance & Hearing.**

Chairman Russo read aloud the published notice, as repeated above.

Chairman Russo asked if the application were ready for Application Acceptance. Town Planner Cashell responded in the affirmative.

Selectman Maddox moved to grant Application Acceptance; Mr. Della-Monica seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Mr. George R. Fredette, PE, from SFRC Engineering Partnership, Inc., representing Danato Realty Trust, appeared before the Board as the representative of the applicant. He identified the two lots, noting that two buildings occupied one lot, and the intent of this proposal was to isolate Subaru on a single lot by itself, leaving the Pool & Spa building and the vacant residential building on another lot. He noted this was a not-so-simple lot line, describing the plan that Subaru had produced a plan for a consolidation originally, with the two buildings using the same driveway. With the proposed lot line adjustment, he said, the lot line would be between the two businesses, so they would provide temporary access across the Subaru property to get to the pool business. Using a laser pointer to identify locations on the displayed plans, he said they were asking for a waiver, as the space between the two businesses was paved, because the regulation said pavement should not exist but the Planning Board could allow parking, so he was asking that the Planning Board allow the pavement as it existed today to remain. At a future date, Mr. Fredette explained, they would come back to this Board to show a plan for the other property, at which time Subaru would have its own access and the other two buildings would have a new access. He noted that he had provided a narrative document describing the two properties, saying both lots would be conforming, both now and after the lot line change.

Chairman Russo noted that there was no public present to provide input.

Selectman Maddox referenced the temporary access, asking if that would disappear when they were done. Mr. Fredette said the pool business would be on a lot without access, so they would provide temporary access. Selectman Maddox said the future plan showed a relocated lot line back again; Mr. Fredette demurred, saying the dashed line was the current location, adding that the temporary easement would then go away. Selectman Maddox suggested they would then put in the setback requirements; Mr. Fredette demurred, saying that would not be their plan. Selectman Maddox said there would be three driveways, asking why he should approve that. Mr. Fredette agreed that there would be three driveways for the full plan, saying there would be no formal easement to allow cross-traffic. Selectman Maddox then asked why the Board should allow them not to put in the setback requirements between the two lots that would be created; Mr. Fredette said there were nonconforming parking spaces that would have to be eliminated. Selectman Maddox responded that having fewer accesses on Lowell Road would result in fewer accidents.

Mr. Barnes referenced the existing lot with the house on it, asking where the driveway was located today. Mr. Fredette showed the location, and Mr. Barnes noted that there were two driveways on Lowell Road now, and what was being added was another on Hampshire Drive. He then asked if there did not need to be an easement going the other way, as delivery vehicles would need to get behind the buildings. Mr. Fredette said there was a 15-foot easement right now, to provide for proper turning movement. Mr. Barnes asked if that easement would be permanent for the next phase; Mr. Fredette concurred.

Mr. Della-Monica noted confusion about turning, saying there would be issues with northbound people turning left to cross Lowell Road to access that driveway. Chairman Russo said that was for the future, saying he did not want to get into that now. Mr. Della-Monica asked if it would not be more appropriate to make the temporary easement a permanent easement. Mr. Fredette discussed how the pool place and the Subaru dealership came to be on one lot, saying this was the first step that he needed to take to get to the future development, for which there would be a conceptual plan at a future date. Mr. Della-Monica suggested it just be called an easement, rather than a temporary easement, as it could always be limited or left in for a future site plan; he said Mr. Fredette was limiting himself by calling it temporary.

Mr. Ulery said the Planning Board had done something similar on another industrial site on Industrial Drive, where there was no methodology to get truck traffic to get from one side of the building around to the back, so they had a shared lot line paved over, with the Board requiring a swale or a line painted to delineate the lot line.

Selectman Brucker asked if the Advanced Spa and Pool business would still have access from the Subaru driveway. Mr. Fredette said Danato Realty Trust owned both properties, so there would be access, but after development the proposal was to terminate the rights to have access from the Subaru property. Selectman Brucker asked how people would be kept out if there were no fence or wall. Mr. Fredette said there was no intent to put up a fence or a wall, but the owner would have a legal right to stop them. He said there would be no change under the present request.

Selectman Maddox said this was causing him heartburn, as they did not want to put up demarcation for the 15-foot separation with no pavement, saying they wanted the best of both worlds so as to justify getting another access off Lowell Road. He said he was torn about voting for this, as they were using an imaginary line as the Subaru lot line without anything to show that they no longer had that right.

Chairman Russo said the impression he had gotten was that the access easement was to provide access across the new boundary line, while the permanent vehicular movement easement would be there permanently because the two lots would always need access to each other so that vehicles could move. Mr. Fredette expressed agreement. Chairman Russo said they did not want to put up any type of barrier or separation, because those spaces existed at this time. Selectman Maddox interrupted to say the reason was that they would lose parking spaces, so they wanted the best of both worlds.

Town Planner Cashell said the Board had dealt with the same issue at the Citizens Bank plaza. He said these properties were under the same ownership, and they were trying to set up permanent financing for the new project that was going to be proposed on the ranch house site, and the owner of Subaru of Nashua was trying to put the financing package together. Ultimately, he said, they were trying to preserve all the existing parking spaces, but this Planning Board would have full use of the site plan approval process to redefine where driveways would be located, to eliminate driveways, and to best plan for the driveway approach, adding that there was no commitment tonight and they were showing a pre-concept review of what they were planning to do. He said they were just trying to get the land set up so that they could present it to a bank for the financing, and this was just one way to clear up the title of

both properties. He said a caveat was that the Board would have to accept what they were proposing, including the number of parking spaces—and, for the time being, the travel lanes. In all likelihood, he continued, the future travel lanes would be the same but both properties might be under different ownership.

Mr. Fredette said that was correct, adding that Mr. Cashell had pointed out some shortcomings with the future plan, including the driveway configuration, but they had put this concept forward. He said they were not asking for approval of that concept now but just wanted to get a lot-line adjustment.

Ms. McGrath said that, if the Planning Board approved the lot line change tonight, the Board would be precluded from dealing with the Subaru site in the future, so the Board needed to be cognizant of that. She then asked why they could not propose using the access from Subaru to create cross easement to go across all of the properties, thereby eliminating the anticipated right-turn-in and right-turn-out access—adding that she agreed with Selectman Maddox and did not think this was as simple as might appear.

Mr. Della-Monica responded that, if the Board did not make that easement temporary, it would eliminate any future arguments that they had a semi-landlocked piece of property that needed another driveway. He said they had access already and had a driveway to the abandoned house that theoretically they could keep, but it would not limit the Board's options for future development driveways by granting the lot-line relocation if the Board did not call that access temporary. He said he did not see any harm in doing this as long as the Board kept all of the prerogatives for future review.

Chairman Russo said the Board had rules in place to govern what would end up happening in the future, adding that he did not think anybody was expecting this Board to say that because the Board allowed the lot-line change it was going to allow future development. He said the Board could not predict the future, and he questioned the benefit in angsting over the future.

Selectman Maddox held up his sign reading NO GOOD DEED GOES UNPUNISHED, but said he agreed with Chairman Russo that the Board should not get into "What If" questions.

Mr. Della-Monica moved to grant the requested waiver for relief from the requirements of HTC 275-8 (25), *Parking and Driveway with Setbacks*, citing the reason for granting this waiver as being because the existing parking lot and driveway configuration between the abutting lot areas of Lots 011 and 013 provided the only means of vehicular access and maneuverability between these lots, leading to the only means of street access--and, as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. van der Veen seconded the motion.

**VOTE:** Chairman Russo then called for a hand vote on the motion. All members present voted in favor except for Ms. McGrath, who voted in opposition, and Chairman Russo declared the motion to have carried (6–1).

Mr. Della-Monica suggested striking the word "temporary" from the draft motion, as being unnecessary. Chairman Russo responded that the Board should not make it more complicated than it was.

Mr. Della-Monica moved to approve the Lot Line Relocation Plan entitled ***Lot Line Relocation Plan Map 216, Lot 013, 193 Lowell Road, Hudson, NH***, prepared by Promised Land Survey, LLC, 230 Rockingham Road, Derry, NH 03038, dated: June 11, 2013, revised July 2, 2013, consisting of Sheet 1 of 1 and Notes 1 through 7 in accordance with the following terms and conditions:

1. All stipulations of approval shall be incorporated into the Decision of Approval, which shall be recorded at the Hillsborough County Registry of Deeds, together with the Plan.
2. All monumentation shall be set or bonded prior to the Planning Board endorsing the Plan-of-Record.
3. Prior to Planning Board endorsement of the Plan-of-Record, Town Counsel shall favorably recommend on:
  - a. The Temporary Access Easement for benefit of vehicle movement pertaining to Lot 013 over Lot 011.
  - b. The 15-foot Vehicular Turning Easement for benefit of vehicle movement pertaining to Lot 013 over Lot 011.
4. Prior to Planning Board endorsement of the Plan, a Hall Chart shall be inscribed on the Plan, depicting the lot areas for each of the lots.

Mr. Barnes seconded the motion.

**VOTE:** Chairman Russo then called for a hand vote on the motion. All members present voted in favor except for Ms. McGrath, who voted in opposition, and Chairman Russo declared the motion to have carried (6-1).

## VII. CORRESPONDENCE

### A. RE: 321 Derry Street Request to Waive the Site Plan (Review)

Map 105/Lot 007

Chairman Russo noticed an item of correspondence received in tonight's handouts in reference to the faith Baptist Church of Nashua's request for waiver of an engineering site plan. Chairman Russo asked if the Board were expected to act on this tonight. Town Planner Cashell said only if the Board wanted to do so.

Town Planner Cashell said no one from the church could be available for tonight, as they had an event going on, but he said the request was fairly self-explanatory. He noted that the Tate Brothers had done some road improvements already, having to do with their new building, noting that this was a 6,000-ft<sup>2</sup> building.

Ms. McGrath asked if any abutters had been notified. Town Planner Cashell said they were all commercial abutters, noting that the nearest residential area was beyond the wetland pocket, over 800 feet away.

Chairman Russo said he wished someone had come forward with it, expressing a belief that there must be someone on the church staff that could come testify to the accuracy and intent.

Mr. Barnes said his only concern was that, if the church group wanted to make some changes in the future to the parking or the structure or something, the Board was not waiving any kind of restrictions with respect to that. Town Planner Cashell said the church group had been made clear on that, saying any additions would require Board approval.

Chairman Russo asked how many parking spaces a church required. Town Planner Cashell expressed a belief that it was one space per three patrons. Mr. Ulery said he thought only St. Catherine's had ample parking. Upon review of the regulations, Chairman Russo found the requirement to be specified as one space per four seats. Town Planner Cashell said there were 47 parking spaces; Chairman Russo said it looked as if it met the requirement.

Mr. Della-Monica suggested approval pending having them come in at the next meeting. Chairman Russo questioned what the point of that would be.

Mr. Barnes moved to grant the requested waiver.

Mr. Della-Monica seconded the motion.

Selectman Maddox suggested adding that a letter be sent to the parsonage stating that there could not be any additions.

Chairman Russo at this time expressed concern that the Board was granting a waiver for an application that did not exist. He said he believed they needed to come in for site plan approval. He said there should be an application before the Board, as it was a change of use.

Mr. Della-Monica said the Board could say they would accept something other than an engineered site plan. Chairman Russo said they could come in with the plan they had.

Selectman Maddox suggested withdrawal of the motion.

Town Planner Cashell said realistically all the Board would be doing was informing the Building Inspector. He said they had done a zoning determination, adding that he had also run this by Town Counsel, who had said it was okay as long as they were not making any changes in the property.

Chairman Russo said he thought the motion should be withdrawn. Selectman Maddox said he would also vote in the negative, saying there was a process and they should at least apply. Ms. McGrath and Ms. Merrill expressed agreement.

No withdrawal of the motion was brought forward.

**-- FILE COPY --**

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**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in opposition, and Chairman Russo declared the motion to have failed (0-7).

Chairman Russo said the Board had no problem with granting the waiver, but the church group needed to get their formal application in.

Mr. van der Veen asked if the Board were going to require someone to come in. Chairman Russo said someone had to present it, saying it would be fine with him if they came in with the existing plan and just scratched out MEDICAL USE and called it PLACE OF ASSEMBLY. Ms. McGrath added that the Board could then discuss any concerns the members might have. Mr. Della-Monica noted that the church could designate anyone to come in.

**XVI. ADJOURNMENT**

All scheduled items having been addressed, Ms. McGrath moved to adjourn; Mr. Della-Monica seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor.

Chairman Russo then declared the meeting to be adjourned at 10:05 p.m.

Date: November 28, 2013

\_\_\_\_\_  
Vincent Russo, Chairman

J. Bradford Seabury, Recorder

\_\_\_\_\_  
Edward van der Veen, Secretary

These minutes were accepted as amended following review at the 02-26-14 Planning Board meeting.

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The following changes were made to the draft copy in accordance with review comments at the Planning Board meeting of 02-26-14:

Page 10, 2<sup>nd</sup> paragraph, 3<sup>rd</sup> line — Corrected mistyped “thy” so that the phrase now reads: “as they might be forgotten.”

Page 12, 4<sup>th</sup> paragraph, 1<sup>st</sup> line — Corrected mistyped “fi” so that the phrase now reads “asking if that would disappear ... .”

Page 12, 4<sup>th</sup> paragraph, 4<sup>th</sup> line — removed extraneous apostrophe that had been typed in place of a space.

Page 17, 1<sup>st</sup> paragraph, last line — Changed voting designation from “7–0” to “0–7” (all members voted in opposition to the motion).