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**HUDSON PLANNING BOARD
MEETING MINUTES
May 12, 2010**

I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:03 p.m. on Wednesday, May 12, 2010, in the Community Development meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

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

III. ROLL CALL

Chairman Russo asked Mr. Barnes to serve as Acting Secretary in place of the tardy Terry Stewart and to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

Present: James Barnes, George Hall, Vincent Russo, Richard Maddox (Selectmen's Representative), Terry Stewart (arrived at 7:15 p.m.), Tierney Chadwick (arrived at 7:20 p.m.), and Suellen Quinlan (arrived at 7:44 p.m.).

Members

Absent: None. (All present.)

Alternates

Present: Tim Malley, Stuart Schneiderman, and Ken Massey (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 Mr. Schneiderman in place of the tardy Ms. Stewart and seated Mr. Malley in place of the tardy Ms. Chadwick.

V. MINUTES OF PREVIOUS MEETING(S)

Chairman Russo addressed the minutes for the meeting of March 10, 2010, asking if there were any changes or corrections.

Mr. Barnes requested the following changes:

Page 2, 2nd to last line — the word “or” in the phrase “referring to Sheet 1 or 66” should be changed to “of.”

Page 3, second to last paragraph, — he said the last sentence was not understandable to him, and he requested the recorder to check the audio record.

Page 6, next-to-last paragraph — last word should be “signed” instead of “sighed.”

Page 7, last paragraph, 4th sentence — the word “one” should be added ahead of “of” in the phrase “Mr. Basso said of those.”

No further changes or corrections being brought forward, Mr. Barnes moved to accept the minutes as amended; Mr. Hall 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 (6–0).

Chairman Russo referenced the minutes for the April 7, 2010, and April 14, 2010, meetings. No one having reviewed these, He asked that the members be prepared to do both of them at the next meeting.

VI. CASES REQUESTED FOR DEFERRAL

No cases had been requested for deferral from this meeting.

VII. CORRESPONDENCE

Items of correspondence received in tonight's handouts were taken up in conjunction with the associated cases, with any remaining items being taken up under **Other Business** at the end of the meeting.

VIII. PERFORMANCE SURETIES

A. Release of Letter of Credit #SE445164 Stop & Shop

Map 222/Lot 041

Reference: Memorandum dated April 21, 2010, from Town Engineer Gary Webster to Town Planner John Cashell.

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

Town Planner Cashell said he had nothing to add at this time, noting that this work had been done a number of years ago but processing of the letter of credit had fallen through the crack because of a change in ownership of the bank.

Selectman Maddox noted this was for road improvements that were part of the construction, which had been completed to the Town's satisfaction. Mr. Cashell concurred, saying this was for the amount of \$27,323.99.

Selectman Maddox moved to release Letter of Credit, #SE445164, from the issuing bank (ING Bank NV), pertaining to the surety held by the Town for Lowell Road and Wason Road improvements, which were completed in their entirety and to the satisfaction of the Town, by the applicant, Stop & Shop Supermarket Company, LLC.

Mr. Hall 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 (6-0).

IX. ZBA INPUT ONLY

A. Robinson Road Self Storage ZI# 01-10

**Robinson & Derry Road
Map 105/Lots 16,17,18,19 & 20**

Purpose of plan: Proposed temporary wetland and wetland buffer impacts for development of a self-storage facility (ZBA Input Only).

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

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

Mr. Tony Basso, of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, described the property, consisting of 42 acres, with the majority of frontage on Robinson Road. He said the applicant ultimately would propose a storage facility on a portion, explaining that he had to go before the Zoning Board of Adjustment for a Wetland Special Exception for a temporary wetland crossing, to construct a pipe under the crossing.

Ms. Stewart arrived at 7:15 p.m. and took her seat at the table at that time, although not yet recognized by the Chairman for the inprocess hearing.

Mr. Basso said this would be a temporary impact of 260 ft², to be revegetated, with a buffer impact of 1274 ft² on one side and 1076 ft² on the other, to get storm water into a facility so that it could be discharged. He said the Conservation Commission had approved this plan at its last meeting, noting that the Conservation Commission

chairman had signed the copy he had affixed to the display board on the meeting room wall.

Chairman Russo opened the meeting for public input and comment, in favor or opposition. No one coming forward to provide input, despite two requests by the chairman for comment for or against, Chairman Russo asked if any members of the Board had any questions.

Mr. Barnes asked if there were a stream there or just a wetland. Mr. Basso said it was an intermittent stream, saying he would do the work during the dry season and then put the soils back and let it revegetate.

No other questions being brought forward, Chairman Russo asked for a motion.

Mr. Hall moved to forward correspondence to the Zoning Board of Adjustment citing that the Planning Board did not have concerns regarding the proposed temporary wetland and wetland buffer impacts associated with the development of the Robinson Road Self Storage facility, located on the parcel shown on Map 105/Lot 17, but that the Planning Board did have planning concerns regarding this development (i.e. the access driveway onto Derry Road), which would be considered by the Board upon submission of the Site Plan application for this development.

Selectman Maddox 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 (6–0).

Chairman Russo recognized Ms. Stewart at this time, saying she would be seated from this point on, with Mr. Schneiderman now being seated in place of Ms. Quinlan, who had not yet arrived.

X. OLD BUSINESS/PUBLIC HEARINGS

A. Tip Top Tree Service SP# 05-08

Map 161/Lot 48-1
6 Clement Road

Purpose of plan: Site plan review, relative to wholesale distribution of bark mulch products. Hearing. Deferred Date Specific from the 04-14-10 Planning Board Meeting.

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

Ms. Chadwick arrived at 7:20 p.m. and was recognized by Chairman Russo at this time, saying she would be seated from this point on, with Mr. Malley returning to his nominal position as a nonvoting alternate.

Chairman Russo referenced a letter from Atty. John Sokul, of HinkleyAllenSnyder, regarding a noise impact report, followed by a letter from Tech Environmental backing it up. Chairman Russo noted that the Board had already granted the Noise Impact waiver. Town Planner Cashell confirmed this, saying the vote had been 6-1.

Mr. David Buhlman, the applicants' engineer, addressed the request for a waiver of the requirements for providing a Fiscal Impact Study (HTC §275-9 D. saying this was a small business that would not have any major impact on the Town.

Chairman Russo said he would open the hearing for public comment with respect to this waiver request, asking if there were anyone who would like to speak in favor. No one coming forward, he then asked if anyone wished to speak in opposition or with questions..

Atty. John Sokul, 3 Fox Circle, Concord NH, stated that he was representing the owner of 5 Clement Road, an abutter. He said he had a question about the procedure, noting there were several waivers, and he asked if the Board would go on to a Site Plan hearing if it got through the waiver requests. Chairman Russo said he would presume that would happen, based on the amount of time available.

Atty. Sokul said he did not know what the Board typically looked for but that he thought the applicant's representative's terms were glib and that the site would pose an impact.

Mr. Schneiderman asked how this project would impact the resources or the town, addressing the Fiscal Impact Study. Atty. Sokul said he did not know.

Atty. James Troisi, representing the applicant, said his understanding was that they had already had the entire site plan review and were now going through the waivers to a vote on the site plan itself, saying he did not expect another year of meetings for review of the site plan.

No further comment being brought forward from the attending public, Chairman Russo asked if there were any questions or comments from members of the Board.

Selectman Maddox responded to Atty. Troisi's comment, noting that there had been six deferrals at the request of the applicants; he then stated that this matter had not been held up by this board but mostly at the applicant's request. Atty. Troisi said the last major hearing was April 14th of 2009, saying the applicant had been before many boards on this proposal, with the old waiver forms having been discussed and voted on at that time. He said the majority of the site plan review had already been held, reiterating that the old waiver forms had been discussed and voted on at that time. He contended that the majority of the site plan review had already been held. Chairman Russo said typically the Board moved on to discuss further issues after the waivers, saying he was sure there were Board members who would like to get refreshed on certain things. Atty. Troisi said it had almost been approved a year ago, but there had been a request for Mr. Buhlman to put certain notes on the plan.

Mr. Buhlman said there had been some legal proceedings in June of 2009 that had held the matter up for about six months.

Ms. Stewart moved to grant the requested waiver from the requirements of HTC §275-9 D, *Fiscal Impact Study*, citing the reason as being because the scope of fiscal impact for this project would be nominal upon the resources of the Town of Hudson, and as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Ms. Chadwick seconded the motion.

Chairman Russo asked if there were any discussion. Mr. Schneiderman said he intended to support this motion because counsel for the abutter had said he did not know how the scope of this project impacted the Town of Hudson.

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. Buhlman said the fifth request was for a waiver of the requirements of HTC §275-9 H, High Intensity Soil Survey (HISS). He described the intent, saying there was no excavation planned and no fill, so there was no basis for the HISS study.

Chairman Russo opened the meeting for public input and comment, in favor or opposition with respect to this waiver request. No one coming forward to provide input, despite two requests by the chairman for comment for or against, Chairman Russo asked if any members of the Board had any questions.

No questions being brought forward, Chairman Russo asked for a motion.

Mr. Barnes moved to grant the requested waiver of the requirements of HTC §275-9 H, *High Intensity Soil Survey (HISS)*, citing the reason as being because this project did not entail impact on existing soils, and as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. Schneiderman seconded the motion.

Chairman Russo asked if there were any discussion; none was brought forward.

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. Buhlman said the next request was for waiver of providing parking calculations, as required by HTC §275-8 B (26), saying there had initially been no parking planned but a board member had said there ought to be employee parking, so three parking spaces had been added to the plan, adding that parking normally was based on the size of buildings or types of buildings but none of that had happened here.

Chairman Russo opened the meeting for public input and comment, in favor or opposition with respect to this waiver request. No one coming forward to provide input, despite two requests by the chairman for comment for or against, Chairman Russo asked if any members of the Board had any questions.

Mr. Barnes moved to grant the requested waiver of the requirements of HTC §275-8 B (26), Parking Calculations, citing the reason as being because the proponent had provided parking data necessary for the Planning Board to determine that no additional parking was needed beyond what was shown on the Plan, and as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations. Mr. Schneiderman seconded the motion.

Chairman Russo asked if there were any discussion.

Selectman Maddox questioned what was being waived, since the applicant's representative had told the Board how many employees were going to be on the site and how many parking spaces were being added. Mr. Buhlman said the waiver was needed. Town Planner Cashell said there could be a question raised as to whether additional parking would be needed, but the applicants had proven that the existing parking was sufficient even though it did not meet the actual requirements, and it was a requirement that could be challenged, so the waiver was needed.

Ms. Chadwick questioned what the problem was, if there were three spaces provided for three employees. Mr. Cashell said there would be no parking for customers.

Chairman Russo said the regulations were there for the Board to adjust if applicable, saying he was not certain a waiver was required, but he would leave it up to Board; he then asked if the maker and seconder of the motion wished to carry through with this motion.

Ms. Chadwick questioned what would happen if the business grew larger and had more employees, meaning more parking spaces would be needed. She suggested that a waiver should not be granted, so that the property owners in that case would have to come back if they needed more parking spaces. Mr. Buhlman said he thought that would be a given, saying they would have to come back for any changes, and that that could be a stipulation of approval.

Mr. Schneiderman said his intention in seconding the motion was to waive any additional parking calculations, saying the Board was not waiving any ordinance but was just waiving the study to calculate the parking needs.

Ms. Chadwick said her concern was that the Board had seen a number of times that the things done by the Board did not show that they had looked down a road, and she did not want the property owner to think they could park anywhere. Mr. Cashell said the site plan would be recorded and anyone (staff or abutters) could check the plan, adding that the property owner would be cited if there were changes from the approved plan.

Chairman Russo noted that the draft motion stipulated three parking spaces, stating that the property owners would have to come back to the Board if additional parking spaces subsequently were found to be needed.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor except for Mr. Russo, who abstained,

and Chairman Russo declared the motion to have carried unanimously (6–0–1).

Mr. Buhlman said the last waiver request was for the 100-foot buffer, HTC §275-8 B (12), saying there were two different uses here, that there was 80 to 100 feet of space between the two uses, and that there was a nice natural buffer between the two. He said the contour was good, too, inasmuch as things were headed down. He said he felt the intended use conformed with the Industrial zone.

Ms. Quinlan arrived at 7:44 p.m. and took her regular seat at the table at that time, although not yet recognized by the Chairman for the inprocess hearing.

Chairman Russo opened the meeting for public input and comment, in favor or opposition with respect to this waiver request.

Atty. Sokul noted that he had at the prior meeting submitted pictures of the property taken from across the street, saying his client's house had a clear view of all the bark mulch and machinery. He said he believed the 100-foot buffer ought to be honored, as there were no special conditions to warrant less—adding that he thought more should be required. He said the newly added trees did very little, so his client was vigorously opposed to granting this waiver.

Mr. Schneiderman asked for the abutters' property to be pointed out. Mr. Buhlman pointed to it on the displayed aerial view. Mr. Schneiderman said it was obvious that the site did not meet the buffer requirements. Mr. Buhlman said there was only 60 feet across Clement Road, but that it was 160 feet to the abutter's house. Mr. Schneiderman asked what Atty. Sokul would suggest as a remedy. Atty. Sokul said he would suggest that the piles be moved 100 feet back from the front property line, along with additional screening, adding that he also had some other suggestions to offer that would be acceptable to his client. Chairman Russo said there would be time to discuss those after finishing the waivers.

Selectman Maddox said he had trouble with this, saying he did not think he could vote for this waiver without knowing what the applicant was going to do to make him want to vote in the affirmative, since they did not have the required 100-foot distance.

Atty. Troisi said the property in question was 80 to 100 feet from the residential use, noting that the Lavoies, also abutters, who had owned the property before, were on record for supporting the applicant. He referenced the April 2009 meeting at which the buffer was discussed, stating that Mr. Buhlman at that time had said he thought the natural buffer sufficed and that Selectman Maddox had expressed a desire for more trees (Mr. Buhlman interjected that there were 87 trees identified on the proposed plan), while Selectman Massey had noted there was no building on the lot and there would be buffering at the front. He said not all of the trees had been planted yet, but some of the work had been done. He then submitted photos of the site as it existed as of the previous day.

Ms. Quinlan, noting that she was not yet seated and would not be voting, reminded the Board that this property was in the Industrial zone and what the abutter was looking at was natural earthen materials—adding that a sexually-oriented property was

allowable under the Zoning Ordinance. She said this proposed use was permissible, and this was an Industrial property.

Atty. Sokul said they did not dispute that it was industrially zoned, but they were asking that the site plan regulations designed to protect the abutter be honored, and they were talking about this particular application. He said he did not know what Atty. Troisi's photographs showed, but it was frustrating that the applicant was using the property before site plan approval and continually changing it. He said he wanted to talk about the appropriate amount of screening, saying the applicant had planted trees where the applicants felt appropriate, without consulting the abutter or the Board. He said that activity usually was frowned upon, saying in his view it was illegal, and he expressed a belief that the property owner had hoped that what little they had done would be accepted as sufficient, so that they would not have to do any more. He then presented photographs showing what the property looked like a month to six weeks ago, as viewed from Mr. Wolters' house. He said he had presented what he regarded as reasonable buffers, but Mr. Wolters had rejected it a year ago. Chairman Russo said they would ask him come back later to present those suggestions.

Ms. Chadwick said Atty. Troisi's client had known that trees could be planted a year ago, asking when it was going to be done. Atty. Troisi said his advice to his client had been to not do anything until the plan was done, adding that there were notes on the plan as to what they would do. Ms. Chadwick said there were little plantings shown in the photographs, that would be of no value with respect to screening; she said the flowers would make it look nicer, but the problem was screening. She said the applicant and his counselor had no right to dictate what was to be planted, and she then complained that both counselors could be working together but that was not what she saw happening. She asked why they did not sit down and discuss it. Atty. Troisi said the rules of ethics normally said that offers and compromises should not be talked about or provided in public forums, but he and his client had reached out a year ago, whereas the abutter's proposal would result in a complete readjustment of the site, calling for a brand new site plan application. Ms. Chadwick said she thought everyone could be made happy. Atty. Troisi said Mr. Buhlman could talk about how fast these evergreens would grow. Mr. Buhlman said they would grow 30 feet high and 12 feet wide in six to eight years. Members of the Board expressed doubt about this, with Chairman Russo suggesting it would take 30 years.

Mr. Buhlman said a total of 87 trees were going to go in, saying the Cormiers had done a partial planting to give an idea of the future. He noted that what Mr. Richard Maynard had presented as the abutter's previous representative a year ago would cost \$30,000 or more, including moving the driveway, with the essence of that proposal being that it was to be all of what they wanted and nothing else, or they would sue.

Mr. John Wolters, the abutter, said he thought it was important to lay out the true facts, saying he had been in the town since 1995 and was one of the town's largest taxpayers. He said the Cormiers came in about 1997 and he had been asked then, but it had taken ten years to get approval of 1 Clement Road, adding that their swimming pool had been found to be on his property, and he had not said anything about that. He said he had recently moved into 5 Clement Road and had dealt with Mr. Cashell prior to that, saying the Lavoies had owned the property and had sold it to the

Cormiers, so it made sense that they would support the project, but he had stayed out of it, noting that his brother had lived at the house until recently, when he himself had moved in. He referenced the clearing of the trees from the property, saying he did not know if the Cormiers had done that but that it had happened about the time they became involved with that property—adding that he had spoken to Mr. Cashell about that and that Mr. Cashell had told him to let the Town handle it. Complaining that he had found it difficult to concentrate because of the constant interruptions, he said he had reached out to the Cormiers over the past two years, but what had happened was that they had been given the right to operate, which had caused himself and the town a lot of money, saying each side probably had spent \$10,000 or more in legal fees, but the Cormiers continued to go down this road. He said he would be living in the home for ten or more years and there were no new taxes being generated by this use, but it was impacting the future of the town. He said the Cormiers ran the site at night and drove a bobcat up and down Clement Road as if it were their driveway—adding that he could hear the trees dropping into trucks and feel the vibrations when he was inside his office at One Wall Street, a block away. He said he had to maintain the required distance and no noise from his own properties at the One Wall street facilities. He said he wanted to see the Cormiers operate and was not opposed to their operation, but he would like to see some cooperation, noting that the judge had ordered them to work things out but the Cormiers had then said there was nothing to talk about. He said they had no restrictions, noting that they were operating on Sundays and were not operating responsibly. He said he was not being unreasonable, but he was asking for a four-foot berm and 125 feet of separation, saying he was not asking for a paved driveway, but he wanted it moved because the lights came into his house. He said he understood the frustration, but he was asking for an opportunity to bring the Cormiers to the table and to sit down for negotiation. He said trees were good in season, but they had not provided anything, saying the facts were that the trees that had been provided would not grow as claimed, and he asked for honest input. Mr. Buhlman protested that Mr. Wolters had just insulted him. Mr. Wolters asked that the assertions about the proposed plantings be backed up. Mr. Buhlman said they would plant them bigger, and he then requested Mr. Wolters to watch his mouth. Chairman Russo declared that Mr. Buhlman was out of line, and he asked him to be professional.

Selectman Maddox said he guessed the wood operation was noisy, saying he thought it did not run mostly after 6: 00 p.m. Mr. Wolters said it depended, saying the trucks were operated at night and made back-up sounds that went right through his insulated home. He declared that the operation went beyond 6:00 p.m., saying it was a seasonal business; he said he had not heard grinding after 6:00 p.m. but he certainly heard the trucks coming in and dropping trees off, saying this was an inconvenience when he had to hear those trees bouncing off the trucks.

Mr. Wolters asked if Mr. Buhlman knew how far his home was from the site. Mr. Buhlman said Mr. Wolters was about 120 feet from the property. Selectman Massey said he distance had been given as 150 feet the first time and now 120; he said an accurate number should be put on the table. Chairman Russo expressed agreement. Mr. Buhlman said the house was not shown on the plan. Selectman Maddox said Mr. Cashell could measure it on the displayed Google Earth picture. Mr. Cashell then did so, saying it was 0.4 miles, translating to 160 feet to the edge of the street.

Selectman Maddox said the Board had seen this thing for what seemed forever; he asked what the issue was with respect to moving the driveway up to where the parking was located and putting a fence across where the driveway was. Ms. Quinlan started to talk about the wetlands location, but Chairman Russo requested her to cease while Selectman Maddox was talking. Selectman Maddox said the applicants seemed to have lined up the driveway to aggravate the neighbor, and he asked why they could not work with the abutter to solve the problem.

Mr. Buhlman apologized for his prior outbreak. He said he had previously designed a movement of the drive way, moving it many feet to the south, saying 120 feet of wall and some trees would have to be removed in order to get the needed sight distance—but that the large thing was that what they heard back then was other concerns, and what they had heard, also, was that they had to do it all or they would go to court. Selectman Maddox said the applicants seemed to have lined up the driveway to aggravate the neighbor, and he asked why they could not work with the abutter to solve the problem, adding that what he was asking was if there were a reasonable way to solve the problems. Mr. Buhlman said the berm was a whole other thing, noting that there would be a 10-foot fence on top, which would require 16-foot posts; he said the calculation was \$35,000 to \$30,000, and he did not want to move the berm as that would open another can of worms. He said the character of the thing had changed over the course of time. Selectman Maddox said this was one of the rare cases where a site was operational without a site plan, so they had not been hurt—adding that he could see this going on, and he felt moving the driveway and putting a 10-foot fence where the driveway was would solve things. He then asked what could be done to make the Board members want to sign off on the waiver of the 100-foot buffer requirement.

Town Planner Cashell said 100 feet from Mr. Wolters' property went to the first pile of materials, as shown on the displayed Google pictorial; he then addressed HTC §275-8 (12) C, reading aloud from the text, after which he stated that 100 feet was required from the residential lot, and there was no commercial use within that distance; he then argued that the applicants actually did not need a buffer, saying all they had to do was pull back. Mr. Barnes objected that Mr. Cashell was looking from a single point, not the entire frontage, which was what was required. Mr. Hall concurred.

Chairman Russo said he wanted to move along.

Ms. Chadwick asked about a tubular gate.

Mr. Wolters said the area he was most concerned about was the area directly across the curve, to the right of the existing driveway, saying he did not care about the rest of what was going on at the back. He said the berm was important for the visual impact, saying he had been told that evergreens was what was needed, and noting that the Cormiers had put blocks at their own house.

Mr. Schneiderman asked what the length was for the berm. Mr. Cashell measured it at 235 feet with a 10-ft fence, saying it might very well cost \$10,000.

Mr. Schneiderman asked what a suitable barrier that was cost effective would be. Mr. Cashell said between the last meetings and today he had talked extensively with

the applicant's attorney, and had also talked with Mr. Wolters on the phone to try to work this all out. He said the applicant had done extensive plantings, saying he had been personally very impressed, and it vastly improved what had been there a month ago. He said he had had a very constructive conversation with Mr. Wolters, and they had agreed that Mr. Wolters would put his concerns in writing, so that Mr. Cashell could provide it to the Board and the Board could have a constructive conversation without all the crazy allegations and back-and-forth claims, but he had not received that letter. He said the Board did not know what Mr. Wolters' actual concerns were, saying the Board needed that in writing, and he thought it was needed in a good-faith effort for the Town's best interest. Mr. Cashell then stated that, if he were the applicant, he would wait until the appeal period was over before putting any more money in the project; adding that Mr. Wolters had to be willing to come to the table in a good-faith effort to say what would satisfy his concerns.

Ms. Stewart asked when the photograph presented by Atty. Sokul was taken; Atty. Sokul said it was taken six weeks ago. Ms. Stewart said the latest pictures, taken yesterday, outweighed the older ones, saying this was what the Board was dealing with. Ms. Quinlan said the Board needed to be addressing a seasonal barrier, saying she was hearing from Mr. Wolters that he wanted a berm and a fence, to provide screening when the leaves were not there, and she asked why this could not be worked out. She then expressed concern about the length of time being spent on this matter. Ms. Stewart concurred, declaring that she was done with this.

Mr. Wolters asked to speak; Chairman Russo declared that he would let him do so but added that this would be the last time, as the Board really needed to proceed. Town Planner Cashell asked to add something at this time, but Chairman Russo declined to recognize him.

Mr.; Wolters said he had had the discussion that Mr. Cashell had referenced, and he had understood that all work would stop immediately, but it did not stop. He said the plan was here and he would be delighted to present it, noting that the Cormiers had already said "No" to it. He then stated that it was hard to comment, as the work was changing on a daily basis.

Mr. Cashell said the Board could not move forward when someone kept shuffling the deck. He said the Board needed to receive in writing what Mr. Wolters' complaints were, so that the applicant could address them. He said the Board should really try to avoid litigation, arguing that two reasonable parties should be able to reach a mutual ground.

Selectman Maddox said there was no way to block noise if the driveways lined up. He suggested that Mr. Buhlman could work out a way so that the trucks did not have to back up, minimizing the amount of reversing. He said the Board did not need to have the applicant redesign the site to make the abutter happy, but to satisfy the Board— noting that the thing was to get a site plan, as the applicant had been working for a number of years without one.

Mr. Hall said he was confused, saying the Board was talking about a wavier they had already voted on, and he did not see why the applicant would change anything or renegotiate if the Planning Board had already said the site was sufficient. He said the

voting presumably should come out the same as it did before, but the Board was suggesting it would then talk about buffering later; he said the plan was what the Board was supposed to be voting on, which the Board had already done, and he questioned why anyone would expect the Board would vote anything different, so he was confused about talking about negotiation now.

Ms. Chadwick said Mr. Hall had raised a good point, but the Board was dealing with a property operating without a site plan, and the abutter did not have the trees that had been predicted. She said Selectman Maddox was right, adding that the Board needed to get a site plan and then deal with the violations as they came.

Chairman Russo asked if the Board were moving forward to grant or deny the waiver. He said the applicant had said what he was going to provide, and the Board knew what the conditions were.

Atty. Sokul said he did have a letter summarizing in writing the things that would be acceptable to Mr. Wolters, and he would be happy to submit it. Mr. Cashell said he would appreciate it. Atty., Sokul then submitted copies to members of the Board. Atty. Troisi noted that he had received a letter with four short paragraphs, but this looked like a multi-page letter. Mr. Cashell went to make additional copies of the new letter in order to provide copies for the applicants and their representatives. Chairman Russo asked who had written the letter; Atty. Sokul said he did.

Selectman Massey called a point of clarification, saying his understanding was that the applicants had been cited for a violation and were operating with that condition, and that the reason they had come before the Planning Board was to correct that situation. Town Planner Cashell said he was not accurate on that, saying the applicant had been asked to come in and have a site plan approved by this Planning Board in order to continue that operation. Selectman Massey reiterated that the Cormiers had been cited for operating without a site plan and that one of the remedies was to come in and get a site plan approved.

Atty. Sokul said his letter asked for five things:

- to move the driveway entrance approximately 24 feet,
- to install a 4-foot berm with an 8-foot fence,
- to add a second row of evergreens,
- to limit the operation to the hours from 7:00 a.m. to 4:00 p.m. on weekdays, and from 9:00 a.m. to 2:00 p.m. on Saturday, with no machinery on Sundays,
- the height of the material piles to be 16 feet.

Atty. Sokul then showed a picture of what the applicant had provided at his 1 Clement Road site, saying this was essentially what Mr. Wolters was asking for.

Mr. Buhlman said a year ago he had shown the plan with one row of plants, and the Board had requested two rows, which they had done, but he did not recall when. He said the site plan had not been approved, so ... (he then ceased speaking, without finishing his statement),

Ms. Quinlan said she would step down from this hearing, as she resided on Pelham Road and would like to sit in the audience for this discussion. Chairman Russo seated Mr. Schneiderman in place of Ms. Quinlan.

Town Planner Cashell said the plan was ready for Application Acceptance. Ms. Chadwick so moved; Mr. Barnes 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 grant Application Acceptance to have carried unanimously (7-0).

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

Mr. Christian Smith, engineer with Beals Associates, PLLC, 70 Portsmouth Avenue, Stratham NH, appeared, before the Board as the representative of the applicant, accompanied by Mr. Gary W. Hendren, AIA, of Hendren Design Associates, 119 Braintree Street (Suite 315), Boston MA, the architect of the proposed plan, as well as by Ms. Heather Monticup, from GPI, the traffic engineers. Mr. Smith reminded the Board that a potential school on this site had been proposed previously, and he described details of the site, noting that it was a former realtor office, sitting close to the front of the property. He said they had understood that trip counts was going to be an issue, and had looked at a self-storage business, but that use was not allowed in this zone, so they were now looking at a contract building, with leased spaces being rented out to people working out of their homes, with a couple parking stalls inside the garage base. He said he felt this was a vast improvement, particularly with respect to traffic.

Mr. Gary Hendren, of Hendren Design Associates, discussed the nature of the proposed building, of which he was the architect. He said it was difficult to find the sorts of spaces being proposed for small businesses, which he said would give contractors a good start. He said this type of building typically was used for tradespeople, coming in the morning to get materials, with very little traffic for the rest of the day.

Chairman Russo asked if automotive repair facilities would be allowed. Mr. Hendren responded in the negative, saying use would be controlled by the management company, and his experience was that they would store materials and have a truck in the bay, ready to go off the next day.

Chairman Russo opened the meeting for public input and comment, in favor or opposition. No one coming forward to provide input, despite two requests by the chairman for comment for or against, Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Ms. Suellen Quinlan, 50 Pelham Road, said there looked to be potentially 11 units, and she would like the Board to inquire how many employees would be there. She said she did not notice anything on the plan that would preclude retail sales from this site, and she recalled the previously discussed issues of traffic, close proximity to a school, and a difficult access from Pelham Road at the nearby intersection.

Mr. Hendren said these typically were small businesses, with two or three employees, with hardly ever more than one employee being at the building at a given time. He said they would actually exceed the required parking, particularly if the spaces inside the building were considered. He said there was no real potential for retail business, and it was not set up for that, saying the biggest potential would be that a tradesman, such as someone installing tile, could have someone come by to look at samples—adding that they could accept a stipulation that there be no retail use, which would be enforced by management.

No one else coming forward to provide input, despite requests by the chairman for comment for or against, Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Selectman Maddox said they were only counting one car in the building unit, but the drawing said 22 inside. Mr. Smith said a single space had been eliminated from the building area, but there actually were two stalls inside each unit. He said there were two bays inside the building used for parking cars, adding that “Carrie” had only removed the square footage from one of those bays. Selectman Maddox asked if the drawing were incorrect, since it said 22 inside. Mr. Smith said she had extracted one 10-ft by 20-ft stall from each bay for the parking calculations, so the total she used was 11,700 ft²—adding that he thought what she had done was conservative, as very often both could be used.

Selectman Maddox said the Board had seen these sorts of plans before and had heard the same stories, but the parking lots were full; he said he was having trouble counting the 22 inside, if that space also could be used for storage. Mr. Smith referenced Slide 4 of his PowerPoint presentation, saying there were two available stalls, but there was also a lot of area underneath the mezzanines for storage, as well.

Ms. Chadwick said the problem with the reductions was that a 3-employee landscaping business might be looking for places for three vehicles and they would park them outside, not in where they were working. She said she felt there should be outside parking for all employees. She said there were other such sites in the town, with the owners having their employees coming to the site and parking outside. Mr. Smith said he felt there was sufficient parking. Ms. Chadwick asked if he had enough if he could not park any in the building. Mr. Smith responded in the negative.

Ms. Stewart said a while back a site plan came in and Selectman Maddox had felt the building would be too big for the lot; she said this was an example of a building that would be way too big for the lot, at this location, saying she had not liked the last plan for this property and did not like this one.

Mr. Smith said the actual office space meant that there was more than adequate parking space on the grounds. Ms. Chadwick responded that marketing it to contractors meant they would have people coming to get things for their business, so there would still be the same problem with employees wanting to park at that location. Mr. Smith said the history of similar places was that they were seeing two or three employees total for each unit.

Chairman Russo said this would mean three or four vehicles and he questioned if 33 could be parked externally to the building. He then said the building size indicated that they needed 48 parking spaces. Mr. Smith said there would be two additional parking spaces because of the garage. Chairman Russo said 33 would be the minimal number they could guarantee. Mr. Smith said they were trying not to cover the parcel, saying the units would be sparse, to keep the doors open or clear and available for other use.

Ms. Chadwick noted that Ms. Quinlan, sitting in the audience, was indicating a desire to speak, and she asked that Ms. Quinlan be recognized. Ms. Quinlan said it would be a modified home, noting that the Blodgett Cemetery abutted the rear, and she asked whether the Board should consider whether this should be run past the Cemetery Trustees, as this would go right up to the lot lines. Mr. Smith said they were well aware of the RSA and they were much lower, saying the hill came off fairly steeply, and they would have a swale as a bio-retention area, which would be an under-drain from the catch basin at the front, which delivered the water into stone trenches. He noted that there had only been minor comments from CLD and that, once those were resolved, they were good to go on the test pits. He said the site was fairly well drained, adding that the plantings would be fairly significant. He said people parking in the building could remove the cars from their stalls to do work.

Selectman Massey asked if there had been any conversation with the Sewer Utility Commission to see if they would have capacity. Mr. Smith answered in the negative. Selectman Massey recommended that they do so, saying the Town was close to its capacity limit. Mr. Smith said he believed it would be close to 15 gallons per day, saying it would be less than the former realtor's office. He said they had talked with the Fire Department and had marked out the locations for the sprinklers, adding that they had also spoken with Teledyne (saying the latter did not want to accommodate any changes of property lines), so the best they could do was move the driveway as far from the adjacent property as they could. He referenced the PowerPoint slide showing fire truck access, as well as a slide showing how a 30-foot box vehicle could make a right turn and back into one of the loading areas. With regard to the overall drainage of the site, he said, they were reducing all three of the requisite storms that had to be reviewed for the Town's code. He said they met all of the setbacks, and he noted the dumpsters. He then stated that CLD had suggested two landscaped areas in the parking lot, which they felt would make it very difficult, adding that the small size would make anything planted there suffer.

Mr. Smith then discussed the lighting plan, saying it met the Dark Skies requirements, with virtually zero offsite lighting along the borders. He said a final point from CLD was the sidewalk shown on the last slide, showing where a 5-ft sidewalk could go.

Mr. Smith said they would request waivers for the Noise Study (commenting that they felt the noise would be well under the background noise of Lowell Road and Pelham Road), and HISS mapping (because these Hinckley soils did not require it, as the test pits would confirm), and the Fiscal Impact Study (because they felt the Town would see benefit from increased taxes).

Selectman Maddox said the Board had had cases where people had said they would not allow anything larger than a 35-foot truck, but that this did not happen. Mr. Hendren said they had not had tractor trailers come into the other sites with which he had experience. Selectman Maddox said the property owners would have the problem of how to maneuver large trucks in that area.

Mr. Barnes also expressed concern about maneuvering space, especially if other vehicles were parked on the site; he also questioned how the Fire Department truck/engine would be able to back out. Mr. Smith said the loading area was 60 to 70 feet in width, saying the first one would be open because of the garage bay, and there was a whole lot of space not planned for parking stalls. He said the overhang of the truck would be virtually identifiable both ways.

Selectman Maddox said they just met the minimum for green space, so it was not like they could pave more spaces.

Selectman Massey asked if they had looked at what would happen if the fire truck came from the Burns Hill station, down Pelham Road, and he questioned if that fire truck could turn right to enter this property. Mr. Smith said they would likely take a hose and connect to the hydrant outside, with the truck parked along the edge of the pavement to the right-of-way. He said it was 50 feet from the building. Selectman Massey said that this, as Mr. Barnes said suggested, indicated how tight the lot was.

Ms. Heather Monticup, with GPI, the traffic engineers, discussed her company's involvement and discussed details of the traffic study, saying they had conducted traffic counts and collected data and sight distances, saying the available sight distances exceeded required sight distances (ASHTO, Town of Hudson, and the State). She said they had presumed that 100% of the building would be office usage, when only 24% actually was so dedicated, to get a conservative analysis. She pointed out that this would generate less traffic than the previously considered plan, saying access to and from the site via the existing driveway provided maximum separation, and noting that there was a two-lane division along Lowell Road, which she said would help. She said the traffic increases were one to twelve vehicles, at the rate of one vehicle every five minutes, and this project would have minimal impact. She said CLD had reviewed the traffic study and had only a few comments, which she then discussed. She noted that CLD wanted confirmation from the Town as to when the intersection would be signalized, saying she had not included that information as it was not clear. She said CLD had questioned the restriping of the left-turn lane, and they had agreed that this was not needed as part of the project but was added in response to the Town staff's comments. She noted that there was room for a sidewalk, as shown.

Ms. Chadwick asked if there were not already a left-turn lane. Ms. Monticup said there was a two-way left-turn lane, commonly referred to as a chicken lane.

Ms. Quinlan, again speaking as a citizen, said she had not heard what the peak hour traffic would be, noting that the previous proposal had been rejected largely because of associated peak-hour traffic issues; she asked the Board to remember that there was a stacking, sometimes of five or six cars, waiting to take a left turn onto Pelham from southbound traffic, as well as northbound cars wanting to take a right turn. She said this new plan might be more favorable but the site was very close to Pelham Road,

where cars frequently backed up beyond this site. Ms. Monticup read aloud the trip counts, saying there would be 162 trips daily (50% in and 50% out), with 36 on Saturday—with the AM peak traffic being 22 on weekdays and 6 on Saturdays, noting that this was considerably less than the previous two projects. She noted that this was using an all-office projection, while warehouse uses would generate even less traffic.

Town Planner Cashell said GPI's analysis was conservative, noting that counts from the manual would be higher. He then referenced a letter from Robert Lyford (CLD PE), attached to his staff report—stating that Mr. Lyford had noted that a signal light would generate conflicts with southbound traffic trying to turn left; he suggested that Mr. Lyford had not considered that the light would be moved south, creating more of a 90-degree intersection with Lowell Road, so the queuing might not be conflicting. Mr. Cashell said he had visited the site last week, finding getting out of the site to be a harrowing experience. Even with a full signal at Nottingham Plaza, he said, the gap was insufficient. He contended that traffic from Fox Hollow was virtually insignificant. He then suggested that a full signal light system should be coordinated with the Nottingham Plaza light, saying the Town had to realize the real difficulty of Pelham Road.

Selectman Maddox said the problem he had seen when sitting in the driveway of this site Monday through Friday at five o'clock in the afternoon, was that it had taken ten minutes to exit, as people were slipping out of Pelham Road to try to beat the people coming up Lowell Road from the south. Ms. Chadwick stated that people did not abide by the STOP sign.

Mr. Hall asked if the Board had copies of the building elevation. Mr. Smith said they were attached to the application, as well as appearing on the last slide.

Town Planner Cashell noted that the previously proposed Goddard School had predicted 114 traffic trips in the evening peak traffic for their plan.

Mr. Hall referenced NH RSA 289-3, asking if they were in compliance. Mr. Smith said that the RSA essentially said there either would be no disturbance at all or that it must be in compliance with the local zoning. Mr. Hall said the local Cemetery Trustees might have some restrictions, saying he could not believe their requirements would be less restrictive. Mr. Smith said there were certainly things the Trustees would allow. Mr. Hall questioned if the Trustees could supersede the state statutes, saying previous cases had indicated there could be no digging within 25 feet. He said the Board had been adamant about this requirement before, in a previous case, and the present plan was proposing significant excavation within 25 feet of the stone wall. He then expressed agreement that what was being proposed was a lot of building for this size of lot and what he called a poor location.

Selectman Massey said the first page showed a different layout than the second page, and he questioned this. Mr. Cashell said he was responsible for that. Mr. Smith said that the figure shown as Figure C in the staff report had been discovered to have used some of the school's playground. Mr. Cashell explained that he had gotten carried away and had not aligned the photo with the actual plan.

Mr. Hall asked for the dimensions of the setback lines. Mr. Smith said the setback was 15 feet toward Teledyne, 25 feet toward the cemetery, and 50 feet toward the front (Lowell Road side). Mr. Smith said they had held the setback from the cemetery at 25 feet. Mr. Hall said that was not a building setback, but was another kind of setback; he asked why the building setback was not shown. Mr. Smith said he could add the 15-foot line, adding that he would discuss it with the Cemetery Trustees.

Mr. Smith said the wall was the cemetery boundary and as far as he knew would not be disturbed.

Ms. Chadwick said several members had commented on the size, and she asked if Mr. Smith could reduce the size of the building. Mr. Hendren said the owner of the property had been very cooperative for a use that would be allowed; he said the building had been pushed to the regulated setbacks, arguing that this was not unusual—and adding that he did not know of any developer who would only build 50% of what was allowed. He said they had come back with four different use options, now, saying he agreed they would like to have the site be wider and further from the intersection, and there were imitations to the site, but it was an existing parcel and they had made a lot of effort to conform to the setback requirements. He said the rent structure was not very high, and he questioned going back to ask the owner to reduce from a conforming use. He said he felt the Board's comments were well taken, but the first question from the owner's standpoint would be how much would have to be reduced to get the proposal passed. He suggested the owner had bent over backwards, paying these consultants four times, with three of the previously presented ideas being for allowed uses. He then suggested they needed some direction as to what must be taken away.

Ms. Chadwick said she was not saying to go back to the drawing board, as she felt the idea was decent, but the concern was the parking—saying it was not logical to presume the contractor would have his employees park in the stalls when they took trucks out.

Selectman Maddox said the Board members had seen other setups claiming that there would be very few cars, but the same members subsequently went by those sites and saw eight to ten trucks parked on the site. He said not knowing what was going into the property was challenging, saying he thought there would be trouble with trucks being able to maneuver. He said this was probably the most benign of the proposed uses that had been brought before the Board, and seemed doable, but they needed to look at changing the parking configuration—adding that he did not think he would say “Okay” to parking inside the units.

Ms. Chadwick asked if there should be a motion to defer, saying she was not ready to approve until she saw a building that she liked.

Town Planner Cashell said Lowell Road was the main thoroughfare, and he asked if the Board wanted CLD to look to see if a travel lane would be needed for the ultimate buildout of Lowell Road—saying it would be easier if space were a built-in requirement. He said the building was too blatantly a complete buildout, way beyond reason, and to suggest reduction by two units would not be an unreasonable—adding that it should be reduced from the front end inward.

Ms. Quinlan noted that Vanasse Hangen Brustlin, Inc. had done a corridor study, concluding that everything north of Executive Drive was going to be a two-lane road, because the Town wanted to preserve a rural atmosphere. She questioned if CLD would be looking at VHB's analysis. Mr. Cashell said that the VHB study had presumed the Circumferential Highway, which might not happen. Ms. Quinlan said that the corridor study had been the modeling basis—adding that the Board might consider asking the applicant to contribute to the sidewalk.

Selectman Maddox concurred with Mr. Cashell, saying something needed to be done for the future, and an easement now would facilitate that.

Chairman Russo commented that 52-foot semi-delivery trucks would have a problem, and property owners could not control who was delivering the material—saying they could ask but not control it. He said what the Town did not need was a semi trying to back out onto Lowell Road, saying he felt at least one unit space should be removed. He then referenced the parking requirements, asking if there were a way the Board could lessen them. Mr. Cashell suggested the Board members should drive around town and look at similar sites, such as Mario Plante's property at the corner of Rebel Road and Route 102, saying he went by that site often and there was not that much parking, and that he rarely saw any cars parked at the Mr. Handyman sites on Robinson Road.

Chairman Russo asked what the reduction for parking could be. Mr. Cashell referenced the regulations.

Ms. Chadwick moved to defer this matter to the June 9th meeting, Ms. Stewart 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).

Ms. Quinlan returned to the table but noted that she would not be recognized for the forthcoming item, with Mr. Schneiderman remaining seated in her place.

X. OLD BUSINESS/PUBLIC HEARINGS (Continued)

**A. Tip Top Tree Service
SP# 05-08**

**Map 161/Lot 48-1
6 Clement Road**

Purpose of plan: Site plan review, relative to wholesale distribution of bark mulch products. Hearing. Deferred Date Specific from the 04-14-10 Planning Board Meeting.

Selectman Maddox moved to take the Tip Top Tree service plan off the table. Ms. Chadwick 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).

Atty. Troisi said they were attempting to negotiate a solution, which would involve work with their engineers, the Town Engineer, and the Town Planner and also another expert, so they might be revising the plan, and they would respectfully request deferment for about six weeks.

Ms. Stewart moved to defer to July 14th. Ms. Chadwick seconded the motion.

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

Ms. Chadwick advised the participants not to come back and ask for another extension or to report that they had not reached any resolution.

XI. DESIGN REVIEW PHASE

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

XIII. CONCEPTUAL REVIEW ONLY

No **Conceptual Review Only** items were addressed this evening.

XIV. OTHER BUSINESS

Chairman Russo referenced a hand-out pertaining to a wetland soil workshop to be held on June 2nd. No one present expressed any interest in attending the workshop.

XV. ADJOURNMENT

All scheduled items having been addressed, Selectman Maddox moved to adjourn; Ms. Chadwick 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 10:26 p.m.

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**HUDSON PLANNING BOARD Meeting Minutes
May 12, 2010**

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Date: July 17, 2010

Vincent Russo, Chairman

J. Bradford Seabury, Recorder

Terry Stewart, Secretary

These minutes were accepted as amended following review at the 08-11-10 Planning Board meeting.

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**HUDSON PLANNING BOARD Meeting Minutes
May 12, 2010**

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The following changes were made in accordance with the Board's review of these minutes at its August 11, 2010, meeting:

Page 16, 3rd paragraph, 1st line — a space was added between “car” and “in” to separate the words.

Page 18, 4th paragraph, 2nd line, misspelled word “firer” was corrected to read “fire.”