



TOWN OF HUDSON

Planning Board



Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison

12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6000 • Fax: 603-594-1142

PUBLIC MEETING

TOWN OF HUDSON, NH

FILE COPY --

HUDSON PLANNING BOARD

MEETING MINUTES

April 14, 2010

I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 8:10 p.m. on Wednesday, April 14, 2010, in the Community Development meeting room in the Hudson Town Hall basement, following a nonpublic attorney/client session with Town Attorney Stephen Buckley.

II. PLEDGE OF ALLEGIANCE

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

III. ROLL CALL

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

Members

Present: James Barnes, George Hall, Tierney Chadwick, Suellen Quinlan, Vincent Russo, Terry Stewart, and Richard Maddox (Selectmen's Representative).

Members

Absent: None. (All present.)

Alternates

Present: Tim Malley, Stuart Schneiderman, and Ken Massey (Selectmen's Representative Alternate).

Alternates

Absent: Dennis White.

Staff

Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Russo noted that no alternates would be seated at this time as all regular members were present;

V. MINUTES OF PREVIOUS MEETING(S)

Chairman Russo stated that he would put off review of minutes of previous meetings, because of the delay from the attorney/client session, so as not to hold up members of the public any further.

VI. CASES REQUESTED FOR DEFERRAL

No cases had been requested for deferral for this meeting.

VII. CORRESPONDENCE

No items of correspondence were addressed, other than those pertaining associated cases taken up during this meeting.

VIII. PERFORMANCE SURETIES

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

IX. ZBA INPUT ONLY

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

X. OLD BUSINESS/PUBLIC HEARINGS

A. Tip Top Tree Service
SP# 05-08

Map 16/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 02-24-10 Planning Board Meeting.

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

Town Planner Cashell noted that he had provided a handout pertaining to this item.

Mr. Barnes moved to reconsider the approval of the following waivers, previously approved at the April 9, 2009, Planning Board meeting; Ms. Chadwick seconded the motion. Speaking to his motion, Mr. Barnes said the Board had been informed by Town Counsel that this was an appropriate course of action.

VOTE: Chairman Russo called for a verbal vote on the motion. All members present voted in favor except for Selectman Maddox and Ms. Quinlan, who both voted in opposition, and Chairman Russo declared the motion to have carried (5–2).

Ms. Chadwick expressed a belief that the Board should deal with each of the waiver requests individually, suggesting that the Board might not feel that some of the waivers were issues. She then moved to grant a waiver of the requirement of HTC §275-8.B (26), *Parking Calculations*, noting that no parking was shown on the plan and apparently parking was not needed on this site. Mr. Barnes seconded the motion.

Mr. Hall stated that the audience would like to know how the Board was going to handle these things, saying that going into a motion did not give the audience a chance to address the issues. Chairman Russo said he thought Ms. Chadwick was basing her motion on the belief that some of the waiver requests were not issues. Ms. Chadwick said she had made that motion based on her reading of the various items of correspondence. Ms. Quinlan expressed a belief that each item should be opened to the public, if any of them were to be, noting that there was a resident whose property was being squashed between two industrial properties.

Ms. Chadwick withdrew her motion; Mr. Barnes withdrew his second.

Mr. Hall asked that Chairman Russo lay out the rules for the process. Chairman Russo said he was waiting for something from the Board. Ms. Quinlan said the Board had moved to reconsider, and the Board should review each waiver item.

Selectman Maddox suggested starting at the first waiver request and going to the end.

Chairman Russo expressed a belief that the Board was in favor of opening public hearings for each item. He then asked that the applicant's representative come forward and speak to the waivers, after which opponents would-be given a chance to speak.

Mr. David Buhlman, engineer for the applicant, distributed full-size copies of the plans to members of the Board and affixed copies of the plans to the meeting room wall for discussion purposes. Mr. Buhlman then addressed the request for a waiver of HTC §275-9 A, *Drainage Study*, saying the basis was that the pre- and post-development drainages were the same, with no construction being planned for the site. He said there would be none of the regrading or other related things associated with construction, adding that the software program normally used for calculating these numbers would not differentiate between the unchanged figures.

Selectman Maddox expressed a belief that the Board should handle the waivers one at a time, rather than all at once. Ms. Chadwick expressed agreement, as did others. Chairman Russo then opened the floor for public comment.

No one came forward when Chairman Russo asked if anyone wished to speak in favor, so Chairman Russo asked if anyone wished to speak in opposition or with questions.

Atty. John Sokul (3 Fox Circle, Concord, NH), representing the abutter at 5 Clement Road, said that he thought the drainage report should be done—he said the aerial picture of the site being displayed on the screen showed mounds of material on the site, indicating that the earth was being shaped and would be reshaped each time the piles were moved. He said there was nothing on the plan to show what was stored where, saying the site today, when he looked at it, did not look like what was being shown in the aerial view being projected, which perhaps was from last year. He said he thought that ought to be studied, and this was what he would be looking for in a drainage study if he were a member of the Board. He then expressed concern about the water quality, questioning what the effects would be from piles of wood, piles of chips and bark mulch, and heavy machinery on the quality of the water running off the site. He said he felt there should be a study of pre- and post-development storm water flowing off this site. He noted that he had Tim Stone, an environmental consultant present, and would like permission for him to speak.

Mr. Tim Stone, of Stone Tech-Environmental, Portsmouth, NH, said the big issue was the quality of the drainage and the changes of quality, saying the handling of materials was an issue with the wood-handling industry. He said there were very common practices that should be instituted for a site such as this. He noted that the flow went down to Route 111, and he talked about the wood chips coming off the organic material and the processing of them, noting that the wood chips might sit on the site for some period of time. He said the volume of water might not be so much a concern, but the concern was the quality of the water, which was changing.

Atty. Sokul referenced HTC §275-9 A of the site plan regulations, saying it stated that the drainage plan was the single most important part of the site plan, and he urged the Board not to neglect it. He then said three things needed to be met in order to waive the requirement—that the waiver not be contrary to the spirit and intent of the regulations, that minimal standards should be maintained so as to protect the public

health and safety, and that granting the waiver the drainage study would result in a general benefit for the Town or surrounding properties. He said he did not believe there were special conditions in this case to warrant a waiver.

Mr. Buhlman said the mounds were like moveable feasts, saying they were constantly changing height and diameter, as they were all temporary in nature. He said in essence they would have to do a new drainage study whenever they moved the mounds. He noted that the site previously had been woodland and that stormwater flow ran through the site, carrying natural material. He said the material was all wood-based, with nothing being deleterious, adding that the only machinery was one roto-chipper, which would only be run about 60 hours each year, with no spillage of oil. He said the runoff would be caught by the berm running around the edges of the area of use, measuring 2 feet high and 10 feet wide, which would catch anything that might come. He said the berm would be maintained and would be checked after each significant storm. Referring to the recent severe storm, he said there had been no problems when he and Mr. Cormier inspected the site afterward. He then concluded by saying that, as a professional engineer, he saw no reason for a study, questioning what would be studied.

Atty. James Troisi, representing the applicants, said there was no problem with the amount of water but with the quality, as Mr. Stone had said. He noted that there were four or five pages in the year-old minutes addressing this issue, noting that the Haverhill Fire Department had inspected the site. He noted that no one had come up with any objections, stating that the Town Engineer had reviewed the plans, and that all of the berm and material issues had been addressed. He noted that the site had been reviewed by CLD four times, and he contended that woodchips would swallow up any storm water. He said there had been even more discussion that was not in the minutes, noting that Selectman Massey had expressed a belief at the time that engineering review would cover the issues discussed—adding that the previous owner had cut down the trees and Mr. Cormier was not shaping the site. He then ended by stating that this was rehashing.

Selectman Maddox expressed a firm belief that it had been the Hudson Fire Department, not the Haverhill Fire Department, which had inspected the site. He noted that the wood was being moved off trailers, indicating that there was some type of heavy machinery involved. Mr. Buhlman agreed that there were trucks that came and picked up the grapple of logs, saying that this was an occasional occurrence. Selectman Maddox asked about dyes and gasoline. Mr. Buhlman said there was no gasoline stored on the site ever, and the EPA guide had said one could practically drink the dye solution. Selectman Maddox asked if there were a plan on how to deal with any spillage that might occur; Mr. Buhlman said woodchips would be placed on it immediately, and the material would then be scooped up and taken offsite, to a dealer that Mr. Cormier regularly dealt with.

Atty. Sokul asked Mr. Buhlman to show where the berm would be placed. Mr. Buhlman pointed out the area, all the way around the sides and back of the area, noting that there would be plantings on the front. Atty. Sokul said he had been there today and noted that something was being dumped down the slope. Mr. Buhlman said he did not know anything about that. Town Planner Cashell at this time stated that the aerial

picture being shown was taken in 2006. Atty. Sokul questioned what would stop something from going down the hill; Mr. Buhlman replied that it would be gone within three days, as it was temporary in nature.

Mr. Stone said that to say that what was going on was the same as before just was not the case, as this was a cleared property with things on it, with piles of woodchip material providing natural decomposition, with potential ignition risks, although these piles might not be high enough to cause that. He said there would be trucks and grappling equipment on the site, and what he had been talking about was good management practices to deal with flow and debris coming off the property, saying there might be better techniques to deal with it, and that they should be implemented.

Ms. Quinlan asked Mr. Stone about his statements about decomposition, asking how long a pile would have to be there to create a problem. Mr. Stone said it depended on the height of the pile and how long it stood there, saying some researchers indicated that something could happen in two weeks, but some other researchers said things should not stay there more than three months. He said he was talking about woody decomposition, providing nitrogen and other things that could change the water quality. Ms. Quinlan asked what he would suggest to the Board with respect to what should be under the wood-chipper, noting that every house in Hudson had two or more cars parked in the driveway. She said what had been represented was that there would be a gravel driveway, with no pavement, so that the drainage would flow naturally. Mr. Stone said the soil would become less pervious with trucks running across it and impacting it. For any equipment using hydraulic fluid, he suggested, it would make sense to have a concrete pad, so that spillage could be seen and contained. Ms. Quinlan asked what Mr. Stone would recommend other than a berm; Mr. Stone said there were lots of new techniques, including infiltration galleries, etc., saying it was a wood product but not a wood product in its natural state. Ms. Quinlan asked what he would recommend as the most cost-efficient way to treat and capture. Mr. Stone said the question was whether the surface water was actually being captured in the berm, adding that he did not think he was talking about something that would be expensive, but he was looking for a way to ensure that the quality of water leaving the site was as good as the quality coming onto the site, adding that he was not sure there was enough detail on the plan. Ms. Quinlan asked if he were aware of any water flowing off the site onto his client's property; Mr. Stone said the only thing flowing off the property might come off the end of the berm and go down the road. Mr. Buhlman noted that this would be flowing away from Mr. Stone's client's property. Mr. Stone noted that it would go to Route 111 and enter the drainage system there. He then stated that groundwater might flow under Clement Road and under a portion of the abutting site. Noting that most people in that area were on bedrock wells, Mr. Stone expressed concern about nutrients from the decomposing wood getting into the water, saying what was on the property had the ability to change water quality. He said he would not say the use of the property was low-impact, in terms of its influence on water quality, as what was there could change water chemistry.

Selectman Massey called a point of order, noting that it was now 9:00 p.m. and only one waiver had been addressed so far; he suggested that in fairness to the other applicants present the Board should determine which cases would be cut off, so that they would not have to wait but then not be heard. He then asked if the public hearing

could be deferred. Town Planner Cashell said the Board could defer this case and deal with the other items. Chairman Russo said he thought the first waiver was one of the most pressing, but he did not know if the others would take so long. Chairman Russo then asked how the Board felt with respect to deferring any other applicants. Town Planner Cashell noted that the Jarry case was going to be deferred, adding that the Reeds Ferry item was a new site plan that would take 30 to 45 minutes, and he felt it could be deferred. He said he expected the Nashua Subaru item to be a quick item. He felt that everything else could be handled, other than the Reeds Ferry matter, before 11:00 p.m.

Selectman Maddox moved to defer the Jarry subdivision to April 28th, at the request of the applicant. Ms. Quinlan 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. Chadwick asked if anyone were present out of interest in the public hearing pertaining to revision of the site plan regulations. No one came forward.

Selectman Maddox suggested that the Board reassess its status at 10:15. Town Planner Cashell asked if the representatives for Reeds Ferry would have an issue with deferral. Mr. Jeff Merritt, engineering representative for the Reeds Ferry applicants, said the applicants had a building waiting approval from Londonderry and needed some action. Chairman Russo said a decision would be made at 10:15 p.m. Town Planner Cashell said each item should be considered for a fair amount of time.

Chairman Russo declared a break at 9:07 p.m., calling the meeting back to order at 9:19 p.m.

Mr. Buhlman responded to the previous speaker by noting that the site had been cleared previously, in about 2005, with the Cormiers having purchased the property in 2007. He said the berm would be fixed if damaged, so there would be no breaches, adding that there was no permanent storage of equipment on the site, as the roto-chipper was moved off at night. He noted that CLD had approved the drainage plan.

Chairman Russo declared the matter before the Board.

Ms. Chadwick asked if the applicant would have a problem adding a note that there would be no equipment storage or gasoline storage on the site. Mr. Buhlman answered in the negative. Ms. Chadwick asked how much a drainage study would cost; Mr. Buhlman said it would cost about \$5,000.

Ms. Quinlan moved to grant the requested waiver of HTC §275-9 A, Drainage Study, citing the reason as being because pre- and post-development stormwater runoff conditions would remain relatively the same on the development site—and, as such, under the circumstances of this site plan application, the granting of this waiver would properly carry out the spirit and intent of the Site Plan regulations. Ms. Chadwick seconded the motion.

Mr. Hall said he had a concern with the waiver as stated, saying the pre-and post-development conditions were not going to remain the same, in his mind—adding that these designations typically meant between the natural and developed, and a great deal of fill had been brought onto the site prior to the purchase, indicating that there was some difference in the states. He also noted that the activity on the site was different, as there were minimal erosion characteristics previously, but now trucks were constantly going over the earth to move things on and take things away, so siltration could occur. He said another concern was that the applicant had said problems with the berm would be fixed, but he was asking what would happen when the breach occurred, saying the best design was something that would not get washed out. He concluded by saying he had concern about not doing an adequate study before starting.

Selectman Maddox said he was on the fence with this—noting that he had seen the wood-chipper on the site when he drove by on a weekend recently. He said he was not sure he wanted a study but he at least wanted a plan of how to deal with breaches if they occurred.

Ms. Quinlan said she drove up and down this street frequently, saying she did not see the chipper or any problems. She asked if Mr. Hall would be satisfied with a proposal or was looking for a full-blown study. Mr. Hall said the purpose of a drainage study was not just to see if there were runoff but also to include a plan showing how the site worked, saying he did not think a woodchip berm was going to last long, and the study should show what would be done if there were erosion.

Ms. Quinlan asked if Mr. Buhlman had any calculations. He said he could provide them, saying he could do it and CLD would back it up, noting that CLD had backed this berm idea initially. Town Planner Cashell confirmed that CLD had reviewed the site and had provided a report.

VOTE: Chairman Russo then called for a hand vote on the motion.
All members present voted in favor except for Selectman Maddox, Mr. Hall and Mr. Russo, who all voted in opposition.
Chairman Russo declared the motion to have carried (4–3).

Chairman Russo said he would try to move through the remaining waivers more quickly, but he would recognize a member to make a motion to defer this case at 10:00 p.m. Mr. Buhlman addressed HTC § 275-9B, Traffic Study, saying there were two trucks a day coming to the site, which was barely measurable.

Chairman Russo opened the meeting for public input and comment, in favor. No one came forward.

Chairman Russo asked if anyone wished to speak in opposition or with questions. Atty. John Sokul said he would not request a full-blown traffic study, but he had questions about the calculations for three trucks a day, noting that this afternoon there had been three trucks on the site when he viewed it. He said the biggest concern was the movement of heavy machinery between the site at 1 Clement Road and this 5

Clement Road site, saying he was more interested in the right way to do that, as well as in things that could be done to mitigate damage to the roadway.

Mr. Buhlman said it was an average of three trucks a day, saying this was just not enough traffic to warrant a study.

Ms. Chadwick noted that this was the beginning of the bark-mulch season, when use would be strongest, but there would be less use for the remainder of the year. Mr. Buhlman concurred, saying there might be none for two weeks. Chairman Russo noted that this was a wholesale business. Mr. Buhlman expressed agreement, saying there were no private vehicles coming to the site.

Ms. Quinlan said there might be more than three trips a day, for maybe nine total trips, and she asked at what level there should be concern. Town Planner Cashell suggested that 100 trips a day would be justification for a study. Ms. Quinlan moved to grant the requested waiver on the grounds that the project was expected to create only three trips a day.

Mr. Schneiderman called a point of order, asking if the public hearing had been closed. Mr. Russo said it had not.

Town Planner Cashell said anyone could challenge the number of trips, saying someone might be concerned about 40 trips, but this sort of operation typically did not create the kind of traffic that warranted a traffic study. He said a traffic study generally occurred when there was an issue with creating a new lane on the roadway or putting in a traffic light. Ms. Quinlan said it was probably more than three trips a day but significantly less than 100, saying there might be 15. Town Planner Cashell said one of the things that would have to be monitored would be debris being brought onto the roadway by the trucks or the shoulders being damaged, etc. He said the property owners would have to be responsible.

Mr. Russo asked one more time if anyone wished to speak in favor or opposition. No one coming forward, he placed the matter before the Board.

Selectman Maddox said he drove up there one day and found mud going almost to Constitution Drive, and he then asked if the gravel driveway had been kept up. Mr. Buhlman said it was, but he suggested that a note could be placed on the plan saying that Clement Road should be swept and cleared; he said he thought it was in good shape now.

Mr. Russo asked if there were any Town-maintained catch basins on the street that would be affected by this. Mr. Buhlman answered in the negative.

Ms. Quinlan moved to grant the requested waiver of HTC §275-9 B, *Traffic Study*, citing the reason as being because this project was expected to create less than 30 new vehicle trips per day of operation, and as such, under the circumstances of this site plan application, the granting of this waiver would properly carry out the spirit and intent of the Site Plan regulations. 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).

Mr. Buhlman addressed HTC §275-9 C, *Noise Study*, saying the roto-chipper would run about only 60 days a year, as established in Note 15, which was a short time. He added that the hours of operation had been well-worked out with the Board some time ago, so that there would be no issue of headlights bothering across the street.

Chairman Russo opened the meeting for public input and comment, in favor or opposition.

No one came forward to speak in favor.

Atty. John Sokul said this was the one waiver request of the remaining ones that he was most concerned about, noting that his client's house was directly across the street from this site. He noted that the Town had a noise ordinance--adding that, since the applicant had not presented anything about noise levels, he had hired a noise consultant, who had concluded that the equipment (roto-chipper and log splitter, which was on the site from time to time, caused serious noncompliance with the noise ordinance. He then asked that Mark Wallace, the noise consultant, comment on that.

Mr. Mark Wallace, with Tech Environmental, 303 Wyman Street, Waltham, MA, said they had done a noise study evaluation back in December, with a report having been submitted to the Board. He said the noise from this site was regulated by HTC §249 of the Town Code, with three sections pertaining to this site, as follows:

- HTC §249-4 (b) Limited continuous noise to 4b 55 decibels during the weekday, from 7:00 a.m. to 6 p.m. and 50 decibels on weeknights and weekends for residential receptors.
- HTC §249-4 (c) limited impulse noise to 60 decibels on weekdays and 52 decibels on nights and weekends for residential receptors.
- HTC §249-4 (d) limited the increase of background noise to no more than 10 decibels,

He noted that the Walters property was in a suburban area, estimated to have a nominal noise level of 35 to 40 decibels, whereas the equipment would go to 45 to 50 decibels. He stated that wood-chippers and also chain-saws were looked at, based on the site plan and photographs of the site, with noise found to be ranging from 79 to 100 decibels at 2100 feet, and he noted that Mr. Wallace's site was less than 100 feet away. He said the proposed project would violate the regulations and should not be approved without a separate noise barrier, saying a dense forest was needed, so they were proposing some sort of dense barrier, two feet above the tallest noise source, with a density of five pounds per square foot.

Mr. Russo asked if there were any other members of the public who wished to speak.

Atty. James Troisi, speaking in favor, noted that this was an industrial zone, adding that Mr. Wallace had bought the home well into the late 90s, after that Industrial zone was established. He noted that the site had been operating for a few years, with no complaint having been noted. He said Mr. Wallace was talking about residential receptors, adding that Mr. Wallace had reached his conclusions from looking at the site plan and photos, rather than actually measuring the site. He suggested that the evidence already presented indicated that the Board had been satisfied a year ago that noise was not a factor on this site, so he asked that the Board reaffirm the position it had taken previously.

Mr. Buhlman said there 87 evergreen trees, which would grow to 30 feet high, so things would improve.

Atty. Sokul said Mr. Wallace's house qualified as a residential receptor, saying the fact that he bought a house did not mean that he expected to hear Industrial noise.

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 he did not see a reason to having the applicant do a noise study, as the neighbors had already done it. He then added, however, that 20% of the planted trees were brown and dying, saying they were doing very little. He said area noise coming off that site needed to be addressed.

Ms. Stewart asked if Atty. Sokul's client was living in the house. Atty. Sokul said the house was being occupied, and he then asked if the trees that had been planted were the buffer. Mr. Buhlman answered in the negative. Mr. Mark Cormier said he had more trees to plant but could not do any more until the plan was approved. Mr. Sokul said this should be considered as the first official complaint about the noise.

Ms. Chadwick noted that what Mr. Wallace had addressed was the Town Code, and she asked if there were anything about having windows open or closed. Mr. Wallace answered in the negative. Ms. Chadwick asked how much of a noise impact would result if the roto-chipper were only used 60 hours a year. Mr. Wallace said people sensitized to that type of sound could be impacted, saying their concern was that there was not enough mitigation to the sound from that site—adding that sounds for that type of land use typically were 35 to 45 decibels and increasing by more than 10% would be a violation. He said some calculations should be done to show that the noise from the roto-tiller would not exceed the limits when it was in operation. Mr. Wallace noted chain saws and log-splitter were also looked at, with sound levels having been found in the literature. He said it was not done from Mr. Walter's home but from the nearest property line, noting that sound attenuated 3 DB per 100 feet.

Mr. Russo asked if sound levels had actually been checked. Mr. Wallace said it was done on similar equipment.

Ms. Quinlan noted that Atty. Sokul had testified that Mr. Walters was living at 5 Clement Road, owned by 14 Clement Road, which also owned the Century Park complex. Ms. Quinlan said 5 Clement Road was in an Industrial zone, not residential. She asked if it had had been Industrial when Mr. Walters purchased the property. Atty.

Sokul said he did not know. Ms. Quinlan asked if Mr. Walters slept in the house; Atty. Sokul said he did;

Mr. John Walters said he slept there every night.

Mr. Hall asked what difference this meant, saying it was not germane.

Chairman Russo concurred, saying it made no difference whether Mr. Walters lived there or rented it. Ms. Quinlan said there had been an official lodging of a complaint, and she wanted to understand how any resident, whether Mr. Walters or a tenant, was affected by this, if this wood-chipper were operating at a time when the resident was working. Chairman Russo said it was not possible to know or control when someone lived in the house. Ms. Quinlan said she felt it was relevant to how this Board would rule with respect to the noise, and she wanted to know when he was home and enjoying the residential use of his property.

Referring to the comment about an official complaint having been made, Selectman Maddox said this was not an official place to complain, which would be the Hudson Police Department, saying they should contact the proper authorities. Even if the Board knew when someone was there, he added, the occupants of the house might change. He concluded by stating that the noise study should be done.

Mr. Hall said he had voted in the past to grant a waiver of the noise study and would do so again, because the applicants had testified that they were doing things to comply. He said it sounded from the comments as if some people on the Board felt it was okay to grant the waiver because of 60 hours of operation, which was wrong. He said the applicant had stated that he was going to comply.

Mr. Schneiderman asked Mr. Walters to give his address from his driving license. Chairman Russo said this was inappropriate, asking why it should matter who lived there. Mr. Schneiderman said it mattered if someone were not living there and were using the home for another purpose. Selectman Massey called a point of order, saying this was totally irrelevant. Mr. Schneiderman said he just wanted to get clarification on Mr. Walters' testimony.

Mr. Walters said he had moved in last year, saying the trucks dropped the logs, and he could *feel* it when that occurred. He said he did not oppose what the Cormiers were doing but the noise issue was a hot button and he was just asking for some consideration, specifically on this noise issue. He said he worked a lot of hours but was at his house quite often.

Mr. Schneiderman started to ask a question about Mr. Walters' residing at the house, but Chairman Russo stopped the question, stating that Mr. Schneiderman had been warned this was not germane.

Town Planner Cashell said no one had a right to break the law, saying this waiver request normally had to do with construction or development. If this business were operating on a daily basis and causing Mr. Walters a problem, he said, the Town would cooperate and measure the noise on the property and would try to enforce the ordinance. Mr. Russo said Mr. Cashell was encouraging Mr. Walters to go to the Community Development Department and put in a request through the formal

complaint process. Mr. Walters said they were talking about a 2-foot berm, saying he was looking for a 4-foot berm or a privacy fence, as there was nothing to stop the noise from the trucks backing up, the dropping of logs by the crane, the chipper, and other things running on the property, especially when they were all operating at once. He noted that the Cormiers originally had a small operation but now were one of the largest bark-mulch operators in the State of New Hampshire.

Selectman Maddox said he felt a noise study would be money poorly spent, suggesting that the money instead should be spent on how they might resolve the issue--saying it would be better to have something designed by the applicant's engineer.

Ms. Quinlan said she felt the fencing requested by the abutter might be a good compromise, saying it would go a long way to repairing the relationships between the abutter and the applicant, and she would recommend that, noting that the applicant had erected a high fence barrier in front of his other property, down along Route 111. She said the trees already planted were not doing well, adding that there were some wetlands to the left of the driveway area, but some sort of fencing along the front would be most suitable. She noted that a 10-foot fence was allowed by the current ordinance.

Ms. Chadwick moved to defer any further action with respect to Tip-Top Tree, noting that it was time for the Board's usual mid-meeting break. Chairman Russo stated that the Board needed to move on to the next applicant. Town Planner Cashell noted the cases coming next week, saying the next available date would be April 28th or May 12th. Ms. Chadwick said she wanted to defer to May 12th. No second was brought forward.

Selectman Maddox moved to grant the request for waiver of HTC §275-9 C, *Noise Study*, starting the reason as being because the projected noise levels associated with this project were restricted to those provided within the Town Code's Noise Ordinance and that as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan Regulations. Mr. Barnes seconded the motion.

Mr. Russo asked how something could be mitigated if the noise level were not known. Ms. Quinlan said neither the applicant nor Mr. Walters had provided any noise figures, saying there really was no noise before the Board, but she felt the Board should mitigate against it by way of a fence, as Mr. Walters had suggested.

Ms. Chadwick said she would like to hear from the applicant or have something on the site plan saying they would stay within the limits of the noise ordinance. Mr. Hall said the Planning Board did not have the power to waive the Noise Ordinance, but the applicants had said that they were going to comply; he said there were ways to mitigate noise, saying trees were not usually a good mitigation for noise, but a fence or other ways could be used.

Town Planner Cashell said he had gone by this property a lot, adding that, if he lived in Mr. Walter's house, he would not want to look at this operation, which was a visual impact. Members of the Board contended that Mr. Cashell was out of order. Mr. Cashell said the solution was for the applicant to design as part of the site plan a berm that would work. Mr. Russo again questioned the idea of mitigation without first knowing what the noise impact was.

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

Ms. Chadwick moved to defer any further discussion to the Tip “Top Tree service until May 12th. Selectman Maddox seconded the motion.

VOTE: Chairman Russo then called for a verbal vote on the motion. All members present voted in favor except for Mr. Hall and Ms. Stewart, who both voted in opposition, and Chairman Russo declared the motion to have carried (5–2).

Ms. Chadwick moved to take up the **New Business** item out of order. 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 (7–0).

XIII. NEW BUSINESS/PUBLIC HEARINGS

A. Reeds Ferry Small Buildings SP# 01-10

**Map 101/Lots 16 & 17
1 & 3 Tracey Lane**

Purpose of plan: To merge Lots 16 & 17 and construct a new facility for Reeds Ferry Small Buildings (Shed Display). Application Acceptance & Hearing.

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

Mr. Jeff Merritt, with the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, referenced their previous appearance in October, 2008, at which time they had received site plan approval for development of Lot 16, for the building located at 3 Tracey Lane. He referred to Sheet 2 of 17 of the plan, saying this showed what that plan had entailed. He said the property was unique in that it was located in both Londonderry and Hudson, which had just a sliver. He noted that approval had been granted for a 12,000-ft² building for manufacturing and swales, adding that the approved building was up, with everything in place down to the binder, saying the applicant had approached the owner of Lot 17 (1 Tracey Lane), to see if they could put the construction trailer on that property and subsequently had purchased that property,

which was why they were now back. He then referenced Sheet 4 of 17, saying it showed the scope of the improvement amendments, which he then listed:

- Increase of the building truck maneuvering area—noting that these improvements were in the ‘Town of Londonderry.
- A second driveway off Tracy Lane, which would keep the truck traffic out of the area where customers parked.
- Along the frontage on Route 102, a small display area was being proposed, just to showcase the model sheds, with stonedust paths meandering among the display models.
- Because they wanted to use the two properties as one site, they wanted to merge the two properties.

He said they had received conditional site plan approval from the Town of Londonderry the previous week, and now had DES permit for alteration of terrain.

Mr. Merritt noted that they were requesting a number of waivers,

- HTC §275-9 B (11), *High-Intensity Soil Survey*. He said they felt it unnecessary because both lots were lots of record, saying HISS mapping would provide no useful information and as such would be an unnecessary financial hardship to the applicant. He said the plan did not propose any new lots, so it was not contrary.
- HTC §275-9 C, *Noise Study*. He said this would cause unnecessary hardship to the developer, as this was entirely in an Industrial area, and expansion of a shed produced little or no noise.
- HTC §275-9 D, *Fiscal/Environmental Impact Study*. Again he said, this would be an unnecessary financial burden, as no Town services would be required, and this was being done in accordance with best management practices.

Selectman Maddox called a point of order at this time, saying the Board needed to accept this application. Chairman Russo concurred. Town Planner Cashell confirmed that the application was ready for acceptance. Selectman Maddox moved to grant Application Acceptance; 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).

Mr. Merritt then continued discussing the requested waivers.

- HTC §275-9 B, *Traffic Study*. He said trip generation calculations were derived in proportion to the size of the facility, but in this case no increase of trips or adverse traffic would occur.

Mr. Merritt said the next two waivers pertained to the driveway, noting that the driveway entrance was all that would be in the Town of Hudson.

- HTC §193-10 G, *Number of Driveways*. He noted that this regulation permitted one driveway for each lot having adequate frontage, saying the two lots currently were separate and distinct, and each would have a driveway permitted by right if developed individually, so they maintained that it was in the best interest to have two driveways for this business, one for the trucks, and one for the customer parking area. He referred to Sheet 2 of 17, the approved existing-conditions plan, saying this change would get truck traffic out of the customer traffic area. He noted that the parcels had more than double the required frontage, and each driveway would be widely separated.
- HTC §193-10 E, *Sight distance of at least 400 feet in both directions*. He said the hardship reasoning was that the proposed driveway was in the best location for an existing lot of record because of the location of the existing roadway. He said traffic on Tracy Lane was extremely light, noting that the AASHTO (American Association of State Highway and Transportation Officials) standards only required 200 feet of stopping distance in this situation, and 200 feet were available, but they could not get the 400 feet required by Hudson because of the geometry of Tracy Lane--adding that all of the driveways on Tracy Lane were in the same boat.

Mr. Merritt then offered to answer any questions, noting that he had the entire applicant family present.

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. Chadwick asked if there would be signage to the effect of separating trucks and private vehicles. Mr. Merritt said he was not saying they would be separate, as an outgoing truck might leave at the same time as someone coming in. He said there were five other developments on Tracey Lane, and four of them had two driveways. Ms. Chadwick said she was concerned about the sight distance from the first driveway, as there was not a lot of room for a truck. Mr. Merritt said every single driveway had less sight distance than what was required, except possibly for the Fred Fuller Oil site at the end, saying this site had better sight distance than the others.

Selectman Maddox said they were actually asking for forgiveness, since they had built it. He said he was not going to vote in favor of the sight distance. Mr. Merritt said the building in Londonderry had been built up to the plan, but not the addition. Selectman Maddox then said he could accept it as an in-only access, but the Planning Board had gone to court on the sight distance, for other plans, so he would be reticent with respect to voting in favor of this. He said parking would be a problem. Ms. Stewart said that was Londonderry's concern. Mr. Merritt said all of the calculations were based on Londonderry's requirements;

Ms. Stewart said there were questions about the waivers, so she would move to defer to May 12th, noting that staff would be leaving the meeting in five minutes. No second was brought forward.

Mr. Merritt asked if they could at least get an answer about the driveway, as he otherwise would come back with the same plan.

Ms. Quinlan said the Board was most rigid about not granting two driveways for residential uses, but this was commercial and waivers were allowed. She said this was an applicant coming in to request a second driveway with the contention that it would be safer for the commercial customers, and she was also persuaded by the fact that the owner had purchased two parcels, and each of these two driveways would be on what were now separate parcels.

Chairman Russo asked if the lots had to be consolidated before site plan approval. Town Planner Cashell said the sequence would be for the site plan to be approved, and the lots would then be merged. Mr. Hall concurred, saying consolidation did not have to be approved separately.

Mr. Hall moved to grant the requested waiver of §HTC 193-10 G, *Number of Driveways*, citing as a reason that it was because the proposed two driveways would create safer on and off-site traffic conditions than would result from one driveway—adding that, as such, the granting of this waiver would not be contrary to the spirit and intent of the Site Plan regulations.

Ms. Quinlan 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. Hall moved to grant the requested waiver HTC 193-10 E, *Driveway Sight Distance*, citing the reason as being because the subject lot had limited accessibility, and the proposed location of the driveway provided the most beneficial sight distance for accessing the lot—adding that, as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Ms. Quinlan 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, Ms. Chadwick, and Ms. Stewart, who all voted in opposition, and Chairman Russo declared the motion to have carried (4-3).

Chairman Russo said he had voted in favor, but he believed the second driveway should be for in-only access, saying the sight distance was strictly for egress.

Ms. Stewart called a point of order, saying it was 11:00 p.m. Chairman Russo said he was going to ask for a motion to defer.

Ms. Stewart moved to defer to May 12th. Selectman Maddox seconded the motion, agreeing to a request to have this be placed ahead of Tip Top Tree Service.

Mr. Merritt said they could be ready for April 28th. Town Planner Cashell said Bockes Road, and the Jarry Subdivision were scheduled for that date, saying this could be the third item.

Ms. Stewart and Selectman Maddox agreed to change the motion to the April 28th date, making this a friendly amendment.

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).

Chairman Russo said the Board would have to defer the public hearing, as it was 11:03 p.m. Town Planner Cashell said he would stay for the **Conceptual Review** item. Mr. Russo asked the Selectmen if this would be permissible. Selectman Maddox suggested allowing ten minutes for the conceptual hearing.

XI. CONCEPTUAL REVIEW ONLY

A. Nashua Suburu CSP 01-10

**Map 216/Lot 013
193 Lowell road.**

Purpose of Plan: To request a waiver from Site Plan Review relative to the proposed temporary use of an office trailer for the sale of automobiles.

Mr. Daniel Enxing, owner of the Suburu franchise, said he was looking to put a trailer on the back corner for a new franchise of electric vehicles and he needed a small separate show room to start it off.

Selectman Maddox said Town Planner Cashell had been going to send this to the Minor Site Plan Community, but that he (Selectman Maddox) had thought it would be blown out of the water there, and he had thought it could be moved forward as a temporary trailer for a limited lifespan, saying this would show that Hudson favored business and this was a chance to make a site right.

Mr. Barnes noted that the temporary office had a bathroom, asking if it would be connected to a sewer or porta-potty. Mr. Enxing said it would be a storage space and would not be used.

Mr. Barnes asked who would track the one-year time period, to make sure they came back in a timely fashion for renewal. Town Planner Cashell said it would be put

on a schedule, saying Mr. Enxing had asked for a year and that he (Mr. Cashell) had suggested that Mr. Enxing consider coming back for a 6-month extension.

Ms. Stewart asked if the trailer would be used as a place where customers would go in and sit down to discuss purchasing a vehicle; Mr. Enxing responded in the affirmative. Ms. Stewart then asked what the customers would do if they then needed to use bathroom facilities; Mr. Enxing said they could walk across to the main building.

Ms. Stewart said she felt there had been a violation on the site before, noting that the trailer had just popped up, and saying the site plan stated certain things and she wished people would abide by their site plans. Mr. Enxing said he had been there almost eight years and displaying cars was what they did; he said that he agreed that cars should not be in the driveway, saying he every once in a while put out memos to his employees saying cars should not be there. He said he had not come here asking for forgiveness for putting the trailer there, saying he had interpreted a letter from Town Planner Cashell incorrectly, so he had put the trailer in, already.

Ms. Quinlan said she had not noticed the trailer, even though she drove by this site daily.

Mr. Hall asked what would happen in a year or 18 months if he decided he did not need the trailer any more. Mr. Enxing said he get a different location if he decided to continue with this franchise. He confirmed that this was just a trial run, saying he was the first dealer in New Hampshire, but there was another in Maine.

Ms. Chadwick moved to grant the requested waiver of HTC §275, *Submission of a Site Plan*, for Nashua Subaru, 193 Lowell Road, Map 216/Lot 013, citing as a reason that it was because the proposed temporary (i.e., not to exceed one year from this date, April 14, 2010) use of an office trailer to sell automobiles did not conflict with the existing approved Site Plan and its terms and conditions of approval—and, as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Ms. Quinlan seconded the motion.

Mr. Russo asked about the 18 months. Ms. Chadwick said he would come back after one year. Ms. Quinlan noted there was no 18-month arrangement.

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. Chadwick moved to adjourn; Selectman Maddox seconded the motion.

Selectman Massey called a point of order, saying there had to be a motion to defer the two public hearings.

Ms. Chadwick withdrew her motion and then moved to defer the public hearings for the proposed amendments of HTC §275-9 A of the Site Plan Regulations and

-- FILE COPY --

§289-20 C of the Subdivision of Land Regulations, Date specific, to May 5th, 2010.
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 have carried unanimously (7-0).

XII. DESIGN REVIEW PHASE

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

XIV. PUBLIC HEARINGS

The scheduled public hearings were deferred to the May 5th Workshop without being taken up by the Board, because of a lack of time.

XV. OTHER BUSINESS

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

XVI. ADJOURNMENT

All scheduled items having been addressed, Ms. Chadwick moved to adjourn; 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 (7-0).

Chairman Russo then declared the meeting to be adjourned at 11:15 p.m.

Date: April 28, 2010

Vincent Russo, Chairman

J. Bradford Seabury, Recorder

Terry Stewart, Secretary

-- FILE COPY --

**HUDSON PLANNING BOARD Meeting Minutes
April 14, 2010**

Page 21

These minutes were accepted as amended following review at the 06-09-10 Planning Board meeting.

The following changes were made in accordance with the Board's review of these minutes at its June 9, 2010, meeting:

Page 3, 3rd paragraph — changed “her” to “his,” so that the sentence now reads “Mr. Barnes withdrew his second.”

Page 8, 3rd paragraph after the vote — reference to “Chairman Barnes” was changed to “Chairman Russo.”

Page 13, 3rd full paragraph, 2nd line — corrected typo “pan” so that phrase now reads “something on the site plan.”