



XVI. ADJOURNMENT

All plans and applications are available for review in the Planning Office. Comments may be submitted in writing until 10:00 a.m. on the Tuesday prior to the day of the meeting.

The public is invited to attend.

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John M. Cashell  
Town Planner

POSTED: Town Hall, Library, Post Office – 05-10-13

## **25 Constitution Drive Site Plan (Unicorn)**

### **STAFF REPORT**

May 22, 2013

**SITE:** 25 Constitution Drive -- Map 170/Lot 38 -- SP# 09-12

**ZONING:** Industrial (I)

**PURPOSE OF PLAN:** To show proposed 10,000 sf industrial building on 4.4 acres +/- with associated site and drainage improvements. Hearing. Deferred Date Specific from the 04-24-13 Planning Board Meeting.

**PLAN UNDER REVIEW ENTITLED:** Non-Residential Site Plan Unicorn Industrial Park Map 170 Lot 038, Hudson, NH, prepared by Keach-Nordstrom Associates, Inc., dated: October 22, 2008, last revised on January 30, 2013, consisting of Sheets 1 - 15 and Notes 1 – 29 (said plans are attached hereto).

#### **OUTSTANDING ISSUES:**

- ✓ At the Planning Board's March 27, 2013 meeting, the board requested the applicant to meet with the Board of Selectmen, relative to working with them on an agreement as to the terms of construction for Wall St. In regard to this specific action, please refer to the last page of the attached DRAFT Planning Board minutes for said meeting – attachment "A".
- ✓ On May 14<sup>th</sup>, the applicant went before the Board of Selectmen, which resulted in the BOS referring the applicant back to the Planning Board. Please refer to the attached May 14, 2013 DRAFT BOS meeting minutes, which cite on page the specific action of the BOS – attachment "B".
- ✓ If the board moves in the direction of approval for this Site Plan application, DRAFT MOTIONS to this effect are provided below, together with those for the requested waivers.

#### **ATTACHMENTS:**

- 1) DRAFT copy of the March 27, 2013 Planning Board meeting minutes – "A".
- 2) DRAFT copy of the May 14, 2013 BOS meeting minutes – "B".

#### **REQUESTED WAIVERS:**

1. HTC 275-9A(1) -- Volume Discharge (Stormwater)
2. HTC 275-9B -- Traffic Study
3. HTC 275-9(D) -- Fiscal Impact Study
4. HTC 275-9(C) -- Noise Study
5. HTC 10B – 10E-- Sight Distance

**APPLICATION TRACKING:**

- 11/13/12 application submitted.
- 01/09/13 initial public hearing was postponed at the applicant’s request, in writing. Hearing rescheduled for 02/27/2013.
- 02/27/13 Initial public hearing conduct, application acceptance deferred date specific to the 03/27/2013 meeting.
- 03/27/2013 this application was accepted and deferred date specific to the 05/08/2013 meeting, which was canceled. In turn, at the 04/24/2013 meeting this item was deferred date specific, per the applicant’s written request, to the 05/22/2013 meeting.

**DRAFT MOTION:**

I move to defer further review of the 25 Constitution Drive Site Plan application, Map 170/Lot 038, date specific, to the June 12, 2013 meeting.

Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Carried/Failed: \_\_\_\_\_.

**REQUESTED WAIVERS:**

1. HTC 275-9A(1) -- Volume Discharge (Stormwater)
2. HTC 275-9B -- Traffic Study
3. HTC 275-9(D) -- Fiscal Impact Study
4. HTC 275-9(C) -- Noise Study
5. HTC 10B – 10E-- Sight Distance

1) HTC 275-9A(1) -- Volume Discharge (Stormwater)

I move to grant the requested waiver HTC 275-9A(1) -- Volume Discharge (Stormwater) because the submitted stormwater mangement report verifies that no downstream properties will be affected as a result of the slight volumetric increase in stormwater discharge, and as such, the granting of this waiver is not contrary to the spirit and intent of the Site Plan Review regulations.

2) HTC 275-9B - Traffic Study

I move to grant the requested waiver HTC 275-9B - Traffic Study - because this project is expected to create minimal traffic increase within the affected roadway system, and as such, the granting of this waiver is not contrary to the spirit and intent of the Site Plan Review regulations.

Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Carried/Failed: \_\_\_\_\_.

3) HTC 275-9C – Noise Study

I move to grant the requested waiver: HTC 275-9C - Noise Study - because such a study is unnecessary, taking into consideration that the majority of the industrial activity associated with the proposed use shall be conducted inside the building, thus reducing the noise impact upon abutting properties, which are existing, developed industrial/commercial uses, all of which are located in the same Industrial (I) Zoning District, and as such, the granting of this waiver is not contrary to the spirit and intent of the Site Plan Review regulations.

Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Carried/Failed: \_\_\_\_\_

4) HTC 275-9D – Fiscal Impact Study

I move to grant the requested waiver: HTC 275-9D - Fiscal Impact Study - because in addition to the submitted plans, CAP fee and other submitted application materials, said study is not necessary in order to evaluate the fiscal impact of this development, and as such, the granting of this waiver is not contrary to the spirit and intent of the Site Plan Review regulations.

Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Carried/Failed: \_\_\_\_\_

5) HTC 10B – 10E-- Sight Distance

I move to grant the requested waiver: HTC 10B – 10E-- Sight Distance - because the proposed driveway location provides the most sight distance (365 ft. v. the required 400 ft.) possible for this development, as such, the granting of this waiver is not contrary to the spirit and intent of the Site Plan Review regulations.

Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Carried/Failed: \_\_\_\_\_

**MOTION to APPROVE:**

I move to grant preliminary approval for the Site Plan entitled: Non-Residential Site Plan Unicorn Industrial Park Map 170 Lot 038, Hudson, NH, prepared by Keach-Nordstrom Associates, Inc., dated: October 22, 2008, last revised on January 30, 2013, consisting of Sheets 1 - 15 and Notes 1 – 29, in accordance with the following terms and conditions:

- 1) All stipulations of approval shall be incorporated into the Development Agreement, which shall be recorded at the HCRD, together with the Site Plan-of-Record (hereinafter referred to as the Plan).
- 2) Prior to the Planning Board endorsement of the Plan, the Development Agreement shall be favorably reviewed and recommended on by Town Counsel.
- 3) All improvements shown on the Plan, including Notes 1-29, shall be completed in their

entirety and at the expense of the Applicant or his assigns.

- 4) After the issuance of the foundation permit and prior to the issuance of the framing permit, the applicant shall submit to the Hudson Community Development Department a foundation "As-Built" plan on a transparency and to the same scale as the approved site plan. The foundation "As-Built" plan shall include all structural dimensions and lot line setback measurements to the foundation and be stamped by a licensed land surveyor. Any discrepancy between the approved site plan and foundation "As-Built" plans shall be documented by the applicant and be part of the foundation "As-Built" submission.
- 5) Prior to the issuance of a final certificate of occupancy, a L.L.S. certified "As Built" site plan shall be provided to the Town of Hudson Community Development Department, confirming that the site conforms with the Planning Board approved Plan.
- 6) Onsite landscaping shall be provided for in accordance with the plant and tree species specified on Sheet 7 of 15 of the Plan.
- 7) Construction activities on the site shall be limited to between 7:00 A.M. and 7:00 P.M. Monday through Saturday. No construction activities shall occur on Sundays.
- 8) This approval shall be subject to final engineering review, including approval of the SWPPP.
- 9) The Applicant shall be responsible for implementing and maintaining the Stormwater Pollution Prevention Plan (SWPPP).
- 10) The applicant or his assigns, at his/her expense, shall be responsible for repairing all construction cuts, if needed, on Constitution Drive and this work shall be properly bonded with the Town of Hudson.
- 11) Final approval of this Site Plan shall be subject to the applicant receiving approval from the Board of Selectmen, relative to the use of Wall St., a Class VI Highway, as a driveway, pursuant to RSA 674:41(I)(c), and Zoning Board of Adjustment granting a variance, relative to the definition of "frontage", as provided in §334-6. of the Town's Zoning Ordinance.

Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Carried/Failed: \_\_\_\_\_

#### **Section 674:41**

#### **674:41 Erection of Buildings on Streets; Appeals. –**

I. From and after the time when a planning board shall expressly have been granted the authority to approve or disapprove plats by a municipality, as described in RSA 674:35, no

building shall be erected on any lot within any part of the municipality nor shall a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is proposed to be placed:

(a) Shall have been accepted or opened as, or shall otherwise have received the legal status of, a class V or better highway prior to that time; or

(b) Corresponds in its location and lines with:

(1) A street shown on the official map; or

(2) A street on a subdivision plat approved by the planning board; or

(3) A street on a street plat made by and adopted by the planning board; or

(4) A street located and accepted by the local legislative body of the municipality, after submission to the planning board, and, in case of the planning board's disapproval, by the favorable vote required in RSA 674:40; or

**(c) Is a class VI highway, provided that:**

**(1) The local governing body after review and comment by the planning board has voted to authorize the issuance of building permits for the erection of buildings on said class VI highway or a portion thereof; and**

(2) The municipality neither assumes responsibility for maintenance of said class VI highway nor liability for any damages resulting from the use thereof; and

(3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds; or

(d) Is a private road, provided that:

(1) The local governing body, after review and comment by the planning board, has voted to authorize the issuance of building permits for the erection of buildings on said private road or portion thereof; and

(2) The municipality neither assumes responsibility for maintenance of said private roads nor liability for any damages resulting from the use thereof; and

(3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought; or

(e) Is an existing street constructed prior to the effective date of this subparagraph and is shown on a subdivision plat that was approved by the local governing body or zoning board of adjustment before the municipality authorized the planning board to approve or disapprove subdivision plats in accordance with RSA 674:35, if one or more buildings have been erected on other lots on the same street.

II. Whenever the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and when the circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets, the applicant for such permit may appeal from the decision of the administrative officer having charge of the issuance of permits to the zoning board of adjustment in any municipality which has adopted zoning regulations in accordance with RSA 674, or, in municipalities in which no board of adjustment exists, to the local legislative body, or to a board of appeals, whichever is appropriate, in accordance with RSA 674:14 and 674:15, including the requirement for a public hearing. In a municipality which does not require building permits, direct application may be made to the zoning board of adjustment, or the local legislative body, or the board of appeals for permission to erect the building. In passing on such appeal or application, the board of adjustment, local legislative body, or board of appeals may make any reasonable exception and shall have the power to authorize or issue a permit, subject to such conditions as it may impose, if the issuance of the permit or erection of the building would not tend to distort the official map or increase the

difficulty of carrying out the master plan upon which it is based, and if erection of the building or issuance of the permit will not cause hardship to future purchasers or undue financial impact on the municipality. Any such decision made in this connection by a board of adjustment, local legislative body, or by a board of appeals pursuant to this section and RSA 674:14 and 674:15 shall be in writing, together with the reasons for the decision, and shall be subject to review in the manner described in RSA 677.

II-a. Municipalities may except any lot, including island lots for islands served exclusively by boats, from the requirements of paragraphs I and II by an affirmative vote of the local legislative body pursuant to RSA 675, first submitted to the planning board for its approval and:

(a) If approved by the board, approved by a majority of those present and voting at a regular or special meeting of the local legislative body; or

(b) If disapproved by the planning board, approved by not less than 2/3 of those present and voting at a regular or special meeting of the local legislative body.

III. This section shall supersede any less stringent local ordinance, code or regulation, and no existing lot or tract of land shall be exempted from the provisions of this section except in accordance with the procedures expressly set forth in this section. For purposes of paragraph I, "the street giving access to the lot" means a street or way abutting the lot and upon which the lot has frontage. It does not include a street from which the sole access to the lot is via a private easement or right-of-way, unless such easement or right-of-way also meets the criteria set forth in subparagraphs I(a), (b), (c), (d), or (e).

IV. In addition to the requirements for the erection of buildings in paragraph I and notwithstanding the exceptions provided in paragraph II, the planning board for a county in which there are located unincorporated towns or unorganized places shall require every building which is erected on leased land located within an unincorporated town or unorganized place to have a building permit. A building permit shall be required under this paragraph regardless of the proximity of the building to any street or highway. The county shall, by resolution, authorize the planning board to issue building permits under this paragraph.

**Source.** 1983, 447:1. 1988, 131:2, 3. 1989, 266:20. 1995, 291:10. 1998, 344:6. 2002, 270:1, 5. 2004, 154:1, 2. 2005, 226:1, 2, eff. Sept. 3, 2005.



-- DRAFT COPY --

**HUDSON PLANNING BOARD  
MEETING MINUTES  
March 27, 2013**

**B. Unicorn Industrial Park  
SP# 09-12**

**Map 170/Lot 038  
25 Constitution Drive**

**Purpose of plan: to show a proposed 10,000 sq. ft. industrial building on 4.4 acres +/- with the associated site and drainage improvements. Application Acceptance & Hearing. Deferred Date Specific from the 02-27-13 Planning Board Meeting.**

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

Town Planner Cashell said the initial request for deferral had been superseded in a handout staff report distributed to the members tonight, as the result of corrections having to do with Town Counsel's initial opinion. He noted that the applicant's counsel was present, if the Board wished to go forward with a public hearing this evening and possibly dealing with the waivers.

Chairman Russo asked if the applicant had been given all the information.

Atty. J. Bradford Westgate, of the Devine, Millimet, & Branch Professional Association, 111 Amherst Street, Manchester, NH, legal representative for the applicant, said he had the revised staff report of this afternoon, but he did not have Town Counsel's opinion, noting that he was not privileged to get that confidential correspondence.

Town Planner Cashell said this application not yet been accepted but was ready for Application Acceptance.

Mr. Hall moved to grant Application Acceptance. Mr. Della-Monica seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (6-0).

Mr. Tony Basso, of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, serving as the engineering representative of the applicant, accompanied by his associate, Mr. Jeff Merritt, appeared before the Board as the engineering representative of the applicant, noting that the applicable plan, which he identified as **Master Site Plan, Unicorn Industrial Park, Map 170/lot 038, 25 Constitution Drive, Hudson, New Hampshire**, prepared for applicant John W. Jamer, dated October 22, 2008, revised Jan 30, 2013, which Mr. Merritt had posted on the meeting-room wall.

Mr. Basso described details of the plan, saying Wall Street was dedicated on the original industrial park plan but had been left as it was after Constitution Drive had been put in. He

said the building would be used for Mr. Jamer's crane business, with the equipment being stored and worked on at that site. He said they had gone to the Zoning Board of Adjustment for Wetlands Special Exceptions for parking in the buffer as well as work being done in the wetland buffer, noting that this had been accomplished quite a while ago but the favorable ZBA decisions had been appealed to Superior Court by an abutter; he said that matter had been resolved and they were now able to proceed. He noted that some waivers were being requested, as listed on the plan, saying the project had 2,390 ft<sup>2</sup> of wetland impact and 18,665 ft<sup>2</sup> of buffer impact, and a State Dredge & Fill permit from the State was needed. He said the plan met the requirements of the Town except for what was being requested for volume waivers.

Mr. Ulery arrived at the meeting at 7:30 p.m. and took his seat at that table as a nonvoting alternate at that time, although not yet recognized by the chairman for the inprocess hearing.

Mr. Basso said clarification had been requested a month ago, adding that Atty. Westgate could go through that.

Atty. J. Bradford Westgate, of the Devine, Millimet, & Branch Professional Association, 111 Amherst Street, Manchester, NH, legal representative for the applicant, discussed the background of Wall Street, saying this Planning Board had approved the subdivision plan for Unicorn Park in 1988, as shown on Plan 228-33 at the Hillsborough County Registry of Deeds. He said that plan was revoked in 1994, for reasons that were unclear, but in 2000 the Town had taken title of the property by way of a deed from the FDIC for a failed bank and had processed through this Planning Board a plan that reapproved Unicorn Park with the same layout, reapproving Constitution Drive and Wall Street on December 5, 2000, as shown by Plan 308-32 at the Registry, after which all of the lots except for 18 and 18-1 were transferred, with MEPPS Development (Eric Nicholson, manager) taking title to the rest. At that time, he said, both Constitution Drive and Wall Street were dedicated but not yet accepted public roads, even though not built yet. He referenced details on the displayed map of the area, saying the plan depicted Constitution Drive as well as the on-site leg of Wall Street, with these being at that time dedicated but not yet accepted public roads. He said a bond was placed for this in 2002 in the form of a bank letter of credit for \$252,000 to guarantee completion of all the improvements shown on the plan, with at least two replacement bonds later being processed, with the last bond being placed in 2005, in the range of \$117,000, with that latter bond lapsing by its terms in June of 2007. He said the form of the bond used said that if the work wasn't done the bond would be automatically drawn and the bank was supposed to pay over the amount to the Town, but what often happened was that the draw did not happen. For some reason, he noted, that last letter of credit lapsed, with Wall Street still not having been fully approved. He emphasized that Constitution Drive was accepted in 2007 but not Wall Street, but the improvement bond was let to lapse, with Wall street left hanging.

Atty. Westgate said the subject lot had frontage in layman's terms on both roads, but frontage was an issue, as had been raised four weeks ago by the Planning Board. He said the definition of frontage in the Zoning Ordinance said frontage would be contiguous, measured along the front line of a public Class V right-of-way. He said Wall Street was not Class V, because it had not been accepted, but was a dedicated road on a plan approved by this Planning Board. He noted that frontage must be able to provide access, however, and the issue was that there were wetlands on the property, dividing the frontage along Constitution Drive, with the developable portion being the upper northwest corner, so that a wetlands special exception and perhaps a variance would be needed to gain access from Constitution Drive, while Wall street provided access but was not a Class V road. Atty. Westgate stated that he believed this was also Town Attorney Buckley's interpretation.

Atty. Westgate said that under these interpretations they would need a variance to have frontage on Wall Street, saying access from Constitution was not the preferred plan. He said another possible action needed would be building on a non-classified road, which was covered by NH RSA 674-41, but he was not sure that statute came into play, noting it said in essence that the Town was not supposed to give a building permit unless the lot which provided frontage and access was a Class V road or was shown on a plan approved by the Planning Board and recorded, or was a road subject to certain Board of Selectmen actions. He said he was not sure it applied, as it said Board of Selectmen action was not needed if it was a road on a plan that was on record, with that statement of exception not saying it had to be a Class V road. He said his take at the moment was that they would need a zoning variance from the frontage requirement on Wall street—adding that he thought it was incumbent on them to request a zoning determination from the Zoning Administrator, so that the Board would have a precise administrative determination saying what was needed.

Atty. Westgate said he had discussed this with Atty. Buckley, saying the loss of the letter of credit was what was the problem, as that was why they did not have frontage on a Class V road. He said his client had purchased the property in 2004, assuming he had a conforming lot, and now the lot was deemed nonconforming. He said today was perhaps not the day for that forum, reiterating that his suggestion was that they should seek a zoning determination.

Mr. Hall said he did not think he disagreed with what had been said, but he asked if Atty. Westgate did not think as a minimum that there should be some kind of understanding with the Town and the Board of Selectmen as to what the status of Wall Street was and who was responsible for maintaining it. He said the real concern was what the understanding was with respect to who was responsible for that road, saying there should be some kind of written understanding. Atty. Westgate expressed agreement.

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

Atty. Karen McGinley stated that she was representing Mr. John Walters, an abutter, who was also present. She said she agreed with what Atty. Westgate had said, but there were issues concerning water discharge and noise.

Mr. John Walters, of Century Park, said he had concern about the location of the building with respect to the setback zone, saying he wanted to make sure it would be in compliance, as there were aspects pertaining to surfacing of the road. He said he looked forward to working with the applicant, adding that he had thought the question about the wetlands had been resolved but that the expected agreement did not happen. He said he would look at this application to see what impact it had on his site.

Chairman Russo said Atty. McGinley had said Mr. Walters had an issue with water discharge and with the noise study. Mr. Walters said it was something they would look at; he then referenced the plan, saying he knew there had been some modifications, and his engineers would look at it, but he wanted to get an understanding of how it would impact his system, the private systems they were draining into, and where the water would go, adding that he did not know if the proposed building would be placed in compliance with the setback requirements. He said there was a concern as to how it would impact the Central Park property.

Chairman Russo asked if Mr. Walters had been provided the documentation. Town Planner Cashell said this was the original plan submitted for the application and he believed Mr. Walters had gotten a copy. Mr. Walters said he didn't have a copy with him

but might have received it. Chairman Russo asked if Mr. Walters' engineers had done a peer review of the plan; Mr. Walters asked if this were the original plan. Town Planner Cashell clarified that this was not the 2009 plan, saying this plan had been revised through January 30, 2013. Mr. Walters said he did not have that. He then commented that he had not paved anything because he did not know the status of the road.

Chairman Russo asked if Mr. Basso wished to respond to any of these questions.

Mr. Jeff Merritt, also of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, serving as the engineering representative of the applicant, pinned a new plan on the meeting-room wall, identifying it as Sheet 4 of the plan, entitled, ***Grading and Drainage Plan, Unicorn Industrial Park, 25 Constitution Drive, Hudson, New Hampshire***, dated October 22, 2008, last revised 01-30-13. He said this plan illustrated the stormwater plan for the project, saying the stormwater currently ended up in a southerly direction and easterly onto the subject property, to a narrow wetland area as shown in a hatched area on the plan. He said they had gained a DES permit and a Wetlands Special Exception, saying it had flowed through a corrugated iron pipe, just as it did now. He said they would continue to allow water from Mr. Walter's site to flow onto the property, collect it near the parking lot, and then run it through a treatment system into the stormwater basin next to the parking lot, where it would be treated and discharged through a structure on the western side, through a corrugated metal pipe, as it did today. He said they were not only handling the subject property's water but also the water from the abutter's property. He said Wall Street was not completely finished, so right now it was an open drainage system, with catch basins but no curbing.

Atty. Westgate addressed the question about the building setback, saying Hudson Park Drive did not exist in a physical sense, noting that one of Mr. Walter's buildings went into the locus of Hudson Park Drive. He said Hudson Park drive was at best a dedicated road but not an accepted Town road, adding that it might be less than that. He said there were 30-year-old plans that showed the road, saying he understood that Mr. Walters had maintained this was a private road. He said the Planning Board was well aware that the setback requirements in the Zoning Ordinance were broken down for road categories, for arterial/collector roadways and local roadways, adding that Hudson Park Drive did not satisfy either category definition. He then posed the question of whether Hudson Park Drive was a road from which a front yard setback was imposed, saying he did not believe so, and that he doubted it met the meaning of a road in the Zoning Ordinance. He said Hudson Park Drive ought to be Class V road if it were to be given a status of requiring a 50-foot setback, but it certainly was not, so he would maintain that a setback requirement of a Class V road would not be applicable in this case.

Mr. Hall asked if the Zoning Administrator concurred with that analysis. Town Planner Cashell said that would have to be determined by the Zoning Administrator. Atty. Westgate said they would probably add that to their request.

Mr. Walters said he would disagree with the engineer's comments on the flow of water, saying it was difficult to see how they were addressing water coming from his property when there was a building being proposed that clearly did not have any drainage issues regarding drainage water coming from his site. Chairman Russo at this point said he would cut this discussion short, requesting that Mr. Walters have his engineer review the plan and bring it forward for review.

Atty. McGinley said the analysis of Hudson Park Drive was very similar to the analysis of Wall Street. She said she disagreed, saying it did not become a public road until it had been accepted. She said it could be overcome with a Variance, but she did not think the Board should treat it as a public road.

No one else coming forward, to speak either in opposition or in favor, Chairman Russo said he would close the public portion of the meeting at this time.

Selectman Maddox said he would be looking for input from this Planning Board in regard to this coming before the Board of Selectmen. He noted that Town Planner Cashell had said he had forgotten to put in the \$7,500 improvement as well as the \$4,100. He asked if the Planning Board would be amendable to waiving the CAP and put it toward the \$7,500. He said the Road Agent had said it would cost about \$26,000 to put Wall Street to Town standards, but he wanted to get Planning Board input, adding that it would be a Cape Cod type berm with a gate at the end—adding it would not need a turn-around, as the Town currently plowed Constitution Drive with a 1-ton vehicle. Mr. Hall asked if Selectman Maddox were suggesting that the Board of Selectmen might want to look at completion of Wall Street so that it could be accepted. Selectman Maddox concurred, saying they would have to do some work even to use it as a driveway, so he thought the simpler thing would be to make Wall Street accepted up to that property line. Mr. Hall said he would think some sort of alternative turnaround would be needed; he then commented that a lot of the issues might go away if the applicant met with the Board of Selectmen, provided that the Road Agent and the Fire Department were satisfied with that approach.

Mr. Della-Monica said he would like to see an image of how that road currently ended, and he asked who would benefit from the upgrading of Wall Street, other than this property. Town Planner Cashell displayed the applicable area of the Town map. Selectman Maddox said there was another lot on the other side of the road, from which the Town would get \$7,500 at some point in the future. Selectman Maddox reiterated that the Road Agent felt he could plow the road with a one-ton vehicle and would not need a turn-around. Mr. Basso said waiving the CAP fee to make a contribution to that work sounded like a great solution. Mr. Hall asked if Mr. Basso would meet with the Board of Selectmen; Mr. Basso readily agreed, saying “Absolutely!” and then stating that he would get on the Board of Selectmen agenda.

Mr. van der Veen said that sounded like a good solution; Mr. Ulery concurred. Mr. Basso suggested they could come back on May 8<sup>th</sup>.

Mr. Hall moved to defer to May 8<sup>th</sup>; Mr. Della-Monica seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (6–0).

Chairman Russo recognized Mr. Ulery as having arrived during the discussion of this matter, saying he would seat Mr. Ulery in place of the absent Mr. Barnes at this time.

**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN  
VANASSE HANGEN BRUSTLIN, INC.  
AND  
TOWN OF HUDSON, NEW HAMPSHIRE**

**TRAFFIC IMPACT FEE SYSTEM**

**May 14, 2013**

This Agreement is composed of Part I and Part II. Part I includes details of the services to be performed, timing of the services, and compensation. Part II (attached) contains the Terms and Conditions of Agreement, which are the general terms of the engagement between the Town of Hudson, hereinafter called the "client," and Vanasse Hangen Brustlin, Inc. (VHB).

**PART I**

**TRANSPORTATION PLANNING SERVICES**

Vanasse Hangen Brustlin Inc. will develop a town-wide traffic impact fee system for the Town of Hudson that will be designed to be easy-to-understand and easy-to-use. The system will provide a table with fees for a wide range of development types (retail, office, residential, etc.) in a report form as well as an electronic EXCEL Spreadsheet. The electronic spreadsheet provides a simple and easy way of applying annual inflation adjustment factors.

The work effort includes an initial meeting with the Planning Board to ensure that town officials fully understand this particular methodology prior to proceeding to develop the full impact fee procedure. The work effort associated with developing the impact fee system would follow the initial meeting. The specific tasks to be conducted are as follows:

- VHB will attend an initial Planning Board meeting with the purpose of reviewing the project scope, schedule, and methodology prior to developing the new procedure.
- Upon concurrence of the methodology, VHB will conduct a field reconnaissance of the town roadway system with the purpose of noting typical travel routes through various sections of the town as well as note traffic flow constrained areas. The information will be used to determine average travel distances for future land use within the community.
- VHB will use available base mapping provided by the town to develop graphics that will be used to delineate traffic impact zones.
- VHB will review the costs of recent roadway construction projects within the town to determine the most up-to-date and appropriate average cost per lane mile. The costs of recent town roadway projects are to be provided to VHB by the town.
- VHB will estimate total daily vehicle trips for a wide range of land uses. Adjustment factors will be established and applied to account for multi-use trips.
- VHB will establish an acceptable operating condition and traffic volume level that will be used as the effective carrying load of a travel lane within the town.
- VHB will estimate an appropriate credit to account for any potential double counting of property owner funding of future traffic improvements.
- VHB will prepare an impact fee table, both in paper form and in the form of an electronic spreadsheet. The spreadsheet will be designed so that the impact fees can be adjusted annually for inflation.



- VHB will review the town's current impact fee ordinance language and in consultation with the town's attorney suggest any potential modifications to the language needed as a result of the updated system. Note that the town would be responsible for having its own attorney review and finalize the specific ordinance language.
- A concise draft report will be prepared for review by town officials. The report will include the impact fee table, a traffic impact fee zone map, and a summary of the impact fee methodology, including all backup calculations.
- VHB will meet with the Planning Board to present and discuss the new traffic impact fee system. We also anticipate the need for up to two (2) working meetings with town staff throughout project.
- After receiving input on the draft report, a final version of the report will be prepared.

**SCHEDULE**

VHB anticipates performance of services to be completed within 8 to 12 weeks. VHB will begin performance of the above services on the date written authorization to proceed. The schedule is also subject to timely delivery of information promised by the client and is exclusive of client review of interim products and time required to schedule and hold meetings. If the client requests that work under this Agreement be stopped, the schedule is subject to renegotiation when written authorization to proceed is received.

**COMPENSATION**

VHB will perform the Scope of Services contained in this Agreement for a Fixed Fee for labor and expenses of \$18,000.

Should work, beyond the tasks described in the agreement, be required, VHB will prepare a proposal or amendment that contains the scope of services, fee, and schedule required to complete additional requested tasks.

**VANASSE HANGEN BRUSTLIN, INC. AUTHORIZATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CLIENT AUTHORIZATION**

The Town of Hudson agrees with Part I which includes the Scope of Services, Compensation, Schedule, and Part II, Terms and Conditions of Agreement (attached hereto and acknowledged as being received). Together they constitute the entire Agreement between Vanasse Hangen Brustlin, Inc. and the Town of Hudson.

Fixed Fee for Labor and Expenses: \$18,000

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



# **Review Cost Estimate to Complete an Update of the 2000 School Impact Fee Study**

Staff Report

May 22, 2013

At the April 24, 2013 Planning Board meeting, the board requested staff to seek a cost estimate from Bruce Mayberry, relative to updating Hudson's 2000 School Impact Fee Schedule, and for this RFP to include the following analysis and updating elements: present and projected school enrollment, the town's Kindergarten enrollment policy, school generation per unit, space requirements per student, state funding, and cost of new construction. To the effect of the foregoing, staff communicated with Bruce Mayberry, as cited in the below emails. Please note, as of this writing (Fri. 05/17/13 2:00 P.M.) staff is awaiting Mr. Mayberry's cost estimate. If received on Monday or Tuesday of next week, I will email it to board members. Otherwise, it will be presented at the meeting, together with an appropriate DRAFT MOTION(S).

May 2, 2013

Bruce C Mayberry Planning Consultant  
49 Pineland Drive # 202b  
New Gloucester, ME 04260-5134

## **RE: Update Hudson, NH 2000 School Impact Fee Study**

Dear Bruce:

On behalf of the Town of Hudson, and by action of the Planning Board, I would like to respectfully request a cost estimate and schedule to complete an update of Hudson's 2000 School Impact Fee Schedule, and for the update to include analysis of the following elements: present and projected school enrollment, the town's Kindergarten enrollment policy, school generation per unit, space requirements per student, state funding sources for new school construction, together with the square foot cost for such construction.

Please note, the Town is aware that this request, in the least, is several years overdue, but now firmly believes that it is imperative to complete the update as expeditiously as possible. This is taking into consideration the recommendations of Russ Thibeault, as outlined in his attached report on the collection of School Impact Fees for 55+ older person's housing developments in Hudson, and also, Town Counsel, Atty. Steve Buckley's legal opinion on this matter. For your reference, both of their documents are attached, together with their respective attachments.

If you have any questions regarding this request and/or need additional information, please feel free to contact me, via phone or email, whichever you prefer. In the meantime, again, on behalf of the Town of Hudson, I appreciate your consideration in providing the aforementioned cost estimate and completion schedule, and look forward to hearing from you.

Sincerely

John M. Cashell  
Town Planner



Community Development Department  
Town Hall  
12 School Street  
Hudson, New Hampshire  
[jcashell@hudsonnh.gov](mailto:jcashell@hudsonnh.gov)  
Office (603) 886-6005  
Fax (603) 594-1142

John -

Received your email request and will follow up next week. Many of these systems have aged considerably, and it is good you are looking at updating. Will talk with you soon.

Bruce

Bruce C. Mayberry, Principal  
BCM Planning, LLC  
49 Pineland Drive - Suite 202B  
New Gloucester, ME 04260  
[bcmplanning@securespeed.us](mailto:bcmplanning@securespeed.us)  
Cell: (207) 749-5217  
Office: (207) 688-8433

# Discussion on the Industrial (I) Zoning District

## Staff Report

May 22, 2013

This item was deferred from the April 10, 2013 Planning Board meeting, and is a continuation of the discussion concerning the content of the April 10<sup>th</sup> staff report, which included:

- 1) The possible renaming of the Sagamore Industrial (I) Park to possibly the Sagamore Research and Development Park, Sagamore Commercial Park or Interchange Overlay District, etc.
- 2) Review of the uses allowed in the I and B zoning districts (Tables of Principle and Accessory Uses are attached).
- 3) For this meeting, Selectman Maddox was going to report on the progress of the Flagstone Drive road improvement project, which is presently under construction by the Highway Dept.
- 4) In my spare time, staff has been trying to recruit companies to locate/relocate in Hudson. Working with Board of Selectman Chairman, Rick Maddox, and Planning Board Member, Jordan Ulery, one example on this effort includes the attached letters sent to and received from Colt's Manufacturing Company LLC, together with attachments that followed-up as a result of the rapport staff has established with Mr. H.W. Taggart, Program Director, Colt's Manufacturing Company LLC. Note: all of the aforementioned letters and website information about Hudson and the State of New Hampshire are better presented in the email version of this staff report.

NOTE: The below information was included in the April 10<sup>th</sup> staff report on this item, and is provided, herein, simply for reference.

In order to implement the above-cited zoning district re-designation involves changing the I to the preferred designation in the Principal, Accessory Uses and Dimensional Tables, as well as any references of the I district throughout the Zoning Ordinance. Since the Zoning Ordinance is completely digitized, said changes would be relatively easy to implement. Please note further, none of the uses within the use tables would have to be changed.

Please note, the Town's Zoning Map can be viewed on the Town's website as follows: from the homepage, under the "**Departments**" tab, scroll-down to "**Community Development**" and then on the left column click "**Zoning Ordinance**" and on the next page you'll find the current **Zoning Map, Zoning Map with Streets and the Zoning Ordinance**. The Zoning Maps have not yet been amended to include the March 2013 Town Meeting rezoning results.

In closing, the above matters are provided by staff for review/discussion purposes only. Any discussion on same that may occur at the meeting, and any possible action taken by the board on same can be decided on Wednesday night. Please note, if the zoning change is moved for action, the appropriate public hearing would be held later in the year. Perhaps, in September, followed by a Warrant Article included on same for the March 2014 Town Meeting.

DRAFT

## F. 25 Constitution Drive (Map 170, Lot 38) - Corner of Constitution Drive and Wall Street

Chairman Maddox to recognize Attorney Brad Westgate and Jeffrey Merritt.

Thank you very much Mr. Chairman. Good evening members of the Board. My name is Brad Westgate. I'm a lawyer with Winer & Bennett in Nashua. I represent John Jack Jamer. He owns the industrial lot at 25 Constitution Drive. I appreciate the time you've give us to speak with you this evening and we'll be efficient as possible with your time. We're here at the request of a letter I sent to the Town Administrator on April 23, 2013 asking to come before you tonight to discuss and really introduce the concept of potential improvements to the portion of Wall Street which would provide access to 25 Constitution Drive and whether there were potential funding sources for those improvements. We're here Mr. Chairman really as a result of an upshot of discussions that were held at a Planning Board meeting on March 27<sup>th</sup>. At that Planning Board meeting, we started our non residential site plan review for a proposed industrial building. Mr. Jamer desires to construct at 25 Constitution Drive. It's a vacant lot presently. Towards the close of that meeting, there was discussion about the access to the property, its frontage on Constitution Drive and Wall Street, and the potentiality of improvements to this section of Wall Street. I know the Chairman was of course attended that meeting at the Planning Board and will have an opportunity and am sure will elaborate on some of those discussions that came out of that meeting. So party to explore this idea with you and also as a courtesy follow up to the Planning Board we request that we come before you tonight to talk about this concept.

Attorney Westgate handed out two hand outs Mr. Chairman that all the members have. They're really pretty simple and if I may just note them briefly and walk you through the chronology of how we sort of got here. The plan that I have, there's 2 pages to it. The cover page is a recorded plan at the Registry of Deeds - Plan 30872 and highlighted in green is 25 Constitution Drive. It's known as Lot 18-9 on that plan. If you notice on the plan you'll see that Constitution Drive itself runs east/west horizontally on the plan. You can see that this lot fronts Constitution Drive. You'll also see the beginning of Wall Street running northerly. The north arrow is upside down if you will on this plan - running northerly from Constitution Drive curving along Mr. Jamer's property also the property fronting that section of Wall Street. Unfortunately there's a little more to this than meets the eye by merely looking at this plan. Just to note, the second sheet of this plan is the master site plan sheet from the site plan package we have pending before the Planning Board. I'm not going to get into that detail at all. Just so you had a sense of what's being developed. That one, the north arrow, is up. So you have to flip flop your viewpoint when you look at the second sheet.

Attorney Westgate just to give you a sense of the dilemma and your take on possibilities visa vie Wall Street. In this chronology the page and a half that I handed out if you could follow that with me just for a moment or two. In July of 1988, this Unicorn Industrial Park subdivision was first approved by the Planning Board and a Plan was recorded back in July of 1988. About 4 years later, the plan was revoked. The subdivision plan was revoked because of the failure by the developer to post the bond necessary. So the subdivision plan effectively was voided out. The property languished and in 1998 the Town actually took title to Unicorn Industrial Park which some of not all of you will remember. The Town owned the property for a couple of years and in early 2000 the Planning Board approved a new subdivision plan for Unicorn Industrial Park. Really reflected the same layout that the old plan had in terms of the road system. December of that year, that plan was recorded. That's the plan that I just spoke of and you each have a copy of that cover sheet. Right on that same day, the Town - again the owner of the property at the time Unicorn Industrial Park was approved and recorded, the Town sold to Mepps Development, LLC, 10 of the 12 lots all but really the front two lots, including the lot that Mr. Jamer now owns. The developer Mepps then posted a Letter of Credit with the Town to guarantee completion of all of the improvements required by the Planning Board on the plan. So that would mean the construction of Constitution Drive as well as this section of Wall Street shown on the plan. Mr. Jamer bought his lot in March of 2004 at the time the Letter of Credit was still in place. Other lots had been sold before that in 2003 and then later in 2004, the remaining but one lot was sold. During this 2003/2004 timeframe, various parties bought the lots in Unicorn Industrial Park including Mr. Jamer the Letter of Credit being in place.

Attorney Westgate stated the last Letter of Credit that was posted was dated October 19, 2005 by Stoneham Bank and it was under the so-called Hampton form of Letter of Credit which essentially said that if improvements guarantee by a Letter of Credit weren't completed by the time the Letter of Credit expired, it was supposed to be paid out to the Town for the Town to be able to complete those improvements. That Letter of Credit contemplated the expiration or payout on June 8<sup>th</sup> of 2007 but for whatever reason, the payout was never done. No other Letter of Credit was ever placed. It expired apparently without being called. Around the same time as best I can determine, Constitution Drive was accepted as a town road. So Constitution Drive was deemed built to town standards and currently exists as a formally accepted town road. This section of Wall Street was never accepted on a formal basis by the Town or the Board of Selectmen. Pavement is laid down, a base course, but it's really been an unused state. It now has overgrowth to it but that base work was originally done. We fast forward to this past March as I mentioned, Mr. Jamer has applied for non residential site plan approval for his industrial building. We are discussion with the Planning Board a couple of zoning and land use questions pertaining to this lot and in particular Constitution Drive and Wall Street. I don't want to bog this discussion down with those details. It's not the time or place for it. Suffice it to say, the Planning Board has raised questions as to whether this lot is deemed to have appropriate frontage on a town road or a Class V or better road to be a conforming lot if you will upon which a building could be constructed.

Attorney Westgate indicated that Mr. Jamer bought this lot at fair market value. He bought it as a conforming lot. A variety of other lots were certainly bought in the Industrial Park prior to Constitution Drive being accepted. Various ones of them have been developed, have buildings on them. Mr. Jamer's remains vacant. We're sort of between a rock and hard place in the sense that Constitution Drive's frontage has an issue because of wetlands along the front. Wall Street's drive frontage has an issue because of its status as not being yet a town accepted road. That's the matter of zoning and land use that we discussed before the Board. That lead to the discussion at the end of the Planning Board meeting of about 6 weeks ago as to the concept of well perhaps improvements to Wall

Street could be made to a condition that would permit it to be used for access for Mr. Jamer's property. He would be presently the only property access off it and the notion of coming to this Board to talk about that idea, and potential funding sources resulted.

Last thought, when Attorney Westgate wrote the letter on March 23, the research at that point in the records had indicated that there was believed to still be about a \$7,500 contribution made by one of the other property owners in Constitution Drive which we had thought could be potentially used as some of the funds for some improvements to Wall Street for this purpose. There was also some possibility of around \$4,100 perhaps being also available. That one's never certain to me. I have just found out that I guess there is no funds whatsoever left for this possibility collected by Unicorn Park property owners. I gather that those monies were used apparently on some Clement Drive improvements from what I understood. I came here thinking there was some money in the kitty. I come here tonight being told there was no money in the kitty. Certainly what we would contemplate is that Mr. Jamer would make a contribution towards these improvements in the amount of \$7,500 seeing as a potential number to at least consider. That's a discussion for us with the Planning Board a well. That's the state of affairs as we speak. Again, we appreciate the time you've given us. I know I'm coming here with somewhat of an indefinite state of affairs to put before you. It was suggested at that Planning Board meeting that we introduce this concept and really I guess we're perhaps looking for some initial thoughts from this Board as to the notion of improvements to Wall Street and whether possible funding sources towards those improvements may exist. Thank you so much Mr. Chairman.

Selectman Coutu said to the Chairman you've been at all the Planning Board meetings. I've watched them. I've watched this debacle with Wall Street for the past two years. There's no doubt in my mind that the owner has a hardship case. What I'm asking number one is why specifically did the Planning Board send you here? What did they expect us to do? Attorney Westgate said he'd try to articulate as best I can. The idea developed at the Planning Board that if Wall Street, again it's what lawyers call "dedicated road but not accepted". Meaning the public has the right to travel on it by being dedicated as a recorded road on a plan. The Town has no obligation to accept it because it's not built to town standard yet. So the idea was perhaps if there were some funds available it could be improved to a point that it was appropriate access to Mr. Jamer's property on the one hand but he not being that it is a dedicated road, he not be fully obligated to pay for all that improvement frankly because of the past history, the loss of the letter of credit without it being finished, and the need to somehow solve this issue of having a lot that has frontage on two roads but is falling through the cracks in terms of its develop ability. I guess that's at least my take of why the Planning Board we may be here. I looked at the Chairman as to whether he elaborates on that has a better sense than I.

Chairman Maddox said that as your representative to the Planning Board, it was actually me that sent him here because they were dealing with a road that ultimately is ours. It was really beyond the Planning Board at that point. They could ask the Planning Board but it really comes down to this Board as to the road itself. I was under the mistaken impression that there was monies available. I guess they've been taken to trim trees on Clement Road or some other use that was unknown to me at that time. I thought that there was like \$15,000 available for doing something with the road. I did get an estimate from the Road Agent to do this of \$26,200. I thought that we were in the ballpark but now we've now found out that that money is not there. I guess my one question would be is why weren't we sent a check. If this was a Hampton Letter of Credit and we did not show that the work had been done, a check should have been sent for that amount of money. I guess I'm kind of wondering why we don't at least research where that went.

From what Selectman Coutu understands Mr. Chairman based on the discussions that you've had, I realize that Wall Street is merely a paper street but it doesn't meet the width requirement that we require so it would have to be fanned out if I'm not mistaken. Chairman Maddox said right. The \$26,000 that I got from Kevin was to basically grind up what's there, widen it, do whatever appropriate as far as underlayment and all of that and base coat, final coat, landscaping and whatever else the whole total and I have it here. I can pass it around. Selectman Coutu said if that were to be done or if we were going to move in that direction first, we'd have to accept it. Chairman Maddox indicated that first we have to get the work done then the Town can accept it. Selectman Coutu didn't know which order you were going to take it. I hate to do all the work and then have the Town not accept it. That's the procedure, that's the procedure.

The other thing Selectman Coutu asked are we talking about doing all of Wall Street all the way down. Chairman Maddox said no. If you look at your map that you were provided, it's going from Constitution Drive to the end of the green parcel where it says "Wall Street presently right now there are some boulders across there". That work is only for that section that is adjacent to the green. Selectman Coutu indicated that it would be a dead end street. Chairman Maddox said it will be a dead end street but what the Road Agent told me was that he would be able to hand snow removal on that because they use a pickup truck presently to do that whole park because the police station is there and everything. It would not be an issue. They wouldn't have to put a dedicated turnaround.

Selectman Coutu said it appears based on what you're saying that Mr. Jamer doesn't have any money to contribute to doing any portion of this himself. He's lost money in the process. Is that my read? Am I correct? Attorney Westgate said no. He would make a contribution in the number of around \$7,500 was talked about late in our Planning Board meeting. Selectman Coutu said he would not hold him to that. Attorney Westgate said it seemed like an appropriate range given what the last contribution was made by a similar lot owner.

Selectman Luszey asked what the tax revenue implication if we don't move forward with it. Right now it's an undeveloped lot correct? Selectman Coutu said right as opposed to being developed. Do you know the square footage of the plan? Chairman Maddox indicated 10,000 square feet. Attorney Westgate indicated the proposed building would be 10,000 square feet whatever that would be industrial assessed at. Selectman Coutu said significant. Selectman Luszey said the payback is in almost months not including the - I don't know what's going there but I'm sure there's permanent jobs going in there in an industrial building. It's economic growth for us. Chairman Maddox said that's an avenue that we can certainly take a look at. You did get another hand out from Century Park. I don't want to

# DRAFT

cloudy the water but I did want to make sure that everybody at least saw that. This is really about Wall Street. His issues are really with the Planning Board and its continued presence before them. This is about Wall Street. If anybody would like to have any questions of Mr. Wolters, he is in the audience. This is, again, the infamous Mr. One allowed this work not to be done as part of this development. Wall Street was part of the layout. You're looking at what was recorded. That road should have been built to town standards before the bond was released. So how and who of course into the dusk. I think there is some responsibility to get this done.

Selectman Coutu said he didn't disagree with Mr. Chairman. Chairman Maddox asked the Board if they were amenable to working with this client to do something. The \$7,500 may not be the magic number for them. Is the Board willing to consider doing something with this road to get it built to town standards? Do we have other questions that we may want asked? I asked Kevin Burns a couple of months ago to take a look at that just so I would have some idea of what we were talking about with a \$50,000, \$100,000 and that's the number he came up with. That includes a gate that I think we have somewhere else putting that in so that the rocks would go away so that the Fire Department would have a second means of egress into that park if something was to block the end of Constitution for some unknown reason. It is our public safety facility.

Selectman Coutu said we can sit here and talk about it all night. I think we're on the same page. As Selectman Luszey stated that the development of this property will bring additional jobs to the Town of Hudson. It will generate a greater tax revenue. I think it will almost pay for itself after the first year. I think there's a distinct and clear hardship for this gentleman to be able to develop this property as long as Wall Street remains in the condition that it's in. It's been a bone of contention with the Planning Board. Basically it's not necessarily a bone of contention; it's the reality that Wall Street has never been accepted. It doesn't meet the standards of acceptance. I would fully support any motion that would, and Mr. Wolters I want you to know that I read your letter thoroughly. I listened to you time and again before the Planning Board. It's not a question of whose right or who's wrong here. We have an obligation as a town to eliminate hardships for people who wish to develop their property. We've been good in that direction in the past several years. I'm very proud of the Town for taking those things into consideration. This man faces a serious obstacle. I hate to see this land go vacant and he just turn around and sell it and somebody just throws up a coffee shop in there or something cuz there's nothing else he can do with it. Considering all aspects of approving the Town moving in the direction of working with the client and see what we can work out with them, I think is a good idea.

Chairman Maddox thought they should at least do some research into why the Letter of Credit wasn't where it is. Again if it was a Hampton Letter of Credit unless somebody from the Town said we're all done, they should have sent us a check. That's the part I'm confused by. Did you do any research on that Attorney Westgate? Attorney Westgate said he just had copies of the Letter of Credit but I don't know its disposition. I'm sorry. Chairman Maddox indicated it would solve the whole problem. Probably slim but again I think if it says what it says it is, they have an obligation. If they don't have a letter from the Town, to send us a check.

Selectman Luszey saw no reason why we can't move forward and ask the Town Administrator to work with our attorney to go after and find out how to collect that fee.

*Motion by Selectman Luszey, seconded by Selectman Coutu to ask the Town Administrator to work with the Town attorney to go after and find out how to collect that fee, carried 4-0.*

Chairman Maddox said he would suggest that we ask Mr. Burns to flush that number out. I just called him and said on the fly what would it take and then come up with some sort of split and see if we can get the applicant to fund a portion of that. Again, they would have been paying \$7,500 anyway as part of the offsite improvements as everybody else in that park has pretty much paid.

Selectman Coutu asked if they should involve Mr. Cashell in this process and once we get the finite figure from Mr. Burns have him work with either the client's attorney and Mr. Cashell to try to work out some of the details and have Mr. Cashell bring a formal presentation to us on Wall Street. Chairman Maddox thought that sounded like a plan that will move this along. Again we're not opposed. I think it's a function of there are some unknowns. I think that we have to find out some information before we give you a number that we're saddled with a bigger percentage. Whatever it may be. I think that firming up that number, and doing some research, and then getting back through Mr. Cashell the Town Planner to you and your client and take it from there. It's not the answer you wanted for the next Planning Board meeting but it's at least moving forward.

Attorney Westgate said he appreciated that. It does give us some detail we can report to the Planning Board next Wednesday night. I appreciate that. I'm sure Mr. Burns will be in the loop of this whole analysis as well.

*Motion by Selectman Coutu, seconded by Selectman Luszey, to ask John Cashell to work with the Road Agent and Mr. Jamer relative to the construction of and acceptance of Wall Street.*

Selectman Luszey thought that should satisfy the Planning Board's needs that we're going forward with it. Chairman Maddox said right but they still don't have a street to put their building to. Attorney Westgate said they recognize that that's a Planning Board, land use issue that we still have to work through with them. Chairman Maddox said you might just defer the Planning Board. Attorney Westgate said he was not sure yet. We'll go next Wednesday night clearly to report to them where things stood from this evening and see where it leads on that.

*Vote: Motion carried 4-0.*

Just for the record, Attorney Westgate indicated that Jeffrey Merritt was with me at the table and Mr. Jamer was in the audience.



Selectman Luszey had a question. It sounds like we're going to make this road approvable and by default did we just approve the road given that we're going to improve it. Chairman Maddox said no. We're going to do the research to find out what the costs will be, whether they're willing to share in those costs, and then make a decision whether we're going to do the work which then will give them an approved road. Selectman Nadeau said that's the way I see it.

A question or concern that Selectman Nadeau said were brought up many years ago was opening up Wall Street all the way down to 111 as a second means of egress for the Police Department and the other activities that go on up there. I'm wondering where we went when this was talked about in the past. I don't remember if the Planning Board had anything to do with leaving the road closed. Chairman Maddox said it will be another half an hour discussion of the legalese of who owns Wall Street. I don't think we want to get into that. There is discussion with Century Park about actually doing something with Hudson Park Drive. That was the intent was to take Hudson Park Drive bring that out to 111 to a signalized intersection. There is still ongoing discussions. Unfortunately the money that we had got evaporated by other projects. It is something that is still being talked about. We have 3 lawyers and 3 opinions. So we could pave it with all the legal opinions we've got so far. At this point, I think that we will continue to have Mr. Cashell try to do something with Hudson Park Drive. There is more and more businesses going in there. It would make more sense safety wise to be able to bring the traffic out to a signalized intersection as opposed to Clement Road. The owner of Unicorn Park is here. He can speak for himself. They have private water and sewer in there. It's something they would like to probably have the town accept at some point. There are some discussions back and forth. I don't think at tonight's meeting we want to get into that. It's something that we can certainly bring back at a later date when things become more solid.

G. Hudson Train Depot Relocation and Restoration Project

Chairman Maddox to recognize Town Engineer Patrick Colburn.

H. Contract Award - Zach Tompkins Field - asbestos remediation and relocation project

Chairman Maddox to recognize Town Engineer Patrick Colburn.

*Motion to award the bid to Jay-Mor Enterprises, Inc., the lowest bidder for the Zachary Tompkins Memorial Field Asbestos Remediation and Relocation Project in the base bid amount of \$448,558 and the Alternate #2 in the not-to-exceed amount of \$74,304 for a total award of \$522,862 as recommended by the Town Engineer.*

I. Groundbreaking Ceremony - Hudson Senior Center/HCTV Facility

Chairman Maddox to recognize Town Engineer Patrick Colburn.

J. Fire Department - Posting for a Full-Time Fire Dispatcher

Chairman Maddox to recognize Fire Chief Shawn Murray.

*Motion to approve Chief Murray's request to post for a Full-Time Fire Department Dispatcher.*

K. Update on Inspectional Services

Chairman Maddox to recognize Fire Chief Shawn Murray and Deputy Chief Rob Buxton.

L. Inspectional Services

Chairman Maddox to recognize Fire Chief Shawn Murray and Deputy Chief Rob Buxton.

M. Community Development Renovation

Chairman Maddox to recognize Fire Chief Shawn Murray and Deputy Chief Rob Buxton.

N. Workflow Improvements

Chairman Maddox to speak on this item.

O. Request for Proposals to provide Labor Legal Services