

TOWN OF LOUDON
LOUDON, NEW HAMPSHIRE

DRAFT

PLANNING BOARD MINUTES
OF SEPTEMBER 20, 2007

Meeting called to order at 7:00 p.m. by Chairman Tom Dow.

Attendance:

Chairman Tom Dow, Vice Chairman Stanley Prescott, Tom Moore, Henry Huntington, Steve Jackson, Ex-Officio Dustin Bowles, and Alternates Bob Ordway and Jeff Green were present. Alternate Bob Ordway was appointed to sit in the absence of member Gary Tasker.

Acceptance of Minutes:

August 16, 2007 Public Hearing Tom Dow referred to page 8 of the minutes, last paragraph, where Gary Tasker made an amendment to his motion. Mr. Dow said he thought that Mr. Tasker's intention was to be able to review the road each time an application for this property came before the Board, not review the hours as written. Mr. Dow said this was based on Mr. Bowles's and Mr. Tasker's remarks just prior to the amendment about looking at the road issues each time any further development is proposed to the property. Donna will review the tape of the last meeting and make changes if necessary. *Dustin Bowles made a motion to table the minutes until the October meeting to allow for clarification of Mr. Tasker's motion; seconded by Steve Jackson. All were in favor.*

September 10, 2007 Work Session *Dustin Bowles made a motion to approve the minutes; seconded by Steve Jackson. All were in favor.*

Discussions:

Dan Aversa/Wellington Lane – Mr. Aversa informed the Board that he has submitted an as-built plan, a corrected punch list, and a bid from Suburban Paving for \$36,500 to finish the top coat, all as part of his request to reduce the bond on the subdivision. He said this would bring them down to \$32,500 if Tony Puntin agrees that everything is in good shape. The Board agreed that a meeting with Tony Puntin would be in order before acting on the request for bond reduction. Donna will arrange this meeting with Mr. Puntin and report back to the Board and Mr. Aversa.

Dan Aversa/Loudon Woods Estates – Mr. Aversa said he would like to discuss the note that was placed on the plans of his recently approved subdivision at Bee Hole and Chichester Roads. The note reads that no lots can be sold until a bond is in place for the construction of the new road. Mr. Aversa said that he was talking about new lots on the new road, not the lots that will be on the existing roads, when before the Board and going through the approval process. Dustin Bowles said the note means all lots in a subdivision. Mr. Aversa asked what purpose that would serve. Mr. Bowles explained that the purpose of the note is to protect those who buy the lots from being stuck without a completed road. Mr. Aversa asked how that pertains to the lots that are not on the new road. Mr. Bowles said the note is for the entire subdivision. Mr. Aversa said he felt that the purpose of the note is for the lots on the new road. He said he is trying to work together and get the work done. He said he is required to do some major offsite improvements for this subdivision and it makes no sense in not being able to sell some lots to help cover the costs of those improvements.

Steve Jackson said that he understands that they would want to be sure the road is done to town standards before a homeowner takes possession of a new home on the new road. He said that he feels that it would be all right to sell any lots that have been created by the subdivision on an existing road as long as the offsite improvements get done. Dan Aversa said that the improvements would be done and he cannot see them being held hostage for that. He said they are in the process of getting ready to do the improvements. Dustin Bowles said the Board is not in the business of making the applicant money. Mr. Aversa said that he realizes that. Bob Ordway asked how many lots were in question. Mr. Aversa said there would be four lots on Chichester Road and two lots on Bee Hole Road that have existing town road frontage. He said that the note could be misconstrued and he wants to straighten it out because it should only apply to the to-be new road. Tom Dow said that meeting minutes from last month refer to both roads. He said he can see Mr. Aversa's point but he would not be in favor of giving any lots on the new road.

Mr. Aversa said that he has talked with Attorney Simon Leeming and was told that if he ever sold a lot on the to-be new road, he could put a note in the deed that the home could never be started or constructed until the road was to binder and that would protect the town. Dustin Bowles said that would just add more misery to what they already have to deal with. Tom Dow said the Board is already stretching it out now. Mr. Aversa said he is not asking for that, he is only asking to be able to sell lots with legal town frontage. Steve Jackson said that they would have to refer to specific lots with the note. Dustin Bowles said that notes would have to be added to the plan and until the work on Bee Hole is done, he would not be willing to change anything with those lots. Stan Prescott pointed out that there will be work done on Chichester Road as well. Steve Jackson said he would not think that the lot on the corner could be sold because of the road changes, but the others on Chichester Road might be considered. Mr. Aversa said there are four lots, one with an existing house, on Chichester Road and two on Bee Hole Road. He said he is not sure how the intersection repairs come into play with what he is asking, but he would be content with being able to sell the three lots on Chichester Road. Bob Ordway said he would agree in that he does not see any reason to hold those lots since they are developable and those lots would be usable even if the new road was not planned. Dan Aversa said that was an excellent point. He said he has already agreed to do the offsite improvements and he does not see how the Board can control the developer by not letting them sell the lots on existing town roads. ***Henry Huntington said he would agree and that he would move to allow the three lots (Lots 10, 11, and 12) with driveways on Chichester Road to be exempt from the 'Wellington note'. Bob Ordway seconded the motion.*** Mr. Aversa said that while on the subject, he would like to get it straight that once the work is complete on Bee Hole that would open up the three lots on Bee Hole.

Stan Prescott pointed out that this is a discussion and is not binding. There was discussion about making the change to the note on the recorded plan, about the motion, and procedure. It was stated that a new page with the revision to the note would need to be recorded. Mr. Prescott said he thought that the Board was out of line and referred to page 16 of the Land Development Regulations. He said the change would require abutter notification and an amended application for subdivision and that the applicant would have to come back next month because this would be changing the subdivision. Henry Huntington said he thought that the Board has done this numerous times in the past. Mr. Prescott said that may be but it does mean that it was right. Steve Jackson asked if the Land Development Regulations are law. Dustin Bowles said they are not. He said the Board can get in trouble if the procedures are not followed and that the intent was that all lots are included. Steve Jackson said that would not have been his intent. Mr. Bowles said that the note does not say that and he does not want to see the Board get into trouble for making changes. Mr. Jackson withdrew his support based on Section 11.2 of the

Land Development Regulations and recommended that the applicant come back for a public hearing.

Chairman Dow repeated the motion. *Yes – Henry Huntington, Bob Ordway; No – Steve Jackson, Tom Moore, Stan Prescott, Dustin Bowles. Yes – 2; No – 4; DENIED*

Dan Aversa said he would like to free up the lots on Bee Hole Road once the road improvements are done. He asked if all of the lots could be done at the same time. Dustin Bowles said he does not have a problem with that. Mr. Aversa asked if he could do that when amending the note for the three lots. Tom Dow advised Mr. Aversa to come in with a note of exactly what he is requesting. Dustin Bowles said he would prefer two notes, one for Chichester Road and one for Bee Hole Road. Mr. Aversa said he will get the request to the office.

Alvin Davis/Memory Lane – Mr. Davis informed the Board that he would like to phase in the pavement on the new road of his subdivision on Lovejoy Road. He said that he would finish to the cul-de-sac this year, creating a double hammerhead turnaround, and then complete the cul-de-sac in 2008. Mr. Davis said he has 2008 building permits for some of the lots. He said he is running out of time to get the whole project done before winter. He said he will get enough of it done so that there is ample turnaround area for fire trucks and that he will be maintaining the road. Mr. Davis said the conduits are done and the entire roadway has been stripped. He said that it is very soft sand in the area so that is why he is proposing to put gravel down for the turnaround at the beginning of the cul-de-sac. Mr. Davis said it is likely that only the two corner lots will be built this year. He said that he can have a bond in place with a letter of credit for \$150,000 within 24 hours, noting that quite a bit of the work has already been done. Chairman Dow said it would be good to get the bond in place, knowing that Mr. Davis wants to get some lots sold. Mr. Davis said all he is asking right now is to phase in the pavement. He said that he has not requested any building permits for the lots on the cul-de-sac. Tom Dow asked how many permits are currently held for the subdivision. Mr. Davis said that Lot 1 has a 2006 permit and Lots 2, 3, 14, and 15 have 2007 permits.

Steve Jackson asked if the fire cistern is required before any Certificates of Occupancy are issued. Mr. Davis said that the cistern would be required for the entire subdivision if four or more lots. Dustin Bowles stated that it has to be in before any Certificates of Occupancy are issued. Mr. Davis said that he will have to have it in place if that is the requirement. He said he will carry the gravel all the way to the cistern.

Dustin Bowles asked if they would need an amended plan because the power was brought in different from the original plan. He noted that the power comes in from Batchelder Road between a couple of the lots instead of from Lovejoy Road. Mr. Davis said the power is off the right-of-way where there is already an easement. He said that the easements will be in the deeds for those lots. Mr. Davis explained that PSNH had arrived onsite before he did and they drove a stake on the Halvorsen property for the pole placement. He said that another neighbor, Mrs. Butterfield, arrived shortly after Mr. Davis got to the site and gave the PSNH employee a bad time. Mr. Davis stated that Mrs. Butterfield told the PSNH employee that he was to have given two weeks notice of the job and that he had no right to step on the property. He said he asked PSNH if there was another way to bring the power in and that he had paid an extra \$3,000 to \$4,000 to do it from Batchelder to avoid problems with the neighbor. Tom Dow asked if there would be poles on Batchelder. Dustin Bowles said the lines will be buried. Mr. Davis said that the easements will be in the deeds. Dustin Bowles said that Mr. Davis has to show this on as-built plans or somewhere. Stan Prescott said he agreed, noting that this is the same predicament with Mr. Aversa, this is non-binding discussion, and that Mr. Davis needs to come back to the Board with an application. Steve Jackson said that Mr. Davis is looking for direction. Mr. Davis said there is not time to come back to the next month's meeting and still get the paving done this

year. Dustin Bowles said they could rule on the pavement because the road is not being changed. Mr. Davis said he would have no problem coming back to the Board with an amended plan if the easements are shown on the original recorded plans. He said that he would check his plans at home because all he has with him are the roadway plans. Dustin Bowles said he would like to see the power in the road easement. Mr. Davis stated he could not have done this without an easement and he cannot transfer if it is not written in the deeds.

Jeff Green said that Mr. Davis could have his surveyor do a plan that shows boundaries of easements; then record it and give a copy to the town. He said he does not think it would have to come back to the Board. Chip Davis said he would be willing to come back with revised plans if the easements were on the original recorded plans. Dustin Bowles said that there would have to be a set of as-builts in the end. Tom Dow agreed. Stan Prescott said that when a surveyor puts their certificate on a set of plans, they are saying that there are no new lines or ways. He said that new lines are being put on this plan. Jeff Green said that he would disagree. He said that there are no new lines or ways because they would only be creating an easement that anyone could create with a deed. He said this would just be showing the easement and he has no problem stamping a plan that shows where an easement was created which has been done and deeded properly.

Tom Moore asked Mr. Davis if the hammerhead would be constructed according to the Land Development Regulations. Mr. Davis said it would be and he explained that there would be extra gravel to bring it up to the pavement level. He would then later use the gravel on the cul-de-sac. He said if he was going to put the cistern in, he would bring the gravel around even further. Mr. Moore said they have to consider snow removal problems. Mr. Davis said there will be no problem with this cul-de-sac because it is bigger than most. Steve Jackson asked to confirm that Mr. Davis is not asking the town to take the road until the cul-de-sac is completed. Mr. Davis said that was correct and that this is the same process that he did on Ilona Lane. He said there will be a binder coat and bond in place. Tom Dow reminded Mr. Davis that inspections are required. Mr. Davis said he has to call Tony Puntin to arrange for inspections.

Stan Prescott asked to clarify that Mr. Davis plans to do the main road and hammerhead in 2007 based on the plan that Mr. Davis handed out to the Board. Mr. Davis said he will make sure that fire trucks have a good sturdy turnaround. He said he would go right straight back through the cul-de-sac area with the gravel to where the cistern will be located. Tom Dow confirmed that the cistern will be in place. Mr. Davis said there will probably be only two houses but he will do the cistern. Tom Moore asked to confirm that Mr. Davis will be paving to Lots 10 and 11. Mr. Davis said he would be going to the edge of the cul-de-sac. He said he will ask the paving company what would be best. He said that Web Stout has done grade stakes at the site. Tom Dow said that Mr. Davis is not asking for any changes to the point where they need to have a public hearing. Steve Jackson asked if the note that requires the road to be put in or bonded means prior to a CO being issued. It was stated that it is before a lot can be sold. Mr. Jackson asked why Mr. Davis would need to be here if he has agreed to bond the project. The Board agreed that it was to be sure that his construction plan was acceptable. Tom Dow said that Mr. Davis will want to get his testing started, the cistern and bond in place, and he will be all set.

Old Business:

1. **Application # 07-03, Septic Disposal Solutions**-Major Site Development, Located on Dump Road, in the C/I District. Map 40, Lot 7. Jeff Green left the table because he is working on this project. Attorney Brandon Giuda said that he would like to address how the applicant would like to proceed. He said they are asking the Board to move forward with a contingent approval based on getting ZBA approval. Tom Dow

said the matter is in litigation according to today's Concord Monitor. Dustin Bowles confirmed that it is in litigation. Tom Moore asked how long that process might take. Mr. Bowles said it would be December before the first hearing. Mr. Giuda said the hearing is scheduled for December 10th. Tom Dow said for the Board to give any kind of approval right now, speaking for himself, is premature. He said if the approval does come in, there would have to be discussion on the roadway because of increased traffic, there may be more work to be done on the roadway coming down into the lot, and putting this business in there after this gets done he would think is putting the cart before the horse to even consider doing anything with a conditional approval. Mr. Giuda said they are not asking for conditional approval tonight. He said they are asking that the Board go with the law of NH and the law of the ordinance, which is what he would like to explain before Jenn McCourt explains the plan. He said they would ask the Board to consider the matter because they would like to move forward for approval, meet all the conditions that the Board puts forward, and move forward and not waste time. He said at the end of the process, if the court's decision has not yet been made, they would then ask for a conditional approval. Mr. Giuda said they would have Jenn McCourt speak with the Board's approval.

Steve Jackson referred to page 17, Section 11.6, of the Land Development Regulations, which states that all conditions must be met within 90 days of a conditional approval. He asked if it was thought that they are within the 90-day window. Stan Prescott said the Board should decide if they will hear any more information. He said he is not going to vote on a blank check before the ZBA acts and tells the Board of any conditions. Mr. Giuda said he would like to make the case as to why they would like to proceed. He cited two court cases, *Simpson Development Corp v City of Lebanon* and *Sklar Realty, Inc v Town of Merrimack and Agway, Inc*. After reading from *Sklar vs Merrimack*, Mr. Giuda pointed out that the Supreme Court says that you should move forward and avoid the wasteful requirement to start all over again. He also read from Section 11.6 of the Land Development Regulations, saying that the regulations say that the Board can do conditional approvals. He pointed out that if the applicant never meets the conditions, the approval lapses.

Steve Jackson asked how the Board can address this if the ZBA ruled on it previously. Mr. Giuda said they are two different things. Mr. Jackson gave a hypothetical example of a situation where the ZBA denied the application and asked how the Board could talk about it while it was before the court. Mr. Giuda said it easily could be done because no decision is actually made on it where it is in court. He said he believed they will prevail and would like to continue the process. Mr. Giuda said that the law allows and encourages this action; the town's regulations say that it can be done, and that is all that they are asking. He said he has found no precedent that discourages this action.

Tom Dow said that the ZBA has ruled. Mr. Giuda explained that when there is an appeal, there is no final decision. Mr. Dow said the Board does not have enough information and they have not yet accepted the application as complete, which they cannot do before having the approval of the ZBA. Mr. Giuda said that the regulations say that the Board should give conditional approval, as does the highest court in the state. Mr. Dow said they have not stopped the process; they are waiting for ZBA conditions. Mr. Giuda said they need to make the distinction on who puts conditions on site plans. He said that the ZBA has taken on the Planning Board role of conditions with special exceptions. He said it seems that there are some Planning Board powers being assumed elsewhere. He asked to allow Mrs. McCourt to show the revised plans and

consider the Planning Board issues while the ZBA considers just the zoning issue. Stan Prescott said that they need to determine the tank sizes in their zoning issue. He said the tanks need to be approved. He said without that information, the Board will not know the number of trucks coming in or what is going on. Mr. Giuda said they are providing the same plan that the Board has seen before and they are asking the Board to look at the plan and say yes or no to the different components. Mr. Prescott said they do not have the approval for the sizes of the tanks yet. Mr. Giuda said there is a difference between a request for a special exception and a request for a site plan review. He said the Board's job is to do site plan review. He pointed out that the town's regulations allow the Board to give conditional approval.

Stan Prescott said they stopped giving conditional approvals about three years ago because they were never getting taken care of. Steve Jackson said they have the right but do not like to give them. Mr. Giuda said that conditional approvals are a common thing and that the Supreme Court says you should not waste resources and start over. He said they are asking that the Board look at the site plan itself and not consider the zoning issue. Dustin Bowles said they have to consider the zoning issue because this is only allowed by special exception and that has not been determined yet. Mr. Giuda said the conditional approval would be contingent on the two special exceptions. He said nothing would happen if those conditions are not met, and he said they should not stop the process. Steve Jackson asked if they are fighting to have the case sent back to the ZBA to be reheard. Mr. Giuda said they are fighting the decision. Mr. Jackson asked to clarify that the court then had the right to send it back to the ZBA or overturn the decision. Mr. Giuda said the court has the right to do anything that they want. Mr. Jackson said that there may be conditions that are part of that decision either by the court or the ZBA that the Board would have to take into consideration prior to giving any kind of approval, conditional or otherwise. Mr. Giuda asked what that would be. Mr. Jackson said smell, filtration system, tanks, and ventilation. He said he is real hesitant to give conditional approval based on the court or Zoning decisions. Mr. Giuda said this application is about the site plan review, not inside the building. He asked that they not waste time by having them start over again. He said the plan has not changed and the applicant is asking to go forward. Dustin Bowles said this is the first time since he has been on the Board that the Board has been hung up on a conditional approval through a decision that has to be made through Zoning. He said that most of the things that they get hung up on with conditional approvals are things that are within the regulations and that have to be bartered back and forth with developers. Mr. Giuda said that the Board could give a conditional approval and would have to have a final hearing before anything could be done by the applicant. Bob Ordway suggested that the Board hear more discussion, make recommendations, and when done, unofficially agree that this is a good idea. Mr. Giuda said this is a public hearing and they would like a formal decision of what the Board likes, does not like, what they want to see, and he would like to continue the process. He said if it comes to a stage where they ask for a conditional approval then they would hope that the Board would vote on it but he does not feel that they are at that stage right now. Tom Dow said this is not a discussion phase, there have been state hearings, the Board has seen this application several times before, and he cannot see how things are going to change.

Dustin Bowles said they are at the point where the Board is ready to accept the application as complete but in order to accept it as complete it has to meet certain requirements. Brandon Giuda said that it meets the requirements of a major site development. Henry Huntington asked if all items on the checklist have been checked

off. Stan Prescott referred to page 15, Submission and Acceptance of Application, in the Land Development Regulations, Section 11.1 (g), noting that all special exceptions have not been secured from the ZBA. He said that the Board has told the applicant that they think the concept is good. Brandon Giuda stated that there is some disparity in the regulations, noting that they allow other boards' approvals to be outstanding while the Board conditionally approves it. Stan Prescott explained that the Board has stayed away from conditional approvals because things were not getting done. Mr. Giuda said that conditional approvals have been given by the Board, noting that this is a case where there would be one decision that would be outstanding. He said it is not like this case is under the radar screen and there would be no way for the Board to know if the condition was not met. He said they would like the Board to allow them to move forward and that the Board would know if conditions were not met should a conditional approval be given. Roy Merrill said that there is no disparity in the regulations. He said the applicant does not have Zoning approval. Mr. Merrill said until the court overturns that, it does not matter as there is a decision and there is no special exception so it is a moot point. Mr. Merrill said he thinks it would be foolish if the Planning Board considered this. Mr. Giuda said the Board can allow this with outstanding things from other boards. He said there is no decision in place when a case is appealed to Superior Court. Mr. Merrill said the ZBA made a decision and the ordinance says that nothing can be done unless the Board has that approval. Ned Lizotte said because there is no approval, he feels this is putting the cart before the horse and this would be a mixed message. He said one should be resolved before anything further is done and that would just be for clarity purposes.

Mr. Giuda said he would disagree with that and he said that is the difference between Zoning and Planning. He said that the regulations allow it and the Supreme Court recommends it so that there is not a waste of resources, otherwise this stops, the applicant would have to reapply, re-notify abutters, and start all over with the Planning Board. Tom Dow said that they might have to anyway because this has been pushed out so long, at least re-notify the abutters. Several members stated that this could continue as long as they want because the application has not yet been accepted as complete, therefore the time period for a decision has not begun. Dustin Bowles said that he does not feel that the Board can accept the application as complete and give a conditional approval but if they wanted to allow discussion and the process to continue he would be in agreement with that. Tom Dow said that he would agree.

Stan Prescott made a motion to continue this application to next month; seconded by Steve Jackson in reference to Article 11.1 (g) of the Land Development Regulations and not having approval for the special exception, therefore not having a complete application. Mr. Prescott agreed to amend the motion to include that reference. Henry Huntington said he understands why the motion to continue and he supports that. He said that the applicants are present and asked if the Board owes them the courtesy to show the Board what is new on the plans. He said there have been many other cases where the Board has allowed the applicant to come in and discuss the plan before it is accepted as complete. He said he does not want to hear the whole thing, only what is new. Dustin Bowles said he would agree but his point was not to accept the application as complete. Stan Prescott said he had no problem with that and also does not want to hear the whole thing but only what is new. He amended the motion to read as follows: ***motion to continue this application to next month based on Article 11.1 (g) of the Land Development Regulations and not having approval for the special***

exception, therefore not having a complete application, and to hear only new information; seconded by Steve Jackson. All were in favor.

Chairman Dow reminded Mr. Giuda that the Board will allow discussion and only wants new information that has not been heard in prior meetings. Mr. Giuda said they would like detailed feedback. Roy Merrill said that the Board is going down a slippery slope because abutters were notified and this is not discussion. Henry Huntington said the Board does this all of the time. Tom Dow said this is a public hearing, not just discussion, with new information.

Jenn McCourt of McCourt Engineering noted that there is a recently approved site plan for this parcel. She said she has turned the building almost 90* so that the traffic will come down into the area to the new driveway location, changed the configuration of the tanks, included a berm for containment, enlarged the compost area by 10' for DES (now 60' x 100'), added a small building on the side of the main building, and added a dumpster location. She said she has heard several comments about traffic during this hearing so she would like to have any input on traffic that the Board may have to offer. Stan Prescott said they would be looking at the entrance coming in off Route 106 up to the project. Mrs. McCourt said it is a Class V road maintained by the Town of Loudon. Mr. Prescott said that it needs to be looked at for pavement condition and width. He said it is not wide enough. Mr. Giuda asked if Mr. Prescott meant with relation to the traffic to just this site. Mr. Prescott said for the whole site. Mrs. McCourt said there is a significant amount of traffic to the dump. Mr. Prescott said he feels that the road is quite adequate for the dump but he is not sure about for trucks. Mrs. McCourt said that it would be the same trucks that are currently going into the lagoon at the dump. Dustin Bowles said this will be adding trucks and impact to the road. Steve Jackson said the Board needs some idea of how they will mitigate that impact. Brandon Giuda said it might not necessarily be to mitigate but show if there will be an adverse impact.

Jenn McCourt talked about changes to the site itself. She said it will remain in the hole as originally proposed. Steve Jackson read about the road to the site from past minutes and asked if it will be improved to town standards. Mrs. McCourt said it will be a gravel driveway. She noted that there are gravel trucks in and out of the site now and that the SDS load would be less than the current load once the gravel removal is complete. Tom Dow confirmed that changes were that the building was turned and there is a slight roadway change. Mrs. McCourt said it is showed as going down the hill further and coming back in to this area. She said it is a little less than 6% slope. Mr. Dow said there are two changes. Mrs. McCourt noted that there is also the 10' enlargement of the compost area.

Stan Prescott asked to review the aboveground tanks. Mrs. McCourt said there will be three 20,000-gallon tanks instead of two 30,000-gallon tanks. Mr. Prescott asked about the filtrate underground tanks. Mrs. McCourt said they have gone to concrete tanks of the same size as on the original plans. Bill Gosse said that there will be four 10,000 tanks. He explained that there will be two sets of two 10,000 gallon connected tanks. Darlene Johnson stated that the gallons are the same and it is just a different configuration. Mr. Prescott asked if the dewaterer is a tank. Mr. Gosse said it is a piece of equipment, not a tank. Mr. Prescott asked about the size of the underground septage tank. Mr. Gosse said it would be a 1500-gallon tank for grit removal. Mr. Prescott asked about the tanks toward the right side of the building. Mr. Gosse said those would be pump stations and are not intended to be holding tanks but pass-through tanks. He said that the septage underground tank that is shown is a runoff tank for the dewaterer. Mr. Prescott said all of the tanks should be labeled for size. Mr. Gosse said that they are

still working with DES and that they will do that once sizes are definite. Mr. Gosse asked if the Board wants them marked as pump stations. Mr. Prescott said they should be as clear as they can be with labeling.

Tom Dow asked if the typical pavement detail is describing what is going under the compost area. Mrs. McCourt said it is for the compost area, the loading area, and the parking area.

Mr. Giuda said a change that may not be noted is that the tanks are vented with charcoal filters. Tom Dow said that was noted at the state hearing. He asked if the one-foot berm was for containment. Mrs. McCourt said that was correct and that it was there in case anything happened to those tanks and it is what the state requested. Dustin Bowles asked if it takes into account the maximum gallons that would need to be contained. Mr. Gosse said it was designed for one tank. Mr. Bowles asked if those tanks are connected. Mrs. McCourt said that they are not. Mr. Dow said it should be noted as a containment berm. Dustin Bowles asked for a typical as to the construction of the berm. Mrs. McCourt said it was earthen. Mr. Gosse said that the material would be clay. Mr. Bowles said a cross section would be good and the more information, the better. Stan Prescott asked if some tanks would be connected. Jenn McCourt pointed out the piping and flow of the process. Mr. Gosse showed the ones that will be valved. It was asked if they would be check valves. Mr. Gosse said that they would basically be ball valves. He said they will have technical plans once they get a little further into the process and the plumbing aspect. Stan Prescott asked if the tanks are connected at this point. Mr. Gosse said they are connected in that it can travel through a main line and feed into individual tanks. Tom Dow noted that there are no details about the containment berm around the compost area. Mrs. McCourt said that would generally be a separate submission as building plans. Mr. Dow said he would like to see that on these plans. He said it should be noted as to what is around the compost area and what makes it up. Steve Jackson said it would be nice to see what the tanks look like. Mr. Gosse said they would provide tank spec sheets.

Henry Huntington said he feels that one of the bigger issues is the road. Stan Prescott said the sight distance is a concern. Mr. Giuda asked to clarify to which road they were referring. Mr. Huntington said he was talking about Dump Road. Discussion ensued about the road, the flare of the site entrance, the paved apron, and condition of the road. Mr. Prescott said that on two recent trips to the dump he has seen two potential problems with the traffic in and out of the site. He stated that one time was when a truck was going in and another was coming out, creating a near miss, and the other time was when the driver never looked as they came out of the site. Mr. Giuda said that answered what they need to be looking at.

2. **Application # 07-04, Debra Rattee**-Major Subdivision, Located on School Street, in the RR District. Map 38, Lot 7. Chairman Dow read a request from the applicant's representative to table until the October meeting because they are still waiting for state wetlands approval. Tracy Sweeney of Richard Bartlett & Associates said that the application is with the state and that they hope to have the permit for next month's meeting. *Tom Moore made a motion to continue this application to October 18, 2007 at 7:00 p.m. at the Community Building; seconded by Henry Huntington. All were in favor. This will be the only notification.*
3. **Application # 07-10, Peter & Gary, LLC** – Minor Subdivision, Located on School Street, in the RR District. Map 38, Lot 8. Chairman Dow read a request from the

applicant's representative to table until the October meeting because they are still waiting for state subdivision approval. ***Stan Prescott made a motion to continue this application to October 18, 2007 at 7:00 p.m. at the Community Building; seconded by Steve Jackson. All were in favor. This will be the only notification.***

New Business:

- 1. Application # 07-12, Debra Rattee** – Lot Line Adjustment, Located on School Street, in the RR District. Map 46, Lot 39 and Map 47, Lot 44. Don Boyer was present as an abutter. Tracy Sweeney of Richard Bartlett & Associates represented the applicant. He explained that this application is for a lot line adjustment that would be increasing Map 46, Lot 39 by 7.61 acres to a total of 9.90 acres. Tom Dow said that there was a prior lot line adjustment done on this parcel. Mr. Sweeney showed the last move and explained that this adjustment is putting the barn back with the house. He pointed out that the new lot line is near the power line easement. Tom Dow asked if they are widening the right-of-way known as Rainbow Drive. Mr. Sweeney said that was correct. He said that they are increasing the School Street end of the right-of-way by 61.2 feet to a width of 105.94 feet. Mr. Dow asked what the width of the right-of-way would be at the bottom. Mr. Sweeney said it would be approximately 80 feet. Stan Prescott said that in actuality, the new lines are shown as dotted and they should be solid and the old vacated lines should be shown as dotted. Mr. Sweeney pointed out the note of the vacated lines and said that looking at 11" x 17" plans adds difficulty. Board members reviewed the plans and changes. Stan Prescott asked that the plans show the boundary of the southerly lot line of 47/44 and 38/77 as it projects south from School Street.

Chairman Dow closed the hearing to the public and opened it to the Board only. Mr. Dow said that Mr. Bowles had made a good point during the discussion in that should this piece get subdivided again, they might be looking at some upgrading. Dustin Bowles said if this new lot was sold, it could not be subdivided without upgrading Rainbow Drive. Mr. Sweeney said that his client well understands the status of Rainbow Drive. Mr. Bowles stated that the frontage of the lot being created with this plan is on School Street. Stan Prescott said that one of the barns has been taken down.

Clarifications requested by the Board are: 1) show lot line as it heads southerly off School Street at the east end of the parcel; 2) show property corner where it comes into Lot 46-30 at the northeast corner; 3) on the east end, some kind of monumentation at 112.32 ft and something that defines 463.08; and 4) set corner on the easterly end, northwest corner.

Chairman Dow asked if the Board wants to see the applicant next month with the changes. Stan Prescott said he would like to see them done. He said a lot line adjustment can be done in one meeting. Henry Huntington asked to confirm what sort of changes the Board is asking for. Mr. Prescott said the changes are for monumentation and lines to show where the lots go. Tom Moore said that Tom Dow would be signing the plan and if Mr. Dow is all right with the changes then there is no need for the applicant to come back. Tom Dow said they are not making any alterations. Mr. Prescott said the plan should show Ms. Rattee's lot that is located at the bottom right of the plan and its lot number.

Henry Huntington made a motion to accept the application as complete; seconded by Stan Prescott. All were in favor. Chairman Dow said he is willing to be sure that all changes are made as requested. ***Tom Moore made a motion to approve the lot line adjustment with the identifying corrections made before the signing of the***

plan; seconded by Henry Huntington. Dustin Bowles noted that clarification is all that is being done, not changes. *All were in favor. PASSED*

2. **Application # 07-13, Wayne Thistle** – Lot Line Adjustment, Located on Thistle Hill Road, in the RR District. Map 12, Lots 59, 41, and 41-1. Web Stout of FWS Land Surveying represented the applicant. Mr. Stout explained the proposed lot line adjustment. He said that this would make Lot 41-1 so that the applicant could put a duplex on it if that is what he decided to do. Mr. Stout stated that the lot meets the 250' of frontage and three acre requirements and the 180' x 240' box on each of the three lots.

Henry Huntington made a motion to accept the application as complete and move to public hearing; seconded by Dustin Bowles. All were in favor. Steve Jackson asked about the buildable area of the new lot. Mr. Stout said it will increase by approximately 15,000 SF to 1.9 acres. It was verified that the frontage and lot size is different for a two-family dwelling but the buildable area is the same as a single family dwelling.

Chairman Dow closed the hearing to the public and opened it to the Board only.

Bob Ordway made a motion to approve the lot line adjustment as presented; seconded by Dustin Bowles. There was no further discussion. *All were in favor. PASSED*

3. **Application # 07-14, New England Flower Farms/Pleasant View Gardens** – Amended Site Plan, Located on Pleasant Street, in the RR District. Map 6, Lot 3. Henry Huntington recused himself from this application. Jeff Green of JLG Enterprises represented the applicant. There were no abutters present.

Dustin Bowles made a motion to accept this application as complete and move to public hearing; seconded by Steve Jackson. All were in favor. Mr. Green stated that they had been in for discussion last month and he recapped the two changes that are being proposed to another site plan that was done over the last couple of years. He showed the existing conditions plan that covers the area being discussed. Mr. Green explained the existing building, pad, and loading dock. He showed an overview for the same site and explained that there would be a 16,860 SF production building in place of the existing building. Mr. Green stated that buildings are allowed to be 10% of the total acreage of 98 acres and impermeable is allowed to be 20%. He said the existing building is 7.5% coverage and paving is 1.4% for a total of just under 9%, which is well under the 20% allowed. Mr. Green said that the building will be 7.75% and the pavement will be 1.3% of the entire lot, for a total 9.05% after the changes, noting that this is a very minimal change. He said they are only covering areas that are already covered on the site. Mr. Green said that the only change in grade would be inside the building. He said that the outside grades are pretty much going to stay as they are.

Mr. Green said that the only lighting being added is at the entrance doors. He showed the grading plan and explained that the paved area and gravel are still in the same area and that the dock is being moved to the end of the building. Mr. Green said that the grading stayed as it was and that the drainage is not changing. Steve Jackson asked if there were any additional parking spaces or roadway changes. Mr. Green said that the size of the building is a very slight change, explaining that it will be longer but not wider, and the road will not change. He explained that the former ramp will be part of the loading dock and said that the production building will not increase traffic and may even lessen it.

Mr. Green explained the proposed connector building between two existing greenhouses. He said it fits the grading that is already there, noting that there is an 11'

difference in elevation from one building to the other. He said they have kept the paved areas and that there will be overhead doors to allow traffic through the connector. Mr. Green said they are not proposing any changes to grades outside of the building and that the grade will be carried into the building. He said they are not changing any pavement or drainage.

Stan Prescott asked that the culvert elevations and sizes be labeled. Steve Jackson stated that the roof of the new building will be quite a watershed. Mr. Green said that 50% is already building and the rest is impermeable, noting that everything coming that way will be handled as it is now. He said it would be the same amount of water. Stan Prescott said it could go off at a different rate. He said this is a 98-acre lot and asked what portion of the lot is in current use. Jeff Green said 56 acres are in current use. Mr. Prescott asked what that does to the figures when doing the calculations on areas. Mr. Green said he did not figure it that way because the last two site plans were not figured that way. He said they were figured off the 98 acres with the current use shown. Mr. Prescott said that they realistically should be because that cannot be built on unless you pay a penalty. Mr. Green said they cannot build on it but the regulations say 10% of the entire lot.

Steve Jackson said that this is a good use of the existing space. Stan Prescott said that he would agree. Tom Dow referred to the loading dock and asked if the intent is to back trucks into the gravel area. Mr. Green said that was correct. Mr. Dow asked if they thought they would be paving it. Henry Huntington said there is no plan to pave the loading dock area and that the others are not paved. Mr. Dow stated that there are no real changes with regard to hours, employees, traffic, or lighting. Stan Prescott asked Mr. Green to explain what is meant by a wall-pack. Mr. Green said that it is a light that flows down rather than out. Dustin Bowles said that a lighting detail sheet should be done. Mr. Green agreed to do one. Tom Dow asked if the building would look like the newer green building. Henry Huntington said it would be country wheat in color, which is the same as the main building now.

Chairman Dow closed the hearing to the public and opened it to the Board only. Steve Jackson asked how many employees there are at the peak season. Mr. Huntington said that there would be approximately 175 employees at that site, many of whom arrive by multi-passenger vans. The chairman noted that the Board is asking for culvert sizes and lighting detail. ***Dustin Bowles made a motion to approve the application with culvert sizes and lighting detail added; seconded by Tom Moore. All were in favor. PASSED***

Henry Huntington rejoined the Board.

Board Discussion:

Donna reported that Tony Puntin has requested a pre-construction meeting for Loudon Woods Estates, as well as any future subdivisions. The purpose of the meeting is to get everyone on the same page as to the procedures to be followed, escrow and bond procedures, inspections, and other related matters. Donna was asked to get date information from Mr. Puntin and notify the Board of the meeting.

Report of the ZBA:

Donna reported that there is one application before the ZBA this month, a special exception for a reduced setback for a garage on Lower Ridge Road. There is also a request for an extension of a building permit on Thistle Hill Road, a request for discussion on putting a home occupation on Map 38, Lot 8, and a request for discussion on allowing a two family home in Lazy Pines. The ZBA will present their draft Rules of Procedure for review.

Report of the Board of Permit:

Tom Dow reported that as a result of recent litigation, town counsel has arranged a joint meeting of the Planning Board, Zoning Board, and Board of Selectmen to discuss what the boards need to do to address the growth management ordinance. The meeting is set for Wednesday, September 26th at 6:00 p.m.

Mr. Dow said that there was discussion about consumer fireworks and one hawker & peddler permit. He said that the flood study that was recently submitted by MDP Realty was also discussed. Memos about the flood study were handed out to each Board member and Mr. Dow gave a brief overview of the study. Donna reported on the meeting that she and Dustin Bowles attended at Louis Berger Group on September 11th and subsequent communications with NH Office of Energy and Planning and FEMA through Hancock Associates who performed the study. The flood study was submitted to satisfy Zoning Ordinance S 507, Item VII, #1. A letter will be drafted to MDP Realty acknowledging receipt of the study and the fulfillment of the Zoning Ordinance requirement.

Work Session – A work session to review the proposed changes/update of the Land Development Regulations is scheduled for Monday, September 24, 2007, 6:00 p.m. at the Community Building.

Adjournment:

A motion to adjourn at 10:17 p.m. was made by Henry Huntington; seconded by Bob Ordway. All were in favor.

Respectfully submitted,

Donna White