

KINGSTON PLANNING BOARD
February 16, 2021
Public Hearing

Minutes

The Chairman called the hearing to order at 6:30 PM; he noted a quorum present through the Zoom platform for a remote hearing; there were no challenges to the validity of the hearing. Mr. Coppelman began the hearing by reading the Right-to-Know checklist explaining the requirements, workings and access information for the remote hearing via the Zoom platform; contacting the Planning Board through emails and phone during the meeting was also noted as available. Mr. Coppelman explained that Glenn Greenwood was the host for the meeting.

A roll call vote of the Board members present occurred; each member noted whether any one was present with them in the room while attending this meeting.

Members present:

Glenn Coppelman, Chair; alone	Peter Coffin; alone
Lynne Merrill, V.Chair, alone	Peter Bakie, alone
Robin Duguay, alone	Chris Bashaw, alone
Richard Wilson, Board of Selectmen (BOS) rep., alone	
Steve Padfield, Alternate, arrived with mtg. in progress, alone	

Board Members Absent: Ellen Faulconer, alternate

Also present: Glenn Greenwood, Planner; Dennis Quintal, Town Engineer; Danna Truslow, hydrogeologist.

Board Business

Mr. Coppelman asked to accept the minutes of January 19th. Mr. Coffin asked to correct the vote on the Wetlands CUP for Mr. Coppelman to no, yes, no and for Mr. Coffin to yes, no, yes.

MM&S to accept the 1/19/2021 minutes as amended. (Motion by Mr. Coffin, second by Mr. Wilson) Roll Call vote on the motion:

Mr. Coppelman – yes	Mr. Coffin – yes	Ms. Merrill – yes
Mr. Bashaw – yes	Mr. Wilson – yes	Mr. Bakie – yes
Ms. Duguay – yes	Motion passed unanimously (PUNA)	

<Board note: Mr. Padfield arrived at this time.>

Mr. Coppelman addressed the issue of the Board of Selectmen entertaining the sale of Town owned land; he noted that many of the lots were in Great Pond; he wondered if there was a need for Mr. Greenwood to do some research on the properties and get the recommendation back to the BOS. Mr. Wilson explained that the Town vote regarding the sale of Town-owned

land required getting the Planning Board and Conservation Commission's recommendation prior to the sale. Mr. Greenwood said that the Pillsbury Pasture property was specifically a requirement of the subdivision and it was created to be a pocket park; it has a drainage easement across it. He continued that this parcel does have a history as to why it was developed. He can look into the other parcels but is not sure there will be former Planning Board action on the other ones. Ms. Merrill questioned one of the lots that looked larger and wondered whether the Town should hold onto that one for a future common septic system or a similar-type use. Mr. Wilson said that there is a lot for that. Mr. Coffin questioned whether there would be a stipulation that it not be able to be built on. Mr. Wilson said that is the set-up. Mr. Coffin noted that the Pillsbury Pasture lot is the northern terminus of Ox Road to Pillsbury Pasture and asked that this be checked further. Mr. Wilson said that Mr. St. Hilaire said it was okay. Mr. Coffin suggested checking on the status of Ox Road. Mr. Greenwood questioned the efficacy of selling a parcel of land that was set aside for recreational use, even if it is passive use; he stated that it seems like a bait and switch to require a developer to set aside land for the subdivision for recreation use for the development and then to sell it to an abutter. Mr. Coffin suggested that Mr. Greenwood review the approved subdivision plan as that may preclude the legality of selling it off.

ACTION ITEM: Mr. Coppelman suggested that Mr. Greenwood follow-up on this and get back to the Board to discuss recommendations on the parcels.

Mr. Coppelman read the public notice from the hearing which began at 6:50 PM.

266 Route 125, LLC

266 Route 125

Tax Map R41 Lot 17-1

Mr. Coppelman read the legal notice for the hearing that included site plan, subdivision and conditional use permits. He noted that the 3 Conditional Use Permits (CUPs) needed for the project were granted at the previous hearing. He reviewed the hearing process. Karl Dubay, representing the applicant, explained changes to the plans per the previous discussions: acoustic fence/sound panel attachment details have been added to the plan, monitoring criteria has been being worked on and almost finalized. Mr. Dubay pointed out that other members of the design team were present: Mr. Pernod, Mr. Stone, Attorney Hollis and Mr. McGuire will join the hearing as needed. Mr. Coppelman noted that Fire Chief Pellerin was present for the hearing.

Ms. Truslow said that she had no additional comments; she stated that she provided some minor suggestions for the Conditions of Approval (COA) to Mr. Greenwood; she was working with Tim Stone on the monitoring plan.

Mr. Coppelman explained, for the public, that at the last hearing, the Board directed Mr. Greenwood to assemble a draft COA for the Board to be able to entertain; this draft has been reviewed and edited.

Mr. Quintal had no further comments; he stated that the drafting items have been addressed and he is sure they will be on the final plan.

Mr. Coppelman asked if the Board had any comments at this time. Mr. Coffin confirmed that discussion of the COA would occur later and any comments about that would occur at that time.

Mr. Coppelman explained the process for public comment through the “chat” function. He noted two pieces of correspondence received by the Board.

- Chris D’Ambois – no address noted – voiced dissatisfaction with the project noting items previously mentioned and discussed.
- Benjamin Bixby, 60 Main Street: number of items similar to previous comments. Mr. Coppelman responded to Mr. Bixby’s assertion that there was no transparency regarding the project by disagreeing with the accusation noting that it has been well-attended at multiple public hearings that have been very open as well as public comments in the newspaper; he stated the comment was inappropriate. He took exception to Mr. Bixby’s comment that lighting and traffic had not been addressed by explaining that the items he mentioned had been discussed in length throughout the hearing process.

Public comment:

- Scott Ouellette, 189 Main Street: asked about the adjustment to the parking close to the river and asked to see Figure 1 to see where the guardrails were added. Mr. Dubay stated that the guardrails were added and the pavement pulled back as shown on pages 33 and 35 on the new submissions. Mr. Ouellette questioned a couple of bubbles of snow storage on pages 33 and 35 which are really close to the river and he would encourage moving them away from the river especially in regards to the salt from the pavement being harmful to the river; he suggested a note on the plan. Mr. Dubay said that the revised 33 and 35 sheets show the snow storage removed entirely from the Shoreland District. Mr. Ouellette suggested that he might be looking at an unrevised plan. Mr. Dubay shared the screen with the plan showing the guardrail, no snow storage shown near the Shoreland and the pavement pulled back. Mr. Ouellette thanked Mr. Dubay. He asked to review some conditions/notes that he thought the Board should consider:
 - Not on the plan: Not a Fulfillment Center
 - No drones for delivery of product

Mr. Ouellette suggested adding a previous comment from Mr. Dubay that there will be no home delivery from this site. Mr. Greenwood said a proposed condition notes no drone delivery. Mr. Dubay stated that Item #11 says that it is not a Fulfillment Center; he says that there might be an occasional, rare drop-ship and cautioned the Board on the language. Mr. Ouellette suggested that the note say that other than an occasional delivery, home delivery is not a use of the site. Ms. Merrill said that is taken care of with note #11.

- No thru trucking on Main Street and Church Street – Mr. Wilson noted that this was already posted; Mr. Greenwood said that he didn't see why the Board would add this if it was already a Town condition.
- Make sure there is a reference to Chief Briggs memo – Mr. Greenwood said this was addressed in the draft COA.
- Assumed that the DOT requirements are already captured – Mr. Coppelman mentioned the signalization of the Marshall Rd. intersection; he stated that lights at the entrance are not in the plans. Mr. Dubay said that improvements are required for the corridor; there is a full corridor improvement plan and signalization at 107/125.
- Areas close to the river with note for BMP's (Best Management Practices) per recommendation of the Conservation Commission.
- Paul LaLiberty, 23 Castle Court: questioned the sound barrier installation and questioned the height of the fence in relation to the height of the trucks. Mr. Dubay explained that the details are shown on amended sheet 30A with the specification regarding the noise reduction for the tongue and groove stockade fence used for this type of application; he noted that they are subject to the noise ordinance. The decibel levels in the Ordinance were noted; Mr. Dubay said they are referenced in Item #12. Mr. LaLiberty asked why the fence was 6 ft. instead of 10 ft. and questioned how the fence would buffer noise from a 12 ft. tall tractor trailer. Mr. Coppelman answered that it would be used in conjunction with the 50-foot vegetated buffer. Mr. LaLiberty stated that for several months there is no foliage on trees. There was discussion regarding the Commercial zone; Mr. Coppelman explained that the area is CII that includes some existing residential use in the Commercial zone which is why there is a 50 ft. buffer. Mr. Dubay noted that they are about 600 ft. away from Monarch Way's edge of pavement; they comply with the ordinance. Mr. Coppelman said that this has been discussed at almost every hearing; he added that the Conservation Commission recommended the 6 ft. fence. Mr. LaLiberty said he was looking forward to seeing the plan and fence details.
- Shelley Sullivan, 4 Castle Court: she stated that at the last hearing, there was discussion regarding a Code Enforcement Officer on the ballot, she asked if this was not approved, where did the responsibility fall for future review and inspection. Mr. Coppelman explained that the BOS was responsible for enforcement; he added that the Town Inspectors as well as the Town Engineer and the hydrogeologist would all have eyes on the project to watch and monitor the development of the project. He continued that if the position is passed, there will be a full-time reviewer and point person.
- Bob Marley, 20 Monarch Way: he stated concerns with the fence and the applicable decibel levels; he said a 6 ft. fence wouldn't knock the noise down; he would like it raised to 10 ft. Mr. Coppelman said it would be up to the Board to see if they had any issues with the fence height. Ms. Merrill suggested that it would be discussed when it comes to the COA discussion. Mr. Bashaw said that he didn't think the applicant is required to have the fence at all and it is a good faith gesture for the plan. Mr.

Coppelman said that it is a Planning Board function to make sure the buffer is adequate with a 50 ft. buffer however it is not technically required but he thought that the Board felt that having the fence was the right way to go. Mr. Bashaw agreed and was definitely glad there is a fence. Mr. Greenwood explained that the Planning Board is given the right to oversee any activities that they think is necessary; the Planning Board has the authority to require the fence; the buffering requirement has been met by the applicant. Mr. Wilson agreed with Mr. Bashaw's comments and thinks the applicant is doing this in good faith; if they are not in compliance with the Noise Ordinance, they will need to address any non-compliance. Mr. Coppelman added that if the Board had any hard evidence that it doesn't meet the ordinance, then they would have to address those issues and meet the ordinance; but the applicant is saying that they will and if not, they will need to address it. Ms. Merrill said that the applicant was not required to have a fence, they've added more with a good faith effort to address sound concerns; she noted that there is already a distribution center on the property that no one has mentioned as a problem. Mr. Coppelman stated that with no further Board comments, he was assuming that the Board was all set with the buffering.

Mr. Greenwood noted that there were additional people asking to comment in the chat section.

- Peter Zahoruiko, 9 Castle Court: questioned the fence, the set-back location from Rte. 107, the fences inability to block sound and light to prevent suffering of these issues from those at Kings Landing; he continued on issues regarding the lights at night when the trucks are backing up; a constant light issue at Kings Landing. Mr. Dubay explained the vegetative buffer and the extra evergreen landscaping, the distance from the building (1200 feet), the location of headlights on a truck. Mr. Zahoruiko re-iterated lighting being a big issue. Mr. Dubay referred to the Lighting Ordinance and the submitted Lighting plans; the maximum mounting heights, the plan being fully Dark-Sky compliant. Mr. Coppelman confirmed that the plan is Dark-Sky complaint, the application provides a lighting plan sheet; there will be no spill-over of lights at the property line; the plan as presented complies with the ordinance and has to be built to the standards. Mr. Zahoruiko expressed concern that the fence won't block any lighting issue and with all the trucks backing out it will be above the decibel levels and the diesel engines generating a lot of noise. Mr. Coppelman said that Mr. Dubay did the best to explain these issues; he re-iterated that they need to comply with the zoning in regards to the light and noise concerns. Mr. Zahoruiko asked how it would be determined if they were not in compliance. Mr. Coppelman explained the enforcement procedures adding that the Town had a decibel meter; any one can contact the BOS with concerns about enforcement and compliance. Mr. Zahoruiko asked to go on the record as not thinking that the 6 ft. fence would absorb truck noise and the lighting would be horrendous coming from the building and the trucks.
- John DeStefano, 26 Monarch Way: asked if the Town had contacted any abutting Towns and if there was any comment from them regarding the building and the

traffic. Mr. Coppelman said that they were contacted and there was no feedback received. Mr. DeStefano questioned feedback from DOT. Mr. Coppelman explained that the Town met with DOT leading up to the project with the Town expressing their concerns; he stated that the permit is wholly up to DOT. Mr. Dubay said that they met with DOT and they had all of the information as part of the initial package. Mr. Pernod reviewed the scope meeting, the study area and intersections in the study area that originally reviewed 5 with one added per the Regional Planning Commission's recommendation. Mr. DeStefano suggested that the Town would need to withhold any approval until the State's comments were received. Mr. Dubay said that they met with District 6 and reviewed the corridor and the project; District 6 said this was what the corridor was for; they are widening the road and adding the signals. Mr. DeStefano continued expressing concern for the number of vehicles coming from Rte. 101 and Rte. 495 to the Rte. 125 corridor. Mr. Coppelman explained that DOT has complete say over the permits on the highway and any requirements; the bottom line is that it is the State's responsibility regarding current and future traffic; the Town doesn't receive input from the State, the applicant presents a plan for a permit from the State.

Ms. Merrill stated that every question had been asked and answered, she suggested any further comments be for a new topic or for something not asked before.

- Paul LaLiberty said he had no further questions but he would still like to have an answer as to why the 10 ft. fence was not being considered.

As there were no further comments, Mr. Coppelman declared the public comment section of the hearing closed at 7:55 PM. At this time, the Board took a 5-minute recess.

Mr. Coppelman ended the recess at 8:01. He suggested that the best way to move forward was to start working on the conditions. He reviewed the way to proceed. Mr. Coffin noted that these were proposed conditions for the Board's review prior to making a motion. Mr. Coppelman explained that per the Board's instruction, Mr. Greenwood reviewed minutes and department comments to make the list. Mr. Greenwood noted that the applicant provided many of the conditions; they took very good notes. Mr. Coppelman read the conditions that had previously been sent to the Board for review.

Conditions of Approval:

1. final review and approval of all plans by the Town's planning, engineering and hydrogeology consultants to ensure accuracy and correct minor administrative and typographic errors as noted by said consultants;

There was no Board discussion of this condition.

- * 2. within 1 year of date of condition of approval, and prior to start of construction, receipt of New Hampshire Department of Transportation Driveway Permit and approval of proposed roadway mitigation and Transportation Demand Management (TDM) as

developed by the applicants Transportation Engineer and reviewed by the Town's consulting Traffic Engineer (Duval of TF Moran). All traffic mitigation including the new intersection light shall be in place prior to issuance of a certificate of occupancy;

Mr. Coppelman suggested it might be a good idea to clarify that the light was at the intersection of Rte. 125 and Marshall Road. Mr. Greenwood clarified that the items that had an asterisk were being added as plan notes. There were no further Board comments on this condition.

* 3. within in 1 year of date of condition of approval receipt of all necessary State and Federal permits related to the proposed development, including to Alteration of Terrain Permit, Subsurface System Bureau Permits; water supply permits, and access permits;

Mr. Greenwood suggested changing the last sentence to include "Town-issued access permits" since a Town driveway permit was now required on all driveways including those off of a State road. Mr. Greenwood explained that "water supply permit" was due to the State requiring for the type of well that is being installed on-site. There was no further discussion on condition #3.

* 4. the applicant shall work with the Town's hydrogeologic consultant to create a long-term monitoring plan for septic system effluent, groundwater and surface water. Any monitoring wells that will not be retained for long-term monitoring shall be properly abandoned and an abandonment report shall be provided to the Town and NHDES. The applicant shall send periodic monitoring reports to the Town as requested and directed by the Town's hydrogeologic consultant. In the event monitoring reveals detrimental water quality results in exceedance of applicable Local, State or Federal groundwater and surface standards as of the date of the approval, the property owner will work with the Town's consulting hydrogeologist to rectify the issue;

Mr. Greenwood stated that Ms. Truslow had a comment for this condition. Ms. Truslow said there was an issue with the language about exceeding water quality standards; she suggested that if the water quality is degrading, the Town may want to have something done before the water quality standard is actually hit; as it degrades, something may be able to be done to correct the issue. There was discussion about how to best amend the paragraph to reflect that the Town would want the issue addressed that was causing any detrimental water quality results during the monitoring. Mr. Greenwood suggested that the clause "in exceedance of standards" be removed to capture the idea that if the water monitoring show detrimental impacts to surface water or groundwater and they would work with the Town's hydrogeologist to rectify the issue. It wouldn't be wise to ignore a trend of detrimental reporting until it exceeds the levels established if something could be done proactively. Ms. Truslow agreed with this point. Mr. Dubay had no issue with the change. Mr. Stone stated that he thinks that there is a need to reference the standards but to add terminology along the lines of indications of approaching the standards and addressing it proactively. Morgan

Hollis, attorney for the applicant, suggested that following the word “results”, strike out “in” and add “are approaching”. Ms. Truslow stated that as long as it wasn’t crafted to include a percentage, she would be happy with the clarification. Mr. Coppelman stated that the purpose is to catch it before exceeding the limits. Ms. Duguay asked at what point the timeframes and frequencies will be spelled out. Mr. Padfield also questioned the monitoring timetable. Ms. Truslow answered that there will be an approved monitoring plan submitted to the Town. Mr. Coppelman said it would have to be in place. Mr. Greenwood added that Ms. Truslow also questioned whether an escrow account would be established for the purpose of monitoring. It was determined that this would need to be an escrow account separate from a pre-construction meeting bond as it would continue after construction. Mr. Greenwood suggested adding: an escrow account will be established for future review of monitoring.” Mr. Greenwood said that the amount would be part of the monitoring plan submission. There was confirmation that the plan would state the Town’s hydrogeologist, not anyone in particular in case the current hydrogeologist was unavailable for some reason. There was no further Board comment on condition #4.

5. calculation and provision of a performance bond prior to construction in an amount as approved by the Town’s engineering consultant and public works department to ensure improvements benefitting the public will be completed;

There was discussion over the reference to “public works department”. Mr. Wilson said it was a generic term and not necessary to change. There was discussion about defining “improvement benefitting the public”. Mr. Greenwood suggested adding “to ensure improvements required on the approved plan will be completed.” Attorney Hollis expressed concern that including a building of the propose size would make the bond cost prohibitive. He stated that normally it is for items such as a public roadway. Mr. Greenwood agreed that a bond wouldn’t include the building but it would include items pertinent to Stormwater Management devices. Mr. Coppelman added that there was a lot of site disturbance of the site and site work, that if not completed, would cause negative impacts to the river and natural resources and should be part of the bond. Mr. Hollis agreed to that. Ms. Merrill also agreed as the information and intent would be part of the minutes. Mr. Dubay said that these types of items are usually in a site restoration bond and is sure Mr. Quintal is aware of this type of bond. He said that there is usually a hybrid of items reviewed by Mr. Quintal and Department Heads that would include a site restoration bond. Mr. Quintal explained that at the pre-construction meeting, these types of items are discussed and worked out prior to construction and at that time they would be cognizant of tonight’s discussion and include it in the bond amount. The Board determined to keep the original wording of condition #5. There were no further comments on this condition.

6. final review by the Fire Department that all fire protection issues have been addressed and plans and design of the building shall be approved by the Fire Department and/or review by a third party (typically SFC Engineering) and Police Department;

Chief Pellerin reminded the Board that he had sent a request regarding a repeater system. Mr. Greenwood stated that it was part of condition #30. There were no further comments from the Board on this condition.

* 7. snow plowing contractor for the four lots must be Green Sno Pro certified and must file the annual certification with the Town prior to each snow plowing season, and also document periodically with the Town that plowing and treatment of all pavement (including specifically the porous pavement) are completed correctly;

Mr. Coppelman questioned whether “plowing and treatment” related to only snow removal of porous pavement; Mr. Wilson suggested that the last statement should include “maintenance of the pavement”. Mr. Coppelman said that whatever is required will be in the operation and maintenance manual. Mr. Quintal, with additional language from Mr. Wilson, suggested an addition in the parenthesis about including the annual requirements of maintenance of the porous pavement”. It was decided to change to “including the maintenance requirements of the porous pavement.” Ms. Truslow suggested an additional last sentence: “This will include submittal of salt usage data sheets included in the Stormwater and Maintenance Plan”. The Board agreed; Mr. Hollis agreed. Ms. Duguay suggested adding, after Green Sno Pro Certified “or equivalent” in case there were changes to the program and/or name. The Board agreed.

8. all easements providing cross access and cross emergency access, cross boundary stormwater system usage and cross boundary septic system usage, and cross boundary utility crossings to be reviewed and approved by Town’s legal counsel and recorded prior to building permit issued;

There were no Board comments about this condition.

9. satisfaction of the mitigation requirements imposed by the New Hampshire Department of Environmental Services for filling of the wetland on the property by payment of mitigation fee to SELT or purchase of appropriate conservation easement or land within the Town of Kingston;

Mr. Coppelman suggested the SELT be clarified to be South East Land Trust. Mr. Coffin expressed concern that the “payment” “or purchase” be clarified for accuracy. Mr. Hollis clarified that the “or purchase” should be “for purchase” and then it will be an accurate statement. The Board agreed. There were no further Board comments on this condition.

10. prior to issuance of a Certificate of Occupancy recording of the Operations and Maintenance Manual for Stormwater Management System in the Rockingham County Registry of Deeds;

Ms. Merrill questioned whether the manual could be recorded; Mr. Greenwood confirmed that it could be. Mr. Coffin asked if it should say something about the manual being the

governing document; he admitted that it could be elsewhere. Mr. Coppelman suggested that he keep track in case the Board needed to go back to it and the conditions proceeded. There were no further Board comments on this condition.

* 11. proposed warehouse/distribution center uses shall not include fulfillment centers whereby retail purchases would be delivered in mass quantities from the site directly to homebased consumers and to allow use of the property as fulfillment center, appropriate site plan amendments may be required;

Mr. Coppelman suggested that this was awkward wording. Mr. Wilson said that “may be required” should be “shall be required” to avoid any confusion. Mr. Coppelman said that any deviation would require an amended site plan. There was discussion about possible wording for clarification. Mr. Coppelman suggested having the notation of further review be its own condition. Ms. Duguay questioned the need and it would be a requirement any way. Ms. Merrill suggested ending after “homebased consumers” and eliminating the remainder of the sentence. Mr. Coppelman confirmed that the Board’s recommendation was to truncate the condition by removing the language after “homebased consumers” and to add condition #32 with an asterisk that “deviation from the approved plan would require additional Planning Board review.” The Board agreed; there were no further Board comments on this condition.

* 12. compliance with the Kingston Sound Ordinance to be measured at the property line to the Rural Residential District;

Mr. Wilson suggested adding the Lighting Ordinance to this condition. Mr. Coffin said the correct phrase is “Noise Standards”. Ms. Duguay questioned the decibel level requirements in the Rural Residential District (RRD) as noted in the condition. Ms. Merrill said that there is no property line abutting a RRD and the language should be truncated after “property line”. Mr. Coppelman suggested the new language would be “compliance with Kingston’s Noise Standards Ordinance and Kingston’s Outdoor Lighting Ordinance” as the details are specified within the ordinances. The Board agreed; there were no further Board comments on this condition.

* 13. site signage shall require administrative planning board approval prior to issuance of a sign permit;
There were no Board comments about this condition.

14. SWPPP/EPA plans and permitting for temporary erosion controls and related monitoring provisions will be in place prior to commencement of construction, and be inspected and monitored by the design engineer, as needed, including construction phasing; copies shall be provided to the Town; erosion control systems for new work, and access and all other required safety/code provisions to existing functional facilities, shall be provided by the owner and contractor; refer to Erosion Control Plan A (Sheet 49);

Mr. Coppelman suggested spelling out the acronym: Storm Water Pollution Prevention Plan; he asked if the sheet reference was correct. Mr. Dubay said it was sheets 49-55 but suggested not referencing the specific sheets as there are more details throughout the plan. He suggested referring to the Erosion Control Plans and detail and removing "sheet 49". The Board agreed; there were no further comments on this condition.

15. a pre-construction meeting, and an ongoing inspection/monitoring program schedule, shall be put into place with the project designers, Town engineer, and inspectors as required (Refer to Sheet D2); infiltration systems including porous pavements, stormtech and other treatment systems, infiltration ponds, treatment practices, and related testing and compliance measures shall be reviewed and conducted and provided in collaboration with the Town reviewing engineer during construction (Refer to Detail Sheets and associated notes); for any proposed materials specified below infiltration systems, the construction depths and rates shall be inspected and tested and witnessed with reports provided to the Town; SWPPP Plans and EPA Filings are required, prior to Commencement of Construction; the SWPPP operator & maintenance procedures for stormwater management systems shall be recorded at the Rockingham County Registry of Deeds prior to issuance of Certificate of Occupancy;

Mr. Quintal suggested changing SWPPP "operator and maintenance" to "operations and maintenance". The Board agreed; there were no further Board comments.

16. all project work shall be laid out and upon completion of construction as-built by the licensed surveyor of record, as noted on Site Plan Sheet 16; Non-Disturbance limits shall be provided prior to start of construction and maintained with orange construction fencing for the duration of construction; construction and As-Built compliance with the Overlay Districts pertaining to Shoreland and Wetland Buffer zones shall be laid-out prior to construction and as-built upon completion of construction by the project surveyor of record; as-Built compliance with the Overlay District pertaining to Aquifer protection maximum impervious areas shall be provided upon completion of construction and prior to issuance of Certificate of Occupancy (refer to Sheets 57 through 62);

There were no further comments from the Board.

17. substantial Completion definition for the purposes of NH RSA 674:39 and related provisions for each site improvement project for the existing office site, the existing warehouse site, and new warehouse site will be reasonably determined as recommended by Planning Staff, Engineering Reviewer, and Town Counsel and annotated accordingly on the Site Overview Plan Sheet 15 as reserved for such annotation; (this should be determined at the February 16 public hearing);

Mr. Greenwood stated that the applicant had suggestions regarding this approval and the requirements for substantial improvement:

11

PB Hearing

Feb. 16, 2021

Accepted as amended, 3/16/21: "I" becomes "it" on p. 10, "route" becomes "Route" on p. 12

Site Plan: All storm water management facilities and septic systems (excepting the connecting lines to the proposed building) be constructed, the new proposed driveway entrances be constructed up to the parking lot area for each parcel to the gravel stage (but not base coat of asphalt) and that payment for the cost of the traffic light installation at the route 125/107 intersection be made to NHDOT.

Subdivision Plan: the new proposed septic system and leach field replacing the existing system be completed and that the new proposed driveway entrances off Route 125 be constructed up to the parking lot area for each parcel to the gravel stage (but not base coat of paving).

Mr. Greenwood felt that this proposal was appropriate; he explained the aspects of substantial improvement. Mr. Coppelman confirmed that none of the building construction was part of the substantial improvement. Mr. Wilson thought that was okay as there is a tremendous amount of pre-construction work to be done prior to the building being constructed. Mr. Greenwood said that including the traffic light is significant. The Board will use the language as submitted by the applicant. There were no further Board comments on this language; the Board will vote on during the vote on the final conditions of approval.

18. a brief report describing the removal of the existing septic system and leach field removal, soil sampling and analytical results shall be provided to the Town within a month of the leach field removal;

Mr. Greenwood stated that Ms. Truslow had a comment on this condition. Ms. Truslow suggested that there was another item referring to the removal of the septic system that could be combined into one statement and inserted before "a brief report": "The applicant agrees to remove the existing septic system and complete analysis of the soil beneath the system to guide soil excavating and disposal." It was clarified that Ms. Truslow had been referring to a previous draft when thinking two conditions could be combined. The Board agreed to add Ms. Truslow's statement to the beginning of #18 before "a brief report". Attorney Hollis and Mr. Dubay are okay with this addition; there were no further Board comments.

19. upon commencement of construction the piping which is proposed off of the existing warehouse to no longer be used shall be removed and the buffer area restored; the discharge area around the remaining pipe shall be restored to reduce erosion and channelization in this area upon completion of construction of replacement piping;

Mr. Wilson asked if this included floor drains, Ms. Truslow answered that it wasn't, it was about the roof drain discharge and suggested that condition needed clarification. She

12

PB Hearing

Feb. 16, 2021

Accepted as amended, 3/16/21: "I" becomes "it" on p. 10, "route" becomes "Route" on p. 12

suggested replacing “piping” with the roof drain discharge piping”. Ms. Truslow explained that the piping is existing, one is being removed and one is being retained with improvement of the stormwater controls at the discharge point. Mr. Greenwood agreed that the language, as written, was awkward. Mr. Dubay said that the plan is updated to show this clarification. Attorney Hollis suggested that the condition would read better if it read “upon commencement of construction, the roof drain discharge piping which is proposed” and strike “off of the existing warehouse” and continue to read “to no longer be used” and continue with the condition as proposed. Ms. Truslow agreed with the wording change. There was no further Board comment.

20. a final electronic version of the plan set shall be submitted to the Planning Board;
The Board added “PDF” between “electronic” and “version”. There was no further Board comment.

21. the applicant shall enter into a long-term maintenance agreement with the Town detailing the maintenance of the stormwater drainage system and pervious pavement said agreement to be recorded in the Rockingham County Registry of Deeds;

The Board reviewed the sentence structure of this condition adding a “period” after the word “pavement” and starting a new sentence beginning with “said”. There was no further Board comment.

* 22. the applicant agrees to insert a note on the plan expressly confirming that the site will not be used for drone delivery activity;

There was no Board comment on this condition.

* 23. the easement area on Lot 1-D shall be changed to include the basin;

Mr. Quintal noted that this was one of his previous comments. Mr. Dubay said that he thought this was shown on Sheet S-5 but suggested leaving it as a condition just in case. Mr. Greenwood asked if the language should be changed. Mr. Quintal said that there had been a change to the detention basin but the limits weren’t changed in the easement language. This note will make sure the easement is correct. There was no further Board comment.

* 24. the plans shall show the pipe size and type from catch basins C1, C2 and C3 and the outlet from the basin OCMH and downstream manholes must have inverts, outlet pipe size and type;

Mr. Quintal stated that this was another of his comments; he stated that he thinks that the changes were made but it is okay to leave the note just in case. There was no further Board comment.

25. in the event the peak period traffic from Lot 17-1-A is significantly higher on an on-going basis than as presented by the applicant's traffic consultant, the owner/user agree to pay the cost of providing a traffic control officer at certain peak times until the traffic has been sufficiently reasonably addressed by the owner/user or until such officer is no longer warranted;

Mr. Coppelman stated that the word "then" after basis should be "than"; he noted that this condition had been a request of the Police Chief. Mr. Coffin asked if it was too vague; he questioned what "significant" was. He questioned whether an increase of 10% beyond the assumptions were in the traffic study would be the guidance requiring a new study. Mr. Wilson suggested that the Police Chief left it vague on purpose. Mr. Coffin questioned whether that would be fair to the applicant. Ms. Merrill suggested that there were three areas of difficult terms: "significantly higher", "on-going basis", and "sufficiently reasonably addressed". She stated that she would like something tighter as it refers back to the original study. Mr. Coffin said that these items go back to the recommendations in the Town's traffic analysis and suggested conditions of approval: time management plan to be incorporated and if the values used in the study are exceeded, another study would need to be done. Mr. Wilson explained that the Police Chief made a statement so an officer could be out there until the State could require a corrective measure. Mr. Dubay suggested leaving the wording but add "as determined by the Police Chief and the Town's traffic consultant" after "on-going basis" and strike out "then as presented by the applicant's traffic consultant"; the same sentence to be inserted after "until the traffic has been sufficiently reasonable addressed by" and remove "owner/user". Mr. Wilson said that this statement protects the Town so he is fine with it. There was no further Board comment.

26. during construction, all private road ways shall be constructed to the Town of Kingston standards;

Mr. Coffin said that this was in the ordinances, anyway. There was no further Board comment.

27. the applicant shall pay the impact fee assessment in the amount of \$432,900 prior to the issuance of the new building certificate of occupancy;

There was discussion about whether Police fees were included in determining Impact Fee assessment. Mr. Greenwood suggested leaving the amount off the condition while the assessment was clarified. Mr. Dubay said that they would pay the fees, once clarified, regardless of the amount. He referenced Article 405 and the Impact Fee schedule at the time of the application. Mr. Coffin said the per the 2/15/2013 Impact Fee chart, it lists both Fire Department and Police Department. Mr. Dubay said that his information only included the Fire Department but they will agree to whatever is applicable; they just ask that it be verified. Mr. Dubay suggested Condition #27 read "the applicant will pay all applicable Impact Fees that were assessed at the time of approval." He suggested adding that "Impact Fees are

payable prior to issuance of the new building's occupancy permit" as that is the way that the Town is covered. Ms. Merrill reviewed the fee schedule, per the Building Inspector page, that says "schools, library and fire department". Mr. Greenwood will change Article 27 per Mr. Dubay's suggestion; he will confirm the amount. There was no further Board comment.

* 28. the applicant agrees to plug existing floor drains in the existing warehouse and no additional discharge from the floor drains shall discharge to the exterior;

Ms. Truslow suggested a clarification that "the applicant agrees to permanently plug existing floor drains in the existing warehouse and no additional floor drains will discharge to the exterior" and remove the words "discharge from the" before "floor drains". The Board agreed with the change; there were no additional Board comments.

29. following completion of construction, during monitoring, the effluent nitrate-N concentrations to be achieved at the three new advance treatment septic systems, with the objective of not exceeding the 10 mg/L standard at compliance boundaries, will be 12 mg/L at the system that will service the new warehouse building and 20 mg/L for the systems that will service the existing warehouse and office buildings. If upon monitoring the groundwater the results show little impact to groundwater and no risk of approaching the 10 mg/L at a compliance boundary, the applicant's hydrogeologic consultant and the Town's hydrogeologic consultant may determine to ease the treatment standard if treating to such a low concentration is burdensome upon the applicant.

Ms. Truslow said that when she reviewed the conditions of approval, the last sentence of this condition was not part of the review. She explained the monitoring approach determined between Tim Stone and herself; she added that they never discussed rolling back the treatment requirement as proposed in the second sentence. She stated that she did not think the second sentence in the condition was advisable nor a wise move to add it to the condition. Mr. Stone explained why he thought it might be reasonable further down the road. Ms. Truslow said that she thought that the statement was too broad and Mr. Stone's suggestion was unlikely to happen and the estimate was made on analysis; she continued that it could be re-visited as needed in the future but it didn't make sense to add to the conditions of approval. Mr. Coppelman said that the applicant can always come back to the Town to make modifications if they feel it is appropriate. Mr. Stone agreed that removing the last statement was fine. Ms. Truslow said that these kinds of things can be discussed when establishing a monitoring program, not a condition of approval. Mr. Dubay agreed with Ms. Truslow and agreed with removing the last sentence. Mr. Coppelman clarified that Condition #29 will end at "office buildings" and the rest of the condition, beginning with "If upon monitoring" will be removed. The Board agreed; there was no further Board comment.

* 30. following completion of construction and prior to issuance of a Certificate of Occupancy, installation of a repeater or a radio frequency amplifier for our portable radios installed in the new warehouse distribution structure. The size of the building and construction of metal

and concrete often inhibits our communication into and out of the building to our dispatch center.

Mr. Coppelman suggested changing “for our portable radios” to “for the Town’s portable radios”; he suggested removing the last sentence of the condition beginning with “The size of the building” as it was the explanation for why it was needed. Mr. Wilson stated that he was glad that it is tied to the occupancy permit instead of the bond release as it needs to be addressed prior to occupying the building. Chief Pellerin stated that he was fine with the proposed condition as amended. The Board agreed; there was no further Board comment.

* 31. a note should be added to the final plan that the proposed use will not result in hazardous material use greater than that of a small quantity generator.

Mr. Coppelman asked if this was put forward by Ms. Truslow. She stated that it had been included in one of her previous reviews and agrees that it should be in the conditions. Ms. Duguay suggested adding “or storage” after “material use”. Mr. Wilson and Mr. Bakie asked for clarification of “generator”. Mr. Greenwood reviewed that there is a State standard allowed to be on site to be considered a generator of small quantities of hazardous waste. Ms. Truslow added that there is a definition of a small quantity generator in the Aquifer Protection Ordinance. Ms. Merrill read the definition. Ms. Duguay said that this combines both functions into one condition. The Board agree with the addition; there were no further comments.

Mr. Coppelman noted that during tonight’s discussion, the Board wanted to add another Condition that would have an asterisk to designate that it would be included as a plan note.

*32. Deviation from the approved plan requires further Planning Board review.

The Board had previously agreed to add this condition; there was no further Board comment.

Mr. Wilson stated that he had sent comments back to Mr. Greenwood about the conditions of approval; all had been addressed except for a condition allowing access to the site for further review and inspections and whether this should be a note of the plan; he gave an example of the possibility of randomly checking on the Snow Pro program. There was Board discussion on the wording of a condition allowing Town Inspections and access. Attorney Hollis said he did not have a difference of opinion on what the Board was trying to achieve and suggested the following language: “The Town officials or its consultants shall be allowed future inspections of the property at reasonable times to ensure compliance with the Conditions of Approval” and to notate it as being a note on the plan.

The Board agreed with this proposed language which will become Condition #33.

Mr. Coppelman said that he told the public that we would bring up the fence one more time during the discussion of conditions. He asked the Board if they were satisfied with the fencing and buffering as proposed. Mr. Wilson said he is fine with it as proposed as any issues had been covered in the Conditions required for Sound and Lighting. Mr. Coppelman noted that the Board was satisfied.

Mr. Dubay asked to clarify an item for his client for Condition #32; he asked that "deviation" be clarified by adding the word "material" so it wasn't an issue if, as an example, a shrub was moved a few inches. Ms. Duguay said that she believed that Condition was that there wouldn't be a deviation from the "use". Mr. Wilson agreed with Ms. Duguay as did Mr. Coppelman. Mr. Greenwood will amend Condition #32 to read "deviation from the approved use requires Planning Board review." Mr. Dubay was fine with that clarification. The Board agreed with the change; there was no further Board comment.

Mr. Greenwood noted that Mr. Ouellette asked that the Board consider allowing the Conservation Commission (ConsCom) to provide input or guidance in the areas of closest impact to the river. Ms. Merrill said that the ConsCom comments at the last hearing provided all of that. Mr. Wilson suggested that Ms. Truslow's work will be doing the same think in a more scientific way. Mr. Greenwood said that he thought that Mr. Ouellette thought there might be things other than water quality issues for the ConsCom's input. Mr. Coppelman stated that the ConsCom has provided input throughout the process. There was no further Board comment.

Mr. Coppelman noted that the Board had made their way through the proposed Conditions of Approval and had made adjustments during the discussion.

MM&S to approve the application for the 266 Rte. 125 site plan and subdivision with the 33 conditions as revised; referencing plan set dated January 22, 2021 and any subsequent as required by the Town's consultants. (Motion by Ms. Merrill, second by Mr. Wilson) Discussion: Mr. Dubay noted that there had been a revision of 7 pages dated 1/22/2021 to cover the final punch list. He added that the final plan with updates and notes will need to be revised and reviewed. Ms. Merrill stated that the first note references the final plan and the review. Mr. Coppelman asked if a timeframe for conditions needed to be included. Mr. Hollis said that they are fine with the 90 days in the ordinance and can ask for an extension if needed for items that don't already have timelines included in the conditions. Roll Call vote on the motion:

Mr. Coffin – yes

Mr. Wilson – yes

Ms. Merrill – yes

Mr. Bakie – yes

Mr. Bashaw – yes

Ms. Duguay – yes

Mr. Coppelman – no Mr. Coppelman stated that he was voting no because of his position on the Conditional Use permits as he felt it would be inconsistent of him to not go along with the CUP's and then approve. **Motion carries 6-1** with Mr. Coppelman opposed.

Mr. Coppelman congratulated the applicant and thanked the Board and the public for their time and effort on the project. Mr. Hollis thanked the Board adding that it was a difficult project; he thanked Mr. Greenwood for a great job.

Board Business, continued

- Request for State Auto Inspection license for 125 Auto Center, formerly Mark's Auto at 255 Route 125; a letter was received from the owner of the business leasing the site from the owner. Mr. Coppelman noted that there is nothing in the letter saying that they will be complying with an existing site plan. Mr. Greenwood stated that there was a site plan done in the 90's; the sole approval for the site is for auto repair; the Town has previously denied (more than once) requests for automotive sales. He stated that to his knowledge, there hasn't been a State Inspection station before; there is no record of any State Inspection approvals in the file. Mr. Coppelman read the letter from the business owner that included that there will be no sale of tires; the hours of operation will be 8-5 Monday through Friday; 8-1 on Saturday; closed Sundays and holidays. Mr. Greenwood suggested approving and processing the Auto Inspection request premised on the fact that auto repair in the sole use of the site.

MM&S to recommend approval of the request for auto inspection station and to forward to the BOS for their signature. (Motion by Mr. Coffin, second by Mr. Wilson) Roll Call vote:

Mr. Coffin – yes

Mr. Wilson – yes

Ms. Merrill – yes

Mr. Bakie – yes

Mr. Bashaw – yes

Ms. Duguay – yes

Mr. Coppelman – yes

PUNA (Passed unanimously)

Mr. Coppelman will complete and get to the BOS electronically. Mr. Coffin suggested Mr. Greenwood notify them of the need to get a Business Occupancy Permit. Mr. Greenwood said it was already discussed but he will remind them.

Mr. Coppelman declared the hearing adjourned at 10:40 PM.