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5 **Stratham Planning Board**
6 **Meeting Minutes**
7 **January 6, 2016**
8 **Municipal Center, Selectmen's Meeting Room**
9 10 Bunker Hill Avenue
10 Time: 7:00 PM
11

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13 **Members Present:** Mike Houghton, Chairman
14 Bob Baskerville, Vice Chairman
15 David Canada, Selectmen's Representative
16 Tom House, Member
17 Jameson Paine, Member
18 Nancy Ober, Alternate
19 Lee Paladino, Alternate
20

21 **Staff Present:** Tavis Austin, Town Planner
22

23 **1. Call to Order/Roll Call.**

24 The Chairman took roll call and welcomed the new Town Planner, Tavis Austin.
25

26 **2. Review/Approval of Meeting Minutes.**

27 a. December 2, 2015

28 b. December 16, 2015

29 Mr. Paine made a motion to approve both sets of minutes from December 2 and December 16,
30 2015 as presented. Motion seconded by Mr. Baskerville. Motion carried unanimously.

31 **3. Public Meeting(s).**

32 **a. Group 1 Realty, Inc, 800 Gessner, Suite 400, Houston, TX 77024 for the property located**
33 **at 5a, 5b, and 5c Raeder Drive, Stratham, NH 03885 Tax Map 13 Lots 2-1, 2-2 and 2-3.**
34 Preliminary consultation application for a fully screened inventory lot for Stratham BMW
35 Dealership.

36 Mr. Mike Donahue, attorney for the applicant took the floor. He introduced Morgan Marcelle,
37 the Director of Public Affairs for Group 1, Derek Butts the new General Manager, and Neil
38 Sander from Dynamic Engineering.

39 Mr. Donahue said when they went before the Technical Review Committee (TRC) they received
40 a lot of feedback as well as comments from members of the neighborhood who attended that
41 meeting. They have had talks with the direct abutters outside of this meeting to discuss their
42 concerns. The intention for tonight's meeting is to have a dialogue and get feedback. The plan
43 they have brought tonight is not the final one; it is to spark a discussion and to listen to any
44 alternatives that may be suggested by anybody.

1 Mr. Donahue said one of the issues that has been raised by abutters is the existing lighting at the
2 BMW dealership. BMW have a nationwide initiative to address their lighting at their facilities,
3 particular their older ones. As part of that, there is a commitment on Group 1's part to take a
4 look at the existing lighting and the new LED fixtures and particularly looking at how the lighting
5 can be more dark sky compliant.

6 Mr. Houghton reminded the applicant that this is a preliminary consultation and at this point the
7 Board has not seen or been presented with this application prior to now.

8 Mr. Donahue handed the floor over to Mr. Sander and added that Mr. Jeff Hyland's company
9 would be doing the landscaping.

10 Mr. Sander explained BMW needed more space and their biggest concern is that this project is
11 surrounded by residential properties. He said there are significant buffers established which they
12 have incorporated into their plans along with significant landscaping within those buffers as well
13 as ornamental fencing around the lot and they are working with a professional engineer for the
14 lighting. There will be approximately 69 parking spaces located on a 1 acre lot which is
15 immediately adjacent to the dealership. Currently that lot is occupied by a 2-storey condo
16 building with access from Raeder Drive, but they are proposing eliminating the existing driveway
17 for that property. They will protect some existing trees and add extra plantings to help screen it
18 from the neighbors. For storm water management, they are proposing to construct a bio retention
19 facility in the middle of the parking lot which will have approximately 20,000' of impervious
20 surface. They are looking at alternative solutions currently.

21 Mr. Paine asked Mr. Sander if he had a plan showing how this would tie into the existing property.
22 Mr. Sander indicated it on the plan. Mr. Houghton asked if it was just the one lot. Mr. Sander
23 said it was at this time. Mr. Baskerville referred to lighting and confirmed that would be coming.
24 Mr. Sanders said it would. Mr. Baskerville said one suggestion, as this is going to be a raised
25 parking lot and headlights would shine right through the fence the applicant is suggesting, would
26 be to build something with a more New England feel such as a 30' to a 36" high traditional New
27 England wall. Mr. Sander said the Landscape Architect has suggested heavier screening, but
28 they hadn't discussed a wall.

29 Mr. Paine asked if there had been any consideration to building on the existing dealership lot and
30 tie it into this new lot to move some of the parking area away from the residential area. Mr.
31 Sander said they had considered some alternative designs, but they are in the early stages of that.
32 Mr. House inquired how raised up the parking lot would be. Mr. Sander said about 4' which is
33 in order to discharge the bio-retention area and that unfortunately the water table is pretty high
34 there. Mr. House said his concern would be the run off onto neighboring properties. Mr. Sander
35 said there is an existing swale that runs along the property side of Raeder Drive. The under drain
36 from the bio-retention area will discharge into that and maintain the existing drainage along the
37 street.

38 Mr. Scott Hogan, land use attorney, representing Mr. Mike Keane, a direct residential abutter
39 took the floor. He started by saying he understood this is the preliminary stages, but he is aware
40 that significant discussion has taken place before coming to the Planning Board tonight. He is
41 aware also that the applicant is here tonight to vest this application given the citizens' petition
42 that is on the agenda. The concerns of the residential abutters are obvious and are on record from
43 the TRC meeting. He said this plan maximizes the impacts on the residential abutters and pointed
44 out that the Board has all kinds of discretion built into the conditional use permit review process
45 they can use and he hopes they will.

46

1 Mr. Michael Keane, abutter, 3 Doe Run Lane questioned whether this application truly meets the
2 spirit and intent of what this Board thought the Gateway district was going to provide and
3 reminded the Board what the intent for the Gateway district originally was.

4 Ms. Ernestine Bayer, 24 Doe Run Lane said she has lived at this address for 30 years and
5 remembers that the Meadowbrook Farms development was strongly objected to by the Road
6 Agent at the time because open drainage ditches were planned at the time. All down Doe Run
7 Lane and Raeder Drive is an underground culvert system now. She read from the recorded plan:
8 “the designed open drainage system would never be satisfactory, I therefore recommend to the
9 Planning Board that a closed storm drain system be approved with the proper size pipe dropped
10 inlets and catch basin to meet required calculations for the entire project.” She continued that
11 because of that drainage it means that water from the proposed parking lot is going to go down
12 into those closed culverts and all the way down Doe Run and Raeder and become open ditches
13 from Meadowbrook Farm down to the river. She compared this with a service station going in
14 and said one gallon of spilled gasoline could actually pollute 10 million gallons of water for
15 decades. She showed where the Bunker Hill aquifer was in relation to the proposed lot and said
16 it is the second biggest aquifer in Stratham and probably the best source for the municipal water
17 supply, but not if it is polluted. She showed that the lot is elevated at 134’; everybody else goes
18 downhill. The other direction the water flows is toward Winding Brook. There is a danger of
19 run off contamination and if impervious surface is put down, there is less percolation of the water
20 getting filtered. She pointed out that Mr. Sander referred to using the existing Meadowbrook
21 Farms’ drainage, but that was sized for that property 40 years ago, not for 2 lots covering about
22 6 acres. The maximum allowed paving in the aquifer district is 20%; this could end up being
23 50% paved.

24 Ms. Betsy Marvin, 5 Doe Run Lane said the State monitors her well and another local well across
25 the street every 5 years so they are looking for potential problems.

26 Ms. Debbie Palfrey, 6 Doe Run Lane said they have owned their property since 1978 and their
27 well is monitored also; they are not an abutter. She is a New Hampshire Real Estate broker and
28 if there is anything wrong with a well, it has to be disclosed so they could end up with an
29 unsaleable property if their well gets affected. Mr. Baskerville asked who monitors her well and
30 what they are checking for. Ms. Palfrey said they are checking for contaminants and the people
31 monitoring the well are from the State; she doesn’t pay for it.

32 Mr. Paul Deschaine, Town Administrator explained that the State of New Hampshire several
33 years ago banned the use of MBT as a gasoline additive because of the water contamination
34 issues that were arising. The State also sued the distributors of gasoline products throughout the
35 country and it’s in the past year that several of those manufacturers have settled with the State of
36 New Hampshire. That money has been used to establish a new monitoring program that is
37 administered by the Department of Environmental Services and they are identifying hot spots.
38 Stratham was the third community in the State to be assessed. There was an unknown source
39 resulting in that vicinity which is why this neighborhood was offered the opportunity to have
40 their wells monitored by this program. To his knowledge, they haven’t found any contaminants
41 that warrants mitigation, but they are continuing to monitor it, in case it changes. If it does they
42 are willing to fund mitigation strategies.

43 Ms. Beth Dupell, 7 Doe Run Lane said part of the appeal of the Meadowbrook Farms
44 development was the neighborhood aspect of the development and the agricultural look that
45 existed when she moved to her house in 1991. She still loves the neighborhood and that’s what
46 sold this house to her. She is concerned by this application; it will not feel like a neighborhood
47 anymore or as safe, cozy and welcoming as it does now. The upper part of the block which is
48 used by many residents for recreational activities will not be the same if the condo is removed

1 and an inventory lot is put in its place. She shared a handout showing the neighborhood and
2 talked about when Group 1 Realty came before this Board on May 6, 2015 to discuss an inventory
3 lot at 81 Portsmouth Avenue. She highlighted a few comments made from that meeting such as
4 Mr. Baskerville saying he would prefer to see such a use in a commercial zone, and Mr. Federico
5 saying that this kind of operation across the road from a historic building probably wouldn't be
6 received too favorably by the Town. Ms. Mitchell seconded Mr. Federico's opinion. Ms. Dupell
7 said these are all comments that the residents are making now. She referred to a comment made
8 by Ms. Cushman about if this would be the highest and best use of the property. Ms. Dupell
9 doesn't think so. She read from the Zoning Ordinance; Page 7, Section 1.2 Purpose to the Board.

10 Mr. Mike Toole, 16 Raeder Drive talked about the piping for the drainage and said it comes out
11 behind his house. He is afraid that if more water is added that erosion will occur and affect other
12 houses.

13 Mr. Baskerville said his concern is the fact that the parking lot will be raised. He sees what they
14 are trying to do for drainage purposes, but to make the drainage work properly, will make it
15 tougher to screen it; it is a challenging site.

16 Mr. Canada asked Mr. Deschaine if this area is part of the MS4 area that the Town will need to
17 deal with. Mr. Deschaine said he would have to look at the map to be absolutely sure. Mr.
18 Canada said he thinks part of the problem is that the rezoning in this area was ill-conceived. If
19 this does go forward, the idea is to have more roads to take the pressure off of Portsmouth Avenue
20 and he doesn't see any provision for that. Mr. Canada asked Mr. Donahue about that. Mr.
21 Donahue said that wasn't part of the application and he didn't think it was possible. Mr. Canada
22 asked why. Mr. Donahue said it is a 1 acre lot. Mr. Canada asked if they had bought the
23 neighboring lot. Mr. Donahue said they had been unsuccessful so far and that is why they bought
24 the other lot instead. Mr. Canada said if this goes through there needs to be a provision put in
25 place because the Town doesn't want a road block of the system of roads the Town is trying to
26 develop. Mr. Donahue said it is one of the things they are going to talk about as part of the
27 Citizens' Petition.

28 Mr. House asked how many units were on the lot. Mr. Donahue said they are triplexes. Mr.
29 Donahue reiterated they would like to hear of any suggested alternative suggestions should the
30 Board have any. Mr. House suggested they look at the aquifer codes. If 20% is correct that
31 would take care of things right there.

32 Mr. Marcelle, Group 1 said thank you for the feedback so far and that they do take the feedback
33 very seriously. They want to be a good neighbor so it is important for them to have a great
34 relationship long term. BMW has increased the number of models and as such want the inventory
35 to increase so people don't have to drive across the State to find another model. He assured the
36 abutters that they can bring something phenomenal that won't be offensive to those doing outdoor
37 activities. They will not let things like drainage or affecting the aquifer get in the way; they will
38 do whatever it takes to be a good citizen and neighbor.

39 Mr. George Cooper, 15 Raeder Drive said he is a former member of the ZBA so he is used to
40 what goes on and nothing burns him up more than have a citizen stand up and tell me what my
41 job was, but that is what he is going to do. The Board's job is to protect the citizens of Stratham.

42 Ms. Mary Ann Medzela, 7a Raeder Drive said she is directly impacted and has resided there for
43 36 years. She is outside in her garden a lot and she gets the full impact of BMW including alarms
44 going off, the noise, the trees have reached full maturity so the lower branches have dwindled
45 away so she is seeing it all and the lights are a bother. She is not sure about the aquifer issue, but
46 they have 2 wells on their property which have both been fracked a couple of times. She said at
47 a previous meeting she asked BMW how many cars they wash; she thinks they said 30 or 40 a

1 week so they use a lot of water. There was a big difference once the BMW was built; they started
2 to get water problems. She was stunned to receive a contract asking her to sell from BMW. She
3 completely refused from day one because she thinks it's totally unethical.

4 Mr. Houghton said the vision for the Gateway Business Commercial District Masterplan was not
5 parking lots; its intent is to promote vibrancy, mixed use and commercial development, but we
6 continue to be challenged by additional parking lots in Stratham and it's a challenging issue. The
7 zoning regulations do provide, through conditional use permits, the ability to pursue that
8 particular use for this property so the Board will follow the process relative to what the
9 regulations require.

10 Mr. Hogan said he thinks there needs to be some clarity on whether or not the design review
11 process is officially ended or continued to a certain date because the clock starts ticking on when
12 they need to come forward with a formal site plan review and conditional use permit. Mr.
13 Donahue said the design review process is over and the one year clock has started ticking. An
14 audience member asked if the future TRC meeting will need to be noticed. Mr. Houghton said
15 that typically the TRC is an informal meeting about the design intent for the Gateway district.
16 Mr. Deschaine said the TRC is more of a compliance review, however an applicant may elect to
17 notify abutters, but there is no requirement. Mr. Deschaine said the ordinance is unclear as to
18 whether an applicant has to go back before the TRC if the TRC desires it. Mr. Baskerville asked
19 if Stratham's ordinance had preliminary consultation and design review levels because his
20 understanding is that is what the State level requires. Mr. Deschaine confirmed that in Stratham
21 the 2 tend to be combined.

22 Mr. Hogan suggested that the abutters be informed if Group 1 does go before the TRC again. Mr.
23 Houghton suggested that staff work with the applicant to notice the abutters in the event that
24 another TRC meeting takes place.

- 25 **b. Ms. Ruth M. Breslin, Revocable Trust, 96 Stratham Heights Road, Stratham, NH 03885 for**
26 **the property at 96 Stratham Heights Road, Stratham, Tax Map 5 Lot 120.** Preliminary
27 consultation application for a 17-lot residential subdivision.

28 Mr. Bruce Scamman, Emanuel Engineering and representative for Ruth M. Breslin Revocable
29 Trust introduced himself and 2 of the trustees: Ms. Kathleen and Mr. Ray Breslin.

30 Mr. Scamman said the parcel for this project is 41 acres big and has been in the family for several
31 decades. They are looking to possibly subdivide the property and would like some preliminary
32 feedback. For tonight's meeting they have shown a fairly standard subdivision with 2 acre lots
33 and 200' frontage. They have provided topography and preliminary wetlands from the
34 Department of Agriculture's Soils survey.

35 Mr. Baskerville asked if they were considering a cluster or conventional subdivision. Mr.
36 Scamman said at this point they haven't decided. Mr. Baskerville asked about grading for the
37 roads. Mr. Scamman said he thinks the road would look a lot different to the preliminary plan
38 presented tonight. They just put in the largest yield plan as possible without doing any test pits
39 and going through a full design which would definitely change many of the lots. Mr. Paine asked
40 if the wetland and soils data was national on line data. Mr. Scamman said it was from the USDA
41 soils survey. Mr. Scamman said they got the pond from aerial photography to confirm its
42 location.

43 Mr. Houghton asked if there were any other wetland issues. Mr. Scamman showed several areas
44 where there are wetlands, but he doesn't have the finer details. Mr. Baskerville said to make sure
45 they do a vernal pool assessment for the pond. Mr. Scamman said it's a year round pool. Mr.
46 Paine asked about the sight distance for the roads being cut into Stratham Heights Road. Mr.
47 Scamman said they would work with the Town with any issues, but they will try to line up as

1 best as they can with Stratham Heights Road. Mr. Paine said they should check with the Road
2 Agent to make sure they are all set. Mr. Baskerville said he thinks the back of the parcel gets
3 pretty steep so it might be better to go with a cluster subdivision design with wetlands being on
4 the property.

5 Ms. Chatfield, 116 Stratham Heights Road said her only concern as an immediate abutter is
6 making sure there is plenty of coverage because it was a very quiet neighborhood when they
7 moved in so they are against the development. Their biggest concern would be the integrity of
8 the wells, and the location of the road as it does get very curvy by her property and sight lines are
9 an issue. She observed there has been a lot of development in the Town since she moved here 2
10 and a half years ago. There is a lot of open land around Stratham Heights and she sees that
11 disappearing over time. She asked if the Town had a long term strategy to maintain open spaces
12 and can the services still be provided as the Town continues to grow. Ms. Chatfield asked if there
13 would be any blasting. Mr. Scamman said he couldn't answer that at this point. She wondered
14 if property values would be affected.

15 Mr. Baskerville pointed out that subdivision applications in this Town do take a long time with a
16 lot of review.

17 Ms. Jean Pauly, 94 Stratham Heights Road said with the help of the Town they managed to secure
18 a conservation easement for most of her property's 19 acres to keep it undeveloped. Her property
19 is downhill from this project so she gets a lot of water already. She talked about her neighbor
20 Jeffrey Benton who runs a Community Support Agriculture program; last year he had 65 families
21 who subscribed and is hoping to increase that to 100 and to grow vegetables on an acre. He uses
22 almost an acre currently which will abut this development. Ms. Pauly said they have a lot of deer
23 and she no longer has any wood left on her property so by putting in houses and destructing that
24 habitat, she knows that will cause issues; she is generally concerned about wildlife. She hopes
25 that there is a way to conserve some of the development particularly where it is buffering the
26 agricultural use and that they can work with the Conservation Commission.

27 Mr. Russ Fitch, 8 Country Farm Road talked about the impact on traffic, schools and the fire
28 services. He shares a lot at 101 Stratham Height Road and agrees there is a lot of deer traffic and
29 other wildlife. He referred to the pond and stream and said he is concerned about his well and
30 water flow.

31 Ms. Jan Teed, 2 Country Farm Road said one of the entrances to this proposed development
32 would be directly opposite her house so she would like that taken into consideration so she
33 doesn't have headlights shining directly into her house. She is concerned about water also. She
34 acknowledged that Stratham does a good job with developments but said this is an established
35 neighborhood with good property values and she would like those values to remain high. Ms.
36 Teed is concerned about her well with all the growing development. She wondered about
37 lighting, roads and entrances onto Stratham Heights Road.

38 Mr. Baskerville explained that when this application is further along, the Board can ask for
39 different things such as a traffic study and the Town Road Agent will take a look at it too.

40 Ms. Christine Saltus, 5 Country Farm Road said she can vouch for the deer and wetlands, but she
41 is mostly concerned about the well and coming out of Country Farm Road there is a bit of an
42 incline just around the bend and it is not easy to get out of there.

43 Ms. Beth Bedell, 120 Stratham Heights Road, said they did ask the Breslins if they could buy
44 this land in the past. She is worried about the value of her house, the wildlife and the traffic
45 which is terrible now. At the back of her driveway are a lot of wetlands and she hopes something
46 can be worked out.

1 Mr. House asked Mr. Scamman that when he comes back if he could put surrounding homes onto
2 the site plan. Mr. Scamman said it is required as part of the submission so he will definitely do
3 it.

4 Mr. Baskerville wondered if this project would allow the neighbor to use some of the tillable land
5 which appears to be on this project's land. Mr. Scamman said it has been done in the past. Mr.
6 Scamman said his clients are happy to work with the Town and if this is mutually beneficial then
7 it would to everybody's advantage.

8 Mr. Canada referred to the comment made by Mr. Baskerville about applications taking 18
9 months and said that the Board owes it to an applicant to take 8 months or less.

10 Ms. Kathleen Breslin, applicant asked for confirmation from the Board that this application
11 would now be grandfathered under the current regulations for up to a year. The Board confirmed
12 that she was correct. Mr. Deschaine said to be clear that it wouldn't be fair to wait until the
13 366th day with the subdivision plan. Mr. Coppelman said he believes the applicant has a year
14 to file their formal subdivision application. Mr. Greenwood said the clock starts ticking tonight.

15 Ms. Chatfield offered to compile a list of people's email addresses to keep communication open.

16 **2. Public Hearings**

17 a. **Citizens Petition; Changing the Zoning of Certain Parcels to**
18 **Residential/Agricultural.** At the request of thirty-five registered voters in the Town of
19 Stratham, to see if the Town will amend the Zoning Ordinance, Section III Establishment
20 of Districts and Uses, by changing the zoning of the properties identified as Tax Map 13,
21 Lot 2; Tax Map 13, Lot 3, and portions of properties identified as Tax Map 13, Lot 4;
22 Tax Map 13, Lot 8; and Tax Map 13, Lot 9 to the Residential/Agricultural zoning district
23 from the Gateway Commercial Business District Outer Zone zoning.

24 Mr. Michael Keane, 3 Doe Run Lane explained that up until 2013 all those lots were still in the
25 R/A district. Part of the dispute with BMW in the past is they were unable to secure a driveway
26 onto Portsmouth Avenue so they were coming up Raeder Drive across the residential land which
27 the residents thought was ill conceived. They were able to get a curb cut on Portsmouth Avenue
28 eventually. He showed where the General Commercial District (GCD) used to be in 2005. It
29 was 800' from the center line of Portsmouth Avenue and stopped short of Raeder Drive. In 2010
30 when the Gateway District (GD) came in, it was an overlay district and the Town warrant states
31 that the Gateway District Overlay shall follow the lines of the GCD as shown on the plan, but the
32 plan and the language don't match. It wasn't bad because the overlay district didn't come with
33 any zoning changes. In 2013 the GCD went away and the overlay district became the underlying
34 district; there was a line drawn in there that said it shall be as shown on this map with all
35 commercial boundary lines eliminated. Eliminating said line meant 5 residential lots became
36 commercially zoned and that included commercial uses. Mr. Keane said he asked Mr. Daley just
37 before the vote in 2014 why the zone didn't follow the property lines. Mr. Daley told him that
38 somebody simply drew a line 800' from Portsmouth Avenue and that was it. He observed that
39 the tax cards show some of the lots as residential.

40 Mr. Keane observed that Mr. Canada had mentioned the back roads that are planned to be built.
41 He showed one road on the plan that doesn't exist so until such time that road is planned, the
42 only access to those lots are down Raeder Drive, and through an intersection into the residential
43 neighborhood. He said for some reason there is a table of uses exclusively for the GD which is
44 different to the table of uses in the Zoning Ordinance. One of the permitted uses in the regular
45 table of uses which is missing is automotive related and car sales. He went on to say that the GD
46 in the Ordinance says that the provisions of the GD trump all other ordinances in Town; so that

1 being the case, this table trumps the other table that has prohibited uses and has conditional uses
2 and one special permit. The only prohibited use in this table in the GD is a bank or restaurant
3 drive through; everything else is allowed by CUP.

4 Mr. Keane addressed the citizens' petition and said it goes onto the ballot as written with or
5 without the Board's approval. They are asking the Board to take a good look at this and approve
6 it. He went on to say if for whatever reason BMW can't do this at least they will be rezoned in
7 the event someone else wants to do something commercial. They are expecting a protest petition
8 to be filed so they have to get a two thirds majority vote at the Town meeting which is why it's
9 imperative to get the Board's approval.

10 Ms. Ernestine Bayer, 24 Doe Run Lane mentioned the aquifer issue applies to this too.

11 Mr. Tim Copeland, Raeder Drive said he is asking the Board to endorse this petition as well.
12 Those residents that may not be familiar with this topic, look at it and if they see the Board has
13 approved it, they will likely vote in favor.

14 Mr. Canada said he thought it was ludicrous to draw a commercial line through a residential
15 neighborhood.

16 Mr. Mike Donahue said he appreciates the work that Mr. Keane has done, but it is pretty clear
17 the reason this petition was filed was to prevent BMW going forward with its proposal on one of
18 the triplex lots. The concept that this is all wrong as it relates to the 2 triplex lots which total over
19 5 acres is erroneous because they are conforming uses under the Gateway zone. If the rezoning
20 goes ahead, these triplexes will no longer be conforming uses; they will be 3-family units in a
21 single family zone. If this was the Board's idea or somebody like Glen suggested the Board
22 should take a look at this and it had been put on the agenda for a public hearing; before the Board
23 did that they would have to contact every one of those affected landowners and send them a
24 certified notice and explain what was being done to their property. This group is not doing that,
25 they have decided to proceed without doing that; that would make sense if it was consistent with
26 the zoning that has been developed, but it is not because it is rendering those properties non-
27 conforming. He asked who will invest in those properties if they become single family uses right
28 up against a BMW dealership. He observed that the BMW use will be grandfathered for a year
29 so they can go ahead so if it is aimed at that, it is ineffectual. If this goes ahead there will never
30 be a possibility of an ultimate connection from Raeder Drive through a traffic light in another
31 portion of the community. He feels this is not right and it's not good planning.

32 Mr. Keane said that Mr. Donahue is correct that it came to light as a result of the BMW dealership
33 proposal and everybody in the neighborhood asked when those lots get rezoned. He pointed out
34 that when his lot was rezoned, he never got a notice from the Planning Board that it was
35 happening. It was put in the newspaper and written in the Town warrant, but what was written
36 in the Town warrant didn't match the graphic, nor does it match the graphic on the Town's
37 website. He showed the plan that the Town warrant referenced and referred to a note that
38 describes what that district should be; that text doesn't match the graphic: it was a mistake.

39 Mr. Peter Grey, 20 Squamscott Road said it has been stated that the Town relies on the Board to
40 make their decisions. He had a theory and decided to analyze voting records and that's exactly
41 what he saw; if Planning Board approved then those warrants passed and if they didn't approve
42 a warrant, that was voted down. In essence, very few actual people are making these decisions.

43 Ms. Kathleen Campion, 24 Raeder Drive, did not know that the zoning had changed until several
44 nights ago. Back in the early eighties, a developer came in and wanted to develop more
45 apartments and condos at the end of Raeder Drive. The residents came to the Planning Board at
46 the time to ask if this could occur. The Board said it couldn't occur because it's
47 residential/agricultural. We love our neighborhood, but she didn't know that what they had voted

1 for had changed significantly and impacted her neighbors so severely; she doesn't believe that
2 was the intent of the Planning Board. She asked the Board to do the right thing on this petition.

3 Mike Toole, 16 Raeder Drive said very few of them knew the zone had changed. He is worried
4 about the value of his home if the BMW proposal goes forward, and the culvert in his back yard
5 will pour water out.

6 Mr. Bruce Scamman, Blossom Lane said the easement on the plan doesn't go all the way to the
7 road as shown on the plan. Additionally there is an easement that runs across which is between
8 the Agway store and the Autofair dealership. He did a long research project about 10 years ago
9 that looked into the districts setbacks from Portsmouth Avenue, at that point some of the notes
10 said 800' either side of the center line of the road. He found that was not correct and looked at
11 every warrant article from 1957 forward to look at the zoning districts. There are several places
12 where the zoning district or road becomes larger such as the corner of Frying Pan Lane, and
13 Stratham Circle. At the time he presented this to the Planning Board and the Chairman stated
14 that Mr. Scamman was correct.

15 Mr. Keane said in 2013 the Board voted on 800' because that was the wording in the warrant
16 article.

17 Ms. Bayer shared the original plan that was approved for BMW when they went in; she referred
18 to a strip on the plan was zoned as residential/agricultural; it was actually a stone wall. On this
19 plan it says "no motor vehicle repairs are proposed with this site plan except for scheduled
20 inspections and minor service incidental thereto. All such service work will be done indoors with
21 service bays closed etc". It was supposed to be for sale of new vehicles only. When she drove
22 by tonight, there was a Cooper for sale. She suggests that BMW get the used cars out of there
23 and then there will be more room to park. The original idea was that the cars were going to be
24 sold at the Exeter location. Ms. Bayer finished by saying they would need to apply for an
25 exception permit too as it is in the outer zone where service stations and repair shops aren't
26 permitted.

27 Mr. Cooper, Raeder Drive asked who owns the triplexes. Ms. Bayer said as of yesterday at 2:00
28 pm at the registry, they still belong to the residents who are currently still living in them.

29 Mr. Copeland said the 2013 warrant article itself has unintended consequences on what is going
30 on. To further the comment from Mr. Donahue about only 5 properties being affected, there are
31 70 other homes that will be affected by this. He added that BMW themselves haven't been great
32 neighbors. He referred to the car carriers who sometimes sit in the center line on Portsmouth
33 Avenue which affects sight distance when you're pulling out to the right. BMW said they would
34 take the complaints from the TRC meeting and try to improve things, but he hasn't seen anything
35 happen yet.

36 Mr. Sean Norton, 25 Doe Run Lane said that Mr. Donahue seemed to do is scold the TRC, but
37 their plan seems to be taking away everything the Gateway stands for.

38 Mr. Paul Wolf, 19 Doe Run Lane said contrary to what Mr. Donahue said, he doesn't think this
39 is terribly unfair to BMW. They haven't purchased the lots yet and there are plenty of alternatives
40 they could go to. He has heard that in the Gateway District it is preferred for a multi or 2-level
41 type of parking which would certainly solve their inventory problems which could be done on
42 different parts of the property if it's examined. He thinks conditions were put on the original
43 approval such as parking spots being striped, but if you look at it now, the cars are parked
44 everywhere, not just in striped areas which means the car carrier can't safely unload and turn
45 around to get out. He continued that if they should end up with the parcel and if it all stays
46 residential, it becomes landlocked or could be used as commercial with no entrance from
47 Portsmouth Avenue which means they will need to drive through the residential area.

1 Ms. Dupell said the petition had 35 approved signatures plus 3 that weren't approved. There are
2 55 homes in that development, with 2 adults they could have up to 110 people. It was a short
3 time frame to put together the petition and it is something new for them.

4 Mr. Baskerville said it seems the Planning Board didn't get everything perfect the first time.
5 Everybody has a point tonight and so they won't be able to please everybody. He said the Board
6 should work on this over the next couple of years and rewrite the zone for those areas.

7 Mr. Paine said they obviously want to maintain the character and quality of life for both business
8 and the people living there; it is an established development. There is a balance here and the
9 Board has an opportunity to help maintain some of the character in the area. Mr. House agreed
10 with Mr. Paine. Mr. House talked about the TRC meeting when the committee said to the
11 applicant that the intent was not to have a parking lot there. He commented that as you go up
12 Portsmouth Avenue, the Town has tried to change the density, and as you get away from the
13 Route 101, it is more rural, but he isn't sure they explored it going in the opposite way as well.

14 Mr. Houghton said there are clearly mistakes how it relates to how some of the lots have been
15 segmented and it doesn't make any sense from a zoning perspective. The vision of the Gateway
16 District is really related to higher density and mixed use and one that includes water and sewer.
17 These discussions will continue as water and sewer become the fore front of our community. The
18 Board has always known this would be a challenge as it has to work with what exists. Mr.
19 Houghton referred to Mr. Keane's comment that there are not many roads on the west side of
20 Portsmouth Avenue and there are connector roads drawn on the other side, but there are
21 easements on the west side of the road to basically foresee the potential for connector roads.

22 Mr. Canada voted that the Board approve this warrant article and by doing so recommend to the
23 voters that they approve the warrant article. Mr. Baskerville seconded the motion. The motion
24 was carried unanimously.

25 b. **Planning Board Workshop – Draft Zoning and Land Use Regulation Amendments; continued**
26 discussion of zoning amendments for Agriculture

27 Mr. Glen Greenwood, RPC explained that the regulations have changed since the last workshop
28 because it now offers 3 additional ways of looking at describing how agricultural activities would
29 be permitted in the central zone of the Gateway District. One way is to have it as a permitted use
30 through a conditional use permit (CUP) as it is done now, but that wasn't liked by most people.
31 Option 2 allows for the CUP to be more flexible when agricultural activities are being reviewed.
32 Mr. Greenwood added additional language authorizing the Planning Board to be able to request
33 professional studies if they were felt necessary in order to render a decision. Another option says
34 in the central zone agricultural activity is a permitted use as defined by State statute. Finally
35 there is an option to attempt to compromise between those 2 opposing viewpoints which takes
36 away the need for a CUP unless however it is an agritourism use; that would be subjected to a
37 flexible CUP.

38 Mr. Canada said that one of his biggest concerns is agritourism being a loophole for people to
39 take advantage of and avoid zoning things. He does support something if it makes a farm
40 viable. He asked what makes a farm or a farmer. He met with some people this week and has a
41 definition that he thinks will answer the problem without the need for a CUP. It is as follows: “
42 “Agritourism is further defined as follows: Agritourism means attracting visitors to working
43 farms to attend events and activities that are accessory uses to the primary farm operation,
44 including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm
45 environment, education on farm operations, or active involvement in the operation of the
46 farm. Agritourism uses shall be permitted on any property where the primary use is for
47 agriculture.”

1 He feels that by including this in the Ordinance it won't harm the Town. He said he thinks it
2 would be ludicrous to expect the Scammans and the Goodriches to have to ask to have more cows
3 and that should be made a permitted use in both the Outer and Central zone.

4 Mr. Paine said he still has concerns about storm water in the central zone. The more or less
5 allowance of anything that follows the definition by State standards will be allowed in that area
6 without consideration. He doesn't seen any consideration or wording for engineered plans for
7 the Town to consider.

8 Mr. Bruce Scamman said he'd been working for almost a year on some of the language and the
9 thought process was to follow the State definition of Agriculture. The biggest concern was the
10 expansion of agritourism and it was thought that Agritourism should have some kind of review
11 process.

12 Mr. Houghton said the vision for the Gateway Commercial Business district is a long term one
13 and it contemplates infrastructure and water and sewer to create that density and essentially
14 change the use of that land. He feels it is reasonable to ask that development within that central
15 zone remain under a CUP. Mr. Canada said there really are only 2 farms, and they are both
16 encumbered. Mr. Paine agreed with Mr. Houghton. Mr. Canada argued that the farms have to
17 follow best management practices – that's part of the Statute.

18 Mr. Baskerville said he thinks the problem is that someone wants to put up an agricultural
19 building, there are Gateway regulations that are enormously complex, but 30' away you can put
20 up a farm building without any type of review whatsoever.

21 Mr. Greenwood said he thinks the Board needs some sort of ability to converse with a
22 development like King's Plaza within the Central Zone. He said he is asking the Board to think
23 beyond the farms that are there now.

24 The Board went back and forth on whether or not a CUP is necessary. Mr. Scamman reminded
25 the Board that if a building is used by the public it would need to go before the Board.

26 Mr. Coppelman said there are a couple of Bills they are trying to introduce at the State level this
27 year; one in the house, one in the Senate that will include agritourism as an use, but when
28 agritourism is involved, the local municipal body would have the ability to review and permit for
29 the agritourism part of it.

30 Mr. Doug Scamman, resident said anybody who wants to go into hydroponics has to have big
31 pockets and they won't waste their money buying expensive properties like in the Central zone.
32 He gave an example of hydroponics being grown in a disused gravel pit. He thinks Mr. Canada's
33 suggestion covers the Town pretty well. He finished by saying that they don't need added costs
34 to develop the farm to keep making a living.

35 Mr. Grey asked if this was strictly for the central zone or Town wide. Mr. Houghton replied that
36 it is Town wide.

37 Mr. Deschaine clarified the time line for this warrant article. In order for the Board to have the
38 final public hearing, the draft has to be ready and available by Friday, January 15, 2016. Mr.
39 Deschaine said the Board needs to come up with which draft version they would like. Mr.
40 Scamman said that the site plan regulations don't need to be done through the same process.

41 Mr. Grey said an important part of the regulations is considering the number of people attending
42 an agritourism event. The way it is worded right now, there is no differentiation. The problems
43 could come with very high traffic arriving and leaving the site. He suggested thinking about a
44 point of departure at which point it becomes agritourism versus a farm stand. Mr. Coppelman
45 responded that the definition for agritourism is being defined by the activity and not the number
46 of people so there is no threshold to meet.

1 The Board continued to express their opinions about which draft would be best. Mr. Scamman
2 said if they go for the version that includes some Planning Board oversight for structures, would
3 they have to come before the Board to put up a fence for 3 goats? Mr. Baskerville asked what
4 the right word would be. Mr. Austin asked if structures are defined in the Ordinance.

5 Mr. Chris Duffy seconded what Mr. Doug Scamman said about the expense of trying to buy land
6 in the central zone to do farming. He said farmers would never make enough money to afford it.
7 He thinks the Board are having concerns over something that will never happen.

8 A resident made the point that once water and sewer become available, properties will be even
9 more expensive.

10 Mr. Doug Scamman said he understands the need to be concerned about what people are doing,
11 but he feels the site plan regulations will help them to control that.

12 Mr. Paine made a motion to bring forward the text provided drafted 1/6/2016 with the tracking
13 changes only and with the change in the Central zone to state that agricultural uses are permitted,
14 however any proposed structures greater than 100 S.F. the Planning Board reserves the right to
15 review or request studies prepared by professional consultants if deemed necessary.

16 Mr. Deschaine suggested adding that the Planning Board reserves the right to request additional
17 data for proposed structures greater than 100 S.F. This provision will not apply to those
18 agricultural uses in existence on 1/1/2016.

19 The Board still went back and forth so the Chairman took a vote on the various options.

20 Mr. Baskerville made a motion that the Board approve the wording for the proposed draft for the
21 Zoning Ordinance draft 1/6/2016 MM with the change and the wording and the bullet point on
22 top of the third page Central Zone permitted agriculture and agritourism as defined in section 2
23 Definitions 2.1.6 is fine, but that the Board add a footnote for the Central district that buildings
24 in excess of 400 S.F. will require a flexible conditional use permit. Motion seconded by Mr.
25 Canada. Motion carried unanimously.

26

27 **3. Miscellaneous.**

28 There were no miscellaneous items to report.

29 **4. Adjournment.**

30 Mr. Houghton made a motion to adjourn at 11:55 pm. Motion seconded by Mr. Baskerville. Motion
31 carried unanimously.