FINAL

STERLING PLANNING BOARD
MEETING MINUTES
December 10, 2008 – Rm. 202 Butterick Bldg.

Present: Robert Protano – Chairman
Ron Pichierri – ANR Agent
Michael Radzicki – Vice Chairman
Kenneth Williams – Clerk
Melissa M. French – Administrative Assistant

Absent: Charles Hajdu

Chairman Protano calls the Planning Board Meeting to order at 7:00 PM. Radzicki joins the meeting at 7:08 PM.

ANR(s)
Michael Martorella of David E. Ross Assoc, Inc. is present with a plan of land owned by Kenneth Perry et al, 33 Osgood Road, identified as Book 9503 Pg 256 in the Worcester South District Registry of Deeds; Assessor's Map 83 Lot 1, total acreage is 31.37 acres. The total land area is being subdivided into two parcels. Parcel A, consisting of 20 acres, is being "taken" by the DCR. The parcel is landlocked but will be joined with abutting DCR(MDC) land. The remaining land, equaling 11.37 acres, with existing improvements, is being retained by the Perry family. Perry was strongly advised to have the ANR plan recorded.

The Board is in receipt of the Form A, Agent for Applicant Form and a check for $100.00.

Chairman Protano moves that the Sterling Planning Board endorse the ANR for Kenneth Perry, prepared by David E. Ross Associates, Inc., P.O. Box 368, 111 Fitchburg Road, Ayer MA 01432, Job # 25543, Map 83 Lot 1, 33 Osgood Road Sterling, MA, prepared November, 2008. Radzicki seconds it, no further discussion, all in favor, approved by the Board.

MINUTES APPROVED
No Minutes were approved. The minutes of November 12, 2008 are scheduled to be approved at the January 14, 2008 meeting.

R.G. GRIFFIN – FITCH POND REALTY TRUST

Gary Griffin is present tonight to follow up with the Board after two of his roads were voted down (for town acceptance) at the November 17, 2008 Special Town Meeting. Griffin would also like to discuss the return of his money being held in a Cash Performance Bond.

Griffin states that he will try again for town road approval of Fern Lane and Runaway Brook Road at the May 2009 Town Meeting and would like Planning Board's support at that time. Griffin states that he now understands the issues that led the town to vote down acceptance of his roads and that he was caught off guard and unprepared to retaliate against the opposition at the November meeting. Griffin mentions the proposed suggestion that Performance Bonds be required by the town for protection of road infrastructure during future construction of homes, (see minutes of 10-8-08). He states that he has already in place, in the form of deed restrictions, restrictive covenants to ensure a common scheme of the neighborhood, which would afford protection to the roads.

Also of concern was the issue of real estate taxes. The vacant house lots along these two roads are now assessed as building lots and the town is receiving $50,000+/- in annual tax revenue. Griffin does not feel that the audience was aware of this, as someone misspoke and led them to believe otherwise.

Griffin would like to request that the Planning Board release his Performance Bond for Fitch Farm Realty Trust and return the balance of the account to him ($18,512.48 plus interest). This bond is in place for the installation of infrastructure. Griffin states that according to the Town of Sterling Subdivision Rules and Regulations he has satisfied the requirements for release of the Bond. He is also essentially in compliance with Condition #8 of the Approval Letter dated 12/18/03. The Board concurs and agrees to return his money.

Radzicki moves that the Board return the balance of the Performance Bond and Review Fees for Fitch Farm Realty Trust to Gary Griffin, Williams 2nds the motion. Pichierri asks if all time requirements have been met, Griffin states that they have. Radzicki amends his motion to include "subject to receipt of the recordable deeds". Chairman Protano would like to defer to Town Counsel before voting to return any monies. No further discussion, three in favor, one against, motion approved. Williams Aye, Radzicki Aye, Pichierri Aye, Chairman Protano Nay.

The Board decides to hold back release of the Review Fee account ($577.00 plus interest) until after all deed recordings are filed.

SITE PLAN REVIEW
PRATTS JUNCTION ROAD REALTY LLC

Present for the Site Plan Review are Jack Wentzell, Pratts Jct Rd Realty LLC, Don Harding, D. Wayne Contracting, Inc., Denis McLaughlin, Places Site Consultants, Inc. and Scott Miller, Haley & Ward, Inc.

Denis McLaughlin from Places Site Consultants, Inc. is present this evening with a revised Site Plan for Pratts Jct Rd. Realty, LLC, 146-148 Pratts Jct Road. This is an existing building, formerly the Herman Ewell truck fleet repair and maintenance facility.

Chairman Protano reads a review letter from Haley & Ward dated 12-3-08 with ten items of review, as inserted below. Following this letter are the responses to each item in a letter from Places Site Consultants, dated 12-8-08.

Dear Board Members,
Haley and Ward has completed a review of site plan drawing for 146-148 Pratts Junction. The drawings were prepared by Places Site Consultants, Inc. are dated August 2008 with revisions through October 10, 2008. We offer the following comments.

1. The fire protection capacity of the water distribution system should be evaluated prior to construction approval. This evaluation should include the following components
a) Fire flow demand based upon proposed construction and NFPA standards. It should be noted if the structure will include fire sprinklers and the applicable code.
b) Fire flow capacity to the site through the connection to the distribution system at Pratts Junction Road. Capacity should be based upon hydrant flow tests conducted by the applicant.
c) Projected fire flow capacity within the proposed development.

2. The proposed use of the structure should be stated with respect to
a) Conformance with 4.6.4 (d), toxic or hazardous materials and
b) Discharge of industrial waste or cooling water.

3. The proposed wastewater discharge appears to be less than 440 gallons per acre per day. This should be confirmed by the applicant.

4. The applicant should confirm that the septic system leach system provides at least six (6) feet of separation to annual high groundwater level.

5. Diked storage areas for petroleum products such as heating and hydraulic oils should be provided with the capacity to contain at least 150% of the stored volume. Other hazardous liquids in quantities greater than household use should be similarly stored.

6. Based upon the floor plan provided 20 parking spaces are required. Twelve spaces are shown. The additional parking spaces should be shown on a paved surface. Required landscape screening should be provided.

7. One handicapped parking space should be provided with an accessible route to the door of the facility. Appropriate signage should be provided.

8. The access aisle in front of the structure does not provide the required width for single lane traffic to a 60 degree angle parking. Appropriate signage should be provided if this aisle is required to be one way traffic.

9. The proposed exterior lighting should be specified as to prevent direct glare on to the travelled way.

10. A screened solid waste disposal container should be shown.

Yours very truly,
Haley and Ward, Inc.
Scott A. Miller, P.E.

The response letter from Places Site Consultants, Inc. is interjected as it applies to each review comment.

With respect to Item #1, Fire Protection; the consultants respond that it is their understanding that the Planning Board is in receipt of a letter from Haynes, Leineck and Smith, Inc., Architects that indicates sprinklers are not required. They also understand that there is no opposition from other Town Departments or Boards and that the Fire Dept is pleased to see that this now vacant building will be repaired and occupied. "This is an existing building that, although currently vacant, is damaged by fire and the request to permit the repairs has generated this site plan request. Exclusive of repairs associated with fire damage there are no external changes intended or desired to the existing facility". The Board questions whether a sprinkler system is required, being an existing building. Miller states that he is unsure and that it would be up to the Fire Department. Miller recommends that the Board make it a condition of approval that the Fire Chief be satisfied with the fire protection. Williams points out that as of the date of this meeting, the Planning Board has not received a written review from the Fire Dept. and that a lack of response does not imply a lack of opposition.

With respect to Item #2, Toxic and Hazardous Materials; the consultant responds that the proposed use of the repaired structure conforms to the town regulations regarding toxic and hazardous materials. No toxic materials will be used and only small quantities of heating oil and hydraulic fluids are to be used which will conform to current control methodologies. No discharge of industrial waste or cooling water is anticipated. Chairman Protano reads an email from the Fire Chief, dated 12-10-08, in which the Chief requests a copy of the narrative entitled "Code Compliance Narrative", from Haynes, Lieneck and Smith Inc. Chairman Protano states that the Board will see that the Fire Chief receives this narrative (tomorrow).

With respect to Item #3, Wastewater Discharge; they respond that the proposed use is the same as the previously approved septic use and that there are no known issues with the existing septic system. The change of ownership will require inspections; however the change of ownership cannot happen until the necessary permits are issued to allow the building to be repaired. Therefore, Title V compliance will be determined at a later date. Chairman Protano reads into the minutes a letter from the Board of Health, stating that the proposed plan has been reviewed without objections; however the BOH cannot comment on the existing soil absorption system and its integrity until they have received an official Title V inspection as outlined with the State Sanitary Code 310 cmr 15.000.

With respect to Item #4, Septic Conformity; "There is no plan, at this time, to repair or alter the existing septic system. If and when repair is planned, the work will be done in accordance with permit issued by the Sterling Board of Health". Williams comments that this is not a BOH matter, but refers to Water Source Protection. McLaughlin replies that he understands. There is a bit of "grey area" in that the Water Source Protection act was

implemented after this septic system was installed, but now that the building has been vacant there is an interruption in continued use. McLaughlin reiterates that because the septic system exists, until which time it is touched or altered in any way, there should be no concern. If the system is to be touched then the current rules and regulations would have to be adhered to.

With respect to Item #5, Heating Oil and Hydraulic Fluids; they respond that heating oil and hydraulic fluid will be used and will be stored inside the building. The storage areas will have 150% containment storage, meeting appropriate code requirements.

With respect to Item #6, Parking; the parking shown on the current site plan duplicates what was shown on the originally approved site plan. There are additional parking areas onsite and parking in the rear has been painted to document location and sufficient quantity for compliance. The revised plan shows 26 spaces. Chairman Protano reads a letter from the Police Department, dated 12-08-08, in which the chief states he has reviewed the plans and visited the site. He feels there is adequate site distance for exiting vehicles and that the circular driveway will limit the parking in front of the building. Vehicles parked at a 90 degree angle will block passage of through traffic in the driveway and he suggests that angle parking will eliminate this problem. The chief requires a clearly marked street number visible during night hours be posted prominently and visible to emergency vehicles from both directions. McLaughlin states that the Police Chief's letter agrees with their parking plan.

With respect to Item #7, Handicap Parking; McLaughlin responds that the proposed use of the building does not include access to the public and therefore no handicap parking or access is required. Harding adds that being a private building, ADA compliance is not of concern. The building is not set up for handicap access so it would be moot to provide handicap parking. Should the building inspector decide, now or at a future date, that handicap parking should be provided there is sufficient space to do so.

With respect to Item #8, Driveway Width; the response states that in order to comply with current standards the plan has been revised to show 45 degree angled parking at the front. The plan has also been revised to show signage indicating one-way traffic.

With respect to Item #9, Exterior Lighting; no plan exists to change the existing lighting. The present lighting does not cause any glare to vehicles in the public way.

With respect to Item #10, Waste Disposal; a screened dumpster location has been included on the revised plan.

Chairman Protano reads into the minutes three departmental letters not yet included in the site plan review. The first is from the Sterling Municipal Light Department, dated December 8, 2008, stating that they have no concerns with the project. The second is an email from Bill Tuttle of the DPW, dated November 25, 2008, stating that neither the DPW nor the Water Dept has any issues with the proposal to rehabilitate the Herman R Ewell Building. The third letter is an email from Mark Brodeur, dated November 18, 2008, in which he states that the "Building Department has no comment as to the proposal".

Chairman Protano asks Miller if he has any other comments or concerns, he answers that he does not.

Chairman Protano asks the Board if they have any comments, questions, concerns, etc. Williams asks what the calculations are for the impervious area. McLaughlin responds that as noted (in note #6) on the plan, there is 8,569 SF of roof and 20,659 SF of pavement. The building coverage area is 8.41 % of Lot 2 and the pavement coverage is 20.27% of Lot 2; the total impervious footprint is 28.67% of Lot 2.

Williams asks about recharging of stormwater on the site. McLaughlin answers that currently stormwater discharges into the gravel and that there is no concentrated catch basin, discharge, etc. The Board requests a letter in writing which addresses the onsite drainage of stormwater.

Radzicki suggests that the Board perform a site visit including an interior inspection. The Board concurs and schedules a visit for Sunday, December 14 at 11:00 AM.

(Note added after the meeting; due to an Ice Storm, the site visit was attended only by Williams, Harding and Wentzell.)

The Site Plan review will re-convene at the next scheduled Planning Board Meeting on January 14, 2009.

DISCUSSIONS AND REPORTS

TREBOR LANE

The Board reviews the latest submission of the As-Built Plans for Trebor Lane, showing the installed bounds, drill holes and existing survey points used to locate them. Scott Miller has reviewed the latest plans and offers some comments to the Board.

Miller states in his review letter that with respect to the cable utilities being shown schematically on the plan, a shaded pen was used, making it difficult to read, and the text size does not appear to meet standards. He also notes that the roadway acceptance plan should be sealed by a registered land surveyor and that it requires certain verbiage. Miller, in an email, also stated that based on the plans, monuments are still required at several locations.

The Board set up a site visit, with McGuire and Miller scheduled to attend, for Sunday December 14, 2008 at 11:45 AM.

(Note added after the meeting, due to an ice storm only Williams, McGuire and Miller walked the road and looked at the concrete bounds, drill holes, etc. Miller will summarize his observations and submit them to the Planning Board. He also pointed out the final As-Built should be prepared and recorded as per the Town Meeting Acceptance Article.)

APPLE HOMECARE

Chairman Protano reads a letter from Mark Brodeur, Building Inspector, to Joni Milluzzo, dated November 18, 2008. This letter is a follow up to the final inspection of the newly constructed building located at 41 Redemption Rock Trail. Brodeur states in the letter that the site plan was also reviewed for compliance with the submitted plan and subsequent agreement with the Planning Board. There are three items of work pending completion as stated in the letter. They are as follows:

1. *Certification that the Storm Water Management System is complete and functioning according to the plans and requirements of your project.*
2. *A fence must be installed around the infiltration basins as the final slopes are quite steep and present a possible hazard. Please provide a submittal for approval to this department.*
3. *The submitted and approved site plan calls for a four foot high solid fence with vegetative barrier to be installed the length of the property to the south from the front to back.*

Brodeur also states in his letter that while plantings may have to wait until weather allows the other items of the project should be completed within the next 30 days to maintain the occupancy of the building.

Chairman Protano reads an email from Brodeur, dated December 9, 2008, stating that "It is my understanding that the final "As Built Plan" has been submitted. The certification from the engineer in regards to the drainage systems has also been submitted as requested." Williams adds that the As Built has not been submitted to the Planning Board as of this date. It was noted that a final As-Built Plan is required by the Protective (Zoning) Bylaw Section 6.4.10.)

Chairman Protano reads a letter from Nathanial Mahonen, Hannigan Engineering, Inc., to Sean Pepper, D.R. Poulin Construction, Co., Inc. regarding the As Built Drainage Review. This letter is dated December 2, 2008 and states that Hannigan Engineering has performed a partial as-built of the infiltration area at the Apple Homecare project. "The as-built location and elevations of the infiltration area have been reviewed and are in conformance with the design plans. The as-built infiltration area has sufficient volume to function as designed. The as-built infiltration area will have a 100-year peak elevation of 103.55, with an as-built overflow spillway elevation of 103.55". "In addition, per the Contractor, a subdrain has been installed in the infiltration area in general conformity with the design plans".

Williams states that Joni Milluzzo has requested the return of her $5,000.00 Performance Bond which is in place to assure compliance with the Storm Water Management System. She has been told that the money will not be returned until the Planning Board is given documentation that the System is in compliance with the Order of Conditions.

HANKS SERVICE STATION

Chairman Protano reads into the minutes a letter from Lt. Thomas Kokernak, Sterling Fire Department, dated November 26, 2008. The letter is to brief the Planning Board of an enforcement action that Lt. Kokernak is involved in that will potentially involve both the Planning and Conservation Boards. This action is centered on Hanks Service Station

and that fact that he has been closed from some time and has abandoned underground tanks. Mr. Henry "Hank" Noyes has been alerted that he will need to bring these tanks into compliance, by either putting them back into service (with code compliance), remove them or find an alternate use (also with code compliance). Williams responded to Lt. Kokernak with some initial thoughts pointing out that he should make note of Section 2.2.4 – Non-Conforming uses and structures. The Board discussed Lt. Kokernak's "enforcement" situation and offered some recommendations.

(Note added after the meeting; a letter was sent to Lt. Kokernak stating that the Planning Board's recommendation is that the tanks should be removed and not used for fuel oil storage. The Board feels that the service station should not be re-vitalized due to its location in the Zone II for the town well off Worcester Road. The Planning Board then received a copy of the letter sent to Mr. Noyes from Lt. Kokernak, dated 12-11-08, stating that he has determined that he must invoke the provisions of 527 CMR 9.07(J) (2) which require Mr. Noyes to hire a qualified contractor to evacuate all product from the tanks, properly secure all openings and remove the tanks from the ground and dispose of them and their contents in accordance with 310 CMR 30.00.)

MOUNTAIN VIEW ESTATES
McCarty Associates, Inc. has sent to the Planning Board a copy of the DCR Appeal to DEP regarding the issuance of Orders of Conditions by the Leominster Conservation Commission relating to the road and drainage construction.

AMORELLO
The deed has been recorded with the Worcester North Registry of Deeds (gift of land from Amorello to the Town of Sterling), the trail easement to Wachusett Greenways has been recorded and the Declaration of a 50' wide no build zone is in process.

NEW ENGLAND MOLD
The Board is made aware of the transfer of property ownership at 50 Pratts Jct. Road. This property was the site of New England Mold and has now been sold to Diversified Investments, LLC. It is unknown if there will be a change of use at this site.

HOUSING PRODUCTION PLANS WORKSHOP
T. Ackerman has sent an email asking if any Board Member has time to attend this workshop on December 17, 2008. The Workshop is "Housing Production Plans: What's new, What Communities Can Do." Chairman Protano and Pichierri will try to attend.

(Note added after the meeting; neither member attended due to ice storm)

EAST LAKE WAUSHACUM ASSOCIATION
Chairman Protano reads into the minutes a letter from the East Lake Waushacum Association to the Board of Selectmen (cc. to Planning Board) in which they express their concern regarding building projects that take place on the properties bordering East Lake Waushacum. They are concerned with septic design and performance, tree/vegetation removal, grading and water runoff, impact on neighborhood character, setback from the shoreline and visual encroachment on the lake. The Association is

asking that the Board of Selectmen pay attention and monitor proposed and existing building projects to ensure conformance with Town By-Laws and permitting processes.

MRPC FY2010 MEMBERSHIP ASSESSMENT
MRPC has submitted the FY 10 assessment information. The assessment for the upcoming fiscal year is set at $2,047.17, due and payable on July 1, 2009. Invoice to follow.

HOLIDAY INVITATION
The Board of Selectmen has extended an invitation to all town employees and board member for a holiday open house on Friday December 19th at 8:30 AM.

(Note added after the meeting; the open house was postponed and rescheduled for January 9, 2008.)

FY 2010 PLANNING BOARD BUDGET
The Budget for Fiscal Year 2010 has been prepared by M. French and K. Williams. A 1st draft has been submitted, which Williams reviews with the Board.

REVIEW AND STEP INCREASE FOR M. FRENCH
M. French has passed her one year anniversary date of employment and is due for a performance review and possible step increase. Chairman Protano to perform review at earliest convenience.

MAIL

Miscellaneous items of mail were reviewed, including workshop notices, newsletters and holiday cards.

NOTICES FROM OTHER TOWNS:
Public Hearing notices from adjacent towns were reviewed.

MOTION TO ADJOURN:

Williams makes a motion to adjourn the Planning Board Meeting at 11:27 PM. Seconded by Radzicki, no further discussion, all in favor, approved by the Board.

The next regularly scheduled meeting will be on Wednesday, January 14, 2009 at 7:00 PM.

APPROVED BY:

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