

The Planning Board for the Town of Derry held a public meeting on Wednesday, September 02, 2026, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room, with a virtual option.

Members present: Dave Nelson, Chair, John O'Connor, Vice Chair, Richard Malaby, Secretary, Randy Chase, Town Council Liaison, Brian Chirichiello, Town Administrator Representative, Derek Minervini, Bryan Fishman, and Jacob Pelletier, Members, and Thomas Mauzy, Z. Michael Appleton, and Andrew Young, Alternates

Members absent: Michael Wood

Also present: Elizabeth Robidoux, Planning Director, Mark L'Heureux, Deputy Director of Public Works, Sam Fazioli, Engineering Coordinator, Beverly Donovan, Economic Development Director, Caroline Wilson, Planning Administrative Secretary II

Mr. Nelson opened the meeting at 7:00 p.m. The meeting began with a salute to the flag.

Mr. Young was seated for Mr. Wood.

Escrow

#26-31

Project Name: Birch Street Subdivision

Developer: 71 Birch Street, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 28001 and 28002, 4 Eden & 71 Birch Street

The request is to approve a release of Letter of Credit # 82410756, drawn on Haverhill Bank, in the amount of \$38,939.00, for the above noted project and request a replacement Letter of Credit or other form of security in the amount of \$1,972.25.

Motion by O'Connor, seconded by Malaby, to approve Escrow #26-31 as presented.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

#26-32

Project Name: 75.5 Fordway Extension Subdivision

Developer: Dreamcatcher Homes, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 21009, 75.5 Fordway Extension

The request is to approve a release of Letter of Credit # 82468234, drawn on Haverhill Bank, in the amount of \$24,719.25, for the above noted project and request a replacement Letter of Credit or other form of security in the amount of \$1,150.00.

Motion by O'Connor, seconded by Malaby, to approve Escrow #26-32 as presented.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Minutes

The Board reviewed the minutes of the August 05, 2026 public meeting.

Motion by O'Connor, seconded by Malaby, to approve the minutes of the August 05, 2026 public meeting as written.

Roll Call Vote: Young, Minervini, O'Connor, Fishman, Chirichiello, Malaby, and Nelson vote Yes. Chase and Pelletier abstained due to being absent. The motion passed.

Correspondence

Mr. Malaby reported that the September / October edition of *Town and City Magazine* is now available.

Other Business

Second Extension Request

PID 05062, 05063, 05064, 05065-001

1, 2, 3, and 4 Humphrey Road

Timothy J. Butterfield June 1997 Rev. Trust,

Sharon L. Butterfield June 1997 Rev. Trust,

Humphrey Road, LLC

Ms. Robidoux explained the Planning Board approved a mixed use site plan for the Butterfield Revocable Trusts, and Humphrey Road, LLC on September 18, 2024. The Board also granted a request to extend the deadline to meet the conditions of approval to September 18, 2026. The applicant has secured required State approvals related to the realignment of Humphrey Road where it intersects with North Main Street. The applicant is requesting a second extension for an additional 12 months to finalize the remaining conditions precedent which include the following:

1. Owner's signature (obtained)
2. Establish construction escrow for the project and unset bounds
3. GIS Disk submission
4. Submission of Fair Share contribution for future signal improvements at Webster's Corner
5. Submission of final plan sets for signature (*received by the Planning Department*)

Staff recommends the Board grant up to a 12 month extension of the approval. The new expiration date would then be September 18, 2027.

Mr. Chase added that last night, the Town Council accepted the drainage easements for the realignment of Humphrey Road.

Motion by O'Connor, seconded by Malaby to grant a 12 month extension of the approval for the mixed use development at PID 05062, 05063, 05064, and 05065-001; 1, 2, 3, and 4 Humphrey Road. The new expiration date will be September 18, 2027.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Façade Improvements
PID 35014-005, 20 Folsom Road
Royal T Car Wash

Ms. Robidoux explained the Messinas have asked the Board to review a change to the color of the siding of the business to dark gray as well as the addition of an architectural element to the bottom of the building. Renderings have been provided to the Board.

The Town of Derry Planning Board has the authority, per the Land Development Control Regulations, Section 170-83.A, to review changes that would affect the exterior of a building. Specifically in Section 170-84.A.3, alterations to structures within the Industrial II zoning district shall have a Medium High level of compliance with the regulations. Section 170-86.F.8 speaks to the color of a building, and specifically states 'subtle colors are appropriate on larger, plainer buildings, whereas smaller buildings with more detailing can more effectively incorporate brighter colors. Bright colors should be limited to accent areas. High intensity colors, metallic colors, or fluorescent colors should not be used'.

Staff recommends the Board review this change to the exterior of the building and to make a finding of fact.

Motion by O'Connor, seconded by Malaby, that after review of the proposal, the Board finds the proposed façade renovation of Royal T Carwash, PID 35014-005, 20 Folsom Road is appropriate for the Industrial II Zoning District as:

The proposed change demonstrates overall compliance with the Architectural Design Regulations

The proposed change does not detrimentally affect the nature of the surrounding uses, the style of the surrounding buildings, or special feature of historic, cultural or community interest in the vicinity of the project.

The proposed color (Dark Gray), and the addition of faux granite along the bottom of the façade is appropriate for the neighborhood and the district.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

**Architectural Design Review - Sign in TBOD
PID 30051, 16 Manning Street, Unit 101
On the Road to Wellness**

Ms. Robidoux explained the Town of Derry Zoning Ordinance, Section 165-101.5 (A)(1)(q), requires that all new signs proposed in the Traditional Business Overlay District be reviewed by the Planning Board prior to the issuance of a sign permit. The Board is familiar with the sign requirements in the TBOD.

The applicant is proposing signage as noted on the attached exhibit. The identification sign is 3.3 SF and the sign above the unit is 14.25 SF. Per the ordinance, applicants are permitted to have 1 sf of sign per 1 ft of road frontage, with a minimum of 20 SF permitted; aggregate total of all signs for the business cannot exceed 50 SF. This request meets the zoning requirements for signs in the TBOD.

On the Road to Wellness is currently operating at 16 Manning Street, Unit 101.

Staff recommends the Board approve the proposed signage.

Motion by O'Connor, seconded by Malaby, pursuant to the Town of Derry Zoning Ordinance, Article XII, Signs, Section 165-101.5, Signs in the TBOD, to approve the sign design presented for On the Road to Wellness, Parcel 30051, 16 Manning Street, Unit 101, as presented. The Board finds the sign is compatible with the surrounding buildings, meets the regulations contained in the Ordinance, and compliments the surrounding architecture.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Planning Director and Chairman Updates

Ms. Robidoux announced that the changes to the Zoning Ordinance and the LDCR relative to the Central Business District (CBD) will be effective tomorrow. Please email Ms. Wilson if you would like a hard copy of either document.

No plans were submitted for the September 16th meeting. Ms. Robidoux offered to bring draft changes to the Zoning Ordinance related to the 2026 legislative changes to the Board for administrative review that evening; Mr. Nelson agreed with utilizing meeting time for review.

The Plans Reading and Analysis workshop will be in the Municipal Center Meeting Room, 8:30-noon, on September 25th. Interested Board members should email Ms. Wilson to register.

The GovWell permitting platform officially went live today; all Planning Board, Planning Department, and ZBA applications will be submitted through this system. Applicants will still be required to submit paper plan sets. The application review format will remain unchanged for the Boards. Health, Service Requests (Code), Building, and Fire Prevention permits will be phased in and by the end of the calendar year should be accessible via GovWell.

Mr. Nelson urged all to vote in the Primary election on September 08.

Public Hearing

Bird Enterprises, LLC

PID 10012, 187 Hampstead Road

Acceptance/Review

Site Plan Amendment - Addition of Nursery Stock Area

Ms. Robidoux explained Bird Enterprises purchased the property located at 187 Hampstead Road which was the former Holy Cross Church. Delahunty Garden and Landscape Center relocated from Windham to this location and the former church has been renovated to create an indoor youth sports training facility known as Northeast Elite Athletics. The property is located in the LMDR zone. Water service is supplied by the Pennichuck system. The Planning Board approved the site plan in 2025. On that plan, the Board approved material storage and pick up areas, stock areas, parking for company vehicles/equipment storage and associated parking. The applicant has expanded uses on the lot. Changes from the approved plan include:

1. Retail display areas outside the main building entrance have been discontinued.
2. A 10 x 20' storage container has been added behind the building.
3. 133 arbor vitae have been added along the perimeter of the north, east and south sides of the property to address staff concerns that the residential buffer had been removed.
4. There has been an addition of stock area on either side of the training facility and in landscaped islands to the left of the main entrance.
5. The equipment storage area is now a nursery stock area.
6. A shed, greenhouse, and a 10 x 20' storage container have been added near the rear of the lot.
7. The 'check in' shed has been removed and a dumpster added.
8. It appears the tree line on the right hand side of the property adjacent to the wetlands has been removed.

There was concern that stock was being placed in wetland buffers and treatment swales. During the August 29, 2025, TRC meeting it was stated: "The wetlands were flagged when the property was first developed as a church in 1999. Recently, Delahunty Nursery and Northeast Elite Athletics moved onto the site, and Mr. Yennaco had the wetlands re-delineated by Thomas Sokoloski, CWS. It appears that about half of the area deemed to be wetlands in 1999 is no longer considered to be wetlands. Therefore, the proposed site plan amendment is for a 14' footpath to allow access to the uplands for storage of nursery stock (trees, shrubs.) The storage area is wooded, and will remain so, to conserve water. Nursery stock would be moved by hand or by a skid steer (with a track that is less than 4.7 PSF, which is lighter than a standard lawnmower.)" That 14 foot path is now a 9 foot wide, mulched path.

The existing sign location is shown on Sheet 2. As this project is located in a residential district, the ZBA has jurisdiction over the size of the sign.

The Police Department had a concern that the stock area to the front of the parcel could interfere with sight distance for those exiting the property. Stock should be situated so that it is set far enough back to not impede sight distance.

The nursery use is agricultural in nature under the definitions in the State statute. Photos provided by the applicant have been included in the Board's packets. Two letters of support were provided by the applicant today and were added to the Board's packets.

There are no waiver requests.

Staff recommends the Board to discuss the proposed changes to the site, and if the Board wishes, make a determination with regard to regional impact.

The applicant, Jay Yennaco, and his attorney, Chris Drescher, appeared before the Board.

Motion by O'Connor, seconded by Malaby, to accept jurisdiction of the amended site plan application before the Board for Bird Enterprises, PID 10012, 187 Hampstead Road.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Motion by O'Connor, seconded by Malaby, pursuant to RSA 36:56, the Board finds the proposal as presented at this time meets the definition of a development of regional impact.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote No, this is a minor site plan amendment and does not meet the definition of a development of regional impact.

Motion by Chirichiello, seconded by Malaby, to open the Public Hearing.

All members present vote Yes. The motion passed.

Mr. Yennaco introduced himself to the Board and provided the following information:

Mr. Yennaco is the owner of Bird Enterprises and both businesses in the building. Mr. Yennaco came before the Board roughly a year ago to talk about similar items to today. Since that time, they have moved in and established themselves, and those that drive by can see that they have cleaned up the property and begun to conduct business at both the nursery and indoor sports facility. Minor adjustments have been made since that time. Mr. Yennaco and Attorney Drescher of Cronin, Bisson, and Zalinsky are here to go over those adjustments with the Board.

Some items that were originally approved were taken away; such as a shed out front, which is no longer there. They are approved to have nursery stock by the road. (During the initial TRC review) the Police Department requested that line of sight should not be obstructed; the nursery has not put anything by the road to keep the line of sight clear and to allow passersby to see the building from the road. A couple of storage units and a dumpster were added. The dumpster is hidden behind the building and is not visible. On the plan, it says the shed is being replaced by a dumpster. The shed is being replaced on the property by a dumpster but it is not visible from the road. The sheds are either hidden behind the building or are at the back of the property out of sight from the road.

The primary concern today is the proposed tree and shrub storage area. Mr. Yennaco has had the wetlands re-delineated (they were last delineated in 1999). It was stated that this became a drier area; however, the area Mr. Yennaco is asking to use was always dry. There is a small path used to cross about 14' – 16' of wet area to reach the proposed storage area. The stream flows around the backside of the proposed storage area in the spring.

Mr. Yennaco recalled that a year ago, there were questions about fertilizer use. Nothing has changed on those specifications. Mr. Yennaco is only asking to increase the footprint of the storage area. There will be no structures placed in that area. There are no roadways, power, or utilities in that area.

Mr. Yennaco noted that the original approved plan called for 28 arbor vitae to be planted in the front of the property to screen the bulk storage area. Mr. Yennaco purchased 130 arbor vitae and has planted them in the front as well as around the sides of the property to proactively buffer the neighbors on either side. Underbrush and saplings were cut back and dead trees were removed. No vegetation was removed in the wetland.

Two letters of support were provided to the Planning Department today by Mr. Yennaco. These two abutters occupy the lots on either side of the parcel.

Mr. Nelson asked that both of the letters be transcribed into the minutes; no members of the Board objected.

Email from Rebecca Boulay (183 Hampstead Road) to Jay Yennaco, dated 08/30/2026:

Planning Board,

As a home owner and the closest abutter to 187 Hampstead Road, I write in full support of Bird Enterprises expanded use of land for business use. Delahunty's Garden Center and Northeast Athletics have proven to be respectful additions to the neighborhood. Their presence and repurposing the abandoned property have been both a comfort and welcome improvement.

I have personally witnessed team members from Delahunty's delivering flower arrangements to neighbors as well as assisting with snow removal and helping to push back snowbanks at the end of driveways. We all know how horrid the end of the driveway can be. I have been in my home for 15 years and not a single neighbor or other business has ever reached out with this level of kindness.

Please allow Jay and his team at Delahunty's to make the requested adjustments to the property to ensure they prosper. I would like to continue to see their continued success here and remain in the neighborhood. Please feel free to reach out to me directly if you have any questions.

Rebecca Boulay

Email from Kate Lamb (2 Village Brook Lane) to Jay Yennaco, dated 09/01/2026:

To whom it may concern I am Kate Lamb of 2 Village Brook Lane. I would like to say that I am very satisfied with the business Delahunty's being my abutting neighbors. The owner Jay and his entire staff have been professional, helpful, and just over all amazing. They run the business during normal business hours, and I do not hear any excessive noise. They have been a huge improvement, and I feel much safer with them as neighbors. I fully support them expanding their nursery storage area.

The business is always well kept and a pleasant sight to drive by. Delahunty's has been a welcoming addition to the vacant church and our neighborhood.

Mr. Nelson opened the floor to the Board.

Mr. Chirichiello asked for clarification on whether the proposed tree and shrub storage area was previously considered wetland. Mr. Yennaco said no, the proposed area is an upland and always has been an upland. It is flat but raised. Mr. Chirichiello inquired if this parcel was in the 100-year or 500-year floodplain; Ms. Robidoux said to the best of her knowledge it is not, there is just a lot of wetland.

Mr. Chirichiello asked if the plants are plants to be sold; Mr. Yennaco said yes, they are balled and burlapped or planted in containers.

Mr. Mauzy asked if the area in blue around the proposed tree and shrub storage area was wetland, and whether there would be an increase in foot traffic or in utility vehicle traffic. Mr. Yennaco said yes, it is wetland, but no, there will not be an increase in foot or vehicle traffic. Mr. Yennaco explained that the design specifically allows for the area to be accessed on high and dry land, either via foot or small machine.

Mr. Nelson opened to the floor to members of the Public, in-person or online.

• **Tom Cardon, 2 Cunningham Drive**

Mr. Cardon noticed wetlands on the GIS. Mr. Cardon lives about a mile down the road. Mr. Cardon used to have a large area of his own lawn that he could not mow until August or September. However, that area has not been wet for the last couple of years, and Mr. Cardon believes the water level has gone down. He was concerned about the location of the proposed shrub and tree area, were those wet areas?

Mr. Yennaco stated that he has had the wetlands redelineated.

Mr. Cardon inquired if that was something the Conservation Commission needed to look at.

Mr. Nelson added that the way that wetlands are delineated is by examining the soils and the types of plants that are present. Water may dry up in a season, but the plants and soils don't change.

Mr. Yennaco stated that his wetland scientist examined plants that are in the ground, plants that have died off, and also took core samples of soil 12" – 18" deep.

Mr. Cardon inquired about the water service. Was it Pennichuck, or Town water? Mr. Cardon explained that the 105 houses in his neighborhood are served by 2 Pennichuck wells. Five years ago, each well had 34 GPM, so 68 GPM total. Now it is down to 34 GPM. Mr. Cardon is concerned about water usage generated by the addition of the tree and shrub storage.

Mr. Chase stated that the subject property was fed from the Town of Derry water system, when it was extended up Hampstead Road. It is tied into the Manchester Water Works via the Derry water system. Mr. Fazioli confirmed this was correct. The Pennichuck system Mr. Cardon referred to is a separate system, not fed by Manchester Water Works.

Mr. Cardon inquired how many trees and shrubs would be stored there at any given time. Mr. Yennaco said a couple hundred.

- **Andrew Rojee, 164 Hampstead Road**

Mr. Rojee stated that it appears that the new area is actually an island surrounded by wetlands. Mr. Rojee understood that Mr. Yennaco previously stated that they don't use fertilizers.

Mr. Yennaco stated that was correct.

Mr. Rojee inquired if any of Mr. Yennaco's suppliers used fertilizers. How do we know whether the shrubs have fertilizers in them, and if it is running into the wetland?

Mr. Yennaco stated that when he presented to the Board last year, he detailed the process of what growers are regulated to do per the USDA. They are not allowed to ship balled and burlapped trees that have been fertilized within a certain amount of time. So, when the plants arrive at nurseries, and then are replanted in customers' yards, they are free of fertilizers. Mr. Yennaco receives certifications with every load of stock he receives certifying this. Container plants come with slow release pellets in them. Those pellets are designed to only release when the temperature of the soil is between 75-80° F, for a period of 20 to 30 days or longer. Plants are classified by zones, and the fertilizers activate in zone 6 or greater. This region is zone 4 to 5. Delahunty's does not have the certifications to fertilize or feed plants. The property is walked 3-5 times per year by the NH Department of Agriculture, which monitors concerns like invasive insects and unapproved practices. If the Department of Agriculture saw fertilizers on plants which Delahunty's was not certified to use, they would not be in business long.

Mr. Rojee still questions having over 100 plants in a concentrated area surrounded by wetlands. Mr. Rojee felt that some kind of environmental survey should be done to ensure there won't be impact.

Mr. Yennaco noted that lawn fertilizers that consumers can purchase at retail are 20 times more concentrated than the fertilizers used in nurseries.

• **Jim Foley, 178 Hampstead Road**

Mr. Foley stated that a little over a year ago, the applicant came before this Board and said that he was moving to Derry because he wanted to scale back his nursery business; and now he wants to double in size. Mr. Foley stated that the applicant told the Board and abutters that he was going to put up a buffer of arbor vitae trees, and then the applicant went to the ZBA for an oversized commercial backlit sign because the trees block the view of his business.

Mr. Foley stated that the applicant had said that landscaping materials would be delivered by live bottom trucks – while some may be – almost every day the neighborhood hears the banging of hydraulic gates as they deliver materials. Mr. Foley stated that the applicant came to neighbors' houses and promised to be a good neighbor and discussed what he was going to do. Mr. Foley stated that once the applicant obtained approvals, the neighbors have not heard from him since.

Mr. Foley's specific objections include:

1. The plan states that the zoning is LMDR. This is a commercial enterprise stuck in the middle of a residential area. It was a church and was converted, but is still a commercial enterprise, so the setback requirements should still be commercial, not residential.
2. The previous plan cut the number of parking spaces to 110. There is no discussion of parking spaces on the current plan. Northeast Elite Athletics would require 60 parking spaces. Parking spaces are being taken away by adding new storage areas, plant areas, and buildings. How many parking spaces are required per the Town's regulations?

Ms. Robidoux explained the original site plan accounted for the parking requirements. The applicant met the parking need for the two uses on the site. This plan does not change the parking demand. The areas the applicant is using is beyond the parking areas.

Mr. Foley felt the applicant was expanding. Ms. Robidoux stated that there was not proposed expansion into areas where there was existing parking. Mr. Foley felt that strained credibility when part of the discussion before was that no parking of cars would be allowed where equipment was backing up or being used. Ms. Robidoux stated that nothing changed in the upper section of the plan. Mr. Yennaco added that the only change to parking was where the shed was removed, and this gained two parking spaces.

Mr. Foley stated that the Town of Derry's website stated that this area is served by the Pennichuck wells on Olesen Road which pulls water from the aquifer. It is already a stressed aquifer. Mr. Foley is concerned that additional water usage may harm that.

Mr. Chirichiello felt the water source could be determined by who sends the water bill. Mr. Foley stated there are residents in Town that are served by Pennichuck which draw their water from site water wells; Meadowbrook, for example.

Mr. Fazioli stated that was how it was originally constructed but Mr. Yennaco's lot is now tied into the Manchester Water Works system as a backup. It is now a combined system. If the well

ever had capacity issues or if the water pressure was ever low, it is supplemented by Manchester Water Works. Mr. Foley said that he was not connected to the system, and instead has a private well. Mr. Fazioli clarified this applied to anyone connected to this portion of the Pennichuck system. Mr. Foley stated the neighbors are not connected to Manchester Water Works and are not backed up if they run out of water.

Mr. Foley stated that Note 15 on the plan reads that fertilizers will be used in self-contained pots. Mr. Foley is still concerned with the presence of fertilizers being used on the property.

Mr. Foley stated that the statement that the opening of the business decreased traffic flow on Hampstead Road strains credibility. Comparing it to a church that last had services on Christmas day of 2019 to what takes place today, of course the business has increased traffic on the road.

Mr. Foley stated this is an expansion beyond what was presented before, and is a major change, affecting water, traffic, site views, noise, use of fertilizers, wetlands, and drainage.

Regarding Mr. Foley's remark on Note 15 of the plan, Mr. Yennaco stated that nothing has changed in a year.

Mr. Yennaco stated that he has not reduced parking; and it has increased by 2 spaces by removing the shed in the front.

Mr. Yennaco stated there was no traffic study done, so he cannot speak to that, but he added that it is a very busy road.

Attorney Drescher added that the use that Mr. Yennaco has going on at this property is allowed.

- **Brenda Davison, 1 Wishing Well Lane**

Ms. Davison lives directly across the street from this property. Ms. Davison is concerned about drainage. The water drains across Hampstead Road onto her property. Ms. Davison has a private well. Ms. Davison's property is already wet. Ms. Davison is concerned about the chemicals and noise. Ms. Davison stated that Mr. Yennaco stated that the gates are quiet now on the dump trucks. Ms. Davison stated that when one is sitting on their couch and the gate hits, one jumps off the couch because it is so loud. The sound wakes up children sleeping in the Davison's home.

- **Will Davison, 1 Wishing Well Lane**

Mr. Davison supported and elaborated on Ms. Davison's statements. Mr. Davison hoped to have someone answer Ms. Davison's question about noise. Mr. Davison stated that when this project was approved (last year), Mr. Yennaco said that the new dump trucks were very low noise. There was a good discussion about the Bobcats and the noise at that time.

Mr. Yennaco stated that the trucks that deliver mulch are live bottom trucks, in which the bottom goes up and out and pushes the mulch out the back. Some of the trucks that deliver do have the gates that hydraulic up-and-down. There are times that a dump truck comes in and dumps. The team monitors when the trucks come. They are open 8am-4pm, and they do not receive such deliveries past 3:30pm. Employees show up at 7:30 but they do not dump materials into the bins.

If anything, they are shoveling material out. Earlier, Mr. Yennaco spoke with his abutter, Kate Lamb, and stated that she does not have any issues with increased noise. Mr. Yennaco stated that Hampstead Road is a loud and busy road. Mr. Yennaco stated their machinery meets the decibel regulations and produce less than or equal to 90 decibels, about the same as a residential riding lawnmower. The mini loaders are pretty quiet.

Ms. Davison stated that they bought their house because of where it is. Now that there is a business there, it is now loud. Ms. Davison has gotten up at 5am to see a tractor trailer sitting there waiting to be unloaded. The other day the nursery was mowing their lawn at 6am on a weekend. It has added noise, and now an expansion is being sought: that is more noise. With the dump trucks banging 2-3 times per week, children in the home sleeping in the middle of the day are awoken, and that bothers Ms. Davison. Ms. Davison pays taxes. The applicant wants to expand which means more trucks and noise. Dumping of the stone is loud. Ms. Davison feels she should be listened to and thought of in this situation.

Mr. Yennaco explained the expansion would not cause more materials to be dumped.

Mr. Davison suggested that with 200 more trees, perhaps 25 trees would be sold per week, which would create more deliveries and more Bobcat usage. Ms. Davison said that putting in a greenhouse would cause more stock and more trucks to come in.

Mr. Yennaco stated that nothing being expanded would cause more dumping. The expanded footprint of the proposed area would add material, but much will be spreading out stock they already have. The applicant is trying to use other space to store the same materials that were already approved. Mr. Yennaco acknowledged the trucks have been coming 2-3 times per week.

Mr. Davison asked where the trees and shrubs were now. Ms. Davison said that presently there is no greenhouse, so that will be filled.

Mr. Yennaco explained that what is labeled as the greenhouse is greenhouse material (metal frame). They are not a grower, and it is not set up with any indoor space. Mr. Yennaco is happy to add a note to the plan that the greenhouse will not house any plants. Mr. Yennaco explained that the expansion will allow them to spread out the stock they have now and add some stock.

Mr. Davison asked if the proposed tree and shrub storage area was currently being used to store trees and shrubs; Mr. Yennaco said no. Mr. Davison suggested that 250 trees would be placed there; were those trees already somewhere else on the lot? Mr. Yennaco stated he could not clarify further, and he has already answered that question a couple of times.

Mr. Nelson stated that he believes that the applicant is stating that there will be some expansion, there will be more product for sale. Some of the product will be relocated from other spots, and some of it will be additional. This is a request for an amendment to the site plan to have some level of expansion of use.

Mr. Yennaco explained that deliveries are based on how much they sell, which varies. If sales are down 20%, then they receive 20% less deliveries. The additional space doesn't relate to the ability to receive materials.

Mr. Davison stated that the runoff from the subject property comes into his property and could reach his well. Mr. Davison is concerned that if the applicant's water runs out and they are using the Manchester water, then the Pennichuck well will be depleted, and the Davisons and their neighbors could be out of water. How would this be addressed?

Mr. Fazioli explained that Pennichuck manages how the water is managed in their own system. It is a combined system, and they rely on Manchester Water Works as a supply. It is designed so that there shouldn't be issues with capacity nor should the wells run dry. The Town does not manage the system, so Mr. Fazioli is not aware of the intricacies of this system. Mr. Fazioli does not believe there would be a supply issue.

Mr. Davison inquired about the threshold, is the Manchester Water supply triggered once the Pennichuck system gets down to 10%? Mr. Davison felt that they should be informed how this works before the additional usage is approved and takes from his and his neighbors' water resources.

Mr. Nelson clarified that aquifers have been discussed relative to other projects the Board has reviewed. Aquifers are a shared resource -- the Planning Board cannot typically deny an approval due to speculative concerns about future drawdown of an aquifer. In other parts of the country, water conservation and water management are significant concerns. However, within the State of NH, the regulation of aquifers is for very large withdrawals only. The NHDES issues water withdrawal permits over a certain amount (57,600 GPD or greater).

Mr. O'Connor recently attended a webinar hosted by the Corps of Engineers. Due to the drought, the water table has gone down by 2', which might affect a private well owner. However, Mr. O'Connor believed the Pennichuck system should not be affected by this as it is backed up by Manchester Water Works. Mr. O'Connor is the former chair of the Environment Agricultural Committee and was on the Board for Pest Control. Mr. O'Connor felt that Mr. Yennaco was correct in separating some of the stock. Mr. O'Connor was on the site at about 2pm today and was impressed by the organization compared to when the business first moved there. There were not any dump trucks on the site at that time. The site was clean.

Ms. Davison inquired what the recourse was for trucks going to the site at 4-5am. Mr. Nelson asked if hours of operation were specified in the first approval. Mr. Yennaco was not sure. Mr. Yennaco explained that he gives the hours of operation to the companies that deliver to them. He has arrived in the morning to see 2 UPS trucks waiting at the site. Staff show up early and it has happened a handful of times that deliveries are waiting for them.

Ms. Davison believes that the employees show up early and start loading their vehicles in preparation for commercial work, which comprises the majority of their business.

Mr. Nelson explained that although the business is a retail and wholesale provider of plants and earth, the State has defined the business as agriculture and has allowed this use in basically every district. In New Hampshire, municipalities shall follow the State's rules. Mr. Nelson felt that if the applicant meets the State's definition of an allowed use, what leeway does the Board have to mitigate reasonable impact?

Ms. Davison stated that in the plan, the hours are supposed to be 8am-4pm.

Mr. Chirichiello found that the plan stated the nursery's hours were M-F, 7:30am-4pm, and Sat-Sun, 9am-4pm. Mr. Chirichiello read the summary of the athletic training facility's hours of operation. Mr. Yennaco verified this information was correct.

Ms. Davison stated that the Board is basically saying that the surrounding residents opinions do not matter.

Mr. Nelson said no, the Planning Board is quasi-judicial, and they cannot ignore State law. The Board has to find balance mitigating impacts.

Mr. Chirichiello recalled a time when Pennichuck would have wells that would run low; and they would have trucks deliver water to fill the wells back up. Mr. Chase added this was part of the impetus for expanding Manchester Water Works to connect the eastern portion of the Pennichuck system. Mr. Chase would be surprised if Wishing Well was not tied into this system.

Mr. Foley stated that was not true, Wishing Well Lane is not tied into Pennichuck. In his initial comments, Mr. Foley asked the Board to address the treatment of a commercial lot in a residential area. Despite what the State law says, it doesn't mean the applicant has unlimited rights on their property. Mr. Foley felt that just because agricultural use is allowed by State law, does not mean that they should be allowed unlimited use on their property.

Mr. Nelson explained the Board has to find a balance.

Mr. Yennaco explained that the Delahunty employees arrive between 7:30-8am.

Mr. Chirichiello empathized with the neighbors regarding the noise, and suggested that if there was anything Mr. Yennaco could do to mitigate the noise, that he should do it. Mr. Yennaco explained that installing 130 arbor vitae, leaving the existing vegetation in the front along Hampstead Road, and keeping the storage bins facing away from the abutters were efforts he has taken to reduce impact to abutters. The business hours of 8am-4pm are also standard hours of operation. Mr. Yennaco added that he received two letters of support from the closest abutters with which he shares the largest property lines.

Mr. Chirichiello acknowledged that primarily the addition of the tree and shrub storage area was before the Board; and not rehashing the previously approved aspects.

Mr. Nelson said the Board was here to discuss the expansion, and not the whole site plan. The Board is not here to relitigate a year-old decision. Mr. Nelson believes that what he is hearing is

that the assurances and promises that were made a year ago, the neighbors do not think were necessarily kept, so they are here airing that. The Board is suggesting that if the applicant can do anything to mitigate those reasonable concerns and genuine impacts without stifling his business, then that would be ideal. Mr. Nelson stated that, as Mr. Foley pointed out, no right to use is unlimited. Mr. Nelson added that Mr. Chirichiello is also correct that the Board is not here to have an appeal or redecision on the original approval. The Board is here to deal with the expansion and the how the impacts of reasonable expansion can be mitigated.

Mr. Nelson asked Mr. Yennaco if there is a front gate which could be closed and locked so that deliveries coming early in the morning could not sit and idle. Mr. Yennaco said there is not a gate, and he would be amenable to considering one, but he is concerned with that impeding full access by Police and Fire to the facility. Mr. Yennaco will speak again to the vendors about the strict business hours and discourage them from coming early.

Mr. Chirichiello inquired if the 200 trees would come in one delivery or multiple. Mr. Yennaco clarified that they are delivered at once, and that he receives about 50 such deliveries per year. Once on site, the trees would be loaded onto the smaller vehicles or set aside where customers can pick them up.

Mr. Yennaco will ask the person that mows the lawn to not come so early. Mr. Yennaco stated this person usually comes on Mondays; perhaps it was a day that it rained and he came the next day early.

Mr. Yennaco mentioned that about a month after moving in, he received a call from a neighbor in the back asking what they were doing at 4am, moving equipment. Mr. Yennaco realized the trash collection company came early, so he called them and asked them to only come during business hours. They have done so since.

Mr. Chirichiello mentioned that past applicants had tried to bring multifamily residential to this site, which was not approved. It is a tough parcel. Mr. Chirichiello suggested that Mr. Yennaco continue to be a good neighbor, it will go a long way.

Mr. Cardon stated that Pennichuck comes and fills the wells with Manchester water weekly. The residents in his neighborhood are only allowed to water their lawns from 5am-8am, two days per week. Mr. Cardon has lived there for 36 years, the water is terrible, and he is presently buying bottled water. Mr. Cardon believes that the applicant is billed from Pennichuck but the supplier is also Manchester Water Works.

Mr. Rojee mentioned that the storage area was a significant expansion. Mr. Rojee agrees with the others' sound complaints. Mr. Rojee is on the corner of Olesen and Hampstead Road, and has observed the operations to be very loud. When the trucks make the banging sounds, which Mr. Rojee stated is more than 3-4 times per week, dogs on Penny Lane and near Drew Woods begin barking. Mr. Rojee wants to see action to make them a better neighbor before approval is given for them to expand. Mr. Rojee feels they are a nuisance property.

Mr. Nelson explained that one can speculate what the State had in mind when making nurseries an agricultural use – whether they really considered materials handling as part of a nursery business. Mr. Nelson added that when a large dump truck lets its gate slam, it can be heard from a great distance. Mr. Rojee thanked Mr. Nelson for acknowledging this.

Mr. Nelson asked Mr. Yennaco if he can do anything about the banging of the gates. Mr. Yennaco said that he could not, because he is not the only one that gets deliveries. It is a massive neighborhood. There are homes all around that receive deliveries of all kinds of products, and he does not know which ones are getting what at what times. There is a home being built on Hampstead Road about 400' down on the right; paving trucks, material trucks, tractor trailer trucks are coming in within earshot of these neighbors and Mr. Yennaco can't be responsible for that.

Mr. Nelson clarified that he was asking Mr. Yennaco to speak with his delivery drivers. Mr. Nelson believes that the truckers bang the gates to shake the last little bit of material loose from the bed, so that they don't have to get it out with a shovel.

Mr. Yennaco offered to put a sign out by their bins and tell vendors not to bang their gates.

Mr. Chase owns a dump truck and confirmed this was why truckers bang gates. The load can be dumped without banging a gate. Truckers can pull away from the pile slowly and the gate will not bang. Mr. Chase suggested Mr. Yennaco to ask his vendors not to bang their gates.

Mr. Yennaco is happy to help and to put a sign up. Mr. Yennaco stated there is a horse farm ¼ mile away which receives product.

Mr. Nelson agreed that Mr. Yennaco cannot control others. The neighbors should be aware that Mr. Yennaco is not the only one receiving deliveries. Mr. Nelson felt that if Mr. Yennaco is doing the right thing, it will help the situation with neighbors.

Mr. Rojee added that they did not have these issues until Mr. Yennaco moved in, and did not feel it was a leap to say that he is the problem here.

Mr. Nelson added that the church didn't make such noises. Mr. Rojee agreed. Mr. Rojee stated that Mr. Yennaco moved in and now there are noise issues, and it was unfair to blame the horse farm. There is one house under construction nearby, and Mr. Rojee stated that Mr. Yennaco disparaged the neighborhood by accusing that site of having dumpsters by the road.

Mr. Rojee asked Mr. Yennaco if he would commit on the record to putting in signs. Mr. Yennaco stated that he did not disparage the house being built, and Attorneys Drescher added that it was an abutter on the other side that did so. Mr. Yennaco clarified that he spoke of the dumpster at a different house.

Mr. Nelson asked if it was reasonable for Mr. Yennaco for the Board to place a condition on the approval of the expansion that he will instruct delivery drivers not to bang their gates to dislodge the last bits of material. Mr. Yennaco stated that he can ask, but that he cannot control the actions of others. Mr. Yennaco has no problem with such a condition.

Mr. Chase remarked that the amended site plan shows existing containers, an existing shed, and an existing greenhouse. When were those added? Mr. Yennaco explained the existing 24' x 24' shed was the garage that was there when he purchased the property. The existing greenhouse is only a frame. The container was added sometime between when he moved in and now.

Mr. Chase asked if those structures met setbacks, especially the one tucked next to the building. Mr. Yennaco believed they met side setbacks. Mr. Chase explained sheds over 120 SF required permits. Mr. Yennaco was unaware at the time.

Mr. Chase is concerned that the snow storage area as depicted in the original 2025 site plan is also depicted as an equipment storage area in the 2026 site plan. If equipment is to be stored there, where will snow be stored? The equipment storage would subtract 8-9 parking spaces. Mr. Chase was concerned with signing off on a revised plan with conflicting information. Snow storage is reflected in Note 14 on both plans but is not depicted on the revised plan.

Mr. Nelson inquired if nursery stock was forbidden to be stored in warm weather on the area which is used for snow in the winter; Mr. Chase said probably not. However there is nothing on the revised plan which designates snow storage. There should be a note specifying that stock shall be removed when snow arrives so that the area can be used for snow storage. Mr. Nelson agreed this correction / designation should be made. Mr. Yennaco agreed to have this done.

Mr. Chase added that a condition should be that permits be obtained for the additional buildings and it is ensured they meet the setbacks. Mr. Yennaco agreed.

Motion by O'Connor, seconded by Malaby, to close the Public Hearing.

All members present vote Yes. The motion passed.

Mr. Nelson asked the Board if they wished to deliberate on any of the issues discussed, such as adding notes on the plans, and good faith prohibitions of trucks banging their gates. Should these items be captured as conditions of approval for this site plan amendment?

Mr. Chirichiello felt that would be sensible. Mr. Chase did not feel it was unreasonable for signs to be posted in the bulk storage areas. As the trucks back in, they will see signs stating "Do not allow tailgates to slam" or similar. Mr. Chase asked the Board if any members had qualms or questions about the new stock area around the building. Mr. Chase did not want this to be overlooked.

Mr. Fishman inquired if the access path to the upland area was 9' or 14' wide. Ms. Robidoux mentioned that during TRC last year, the path was shown to be 14' wide, but it is now 9' wide and mulched, and will remain so.

Motion by O'Connor, seconded by Malaby, to find the proposed plan provides safe and efficient vehicular and pedestrian access, and the design and construction of the access ways and walkways

are adequate to accommodate the anticipated volume of traffic proposed by the development, and the previous findings of fact remain unchanged.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Motion by O'Connor, seconded by Malaby, after review and deliberation of the amended site plan application for PID 10012, Bird Enterprises, the Board finds the applicant has satisfied the general requirements of the Land Development Control Regulations. Therefore, the motion is to Approve pursuant to RSA 676:4 III – Expedited Review, with the following conditions:

Conditions Precedent:

1. Subject to owner's signature
2. Add a Planning Board signature block to the lower right hand corner of the cover sheet.
3. Stock items to the front of the lot shall be placed in such a manner that they do not interfere with sight distance for vehicles exiting the property.
4. Obtain written approval from the Planning Director/designee that the GIS submission is received and is operable and it complies with LDCR Section 170-61.C
5. Conditions precedent shall be met within 6 months.
6. Add signage at the bulk storage area instructing delivery drivers to not bang their gates.
7. Obtain applicable building permits for the storage units and greenhouse.
8. Address the snow storage area (Note #14 on the plan).

Conditions Subsequent:

1. Subject to on-site inspection by the Town's engineer

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Cafua Realty Trust CLXXIII, LLC

PID 36017-001, 57 Crystal Avenue

Acceptance/Review

Site Plan Review – Redevelopment of Site to Include Restaurant and Bank

Ms. Robidoux explained the proposal is for the redevelopment of a one story, former bank building with a drive-through. The intent is to convert to a two tenant building containing Santander Bank (retaining the drive-through for ATM use) and a Qdoba restaurant. The square footage will remain the same with no additions proposed. Qdoba will add a small outdoor patio in a former green space area. The lot is serviced by municipal water and sewer, and the project will add underground propane tanks.

The parking lot has been reconfigured to add spaces on the south side of the parking lot. Spaces were removed to the north side and middle, to accommodate the Exit 4A project and ADA requirements. Fire lanes have been added to the plan and sidewalks will be restored. Parking appears to be adequate for the current uses proposed on site.

The main access point to the site is from Crystal Avenue. The existing condition is being slightly amended to narrow the entrance and exit points to avoid traffic conflicts on Crystal Avenue. The site will be accessed from Crystal via a right in and a right out only. Access to and from the site is also available from the back side of the property adjacent to Citizens Bank.

A landscape plan has been provided; the existing site would not meet today's landscape requirements, but the design team has added green space, trees, and shrubs where they could. A screened dumpster is proposed in the southeast portion of the lot which does not meet the setback requirement; a waiver has been requested. The sign location will not change from existing; a facsimile of the proposed signage is part of the plan set provided to the Board. Where the property is located in the General Commercial District, Planning Board review of the architectural design for building signage and façade changes would be at a medium-high level of compliance.

A stormwater memo is included in the application package. The current plan does not meet requirements and a waiver has been requested; however, they are reducing impervious area on site and lessening the total runoff by 2.9%.

A traffic memo is included with the submittal documents. Per the trip generation summary, this project will generate 1,386 vehicle trips per day on a weekday and 1,536 vehicle trips per day on a Saturday. Staff reviewed accident reports for this area spanning a five year period. There was only one serious accident resulting in serious injury and disabling damage to the vehicle (this accident was actually in the Hood Commons entrance). The 11 remaining accidents consisted of angle/t-bone and sideswipes, with no serious injury to vehicle occupants. Vanasse Associates, Inc., on behalf of Gale Associates, reviewed the traffic summary and observed 30% of the trips will likely be pass by trips, or motorists that are already in the area. Impacts to Crystal Avenue will be limited as the entrance and exit to/from Crystal Avenue is restricted to right hand only turns and some of the traffic will divert through Hood Commons to Pinkerton St. It is confirmed that the plan reviewed by VAI and submitted to the Planning Board contains 35 spaces.

The NH DOT project area for the Exit 4A contract is depicted on the site plan sheet. NH DOT has no issue with the proposed work. GPI has discussed the project with Wendy Johnson and Jay Levine of NH DOT, who has requested a copy of the approved plan for their records.

The applicant is requesting 6 waivers, however, this is a redevelopment site with constraints making it harder to meet the requirements.

The location of the water connection on Crystal Avenue is unknown at this time and will require further investigation. The design team has been working with the Water Department on this issue. The location of the dumpster, as depicted on the plan, may impede access to the two 'future ATM lanes'; the Board is asked to review this. Staff anticipates potential queuing within the site as patrons exit onto Crystal Avenue when traffic is stopped at the intersection, waiting to turn right on Tsienneto. The lighting plan appears to be adequate for a commercial site; however, the lighting seems to be overly bright at the property lines.

Requested waivers include:

1. LDCR Section 170-67 B (1), Solid Waste Storage

2. LDCR Section 170-62B (1), Drive Aisle Widths
3. LDCR Section 170-62B (4), Drive Through Lanes
4. LDCR Section 170-63A (2), Parking Setbacks
5. LDCR Section 170-64 A (3), Green Space Ratio
6. LDCR Section 170-65, Stormwater Management.

Required permits include a Sewer Connection Permit.

Staff recommends the Board review the site plan as proposed, determine regional impact, review the sign and façade renderings.

Chris Tymula and Bob Bollinger with GPI are here, as is Greg Nolan with Cafua Management.

Motion by O'Connor, seconded by Malaby to accept jurisdiction of the site plan before the Board for Cafua Realty, PID 36017-001, 57 Crystal Avenue.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Motion by O'Connor, seconded by Malaby, pursuant to RSA 36:56, the Board finds the proposal as presented at this time meets the definition of a development of regional impact.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote No, this is a small reuse of an existing building with no major site work to be done and does not meet the definition of a development of regional impact.

Motion by O'Connor, seconded by Malaby, to open the Public Hearing.

All members present vote Yes. The motion passed.

Mr. Tymula was recognized by the Board.

Mr. Tymula noted that the existing building is located generally in the middle of the lot and is surrounded by parking and drive aisles. There is a right in, right out access on Crystal Ave. There is also a full access driveway to Hood Commons in the rear. The building is about 5,400 SF, with 4 pickup lanes in the rear and circulation is generally counterclockwise throughout the site.

The demolition plan shows where the sawcuts and onsite improvements are. The redevelopment project initially included minor site work, with the majority of the work occurring within the interior of the building. However, based on comments during the TRC process, the additional site changes have been included in the current plans, including expansion of the parking and the addition of green space.

The building will be split between Santander Bank (including the drive through) and the Qdoba sit down restaurant. The front parking lot will be restriped and reduced in size to comply with the 10' parking setback along the property line. The front parking meets the Town's parking

requirements with stall size, drive aisle width, and ADA access to Crystal Ave., while maintaining the same access along Crystal Ave. in the counterclockwise circulation pattern. The drive through was reduced from four lanes to two, with the potential to expand for future use.

The design team met with NH DOT about a month ago and discussed overall timing, driveways, and changes. Mr. Tymula reported that NH DOT was overall amenable with the plans and willing to work with the applicant and the contractor once site work begins.

In addition to the front parking, the new fenced dumpster, new LED pole lights, an outside patio area, snow storage, increased green space, and wayfinding signs were added. In the event that traffic along Crystal Ave. blocks the driveways, the wayfinding signs will direct customers to the back of the site to Hood Commons and ultimately back out onto Crystal Ave.

The grading and utility plan identifies the location of the new water and sewer lines, new exterior grease trap, and new underground propane tanks. Erosion controls and spot grading based upon the location of the traction closure have been shown throughout the site.

The applicant has tried to comply with the landscaping regulations as much as possible. There are many existing street trees, and some street trees were added in the front along with some landscaping islands, effectively increasing the amount of green space along the outer limits of the parking area. Any disturbed areas will be loamed and seeded for final construction.

Mr. Tymula explained that the truck turning plan shows that Derry fire apparatus can get in and out of the site without going through parking spaces, and can get in and out of the curb cut.

The lighting has been designed to replace old light poles that are there today. They will remove some light poles that are located where the new propane tank will be installed. The lights will be LED downward facing light fixtures. The design team can reexamine the light intensity, but they feel the overall light intensity is between a half foot candle to a foot candle at the property lines.

The exterior elevations were discussed. The new color scheme, raised roof with new cornice and trim, Santander sign, and Qdoba sign and new windows were highlighted.

Mr. Tymula stated that 4 of the 6 waiver requests are dependent on the existing site constraints.

Mr. Nelson mentioned that two existing vaults are to be removed and wondered why the bank did not want to keep one or both.

Greg Nolan, Cafua Realty, was recognized. Mr. Nolan confirmed there are two vaults and that Santander does not want to keep them.

Mr. Chirichiello asked if the proposed dumpster would be fenced in. Mr. Tymula said yes.

Mr. Chirichiello asked if there was an island or just painted stripes indicated in the front. Mr. Tymula said just painted stripes; the stormwater runoff sheet flows across the site and adding islands would impede this. Mr. Tymula confirmed Qdoba will not have a drive through. Mr.

Tymula indicated that the existing pylon sign (which has already been relocated by NH DOT for Exit 4A) will be refaced for the new businesses and the signs will not increase in size.

Mr. Chirichiello inquired about the outdoor seating; Mr. Tymula confirmed there will be three seasonal tables. Mr. Chirichiello inquired who owned the parking behind the property; this is owned by Hood Commons, LLC.

Mr. Mauzy inquired if there would be "Exit Only" or "Enter Only" signage at the rear access. Mr. Tymula said that there would be, only for those leaving the site, reading "To Tsienneto, turn left / To Crystal, turn right" or similar. Mr. Nelson added that circulation follows a similar pattern today. Mr. Mauzy added that is a dangerous spot because people speed through to get to Five Guys or Citizens Bank, or to use it as a cut through to Tsienneto. Mr. Tymula stated they have not called out a Stop sign or Stop bar on the plan, but they would be willing to add one to their property. Mr. Nelson added that there are shrubs that could be cut back to improve the line of sight. Mr. Nelson felt that not allowing this rear access to be a safety valve would be a bad idea, because Crystal Ave. is going to back up.

Mr. Chase asked about waiver #3, Drive Through Lane Width - how extensive will the drive through reconstruction be? Mr. Nolan explained Santander will add their new ATM and it will be a pretty straightforward design. Mr. Chase stated that with four lanes, if they are going to totally be reconstructed anyway, why couldn't they just eliminate one? Mr. Tymula explained the lanes are being reapportioned, and patrons will use the two inner lanes. The structural components of the canopy are not changing. If there are changes to the infrastructure, it would still have to fit within the lane that is there today. Mr. Chase said 8' was pretty narrow for some of today's vehicles.

Mr. Chirichiello added that if he had a large vehicle, he would choose to use the outermost lane. Mr. Chase stated that the outermost lane will be eliminated. Mr. Tymula explained that the intent is to use the existing configuration.

No members of the Public, in person or online, wished to speak.

Motion by Malaby, seconded by O'Connor, to close the Public Hearing.

All members present vote Yes. The motion passed.

Mr. Nelson suggested taking the waivers in one motion; there were no objections.

Motion by Malaby, seconded by Pelletier, to grant waivers from:

LDCR SECTION 170-67 B (1), Solid Waste Storage, to allow the dumpster to be located 14.4 feet from the property line where the regulation requires a distance of 25 feet.

LDCR Section 170-62 B (1), Drive Aisle Width, to allow a ten foot one way access drive to the right of the drive-throughs, where 18' required for a one way drive aisle.

LDCR Section 170-62 B (4), Drive Through Lane Width, to allow the ATM drive through lanes (2 proposed) to be 8.2' and 8.4' where 11 feet in pavement width is required.

LDCR Section 170-63 A (2), Parking Setbacks, to allow seven existing parking stalls to be located 5.2 feet from the side lot line where 10 feet is required.

LDCR Section 170-64A (3), Green Space Ratio, to allow 25.2% green space where 33% is required.

LDCR Section 170-65, Stormwater Management, to allow the stormwater sheet flow to continue off site at a reduction of 2.9% from current, where the regulation requires stormwater to be treated and managed on site.

After review of the waiver requests, the Board finds that strict conformity to the regulations would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Motion by Malaby, seconded by Pelletier, to find that pursuant to LDCR 170-85, the application as presented demonstrates substantial compliance with the Architectural Design Regulations. This property is located in the General Commercial zoning district and meets a Medium-High level of compliance as outlined in Section 170-84.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

The Board finds the proposed plan provides safe and efficient vehicular and pedestrian access, and the design and construction of the access ways and walkways are adequate to accommodate the anticipated volume of traffic proposed by the development.

The Board finds the proposed parking plan is adequate for the site, and meets the parking density requirements for the use.

The Board finds the landscape plan meets the intent of the regulations.

The Board finds the stormwater management as proposed is sufficient pursuant to the waiver granted by the Board.

The Board finds the utility construction standards are met.

The Board finds exterior lighting, snow storage provisions and solid waste storage are adequate for the proposed uses.

Motion by Malaby, seconded by Pelletier, to agree with the above noted findings of fact.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Motion by Malaby, seconded by Pelletier, after review and deliberation of the site plan application for PID 36017-001, Cafua Realty, the Board finds the applicant has satisfied the general requirements of the Land Development Control Regulations, or in cases where the regulation cannot be met, has satisfied the waiver requirements. Therefore, the motion is to approve pursuant to RSA 676:4 I – Completed Application, with the following conditions:

Conditions Precedent

1. Subject to owner's signature
2. Subject to on-site inspection by the Town's engineer
3. Establish appropriate construction escrow as required to complete the project
4. Note approved waiver (s) on the plan
5. Exploratory excavations, performed by the applicant, are required to finalize the water and sewer configurations.
6. Obtain written approval from the Planning Director/designee that the GIS submission is received and is operable and it complies with LDCR Section 170-61.C
7. Subject to receipt of applicable state or local permits relating to the project (i.e., Building Department, Fire Department, Water/Wastewater, Driveway, etc.)
8. Conditions precedent shall be met within 6 months.

Conditions Subsequent

1. Provide a copy of the approved plan to NH DOT

Discussion followed. Mr. Nelson suggested striking the condition to amend the lighting plan to reduce the foot candles at the property lines. Although on a separate parcel, this development is in the middle of a shopping center / its drive aisle is adjacent to the main entry of the shopping center, so additional lighting would not be harmful. Ms. Robidoux explained that it is staff's practice to examine the photometric plan with the goal of getting the foot candles as close to one or zero as possible. This particular plan seemed bright. While staff recommends conditions, it is the Board's purview to determine final conditions.

Mr. Chirichiello agreed that it was a little dark in that vicinity of the old gas station.

Motion by Nelson, seconded by O'Connor, to allow the lighting to remain as it was designed, and therefore strike the condition to amend the lighting plan to reduce the foot candles at the property lines.

Roll Call Vote of the amended motion: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes, motion passed.

JAL, LLC
Forest Street
Acceptance/Review

To Subdivide 11058-008, 11058-008001, 11058-008002**And to Adjust Lot Lines Between 11057, 11057-017 through 11057-017007**

The purpose of the plan is to subdivide three existing lots (11058-008, 11058-008001 and 11058-008-002), creating 6 lots and to adjust the lot lines between Parcels 11057, 11057-017, 11057-017001 through 11057-017007, decreasing the total number of lots to 7. Parcel 11057-017007 will be extinguished. A variance was granted on March 05, 2026, to allow the lots on the east side of Forest Street to be less than 1 acre in size.

Highway Safety and Conservation Commission review were not required for this project.

All comments and concerns raised by staff during the TRC discussion were addressed. Sight distance profiles were not included for the driveways but will be reviewed upon application for a building permit as part of the driveway approval process. Escrow is already in place as the area being considered is under active construction at this time. The lot number for the parent tract is labeled incorrectly and should be corrected to 11057 (not 11057-017) on the final plat. The applicant should also confirm the final lot area for each lot; there were some inconsistencies with the PLS plan.

No waivers are being requested.

Required permits include:

1. Amended Alteration of Terrain
2. Derry Driveway permits
3. DES Subdivision Amendment

Staff recommends the Board review the plan as presented and make a determination with regard to regional impact. During the original subdivision of the lots which was before the Board about a year ago, the Board determined there was no regional impact. It is the Board's choice whether to vote on regional impact this evening. The addressing exhibit was provided to the Board to help envision the final layout of the lots.

Brent Cole with Granite Engineering and Tom Lannan with JAL, LLC are present this evening.

Motion by Malaby, seconded by Pelletier to accept jurisdiction of the amended subdivision and lot line adjustment plan before the Board for JAL, LLC, PID 11058-008, 11058-008001, 11058-008002, 11057, 11057-017, 11057-017001 through 11057-017007, Forest Street.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

As the Board determined this proposal did not meet the definition of a regional impact when proposed last year, Mr. Nelson asked the Board if there were any objections to continuing that finding and skipping the vote on regional impact. None objected.

Motion by Malaby, seconded by Pelletier, to open the Public Hearing.

All members present vote Yes. The motion passed.

Mr. Cole was recognized by the Board. This portion of Denali Estates is fairly simple. Phase IV connects the existing Forest Street to the proposed Daniel Road. The Forest Street roadway was a split zoned area; MDR was on the west side and LMDR was on the east side.

Mr. Cole explained that as Mr. Lannan was building this roadway out, it became apparent that the parcels on the west side would look very different from their neighbors across the street. The applicant went before the ZBA and received a variance to allow the parcels on the east side to be one acre with 150' of frontage, and the parcels on the west side would be a similar one acre but be expanded to 150' of frontage from the 125' required in the MDR. This reduced the number of lots on the west side from 7 to 6, and on the east side from 3 lots to 6.

There is municipal water on Forest Street, so lot size should not be an issue. Mr. Cole did not believe this was contemplated to have municipal water which was why it was zoned with such a high lot area requirement. The proposal is basically a series of lot line adjustments and a 2-lot subdivision on an almost-constructed roadway. There is no change to or extension of the roadway design. The stormwater pond was expanded slightly to accommodate some offsite drainage from Forest Street.

Mr. Nelson's understanding is that the lots on the west side are being reduced in overall acreage. Mr. Cole explained they used to go further back because there used to be seven lots on that side, but there are now only six, so the extra area from that seventh lot was distributed over the six. The lots were able to get wider so their tails were removed. Mr. Nelson felt this improved the shape of these lots.

Mr. Mauzy inquired how many bedrooms the proposed dwellings would have. Mr. Nelson stated this was not something in the Planning Board's purview.

Mr. Fishman inquired if lot 11057 was greenspace or unbuildable. Mr. Cole confirmed it was unbuildable right now.

No members of the Public, online or in person, wished to comment.

Motion by Malaby, seconded by Pelletier, to close the Public Hearing.

All members present vote Yes. The motion passed.

The Board finds the proposed plan does not alter existing conditions which would affect access to the lots, ensuring the health, safety, and welfare of the neighborhood remains unchanged as a result of the adjustment of the lot lines.

The Board finds the proposed plan provides safe and efficient vehicular and pedestrian access, and the design and construction of the roadway is adequate to accommodate the anticipated volume of traffic proposed by the development.

The Board finds the stormwater management as proposed is designed to control the post development runoff so that it does not exceed predevelopment runoff.

The Board finds the utility construction standards are met.

Motion by Malaby, seconded by Pelletier, that the Board makes Findings of Fact, as listed above.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

Mr. Nelson observed that the plat reads "new lot line" and "lot line to be removed"; was this compatible with the language that needs to appear on the final plat to be recorded? Mr. Cole clarified that this language was only on the cover sheet to simplify the plan. The appropriate language appears on the sheets to be recorded.

Motion by Malaby, seconded by Pelletier, that after review and deliberation of the subdivision and lot line adjustment application for PID 11058, 11058-008001, 11058-008002, 11057, 11057-017, 11057-017001 through 11057-017007, JAL, LLC, the Board finds the applicant has satisfied the general requirements of the Land Development Control Regulations. Therefore, the motion is to Approve pursuant to RSA 676:4 I – Completed Application, with the following conditions:

Conditions Precedent:

1. Subject to owner's signature
2. Confirm appropriate escrow is in place for this portion of the overall project.
3. Remove the waiver request note from the plan sets
4. Correct the parent lot number for the lots which are affected by the lot line adjustment, and update as necessary the final lot areas for each of these lots (on all affected plan sheets)
5. Obtain written approval from the Planning Director/designee that the GIS submission is received and is operable and it complies with LDCR Section 170-24.C
6. Subject to receipt of applicable state or local permits relating to the project (i.e., Amended AoT, Building Department, Fire Department, Water/Wastewater)
7. Submission of the appropriate recording fees, payable to the Rockingham County Registry of Deeds. [This includes the \$25.00 LCHIP fee, recording fees for the mylar and the Notice of Decision.]
8. Conditions precedent shall be met within 6 months.

Conditions Subsequent:

1. Subject to on-site inspection by the Town's engineer
2. Supply sight distance profiles with the individual driveway permit applications.

Roll Call Vote: Chase, Young, Minervini, O'Connor, Fishman, Pelletier, Chirichiello, Malaby, and Nelson vote Yes. The motion passed.

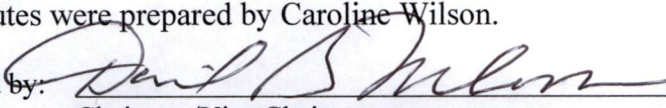
Board Member Comments

None.

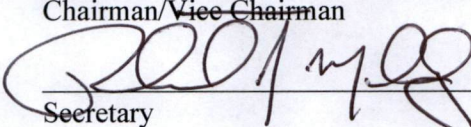
31 Motion by Malaby, seconded by Chirichiello to adjourn.

32
1233 All members present voted Yes. The motion passed, and the meeting was adjourned at 9:35pm.

1234
1235 The minutes were prepared by Caroline Wilson.

1236
1237 Approved by: 

1238 Chairman/Vice Chairman

1239
1240
1241 
1242 Secretary

1243 Approval date: September 16, 2026