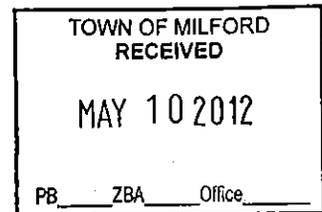


PRUNIER & PROLMAN, P.A.
ATTORNEYS AT LAW
20 Trafalgar Square, Suite 626
Nashua, New Hampshire 03063-1981
TEL (603) 883-8900
FAX (603) 883-7959
www.prunierlaw.com



GERALD R. PRUNIER
gprunier@prunierlaw.com

ANDREW A. PROLMAN
aprolman@prunierlaw.com

May 10, 2012

HAND DELIVERED

Kevin Johnson, Chair
Milford Board of Adjustment
1 Union Square
Milford, NH 03055-4240

Re: Request for Rehearing
Case No. 2012-06, Dakota Partners, Inc., et al. ("Dakota")

Dear Mr. Johnson and Members of the Board:

On behalf of the applicant and the property owners, please accept this request for rehearing of Case No. 2012-06. This request is being filed in accordance with RSA 677:2 and 677:3, and your Rules of Procedure, Rule XIII. Given the time constraints involving certain financing and approval deadlines, we respectfully request you take this matter up at your **May 17, 2012** meeting.

At the May 3, 2012 hearing, Board members expressed their concerns about public safety issues as it relates to the zoning variance. We have tried to address those concerns with the additional information below. Further, we believe that there may be legal considerations about the discussion last week. For these reasons, we ask the case be reheard.

Site Observations

Following the hearing, our engineer went back to the Pine Valley Mill to simply re-observe the area with respect to traffic and pedestrian safety concerns. General, empiric observations:

- Wilton Road is posted at 25 mph, but the speed limit sign is hidden by other signs and difficult to see. The sign is right at the corner of North River Road and difficult to see. Westbound sign only. The Dakota **project would replace and move this sign to a prominent location, and add a like sign in the eastbound direction.**

- There is an existing crosswalk. At approximately mid-building, there is a very faded green and white cross walk across Wilton Road. Barely visible, worn out by traffic, plows, etc. Old "yield" signs in both directions are faded, turned and tilted away from the road. The signs are approximately 5' high and red and black – not the street level, bright yellow and black sign used today (used just down the road in Wilton). As required by the Planning Board, **the project would update this crosswalk and install proper, current pedestrian walkway signs.**
- Turning movements in and out of the Mill are random and haphazard. Turning movements on to the property occur anywhere and everywhere along the length of the Mill. Likewise for people exiting the Mill. I did the same as I'm sure most people do without any control of traffic movement. **The project will vastly improve this entire stretch of Wilton Road with limited curb cuts and controlled traffic flow.**

Stephen G. Pernaw & Company, Inc.

- Attached as **Exhibit A** is the May 9, 2012 Traffic Projections Memorandum from Stephen Pernaw. Most of you should be familiar with Steve's work – he's done a lot of traffic analysis over the years in Town and for the Town. His Memorandum compares trip generations, and shows the project will have less peak hour traffic than allowed industrial or manufacturing uses. He concludes:

As a Professional Traffic Operations Engineer (#399), it is my opinion that post-development conditions with the access improvements described above is far superior to the existing conditions case without the 50 apartments.

Fieldstone Land Consultants, PLLC

- Attached as **Exhibit B** is Chad Branon's May 8, 2012 Engineering Analysis. Fieldstone Land Consultants are the civil engineers for the project and we asked Chad to weigh in with respect to safety concerns. You can see that the report speaks to how the significant site improvements, including a sidewalk, will address both traffic and pedestrian safety issues.
- In addition, Dakota would consider additional traffic calming and traffic control measures. We expect the planning process will include analysis of road striping, curb bump outs, road width reduction, or other current design standards for traffic control.

Wilton Road and North River Road Intersection

- Attached as **Exhibit C** is the portion of the Falcon Ridge plan applicable to the Wilton Road and North River Road intersection. The Falcon Ridge project was approved by the Milford Planning Board in 2006, and the plan was recorded at the Hillsborough County Registry of Deeds as Plan No. 34931 on August 11, 2006. Part of the approval requires off site improvements such as this intersection. Meridian's Sheet P-07 (Sheet 21) is attached, and I've enlarged the drawing showing the improvements to the intersection itself. You can see the intersection is to be widened, with a better turning radius, new stop bars and signs, with ample sight distance both east and west bound.

Bus Stop Easement Agreement

- Attached as **Exhibit D**, is the last draft of the Bust Stop Easement Agreement. This Easement Agreement was part of the Milford Planning Board's June 21, 2011 approval of the 10 lot residential subdivision on the south side of Wilton Road. While approved, this subdivision project may not ever be built because of certain land and financial constraints. Nonetheless, since public transportation remains a good idea, and we have the same property owners, **we propose the Bus Stop Easement Agreement become part of this case**, such that it would be incorporated into the pending application and part of planning board approval.

Parking

- In Dakota's experience, the parking as shown on the plan is ample for the mix of apartments and the commercial/retail users. It wouldn't make sense for Dakota to propose an apartment complex that didn't work for its customers. Further, good site planning practices provide sufficient parking while minimizing imperious asphalt to allow more green space, natural pervious areas, groundwater recharge areas, etc. Notwithstanding these concerns, there is an area at the end of the residential parking lot that can be reserved for ten additional parking spaces and labeled as "future parking as needed."

Variance Criteria

With all due respect to Board members, upon further review of the five points of law for a variance, we believe that there may have been issues with the legal analysis at the hearing. This is not done to be critical of the Board, but to raise issues for your further deliberation. We submit

that in certain instances the Board applied an incorrect legal standard. We ask that the Board consider whether *this* application, with *this* proposed use, meets the five points of law for a variance as follows:

1. “[M]y advice to ZBA members is not to be procedural sticklers when it comes to the “**public interest**” criterion.” OEP Handbook, p II-8. The neighborhood today is a mix of homes, the mill, and vacant land. This project will not change these characteristics of this neighborhood. The only significant change to the neighborhood will be better traffic management and safety with the Wilton Road and North River Road improvements. There are no threats to public safety, health, or welfare which would be contrary to the public interest.
2. As Bill Parker said, the **spirit and intent** of the ICI district was to provide for a flexibility of uses from the older industrial zoning that was historically tied to the Pine Valley Mill.

NH case law states:

[T]o be contrary to the public interest... the variance must unduly, and in a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives.

One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality...

Another approach to [determine] whether granting the variance would violate basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare.” *Malachy Glen Associates, Inc. v. Town of Chichester*, 155 NH 102, 106 (2007). OEP Handbook, p II-10.

The proposed renovation of the mill does not unduly conflict with this area of the ICI district, does not alter the essential character of this locality, and does not threaten Milford’s public health, safety or welfare.

3. On **substantial justice**, the OEP handbook suggests a guiding rule that “any loss to the individual that is not outweighed by a gain to the general public is an injustice.” OEP Handbook, p II-10. Essentially, the substantial justice element is a balancing test – do the scales tip in favor of the application or not? In favor, we have a \$12,000,000 renovation of one of the last remaining mills in Town, to provide low cost housing, keeping 25,000 square feet of jobs and employers, improving the Wilton Road

streetscape, with *no abutters or neighbors voicing any opposition or concern.*

Whatever issues can be raised against the project are outweighed by all the positive gains to the general public.

4. As all Board members agreed there would be **no diminution in value** based on the letter by the appraiser Jon Franks, which was submitted at the hearing.
5. Today, the standard for **unnecessary hardship** is spelled right out in the statute. We no longer apply hardship tests based on the *Simplex Technologies* case, *Boccia v. Portsmouth*, or other case law. And the law does not consider the other allowed uses in the district. Today, RSA 674:33, I (b)(5) requires the following standard:

For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provisions and the specific application of that provision to the property; [the Relationship Test].

And

- (ii) The proposed use is a reasonable one [the Reasonable Use Test].

We first question whether the site provides special and unique conditions. The mill itself is unique not only to the ICI district, but also to this neighborhood but to the entire Town. Especially a mill with mostly residential and small commercial buildings as its neighbors. Further, this little pocket of the ICI district is an anomaly from the other ICI areas. Unlike the ICI districts found on Nashua Street, Elm Street, or Route 13, this small ICI district does not have direct access on a major road in Town, and is largely invisible from high volume traffic on Route 101.

Historically, this industrial zoning was tied to mill operations. Today, the mill and the zoning present unique and special circumstances, which distinguish the property from all others in the area.

Applying the Reasonable Use Test, we respectfully submit the mixed use proposal easily passes. The neighborhood is mostly residential – especially by the upper, residential parking lot. Appraiser Jon Franks commented that the mixed use approach will provide a good transition from the retail/commercial areas on Route 101. When

Kevin Johnson, Chair
Milford Board of Adjustment
May 10, 2012
Page 6

we consider that senior housing is allowed in the ICI (at a much higher density than this project), it is hard to say our mixed use proposal is not reasonable.

If we have unique and special circumstances of the site, and the proposed use is reasonable, we then turn to the Relationship Test – is there a fair and substantial reason to prohibit the mixed use project at this site? We submit the answer is no.

Owing to its special and unique conditions in terms of size (i.e., a property that is many times larger than any other property in this ICI district) and location (i.e., lack of access that are afforded to the other ICI districts in Milford), the property is at a unique disadvantage because it cannot attract occupants of an industrial and commercial nature, which require space, visibility, and easy access to major roadways.

Again, Bill Parker testified about the intended flexibility of the ICI district. Further, the West Elm Street Gateway District, which “implements the Master Plan vision for Milford’s gateway corridor,” states that the overlay district encourages “mixed use development sensitive to Milford’s ... architectural and historic heritage by preserving and enhancing the streetscape... .” Allowing the residential use at this site will help accomplish these goals. Dakota seeks to make a significant investment in Milford which will preserve to historic standards a unique part of the Town, and provide low cost housing. This will all be done with respect and in conformance with the character of the neighborhood. At this site, for this proposal, we respectfully submit there is no fair and substantial reason to prohibit the residential use.

For the foregoing reasons, Dakota Partners, Inc., 37 Wilton Road Milford, LLC, and 282 Route 101, LLC respectfully request the Board rehear this case at your **June 7, 2012** hearing.

Thank you.

Sincerely,

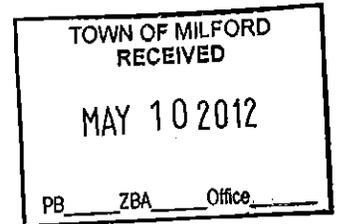


Andrew A. Prolman

AAP/ps
CC by e-mail: Dakota Partners, Inc.
37 Wilton Road Milford, LLC
282 Route 101, LLC

**Milford Zoning Board of Adjustment
May 10, 2012**

**Dakota Partners, Inc.
37 Wilton Road Milford, LLC
282 Route 101, LLC**



Case # 2012-06

EXHIBIT A

MAY 9, 2012

**TRAFFIC PROJECTIONS MEMORANDUM
STEPHEN G. PERNAW & COMPANY, INC.**

MEMORANDUM

Ref: 1424A

To: Andrew Prolman, Esquire
Prunier & Prolman, P.A.

From: Stephen G. Pernaw, P.E., PTOE

Subject: Pine Valley Mill – Traffic Projections
Milford, New Hampshire

Date: May 9, 2012

As requested, our office has conducted a trip generation analysis for the proposed residential apartment project in the Pine Valley Mill in Milford, New Hampshire, in support of the Application for Variance being considered by the Milford Zoning Board of Adjustment. We are familiar with the general area as our office previously conducted traffic studies for the nearby bank site and the gas station/convenience store on NH-101A, and we were involved with the signalization of the NH-101A/Wilton Road intersection several years ago.

It is our understanding that the existing mill is currently occupied by several commercial tenants, and much of the vacant space is planned to be renovated into 50 residential apartments. The residential and commercial areas will be separated, along with their respective parking areas. Commercial access will continue to be provided via Wilton Road, whereas residential access will occur via an existing site driveway on North River Road (which intersects with Wilton Road). The re-development plan includes significant improvements to the access situation on Wilton Road. Currently, there is a wide-open pavement area of considerable length along the site frontage. With the proposed project this pavement area will be curbed, and two well-defined two-way commercial driveways will be constructed on Wilton Road.

The results of the trip generation analyses are summarized in Table 1, and are based on standard trip generation rates published by the Institute of Transportation Engineers¹ (ITE). Uses that generate less than 500 trips per day are considered to be low traffic generators from a traffic engineering standpoint. Clearly, 50 residential apartments do not constitute a major traffic generator. Our experience has shown that hourly traffic increases on this order of magnitude will not significantly change the prevailing Level of Service or traffic operations at nearby intersections.

¹ Institute of Transportation Engineers, *Trip Generation*, 8th Edition (Washington, D.C., 2008)

This analysis demonstrates that the proposed apartments will generate significantly fewer trips during the peak hour periods than other permitted uses that could occupy the vacant space in the mill without a variance.

Table 1 **Trip Generation Comparison**

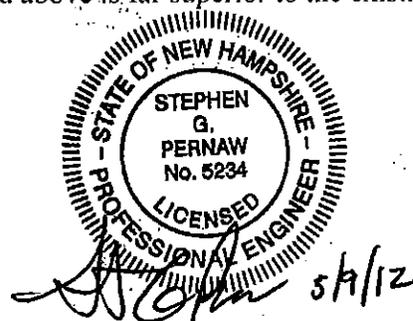
	Residential (50 Apartments)		Commercial Trip Estimates (45,000 sf)	
	ITE Typical Apartment ¹		ITE General Light Industrial ²	ITE Manufacturing ³
AM Peak Hour	Entering	5 veh	36 trips	26 trips
	Exiting	<u>21 veh</u>	<u>5 trips</u>	<u>7 trips</u>
	Total	26 trips	41 trips	33 trips
PM Peak Hour	Entering	20 veh	5 trips	12 trips
	Exiting	<u>11 veh</u>	<u>39 trips</u>	<u>21 trips</u>
	Total	31 trips	44 trips	33 trips
Weekday Total	Entering	167 veh	157 trips	86 trips
	Exiting	<u>167 veh</u>	<u>157 trips</u>	<u>86 trips</u>
	Total	334 trips	314 trips	172 trips

¹ ITE Land Use Code 220, ² Land Use Code 110, ³ Land Use Code 140

The development proposal calls for eliminating the wide open pavement area along Wilton Road and replacing it with two well defined commercial driveways. A sidewalk is also planned along Wilton Road. From an access management standpoint, this represents a significant improvement to traffic operations, capacity and safety along Wilton Road. From a transportation engineering and traffic operations standpoint, the addition of 50 apartments will increase the number of vehicles traveling to/from the site; however, the net increase is not of sufficient magnitude to alter the prevailing traffic operations at the Wilton Road/North River Road intersection, nor along the Wilton Road corridor.

As a Professional Traffic Operations Engineer (#399), it is my opinion that post-development conditions with the access improvements described above is far superior to the existing conditions case without the 50 apartments.

Attachments



ZONING BOARD OF ADJUSTMENT PLAN

**THE
PINE VALLEY MILL COMMERCIAL CENTER/
RESIDENCES AT THE MILL**
WILTON ROAD - LOTS 6-13, 14
MILFORD, NEW HAMPSHIRE

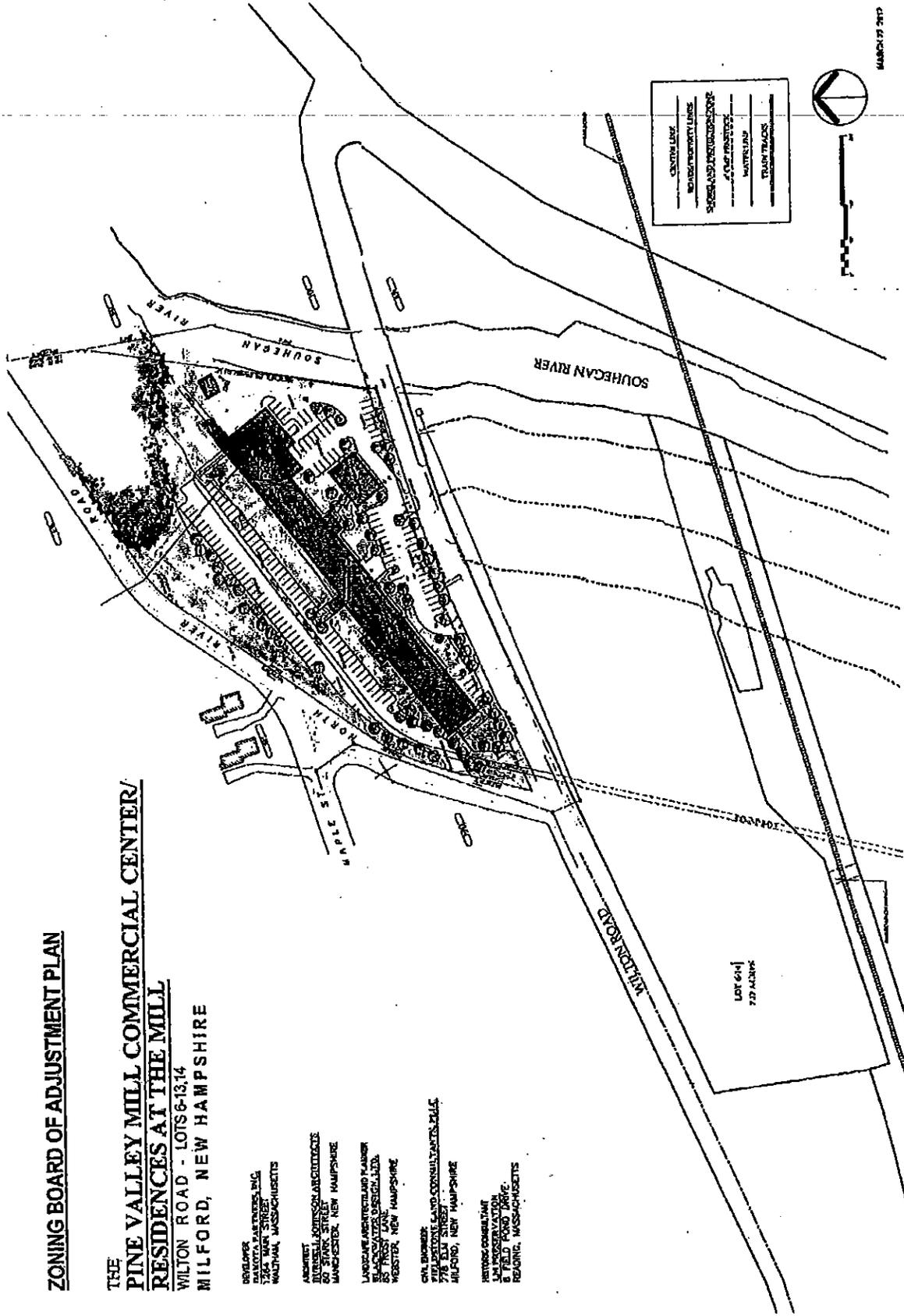
DEVELOPER
DAVID A. BARTON, INC.
1265 MAPLE STREET
WALTHAM, MASSACHUSETTS

ARCHITECT
JAMES H. SMITH ARCHITECTS
60 STANLEY STREET
MANCHESTER, NEW HAMPSHIRE

LANDSCAPE ARCHITECT AND PLANNER
JAMES H. SMITH ARCHITECTS
60 STANLEY STREET
MANCHESTER, NEW HAMPSHIRE

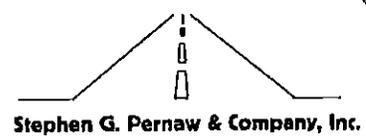
CON. ENGINEER
WILSON ENGINEERING CONSULTANTS, INC.
278 TOWN STREET
MILFORD, NEW HAMPSHIRE

INTERIOR CONSULTANT
LANDSCAPE ARCHITECT
8 FELD ROAD DRIVE
REARING, MASSACHUSETTS



MARCH 27 2013

①



Stephen G. Pernaw & Company, Inc.

Summary of Trip Generation Calculation

For 50 Dwelling Units of Apartments

May 9, 2012

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	6.65	3.07	1.00	334
7-9 AM Peak Hour Enter	0.10	0.00	1.00	5
7-9 AM Peak Hour Exit	0.41	0.00	1.00	21
7-9 AM Peak Hour Total	0.51	0.73	1.00	26
4-6 PM Peak Hour Enter	0.40	0.00	1.00	20
4-6 PM Peak Hour Exit	0.22	0.00	1.00	11
4-6 PM Peak Hour Total	0.62	0.82	1.00	31
Saturday 2-Way Volume	6.39	2.99	1.00	320
Saturday Peak Hour Enter	0.00	0.00	1.00	0
Saturday Peak Hour Exit	0.00	0.00	1.00	0
Saturday Peak Hour Total	0.52	0.74	1.00	26

Note: A zero indicates no data available.
 Source: Institute of Transportation Engineers
 Trip Generation, 8th Edition, 2008.

TRIP GENERATION BY MICROTRANS

Summary of Trip Generation Calculation

For 45 Th.Sq.Ft. GFA of General Light Industrial
May 9, 2012

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	6.97	4.24	1.00	314
7-9 AM Peak Hour Enter	0.81	0.00	1.00	36
7-9 AM Peak Hour Exit	0.11	0.00	1.00	5
7-9 AM Peak Hour Total	0.92	1.07	1.00	41
4-6 PM Peak Hour Enter	0.12	0.00	1.00	5
4-6 PM Peak Hour Exit	0.85	0.00	1.00	39
4-6 PM Peak Hour Total	0.97	1.16	1.00	44
Saturday 2-Way Volume	1.32	1.48	1.00	60
Saturday Peak Hour Enter	0.07	0.00	1.00	3
Saturday Peak Hour Exit	0.07	0.00	1.00	3
Saturday Peak Hour Total	0.14	0.41	1.00	6

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 8th Edition, 2008.

TRIP GENERATION BY MICROTRANS

Summary of Trip Generation Calculation
 For 45 Th.Sq.Ft. GFA of Manufacturing
 May 9, 2012

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	3.82	3.07	1.00	172
7-9 AM Peak Hour Enter	0.57	0.00	1.00	26
7-9 AM Peak Hour Exit	0.16	0.00	1.00	7
7-9 AM Peak Hour Total	0.73	1.04	1.00	33
4-6 PM Peak Hour Enter	0.26	0.00	1.00	12
4-6 PM Peak Hour Exit	0.47	0.00	1.00	21
4-6 PM Peak Hour Total	0.73	1.01	1.00	33
Saturday 2-Way Volume	1.49	0.00	1.00	67
Saturday Peak Hour Enter	0.00	0.00	1.00	0
Saturday Peak Hour Exit	0.00	0.00	1.00	0
Saturday Peak Hour Total	0.28	0.00	1.00	13

Note: A zero indicates no data available.
 Source: Institute of Transportation Engineers
 Trip Generation, 8th Edition, 2008.

TRIP GENERATION BY MICROTRANS

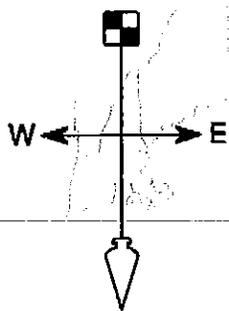
**Milford Zoning Board of Adjustment
May 10, 2012**

**Dakota Partners, Inc.
37 Wilton Road Milford, LLC
282 Route 101, LLC**

Case # 2012-06

EXHIBIT B

**MAY 8, 2012
ENGINEERING ANALYSIS
FIELDSTONE LAND CONSULTANTS, PLLC**



FIELDSTONE

Surveying ♦ Engineering
Land Planning ♦ Septic Designs

LAND CONSULTANTS, PLLC

778 Elm Street Suite C, Milford, NH 03055 - Phone: 603-672-5456 - Fax: 603-413-5456
www.FieldstoneLandConsultants.com

TOWN OF MILFORD
RECEIVED

MAY 10 2012

PB _____ ZBA _____ Office _____

Engineering Analysis

Pine Valley Mill Proposed Re-development Plan
Tax Map 6, Lot 13
37 Wilton Road

Prepared For:
Dakota Partners, Inc.
37 Wilton Road Milford, LLC
282 Route 101, LLC

May 8, 2012

Introduction:

The following is an abbreviated engineering analysis which will evaluate the Pine Valley Mill property existing conditions versus the redevelopment proposal. This analysis is based on the conceptual layout shown on the Zoning Board of Adjustment Plan dated March 22, 2012.

Existing Conditions:

The Pine Valley Mill was built around 1870 and consists of approximately 70,000 square feet. The building is comprised of three sections, the main building, the boiler area and the annex building. The main building has a two and three-story section. The boiler area is one-story with varying heights and the annex building is a detached structure consisting of one-story. The mill has been the home of many businesses over the years and is currently occupied by various commercial tenants, but a large portion of the mill is vacant.

The property currently has a parking, loading bays, and access on the south side of the mill building off Wilton Road and a parking lot at the north side of the building which takes access off North River Road. The parking and access off Wilton Road consists of a contiguous paved area spanning nearly 480 feet. Currently this 480 foot span is uncontrolled. Normal traffic movements along this span include vehicles taking direct access into parking spaces, vehicles backing out of parking spaces directly onto Wilton Road, business deliveries and pedestrian activities as there is also a crosswalk located in this span. The existing conditions along Wilton Road are unsafe, uncontrolled and do not meet current engineering design standards.

The subject property is in the Integrated Commercial-Industrial (ICI) Zoning District which would permit the 70,000 square foot building to be completely occupied by a number of potential businesses. Based on this the traffic impacts can be estimated by utilizing the Institute of Transportation Engineers (ITE) trip generation data¹. Assuming that the mill building is fully occupied by a mix of businesses, similar to the mix of businesses that currently occupy the building, the site could generate an average of 893 vehicle trip ends (VTE) per day on a weekday.

¹ Institute of Transportation Engineers: Trip Generation, 8th Edition, Land Use 770, Business Park

Likewise, the site could generate approximately 100 vehicle-trips during the A.M. peak hour period and approximately 90 vehicle-trips during the P.M. peak hour period.

Proposed Conditions:

The redevelopment plan of the property consists of creating 50 residential units in the main building as well as reconfiguring the existing parking. The residential units will occupy approximately 45,000 square feet of the mill building and 25,000 square feet of the mill building will be maintained as commercial space. Of the 50 residential units, 33 will be on-bedroom and 17 two bedroom units. Their sizes will average 600 square feet and 900 square feet respectively.

The redevelopment plan proposes to substantially improve the existing conditions of the property by controlling the access and parking along Wilton Road while separating the commercial and residential uses. The commercial entrance and associated parking will be from Wilton Road, while the residential entrance and associated parking will be on the north side of the building with access off North River Road. The redevelopment plan proposes to create two curb cuts along Wilton Road which will control the traffic movements. The two curb cuts will be approximately 25 and 40 feet in width which will significantly reduced the span of pavement along Wilton Road from the 480 feet that currently exists. The parking on the south side of the building will be reconfigured and will included green areas and landscaping which will enhance the property and aid in controlling the traffic, parking and improving pedestrian safety. Pedestrian safety will also be improved through the construction of sidewalks. The parking lot on the north side of the building will also be reconfigured with additional landscaping for the residential tenants.

Under the redeveloped conditions (50 residential units and 25,000 square feet of mixed use businesses) the potential traffic impacts can be estimated by utilizing the Institute of Transportation Engineers (ITE) trip generation data². Assuming that the mill building is fully occupied the site could generate an average of 652 vehicle trip ends (VTE) per day on a weekday (333 from the residential and 319 from the commercial). Likewise, the site could generate approximately 61 vehicle-trips during the A.M. peak hour period and approximately 63 vehicle-trips during the P.M. peak hour period.

Summary:

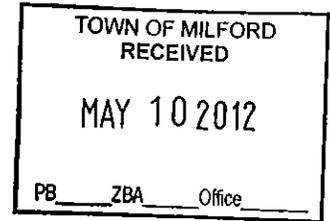
In summary this redevelopment project will significantly improve the safety of the property over the existing conditions. The traffic patterns along Wilton Road will be controlled which will produce a safer environment for the businesses and residents occupying the property as well as vehicular and pedestrian activity in and adjacent to the property. It appears from reviewing the plans that adequate sight-distances will be provided at all intersections. It is also evident from the plans that this project will reduce the amount of impervious areas on-site and will therefore likely reduce the stormwater impacts off-site.

Based on the ITE trip generation data the redevelopment of the subject site will yield less traffic than a fully occupied mill building with mixed commercial uses. More specifically, based on comparing the ITE trip generation data, a fully occupied mill building under this proposal will yield 241+/- less vehicle trip ends (VTE) per day on a weekday; approximately 39 less vehicle-trips during the A.M. peak hour period and approximately 27 less vehicle-trips during the P.M. peak hour period. This results in reduced impacts to adjacent streets and intersections.

Prepared By: Chad E. Branon, PE

² Institute of Transportation Engineers: Trip Generation, 8th Edition, Land Use 770 (Business Park) and 220(Apartment)

**Milford Zoning Board of Adjustment
May 10, 2012**



**Dakota Partners, Inc.
37 Wilton Road Milford, LLC
282 Route 101, LLC**

Case # 2012-06

EXHIBIT C

FALCON RIDGE PLAN

**Milford Zoning Board of Adjustment
May 10, 2012**

**Dakota Partners, Inc.
37 Wilton Road Milford, LLC
282 Route 101, LLC**

Case # 2012-06

EXHIBIT D

BUS STOP EASEMENT AGREEMENT

Draft: June 21, 2011

BUS STOP EASEMENT AGREEMENT

282 Route 101, LLC and 37 Wilton Road Milford, LLC, both of 100 Elm Street,
Nashua, New Hampshire 03060 ("Developer") and the **Town of Milford**, 1 Union Square,
Milford, New Hampshire 03055 (the "Town") made this Bus Stop Easement Agreement this
_____ day of _____, 2011.

RECITALS

- A. Developer owns Lot 6-14 on the southerly side of Wilton Road, Milford, New Hampshire.
- B. Developer has applied for subdivision approval for a portion of Lot 6-14 as shown on a plan entitled "Subdivision Plan, Land of 282 Route 101, LLC and 37 Wilton Road Milford, LLC, Tax Map – Lot 6-14, 30 Wilton Road, Milford, New Hampshire," dated February 3, 2011, prepared by Meridian Land Services, Inc. to be recorded at the Hillsborough County Registry of Deeds (the "Plan").
- C. The Town requested and the Developer agreed to grant an easement to accommodate a bus stop on the "Remainder" Lot of Lot 6-14, being the easterly portion of said lot.
- D. The parties recognize it is currently premature to locate with specificity the size and location of the bus stop easement area due to (1) future potential development of the Remainder Lot 6-14, and (2) The Town's plans for a bus system in this area of Milford are in a preliminary planning phase.

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

- 1. Developer, for itself and its successors and assigns, shall grant to the Town an area along the southerly side of Wilton Road an area sufficient to accommodate a bus stop for a future bus route. Unless otherwise agreed, the bus stop is intended to be a "pull-over" bus stop abutting the right of way for a local bus system, not intending to be a bus terminal or turn around.
- 2. Developer, for itself and its successors and assigns, shall also grant to the Town a Pedestrian Access Easement along the southerly side of Wilton Road, from Lot 6-14-4 as shown on the Plan to the new bus stop easement.
- 3. Developer shall establish the bus stop easement at the earlier of site plan or subdivision approval of the Remainder 6-14 lot, or upon the Town's request,

provided the Town's plans for a bus route are sufficiently developed and funded so as to justify the need for a bus stop.

4. Unless otherwise agreed, the Town or an entity other than the Developer shall be fully responsible for all costs for the development and build out of the bus stop.

282 Route 101, LLC

Town of Milford

Mark Prolman, Member

By: _____

37 Wilton Road Milford, LLC

Eli Levine, Member

Town of Milford
ZONING BOARD OF ADJUSTMENT



May 4, 2012

Marc Daigle
Dakota Partners, Inc.
1264 Main St
Waltham, MA 02451

Town Hall
1 Union Square
Milford, NH 03055-4240
(603) 249-0620
Fax (603) 673-2273
www.milford.nh.gov
TDD Access:
Relay NH 1-800-735-2964

Re: ZBA case #2012-06

You are hereby notified that a motion to grant a variance for Case #2012-06, Dakota Partners, Inc. along with the owners 37 Wilton Road Milford, LLC and 282 Route 101, LLC, of 37 Wilton Rd, Map 6, Lot 13 in the "ICI" district, from Article V, Section 5.08 to permit up to fifty (50) residential units in the ICI District was not approved by a vote of two (2) in favor and three (3) opposed on May 3, 2012, as the request did not meet all the criteria for a variance.

In accordance with NH RSA. 677:2, application for a rehearing in this matter must be received by the Board of Adjustment prior to close of business (4:30 p.m.) on June 4, 2012.

Sincerely,

Shirley Wilson,
Office of Community Development

CC: Andy Prolman, Prunier & Prolman, PA
282 Route 101, LLC
37 Wilton Road Milford, LLC
Bill McKinney, Building Inspector/Code Enforcement Officer