



Town of Seabrook Planning Board Minutes

Tuesday, March 1, 2011

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Members Present: Donald Hawkins, Chair; Sue Foote, Vice Chair; John Kelley; Jason Janvrin; Robert Fowler; Robert Moore, Ex-Officio; Michael Lowry, Alternate; Paul Garand, Code Enforcement Officer, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary;

Members Absent; Paul Himmer, Alternate; Keith Sanborn; Elizabeth Thibodeau, Alternate; Hawkins opened the public meeting at 6:30 PM.

MINUTES OF February 15, 2011

Hawkins said to change "ho" to he on page 12; Kelley a phrase on page 9 should be deleted.

MOTION:	Kelley	to accept the Minutes of February 15, 2011 as amended.
SECOND:	Lowry	Approved: Unanimous

SECURITY REDUCTIONS OR EXTENSIONS

There being none.

CORRESPONDENCE/ANNOUNCEMENTS

Hawkins referenced a response by Kravitz to **DDR's request for copies of the Minutes of September 21, 2010 relating to the extensions for Cases #2006-32 and #2009-01.** Hawkins commented that that might mean further requests for extensions.

Hawkins called attention to the **Climate and Community Seminar scheduled for Tuesday, March 29.** Foote said this is sponsored by a variety of organizations and known as the Coastal Adaptation Workshops. She had been a member for more than 1 ½ years. Foote and Cliff Sinnott of the Rockingham Planning Commission will be presenting the adaptation map. Hawkins asked if this is the Seabrook study. Foote said towns like Rye are also working on this. Additionally, a new fly-over with a 6-inch measurement capacity is being made available. Hawkins asked if Seabrook's map was done that closely. Foote said it was along the beachfront, but not from the salt-marsh inland.

Hawkins referenced a **letter on behalf of the Hampshire Inn asking to make a presentation to the Board relating to the DDR project.** There is no case pending. The request is really about the left-turn into Spur Road. Hawkins thought this was a NH Department of Transportation issue and not a Planning Board issue. He wanted to ask them to work with the NHDOT if they want to see changes. The plan the Board adopted ultimately had been rejected. He recommended referring them to the NHDOT to work out any issues they have. Kelley commented that as it concerns a state road, the Board had no status. Moore said the town has no jurisdiction.

Hawkins referenced a **letter to Morgan from the NH Department of Transportation restating their position that the responsibility for any sidewalk on the Route 107 Bridge had to be taken over by the Town.** This also affects other sidewalks that had been discussed along Route 107. Hawkins thought the Town's position had been that there is no way it should be taking over the responsibility for sidewalks on a state road; the issue is liability and maintenance of sidewalks. The State seems to be willing to build a bridge from one side of Seabrook to the other and not have pedestrian traffic on it. The same issue has



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come up before, but the state doesn't seem to be budging. Hawkins did not see a solution for this type of issue, and wondered if the Planning board should make a recommendation to the Board of Selectmen in this one case to take the responsibility for that sidewalk along Route 107 to Route 95. Moore said the BOS position was not to do that. First of all this is NHDOT property. If the Town were responsible and had cleaned off the sidewalk snow, plows would push the snow back on them. Garand said the State is also trying to get the Town to take responsibility along Route 1. Not putting in a sidewalk if the Town doesn't assume responsibility is like a punishment. Hawkins agreed. Garand said the State has the responsibility for the safety of pedestrians. If they feel so strongly that they don't want to provide safety for pedestrians they should be accountable too.

Hawkins said the bridge doesn't change width no matter what the Board decides. It's either a sidewalk or, hopefully, they will make it wide enough for bike paths and walking area. Foote thought that a striped strip marked for pedestrians and bikes would be more efficient and easier to maintain than a technically raised sidewalk. Hawkins agreed as to the bridge, but wondered about those walking up the side of the road to Route 1. It would be like walking in a breakdown lane. Boyd said he saw the state working with equipment on sidewalks in Exeter the day after the discussion about sidewalks in Seabrook. Boyd thought this situation would be no different than any other state road where there is a sidewalk. Foote thought that if federal money went into roads there had to be pedestrian friendly sidewalks and bike access; she thought the state would be dispensing federal money. Hawkins thought the money for the bridge was what had not been spent [on the tolls]. Morgan said the money collected at toll booths was the State's. Kravitz explained that a few years ago the federal government purchased a portion of Route 95, in the Portsmouth area, from the State Turnpike Authority for approximately \$100,000,000. About \$22,000,000 of those funds was used for the open lane work on the turnpike and the Legislature also allocated up to \$4 million of that amount for the Bridge.

Hawkins asked if the Board wanted to "sit tight" and at the least have a painted stripe across the Bridge. Foote noted that if there is not a signed agreement by April 1, 2011, the sidewalks would be removed from the Bridge plan. Moore asked Morgan what prompted this change by NHDOT, as there were sidewalks up and down Route 1. Morgan thought NHDOT viewed this as a cost saving measure, noting that there have been a lot of pass-downs from Concord lately unloading responsibilities on to towns. Moore said that is a big liability they are passing on to the towns. Hawkins commented that the governor was doing the same thing with retirement plans. Foote said the NHDOT's action goes contrary to their position in the decades-long effort to get a light on Route 1 so people could cross to the Community Center. NHDOT said no light would be allowed unless there were sidewalks. Now they say no sidewalks. She wondered if that meant they would take all the lights off Route 1.

Morgan was concerned about the safety. He thought the choices were either to ignore the letter, or reply to NHDOT with the town's position. If there is a reply he recommended it say that the NHDOT is creating an unsafe situation to put that on the record. Garand said if that isn't done NHDOT will just take sidewalks out of the drawings and say that the Town did not care. The burden for safety should be on NHDOT. Moore asked that Morgan draft a reply. Hawkins wanted to get a response out in time to get a response before April 1.

PUBLIC HEARINGS

Hawkins opened the Public Hearings at 6:50PM.

ONGOING CASES

Case #2004-49 Mity Pink Dog – Almena Way, requested recommendation for a town road,
continued from February 15, 2011.



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Hawkins recalled that according to discussion at the last meeting, it seems that the sign-offs, including the DPW Manager, were there. The question was whether the Board had the as-built plans in the files. Morgan said he had checked the file; there was no as-built. Also he reviewed the files and minutes to see if there was anything in them that suggested that an as-built had been submitted, but there was no evidence of that. Morgan said it was curious that Jim Lyons' January 7 letter to the Planning Board said that the as-builts were submitted and accepted by the Board in the fall of 2009. Morgan said he did not recall that, but if so, there would have been a reference in the minutes. Hawkins recommended writing to the Applicant saying that the Board doesn't expect to take any action to recommend Almena Road as a town road until the required documentation is in. He felt badly for the people that live on the road. Unfortunately there is no security as the original letter of credit expired, and the Board has no other leverage. The Selectmen have said they would not move ahead until they have a recommendation from the Planning Board. He asked for other comments from the Board; there being none. Hawkins asked Morgan to write a memo to the Applicant stating the Board's position.

Case #2011-03 – Proposal by DeMoulas Super Markets, Delta & Delta Realty Trust, and RMD, Inc. to demolish a 4,940 square foot donut shop, and to expand Southgate Plaza to encompass 156,838 square feet of retail space at 380-458 Lafayette Road, Tax Map 8, Lot 111; and Map 9, Lots 1 & 2, continued from January 4, 2011; topics: existing conditions, proposed site layout, grading, parking, utilities, stormwater drainage;

Appearing for the Applicant: James Lamp, J&Company, Consultant for the Applicant; Earle Blatchford, Hayner-Swanson surveyors and civil site engineers; Attorney Ari Pollack, Gallagher, Callahan & Gartrell; Appearing for the DPW Manager: Jim Kerivan, Altus Engineering;

Hawkins noted that the case had been forwarded to the Technical Review Committee; the Minutes from that meeting was in the packet. The Applicant's commentary in the packet did not track the TRC meeting; a separate specific response to the TRC Minutes would be distributed at this meeting. Lamp said the TRC Minutes had been faxed to him the previous Tuesday, but he did not pick them up until Friday, and apologized for the delay. Hawkins noted that his usual reaction at getting material so late would be to send it back; however, he had requested the specific response on Friday because it would be much easier to follow the comments as they appear in the TRC review.

Blatchford wanted to give a general overview and Hawkins agreed to start with a brief review of existing conditions and then move to the proposal. He suggested that Blatchford indicate how they have responded to the TRC discussion, but at some point they would have to go point-by-point through the TRC Minutes. Blatchford brought out the drawings for the existing conditions and the proposed conditions, as well as one that reflects the changes they intend to make so far, that have not yet been submitted. He said they were trying to aggregate the comments and discuss them with the Board before submitting any revised siteplans. Hawkins said it was a good idea to go through the plans to see what people had issues with, and then print another set which would be review to see that what had been requested was there.

Blatchford showed the existing conditions drawing of the shopping center and the donut shop. The site is 16.7 acres, currently comprised of 3 lots which are intended to be consolidated; there would be two separate buildings. It is Zone 2 Commercial with a 123,000 square-foot shopping center plus the 5,000 square-foot donut shop. The Market Basket is 58,000 square feet; the TJ Max is 26,500 square feet, the Fashion Bug is somewhat over 13,000 square feet, and approximately 30,000 square feet is smaller retail space. The site has approximately 1,500 feet of frontage on the easterly side of Lafayette Road currently with four curb-cuts – two wide full-access curb cuts at the donut shop, one at the full-access signalized main driveway; plus the right-in right out. There is a signal at Lafayette Road and the Boynton Lane side



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street. Along Boynton Lane there is approximately 600 feet of frontage with two driveways – one for customers and the other for service vehicles. There are 658 parking spaces; each is 9 x 18 feet. Blatchford showed a pocketed wetlands area surrounded by trees, and a series of catch basins out in the front parking lot which collect to a central pipe that goes under the building and discharges behind the site. There are a couple of catch basins at the back of the site as well as roof drains. There is a certain amount of sheet discharge toward Boynton Lane and toward the northeast corner of the site. The stormwater system is basically catch basins and pipes for sheet flow; there are really no designed stormwater detention treatment systems, only infiltration systems currently on the site. This is definitely outdated according to current standards for stormwater management standards.

Blatchford said the site is currently serviced by municipal water and sewer. Originally there were septic systems and some are abandoned on the site as well as on the donut site. There have been recent enhancements to the landscaping. The site lighting currently has 30-foot poles which exceeds the new standards. The abutting properties are commercial across Lafayette Road and Boynton Lane, and residential on the northern and easterly side. Blatchford asked if there were questions about the existing conditions. Morgan asked if this was the same plan presented to the TRC. Blatchford said it was. Hawkins asked if there were questions from the Board Members; there being none at that time.

Blatchford said the proposal that had been accepted by the Board was to demolish the donut shop and construct three building components: (i) a 9,000 square-foot addition at the north end of the Market Basket, (ii) a new end cap retail at the south end of the building attached to the Blockbuster store, and (iii) a new 15,000 square foot tenant retail space. While the geometry at the main entrance remains the same, the traffic will not be forced to turn right; it can come straight into site to the north side of the existing parking lot. Blatchford said this will be more convenient for customer traffic and a big improvement for truck delivery traffic coming from the north; most northbound trucks will be turning down Boynton Lane to the site. One less curb-cut is being proposed on Lafayette Road – a new single right-in/out driveway is proposed for the donut store area, to replace the existing two curb-cuts. Signalization would remain the same. The right-in/out [south of the main entrance] would remain but some enhancements would be made in response to comments received. The median island would be rebuilt and signage added to re-enforce how the driveway is supposed to be used. The customer access on Boynton Lane remains the same and the service driveway slides about 20 feet to the east because of the depth of the building addition. The traffic patterns would remain the same; he pointed out where new parking would be added.

Blatchford pointed out two shallow wetlands, an infiltration trench and a rain garden as new stormwater management areas. They have filed a wetlands permit for 7,500 square-feet for the impact to the new #2 retail area, and had received an endorsement for it from the Conservation Commission. Three state permits are needed: (i) wetlands permit, (ii) alteration of terrain, and (iii) for modification to the existing driveway permit at the new retail building. They received several comments from the TRC on January 24 to which they have responded in writing, and also responded to other planner comments. Blatchford asked for questions re the curb-cuts. Morgan asked for the status of the Alteration of Terrain Permit. Blatchford said about a month ago they had decided to hold that back until the drainage changes are finalized, and commented that the cost for refilling would be about the same as for the original permit application so they wanted to make a clean submission. Hawkins asked for comments at this point. Fowler asked if there would be an eight-foot privacy fence. Blatchford showed the location. Fowler asked if it would be along that whole side. Blatchford said it would be where the vegetation was the thinnest. In other areas there is a pretty good vegetation area. They will also be supplementing with new plantings and landscape planning. Fowler said the abutters were very concerned about the length of the fencing. Blatchford said they would talk about that. Hawkins thought that neighbors would be present when [fencing, landscaping and the buffer zone] are discussed and could ask questions then. Moore asked how



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the neighbors be protected from the noise and what kind of fence would be proposed eg as a sound barrier.

Blatchford referenced the existing drainage system, and said there are a lot of areas where they were trying to utilize sheet-flow. There were elevation issues with the grading and trying to have a closed system. He pointed out where there are sheet-flows to adjacent swales and where catch basins would be added. He said the drainage patterns remain the same. Hawkins referenced discussions with the Manager of the Public Works Department and other members of the TRC, and asked if they had met individually with them to go over the details. He asked if this meeting was the first time the Applicant's responses were being presented. Blatchford said he spoke with the DPW Manager by telephone. That discussion was referenced in their letter of February 23. It was considered and brought to the Applicant. Basically, their approach is to manage their impacts on site; to control their own destiny by mitigating the stormwater impacts while meeting the Town and State's requirements on their own site, and not get pulled into an outside study. The site had existed for about 40 years and it had existing drainage rights downstream.

Blatchford said it seemed that some newer downstream developments are having issues. This proposal is mitigating the impacts on-site with detention, infiltration and storm water treatment. The Applicant does not want to get pulled into some downstream issues where the problems were created by others. Hawkins said he understood that position but he, and hopefully the Board, were expecting the Applicant to satisfy the Board's expert re being sure they have mitigated their impact. Accordingly, he would ask the DPW Manager how he feels about the recommendations and, hopefully, [he and the Applicant] would be on the same page. That's why he had suggested they deal with the DPW Manager's concerns up front to get the issues off the table and make the Board's process go much smoother. Kerivan said the DPW Manager had asked him to attend this meeting and explain what he would like to see on this plan. Hawkins asked if Kerivan had been at the TRC meeting. Kerivan said he had. Blatchford asked how to proceed. Hawkins said that the stormwater management had been one of the bigger items discussed at the TRC. Morgan said a lot of TRC time had been spent on stormwater and that he was glad that Kerivan was in attendance. Hawkins asked if it would make sense to discuss stormwater at this point or wait until the other agenda items had been presented. Morgan said stormwater is the topic of greatest interest on this agenda. Hawkins commented that the grading would also be related to it. Blatchford said the site had been raised about a foot and that was enough to add more catch basins. He did not think the grading was a critical issue except as it might impede the drainage ability. From the owner's point-of-view, even though there is a related construction cost investment, for maintenance and appearance it allows more granite curbing, less damage to landscaping on shoulders, and is easier to maintain.

Blatchford said he had spoken with the Water Superintendent. As indicated in the letter of February 23 they are reviewing the concerns and certain requested adjustments to see if the cost can be supported. Currently there is a single 8-inch tap off Lafayette Road which runs under the building to the back, something that would not be done today. The Water Department is reviewing a proposal for a new entrance tap at the entrance, running it around the building, and all the way out to a second connection at Boynton Lane. This would give a loop around the site for better redundancy, fire protection, and reliability of service. The revision would also include other details and clarifications the Water Department wants.

Blatchford said they had "sharpened pencils" on the detention areas, expanding them slightly in re detention and infiltration. Also, at three painted islands they propose to take the pavement out and put in curbing and landscape plantings. This was an easy way to add some landscaping to the existing parking area for a little more shade and open space, and to add a few impediments to cut-through driving. As for the request to widen Boynton Lane to better accommodate the truck turning movements, Blatchford said they propose to widen it out to 28 feet and then taper back to the existing pavement width. They also



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would provide a right-of-way easement to accommodate the Town's future plans to extend and widen Boynton Lane. Hawkins asked for the width. Blatchford said it is now about 20 feet; it would be widened to 28 feet. The accommodation is really for the exiting truck turning. He thought this would result in more trucks entering at the signals as it would become more convenient.

Hawkins asked for the stormwater presentation. Blatchford said they had designed the original submission looking at peak rate of runoff and mitigating it at several identified points. This is what Mr Fowler [Planning Board engineer] had reviewed and signed-off on. After the TRC meeting they took more of a look at the volume runoff and infiltration at the same points, including looking at the main discharge point on the east side behind the building that had the most flow and which was of concern to the DPW Manager. They found that for all of the 2– 50 year storms they are reducing the peak rate of runoff and also reducing the volume of runoff. Additionally, they found that the bigger the storm the better their systems work ie the greater the infiltration. Blatchford said they are addressing the Town and the State requirements. The system is being modeled the way the NH Department of Environmental Services wants - to not increase the rate of runoff at any point and basically to maintain the existing drainage patterns for slight reductions or at the existing levels. They are not diverting water from one area to another so as to not alter the downstream drainage patterns. After considerable analysis, they believe that this design adequately meets the requirements.

Hawkins referenced discussion at the TRC about neighbors having concern about being impacted by runoff, and asked if the Applicant's position is that that runoff is not related to this complex. Blatchford said that the proposed improvements would not increase or have any adverse impact on downstream abutters. He said the Applicant had existing drainage rights relative to the Centennial Street subdivision. The brook that runs off the back of the Applicant's property ran through that property, and their design should have accommodated for that. He did not know the specific issues but they should have accommodated for existing drainage through their site as well as their own impacts. Hawkins asked if it is the Applicant's position that whatever is happening downstream is not the Applicant's responsibility because their building was there first. Lamp said they heard the TRC comments and understood that the issue is that there are a series of ditches that go across private properties without easements or agreements, or ways to maintain them. The owners maintain or don't maintain those properties as they wish. The TRC Minutes show that he was very concerned about the open-endedness of the request. Typically, until a few years ago, design engineers mitigated for the peak flow coming off a site. Additional impervious was mitigated so it would never discharge at a greater rate than what was there prior to development. Recently they began looking at volume ie the cubic feet of runoff that comes off a site prior to development should be matched or reduced as a part of the development. Lamp said that Blatchford had designed the system to do that.

Lamp said that this project, at less than 30,000 square feet of additional development, cannot carry or afford to carry a study which is a huge undertaking, just to establish what the issues are and then try to determine what they are and come up with a mitigation plan. They feel they are keeping the conditions where they are today, and bettering the conditions at all points of runoff from the site. The current rate of runoff would be better than today, and the situation will be better by what they do.

Kerivan asked to present the DPW Manager's position. Hawkins asked if Board members had questions first; they did not. Kerivan referenced the drawing and pointed out the new subdivision and said that the DPW Manager's experience is with the watershed in this area getting flooding. There is also backyard flooding along Railroad Avenue. The existing drainage system runs an underground pipe that goes from the parking lot to under the building and discharges to the brook. What is unusual about this site is that normally when there is a discharge to the brook, it starts from the watershed and comes through the site. In this situation, the whole watershed is the headwaters for this brook. He pointed out where the flooding occurs next to Centennial. It is a tough situation for the Applicant. However, the DPW Manager has had



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experience at Railroad Avenue when with heavy storms the drainage system has never flooded. He believes there is some capacity there.

Kerivan said that the Applicant is proposing an additional acre and a half of impervious area to the site. As of the TRC meeting they were increasing the volume of runoff offsite, so he was not sure how they were getting the reduction in volume without adding more areas for infiltration of the water. Kerivan asked what had been changed to get the infiltration. Blatchford said in the original submission they included the analysis for pre and post rates of runoff, but not the infiltration component. They have since looked at that item, and found that the proposed system with minor enhancements are mitigating for all storms. Kerivan asked if that included a rain garden. Blatchford said it did not; infiltration also came through the side slopes which works better in bigger storms. When submitted to the Planning Board, the siteplan did not account for all of the critical detail to be included in the alteration of terrain application to the NHDES.

Lamp said they did perform the involved detailed testing (not just perc tests). He asked if the peer consultant would concur with the Applicant that the proposal meets typical industry design standards. Lamp said he understood there is an issue, but wanted the Board to see that they are going with the industry standard required typically of any site development in New Hampshire. Hawkins said it is a consideration to be aware of, but believed that if there is flooding in the neighbors' yard that is related to this building and parking lot, whether it was occurring before or not, now is the time to improve on the extent of the flooding, and asked if anyone could shed light on that. Foote understood that the flooding is generally during the extreme weather events experienced in the past 5 – 8 years. A lot of yards are flooded. Given the soils and the topography, when the flooding happens, there is no place for it to go away. Currently, the larger detention pond in the northeast of the proposed plan is now a no longer used raised mound that used to be the leach field – that acted as a dam. Depending on the grading, if that goes away it could be that some of that problem can be alleviated through the new system. She hoped they were correct in re the side infiltration, but if it is a raised berm the side infiltration would go through and out the other side. Thus the back yards could be wet again.

Foote said that literally this is the headwaters of Sheppard's Brook. Prior to the subdivision being built there was minimal flooding and it was farmland with cattle etc. so it wasn't really that critical. Since then, it had been a combination of added impermeable surface, less infiltration, people filling their drainage swales etc. Ultimately they do not want Sheppard's Brook to dry up. Kerivan said that since the site is so close to Railroad Avenue, the DPW Manager would think that a drainage pipe outlet across some property would help alleviate the flooding on the brook. He thought the details of that system had not been investigated, but the information exists at the Sewer Department. Moore thought that pipe goes down the street and goes back toward the Police Station. The next street is Austin's Way, then Woodland Avenue, then the railroad track that has a culvert, and then to Centennial Street that has a culvert – 3 roads and a railroad culvert. Foote thought that at the TRC the DPW Manager was not asking to have all of it diverted. Kerivan said it is a major flow so all of it couldn't be diverted. Foote said the Brook would still be supplemented but in extreme storms having a pipe run out and utilize the Railroad Avenue and Centennial Street underground stormwater could be very beneficial both for the town, the residents, and the store. Foote agreed with the DPW Manager that through the recent extreme storms there was no flooding or problem at all on Railroad Avenue or Centennial Street, until where Cains Brook goes through the culvert during high tide.

Hawkins asked for Morgan's comments. Morgan asked if the design at the discharge point in the back will be an improvement in terms of the rate of discharge, and asked for the back-up numbers to gage the extent of improvement. Blatchford said it is a slight decrease for the two-year storm. Morgan wanted to know about the big storms. Blatchford said the bigger the storm percentage-wise, the bigger the infiltration component. He did not have those numbers with him. Lamp said the impact is less but not something that would be perceptible downstream. He did not think an immediate difference would be



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seen. Morgan wanted to get a sense of the difference before and after, and also try to get a sense of how much water is going out there now. Kerivan said right now there are one 30-inch pipe and two 18-inch pipes discharging. Morgan asked what percentage of the site discharges at that site. He referenced the DPW Manager's proposal to connect to Railroad Avenue, and said evidently the Applicant did not take up that proposal. Lamp said the issue is liability. It sounds great to say that Railroad Avenue is dry and has capacity, but neither he nor Blatchford as professional engineers stamp anything that converts water to a different location without specifications. It's a very open-ended and difficult area because of the lack of topography, and it is so flat. It might take up to \$100,000 just to try to figure out what things are doing and then to try to figure out the solution.

Lamp said they are trying to meet the engineering design standards which are state and industry standards. This project cannot support that kind of study. Given the DPW Manager's statements, Lamp thought the best solution would be for the town to talk with the folks that have the ditch on their property, get easements, clean up the ditch, and see what happens through one more season, rather than trying to spend more money studying before coming to a solution. It is not something 30,000 square-foot of increase on a shopping center can support. It is too open-ended and there is no understanding of where the end is.

Morgan noted that Blatchford had reworked the drainage calculations, and asked if they had been received by the Board. Blatchford said they had not yet been submitted, but would be submitted with the revised plans. Morgan asked when that would be. Blatchford said it depended on the waiver letter action. They wanted to make sure they were on reasonably sound footing to minimize the number of times they resubmit plans. However, they could generate the stormwater report revisions sooner. Morgan thought that it would be in the Applicant's interest to do so. Blatchford said then the consultants could review the numbers and see that not only are they mitigating the peak rates, but also the volumes. Hawkins referenced the DPW Manager's comment about working with neighbors downstream, and asked how many lots it would involve to try and get easements to do some maintenance; is that a solution, or is it an impossible task because there are too many involved. Foote cautioned that it would set a precedent for the Town to maintain watershed flow through private property. For example, if one ditch is cleaned, she and others had ditches to be cleaned too. Hawkins was uncertain about recommending that, and was not suggesting that the Town do this, but perhaps making the property owners aware of what the lack of maintenance or filling in the ditching is doing out there.

Foote said she had talked with probably 70 percent of the property owners in that area. The majority of them are aware of the importance of raking the leaves out of the depressions in the spring. In her view, the main problem are the relatively new residents in the subdivision and their lack of understanding of the water and the sheet flow through that area, and the filling of drainage swales that were built into the subdivision that diverted the water back into Sheppard's Brook. They want a flat lawn to mow. She thought, after doing site walks and answering people's complains, that the flooding between that subdivision and this site was caused by the actions of the people in that subdivision circumventing the drainage that was designed. To her knowledge, to the east of the subdivision she had not heard complaints of flooding. Moore thought that years ago some of this was resolved. Janvrin referenced the drainage that the DPW Manager is looking at -- diverting to Railroad Avenue, and asked if that placing of the outflow from that stormwater management further down in the watershed would be bypassing Austin's Way. Foote said it would loop around it. Janvrin thought that was an easier way of bypassing the property.

Kerivan did not see an initial look as all that complicated. He said it may be such that the inverts and drainage pipes on Railroad Avenue won't satisfy the situation and/or be difficult if not impossible to tie in. But if it could be tied in with a simple weir at the site, in flooding situations it could jump over the weir and connect ito Railroad Avenue. He did not see this as a complicated project; it would take some



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investigation of the Railroad Avenue [capacity]. Foote acknowledged there would be a lot of legal ramifications. If it is a liability issue that the Applicant is concerned with, as far as tying into justifying a study, it could be that the BOS, Town Manager, and DPW Manager all could have a hold harmless agreement because the Town would be asking for this to be done to alleviate situations downstream. This might be an option to avoid doing the study. Foote thought that Moore, the DPW Manager, the Consultant and she had all agreed that the drainage in that area had never been a problem; they had no problem with connecting into it. Hawkins asked if there were a cost estimate for making such a connection. Lamp said it would be a Pandora's Box.

Hawkins asked if [the issue] was not the cost of making a connection, but the cost of the engineering study the Applicant would want before that. Lamp said would it just be that connection; or would easement(s) from a private party be needed. He said that typically this would be a public project and the Town could do takings at no cost for easements. It is not something that the Applicant as a private entity would be willing or can afford to undertake. The conclusion could be that it is not caused by the Applicant's site which had been there for 35 years. They are now being asked to look at a problem that they can acknowledge because the Town says there is a problem. But if they control the rate of runoff and the volume with their proposal there should not be a need for them to study an existing drainage problem that sounds like it was caused by the subdivision that was recently built. Lamp said he was trying to keep the project alive.

Hawkins asked for other comments. Henry Boyd said he had been in the area since he was a kid. There is a ton of water on the site which is not [the Applicant's] fault. Things are different now, but nothing should ever be built the way that site was built. It is not just the amount of water coming off the site; it is what is in the water. He understood the problem of coming off of someone's property. The other problem he would have is tying in to the municipal system. Railroad Avenue doesn't have a problem right now but there could be a significant amount of water and possibly be an overload. Boyd wondered about replacing some catch basins on the site with leaching fields to try to infiltrate some of that water before it gets to the back of the site. He said that would be an expense. Technically they are doing what they need to do by reducing the amount of volume and runoff rate. He thought helping a bad situation would be good and said that if leaching basins were put in, it would significantly reduce the amount of water coming out of the back point source. Also, it would be cleaner water. Hydraulically it would flow that way toward the ocean front, but it would be a great thing to get some of that water into the ground first. Maybe they looked at this and couldn't do it

Aboul Khan pointed out that his business is next door to the property at 472 Lafayette Road and said he also lives in the Town. He wanted to express two concerns. Over the years the Planning Board and the Town of Seabrook did a lot of Master Plan and Steering Committee work. First, Khan said, there is no other project or proposal on Route 1 that had a detention pond this close to Route 1. All the things the Master Plan Steering Committee and the Planning Board talked about were how to make things better. The detention pond so close to Route 1 is completely opposite of the work the Master Plan Committee did. Khan said his second concern for the record is about his gas tanks. He pointed out the location of his gas tanks, and said if the detention pond overflows it would be a big disaster. Blatchford said that Khan's site sits higher than the Applicant's site. He showed the direction of the overflow mechanism [for the detention pond], and said they had analyzed the site for up to the 50 year storm and made accommodations. There is no overflow mechanism that would impact Kahn's property.

Morgan asked if the detention basins would have water in them long enough to breed mosquitoes. Blatchford said there are shallow pools. Morgan asked if they would be breeding mosquitoes. Blatchford said he did not know; they are shallow wetlands designed according to NHDES best practices that was practical for the site. Morgan said he had seen a lot of detention basins that dry out after a while so mosquitoes are not a problem. Lowry asked for the depth of the detention ponds. Blatchford said that



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varied up to 6 feet with pools of 2-3 feet. Lowry asked about the detention pond near Route 1. Blatchford said that was about 4 feet and was more shallow and broad.

Lowry noted he did not see snow storage on the plan and asked where that would be. Blatchford pointed out a large area in the back adjacent to the trench as well as other landscaped areas. Lowry asked if the snow would be put at the entrance or in traffic areas. Blatchford said it would not be placed in such a way as to impede visibility, and said there was a good example of snow storage this year. Typically, if the situation isn't manageable on site, some would be trucked offsite. He thought there was enough room on the site to accommodate it. Lowry noted that now it is all over the parking spaces. Blatchford said if the owners need the parking spaces, or only at peak times, it would be a business decision as to what spaces they could do without for a period of time on peak shopping days and post Holiday. If they need those parking spaces they will take the snow elsewhere. Lamp said they have urban sites all over Massachusetts and New Hampshire and have no locations for snow storage. They truck it off site. If there are issues that the Town has with piles where they are today, they could move it off site. Right now those parking spaces are not needed. Lowry commented that the number of spaces would be increased. Lamp said it is a catch 22 when they are being told they have way too many spaces and probably shouldn't add spaces for the new square-footage. They are comfortable that they can manage the snow.

Hawkins asked if there were other alternatives that had not been discussed, although he assumed there were no easy ones or they would be notated on the drawing. Kerivan said there was some kind of drainage system on the south side road, and that it would be interesting to know what's there and if it could be tied into. Hawkins assumed it would be the same issue for the Applicant of studying the ultimate impacts. Lamp said it would be what are the impacts of any changes, the capacity, and can something be done. He had suggested to the TRC that typically a town or city would say that there is a problem with an impacted area, and that anyone developing in that area would pay some fees toward a study to come up with a solution. But to have an existing center that is proposing a modest increase do this kind of study is difficult for them to justify. He thought if the Town wants to say there is a problem, the Applicant could give \$5,000 toward what some are saying is a simple solution. But they could not afford to open that box. Blatchford said that one catch basin on the Boynton Lane frontage was included in the survey and one system pipe is too high to be of use to them. He thought the system was pretty taxed. In that vicinity they are infiltrating and reducing the impact from the existing conditions. Basically the elevation of that catch basin is the same as the elevation of the parking lot. This was in the survey but he did not see how it could be useful.

Morgan said that Boyd had raised an issue about oil leakage in the parking lot. With an impervious surface this large, and cars on top of it, there would be some automotive fluids washing down the brook. He asked what measures would be taken to prevent that from happening. Blatchford said some of the breakdown comes from the sun, also bio degradation, clinging to sand in the parking lot, catch basin sumps, and grass swales. Morgan asked what percentage of pollutants would make it to the Brook, noting that his understanding was that the NHDES would require removal of 80 percent of the solids. Blatchford said for the shallow wetlands it would be approximately 80 percent. Morgan asked if they would meet 65 percent overall. Blatchford did not have the numbers in hand but said it would be what the NHDES requires. Morgan asked if anything was being removed from the existing parking lot now. Blatchford said the only removal would be sand at the catch basins and the system was about 35 years old. Moore said that from Boynton Lane into a deep slope and ravine behind the north end of the Community Center. Blatchford said part of the basin system flows easterly. Moore said the bulk of that water flows westerly across the highway and directly away into Mary's pond and Cains Brook. Blatchford said that Lafayette Road would be above that part of the site. Moore did not speak to the elevations, but said that in the [Boynton Lane] area where they are working, the water flows as he described, and he thought it could handle a substantial load. Blatchford thought the break in the grade was Lafayette Road, and the rest flowed easterly. Foote said there is a very large culvert that goes underneath Route 1 from



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Boynton Lane and comes out on the north east corner of the Community Center property; it is either a 24 or 30 inch culvert that sort of dumps into a gully and flows non-stop. She believed there were also some leaching systems there. Janvrin said water used to flow from Wal-Mart plaza. Foote said there could be 20 days in July with no rain and there would still be a good flow going through it. It comes straight across Route 1 in line with Boynton Lane. If the Applicant diverted much of its stormwater in that direction, it would be diverting the water from Sheppard's Brook to the Cains Brook watershed. She thought this would be difficult to convince NHDES to divert from one watershed to another.

Hawkins asked for Morgan's recommendations for moving forward. Morgan recommended the Applicant submit its stormwater calculations sooner rather than later so the DPW can look at them. Hawkins asked for further questions from the Board relating to the stormwater; there being none. Hawkins asked for questions from those in attendance; there being none.

Hawkins asked for the parking presentation. Blatchford said the existing center has 658 spaces. They are removing 50 spaces at the rear of the donut shop as well as a portion of the existing parking lot. They are proposing 121 new 10 x 18-foot spaces for a total of 729 spaces. Given the new square-footage, they would be allowed 134 new spaces by the regulations, but they are proposing 121. Blatchford said they had received comments about additional sidewalks, and pointed out the new locations and crosswalks, including a sidewalk that runs up the north side of the main entrance drive and crosses over to the main store front. This improves the pedestrian circulation. To compensate, because the sidewalk took-up some of the landscaped area, they adjusted the area and still end up with an average of 10 feet on both sides of the driveway. They are trying to maintain that with the addition of the sidewalk. Kelley asked if they added sidewalks along Route 1. Blatchford said they had added sidewalk to Route 1 as well as on the site. Kelley asked who would maintain the sidewalk on Route 1, noting that Blatchford must have been present when the Board discussed this. Blatchford said they would add and maintain it. Morgan asked on whose property the sidewalks would be located. Blatchford showed the sidewalk in the state right-of-way along the frontage, and said this would be supplementing that. Morgan thought that when the Applicant actually communicates with the NHDOT, they will find them to be not receptive to this.

Lamp said if they have to put the sidewalks on their private land because the Town wants sidewalks connecting them to the north, they would do so and maintain it; it would ultimately be tied into the curb-cut permit. Whether it moves in five feet or stays in the right-of-way, they would be willing to do this. Morgan thought they would find this the only option. He had been talking with the NHDOT re a site that is unrelated [to this proposal], and had asked what if a property owner would volunteer to maintain sidewalks on NHDOT land. NHDOT said it would not go along with that. Hawkins asked if the NHDOT would require the Town to sign the agreement. Morgan said they would. Hawkins asked what the NHDOT would do if the Town signed an agreement with the landowner to transfer the liability to the landowner. Morgan said there could be a more in depth discussion with the NHDOT, but about a month ago he asked Steven Ireland who said that the only way they would allow a sidewalk on their property is if the Town maintains it. Janvrin commented that [sidewalks] would be an improvement because currently there is no sidewalk at all [at the donut shop site]. If a pedestrian walks into that area they are walking on bark mulch and it is not safe. Hawkins said that the state would not even let landowners volunteer to maintain a sidewalk. Morgan concurred. Hawkins asked who is making this decision. Morgan said it is the Commissioner's office and the policy had been in place for about four years, and not every aspect had been addressed. Lamp said they would verify that with the NHDOT and make sure there would be the ability to connect to the north.

Hawkins asked if the expansion on the north end of the building was an addition to the Market Basked store. Blatchford said it was. Hawkins asked if there were sidewalks in front of the Market Basked store now. Blatchford said there is existing sidewalk that would be extended. Janvrin commented that most of this has an overhead cover. Hawkins referenced the TRC discussion about cars speeding through the lot.



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He assumed this would be at the westerly end and asked this to be pointed out. Morgan said the testimony indicated that happened at the south part of the project. Hawkins asked if it was then not parallel to the Route 1 drive. Foote said in her experience it is from the Fashion Bug south to Blockbuster. Hawkins asked if the cutting across was because no one was parking there. Foote agreed, and said it is sort of a diagonal cut; she did not know if islands would make a difference. Blatchford said replacing painted strips was a good way to increase the landscaping. The big problem was that the center had existing tenants and leases which specify parking and they cannot just take that away. Janvrin noted that the Police Chief was not at the TRC meeting, and asked if they had a patrol agreement with the Police Department concerning enforcement. Lamp said he had not heard back from the Police Department but had talked with the Fire Department. Janvrin explained that police enforcement -- eg a five mile per hour speed limit -- is difficult without a patrol agreement with the landowner on private property. He suggested investigating whether the speeding could be mitigated with a patrol agreement.

Hawkins said that landscaping would be addressed on a different agenda, commenting that he wasn't referencing the 20 percent parking lot coverage. He asked what landscaping is proposed for the new parking area; how close to the standard would they come. Blatchford said they were asking for 4 waivers. It would not be productive to survey the tree area again because it isn't changing. He thought the 20 percent internal coverage was open to interpretation. Hawkins said the Board did not want to tell the Applicant how to do this. The Board would like some creative solutions to achieve the purpose in the regulation to try and break up a huge expanse of blacktop and make Route 1 look a little greener. During the last 15 years there has been clear-cutting and massive parking lots installed. Landowners are being asked to work with the Board to create something better looking, if a waiver is needed to do that, he thought the Board would consider it. The Board is looking for the effort to meet the new standards -- a little greener, nicer and friendlier than the typical strip mall would be. Blatchford said there was a marked difference with some existing vegetation or new plantings. They can respect the 20-foot greenbelt along Lafayette Road even if it extends somewhat into the existing historical layout. He thought that some time ago Lafayette Road was widened and some of the green space was lost. He thought they'd be close to 15 percent at the corners where there is substantial landscaping and open space and would be most successful with landscaping on the perimeters. Blatchford commented that the 20 percent landscaping for a parking lot was well beyond what he had seen elsewhere.

Lamp said that for every fourth space there would have to be a 12-foot landscaped space. They are very difficult to maintain. Hawkins said it would be difficult to race through. Lamp said in old plazas a car enters the site and goes straight in to parking space. For this proposal they have separated out the drive aisle with [canoes] on either side and tried to make those as wide as possible without encroaching too close to the neighbors or the wetlands. Lamp said when there are single bays of 60 feet wide, getting interior landscaping is problematic. That is why they are looking for guidance as to what was interior and what was exterior. They thought they did a good effort. They submitted the plans before the new regulation was adopted, they widened it a little bit to accommodate the sidewalk. They are limited by the attempt to keep buffers between the abutters, the drainage and the wetlands. Also, the three larger islands were added because they were big enough to sustain; some smaller painted islands along the front of the store are too thin to put in plantings. Hawkins asked about the long parking lot at the north end, and asked if the design is to service the supermarket or the new building at the front. Lamp said they thought that would be better to get their employees out of the main parking field and minimize pedestrian crossing of the entrance drive. Janvrin thought that was the area where employees park now. Blatchford noted it would be on the other side of the main entrance drive.

Blatchford asked about the waiver request letter to the Board -- one for lighting, and four for landscaping which play into the site layout. He asked if the Board would consider discussing the waivers and possibly acting on them so they are not held up. Hawkins asked for Morgan's view. Morgan referenced the schedule that the Applicant and the Board agreed upon, noting that landscaping would be addressed at



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the next hearing. Hawkins said as the Planning Board is attempting to minimize the number of plan revisions, he wanted to deal with [waivers] at the time the issue was addressed, whether it was for lighting, the impact on the parking etc. Hawkins said that they could be asked to go back and do a better job on the parking. He did not think that reasonable at this time, but only had one vote. He agreed with Morgan that waiver requests should be dealt with when the relevant topic is heard, which would be at the next meeting. Lamp said he did look at putting in at least one linear island; the problems were that tenant spaces would be lost and about 10 percent of the area for spaces would be lost. They are trying to keep the existing spaces and leases good and add on any new spaces meeting the requirements.

Hawkins referenced the TRC discussion about the existing right-in/out southerly entrance, and asked if that was an issue that could be dealt with by a couple of signs. He thought there were still people who take the left-hand turns into the parking lot at that point. He did not see why people would do that given the signaled entrances. Blatchford said they are trying to reinforce it but there would be people who ignore the signs. They propose to make that median island a little more substantial and add signage that makes it very clear what the intention is. If someone chooses to disregard this, there isn't much that can be done. Hawkins referenced Foote's earlier comment about what happens when people enter at that point, and asked if there had been accidents. Lamp was not aware of any and could not say. He may hear of an accident but it would only say it was inside the parking lot, or on the street. Blatchford said the entering traffic does have the right-of-way. Lamp said the biggest concern for that entrance and exit would be that without it everyone leaving the site would have to go along the storefronts, which have the biggest concentration of pedestrians, to get out to the signals. It is at least a relief valve for people to leave the site and take a right turn, so it is important to keep it. Hawkins asked if their preference was to have the traffic on the west and not next to the building, and thought most drivers would prefer that too. Lamp said at the building front drivers have to look for people walking and with carriages. Janvrin asked if they had considered installing speed tables even though expensive. Lamp said they do not use them because some people cannot control their cart if it begins to tip. They have done a brick pattern as a texture and color change to help awareness.

Khan said that most drivers coming from the south try to enter at that right-in/out. People within the parking lot are not expecting anyone coming in from Route 1 and the distance is so short; drivers from Route 1 zoom into the parking lot. There is a three-way stop sign, and he thought it would be better to have cars go further into the lot and then be distributed to other directions. Hawkins agreed, and said that would be a subject for the traffic session. Hawkins asked for comments from the Board; there being none. **Hawkins continued Case #2011-03 to March 15, 2011 at 6:30PM in Seabrook Town Hall.** Lamp asked if abutters had questions. One abutter had a question about fencing and would bring it up under the landscaping discussion. Hawkins said there would be time for abutters to express their opinion about the landscaping, noise and other issues. Lamp said that the Board had received a writing indicating they would put a solid 8-foot fence along that landowner's property. Hawkins wanted to be sure that the neighbors see no impact from the expansion, and hoped that things could be done with a cooperative neighbor. .

Case #2011-05 – Proposal by Ledge Two Acre Realty Trust for lot line adjustments at 11 Ledge Road and 88-90 Allison Drive, Tax Map 2, Lots 54, 54-2 & 54-3. Continued from February 15, 2011
Appearing for the Applicant: Henry Boyd Jr, Millennium Engineering;

Hawkins said after the last hearing the issues to address were having the conditions of approval from the Case #2001-20 listed on the plan, and asked Morgan if this was located. Morgan said it is more complicated than first imagined; the record is confusing. On February 19, 2002 the Planning Board granted approval for the subdivision at that site. One of the stipulations was to reiterate that the construction material and equipment is not to be stored on lots 1 & 2, only on Lot #3 – grandfathered



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commercial use as per the Board of Adjustment decision of January 23. Morgan said the Board of Adjustment met on January 23 but did not consider this matter. Previously, on November 7, 2001 the BOA granted a variance with conditions: all three lots would be residential and not grandfathered commercial. The way the record is written it looks like the BOA took away all commercial rights as a condition of their approval. However, the Planning Board Minutes two months later makes it sound like something on lot #3 is grandfathered. Hawkins asked if the storage of equipment is taking place on lot #2. Janvrin concurred and said he'd been there that day. Moore thought there was a separation at that time; the equipment was there possibly prior to zoning regulations. He recalled it had been all pushed onto one lot. Morgan said the Planning Board Minutes read it was all pushed onto Lot #3. Moore asked the number of lots in total. Morgan said there are lots 1, 2, 3 and (a) but the Planning Board Minutes only show lots 1, 2, and 3. Morgan asked if Foote could recall what happened. Foote said not without reading the minutes.

Boyd said he had been at both of the prior zoning hearings but did not remember the discussion. He did not know if the decision had been improperly written. He did not remember the taking away of all of [the Applicant's] commercial property. It looked like the decision said they had no commercial ability on the site at all; all three lots were not grandfathered. Morgan said the condition is not worded very well. Boyd noted that the Planning Board said that lots 1 & 2 would be residential and only as a grandfathered use. Moore said that was the way he remembered it. Boyd did not see how any of that affected the simple lot-line adjustment proposed now. He could reference both the ZBA and the Planning Board prior cases, but said it is a use issue and nothing to do with changing the property line. He thought it was a compliance issue, as Morgan had said at the last meeting. Morgan concurred but said if these things are not written on the siteplan they get lost in history.

Moore asked what is being done with lot-line adjustments, and said this should be clarified through the ZBA first. Boyd said he was just asked if the corner line could be altered, and did not know about these issues. He said the owners want to build a house for themselves. When they sell the existing house he wants to give the parcel (a), which pre-existed zoning with it to accommodate a driveway. Morgan asked if the Planning Board Minutes indicate that the Board was ok with commercial use on lot #3. Boyd said that is how he remembered it. Morgan asked how that corresponds with what is going on now. Boyd wasn't sure, but there were some trucks parked on lot #2. Boyd did not think there was anything on lot #3. Boyd pointed out where the owner wants to build a house. Morgan said that the lot-line adjustment request gives the Planning Board the opportunity to clarify the matter by imposing whatever conditions it thought would satisfy the most people. For example, if putting items on lot 32 isn't going to bother anyone that might be the thing to do. Janvrin thought the abutter that appeared at the hearing two weeks ago had a problem in using lot #2. Morgan said the thing to do is figure out the best place for the commercial use. Foote thought the lot identifications were confusing and might have changed. Boyd said they are still the same.

Hawkins said if the zoning said no commercial use, where does the Planning Board come in and say it is ok. Foote remembered a discussion about commercial use on lots (perhaps for another site) at about that time, and doing the research on grandfathering. If something exists prior to zoning or before going for a variance, they have a right to continue regardless. Garand said if they specified the property it could be followed. He thought that is what the Planning Board did in restricting the commercial activity, and thought that abutters behind the site had asked for that restriction. Foote said the grandfathering was for where the original house and business was, not for the other residential lots that were created. The business should have always remained on lot #3. Garand thought the conditions also stated that this was supposed to be on the deeds of the new lots. Boyd said that Morgan had found a letter of understanding that didn't address what they were trying to do; a mobile home was removed.

Morgan recommended asking the abutter and the owner to meet to discuss a solution. Boyd asked how the Planning Board would have authority over use issues. Janvrin thought that would be for Selectmen.



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Hawkins asked why the Planning Board would not just list the conditions from the two prior cases (ZBA and Planning Board) on whatever plan has been submitted. Then it would be clearly stated on the plan what can and cannot be done as to building a house or having the business based on what has been done before. Boyd said they would have to go to the ZBA. Hawkins did not feel comfortable telling the owner where he can do business based on what is known today, and noted the abutter with concerns at the last meeting. Boyd said the owner is not asking to do any business in this proposal, only to adjust the common line. He would need to go to the ZBA to do something not in the zone. Hawkins asked for further comments. Moore said to do a simple lot-line adjustment. Foote said this is not a site plan for a business, only a lot-line adjustment. If the submission was for developing a business they could get into the use. The parcels already have a business on it and only want a lot-line adjustment that she thought would actually move the business away from the abutter that had concerns. She noted that there is prior documentation that the entire business is supposed to be on lot #3. This would be an enforcement issue.

Hawkins asked if Foote thought it would be appropriate to list those conditions from the previous plans on the submitted plan, and act on it. Foote said she did, and it would say that all business should be on lot #3. Hawkins agreed and asked if there were other comments. Moore asked if the house would be on lot #3. Boyd said if that is his intent he has to go back to the ZBA. Janvrin said that is not within the scope of this application. Hawkins said that the previous conditions should be listed on the plan. Morgan asked if the board was looking for the conditions of just the Planning Board, or also the ZBA. Hawkins wanted both so that the research would not have to be done all over again, if that was appropriate. Morgan wanted to make it so Boyd would only have to come back once with another plan. Hawkins said the confusion was not an issue for the Board to sort out.

MOTION:	Janvrin	to approve Case #2011-05 – Ledge Two Acre Realty Trust for lot line adjustments at 11 Ledge Road and 88-90 Allison Drive, Tax Map 2, Lots 54, 54-2 & 54-3, conditioned on recording on the plan (i) the conditions of approval of the Planning Board decision of February 19, 2002, and (ii) the conditions of approval of the Zoning Board of Adjustment from November 7, 2001.
SECOND:	Kelley	Approved: Unanimous

PROPOSED AMENDMENTS TO LAND USE REGULATIONS

Consider adding the following (underlined text) to section 4.610 of the Subdivision Regulations, and re-numbering the following sections accordingly.

4.610 Maintenance Plan - All storm water management systems shall have an Operation & Maintenance Plan (O&M) to ensure that systems function as designed. This plan shall be reviewed and approved as part of the review of the proposed permanent (post construction) storm water management system. The Town shall record the plan at the Rockingham County Registry of Deeds, at the applicant's expense. Execution of the O&M plan shall be considered a condition of approval of a subdivision or site plan. If the stormwater management system is not dedicated to the Town pursuant to a perpetual offer of dedication, the Planning Board may require an applicant to establish a homeowners association or similar entity to maintain the storm water management system. The storm water management system owner is generally considered to be the landowner of the property, unless other legally binding agreements are established. Copies of all inspection



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reports shall be provided to the Code Enforcement Office and Department of Public Works. The O&M plan shall, at a minimum, identify the following:

Storm water management system owner(s);

The party or parties responsible for operation and maintenance and, if applicable, implementation of the SWPPP;

A schedule for inspection and maintenance;

A checklist to be used during each inspection;

The description of routine and non-routine maintenance tasks to be undertaken;

A plan showing the location of all storm water management facilities covered by the O&M plan; and,

A certification signed by the owner(s) attesting to their commitment to comply with the O&M plan.

The applicant shall submit a mylar plan suitable for recording at the Rockingham County Registry of Deeds that depicts the following: The party or parties responsible for operation and maintenance; A schedule for inspection and maintenance; A description of routine and non-routine maintenance tasks to be undertaken; and the location of all storm water management facilities.

Hawkins asked Morgan to explain the proposed amendment.

Morgan said there had been maintenance requirements for stormwater in effect for several years, but they haven't been smoothly recorded so that future landowners know and understand their responsibility in terms of maintenance. After the Board's last discussion of this matter, Morgan said he was asked to craft language that would try to place these requirements on one sheet of mylar. That proposed language is below. A further discussion took place last week with Henry Boyd who was then invited to participate in this discussion with the Board. because he thinks that some of this is not very practical. Hawkins asked if the proposed change was only what had been underlined; the rest of the language was already in the regulations. Morgan confirmed this. Hawkins asked for question from the Board; there being none at this time.

Hawkins asked for Boyd's comments. Boyd said he was pleased to help clarify this situation, and how to get things to the Registry in a fashion that they will accept. He noted that the Board had accepted and successfully recorded some Operations and Maintenance Manuals on 8 ½ x11 inch paper sheets that the Registry will accept. However, Boyd said that Foote had wanted a "plan" to be recorded and asked that the Board effect regulations that would cause a plan to be recorded at the Registry. Boyd said such a plan would be accepted by the Board and recordable at the Registry and would obviate the need for a "manual". The considerations would be whether this "plan" would contain all of the elements that a separate manual would include. In other words, could everything on the Manual sheets be included on a plan sheet mylar. Boyd said that mylar would be one of the problems because the plan has to contain all of the infrastructure on the site. As Morgan had mentioned, the question is how the responsibility of landowners could be passed on legally to future landowners and how are they made aware of it.

Boyd said sometimes when something may have been left off of a plan mylar, or a revision was necessary after the recording, Boyd said he has filed a surveyor's affidavit which is attached to the title and cross referenced within the Registry files. He is in the process of asking the Registrar if there were some way to record something like that against the title so there is a trigger to the deed upon a transfer. Boyd said a good title attorney would find such an affidavit, but it is possible that a future landowner could buy a parcel and not know the outstanding requirement. He thought the first instance might be when applying for the building permit. He noted that once the Planning Board signs the plan it would not see



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any of this. Boyd said that depending how this is resolved, the Board may decide to record siteplans. He explained that to record a "plan" it has to be on mylar although the size of the mylar can vary. But the Registry will not accept any plan that has lines running through text; they do not like shading or hatching. Boyd said they are the repository of documents that have to do with the transfer of parcels or legal title whether it be easements, a subdivision, a plan, lot-line adjustments. However, the Registry will record anything as long as it meets their standards. With respect to the operations and maintenance material, Boyd noted that in the regulations the Board has said it wants the recording of the maintenance schedule, the instructions of how things should be done, etc – all of the elements that have been on the 8 ½ x 11 inch sheets.

Boyd said he had told Morgan that that directive could be added to the mylar, so the Board should discuss whether the siteplan regulations should require that the O & M Manual/Plan should be on the mylar and recorded in that form. Boyd said that In the past the Manual had been accepted and recorded after the siteplan had already been approved. If this were to be in the form of a "plan", Boyd thought it would appropriately be offered as part of the siteplan submission and could be reviewed during the TRC process when Morgan and the DPW Manager would see it. Boyd said the material doesn't have to be called a "plan" but the EPA wants the stipulations and owner's legal responsibilities to be recorded. Boyd wanted to use Case #2010-29 Midway Utilities Contractors as the prototype for recording an O & M Plan. He noted that when the Town accepts roadways, it would then become responsible. Boyd also explained that in the case of Beckman Woods with 53 lots it would take 7 – 8 mylars to record the M & O plan because there are so many different drainage structures to include the entirety of the drainage structure or anything that has to do with stormwater. Boyd then commented that recording the paper manual is ok except it doesn't have the trigger – it only refers to plans on file with the Town of Seabrook.

Boyd said he was not opposed to putting everything on a mylar but, if so, it should go into the planset as part of the application package. He noted it would create more work for him. Boyd explained that the if Case #2010-29 were the prototype, a new mylar would have to be created because currently the appropriate page in the siteplan package would not be recordable because it also depicted the topography. He thought that in a typical siteplan about two sheets would have to be added for the O & M stipulations and detail. Boyd said if the Board decided on the O & M Manual/Plan using a recordable mylar, this should be adopted as part of the siteplan requirements for the Application package. He said that all of this had been discussed at length with Morgan who asked for the Board's view.

Hawkins asked what would be the problem in putting the O&M on the plan and record it. Foote said this can require several pages so it would not be that simple. She explained that the issue was how to assure that when there is a new manager of a big box store, they know their responsibilities because their store maintenance material says nothing about the O&M responsibilities. Hawkins asked if the plans currently reference the O&M Manuals. Foote said the situation is that there can be a manual as well as a mylar that shows the position of the facilities in the ground. Marrying them together so that some lay person, not an expert that knows their way around researching recorded documents, would discover the manual at the Registry. Her concern was how can the Board be sure that subsequent owners get not only the manual but also the mylar that shows what is in the ground, the size etc and what is supposed to be done. For example, under the tire store at the corner of Railroad Avenue and Route 1, there is a multi-unit facility that has convoluted caverns throughout that need a special type of treatment. If a store manager doesn't know that, they could decide to excavate or put a back hoe down through a very expensive water treatment facility underground. Foote said that the [town] has to be sure that it knows what is underneath such private property and that the property owner knows it as well. The dilemma is how to get the booklet and the plan forever married together. Janvrin commented that Austin's Way was an example of a developer putting in a good system and then the lots were sold and the new owners changed things.



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Hawkins asked for Morgan's recommendation. Morgan suggested having a simple requirement on the recorded plan to see the plan on file in the Seabrook Town Hall. Foote said there would be no assurance – things get lost out of files. She had tried to research something in five different departments and none of them had it. That's why the Board wanted it recorded in the Rockingham County Registry of Deeds and digitized so that if Town Hall is destroyed, there would be someplace to find the recording. Morgan said he had as much faith in the Town Hall filing systems as in the Registry. Foote said a property manager may have it in a file draw. Morgan thought that it would be practical to make it easy for future property owners to know to come to Town Hall and ask to see this in the Planning Board files. Kravitz did not think people would think to do this. Moore commented that if all information were stored by map and lot it would be in one place. Morgan suggested digitizing the O&M and the plan on the website. Boyd thought the DPW Manager wanted to satisfy the federal requirement for recording this information. Foote said that once Seabrook became an MS 4 town, it must ensure that stormwater manuals be recorded. Janvrin asked if they could be recorded by reference on the plan and have it physically in Town Hall. Morgan agreed that recording the 8 ½ x 11 sheets is not a big deal; mylars become more complicated.

Foote said if plans submitted have substructures or unique structures then it must be documented what that structure is and how to maintain it. Moore asked if this couldn't be added on the utilities plansheet and referenced in a recorded document. Boyd wanted to assure the Board that the M&O could be recorded on a mylar. Moore asked when the fees stop. Boyd said another mylar wouldn't be a fee to the Town, only for the Registry; it would be an engineering cost. He thought the Board would say to do the Case #10-29 on a mylar. Boyd thought the Board knew what it wanted to accomplish and he was trying to help because something had to be done because of the EPA stormwater requirements, and also to let a future owner know what is going on. He did not see the need to have a subdivision developer have to record 9 or 10 mylars for roadway plans when the Town will be doing the maintenance and is the repository of those plans, although an paper manual could be recorded; the DPW would also have a copy. He thought it appropriate for private property plans.

Hawkins asked what Boyd would recommend. Boyd wanted to prepare a mylar with the O & M on it for Case #2010-29 so that the Board could review it and make a decision. He would not cause subdivisions to fall under the same regulation, because the intent is to have a future individual do what is supposed to be done. The Town will do what it has to do for strict compliance. He noted that any town with a salt shed or a transfer station is now an MS 4 town. He thought it may be appropriate for the Board to cause a mylar to be recorded for a siteplan. It wouldn't be that much more to do and then everything would be recorded. Morgan asked Boyd if he liked the proposal before the Board except for subdivisions. Boyd confirmed this. Foote commented that the Board needed to get away from subdivisions in which stormwater is on private property once those lots are created because the future homeowner could not be relied upon to maintain the stormwater swales and drainage especially when it is a trench that goes across their back yard. Boyd thought that could not be done, although the Town can be the easement holder. Foote asked how to assure that on a weekend a homeowner doesn't fill the swale with three truckloads of loam; no one knows about it until months later. Boyd said at times private property has to be crossed. He did not see how a subdivision could be done without easements.

Foote said the problem is that the homeowner is altering what is on the plans. There has to be some way to either have this totally in town property by deeding a 20 foot strip, or some other way. The easements are not working. Boyd said that when this is done in the right-of-way it gets mowed out to the street. He thought most responsible homeowners would not do this. Negative easements can be recorded in deeds. He did not know how else to do this as roadside swales are integral to the drainage system. Foote thought perhaps the Board needed to be more insistent when there is a roadside swale that the driveways are properly constructed that it has a proper culvert or gentle dip. Foote said all of this is a learning curve going back fifteen years when subdivision after subdivision was submitted. She



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emphasized that as an MS 4 town Seabrook would see the EPA enforcement more and more, and that potentially a lot of towns will be fined for non compliance, even though some new regulations haven't been published. Moore thought Seabrook was more ahead of the curve than most towns. Kravitz thought the DPW Manager had mentioned that the EPA is not only saying this had to be done, but that if it doesn't happen the Town will have to do it. She thought this was a major factor in his concern. Foote said that this year water samples would be taken from random outfalls. If they do not comply with what is acceptable, the responsibility will be with whoever owns the outfall to treat the exiting water s it will comply. If the private entity that may be creating water that is not to the standards is not required to treat it on their site, then the town would be forced to treat it at the outfall and pay the fines, not the owner of the big parking lot that allows oil to be changed over the catch basin.

Hawkins asked for Morgan's recommendation. Morgan thought think further on this. Hawkins asked if he was not proposing that the language presented be adopted. Morgan said not at this time. It is a complex issue, and the dialog was very helpful. He did not yet see a clear direction; neither did Foote. Boyd said that a mylar for Case #10-29 would be easy to do. Janvrin asked if Boyd would put the whole manual on the mylar and see if the Registry would accept it. Boyd knew that the Registry would accept it, but it would have to be a separate sheet that was edited so that it could be recorded. **Hawkins said the Stormwater Mylar discussion would be continued to March 15, 2011 at 6:30 in Seabrook Town Hall.** Moore said to consult with the DPW Manager. Boyd asked if he should hold off doing a prototype. Hawkins thought there was no reason not to do the prototype. Morgan agreed. Hawkins said they would take a look at what Boyd produces, and thought it not a problem if a project required ten mylars. Boyd said something had to be recorded for Midway in any case so the Board could look at the prototype and decide if that would be the way to go.

OTHER BUSINESS

MASTER PLAN CHAPTERS – final drafts

Transportation and Circulation, Vision, Population and Housing, and Historic Resources.

Hawkins said that the Board had seen prior drafts for each of these updated sections of the Master Plan. The action plans would be reviewed in Public Hearings with an eye toward adoption one chapter at a time. At the March 15 Planning Board Meeting the Transportation and Circulation, and the Vision Section, which had already been public noticed, would be reviewed and changes made, if any. If there are content issues they could be discussed more fully.

Hawkins adjourned the meeting at 9:35PM.

Respectfully submitted

Barbara Kravitz, Secretary
Seabrook Planning Board