



# Town of Seabrook Planning Board Minutes

December 5, 2006

NOT OFFICIAL UNTIL APPROVED

Members Present: Sue Foote, Chair; Paul Himmer; Aboul Khan; Mike Lowry, Paul Garand, CEO, Alternate; Elizabeth Thibodeau, Alternate; Tom Morgan, Planner; Barbara Kravitz, Secretary.  
Members Absent: Mark Preston, Vice Chair; Peter Evans; Robert Moore, Ex-Officio;

Foote opened the meeting at 8:07PM and introduced Elizabeth (Betty) Thibodeau as the new Alternate Board Member. Thibodeau has served for many years on the Board of Selectmen and the Zoning Board of Adjustment.

### MINUTES OF November 21, 2006

Khan read the last five lines of the first paragraph on page ten and asked for the meaning of Attorney McNeill's remarks re the Board protecting itself by getting expert feedback. Foote said she doesn't know what McNeill meant, but the Board has followed proper protocol and procedure through [our] entire deliberations. Garand asked if the Board should be represented by counsel at DDR hearings to protect the Town on such a large project, and enter into executive session if needed. Foote asked the Town Planner for his view. Morgan said the Board has performed flawlessly - if [he] had been the least bit nervous he would have recommended employing counsel. Garand said several times in the last meeting [McNeill] mentioned seeking expert opinion. Morgan said this was reference to outside traffic expertise, as the Board would not know much about traffic issues. Foote noted this has been done, and said the latest Pernaw report is in the Board packet. Morgan said as the DDR case comes closer to a final vote the Board should talk with counsel. He is trying to keep the legal fees down, and the Board has performed very well so far.

<b>Motion:</b>	<b>Lowry</b>	<b>To approve the Minutes of November 21, 2006.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous Abstained: Thibodeau</b>

### CORRESPONDENCE

Foote read a letter from Fire Department Chief Jeff Brown representing the Fire Department and other Seabrook service agencies asking the Planning Board to consider placing an impact fee ordinance on the Town of Seabrook 2007 Ballot. For several years they have assisted the Planning Board in the development of the Capital Improvement Program (CIP) which outlines the equipment needs given the growth, development and service demands placed on these agencies. There is no current mechanism for funding these needs or those placed upon the Town due to increased development. An impact fee is the only rational method to meet increased growth service needs without forcing property taxpayers to subsidize developers.

Brown said this is an issue discussed at several staff meetings and with others particularly in light of the latest proposal involving the Route 1 Corridor. It is time to carefully consider putting an impact fee into effect or at least put it before the voters for a decision. It is not a tax financing or TIF plan. Brown noted that in last week's presentation on TIFs, Concord's Economic Development



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Director said an impact fee ordinance has been in place for some time. Perhaps the Town Planning Board has addressed impact fees thinking there was not much public sentiment for it, but there is now. Once people realize what impact fees can do they would favor them. As a department head, he cannot stop the cost of services from happening. The more growth, the greater the calls; the more the budget must increase. For equipment or personnel needs an impact fee ordinance may be the way to go. This is not recommended for condominium conversions, lot line adjustments or 2, 3, 4 lot (minor) sub-divisions. It is necessary and critical for large commercial and industrial proposals. Now is the time because growth in Seabrook has overwhelmed the ability of the Town to deal with it.

Footo said impact fees have their "pros" and "cons". It could have benefited the Town fifteen years ago to have an impact fee that also included subdivisions. A new school addition built less than a decade ago is already beyond capacity. School Board members report that two recent subdivisions have had a considerable impact on the school system, and don't know what to do if another twenty-five or thirty houses with 1.5 children per unit are built. One factor holding back impact fees for construction projects is the State law requiring any such fee to be used within six years. The concern is what if only part of the funds needed is raised and the point is reached where the project must be built or the funds returned with interest. Not many warrant articles have passed during the last few years. It could be an awful lot of paperwork and banking for naught.

Brown said even those who haven't seen the CIP see it as warrant articles on every ballot. There won't be a problem spending impact fee money. Voters have approved warrant articles for necessary items having a measurable impact on services, plus those that haven't had an impact on the tax rate. If an impact fee ordinance was in effect the CIP could really get rolling and build up accounts over time instead of paying all at once. Today's CIP is a projection of what department heads think the Town will look like in a few years, but in ten years it will really look very different. If the voters understand a specific purchase or development proposal will be paid for with impact fees they will vote for it even though the tax rate is not lowered. Venues that currently have impact fees are the places people want to go - Salem, Concord, Manchester, Nashua, the Lakes Region, and the North Country. It's like paying a cover charge to come into the Town to build a store, a factory or a large residential subdivision.

Footo said there is a town North of Seabrook that has a \$3000/per bedroom impact fee that is allocated toward schools, police, and DPW. Brown said his intent is not to have impact fees fall on small families but only on a development that has a measurable impact on services or infrastructure. This would be on commercial, industrial, and perhaps developments of greater than ten houses. Footo said more than five houses would be better to avoid sequential subdivisions. Brown said if not on the ballot this year, there should be a yearlong study about what needs to be done to control growth, and it may not be in the Town's interest to enact a growth ordinance. Thibodeau said that was looked into a few years ago. Brown said an impact fee is the major tool the Town has in its arsenal. Right now the Town's public safety agencies are overwhelmed today.

Morgan said after speaking with Brown he downloaded the Salem, NH impact fee ordinance, on the books for twelve years. It's fairly complex and does involve administrative overhead. Footo said the Planning Board Secretary would have considerable back-and-forth interface. Morgan said it is a



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common means to pay for growth so the cost doesn't get born simply by taxpayers. Hypothetically, if the Salem ordinance were in place a retail development would be charged \$0.57 per square foot. For example, DDR would be paying the Town about \$250,000 for police, fire, and ambulance. Morgan said he doesn't envision anything larger than DDR. Foote asked if the Planning Board would have to do its own study to figure out the mathematical formula, and asked where Salem came up with these numbers. Morgan said Salem probably spent a year studying it, and recommended the Planning Board not reinvent the wheel and piggyback on a successful model. Foote asked if Morgan meant the logic used in a similar size town that is growing would apply to Seabrook. Morgan said if an existing ordinance were unsuccessfully challenged, it would be a pretty safe choice.

Thibodeau asked for copies of the Salem ordinance to be circulated for the Board to study. Morgan said there are no simple impact fee ordinances. The Secretary said copies of the Concord ordinance and fee schedule, as well as an example of the pricing on a Lowe's project, will also be circulated to Board members. Foote said the Office of Energy and Planning website has a link to information on impact fees in a number of towns. Foote agreed with Brown that it is time to seriously look into this, and asked if conceivably something could be put together in time for the requisite public hearings for the 2007 Ballot. Morgan said it is conceivable but a proposal would have to be discussed at the next Planning Board meeting and sent to public hearing in early January. There will not be extra time to work on it. Foote said an ordinance could be amended next year, but taking a year to study will drive everyone to get applications in before the public hearing to avoid paying the impact fee. That would be a disservice to the Town. Morgan agreed.

Morgan said there are hard questions about including commercial and residential sites as well as retail. Including residential will force the cost of housing in Seabrook to increase. Garand asked if residential is included could there be a waiver for existing lots, and perhaps for some smaller developments after that. Morgan said the ordinance would have to be applied to everybody equally so it needs to be right the first time. Foote said that would be a double standard as studies show that residential costs the town the most. For every dollar gained in taxes, almost two dollars in services is provided; Commercial/retail just about breaks even; and industrial may bring a small profit. Tax wise, the Town makes the most on residential and, even if it seems hard-hearted, those able to build high price homes can afford the \$3000 for the schools. Garand said to charge a mobile home the same fee is unaffordable, and asked if there is a way to exempt existing lots to protect existing residents and avoid this extra burden if they comply with today's zoning. Brown feels the issue is whether there is a measurable impact on the Town of Seabrook. Probably not for two or three houses, but yes for twenty-five houses all at once, and most definitely for a hundred thousand square foot retail development. Foote asked for the Town Planner's view. Morgan said he doubts [exemption] can occur, and suggested an attorney be consulted on this point. The solution would be to have a base reference point for larger residential developments and give the smaller ones a free ride. Foote asked if this means the Board could state, for example, that anything over a five-lot subdivision must pay an impact fee, but not smaller parcels. Morgan confirmed this.

Morgan reminded that the shopping center is on the next Planning Board Agenda. Garand said the Board needs to work on other cases as well. Foote said there is a big agenda over and above DDR and asked if the Board wants to consider a special work session for impact fees. Garand said two



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DDR abutters had to leave the last meeting because they couldn't find a seat. Also they were uncomfortable sitting in the midst of all the project engineers. A larger place for the meeting or limiting the meeting time should be considered. Foote said the problems with changing the location include (i) transporting all the files, (ii) no live Channel 22 coverage, and (iii) the heavy recreation Center schedule and (iv) limited library hours. Perhaps the support personnel for all projects could be told that abutters have first call on seats. The deliberations can be heard by persons in the hall or watched in the break-room. Foote asked for the Board member views. Lowry said he agrees with Garand and thinks a larger space is needed because a lot more people will be attending DDR meetings. Foote said the Community Center has scheduled classes and workshops in the multi-media room and the gym every night, and would have to be asked to cancel something. Brown said the Fire Station training room is about the size of the Selectmen's room but could be used. Foote said there still would be no live television coverage; Foote said more seats could be put in this Selectmen's meeting room. Khan said to designate some seats for abutters. Putting a television in the hallway causes feedback for the tape and video equipment. Thibodeau said the latest the Library can be open is 8PM and the acoustics are not the best. Foote said the answer is getting more seats and declaring them for abutters. With a large project there can be many professionals attending. Brown suggested they use the break-room. Morgan said it would be impractical to discuss impact fees on the same agenda with DDR. Khan said a special night is appropriate. Foote asked if Morgan could get information out within a week. Morgan said "yes". [The first hearing would be January 2, 2007 with the public notice to be posted on December 19, 2006.] To provide the public with relevant information, the session will be broadcast on Channel 22.

<b>Motion:</b>	<b>Foote</b>	<b>To meet on Tuesday, December 12, 2006 in a special 6-8 PM work session to discuss the feasibility of impact fees for the Town of Seabrook.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved:</b>

Foote read the letter from Lorraine Fogg asking what the Board will require in a proposal for a lot line adjustment and permission to erect a shelter on a concrete slab on 45 Stard Road to house a car crusher as required by the EPA. Fogg explained the property deeds have been incorrect for decades making it difficult to obtain financing, and asked if the Board would need copies of the entire deed history and whether the lot plan and perimeter survey can be on the same plan sheet. Foote said only the most current deed(s) proving Fogg owns the parcel(s) is needed. For a lot line adjustment a plan showing all the outside edges of the lots, where the existing line is and where it is to be moved. Morgan confirmed this. Fogg said she has two deeds but the boundaries have been lost in the historical deeds (although she has copies). She would like one deed for the home and another for the remainder of the land. Foote said if there is an old perimeter survey that should suffice. Fogg said the surveyor showed only the corner with the new lot and did not put in the perimeter markings. Foote said the metes and bounds can be taken from the recorded deed. Morgan said the regulations say the entire property must be depicted, but the Planning Board can waive this where it is impractical; probably this is one such case, and the surveying costs can be saved. Fogg would like to expedite the process by submitting the lot-line-adjustment and the "crusher" at the same time, but will do it in two parts. Garand noted Fogg has been contending for



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several years with the EPA, the State, and the Town in efforts to be in compliance. It's really a hardship and this is really an enforcement issue. The lot is away from residential use, has tremendous setbacks impacts, and will improve the area. Foote asked if this is required and regulated by EPA and NH could the Planning Board waive jurisdiction at this time on the crusher slab. Garand said as long as it is built per regulations and overseen by Code Enforcement could the Planning Board waive jurisdiction for the slab. Then Fogg would only have to submit copies showing the lot line adjustment so she can separate her home from the junkyard. Foote asked for the Town Planner's thoughts. Morgan said the Board has that clearly, but asked if this will affect the water supply. Garand said "no", a car-crusher structure is on a slab and has secondary containment and a roof; site plan approval is needed for a commercial structure. This is an existing grandfathered and severely regulated business. Fogg also asked if an attorney has to draw the deed in advance. Foote said this is done afterwards.

Foote asked for further Board comments. Himmer said it sounds like a good idea to get things moving. Khan said he has confidence in the CEO's judgment. Fogg said this will improve the whole situation because they can actually dismantle cars on that slab. There being no further comments:

<b>Motion:</b>	<b>Khan</b>	<b>To waive jurisdiction on the cement slab for the car-crushing operation at 45 Stard Road.</b>
<b>Second:</b>	<b>Himmer</b>	<b>Approved: Unanimous</b>

Foote said to coordinate with the CEO. When the lot-line adjustment is submitted to include a letter requesting the Planning waive the requirement showing the entire lot because it is excessive in size and would cost too much for a small corner.

Foote read a letter from **Fred Tobey asking if the Planning Board would require site plan approval to allow second floor space to be rented at 11 Main Street which has previous site plan approval for selling cars.** Tim Plouffe, representing Tobey, said they have some extra space and need the rental income. Foote asked if there is a target occupant. Plouffe said perhaps a computer or financial based business. Foote asked if this means commercial office space with limited customer interaction, for example, for accountants - not a retail outlet. Plouffe said "yes". Garand asked for the current number of parking spaces. Plouffe said there is lots of parking in the back and they could adjust for spaces that would be needed in the front. Garand said there are regulations on signage and asked for hours of operation. Plouffe said from 8 am up to 6 pm, depending on the tenants. Garand asked if the Board sees this as a business license matter. Foote asked for assurance it would be a small service or professional type office space. Garand said to avoid site review it would need to be limited in/out and parking impact. Plouffe said there are about five spaces in the front that could easily be marked as reserved. Garand suggested as long as they comply with the business license regulations, limited parking, and don't become a nuisance, jurisdiction could be waived. If this is violated, the CEO could remand them back to the Planning Board.



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<b>Motion:</b>	<b>Foote</b>	<b>To waive Planning Board jurisdiction at this time for the proposed office use with limited activity, so long as it complies with the business license and signage requirements and does not become a nuisance.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Foote referenced the new **Pernaw correspondence in the Board packet rebutting several aspects of the DDR Traffic Study**, and called attention to items #6 and 7 as well as the Summary. Also there were several new considerations raised. Garand pointed out items # 12 and 13, and especially the reference to the inadequacy of the Route 107 Northbound ramp junction to accommodate the significant proposed traffic increase. Foote said DDR was emailed the report and it would be available to the public from the Secretary. Khan asked if this a final report or would there be another on December 19. Foote said there are likely to be comments from DDR. Garand also said in at least four sections the report noted that information requested had not been given, and asked how a Board member could make a determination about the study without that information. Foote noted the correspondence from the Rockingham Planning Commission summarizing their traffic-scoping meeting. Given these analyses, there is a long way to go before being able to say it would be a good thing for the Town with the traffic improvements. Foote asked Morgan if the Pernaw and RPC reports should go to the Department of Transportation for consideration during their scoping. Morgan asked the Secretary to provide them copies. Foote said members could be prepared to discuss these items at the next Planning Board meeting

Derek Heap, of 60 Rocks Road, asked if trees on other people's land are allowed to be taken down during the cutting of woods for the power lines. Foote said "no". Heap said trees on property owned by Seabrook and Richard Holloway on the other side of Dows Lane have been marked. Foote asked if these trees are flagged or marked to cut down. Heap said now there are orange lines spray-painted on all these trees, which are leaning over. Heap's father-in-law, who has lived there since birth, confirmed the locations. Foote said there is no right to walk on or cut on someone else's property without permission. The power lines are to be set down the middle of the 50-foot easement. Heap said the planned location of the poles are actually on Dows Lane. Heap said his daughter has sent letters to school because she's been taught the woods aren't supposed to be ripped down for no apparent reason. Heap said this is Unutil, not necessarily DDR. They have fifty acres and there is no reason they cannot adjust power lines somehow. It's a wrong thing to do in the wetlands, and they are going beyond their bounds Heap said they will be looking out at dumpsters and lights shining down. . Heap offered to let people on to his land to view the situation. Garand asked for permission and Heap said they could walk it together. Garand asked if Foote could join this walk after 3 PM Wednesday. Foote agreed. Garand said at the last meeting DDR did propose a soundwall and there would be a treed buffer as well. Heap said that would be ok but Unutil has enough property without ripping down a couple of acres of the woods the children play in.

Foote referenced letters from **DDR Attorney Malcolm McNeill urging timely deliberations.**



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Henry Boyd Jr., of Millennium Engineering referenced a prior Planning Board decision with respect to the Eaton Case [06-40] that Boyd said didn't go the way he thinks it needs to. Boyd said there was a motion to approve a condominium conversion with a waiver on the floor plan requirements for the proposed structure because of an expansion of a grandfathered use where there are three dwellings on one lot. Boyd said this wasn't accurate because it was simply replacing an existing unit with a new unit. They haven't been able to pull the mobile home out to replace it with his new double-wide is because of Eaton's eighty-two year old uncle who will be moving at some point. Boyd said the State statute RSA 356 (b) (20): 2 requires that you have to have floor plans so even though the attempt was to help these good people, it has essentially not helped them at all. Foote said it also showed the existing house to be removed and the location of the proposed new house which has a larger square-footage footprint which in essence makes a "non-conforming" situation even more non-conforming. Boyd disagreed and said it was simply non-conforming (backed up by a number of months ago by two members of the Board of Selectmen and the Town Manager) and an expansion of that use would actually be a fourth unit not just a replacement.

Garand said after research it is the number of living units not the size of the dwellings and asked the Town Planner for his view. Morgan is inclined toward Garand's interpretation. Garand said the prior interpretation would limit a residential addition which is allowed as long as the setbacks are followed. As it would be the number of living units that matters, Garand asked to sign the proposed floor plans to help these residents out. Boyd said the issue is closed because of the motion in public hearing. Foote said the plan was approved permitting the Chair to sign when all the conditions were met and asked if the Board could revise the motion. Morgan asked if there were abutters at the prior hearing. Garand said "no" Morgan asked if abutters might object. [The Secretary asked for the case reference. Boyd said 213 South Main Street, Howard Eaton.] Boyd said since condominium conversion is allowed by the State, the Town doesn't need to take jurisdiction. He just cannot delete the floor plans and it would otherwise force the attorney to revise the condominium declaration. Boyd asked if there is a way to help without reopening the public hearing, and renoting abutters for another public hearing. Garand said where it was approved with conditions, and if those conditions were met, wouldn't it be ok as long as the floor plan is the one submitted with the condo conversion documents. Foote said the issue was changing the physical location and the size of the structure. Garand said this is not changing the number of units on the property. Foote said the plan originally submitted meets the qualifications. Garand asked for the Town Planner's view. Morgan said the Chair would need a motion.

<b>Motion:</b>	<b>Thibodeau</b>	<b>To direct the Chair to sign the Case #2006-40 plan in light of the information presented showing the plan is now in compliance.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

Foote said she would try to sign the plan this week so it might be filed next week and asked if the Secretary thought that feasible. The Secretary said there is an even more heavy agenda for the next few weeks and the filing would be done as soon as feasible. Foote said the Planning board office is just about at the point of needing additional Secretarial assistance. Garand said perhaps someone from another Town office could make the Registry trip.



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**PUBLIC HEARINGS: Chairman Foote opened the Public Hearing at 7:23PM**

**Case #2002-30 Merrimack Street** continued from September 19.

Foote said the Boardwalk appears to be done. Garand asked if the Public Works Manager had signed off. Foote said this is also contingent on receiving, the security reduction checklist signed by department heads, a form of deed for Merrimack Street, and the letter to the Planning Board stating the work is complete and requesting the Board to recommend the BOS accept it as a Town Road, and the paper and digital as-builts. This paper work has to be initiated by the project owner. About three weeks after the board has this paperwork, the developer needs to send a letter to the Board of Selectmen requesting to have this accepted as a Town road. Garand asked about the time frame. Foote said it isn't uncommon for the Board to instruct the Chair to recommend the road be accepted once all of the above is received, but after the Planning Board officially approves. A letter from the Sullivans requesting the project be considered complete, asking for return of construction security and the change to maintenance security, initiates the process and if received sooner than the continued date can be handled as correspondence. Foote continued to January 16, 2007 at 6PM in Seabrook Town Hall.

Boyd asked if the Boardwalk needs to be depicted on the as-builts. Foote said the general layout of the approved Boardwalk, including with DES, should be shown on the as-builts.

**Case # 2006-07 Proposal from Langis/Silker for a condominium conversion at 15 & 17 Elephant Rock Road, Tax Map 16 Lots [11-4],** continued from October 17.

Foote said this is for the \$5000 site security for plants to be planted in the no-cut zone. There are no shrubs growing but it isn't a mowed lawn and looks like the natural woodlands is trying to come back. Garand said this will take some time to become established.

<b>Motion:</b>	<b>Foote</b>	<b>To close Case #2003-07 Langis/Silker for a condominium conversion at 15 &amp; 17 Elephant Rock Road, Tax Map 16 Lots [11-4], and to return the security amount.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

**Case #2006-27 Proposal by Ray Grasso for a condominium conversion at 103 Ledge Road, Tax Map 5 Lot 8-120,** continued from October 17.

Foote said the security checklist for the site plan [Case 04-61] was received today. Wayne Morrill of Jones & Beach Engineering, appearing for the applicant, said the next step for Mr Grasso would be to initiate a formal letter to the Board. However, the subject of this public hearing is the revisions in re the condominium conversion proposal. Foote noted one problem is that at different times proposals relating to a specific property are entered by subsequent owners. No one is communicating to the Planning Board that the contact person is changing hands. This causes confusion. The Secretary noted there is also confusion between the lot designations and the street



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address. Foote said there is still a \$24,500 security bond posted on Case#04-61]] it would be up to Grasso to request its return. Garand said to request a site inspection before snow flies. The Digital as-built plans are needed now and the request letter. The Secretary said the person bringing in the checklist was told of the next steps. Morrill will ask Grasso how he wants to proceed.

Morrill said because of problems getting the sewer to go through the abutters land, the Sewer Superintendent approved tying in the sewer through Ledge Road. This is that as-built. Because this sewer line is different from the originally approved site plan Note # 24 has been added to reference these modifications. The relocated water line is also shown. Additionally the "withdrawable land " in the rear is shown to disclose to condo purchasers that in the future that land might be withdrawn from the condominium and a building or subdivision be installed. Foote said condominium owners all share ownership which means everyone would have to agree. Morrill said that is why this is raised now so that would not be required. Morgan asked for the source for the "withdrawable land" concept. Morrill said this comes from Attorney Sarri. Garand said this means wetlands approval may be gained so a building can be built. Morrill said if the owner ever wanted to do that he could withdraw this land from the condominiums. Garand said wouldn't that be against the original condition that no more wetlands crossings be granted. Foote asked how the land could be withdrawn when there would be no road frontage. Morrill said the relative frontages are shown. Foote asked if that is the dotted line cutting off half the parking spots. Morrill said "yes". Morgan asked about the "no more wetlands crossing" promise. Garand emphasized the subdivision was granted on that premise and said that condition should stay.

Morrill said this would be protecting the owner's rights for the future and he wants to continue the case until Attorney Sarri can be present. Garand said the Town Attorney should review this language. Morgan asked if these designations appear in the RSAs. Morrill said yes but the client and Sarri should answer the questions. Garand said this is a big change going way beyond what is allowed, and suggested the attorney check the historical conditions set for this property. Foote said there once was an application to DES for five to six units and related correspondence but she did not know the resolution. Morrill said the applicant was to work with the Conservation Commission and it never came to the Planning Board. Garand said the initial crossing provisions were brought to light during site inspections, and asked how a client in a subdivision would go past the original conditions. Morrill needs to inform his client of tonight's discussion. Foote said the original Chase DES application should be in every related file. Foote continued to January 2, 2007 at 6PM at Seabrook Town Hall.

### **Case # 2001-34 Proposal by Honor and Mason for site plan approval 15 Whittaker Way Tax Map 4 Lot 19-50, continued from November 7.**

Wayne Morrill, Jones & Beach Engineers, for the applicant said the previous list of items that were not part of the site plan including the lack of grade and guardrail for the multi-state discharge outlet. Those items have been taken care of, the dumpster is in place as are plantings around the pond. The remaining item is to walk the site with the Code Enforcement Officer, the as-built and digitals are done and will be submitted with a letter asking the case to be closed. Foote asked if Morrill is officially the owner's representative. Morrill said he was. Garand suggested the case be conditionally closed pending his approval of the work. Foote said if Morrill is their official



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representative he can request that at this meeting. [Morrill's authorization is in place.] Morrill requested the conditional close. Garand asked an appointment be made for the walk through.

<b>Motion:</b>	<b>Himmer</b>	<b>To initiate the proceedings to close Case #2001-34 conditional on the Code Enforcement Officer's site-walk approval and receipt of the as-built, after which the Chair may sign the plans and Notice of Decision.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

The Chair called a recess at 7:57PM and reopened the public hearing at 8:07PM.

**Case #2002-03 Proposal from Paul Lepere re Belgian Drive: Lloyd Perkins & Irving & Anita Brown asking for release of maintenance security and acceptance as a town road, continued from November 7.**

The Secretary noted the need for chain of ownership documentation which Lepere said he will provide. Garand said this is a health issue at this time of year to have a whole subdivision dump at the end of the road. Foote said that Lepere has asked for the maintenance to be trunkated in July. After discussion with the CEO, the recommendation is Lepere communicate with the Public Works Manager for approval in May 2007 and, if given, write to the Planning Board asking to consider shortening the maintenance period.

<b>Motion:</b>	<b>Foote</b>	<b>To conditionally close Case # 2002-03 and recommend the Board of Selectmen accept Belgian Drive as a Town roadway and begin the two-year maintenance phase, pending receipt of documentation, and begin the two-year maintenance phase and refund all but the ten percent of the construction security, and allow the Chair to sign the plan and Notice of Decision.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

**Case #2004-50 Proposal by Paul and Lisa Cabral for a subdivision off Ledge Road continued from November 7.**

Foote said the courts have yet to make a decision. Garand asked for the end-date of the extension. The Secretary said until a date in February. Garand suggested continuing to February. Foote said it would have to be the Second meeting as the first has been cancelled due to the Deliberative Session. Foote continued to January 16, 2007 at 6PM in Seabrook Town Hall, and ask the Cabrals to sign a further extension in late January if the court has not ruled.



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**Case # 2002-14 Bieder/Hamilton Trust request from Dr Francis Hamilton for a sixty day extension to complete Elephant Road project, continued from November 7.**

Foote noted the extension was first requested in November. The Secretary said the road deed was received today, and Foote said the property is not grandfathered - as-builts are needed. Boyd said the road digital plans are in. Department heads have signed off. Boyd said the easement to the Town had been delivered. Foote said the Town Planner needs to review the deed to the plans for accuracy.

<b>Motion:</b>	Foote	To conditionally close Case # 2000-14 and recommend the Board of Selectmen accept Whittaker Way as a town road pending the town Planner's review of the Deed, and begin the two-year maintenance phase and refund all but the ten percent of the construction security, and allow the Chair to sign the plan and Notice of Decision.
<b>Second:</b>	Lowry	Approved: Unanimous

**Case #2006-42 proposal by Wildwood Real Estate Holdings, LLC, for a condominium conversion at Pineo Farms Condominiums, 6 & 8 Carroll Lane, Tax Map 4, Lot 14-119]**

Wayne Morrill appearing for the applicant, asked for a continuance to January 16, 2006 for the attorney to draft a new easement to the water department for access to their wells. Morrill said this would have to go through town council before coming before the Planning Board. Foote continued to January 16, 2007 at 6PM in Seabrook Town Hall. The Secretary called attention to the Assessor's concern that certain Carroll Lane addresses were not correctly depicted. Morrill said he is addressing that issue with the Assessor. The Secretary asked the address in this case also be reviewed. Morrill said he has a complete list of the correct designations and would take care of that with the Registry and provide the Planning Board with documentation.

**Case # 2006-13 Harley Real Estate Real Estate regarding site security, continued from November 7, 2006**

Foote said site security should have been in place. Charlie Bagley said he thought that had been taken care of and asked for additional time. Foote continued to January 16, 2007 at 6PM in Seabrook Town Hall.

**Case # 2006-47 Proposal by Seabrook Camp Meeting Development, One Camp Meeting Condominiums for condominium conversion at 19 Dows Lane and 107 Railroad Avenue, Tax Map 12 Lots 14-10, 100, continued from November 7.**

Attending: Charlie Bagley

Wayne Morrill of Jones and Beach appearing for the applicant said revisions were submitted showing the water shut-off and sewer manholes added to the legend. Morrill said Messrs Bagley and Evans met and would be asked to state how they have resolved their issues. The floor plans have been submitted and the Technical Review Committee issues have been addressed. John Evans said he and Charlie Bagley have an agreement and mutual resolution. Foote asked if Evans had any



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objections to the plans as submitted. Evans said there is no problem as long as the agreement is followed through.

Garand asked for comments or concerns as to the condominium conversion. Garand asked for clarification on "convertible land". Morrill said there is a floor plan for the existing structure. In the future they will return with the "convertible land" taken off the plan and a floor plan for that area. Foote said the condominium documents would also have to be revised to show these changes. Foote polled the Board for comments or questions. There being none the floor was opened to others in attendance.

Boyd said he had submitted a letter critical of the previously proceeding in this case. Foote said the letter had been described. Boyd asked to read it into the record and have it a part of the Case #2006-47 file. Foote said Boyd could read the letter dated November 13, 2006 aloud. Boyd read the letter in the entirety and asked that it be made a part of the record. [A copy of the letter is attached to these Minutes and is available from the Secretary.]

Foote asked for other comments or questions from abutters and asked if Evans is now happy. Evans replied "yes". There being no further comments from the Board or Abutters:

<b>Motion:</b>	<b>Foote</b>	<b>To accept Case #2006-47 Proposal by Seabrook Camp Meeting Development, One Camp Meeting Condominiums for condominium conversion at 19 Dows Lane and 107 Railroad Avenue, Tax Map 12 Lots 14-10 &amp; 14-100, in so far as it complies with the condominium Rules of the State of New Hampshire and meets Town of Seabrook regulations.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

### **Case #2006-48 Proposal by Ranier Meissner and Michele & Byron Bua for a lot line adjustment at 14 & 18 Austins Way, Tax Map 9 Lots 7-7&7-8.**

Henry Boyd of Millennium Engineering appearing for the applicant explained a difficult situation has produced better neighbors. Garand said a variance to allow a reduced set back has been resolved and this is now compliant. Foote asked for comments. Khan said he trusts the CEO's judgment. There being no further comments:

<b>Motion:</b>	<b>Lowry</b>	<b>To approve the Case #2006-48 Proposal by Ranier Meissner and Michele &amp; Byron Bua for a lot line adjustment at 14 &amp; 18 Austins Way, Tax Map 9 Lot 7-7 &amp; 7-8.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>



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Boyd will submit the mylar. Foote said there is a 30 day appeal period for a lot line adjustment and reminded that the applicants need to sign the notice of decision. Additionally, although not in this case, when site security is involved there is a case folder with information and procedures that must be picked up when the NOD is signed. Importantly, the conditions of approval must be complied with within ninety days. Foote said there are a number of cases where compliance is unfulfilled. Boyd said ninety days is too short especially when dealing with DES. Other towns give one year to comply and two years to build. Foote said the applicants can write to the Planning Board for an extension.

### **Case #2006-49 proposal by Paul Lepere for Stargazer Real Estate Development, LLC for site plan to alter drainage infrastructure on Irene's Way.**

Applicant: Paul Lepere

Henry Boyd Jr appearing for the applicant said after getting into construction, Lloyd Perkins found the velocity of the storm water coming off New Zealand Road created a potential threat to the road if the heavy rains of the past several months continue. Millennium's numbers say it still works but without the full effect of the vegetative swales there were problems. Lepere desires to avoid issues for the Town and is willing to pay for corrections. Therefore, Millennium has left the drainage as is but has added four drainage structures on each side of the road to get the water as it comes down the 30 foot grade. One side will receive the water as it runs in sheets from the crown and will discharge across the street to the other catch basin eventually entering the same structure that goes to the detention pond. . Thus the overland drainage at the top remains in effect, but the velocity is separated from the swale and the volume, and the energy is redirected away from the curb and undermining the stability of the road. Pipes have been sized appropriately and the design is better and probably should have been thought about initially. The submitted request is to make this road hold up better for the Town, although this doesn't have to be done as the subdivision is approved. Boyd commented that the Board had felt this to be more than a minor change so the Public Works Manager, John Starkey, has been involved and public notice given, and will be reflected on the as-builts.

Foote asked if the public Works Manager Starkey has no problems with the size of the pipes and the runs and the routes. Boyd said the pipes are sized appropriately based upon Millennium's design calculations. Foote commented that people in the field for a long time may have a better grasp of how things work. Boyd said Perkins brought it up and the public Works Manager liked the idea. Thibodeau said it should be marked as coming off New Zealand Way. Boyd said that can be added. Foote polled the Board for comments. There being none, abutters were asked for comments.

Boyd commended Lepere for improving this and other projects for the Town. Garand said this is similar to the drainage installed after Maple Ridge was built. Boyd was not involved in that overland issue, and said this is overdesign and probably wouldn't be needed once the area is stabilized. Benjamin Lenner, whose wife is an abutter, said that will help at the bottom of the grade. Khan asked if this is like water problems at Border Winds. Morgan said this has a lot more slope. Garand said the road is still under construction. Boyd said the changes take into account the frequency and size of recent storms. Foote said this is different than Boarder Winds which has a perched ledge



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wetlands holding water, because of the steep slope and only one lot is sold on this roadway; Lepere owns the impacted area.

<b>Motion:</b>	<b>Himmer</b>	<b>To accept the Case #2006-49 proposal for site plan review to alter drainage infrastructure on Irene's Way by Stargazer Real Estate Development as administratively complete for deliberations.</b>
<b>Second:</b>	<b>Thibodeau</b>	<b>Approved: Unanimous</b>

<b>Motion:</b>	<b>Himmer</b>	<b>To approve the Case # 2006-49 revised drainage proposal by Paul Lepere for Stargazer Real Estate Development, LLC.</b>
<b>Second:</b>	<b>Thibodeau</b>	<b>Approved: Unanimous.</b>

**Case#2006-51 proposal by Mathew D'Agati for a condominium conversion at 243 and 245 south Main Street, Tax Map 16 Lot 5-10 & 5-100]**

Henry Boyd Jr of Millennium Engineering representing Matthew D'Agati said he has not had the opportunity to respond to Tech Review comments. That the current placement of the sewer needs to be properly shown. on the plan. Garand asked about the Tech Review comments re the overhead lines. Boyd said both of those items will be revised on the plan. Morgan asked how much time is needed to make the changes. Foote asked for comments, questions, or concerns from the Board or abutters. There being none, Foote continued to January 2, 2007 at 6PM in Seabrook Town Hall.

**Case #2006-50 proposal by Paul Garand, Lisa Anne Curtis and Suzanne Garand Bradford for a condominium conversion at 59 and 61 Walton Road, Tax Map 10 Lots 37-10 & 37-100.**

Garand, the applicant, recused himself for this hearing.

Henry Boyd appearing for the applicant noted the Tech Review comment about disproportionate area distribution. Boyd does not agree with the Board's stance saying the State allows [the owner] any desired distribution. He believes Garand's position that it is impractical to put more land with the front piece is correct. Boyd noted these are not individual lots and prescribed zoning area is not required.

Foote polled the Board for questions or comments. There being none:



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<b>Motion:</b>	Lowry	To accept the Case #2006-50 proposal by Paul Garand, Lisa Anne Curtis and Suzanne Garand Bradford for a condominium conversion at 59 and 61 Walton Road, Tax Map 10 Lots 37-10 & 37-100.as administratively complete for deliberations.
<b>Second:</b>	Thibodeau	Approved: Unanimous

<b>Motion:</b>	Foote	To approve Case #2006-50 proposal by Paul Garand, Lisa Anne Curtis and Suzanne Garand Bradford for a condominium conversion at 59 and 61 Walton Road, Tax Map 10 Lots 37-10 & 37-100 in so far as it complies with the Condominium Rules of the State of New Hampshire and meets Town of Seabrook regulations.
<b>Second:</b>	Lowry	Approved: Unanimous.

**OTHER BUSINESS**

Boyd has been contacted by Tony Rizzo who suffered a heart attack. It's come to attention that his site plan expired on 11/30 and wants to reinstate. Foote said to send a letter to the Planning Board requesting an extension for up to a year. Boyd said the architectural plans are not complete. Garand said there are also some fire Marshall issues. The Secretary asked for the Case number to be referenced in the letter. Boyd assured this would be done.

Foote adjourned the Public Hearing at 9:06PM.  
 Foote adjourned the meeting at 9:08PM.

Minutes Respectfully Submitted by  
 Barbara K. Kravitz, Secretary  
 Seabrook Planning Board

<b>MYLARS RECORDED</b>		
0-21-06	Declaration of Condominiums -.	



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0-21-06	Declaration of Condominiums - .	