



## Town of Seabrook Planning Board Minutes

November 21, 2006

NOT OFFICIAL UNTIL APPROVED

Members Present: Sue Foote, Chair; Mark Preston, Vice Chair; Aboul Khan; Peter Evans; Paul Himmer; Mike Lowry; Robert Moore, Ex-Officio; Paul Garand, Code Enforcement Officer (CEO)/Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary.

Chair Foote called the meeting to order at 6:10PM

### MINUTES of October 26, 2006 and November 7, 2006

Motion:	Lowry	To approve the Minutes of October 26, 2006 as written, and to approve the Minutes of November 7, 2006 as amended to reference <u>Stard Road</u> , rather than Stard Way in page 5, paragraph 2.
Second:	Moore	Approved: In favor: Foote, Moore, Lowry, Khan, Himmer Abstained: Preston, Evans

### CORRESPONDENCE

Foote referenced a communication from the **Rockingham Planning Commission comprising the timetable for recommending warrant items**. Notice of Planning Board hearings for Warrant items must be posted and published by December 22, 2006.

The Town Manager's memo announced that **Turtle Creek Terrace has been accepted as a public highway**.

Foote indicated there is uncertainty about the term for a current alternate. Moore will confer with Emily Sanborn as to her status.

The manager of **WalMart has informed the Planning Board that he has been directed to be open 24/7 from December 15, 2006 at 7 AM through 6PM on December 24** and asks if there is anything else he needs to do. Garand commented this is usual during this holiday season and said even if the front of the store is open, the restrictions on noise and loading hours remains in place. Morgan said the Secretary should inform the manager to have the Selectmen look at this .

A letter from **Fred Toby re renting office space at 11 Main Street**. The Secretary is to ask him to attend the December 5, 2006 meeting.

Foote referenced a letter from Attorney Michael Churbridge concerning **33 Gove Road, Tax Map 7/Lot 50 describing the Planning Board condition that the road is to be continued from the cul-de-sac if there is additional construction**. The owner proposes to build a second single family home to the West and behind the existing home and wants to maintain the 50 foot right of way in the event more homes are built. Morgan said a public hearing would be required to amend the conditions of approval and all abutters need to be noticed. Foote said the owner should submit an application to the Planning Board in time to be listed on the December 19, 2006 public notice.



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**Case # 06-46** Foote referenced a letter from Henry Boyd Jr. of Millenium Engineering disagreeing with statements made during the November 7, 2006 deliberations on Dows Lane property lines. Boyd was not present. Apparently, the issues have not been resolved. The letter will be made a part of the case file.

Foote referenced a letter from the Code Enforcement Officer to June Brown, 432 New Zealand Road, reminding that Planning Board approval required the shed and gazebo to be removed, which has not yet been done.

Foote said Harley Real Estate, 85 Ledge Road, needs to post site Security. Some or all of the funds for this will come from the release of site security (net of the maintenance balance) for Austins Way. Foote is facilitating the transfer for Charlie Bagley. Preston asked for the Town Planner's advice. Morgan said he would need to study the case. Foote noted the need to post site security to make the building phase proper before condominium conversions. Moore recommended continuing the matter. Garand said Bagley needs to stabilize the site first. Evans asked how one can get a building permit without site security.

<b>Motion:</b>	<b>Evans</b>	<b>To continue Case #2006-13, Harley Real Estate at 85 Ledge Road, to December 5, 2006 at 6Pm at Town Hall.</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous</b>

### **PUBLIC HEARINGS**

Chair Foote opened the Public Hearings at 6:30PM, and indicated the Agenda would comprise the continuing deliberations from October 26, 2006 on:

**Case #2006-31 continued from August 15, 2006: Proposal by Developers Diversified Realty (DDR) Seabrook LLC for a 4-lot subdivision at 700 Lafayette Road, Tax Map 8, Lot 55;**

**Case #2006-32 continued from August 15, 2006: Proposal by Developers Diversified Realty (DDR) Seabrook LLC to construct a 441,290 square foot shopping center at 700 Lafayette Road, Tax Map 8, Lot 55;**

Foote announced the order for the Agenda would be a brief informal discussion on Tax Incentive Financing Districts (TIFs) followed by site plan review. As the Waiver granted by the Applicant expires today, another waiver from the applicant or an extension by the Board of Selectmen is needed to go beyond tonight. Lowry had recused himself from these case deliberations.

Attending: Kenneth Lurvey, Economic Development Director, Concord, invited by the Planning Board as an expert on TIFs; Paula Wood, Chair Seabrook Budget Committee; Representative Frank Palazzo, Seabrook;



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Attendees for the Developer: Jim Grafmeyer, Senior Development Director, DDR; Stephen Lehmann, Project Director, Vanasse, Hangen, Brustlin (VHB); Robin Bousa, Traffic Consultant, VHB; Jake Tinis, Wetlands Scientist; Stephen Strnisha, TIF consultant; Scott Shepard; Attorney Malcolm R McNeill Jr representing the Applicant

### **The TIF discussion**

Footte introduced Kenneth Lurvey. As Economic Development Director for Concord. Lurvey said he has organized and implemented six TIFs in 20 years, and has served as a resource for several communities. [Planning Board members received Lurvey's handout concerning the reclamation of Concord's North End Opportunity Corridor.]

Lurvey explained that when a TIF is in place, the existing tax base stays a part of the general fund. For example, if \$1,000,000 is the current tax revenue in a TIF District, that \$1,000,000 annually remains part of the general funds. Only revenues generated by the new tax increment are used to repay a TIF bond. The assumption is the project would not happen otherwise.

Lurvey has found it is best to have a district well-surveyed and defined in advance as tax map references are not the best designations. In the Concord Opportunity Corridor TIF the Railway was a defining factor even though an extended part of the railway was officially designated as a high speed rail. This TIF involved rail relocation, and road construction as well as reconstruction. Concord bought an 80 foot rail piece from Gilford Transportation and worked with the Department of Transportation. Since the rail split the site in half, \$500,000 was spent to relocate a section to the back of the site. Additionally, poles were buried and a section of road built for Route 393 access. The Coastal Concrete sub-lease was acquired and the business relocated following Federal guidelines. [Before and after environmental clean-up photos are available.] The financing package included a \$5,000,000 bonding with a \$450,000 per year pay back plus \$4500. annually for services such as snow removal and police. Once a community adopts the TIF ordinance under RSA 162(K) the operating costs must be considered. The Marriott Courtyard was required to guarantee the bond by a payment in lieu of revenue backed by a letter-of-credit. At full build-out, enough tax revenue would be generated by the hotel to pay the bond cost. The financing package also included a \$3,700,000 Community Development Block Grant for which the purchasers received an aggregate of seventy-five per cent tax credits. Additionally, the TIF activity gave a private developer the confidence to restore the near-by Page Belting building for senior housing.

Lurvey said Concord also utilizes an aggressive impact fee ordinance, for example, to have off-site improvements relating to traffic, schools and recreation facilities. paid for by developer(s). But, rather than waiting for state or federal projects that take 20 years to plan out, TIFs can be used instead, as was the case with a needed parking garage. Other financing sources include special assessment districts, an economic development reserve, the general bonding capacity, and partnerships with economic or housing development finance entities that have bonding capacity. Additionally entities such as such as the Rockingham County Economic Development Council can help with writing TIF ordinances and warrant articles. Working with the Departments of Transportation and Environmental Services is also essential.



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The Horseshoe Pond area, begun in 1999, took five years to sell several sites and do the various build outs. The asset value was projected at \$30,000,000, but within the five years the asset value had climbed to \$50,000,000. This amount generates approximately \$1,000,000 in additional tax revenue annually, about half of which goes to general funds. Concord's bonds have been or are being paid down in seven to ten years, rather than the projected 15 years. Lurvey's newest TIF involves a tannery mill building being sold to Chinburg Developers for market rate housing.

Lurvey said when organizing a TIF it is most important to use a checklist that follows both State and Federal guidelines. For example, in New Hampshire it is necessary to notify school districts and the county to give them an opportunity to comment. Preston asked if a TIF would have to go to a town warrant. Lurvey said in a town it probably would. If the purpose is to grow an economic tax base, it is a good tool if the community wants it.

Morgan referenced Concord's Eagle Square experience and asked if Lurvey is aware of any similar project where a TIF was used as a tool for retail redevelopment. Lurvey said the legislation changed in the 1990's to allow a TIF for what a community wants. In Steeplechase Mall the TIF model was used although a TIF district was not designated. The project included \$6,500,000 for infrastructure, about half of which was paid by the Mall developer and about \$1,000,000 by another developer. Keene has also used the TIF for small-scale retail development. The most comparable projects are in Hooksett, the first off Route 93 at Exit 10, and the newest, a proposed large scale development at a different exit with Cabelas as the lead.

Lurvey emphasized that once the bonds are paid down, all TIF tax revenues are available for general funds purposes. Moore said TIFs seem fine for building and revitalizing but Seabrook doesn't have much area., and asked about the risks. Lurvey said tax revenues from the first project in must be sufficient to pay down the bonds. The hotel conference center [Marriott] guaranteed the difference between taxes generated and the bond carry. Moore asked if there is up to \$20,000,000 in cost, what if the guarantor goes bankrupt. Lurvey noted the Seabrook location is very desirable. The North End project example involved only 40 of the 500 acres in the Opportunity Corridor. Additional TIFs would be used for expansions. Moore asked what happens if property is sold to a tax exempt entity. Lurvey said any new owner would have to accept the original conditions. McNeill said securities would be appropriately guaranteed by [an outside] letter of credit. Lurvey said even in a bankruptcy, letters of credit can be drawn down.

Khan said the Concord land had been described as a "junkyard"., But people want to buy in Seabrook every day. Lurvey explained that bonding is not made against existing property value, only the new increment if securitized. It is a hard sell. The Eagle Square TIF was paid down in three years; and another TIF is likely to be paid down in seven years. Concord TIF bonding has not more than a fifteen-year term. New asset value in all of the Concord TIFs has exceeded expectations. Moore said TIFs would bring a demand for increased services and asked who pays for this. Lurvey said in his experience, the developer was required to guarantee the costs for increased services such as fire, police etc with letters of credit and/or liens against the property. Morgan commented the Steeplechase Mall seemed the most relevant with modest improvements. Lurvey said that \$6,500,000 bonding would amount to about \$13,000,000 in today's market. Morgan asked if there is



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a point at which it doesn't pay to use a TIF. Lurvey said that would depend on the estimated cost of improvements, not just the traffic analysis. Evans said fifteen years may be a comfort level for a city council, but the size of a borrowing can reach a non-attainable threshold. Lurvey said for a Sears office project, the City built the parking, the cost of which was met over time by the private developer paying for spaces and meters. Evans said that means a whole financing package was presented.

Foote asked about the procedure if the Town were to decide a TIF is a good idea. Lurvey said the steps are to (i) adopt the TIF ordinance under RSA [162K] through a Warrant article; (ii) complete a thorough survey of the area intended for the TIF; and (iii) adopt a detailed TIF plan through a Town Warrant Article. This takes time for logistics and lining up financing. Foote said the last day for the Planning Board to post public hearings for warrant articles is December 22. with public hearings in late January, and asked if a well thought-out warrant could be drawn up within that timeframe. Lurvey emphasized that the developer must have already done the surveying and analyzed the required financing package. He noted the costs of peer review can be charged back to the developer. Foote asked if the Board of Selectmen would be the organizers. Lurvey said the TIF ordinance could be drafted by citizen(s) or a private developer. The Planning Board could recommend, but not out of the ordinary cycle. Morgan asked if the Concord City Council did not approve of a TIF, could it still be done. Lurvey said "No". Morgan said the Planning Board has a big role for site review and off-site improvements. McNeill asked if the timing relates to zoning. Morgan said "yes". McNeill said this was raised five Tuesdays back.

Palazzo asked about the affect on the community. Lurvey said the largest impact was the Routes 93/393 ramps and signalization. Palazzo said given Seabrook's limited infrastructure, with an additional 1800 cars, and new demands on fire and police services, would Lurvey do it. Foote said Lurvey's role is to educate. Lurvey said the key is does Seabrook want development, and if so what kind. Angeljean Chiamida of the Newburyport News asked if there is a cost analysis to achieve the same level of service. McNeill said about \$3,000,000 will maintain the level that the Department of Transportation would detail. Chiamida asked if the land must be contiguous. Lurvey said it should be one district and to keep in mind that the revenue from the base value always goes to general funds. Chiamida said the developer is talking about four parcels. If land at the bridge were needed could such land taking still be done. Lurvey said this could be built into the cost of a TIF. Once it is built the tax revenue cant be touched, but there can be expansion. Evans asked if there could be one bond issue, for example, along the Route 1 Corridor. Lurvey said there are some acerage and budget limitations. Evans asked if another TIF can be done eight years later. Lurvey said a TIF district could be amended and refinanced if it stays within the limitations.

Scott Mitchell asked if it was hard to get financing for the Routes 93/393 infrastructure and inquired about interest rates. Lurvey said the Horseshoe Pond bonds were at 3.5 percent. Mitchell asked if there was a prepayment penalty for bonds paid back in less than fifteen years Lurvey said "No" and that the Steeplechase bonds (not as a TIF) were rolled in with other road improvements at a rate of five percent. Evans asked if the magnitude of TIFs would be more than the Concord budget. Lurvey said it cannot be more than ten percent of the total budget and 8 percent of the



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assessed value, and the total impact of all TIF districts must be considered. Evans asked if a TIF district can be dissolved. Lurvey said it can if paid off.

Foote expressed the Board's thanks to Lurvey and noted the Planning Board has no say outside of site plan review and TIFs lie in the hands of the Board of Selectmen. Lurvey commented the Planning Board can initially approve and require conditions and guarantees that would apply.

Chair Foote announced a break at 7:45pm and resumed the Public Hearing at 7:58PM.

McNeill requested that DDR's TIF consultant be allowed to speak. [The Planning Board received Strnisha's handout.] Strnisha said he has been a public official, a development director and finance director, a banker, and CFO of a Chamber of Commerce. TIFs have been used in downtown, suburban and rural areas to meet infrastructure challenges. There is value for Seabrook even though the development gets funds. But no one is paying less. There is a higher impact in dollars and cents - [up to five percent of assessed value. The \$1,100,000 increment is less than ten percent. Seabrook can bank on and borrow against a well-heeled project as DDR is willing to be involved to guarantee the bond payments. New Hampshire TIFs are flexible. The Town controls how the increment is used which can be for public improvements, general funds, paying down bonds or sharing with other services such as schools. Strnisha said the \$1,100,000 in new tax increment can support about \$9,000,000 in borrowing. Without a TIF the tax revenue (including that from the development) is about \$550,000. With a TIF structure, the tax revenue is about \$1,200,000 which means about an additional \$600,000 is under Town control to use as the Town sees fit, for example, to share, to pay for increased services, to pay down bonds faster (with a guarantor), to borrow against, to do improvements now or the full impact of the development can be applied all for public improvements such as right-of-ways or police services.

Strnisha said a TIF can be attractive to voters because of the value of the development overall to the community. The presentation would emphasize that the plan is to do things now that otherwise can't be done including the ability to leverage dollars with banks that will go into public improvements. The issues to be addressed include whether the Town can be fiscally protected and what is the sustained value. The borrowing estimate is negotiable and done at 120 percent of debt service coverage. Morgan asked about the boundaries of a proposed district. Strnisha said just the DDR development's boundaries are being considered - more bonds could be sold later but not on spec. Morgan asked whether the route 95 Bridge could be included in a TIF and Foote asked if improvements have to be within a TIF district. Lurvey responded "Yes". Morgan said a TIF can be a part of a funding stream and asked what if there are a variety of partners. Strnisha said TIF funds could be applied in part to the Bridge. Moore asked how large a bond would have to be. Strnisha said it would be based on assessment and rental estimates. Not all of the principal would be used. Further, it is tax exempt financing.

.Moore said numbers mean nothing without the cost analysis. Strnisha said he has figured a \$12,000,000 bond would net \$9,900,000. This would be the capacity of the project yield. Moore asked how much is needed as there are no numbers to work with and five years for permits. Strnisha said this would depend on the cost of improvements and how DDR benefits by paying for



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some or all of it. Moore believes the value will be half the estimated \$100,000,000. Strnisha said DDR would work with the Assessor to determine that figure. Evans said this is sort of a "preapproval for \$9,000,000. Strnisha said the monies used would come directly from the shopping center. The increment is figured at 120 percent of debt service - therefore coverage is built-in. DDR would fund an up-front reserve, guarantee with a bank letter of credit, at six percent interest over 30 years. The net would be about \$6,000,000 if the pay down were figured at fifteen years.

Foote said this is already up to the Board of Selectmen and the Channel 22 coverage helps the citizens. Morgan said the bridge is critical. If one party can't be saddled with the full cost; wouldn't a TIF need to be extended to include other parties. Grafmeyer said other upcoming developments including Lowes II and the Green project are responsible parties. He doesn't know the cost of the bridge. The more developments including the bridge, the more funds available. Strnisha said DDR is already willing to expend \$3-4,000,000 on infrastructure. Grafmeyer confirmed this amount. Evans said the Town would be reassigning what would otherwise go to county and schools. Wood said this outline shows the benefit is to the developer. Grafmeyer said about \$4,000,000 in road, water and sewer public improvements benefits DDR and the Town. Wood said the bond money would be used to do DDR improvements. Strnisha said with DDR as a guarantor there is no risk for the Town.

### **Site Plan Review matters**

Foote said comments received today from the water department are not expected to appear on the plans yet and asked if Morgan wanted to walk through his comments beginning with September 5, 2006. Discussion ensued concerning how to address subsequent responses from VHB. Moore said DDR proposes fifteen new units and to increase the traffic flow by forty percent, and asked how it can possibly comply with the special exception granted by the Zoning Board of Adjustment (ZBA) as there is not enough capacity on the road for the development. McNeill said the Special Exception needs to be separated from the site plan review, as it already was granted; the Town supported it in Superior Court where it was sustained, and subsequently it was confirmed by the Supreme Court. The Planning Board has no authority to reverse it - only to review the site plan and/or subdivision. Moore said the special exception has conditions. McNeill said the ZBA accepted the conditions and the special exception can't be undone. McNeill asked if Moore is saying [he] doesn't want to do site review because of the special exception an attorney and, if so, an attorney should be consulted. Moore asked what plan was presented to the ZBA. McNeill said DDR brought in everything that was asked. The State is considering its process and DDR is waiting for further response from the Planning Board's traffic consultant. The Planning Board cannot reasonably approve a site plan that goes contrary to regulations and is considering the plan before it today. Moore said there can't be a significant increase in traffic. McNeill said there is no quarrel with the Planning Board considering that issue, but the material for the traffic review is incomplete.

McNeill said the Chair was about to undertake the technical site plan review and said DDR will give an extension on the traffic issues until the December 19 Planning Board meeting. He indicated that Unitil representatives were in attendance and asked if that issue could be addressed. Moore indicated the deliberations should go on. McNeill said DDR can understand and respect Planning Board decisions. DDR has given everything asked for site plan review and is hoping for the traffic consultant's response before December 19. Foote asked if Morgan had received this response.



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Morgan said he was expecting to see a shopping center mitigation plan to bring traffic back to the same level of service. McNeill said the financing plan drafted considered the plan under the regulations concerning offsite impacts. Morgan asked if it will solve the bridge issue. McNeill said DDR is not solely responsible and wants to see what the State suggests about what would be a reasonable contribution to make the project safe, or if the State says the plan mitigation might not meet the level of service. DOT representatives Oldenburg and Ireland said they will look at the totality of the project. Foote said the State has been improving the level of service definition. McNeill referenced Article 12, as the "reasonable, rational, nexus" provision and said DDR relies on the ZBA rezoning. It is contemplating \$3-4,000,000 in infrastructure improvements in relation to the one building as required. DDR recognizes this is a huge project and impacts to absorb, and it gave this information to the Planning Board and the State Agencies.

Moore referenced Article 9A re minimizing traffic congestion and hazards. McNeill said DDR is not arguing about traffic but only what is to be considered and how to decide. Moore said going forward will be a nightmare. McNeill said wait to get all the information from consultants and the State. Moore said the people need to be listened to. McNeill said if "absolute gridlock" is not meeting reasonable standards applied to other developments, the project can be turned down. Foote said deliberation can continue on site review recommendations made by department heads. McNeill asked if the Unitil easement situation can be heard. The Board of Selectmen has denied the Unitil intent-to-cut based on the CEO's recommendation that it takes special permission by the Planning Board in re how much impact there will be on wetlands that were not designated to be impacted ie not more than fifty percent. Garand said cutting is also limited to dry or frozen conditions. Lehmann used diagrams to show the relative positions of the current easement and the proposed easement, and proximity to the Florida Power and Light property.

Garand asked where the soundwall stops in relation to clearing out the buffer zone because it has been previously stated that the soundwall cannot be extended into the wetlands. The issue is protecting the abutters and this is for Planning Board review. Evans asked where the easement is now. Garand said the easement is gone. Lehmann said Unitil does cuts now. Garand said to move it further North. Lehmann said the easement is to the Town for power distribution. Foote said new utility activity and easement is for site plan review because it physically alters the site, adding additional wetlands footage. Evans asked if the applicant can cut. Foote stated not after the site plan has been submitted and is under review. Grafmeyer said he reported on the cutting at a prior Planning Board meeting and had asked for comments. Lehmann said Unitil is not cutting all the vegetative buffer and indicated mitigation could be considered. Evans asked if the original easement allowed cutting. Lehmann said "Yes". Moore asked the number of feet for the buffer. After measuring, Lehmann said it varies from 45 to 75 feet. Garand asked why the easement couldn't be closer to the proposed building. Shepard said the move is as close as possible. Lehmann said VHB had worked with Unitil on the placement of the poles. Foote asked if they will cut in the wetlands. Lehmann said "yes". Foote asked if the cut will be clear or remain forested which is of greater value. Tins said shrub wetlands have the greatest value. The wetlands are of less value back there and they will minimize the former channels of dredging and place the poles on the uplands area. The \$25 DES permit contemplates temporary impact. Evans said no increase above fifty percent can be cut and to leave a well-vegetated area. Evans said they would need a waiver. Foote



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said the Planning Board can't waive this. McNeill said under Article 15 they can cut in the dry or frozen season and they are not removing more than fifty percent. ,

[Preston not present after 9:25PM]

Tinis said even with the additional .7 percent of wetlands involved, the total coverage wouldn't be more than 31 percent. Foote said the intent is to leave the vegetation. Tinis said the easement means cutting trees. Foote suggested referring to the Shoreland Protection Act for definitions. Lehmann asked if there is a way to put in the transmission line on the relocated easement, for example, to cut only taller trees to a certain height. Foote said that would be a ZBA regulation. Lehmann said they could count the trees and not remove more than fifty percent in number and selectively clear only tall trees he didn't believe a variance would be needed. McNeill commented there is no flexibility with only one building. Garand asked how the sound-barrier could be continued to protect abutters, Morgan said the regulations provide the sound barrier. Tinis said the design shows the back woods and material buffer remain. Lehmann said Unitil needs to go forward in the interim and DDR is committed to go forward. He suggested sound-barriers could be considered as the site plan review continues. McNeill said, or don't approve the project. Lehmann said the only benefit from the easement is to the Town. And the question is how to allow Unitil to proceed. The high tension wires were positioned on the most undisturbed land to minimize wetlands impact. Evans said to come down on the side of the people the Board needs to recognize the inadequate buffer zone during the review process. Foote commented the dry season (July, August) is over and the frozen period is coming up. Shepard said Unitil would take other precautions but would need to cut to reach 4000 customers. Evans asked about the impact on the remaining wires down Provident Way. Shepard said they remain in the easement and are not subject to the traffic as on Route 1. They are trying to make a minimal impact and safe and reliable service. Evans asked if there are high tension wires down Route 1. Shepard said there are multiple sub-stations. Evans asked if lines can be buried. Shepard said overhead lines are easier to repair and don't have problems with underground water.

Foote asked if the Board will allow selective cutting on this easement. Shepard said selective cutting won't work; the line is independent of the project and needs to be moved in any case. Khan suggested that a few Planning Board members view the site. Foote said she and Garand have viewed the site. Garand wants to protect abutters. Evans said the wetlands issues are out of the Board's hands. The cutting should go forward as the "fifty percent" is open to interpretation. Shepard said no other town has raised this issue. Grafmeyer said this involves only 9.4 acres. Sheppard said some lines will be abandoned. Evans said this is the source of power for 4000 people. Khan said if not approved, is there no power. Foote described the intent was for the type of wetlands and network of trails to remain unchanged. Evans said the ZBA wouldn't deny this. McNeill said the ordinance as written has been followed and he has never had to get a variance for utilities. Shepard suggested amending the ordinance to be more specific. McNeill said the Planning Board has the ultimate authority to disapprove and DDR had tried to work reasonably with Unitil. Khan asked for time to think as once cut the trees are gone. Evans said it is a fair interpretation of the zoning ordinance as written and suggested the Planning Board express no objection to the placement and use of the utility easement. Garand asked about the sound fence. Foote said that is a different issue. Garand



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said DDR needs it moved; residents don't need to protect residents. Moore said to grant a waiver. McNeill said to let the line be built and retain jurisdiction on the sound wall.

<b>Motion:</b>	<b>Evans</b>	<b>That the Planning Board has no objection to the placement and use of the DDR/Unitil Easement. . .</b>
<b>Second:</b>	<b>Himmer</b>	<b>Approved: Evans, Himmer Moore, Opposed: Khan; Abstained: Foote; Absent: Preston</b>

McNeill offered an extension to December 19 and asked Morgan to request a response from the Planning Board's traffic consultant [Pernaw]. Morgan said this would be a Board decision. Grafmeyer said DDR is also waiting for the DOT's preliminary review. Evans said he wants to know what Pernaw thinks and is concerned that his review is not wide enough. A "wish list" based on recommendations as to what it takes is needed. McNeill said Pernaw knows peer review. Morgan said Pernaw will take the Board's direction. Khan said everything is about public safety for the residents and the Route 95 Bridge is a problem. McNeill noted DDR is a resident. Khan said a TIF would not fly. It's not easy to understand and is misinterpreted. Why doesn't DDR build a smaller project and just do the TARGET and leave the rest to later. McNeill said in determining what is reasonable the State's response and the local response (re Provident Way) is needed. He urged the Board to protect itself and get expert feedback.

<b>Motion:</b>	<b>Evans</b>	<b>To direct Stephen Pernaw, the Planning Board's traffic consultant, to provide a proposal for a plan that would not diminish the level of service and respond to the Applicant's reports and comments.</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous Absent: Preston</b>

Grafmeyer said it is two and one-half months since the September 5 memo. DDR is willing to delay to December 19 but wants a response. Foote said Morgan has responded twice. McNeill said the experts should sign off. Morgan said to get an extension from the Board of Selectmen and tackle site plan review. McNeill said this is a large project and it is within the developer's discretion to provide an extension waiver, and Morgan is trying to elongate the deliberation. Palazzo said to grant or refuse. Foote said the options were to accept the DDR waiver tonight, or pursue other options in the future. To recognize the holiday season, she requested the waiver be until January 16, 2007. and indicated the Board would seek a response from Pernaw within two weeks. Grafmeyer agreed and asked for the open issues to be identified (other than traffic). Foote said she will work with Morgan on the open points. Moore said to identify the acceptable "level of service". Khan asked for the offsite improvements.



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<b>Motion:</b>	<b>Evans</b>	To continue Cases #06-31 and #06 32 concerning the DDR subdivision and site plan reviews respectively to December 19, 2006 at 6PM at Seabrook Town Hall.
<b>Second:</b>	<b>Moore</b>	Approved: Unanimous

Foote noted the Applicant would provide an extension waiver until January 16, 2007 and closed the Public Meeting at 10:25PM. [Grafmeyer signed such a waiver following the meeting.]

<b>Motion:</b>	<b>Moore</b>	To adjourn the November 21, 2006 Planning Board meeting at 10:27 PM.
<b>Second:</b>	<b>Himmer</b>	Approved: Unanimous Absent: Preston

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