



## Town of Seabrook Planning Board Minutes

October 3, 2006

NOT OFFICIAL UNTIL APPROVED

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

### MINUTES OF September 12, 2006 and September 19, 2006

Motion:	Evans	To approve the Minutes of September 12, 2006 and September 19, 2006 as written.
Second:	Moore	Approved: Unanimous Absent: Himmer, Preston

### REQUESTS FOR SECURITY OR EXTENSIONS

#### Case#2002-18, Nicholas and Becky Way

Evelyn and Oliver Fowler have requested a further reduction in their security for Nicholas and Becky Way. Foote noted this is a special situation and given the reputation of the applicants recommended reducing the security to the maintenance level, although a small amount of work remains. The applicants assure the work will be done, and Henry Boyd of Millenium Engineering stated he will do the as-builts.

Motion:	Evans	To reduce the security for Case #2002-18, Nicholas and Becky Way, to the maintenance level and return the balance to the applicants.
Second:	Lowry	Approved: Unanimous Absent: Himmer, Preston

### CORRESPONDENCE

Foote announced a Department of Transportation **Traffic Impact Study and Scoping Meeting concerning Lowe's II on October 20, 2006 at 10am, John O. Morton Building, Lobby Conference Rooms 112/113, Concord.** Garand, Morgan, Khan, Police Chief Currier, and one or more Selectmen plan to attend.

**Border Winds.** Foote said a letter has been received from the Planning Board Attorney concerning the Border Winds neighborhood concerns. The Secretary has provided Planning Board members with copies of the correspondence at this meeting, and has not further circulated the letter because it is subject to attorney-client privilege. Foote expressed great concern that apparently the contents was released elsewhere. She emphasized that the topics included in the letter could be detrimental if misunderstood or circulated in a newspaper, and restated the responsibility for maintaining the attorney-client privilege for such communications.

The Border Winds developer has submitted amended subdivision plans which Foote and the Town Planner recommend be reviewed by an outside engineer for compliance with prior Planning Board approvals. Garand suggested using Altus Engineering whose work is known to the Town.



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<b>Motion:</b>	<b>Lowry</b>	<b>To engage Altus Engineering to review the Case #2006-46 site plan submission to amend the Border Winds subdivision plan as to sidewalks, curbs, and stormwater drainage, in comparison to the original approvals.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: In favor: Foote, Moore, Lowry, Khan, Himmer Abstained: Evans; Absent: Preston,</b>

### **PLANNING BOARD VACANCY**

Foote referenced a letter from Mike Lowry requesting to be appointed to fill the Planning Board vacancy. To date this is the only written request received. Evans asked if public notice was necessary. Foote said the vacancy had been reported in newspapers. Lowry has served as an active alternate for about three years. Khan said there is no problem filling the appointment at this meeting.

<b>Motion:</b>	<b>Moore</b>	<b>To appoint Mike Lowry to fill the Planning Board Vacancy; the Term to run until the next regular Town election.</b>
<b>Second:</b>	<b>Himmer</b>	<b>Approved: Unanimous Absent: Preston</b>

Foote instructed Lowry to be sworn in by the Town Clerk. A vacancy for an alternate member now exists.

A letter from **Jones and Beach Engineers** concerning the Pineo Farms sidewalk paving has been received. Garand suggested turning the letter over to the Department of Public Works Manager for approval and Evans also asked for his comments. Wayne Morrill of Jones and Beach said the sidewalk requirement differs from Department of Transportation guidelines and the letter clarifies dimensions of the aggregate. Foote said the letter will be forwarded to the Department of Public Works Manager for comment.

### **CAPITAL IMPROVEMENT PROGRAM (CIP)**

The Town Planner's proposed 2007 Capital Improvement Program was distributed to Planning Board Members. Foote will provide Conservation Commission requests. Department heads will be heard at the public meeting. Morgan recommended scheduling the CIP for the November 7 meeting and will do the public notice.

### **ZONING ORDINANCE - PROPOSED REVISION**

Foote referenced the proposed zoning ordinance change deleting Article III Section D and noted a special warrant article would be required. Morgan asked for questions as to the intent of the ordinance change. Evans asked if the ordinance needed to be replaced or could only the wording change. Morgan said because zoning is involved, the Warrant Article is required. The proposal would put lot-line issues back in the hands of the Voters. The Public Hearing will be at the November 7, 2006 meeting.



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**PUBLIC HEARINGS:** Chairman Foote opened the Public Hearing at 6:30pm

**Case #2006-41 Proposal by Wildwood Real Estate Holdings LLC for a condominium conversion at Pineo Farms Condominiums, 33 & 35 Carroll Lane, Tax Map 4, Lot 14-123.**

Wayne Morrill of Jones and Beach engineering, appearing for the applicant, said the easements requested by Tech Review as well as floor plans have been provided. The "mystery box" is the common area line. Morgan said the Tech Review issues had been addressed.

<b>Motion:</b>	<b>Evans</b>	To accept the Case #06-41 proposal by Wildwood Real Estate Holdings, LLC, for a condominium conversion at Pineo Farms Condominiums, 33 & 35 Carroll Lane, Tax Map 4, Lot 14-123, as administratively complete for deliberations.
<b>Second:</b>	<b>Lowry</b>	Approved: Unanimous Absent: Preston

Chairman Foote polled the Board and public for comments. There being no further comments:

<b>Motion:</b>	<b>Evans</b>	To approve the Case #2006-41 proposal by Wildwood Real Estate Holdings LLC for a condominium conversion at 33 & 35 Carroll Lane, Tax Map 4, Lot 14-123, 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>	<b>Himmer</b>	Approved: Unanimous. Absent: Preston

**Case #2006-43 Proposal by Wildwood Real Estate Holdings LLC for a condominium conversion at Pineo Farms Condominiums, 34 & 36 Carroll Lane, Tax Map 4, Lot 14-122.**

Wayne Morrill of Jones and Beach engineering, appearing for the applicant, said as Tech Review recommended the water and sewer lines are now shown, easements are provided for the shutoffs that are outside the right of way, the wetlands are delineated and the markers and monuments installed. The "mystery box" is the common area line. Floor plans have been provided.



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<b>Motion:</b>	<b>Evans</b>	<b>To accept the Case #06-43 proposal by Wildwood Real Estate Holdings LLC for a condominium conversion at Pineo Farms Condominiums, 34 &amp; 36 Carroll Lane, Tax Map 4, Lot 14-122; as administratively complete for deliberations.</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous Absent: Preston</b>

Chairman Foote polled the Board and public for comments There being no further comments:

<b>Motion:</b>	<b>Evans</b>	<b>To approve the Case #2006-43 proposal by Wildwood Real Estate Holdings LLC for a condominium conversion at 34 &amp; 36 Carroll Lane, Tax Map 4, Lot 14-122, 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>Himmer</b>	<b>Approved: Unanimous. Absent: Preston</b>

Preston is in attendance.

**#2006-44 Proposal by Valerie Brown for a condominium conversion at The Nicholas Alexander Place Condominiums, 26, 28 & 30 Adams Avenue, Tax Map 15, Lots 143-1, 143-10 & 143-100.**

Henry Boyd of Millenium Engineering appearing for the applicant said he met with the Sewer Superintendent to lay out the utility lines and water shutoffs.

<b>Motion:</b>	<b>Foote</b>	<b>To accept the Case #06-44 proposal by Valerie Brown for a condominium conversion at The Nicholas Alexander Place Condominiums, 26, 28. &amp; 30 Adams Avenue, Tax Map 15, Lots 143-1, 143-10, and 143-100 as administratively complete for deliberations.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Morgan said certain shutoffs are on private property and easements are required. Boyd said he will supply the easements. Morgan said a waiver from the Planning Board is needed if the wetlands delineations are not shown on the plans. Tech Review also recommends no other dwelling structures be allowed. Foote said this is a grandfathered, non-conforming use and they are only changing ownership of certain sections of the lot. Morgan said Boyd had addressed the Tech Review issues. Evans said to waive the wetlands delineations. Himmer said that requires a written waiver. Evans



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said the plans should note that no other dwelling structures are allowed. Boyd asked if this could be on the mylar. Foote said it could.

<b>Motion:</b>	<b>Moore</b>	To approve the Case #2006-44 proposal by Valerie Brown for a condominium conversion at The Nicholas Alexander Place Condominiums, 26, 28. & 30 Adams Avenue, Tax Map 15, Lots 143-1, 143-10, and 143-100, including waiving the wetland delineations on the plan; provided (i) a note is added to the mylar that no other dwelling structures are permitted on the site, (ii) a written request for a waiver of the wetlands delineation on the plans is received by the Planning Board, and (iii) in so far as it complies with the Condominium Rules of the State of New Hampshire and meets Town of Seabrook regulations. The Chair may then sign the plans.
<b>Second:</b>	<b>Foote</b>	<b>Approved: Unanimous.</b>

**Case #6-31 Proposal by Developers Diversified Realty (DDR) Seabrook LLC for a 4-lot subdivision at 700 Lafayette Road, Tax Map 8, Lot 55; continued from August 15, 2006:**

**Case #6-32 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; continued from August 15, 2006:**

Attendees for the Developer: Jim Grafmeyer, Senior Development Director, DDR; Paul Danszczak, DDR Project Director; Stephen Lehmann, Project Director, VHB; Bill Wilcox, Wilcox & Barton environmental consultant for the demolition; Nick Cricenti, Fire Consultant.

Attorney Malcolm R McNeill Jr representing the Applicant

Lowry recused himself from this deliberation. The Secretary corrected the agenda to show this case continued from September 12, 2006. Foote noted the Department of Transportation representative will provide observations at the October 17, meeting. McNeill submitted the DDR Fire Consultant's report.

Foote said the DDR traffic aspects need to be resolved before proceeding much further on the interior of the site because traffic will make or break this project. Preston said to concentrate first on the traffic, as there are solutions. McNeill agreed traffic is the major issue and said DDR needs time to digest the Pernaw report. The Rockingham Planning Commission analysis has also been received, and the Department of Transportation representative is now involved. McNeill said DDR respectfully asks the Planning Board to consider a special meeting devoted to traffic with all the consultants/experts in attendance, and with DDR's response to issues they have raised in hand. Progress is being made with department heads and DDR would be prepared to go forward with other resolvable issues at this [10/03] meeting. Foote polled the Board as to a special meeting, noting that the October 17 meeting has a full agenda. After discussion, Morgan was asked to



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schedule a meeting on October 24, 25, or 26. Foote said the Community Center might be a good venue.[This meeting is scheduled for 6 PM October 26 at the Community Center]

McNeill said the ruling in the lawsuit is favorable to the Town and DDR. The demolition is proceeding. Preston would poll the Board as to addressing any other topics before resolving the traffic issues. Morgan attended a meeting of the Rockingham Planning Commission and asked that its position letter be issued only in draft as no representative of DDR was there. There will be another meeting and Morgan asked if any Board members want to attend. Khan will attend.

Grafmeyer requested about 20 minutes to update the Board, and also seek direction on certain items. Evans wanted to hear about the progress and also to address any items that can be resolved right away. Danszczak said the Venture building frame is about 90 percent down and mostly moved out. Work on the slab has not begun. The Route 1 gate has been closed although room has been left to enter the Sunoco Station. Access is through Provident Way. The Murray property is fenced and guarded but after this week the contractor will lock up the site at night. The utilities need to be shut down to take that building down. The entry has been cleaned up. Danszczak asked Garand for comments on the work thus far. Garand said this was satisfactory. Danszczak said a letter concerning the concrete crushing was received from Garand. The concrete crushing machine is on the site. A few days alert will be given before turning it on.

Wilcox said as this is a Brownfield site the Department of Environmental Services is monitoring on site. There are twelve ground water monitoring wells and decibel meters installed; alkalinity and also noise are at acceptable levels. The stormwater detention ponds are in place. DDR has received a temporary groundwater discharge permit. Negotiations are ongoing with a neighbor to add monitoring sites. Morgan asked when the crushing will be completed. Danszczak said it should begin in about two weeks and they have been given five weeks to complete it. Khan asked for examples where such work has been done near wetlands and salt marshes. Wilcox will research and provide relevant article(s).

Grafmeyer said Unitil should begin clearing trees next week. DDR has addressed all of the comments presented by the Town Planner and Sewer Superintendent and asked if the Board is ok with the engineering proposed. DDR's responses to the comments in the Town Planner's last letter could be addressed at this meeting if the Board wanted. Morgan said the Planning Board should take the next step which is not equal to agreeing with DDR. Foote said the Board defers to department heads requests but could look at new plans. However, traffic needs to be addressed first. Lehmann said the water issues have been resolved with the Water Superintendent and direction from the Board is needed. Sewers are the only open item. DDR agrees to have water and sewer run down Provident Way. Foote asked if this means digging up Provident Way. Lehmann said this will go through the public easements.

Moore said the Board needs to see completed plans including how DDR will work with departments of Public Works, Water and Sewer as Provident Way cannot be shut down. Grafmeyer said it is not a problem to have the designs go through the departments. Foote noted in previous decisions the McDonald's lot was to connect through to the Murray property and in the DDR plans the out-parcel



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and Route 1 driveways cover the original parcels. DDR needs to think how to handle this. Morgan said the Board needs to be flexible in dealing with the current situation and be prepared to abandon the old position; cut-throughs can go either way. Grafmeyer said DDR is willing to consider this matter, and asked for "checkmarks" on resolved items. Foote said there have been recent adjustments.

To be prepared in a comprehensive manner for the upcoming meetings, Lehmann asked for more clarity on design details that are substantially acceptable. Grafmeyer asked to run both engineering and traffic deliberation simultaneously as has happened up to now, because time is important. Evans said it would help if the Water Superintendent could send a letter stating his comments are on the plans. Moore said a current plan is needed for review by department heads. Grafmeyer asked if the Board would seriously look at the next set of plans. Foote said the plans with the new changes would be studied. Lehmann said the comments have been introduced piecemeal as additional review comments. Foote said DDR is the Town's largest project since the power plant and busy department heads can't be faulted for doing several reviews. Danszczak said the developer will direct the consulting engineer to do a current set of plans. Lehmann has such plans but wants to know if there are any fatal flaws such as with cross-connects. Grafmeyer said this is resolvable. Evans pointed out that a large number of details could be impacted by traffic items. Grafmeyer said such changes would be made subsequently. Evans asked about the shopping center name and the elevations. Grafmeyer said the working name on the plans was not meant to be offensive and DDR would like suggestions for an acceptable name. The elevations are unchanged. McNeill said this has been a good exchange and DDR will presume to go forward. Danszczak said any revisions will be on the new site plans. In the future they will be made an addendum.

Grafmeyer said fire and safety issues have been discussed with the Fire and Police Chiefs including in a telephone call among DDR, Chief Currier and Target's security person. DDR's fire consultant has submitted a report at this meeting and there is a difference of opinion with the Fire Chief. DDR will seriously consider a fair share contribution towards a fire equipment purchase and would expect other developers to be asked to do the same. DDR is looking for feedback on this matter. Preston asked if the Chiefs are receptive to this proposal. Fire Chief Brown said the concept of seed money should be considered by the Board. How the department gets the new equipment doesn't matter and Brown urged the Board not to cast this aside. Foote said the cost of such a purchase should be shared. Morgan asked Brown what his comfort level will be if the new equipment is not in place when the shopping center opens. Brown said then the Board must consider alternatives ie: is the Board in tune with Brown's approach? would DDR be willing to submit to an impact fee? is this an important enough issue to halt the project? is DDR's proposal a viable option?

Brown said his request for a platform truck has been in the CIP for 8 years, and it can't wait another five years. Khan asked about the cost. Brown said the minimum for usable equipment, even if used, would be between \$500,000 and \$600,000. Danszczak asked if this is replacing existing equipment. Brown said "no", both are needed. Danszczak asked if leasing is an option to finance the payments. Brown said this is a public safety concern and leasing is an alternative to consider. Danszczak asked if Brown would look into leasing. Brown agreed. Grafmeyer said DDR's suggestion to consider a Tax Increment Financing District (TIF) was turned down by the Board of Selectmen,



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and asked if a presentation could be made to the Planning Board. Preston asked whom this would benefit. Grafmeyer said Seabrook needs more than what DDR can mitigate. Foote said available information on TIFs is confusing and she has learned of an expert from the Claremont area. The Town needs to learn more before saying "yes" or "no" to a Warrant article enabling TIFs. Moore said a TIF would take part of the tax money meant for the Town and the Town would have to issue a bond. Foote said a TIF could be used to purchase items not dependent on a default budget. Moore said he is familiar with a Canadian TIF for an economically depressed area which went belly-up for lack of revenues. McNeill said DDR is willing to bring a known expert for a presentation. Grafmeyer said TIFs can pay for more than the developer's needs. McNeill said the Planning Board could suggest a TIF to another developer, even if not for DDR's project. Preston said there is no problem in bringing someone to discuss TIFs but to keep the traffic focus.

Police Chief Currier said the developer should not dictate policy. The Chief met with Grafmeyer and the Target person looking at all of the buildings' impact. The need is to get beyond the traffic first because it is already a problem and suggested the Planning Board do its own traffic study as the DDR study didn't go far enough into bottlenecks on Route 1 and the Route 107 Bridge over Route 95 which are a traffic nightmare. The roadways as currently designed can't support the proposed new traffic. No donations have been addressed. Foote said on Saturday she sat at lights, with traffic backed up to interfere with the Route 95 South exit traffic. Studying the traffic at these locations was left out of the scope of Department of Transportation and Rockingham Planning Commission reports. Currier said with 1800 vehicles per hour the scope needs to be better understood. The Target person was not too familiar with the substantial negative impact on the current problem.

There being no further comments from the Board, Foote asked for comments from abutters. David Baxter asked what the Chiefs would want so the developer can address that. One item could be a light and widening at Rocks Road which would be minor money. Khan said it is good to get the Board's view. Foote said no one individual or entity is solely responsible for the Route 1 traffic resolution. Rather it was the shortsightedness of the State when Seabrook was forced to look at expanding the tax base when \$13,000,000 of its tax revenue was removed due to the utilities tax and school funding. The Town was forced to increase development for added tax revenue. The State should look at Route 1 from border to border and perhaps levy share costs on assessed value per linear foot. Baxter noted the Advanced Auto contributions amounted to 7.5 percent and included \$50,000 for road widening and \$25,000 toward the traffic light. The developer should pay for what's fair and appropriate and that would go a long way. Charles Movarti of the Sunoco Station suggested a community focus group. Foote commented this is a State road and the State has say over changes to the road. Angeljean Chiamida of the Newburyport News, asked about continuing studies and would the Town do a traffic study as to what would be sufficient. Morgan said that is the purpose of the Route 1 Corridor Study. Foote said Routes 107, and 95 are out of the scope of the corridor study area. Chiamida asked if there is an evaluation.

Moore said this is a public safety issue to get people out of town. Evans said the DDR project affects the Town's quality of life including that its good for the tax rate, brings more shopping close by, and the community's regard for Target. Seabrook is a desirable area and the geographic



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location can't be ignored. Moore said traffic can't go East. He is not opposed to retail but is concerned for emergency vehicles. When Route 286 is backed up in the Summer, traffic goes through the side streets. The power plant has about 1000 employees. Foote said the concern is for any type of disaster not just nuclear, and acts of nature are more likely. McNeill said DDR wants to make reasonable use of its property and has offered a fair and reasonable contribution in an attempt to balance the issues. It is open to discussion and glad for the opportunity. Arleigh Green supports looking at a TIF for fixing pre-existing issues such as getting equipment once and for all. It's not fair to put this all on DDR.

There being no further comments from the Board or abutters, Foote continued Cases #2006-31 & 32 to October 17, 2006 at 6PM.

<b>Motion:</b>	<b>Evans</b>	<b>To adjourn the October 3, 2006 meeting at 8:45PM.</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous</b>

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

<b>MYLARS RECORDED</b>		
09-21-06	Declaration of Condominiums -121 Pineo Farms Condominiums, 28&30 Carroll Lane.	D34165
09-21-06	Declaration of Condominiums - 120 Pineo Farms Condominiums; 14 & 16 Carroll Lane.	D34166