



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; Sue Foote, Vice Chair; Jason Janvrin; Robert Fowler; Dennis Sweeney; Elizabeth Thibodeau, Robert Moore, Ex-Officio; Francis Chase, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Paul Garand, Code Enforcement Officer;
Members Absent; Paul Himmer, Alternate; Michael Lowry, Alternate;

Hawkins opened the public meeting at 6:34 PM
Hawkins introduced Chase as a new Alternate Member.

MINUTES OF JUNE 21, 2011

Hawkins asked if there were questions or corrections. Thibodeau said "Keeland" was a typo and should be Keelan throughout.

Hawkins held the June 21 minutes to the next meeting.

MINUTES OF JUNE 7, 2011

Hawkins said the June 7, 2011 Minutes had been accepted, however the 2011-03 vote on pages 11-12 should be stated as approved.

MOTION:	Thibodeau	to correct the June 7, 2011 Minutes to state that the Case #2011-03 vote re driveway regulations on pages 11-12 was approved.
SECOND:	Moore	Approved: In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Chase;

Hawkins said because of the crowded agenda he wanted the new cases to be heard at this time and then move to the ongoing case. He asked if there were objections; there being none.

PUBLIC HEARINGS

Hawkins opened the public hearing at 6:30PM.

NEW CASES

Case #2011-14.10-01 – Proposal by Steven Carbone to amend his site plan approval for proposed commercial development at 287 Lafayette Road, Tax Map 9, Lot 64.

Hawkins noted that this application is a change to a previously approved plan and would be heard later in the meeting as the representative had not yet appeared.

Case #2011-15E – Proposal by Ann Westervelt d/b/a Be A Blessing Christian Book to open a book store at 10 Collins Street, Tax Map 15, Lot 1.

Attending: Ann Westervelt

Hawkins asked if this was just a change of use. Westervelt said she bought the property which had a convenience store and Laundromat. They cost too much to run, so she renovated the buildings and established a catering business which is doing very well. Now she wants to turn the convenience store into a Judeo-Christian book store selling books, and related items. Hawkins asked Morgan and Garand if they had any issues. Morgan did not. Garand said he



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

knew the property very well and had no issues with converting the convenience store into a book store. There are no parking issues. Hawkins asked if any increase in traffic was expected; Westervelt said absolutely not, and thought it would be a great improvement to the property. Hawkins asked for questions or comments. Thibodeau thought it a good idea. Foote also thought it was great.

MOTION:	Foote	to accept Case #2011-15E as administratively complete for jurisdiction and deliberations.
SECOND:	Chase	Approved: In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Chase;

Hawkins asked for public comment; there being none.

MOTION:	Moore	to approve Case #2011-15E –Ann Westervelt d/b/a Be A Blessing Christian Book to open a book store at 10 Collins Street, Tax Map 15, Lot 1;
SECOND:	Thibodeau	Approved: In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Chase;

Case #2011-16E – Proposal by Marcia Stinson & Steven Tilley, and Ann Westervelt to open a snack bar at 14 Collins Street, Tax Map 15, Lot 1

Attending: Marcia Stinson, Steven Tilley, Ann Westervelt;

Hawkins asked what the applicant wanted to do.

Stinson described opening a snack bar selling coffee, juices, water, hot dogs and snacks mostly for people going to the beach. Hawkins asked for Morgan and Garand's comments. Morgan had no issues. Garand said they would have to take care of the health and building permits for this use, and had no other issues. Hawkins asked for comments from the Board and the audience; there being none.

MOTION:	Moore	to accept Case #2011-16E as administratively complete for jurisdiction and deliberations.
SECOND:	Thibodeau	Approved: In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Chase;

MOTION:	Chase	to approve Case 2011-16E - Marcia Stinson & Steven Tilley, and Ann Westervelt to open a snack bar at 14 Collins Street, Tax Map 15, Lot 1;
SECOND:	Thibodeau	Approved: In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Chase;

Hawkins said that since the representative for Case #2011-14E was not yet in attendance, the Board would hear the Ongoing Cases.



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

ONGOING CASES

Case #2011-02 – Proposal by DeMoulas Super Markets, Delta & Delta Realty Trust, and RMD, Inc. for a voluntary lot merger at 380-458 Lafayette Road, Tax Map 8, Lot 111; and Map 9, Lots 1 & 2, from January 4, 2011.

Appearing for the Applicant: Jim Lamp, J & CO; Ari Pollack, Gallagher, Callahan & Gartrell; Earle Blatchford, Senior Project Manager, Hayner Swanson, and Rebecca Brown, TEC;

Attending:; David Saladino, RSG Traffic Engineer, Peer Review for the Planning Board; Jim Kerivan, Altus Engineers for the Department of Public Works;

Hawkins said that Case #2011-02 Applicant had requested that this case be voted on at the meeting in which the vote would be taken for Case #2011-03, the Demoulas south site plan. It would not do to vote on one without the other. Accordingly, later in the meeting Case #2011-02 would be continued or voted on depending on the status of Case #2011-03.

Case #2011-03 – Proposal by DeMoulas Super Markets, Delta & Delta Realty Trust, and RMD, Inc. to demolish a 4,940 square foot donut shop, and to expand Southgate Plaza to encompass 156,838 square feet of retail space at 380-458 Lafayette Road, Tax Map 8, Lot 111; and Map 9, Lots 1 & 2, continued from January 4, 2011, March 1; 2011, March 15, 2011, April 5, 2011, April 19, 2011; June 7, 2011; topics: traffic, stormwater; drainage; landscaping, signs, wetlands, snow storage, irrigation;

Appearing for the Applicant: Jim Lamp, J & CO; Ari Pollack, Gallagher, Callahan & Gartrell; Earle Blatchford, Senior Project Manager, Hayner Swanson, and Rebecca Brown, TEC;

Attending: David Saladino, RSG Traffic Engineer, Peer Review for the Planning Board; Jim Kerivan, Altus Engineers for the Department of Public Works Manager John Starkey;

Hawkins said Zoning Boundaries was another topic to be addressed, along with traffic and sidewalks, stormwater issues, the new planset, and landscaping. He wanted to get stormwater off the table explaining that a few meetings ago the Board asked the Applicant and Kerivan to resolve the stormwater issues outside of the meeting because that would be more efficient and faster. He hoped there was now agreement on something the Planning Board could support.

[Janvrin joined the meeting.]

Blatchford said that since the June 7, 2011 Planning Board meeting they submitted a response letter dated June 29, 2011 responding to Morgan's comment letter of June 5, 2011. A revised planset and letter was submitted a week ago, and Attorney Pollack had submitted a conditional use permit relating to the split zone on June 5, 2011. Blatchford said that since the last Planning Board they have worked with Kerivan and Eric Saari of Altus Engineering and made some changes to the Plan to meet their comments, which Altus had signed off on. Also, the [Planning Board] engineer had submitted a letter dated June 13, 2011 approving the drainage, water, sewer, and traffic, provided the construction escrow calculations, and the fair share traffic contribution.



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Stormwater and Drainage

Kerivan pointed out the watershed area for Sheppard's Brook which Starkey asked him to look at because of the problem with flooding downstream. Starkey wanted at least a portion of the watershed taken off the brook, and transmitted over to Railroad Avenue, Boynton Lane or across Route 1. The Applicant declined, but did offer to help fund a study. Nothing has been done on that since early in the project. The design for the new section is to use detention ponds and slow the runoff down before it gets to the outlet. In the original design the rate of runoff for post development was less than or equal to pre-development. Kerivan said the flow was no greater than before, but the volume was greater. They were asked to infiltrate the water which has been done in the second generation of the design. Now the volume at the outlet is less than or equal to what's happening today. The third generation of the design worked out all the hydraulic glitches with some ponding in the parking lot; those issues have been resolved dealing with the entire design of the drainage system.

Kerivan said an issue noted at the TRC meeting by Sue Foote about erosion control at the outlet at the head of the Brook had been addressed with a plunge pool plus a box culvert. The only last issue for Altus was with mosquitoes at the detention pond. He was told that the mosquito control program will be put into the Operations and Maintenance Manual, and asked if that had been done. Blatchford said that was not added; he thought about bat houses and addressed this in the June 29 response letter. Foote said one concern about mosquito treatment was if the larvae were traveling down the whole of Sheppard's Brook where they may not be wanted, what would other aquatic bugs might it be targeting through the whole length of Sheppard's Brook and Cains Brook. Janvrin added the concern that the detention pond near retail #2 was not directly connected to Sheppard's Brook. Foote said it was, pointing out that the overflow drains out through the whole area. Blatchford said everything discharges there. He said they would implement any measures that would be acceptable to the Board and the Conservation Commission such as bat houses. Foote said the boxes would be preferable. Janvrin asked about trees. Blatchford said there are trees on both sides. Foote preferred natural control to chemical control. Hawkins asked what the town does for mosquito control in other spots. Foote said it treats some stagnant areas with BT which specifically targets only mosquito larvae, and suggested considering using some BT dunks. Janvrin asked if this was used behind the Home Depot. Foote said that detention pond was large enough to support fish and frogs that eat the mosquito larvae.

Hawkins asked if Kerivan had no other open issues with the plan, and if Starkey agreed. Kerivan said he informed Starkey who felt that the town regulations were met. Hawkins asked for comments or questions re the stormwater. Janvrin said if mosquito control were a requirement put into the maintenance manual, and BT was acceptable, he was comfortable. He also like bat houses. He'd walked through a pretty good stand of wood, as well. Foote said the wetland area would still be wooded. Hawkins said a green corner would be left. Janvrin commented that behind the detention pond was quite a bit of untouched wood. Hawkins asked Morgan if a mosquito program could be a condition of approval. Morgan said it could. Hawkins was happy that the resolution could be worked out.

Zoning Boundaries

Hawkins asked Morgan to explain the zoning boundaries and conditional use issue. Morgan said that in March of 2010 the Town Meeting amended the Zoning Ordinance. Prior to that time if a project was on more than one zone, the recourse was to the Zoning Board of Adjustment. Now if more than one zone is involved the recourse is to the Planning Board for a conditional use permit. Morgan said in reviewing the Case #2011-03 site plan recently he noticed that the zoning



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

boundary was incomplete and asked that this be depicted on the plan. The latest revision shows the zoning boundary where it should be, but partly beyond 500 feet east of the center line of Lafayette Road. He suggested that the Applicant apply to the Planning Board for a conditional use permit. He referred to criteria for judging such requests in Section of the Zoning Ordinance: "...if the Planning Board determines (i) no traffic impact, or (ii) it is satisfied that the traffic impact is mitigated sufficiently..." then the Planning Board should grant the conditional use permit. He noted that the Applicant would provide close to \$100,000 in mitigation and the Board's traffic engineer is satisfied. He recommended granting the permit. Moore asked where the line had been added. Hawkins said page 1 shows where the line cuts through. Pollack said the dotted line had been added to show the zoning boundary; they had been pushing it to the rear of the site. Morgan said if the Board was inclined to grant the permit, a motion would be in order. Hawkins said this is an existing condition. Morgan said the old part of the center was grandfathered; the need for a permit was because in the north part they are expanding the building.

MOTION:	Janvrin	to grant a condition use permit for the extension of the Market Basket as requested by the Applicant for Case #2011-03
SECOND:	Thibodeau	Approved: In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Janvrin;

Traffic and Exactions

Hawkins asked for a summary of traffic and the state of the exaction fees, after which the Board would address the issue of the State and the Town not wanting to deal with sidewalks, and the Planning Board needing to come up with a solution.

Brown said a concept plan was shown at the last meeting with a left-turn lane and a shared left-right lane coming out of the main driveway. They were requested to approach the NH Department of Transportation for an exclusive right-turn lane as well. In a meeting the NHDOT was not in favor of maintaining a channelized right turn because of previous issues with plowing at the island; to get the island to a better place would be reducing the storage too much. NHDOT asked for an exclusive right-turn lane. The plans have been modified for an exclusive right-turn lane as well as having an overlapping phase, so that when left turns are being made into the property right-turns can also be made. Hawkins clarified that there are now three lanes where previously there were two. Brown said NHDOT had approved this new plan, only asking for certain hatching (striping) to be removed. Hawkins asked if that area had been raised. Brown said it had not.

Hawkins wanted it clear that the Planning Board would use the exaction fees as calculated by RSG, its traffic consultant, and assumed that that was what the Applicant was using. Brown said they have also asked for comments from RSG; she thought that in general they were in favor of a [new driveway configuration]. Hawkins asked if a new page needs to be substituted in the planset. Brown said one plan showed the right turn coming out of the center left lane; an updated plan was submitted.

Hawkins asked for RSG's comments. Saladino said his 3-page May 31, 2011 memorandum was most recent and highlighted two items together with thoughts on the traffic study. One item was the main driveway issue discussed by Brown (above). He said the new plan covered traffic and capacity adequately. The other item does not have an easy answer. It relates to the Route 1/107 intersection which shows volume capacity ratios of close to or greater than 1.0. This means that



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

during the time that the traffic analysis looked at, a busier than average day, volume is projected to be above the capacity for one-half of the movements. The impacts from the Case #2011-03 development sends 37 trips through on a Saturday compared to the approximately 700 trips through the intersection at that hour. This is a relatively small number, but it is still additional trips going through the intersection. Saladino said the Applicant had agreed to \$90,751 for exaction fees of which a little more than \$33,000 toward the Exit 1 ramps, and 56,000 for Route 1 south. So the contributions for those two items was agreed. Saladino said as of yet no improvements have been suggested for the Routes 1/107 intersection. Hawkins asked if that intersection had come up in discussions with the NHDOT, and if have they acknowledged that maybe the plan on the books would not be adequate. Saladino said it did. He explained that he had been on the receiving end of comments on other traffic studies where at a point like this when NHDOT would say to suggest a fix. He asked why that kind of suggestion was not made in this case; Saladino reported that NHDOT said they did not know the answer. Beyond what DDR has proposed for the intersection, the footprint was pretty maxed out, without a clear next level of widening. He noted that the traffic calculations all assume that the new lanes proposed by DDR are in place, and [the intersection] is still at capacity.

Hawkins asked if Saladino was suggesting that the capacity for Route 1 development had been hit. Saladino said this capacity was about a peak hour or peak 15 minute window. It is a question of what the community wants to deal with. The regulations say to minimize traffic congestion. From a traffic engineering standpoint, the volumes going through that intersection are above capacity during that peak hour. In terms of exaction fees, the regulations state that there has to be a plan on the books to apply the money. As of yet there is no defined project for that intersection. RSG recommends that the Applicant either suggest an improvement or put forward some money to identify what the next expansion is, so that future developments can put exaction fees toward that next widening. Janvrin asked if the exaction figures referenced are for the town portion. Saladino said a portion of that figure is for the State. Janvrin asked if the town is acting as agent for the State. Hawkins said the money would go to the State; the town is just collecting the money to hold for a short time.

Foote did not see how there could be anymore expansion of the Routes 107/1 intersection beyond the DDR proposal. Janvrin noted that some of the discussion was about cross-cuts from lot-to-lot. Market Basket couldn't do a cross-cut to Railroad Avenue. But at some point there could be a cross-cut from Boynton Lane to Wal-Mart Plaza to take some of the traffic off of Route 1. He thought that could happen at some point. Foote asked about the Route 107 intersection. Janvrin thought Chevy Chase Road could be involved to get traffic off the intersection. He asked for the level of service. Saladino said it was at D and would be E in the future. Hawkins asked if the intersection could be widened at the northwest and southwest corners. Foote said not within the State right-of-way. Hawkins said there was no building sitting on the corner. Foote said the northwest is the town's property with historical value; on the southwest side is the cigarette store with detention ponds to the edge of their property along Route 1 and Route 107. Janvrin said on the other side of that intersection was the "yellow building" which is right on the road. CVS also had some frontage. Hawkins said this is a difficult problem that would have to be addressed in the not too distant future.

Janvrin asked if Saladino was suggesting an exaction to study this. Saladino said they proposed \$5000 to come up with a conceptual plan to look at what would fit within the existing right-of way and the edges of pavement for the DDR improvements. The exaction formula requires something [to apply money too]. Janvrin said that might impact Market Basked north. Foote said or any other plaza that redevelops. Hawkins asked Saladino if that was the only issue that hadn't been addressed [for Case #2011-03], and asked if he was satisfied on all the other exactions



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

and the traffic flow and volumes as they had been described to the Board. Saladino said he was. Hawkins asked if the Applicant wanted to donate \$5000 [toward an intersection study]. Pollack said that was not his decision, but observed that the reason this is a pickle for everyone is that there is no project conceived, budgeted, and in concept somewhere to fix this problem. That creates a scenario where the Applicant is looking to fix, or contribute to a fix, for something that does not exist and the ordinance does not create a value for it. Hawkins said that is why he asked for a donation. The Board understands that somebody has to come up with a proposal as to how to deal with that intersection in the future. He would like it to be the State. If this isn't done, everything would grind to a halt. When people bring forth projects, the question would be how to mitigate the over-capacity issue that exists at that one intersection without a plan. Hawkins said he liked Saladino's suggestion to get started on studying the intersection even if it means asking the State to come up with [a solution]. He thought that the Applicant agreed that the problem exists and will exist in the future. While the Case #2011-03 project isn't very heavy on traffic, it will make a contribution to some level of the problem. He thought it would be appropriate to request [the \$5000] and thought the money would go back over time if nothing were done.

Lamp did not have an issue with any of that. Pollack said that before having a discussion of a gift and how much should be considered, the technical answer is that the number should be 0 because there is no present project within which to charge. Hawkins agreed there wasn't an existing exaction number [for the intersection], but the problem is known. He said the Board would create a donation number at this meeting or follow Saladino's recommendation. Lamp asked what the level of service is currently for that intersection. Saladino said D. Lamp said in the future is drops to an E with all of DDR improvements. He wanted to see what else might be put on the table before acquiescing to the donation. Hawkins said that was fair, and asked Morgan to add this to the conditions to be discussed at the end. Hawkins asked if Saladino was through with his comments. Saladino said he was. Hawkins asked if the Board had any other comments or questions in re the traffic or exaction fees. Chase asked which movements had the greater affect on the calculations; is the traffic on Route 1 more of a problem, or if it was going over Route 95. Saladino said the worst operating movement was Provident Way once the DDR traffic was factored in. It's a small number, and mostly the distribution of delay is spread around. This means that traffic is moving evenly through the intersection. Chase asked if the traffic coming out of Demoulas south is going over Route I-95 or is it going north. Saladino thought most of it turns left toward I-95.

Sidewalks

Hawkins wanted a solution to the sidewalk issue saying the [town] would not do without sidewalks. He asked if they could be moved out of the right-of-way. Neither the Board of Selectmen nor the State has budged. Janvrin added that the regulation requires this. Hawkins noted that other applicants have been asked to move the sidewalks back off the street onto their property. Janvrin called attention to what is existing today. Hawkins said the Board would do nothing about that. The attention [for Case #20011-03] is on Retail #2. Lamp said they've agreed to build and maintain the sidewalks. The Town has not told the State it would take over, so that the Applicant can take it over from the Town. There is already a small section of sidewalk at Boynton Lane that is agreed to be maintained by the Kohl's as part of their improvements. Hawkins was not saying that it is not doable. There would have to be contract language that would satisfy the Selectmen. He thought Pollack would agree that once the Town's name is there, you can transfer liability, but not completely. The Selectmen are hesitant about getting the town involved in any liability that they perceive to be the State's. Pollack agreed that one can't ever eliminate the possibility of being named or having some amount of liability. When talking about a municipality contracting away the obligation to do something to a party that is doing



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

similar things on dozens of sites in the region, the risks are fairly minimal considering that this really is a “catch 22” and there is no other way out.

Janvrin’s major concern was during the winter months. He said the past winter was awful, but two years ago the State did not shovel salt, sand or anything on the sidewalks. The option was to walk on the Route 1 roadway or private property. Pollack said that is why if the town takes the obligation, the Application would do this. Lamp said they would do it for the town with the caveat that sidewalks will not be maintained during the winter. Hawkins said the State doesn’t maintain them now. Lamp thought the winter issue is moot. Janvrin thought that if the Town assumed liability and someone slipped and fell on the ice, the liability would fall on the Town of Seabrook and not on the State or the Applicant. He thought that was the Selectmen’s issue. Hawkins said that the State transferred the liability to the Town and they don’t feel like their liability is very high after having done that. Hawkins asked if the Selectmen have had [this] discussion, Moore said the Town will be responsible to maintain and control a sidewalk on someone else’s property. Hawkins asked what the discussion was about transferring the liability to the property owner. Moore said if the State will not allow the sidewalks without some kind of agreement, he assumes that Demoulas will build it on their property. Lamp said they won’t put it anywhere unless they can get the State to agree.

Lamp noted that the sidewalks are in the regulations. They could agree to build the sidewalk within a three-year time period if they could come to agreement with the Selectmen on how it gets built. It could be a condition of approval to give some time to figure out how to do it. This is something the Town has to figure out, because there will be other issues down the road. Janvrin asked if the sidewalks would be an item in the security, and would that amount be sufficient to hold them accountable for six years. Foote said the security is held for two years. Janvrin said it is non-lapsing to the completion of the project. Hawkins thought they asked the State whether the town could transfer liability to the property owner through the same agreement that they transferred it to the town. The State responded “no”, which is a different answer than what Demoulas got. Lamp said they were told that the Town would have to enter an agreement first and then they would have to enter agreement with the Town to take that liability. Lamp said such an agreement would have to be in escrow. Pollack’s understanding of that arrangement was that the State was not going to simply exonerate the Town. NHDOT did not have a problem with the town having an agreement with a private party. But the State was wanting to be able to hold the town responsible down the road if the arrangement with a property owner doesn’t come through. He did not think the State was saying that this could not be done, but it would not let the town off the hook.

Morgan recalled that he had asked Steven Ireland of NHDOT for a copy of the written policy; the response was they do not have one. Lamp said if the Town is concerned about entering into an agreement with the State and not having it followed up, he would recommend that the Agreement between the Applicant and the Town be signed and held in escrow until the Town has an agreement with the State. Foote said this is state property - state land, and asked why the State is insisting that the town has to get involved. Why wouldn’t they do a memorandum with the property owner, without insisting that the Town be the middleman. Hawkins thought this was because the Town would be here; individual property owners might be a problem in the future. Foote said the State is the problem. Janvrin asked whether the sidewalk at the Kohl’s is on State land. Moore said what was agreed to is a very small piece at the sidewalk signal, and not the whole sidewalk. Blatchford asked what the status was for sidewalks in the State right-of-way. Morgan said they are not maintained in the winter.



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Lamp asked who is responsible. Hawkins said at this time the State is responsible. They have changed their policy to try and shift all the liability and the maintenance to the towns or to property owners, however they can. Foote noted the State maintains the sidewalks in Exeter. Blatchford asked if only the newly constructed sidewalks were being discussed. Janvrin agreed. Moore said the State had allowed it for years with no problem; now all of a sudden it is an issue. The Town does not want to be responsible for a sidewalk on their [State] property. Janvrin asked if Market Basket were to approach the Selectmen to enter into an agreement, would the Town be willing to go to the State just for the new sidewalk section. Pollack suggested that a condition of approval require the Applicant and the Town to try to come up with some form of agreement, with the State as a party because it is on their land, that Demoulas will be responsible. He then asked what would happen if there is no agreement. He thought that if some money were put into escrow in good faith for a period of time, and if during that time the town won't bend and the State won't bend, then the sidewalks don't get built. Moore did not understand why the town should be in the middle. Pollack said it is because the State wants it.

Hawkins asked if the sidewalk were moved off the State highway land, where would it be, ie is there room inside the property line to move sidewalks off the street. Lamp said probably not where the detention basin is. Blatchford said there was a swale. Lamp said the issue would be the same as to where to connect to the State sidewalk; he thought that an agreement would be necessary. Hawkins said the preferred methodology would be to establish an agreement between the Town, the State and the Applicant. If that cannot be done, to address the issue of moving the sidewalk off of the right-of-way. Lamp's concern was if that could be done. Lamp commented that they would spend more money going to another hearing than the sidewalk costs. He was just trying to get this done. Hawkins said the problem is that the Planning board does not have the authority to make a sidewalk decision. Lamp asked if the Board could waive the sidewalk requirement. Hawkins said the Planning Board wouldn't do that. Lamp said the Board would have the authority to do that. Hawkins said that would be a last resort. The State is stonewalling and putting the Applicant and the Selectmen in the middle. The Board thinks sidewalks are needed along Route 1. In the past, applicants have been asked to move them off of the road and to put it on their land. Right now there is an impasse and another methodology is needed. Janvrin noted that the Wal-Mart plaza sidewalks are not on Route 1.

Pollack thought the Applicant was comfortable with the condition that causes it to try to work out an agreement to leave sidewalks within the State right-of-way and maintaining it. If that should fail, the Applicant would consider moving sidewalks onto their property, although at this meeting they couldn't say it was engineering feasible. Option three would be to come back with a request that the Board waive the sidewalk requirement. This would require demonstrating that working out an agreement or moving the sidewalks got nowhere. Janvrin said there would be a surety for it.

Hawkins said the conditions would be: (i) an agreement among the State, Town and Applicant, (ii) if (i) is not possible, to move the sidewalk [onto the Applicant's land], and (iii) if (ii) is not possible, to request a waiver to eliminate the sidewalk in that [new] section. Chase asked if the swale was the only issue about moving the sidewalk onto the Applicant's land. Blatchford said that was potentially the case. Hawkins said the Applicant had not had the opportunity to go look at this in detail. He was sure there would be a solution. Hawkins asked if there were any other questions relating to sidewalks; there being none.



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Landscaping Plan

Hawkins said other than waiving some requirements in the parking lot, this hadn't been much discussed. He noted that the stormwater management area planting plan begins on page 24, but that landscaping did not agree with the details in the landscape plan. Blatchford said plans prepared by two different landscaping individuals supplemented each other. The stormwater management plan detailed specific plantings. Hawkins thought the most important part of the landscaping plan, other than the aesthetics for which a decent effort was made, was making sure that the boundary landscape plan for the neighbors would not allow a lot of headlight intrusion and would cut down on the noise. The ordinance talks about the 10-foot buffer as well as the density. Some of the area looks ok, but he did not see anything in other areas. Specifically, on pages 26 and 27 near Boynton Lane there is a house next to where there are plantings that look like 6-foot Norway Spruce packed together along the boundary; this looks like it would provide a decent block for that homeowner. At the north section of the plan there is the fence on the corner which he hoped would satisfy the neighbors in that area.

Hawkins said at the back of the employee parking area there was not a lot planted along a huge section. He wanted to be assured that the density is what was requested for a 10-foot buffer zone all along the property line. He pointed out the areas of concern. Blatchford said that that area was intensely wooded including the remainder of the wooded wetlands; it is a heavily wooded swamp. Lamp said that is all existing woods which would not be touched. Blatchford said they are filling the front part but the back half remains wooded; there was some new shading on the plan to differentiate it from the rest. Lamp said the construction fencing would delineate this. Blatchford said it is the most heavily buffered section in the site with natural vegetation. Some ornamental trees and shrubs were added to help with headlight intrusion. They thought that TF Morgan had done a good job in addressing those issues. Moore asked if the proposed fencing would be like that at the Kohl's, and not a plain stockade fence that would get knocked down in a strong wind. Lamp said it would be treated lumber and not a stockade fencing. Blatchford pointed to the detail on the plan. It would be solid and without gaps Foote thought that the fence would wrap around the corner. Blatchford said they agreed to extend it 100 feet along the back. Janvrin said that was depicted on page 8.

Hawkins said for the most part the planting sizes were changed to follow the ordinance. Blatchford said the representative from TF Moran had attended a hearing and that the planting sizes typically exceeded the caliper requirements. Morgan noted that the landscape architect had some trees at Boynton Lane right-of-way. Blatchford said those were three existing trees that remain, and said that existing trees had been shaded on the plan. Morgan called attention to Sheet 27. Lamp said they are adjacent to the proposed right-of-way easement. Lamp said if the Board was uncomfortable, they could be moved back five feet. Hawkins asked if there were a reason to move them. Morgan wanted to be sure that everyone was clear about what was being proposed in re the easement, and that there was a feasible way forward. Hawkins said in ten years those trees would be too big to move. Morgan noted that when scaled, the proposed easement was 40-foot wide which Saladino has thought somewhat tight. Janvrin asked new projects would be required to provide a 50-foot right-of-way. Morgan said that would be for a new subdivision, but in this case it was a matter of negotiation. He wanted to be sure that what the Board was looking at was feasible. Hawkins said the Applicant did have the land, and asked about the next person down the street if it was widened on the north side of the road. Morgan said after Demoulas it was almost there.

Janvrin asked how much was being added to the right-of-way. Lamp thought about 10 feet. Janvrin said it would be a definite improvement. Lamp said the 28-foot road that they are



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

widening would still be about 15 feet of greenspace off the proposed right-of-way. Foote thought it would not hurt to push about six plants a little closer to the building, if nothing else for branches, line of sight etc. Lamp said they would move the trees off of the right-of-way for the clearance requested; they could go back even 10 feet. Foote said it would be a shame for 20-year majestic trees to have to go away because they weren't moved back. Janvrin thought some trees in that area were 29 years old. Janvrin said there were two telephone poles in that Boynton Lane region near the service drive. Blatchford said they would be relocated back.

Right-of-Way Easement

Morgan said the response letter indicated that the right-of-way easement to the Town would be dedicated at such time that they move forward. He thought it would be simpler and cleaner to dedicate this now. Pollack said they were not in the business of giving land away until the Applicant and the Town know that the project would move forward. He asked what mechanism would be put in place to make that happen. Pollack said this could be documented as a condition of approval, or a memorandum between the Applicant and the Town, and would be recorded. If owners were in the business of deeding easements for projects that may or may not happen, this kind of project would not have been possible. Janvrin asked for that to be a condition. Hawkins did not have a problem having a contract that says that when the road gets widened Demoulas and their successors will donate that land for the building of the road. Pollack said a contract could be recorded and run with the land; it would then obligate whomever is in possession of that land at the time the Town decides to go forward.

Lamp thought this would be on the utility plan to allow for more turning room. He thought there would be at least 12 feet for whatever the town proposed to do. Foote agreed that there should be a memorandum of agreement indicating that should Boynton Lane ever be improved to go through to Liberty Lane then the easement goes into effect. She noted that unencumbered by easement land has a higher value for tax purposes. Lamp was sure they pay their share. Chase asked if the utility poles would be set back 8 feet or as shown on the plan (Sheet 11). Lamp said they are located within the right-of-way. Blatchford said with widening they would have to be moved, but typically municipalities get them moved for free. Hawkins asked if there were other questions or comments relating to the Boynton Lane Easement; there being none.

Response to Town Planner's Comments

Hawkins suggested going through Blatchford's response letter of June 29, 2011 to the Town Planner's Comments of June 5, 2011 so the Board could discuss particular items as needed.

Item #1 – Exactions: Hawkins asked Saladino if the exaction numbers as stated in Blatchford's letter were accurate (Item#1): \$33,866 for the Bridge project, \$34,535 for the Town, and \$22,350 to the NHDOT for Route 1 widening. Saladino said those numbers were correct.

Item #2 – NHDOT confirmation re right in/out: Hawkins asked if the State was in agreement with the right in/out request. Brown said they had received an email from NHDOT on the 3 Lanes coming out and the right in-out improvements proposed along Route 1, and the channelizing at the main signal. [email submitted].

Hawkins asked Morgan to continue by telling the Board whether he agrees or disagrees with a response item.

Item #3 - NHDOT letter about corridor alignment. Morgan said this was addressed at the last meeting;



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Item #4 – employee parking pavement: Morgan said the Applicant did not agree with the NHDOT suggestion for using pervious materials. Lamp said this was also discussed at the last meeting. Hawkins recalled that the Applicant had used such materials in other spots and found the results satisfactory. Lamp added that it did not work for retail uses, although might work for areas with less traffic;

Item #5 – sidewalks: Morgan said this is still on the table;

Item #6 – zoning boundary: Morgan said this is now depicted correctly;

Item #7 – snow storage: Blatchford pointed to the parking layout – signage plansheet and said the snow storage had been pulled back from the areas of concern eg adjacent to driveways, and the plansheet adjusted. Hawkins commented that the big concern was at the main intersection near retail #2. Janvrin referenced the snow storage abutting the detention pond near Retail #2. Normally this would not be an issue, but he was concern was road salt. Foote thought there would be a lot of road salt used for the project. Hawkins asked if salt was used in the parking lot; Janvrin said it was. Lamp said it all ends up the way the system was designed no matter where the snow is stored. Foote said the soil is so salty from the existing road salt that dad been dumped.

Item #8 – prohibiting outdoor sales displays in access driveways and parking areas: Morgan said a note had been added to that effect;

Item #9 – refrigerator truck and dumpster hours: Morgan said a note had been added with hours of 10PM to 7AM.

Item #10 – lighting hours: Morgan had asked if hours of 6 AM to 1 AM were reasonable. Hawkins asked for the store hours. Lamp said typically 7AM to 9PM, which are the same at all of the Applicant's sites. Restocking takes place up to 1 AM. Janvrin had observed that people are gone by about 12. Hawkins thought the lighting plan shows that no light leaves the property. He asked if the Board had issues with the 1 AM hour; there being none.

Item #11 – funding toward analysis of downstream flow: Morgan noted that the Planning Board engineer had suggested it would be a good idea for the Applicant to contribute to a study re the downstream flow to Sheppard's Brook. This was discussed in March, but as of a few weeks ago the Applicant took this off the table. If the town would not undertake a watershed analysis, this doesn't matter. However, if the town is thinking of undertaking a watershed analysis, should the Applicant contribute to the cost. Hawkins said a watershed analysis was targeting a solution for the stormwater. The DPW Manager had asked to look at some of the flow going to Railroad Avenue. That was not something the Applicant was willing to do, but at the time proposed contributing to a study instead. He supposed that in the future a study could possibly be needed.

Pollack's recollection was that a contribution to a study was an idea floated because of the inability to reach some coordinated agreement among the engineers in dealing with stormwater coming off the site and how to deal with an increase that may be related to the redevelopment plan. Since it is now the consensus of the engineers that there is an adequate design for a stormwater plan that sends less stormwater offsite, and doing what can be done to infiltrate it, the Applicant's view is that a study is not needed because the coordination was successful. Hawkins did not disagree, except for possibly what if the plan is wrong and the space in back of the property is flooded. Pollack said if the plan is wrong and the engineering cannot live up to the



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

design standards that are part of an approval, the town absolutely has the authority to enforce conditions, hold a hearing, reach some sort of settlement of the issues including all the rights it has to stop a land use while some violation is occurring. He was sure that in that reality, Demoulas would again be interested in a contribution to a study.

Hawkins asked for Morgan's view. Morgan said he was trying to envision how Demoulas could be called back to the table. Hawkins thought it would be through the lawyers stating there is a problem in that the stormwater system is not working as designed and it is [the Applicant's] responsibility to fix it. Pollack said the Town is not only entitled to charge a statutory fine per day of violation, but is also allowed to recoup its attorney fees for chasing the fine. He also said that Demoulas is not going to go out of business anytime soon, so the town would be chasing an entity that has every desire to file and pay its taxes. Foote said she knows the watershed quite well and did not think it necessary to do a study of it. It had been fairly well mapped through the Cains Brook Watershed Management Plan; this includes Sheppard's Brook. From her lay-person analysis of the detention pond and the additional drainage that will be going into that area, and discussions with Kerivan, Foote believed it had been properly mitigated and that there would be negligible notice of any change; there might be notice that there is less water flowing that way because of the detention ponds and the work done with Altus re the larger pipes and plunge pool, and the new design of the area. Hawkins asked if Morgan had reservations about the layout for the future if there were a problem. Morgan could cite only one recourse for the town which would be to rescind the siteplan approval, or threaten to do so.

Hawkins said the engineers had now come to agreement, while earlier in the process there was no path. Now a study is not necessary. Foote agreed, noting that such a study would cost and cost. Because of the magnitude, she thought the six-year term [on funds collected] would run out. Janvrin noted that a study was not in the CIP or the master Plan. He asked about the Department of Environmental Services permit. Lamp said it was in process. Hawkins asked for other comments. Chase said to move forward.

Morgan then moved to Item #18 – bus shelters. Morgan said there would be public bus service sometime soon. Lamp said they would encourage drop-offs but did not have a plan. Morgan said the COAST carrier would be looking for the logical places to pull over, possibly to bus shelters. They want to discharge on Lafayette Road. Janvrin wondered if there would be enough room. Pollack wondered how many customers would actually use buses; maybe they would give up spaces. Foote commented that one small bus brings a number of shoppers once a week and waits for them at the side of Market Basket. Pollack said they would accommodate customers.

Connector to Wal-Mart

Hawkins asked about a connector to Wal-Mart. Foote said as part of the Kohl's approval, the developer, Robert Korff agreed that when the lease is up on the "yellow building" they would do a connect-through on the backside to the Wal-Mart parking lot, and it would line up with the entrance to the Demoulas property. As the building had been vacant for over a year, a new user would have to return to the Planning Board for a change of use siteplan permit before anyone can go back. Morgan agreed.

Signs

Janvrin referenced pages 12 and 13 and wanted certain signage posted at the right in/out location. Other than that he thought the plans looked beautiful.



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Town of Salisbury

Morgan had heard from the Town of Salisbury, MA, checking on the status of Demoulas south. He thought there should be a response. Hawkins said when [Salisbury first approached the Board] they were requesting mitigation for Routes 1/286 light, but there was not a project at the time. Morgan said they had provided a letter indicating that the solution to the problem would cost about \$250,000 to \$300,000. Janvrin thought that when the proposal for Salisbury cottages at Wortherly Avenue and Route 286 came to the Board, nothing was offered to help Seabrook. Morgan said he had attended a couple of their meetings and they were attentive to Seabrook's concerns, directing their consultant to look at the impact to Seabrook. The consultant was VHB, which also was the engineering company used by DDR. Morgan thought that Salisbury was really trying to accommodate Seabrook. Hawkins asked if Saladino had looked at this; he had not. Lamp said this had been discussed; the intersection was 1.4 miles away; [mitigation] was inappropriate for a 30,000 square-foot addition. Janvrin thought most people coming from that way used Main Street, not Route 1. Lamp said it sounded like a fishing expedition.

Hawkins wanted to respond that the Board did look at this; he thought the impact was a pretty low number. Brown said it might be 20 to 30 trips which would be less than one percent of current peak hour usage. Janvrin asked whether this was an estimate. Brown said the number was based on traffic counts between the Demoulas site and the Route 286 intersection. Janvrin did not think that would trigger an exaction in Seabrook. Thibodeau said the reason people come To Demoulas and the stores is because they save money on taxes. They have all they can handle now. Additionally, Salisbury doesn't plow on the Route 286 Bridge, Seabrook does it. Hawkins asked if the key was that the number of trips did not hit the Seabrook threshold. Foote said it isn't as if [the Applicant] were building the whole Market Basket south; it already exists and the people are already coming. Janvrin viewed this like the Hampton Falls Poker Room that wanted to double their parking which would have an impact in Seabrook, but the Salisbury project was too far away. Hawkins said from a Planning Board perspective, 20 trips doesn't even meet Seabrook's own threshold, let alone out-of-town or state. It is a sticky issue because it is across state lines. In New Hampshire one can argue with or get support from the NHDOT. In crossing state lines he wasn't sure what the mechanisms are. Foote thought there might be none.

Janvrin referenced going to the RPC with a project of regional impact, and thought Massachusetts might a counterpart commission. He asked if there were any interaction. Hawkins said it would be minimal. He thought it would be appropriate for Morgan to respond to Salisbury indicating that the number of trips per hour estimated to impact that intersection does not meet Seabrook's threshold for exaction, therefore, it was not appropriate to make such a request. Moore said to say their information had been reviewed and asked that Morgan write the letter. Janvrin reiterated his belief that people coming from the southern towns go up Main Street.

Technical Review

Morgan said that the Technical Review Committee met some time ago when a number of technical issues were raised. He said no evidence that either department had kept up with all the revisions. Hawkins thought that was addressed in the Planning Board Engineer's most recent memorandum. Morgan said he was looking for the Water and Sewer superintendents were satisfied. Hawkins said a letter from each of them indicating that the recent changes are what they had originally recommended, could be a condition of approval. Kravitz said they would need to see the new planset. Additionally, the Deputy Fire Chief told her that he had received something to review from the applicant. Kravitz suggested getting a letter from him as well.



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Blatchford said based on Morgan's request at the last meeting, they sent the latest site plans to the Fire Department and were told they do not have concerns. He asked them to contact the Secretary. Kravitz said the Planning Board had not yet received a response. Hawkins said to add the Fire Department to the list. Kravitz asked about the police. Hawkins asked if the police had raised issues. Hawkins asked if Morgan had any other items. Morgan did not.

Chase asked if the trees at Boynton Road would be harmed by piling snow under them. Lamp said the trees withstand the snow because it just stays on the trunks and doesn't get up high. Blatchford said the snow would be piled under the boughs. Pollack said no matter what snow areas are identified, they overflow at some point. Hawkins asked for any other comments before moving forward.

Rail-Trail

Janvrin called attention to the rail-trail, pointing out the railroad tracks and indicating that the plan was to tie Railroad Avenue to the Library. Janvrin said although this isn't directly related to the Demoulas property, he wondered if Demoulas, as a good neighbor, would contribute toward its development. He would not ask for a specific amount, but it was in the CIP. Hawkins thought it was part of the overall strategy to seek contributions from the businesses in the area. Lamp suggested that if there are approvals that would be a better time to ask for a contribution.

Public Comments

Hawkins asked for comments from those in attendance. Carl Perkins said his mother owns property along the back side, and asked if the gate would remain. Blatchford said there is a note on the plan for a new 4-foot, chain-link gate, and that the location would be finalized with the contractor. Hawkins noted the agreement to extend the fence in the back for 100 feet along the property line. Perkins expressed his understanding that all the hot-top going down would not affect Sheppard's Brook with more water flow. Hawkins said that is what the engineers had said earlier in the hearing. Perkins said he would be back if that is not so. Foote said everyone gets storms like in the past few years. Perkins said he knew all about that land; he was there when they filled it and pushed water over it and knows how wet it is and how much more water was shoved over onto his parent's [land]. Foote said if there were an extraordinary storm like the Mother's Day or Patriot's Day storm, everyone gets water. As for normal rainstorms, if anything there might be less water because the detention ponds would be holding it back and metering it out slower rather than in a great big gush. Perkins said he understood. Hawkins said a lot of time had been spent going back and forth with the engineers on the stormwater issue. Also the Applicant had spent a considerable time and money on the engineering process to get that done. The Board did not stop with that process until its engineer and the DPW Manager said they were satisfied with the existing plan, and it was confident that enough effort had gone into the process and the engineers were satisfied.

Hawkins asked for additional comments. George Phillipone said he owned parcels at 20 and 26 Railroad Avenue and had made improvements. He apologized for not having come to earlier meetings, and wondered if there would be any fence around his property. The main problem is that there are a lot of walk-throughs and his tenants complain; he wondered if anything had been done to alleviate this. Hawkins said this is the first time hearing about this matter, and said that, as stated earlier in this hearing, the area would continue to be wooded and would have new plantings along the parking area. There is no fence in that area in the existing plan; there is existing fencing along the eastern side of the property which would be replaced and extended. Blatchford asked if people were trespassing. Phillipone said in order to get to the shopping center. Blatchford suggested that he post the property. Janvrin described where there were a few



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

trailers and thought those were the people that Phillipone was speaking of. Pollack said the fencing for the Perkins property and the gate to come through was not for security. The purpose was to provide some privacy because there is not the wetland and wood buffer that exists elsewhere. The Applicant cannot be in the business of providing fences all over. Phillipone asked how certain people would get to the shopping center. Lamp said the shopping center is there and they are adding 3000 square feet; it was sounding like people thought they were giving fences away and decided to give it a shot. He apologized if people were trespassing, but did not think that was the Applicant's responsibility. Phillipone said the Board could go to see the problem.

Phillipone asked if trash would be picked up. Lamp said they would clean up the trash on [the Applicant's] property. Phillipone pointed to a snow storage area. Lamp said there was about a six-foot area adjacent to the parking lot. Phillipone asked what would stop trash or broken shopping carts being piled in the snow and going to his property. Lamp; said it was about 40 feet to his property; the plows cannot go over the curb and there is also a section of woods that is between that area and [Phillipone's] property. Phillipone said this would not keep trash from coming on his property. Blatchford said the drainage is away from his property toward the Demoulas property, and after that to the outfall. Phillipone said it would be logical to have a fence going from the edge of the pavement to his property. Lamp said that would be about 30 feet. Phillipone wanted something there to protect from a big pile of snow with trash in it. Whether others got fencing was irrelevant to him. He wanted something; there were kids playing 30 feet away from the parking lot, and cited the likelihood of kids getting kidnapped. Blatchford said Phillipone's property is located next to an operating shopping center. Phillipone said the parking was being increased. Blatchford said they are well within the zoning requirements. Phillipone asked the Board to require his fencing request. Blatchford asked if this was such a big concern, why did it wait for the 8th meeting.

Hawkins said it is the Board's responsibility to listen to all of the abutters when they come. He asked Morgan to focus on the abutter who is a distance from the parking lot which is wooded, and is worried about trash flowing into his yard and about the closeness of the parking area to his property. His request is for a fence along that property line. Hawkins asked if the board had addressed that in the past and required a developer to put in a fence. Morgan said the Kohl's was quite generous with fencing. Foote said generally the fencing the Planning Board puts up is for headlight intrusion and sound, not to prevent people from traveling. Janvrin said it is not to prevent trespass. Foote said with any fencing that the Board requested or had been built on eg Home Depot, Kohl's, Lowe's, a person could walk around the end of the fence. They don't prevent people from traveling offsite and onsite; it's to prevent headlight intrusion. Morgan agreed they are for light and privacy. Thibodeau said the area is the employee's parking lot where vehicles stay for hours; there wouldn't be a lot of people going in and out. She assumed there would not be so many shopping bags full of groceries the way there would be in another area.

Pollack thought the Applicant's position would be that they can't make everyone happy. The earlier discussion was for a fence with a gate so there can be pass-through. Now someone else wants no pass-through. If there were a trespass problem now or in the future, that is police business. If it is a garbage flowing problem, the owner of the shopping center is responsible and would be responsive to complaints. Phillipone thought there would be a greater likelihood of cars flashing lights [in the direction of his property]. Hawkins said the shrubbery with the height that had been put in that area was designed to block the light. Phillipone said that was not accurate. Janvrin said unless Phillipone clear-cut the back of his lots, there was plenty of coverage. Phillipone said his back area was open. Hawkins said the buffer was three times the minimum



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

width required by the zoning. Moore said leach field with about a six-foot high mound in the back area had been removed so there were no trees there. Hawkins said that is why fencing was put around the back of the building to block the headlights. Moore said the concern was that the trucks drive right up to that area. Hawkins recommended talking with the store manager if there are problems with trash or other issues relating to Fillipone's property. Requiring the Applicant to put in fences so that people do not cut through his yard would be beyond the scope the Board would normally require. Janvrin said as the landowner [Fillipone] should contact the Police Department for assistance with posting his property and keeping an eye on it.

Conditions of Approval

Hawkins noted that Morgan was working on a list of conditions, and wanted his own list added in. Hawkins' list included:

- (i) the conditional use permit had been addressed;
- (ii) the open issue re stormwater was a mosquito control program;
- (iii) exaction fees
- (iv) \$5000 donation toward a study of the Route 1/107 intersection – still to be discussed;
- (v) for sidewalks (a) a State, Town and Applicant agreement, (b) if that is not possible, a plan to move sidewalks to the Applicant's property, or (c) a waiver request if neither (a) or (b) is possible;
- (vi) moving trees on Boynton Lane in anticipation of, at some point, widening that road;
- (vii) agreement re granting a Boynton Lane easement when the construction of the road was approved. Janvrin asked if this would be detailed on a plansheet to be recorded, or in the maintenance plan. He wanted the agreement stipulated on the mylar and recorded. Pollack said an easement agreement could be recorded but the easement itself wouldn't be effective until signed. The condition could be for an agreement to convey an easement when the project to extend the road is shovel-ready with the agreement and attachments to be satisfactory to the town attorney, and
- (viii) approval of the plans by the Water, Sewer and Fire Departments.

Pollack added:

- (ix) additional signage at the right in/out and at the slip-turn;
- (x) in re mosquitoes – bat houses and/or BT [[[dunks]]]
- (xi) approve the request for the Voluntary Lot Merger.

Morgan said the Case #2011-02 VOL would have to be done first, and that he had a lengthy motion for Case #2011-03.

Hawkins declared a recess at 8:55PM, and resumed the public hearing at 9:05PM.

Morgan said the reference would be to the revised site plan. Hawkins said to add to the conditions that the siteplan would be changed to, as needed, to reflect the conditions. Morgan wanted to have a precise date for the siteplan revision that has not yet happened. Hawkins said to reference the June 30, 2011 (revised) siteplan with changes satisfactory to the Town Planner. Hawkins asked Morgan to read the stipulations as he had drafted them: Morgan anticipated the first of two motions would be for the VO L, and read his recommended language as follows:

[I move] to grant approval to application #2011-02 for a voluntary lot merger proposed by RMD, Inc. and Delta & Delta Realty Trust that would merge Lots 1 & 2, as shown on tax map 9, with Lot 111 as shown on Map 8, situated at 380-458 Lafayette Road.



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

MOTION:	Foote	To grant approval to application #2011-02 for a voluntary lot merger proposed by RMD, Inc. and Delta & Delta Realty Trust that would merge Lots 1 & 2, as shown on tax map 9, with Lot 111 as shown on Map 8, situated at 380-458 Lafayette Road.
SECOND:	Janvrin	Approved: Unanimous In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Janvrin;

Morgan read his second proposed motion as follows:

to grant site plan approval to application #2011-03 for expansion of the Southgate Plaza at 380-458 Lafayette Road, specifically an 8,960 square foot addition to the Market Basket Supermarket, a 9,600 square foot addition to the southerly end of the building, and replacement of a 4,940 square foot donut shop with a 15,000 square foot free-standing retail building, as depicted on site plans prepared by Hayner/Swanson, Inc., dated October 13, 2010, revised June 30, 2011, subject to the following stipulations:

1) On-Site Improvements: In order to ensure the timely and proper completion of utilities, landscaping, drainage, sidewalks, on-site roadways, Boynton Lane improvements, and other on-site infrastructure depicted on the above referenced site plan, the applicant shall provide cash or an irrevocable letter of credit issued by a New Hampshire bank in the amount of \$169,600, as recommended by the Town Engineer via correspondence dated June 13, 2011. **(Prerequisite for a Building Permit)**

2) Route 1 Widening: In order to ensure the timely completion of off-site transportation improvements, and consistent with the settlement reached with DDR and NH DOT, and consistent with the applicant's assurances as articulated in a memorandum from the applicant's traffic engineers (TEC) dated [[[June 3, 2011]]] (page 5), the applicant shall provide the Town of Seabrook with a cash bond or an irrevocable letter of credit issued by a New Hampshire bank, said letter of credit to be in the amount of \$34,535, and the applicant shall also provide the NH Department of Transportation with funds in the amount of \$22,350. **(Prerequisite for a Building Permit)**

3) Five-Lane Bridge over I-95: In order to ensure the timely completion of all required off-site transportation improvements associated with the widening of the Route 107 bridge over I-95, and consistent with the Metropolitan Planning Organization's (MPO) recommendation to NHDOT for inclusion in the State's 10-Year Plan, Demoulas shall provide \$33,866 to the Town of Seabrook, said figure being consistent with Demoulas own assessment of its fair share contribution to bridge improvements as reflected in a memorandum from the applicant's traffic engineers (TEC) dated June 3, 2011. **(Prerequisite for a Building Permit)**

4) Departmental Approval: The applicant shall submit written approval from the heads of the town's sewer, fire and water departments. **(Prerequisite for a Building Permit)**



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

5) Mosquitoes: The applicant shall amend the stormwater maintenance plan to include provisions for bat houses, and mosquito dunks. **(Prerequisite for a Building Permit)**

6) Permits: The applicant shall obtain all applicable state and federal permits. **(Prerequisite for a Building Permit)**

7) Site Plan Revisions: The revision of the revised site plan, dated June 30, 2011, shall include the following, consistent with the Planning Board's deliberations of July 12, 2011: Addition of bat houses, the movement of trees along Boynton Lane, and additional signage; said revisions to be satisfactory to the Town Planner.

8) Engineering Oversight: The Town's consulting engineer will monitor the installation of on-site and off-site improvements. The applicant shall reimburse the Town for this expense. **(Prerequisite for a Certificate of Occupancy)**

9) Reimbursement: The applicant shall fully reimburse the Town for expenses incurred from the review of the application by all of the Planning Board's professional consultants to date. Subsequent services are to be reimbursed as invoiced. **(Prerequisite for a Certificate of Occupancy).**

Kravitz said that could be two years away. Morgan envisioned engineers would be on the site periodically. Hawkins said there was no point in putting that off for a two-year period for what has already been paid for. Hawkins said if there are other charges after that they will be billed. Morgan changed the prerequisite to the Building Permit.

Building Permit

10) Sidewalks along Lafayette Road: The applicant shall make a good faith effort to enter into a contractual arrangement with NH DOT and the Town of Seabrook to build and maintain sidewalks extending the length of the applicant's Lafayette Road frontage; or failing to achieve said agreement, the applicant shall construct and maintain a public sidewalk on the applicant's property north of the principal entrance driveway. **(Prerequisite for a Certificate of Occupancy)**

11) Boynton Lane Right-of-Way: The applicant shall submit a Memorandum of Agreement guaranteeing that the right-of-way depicted in the aforementioned site plan shall be transferred to the Town of Seabrook at such time as the town decides to connect Boynton Lane with Liberty Lane. **(Prerequisite for a Certificate of Occupancy)**

12) Financial Securities: All of the above referenced letters of credit and other financial guarantees shall be subject to approval, as to form and content, by the Planning Board's legal counsel.

13) Stormwater Maintenance: The applicant shall adhere to all provisions set forth in their stormwater maintenance plan, dated March 14, 2011, revised May 23, 2011.

Hawkins said the remaining issue was for a donation to a study of the Routes 1/107 Intersection in the amount of \$5000. Lamp said that would be fine with the stipulations already stated. Janvrin thought this would be returned with interest if not spent within six years. Hawkins thought if it wasn't used.



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

14) Intersection of Routes 1 & 107: The applicant shall donate \$5,000 toward a Town-sponsored study to recommend expansion options for this intersection.

Pollack asked if the gift of the \$5000 for the study was a condition for the Building Permit. Hawkins said to a Building Permit. It might not be used right away but since it was for a study, it would surely be used, probably by the State. Pollack said (#14) was fine with the Applicant.

Hawkins asked if anyone had something to add or take out for the motion; there being nothing added or deleted.

MOTION:	Foote	<p>in re: Case #2011-03 DeMoulas Super Markets, Delta & Delta Realty Trust, and RMD, Inc. to demolish a 4,940 square foot donut shop, and to expand Southgate Plaza to encompass 156,838 square feet of retail space at 380-458 Lafayette Road, Tax Map 8, Lot 111; and Map 9, Lots 1 & 2;</p> <p>to grant site plan approval to application #2011-03 for expansion of the Southgate Plaza at 380-458 Lafayette Road, specifically an 8,960 square foot addition to the Market Basket Supermarket, a 9,600 square foot addition to the southerly end of the building, and replacement of a 4,940 square foot donut shop with a 15,000 square foot free-standing retail building, as depicted on site plans prepared by Hayner/Swanson, Inc., dated October 13, 2010, revised June 30, 2011, subject to the following stipulations:</p> <p style="padding-left: 40px;">(i) In order to ensure the timely and proper completion of utilities, landscaping, drainage, sidewalks, on-site roadways, Boynton Lane improvements, and other on-site infrastructure depicted on the above referenced site plan, the applicant shall provide cash or an irrevocable letter of credit issued by a New Hampshire bank in the amount of \$169,600, as recommended by the Town Engineer via correspondence dated June 13, 2011 (Prerequisite for a Building Permit);</p> <p style="padding-left: 40px;">(ii) in order to ensure the timely completion of off-site transportation improvements, and consistent with the settlement reached with DDR and NH DOT, and consistent with the applicant's assurances as articulated in a memorandum from the applicant's traffic engineers (TEC) dated [[[June 3, 2011]]] (page 5), the applicant shall provide the Town of</p>
----------------	--------------	---



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

		<p>Seabrook with a cash bond or an irrevocable letter of credit issued by a New Hampshire bank, said letter of credit to be in the amount of \$34,535, and the applicant shall also provide the NH Department of Transportation with funds in the amount of \$22,350, (Prerequisite for a Building Permit);</p> <p>(iii) in order to ensure the timely completion of all required off-site transportation improvements associated with the widening of the Route 107 bridge over I-95, and consistent with the Metropolitan Planning Organization's (MPO) recommendation to NHDOT for inclusion in the State's 10-Year Plan, Demoulas shall provide \$33,866 to the Town of Seabrook, said figure being consistent with Demoulas own assessment of its fair share contribution to bridge improvements as reflected in a memorandum from the applicant's traffic engineers (TEC) dated June 3, 2011, (Prerequisite for a Building Permit);</p> <p>(iv) the applicant shall submit written approval from the heads of the town's sewer, fire and water departments, (Prerequisite for a Building Permit);</p> <p>(v) the applicant shall amend the stormwater maintenance plan to include provisions for bat houses, and mosquito dunks, (Prerequisite for a Building Permit);</p> <p>(vi) the applicant shall obtain all applicable state and federal permits, (Prerequisite for a Building Permit);</p> <p>(vii) the revised site plan, dated June 30, 2011, shall include the following, consistent with the Planning Board's deliberations of July 12, 2011: addition of bat houses, the movement of trees along Boynton Lane, and additional signage, said revisions to be satisfactory to the Town Planner:</p> <p>(viii) the Town's consulting engineer will monitor the installation of on-site and off-site improvements. The applicant shall reimburse the Town for this expense, (Prerequisite for a Certificate of Occupancy);</p>
--	--	---



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

		<p>(ix) the applicant shall fully reimburse the Town for expenses incurred from the review of the application by all of the Planning Board's professional consultants to date; subsequent services are to be reimbursed as invoiced, (Prerequisite for a Building Permit);</p> <p>(x) the applicant shall make a good faith effort to enter into a contractual arrangement with NH Department of Transportation and the Town of Seabrook to build and maintain sidewalks extending the length of the applicant's Lafayette Road frontage; or failing to achieve said agreement, the applicant shall construct and maintain a public sidewalk on the applicant's property north of the principal entrance driveway, (Prerequisite for a Certificate of Occupancy);</p> <p>(xi) the applicant shall submit a Memorandum of Agreement guaranteeing that the right-of-way depicted in the aforementioned site plan shall be transferred to the Town of Seabrook at such time as the town decides to connect Boynton Lane with Liberty Lane, (Prerequisite for a Certificate of Occupancy);</p> <p>(xii) all of the above referenced letters of credit and other financial guarantees shall be subject to approval, as to form and content, by the Planning Board's legal counsel;</p> <p>(xiii) the applicant shall adhere to all provisions set forth in their stormwater [] maintenance plan, dated March 14, 2011, revised May 23, 2011.</p> <p>(xiv) the applicant shall donate \$5,000 toward a Town-sponsored study to recommend expansion options for the Route 1 and 107, (Prerequisite for a Building Permit),</p>
<p>SECOND:</p>	<p>Thibodeau</p>	<p>Approved: Unanimous In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Janvrin;</p>



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Case #2011-14E.10-01 – Proposal by Steven Carbone to amend his site plan approval for proposed commercial development at 287 Lafayette Road, Tax Map 9, Lot 64.

Attending: Steven Carbone;
Wayne Morrill, Jones & Beach Engineers;

Morrill said the Applicant was returning to the Board with three items:

1) The Case #2010-01 approval stipulated that the Building Inspector would ok the location for the Liberty Elm. The Applicant wanted to clarify that they could occupy the building while they work out the location for the Liberty Elm, and this would not impede occupying the building. Hawkins thought that by this time they would have picked a spot. Morrill said they had put it on the plan but, after talking with the Board, they thought of moving it. Hawkins said the objective of the Liberty Elms was to try to make the Route 1 Corridor look better, and not to have it way back on the property. Morrill said they had agreed that both the Applicant and the Building Inspector would pick out the best spot. Hawkins said that was still fine; he would not want to change it now.

2) In the original approval there had been 2 signs. The north sign would be removed and the existing sign in front to the appliance store would be modified with panels complying with the new regulations, reducing the total signage on the site. The Applicant wanted this to become part of the record.

3) Hawkins asked Garand if he had looked at this plan; Garand had not had the chance as he had been on vacation. Hawkins asked if it would meet the overall signage standards in the siteplan for square-footage. Morrill said it did; the existing post would be moved to create the smaller dimension. Garand said if complied with the ordinance, there would be no issue.

3) Morrill said since receiving conditional approval for Case 2010-01 in November of 2010, they have been trying to obtain a driveway permit from the NH Department of Transportation, but are stuck on the sidewalks issue. Originally, the sidewalk was shown along the curb continuing from the Seabrook Community Center. However, they were told by NHDOT that a Maintenance Agreement would still be required. Alternatively, they considered moving the sidewalk onto the Applicant's property, but were told by NHDOT that a Maintenance Agreement would still be needed because of small connector sections from both ends in the right-of-way. In this regard, the Applicant's legal counsel has said not to put sidewalks on his property because he would then be taking all the liability. They returned to NHDOT and asked for a solution to this seven-month process to get a driveway permit. The Applicant is asking the Planning Board to waive the sidewalks based on the NHDOT telling them to put in gravel and cover it with grass (loam and seed) in the event someone wants to install a sidewalk in the future. In other words it would be constructed as if it were a sidewalk, but it would not be a paved section. Janvrin asked if there would be granite curbing. Morrill said there would be curbing and grass without any pavement. Hawkins thought this gravel/grass/curbing solution was problematic, because the Applicant would be put between the Town and the State.

Hawkins thought that if the town is committed to some level of pedestrian safety on Route 1, then Board approval to waive sidewalks was an issue. He asked if they would consider the approach taken for Case #2011 (previous case discussed) and trying to get such an agreement between the Town and the State. Previously, the understanding was that the State would not allow an agreement to transfer the liability away from the town. Further, he did not know if the Town would accept the liability in the first place, but thought if the right kind of agreement were



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

written, a huge amount of any responsibility could be transferred away from the town to the property owner. Hawkins said the State should be taking it, but they won't. It's not the Town's land or businesses and the taxpayers shouldn't be taking it. The only alternative is the property developer. He recommended trying to do the same thing as previously discussed for Demoulas south. The conditions would be the same – the Certificate of Occupancy gets tied to some level of resolution via moving the sidewalk onto the Applicant's property or some resolution among the State, the town and the property owner. He pointed out that efforts to get the State to show the documentation for requesting all of this had been unsuccessful; it wasn't sure that this exists in writing. Perhaps that is just what the head of the NHDOT decided would be done. Also, there had been very little done politically to get such things changed.

Hawkins polled the Board about considering granting a waiver for sidewalks along Route 1, or continuing to try to work something through with the Selectmen and the NHDOT. Janvrin said he'd heard the Selectmen's thoughts, and knew about the State's thoughts having spoken with them about Route 101. He wanted to see a joint meeting with the Board of Selectmen to discuss this issue, even though it would not resolve this for Carbone or Demoulas south. He thought if the BOS and the Planning Board agreed on a plan, approaching the State would be a little easier. Fowler said basically it is a State road and they won't take responsibility. Janvrin noted that neither the Planning Board nor the BOS had the jurisdiction to make that happen. Political leverage might have to be used. He thought it would be prudent for the Selectmen and the Planning Board to discuss this openly to come up with a solution so applicants wouldn't have this issue every time. Foote said this issue had already been discussed; it was the State that wasn't moving. Thibodeau said just going in with a plan wasn't enough.

Janvrin wanted the same stipulation for Case 2011-14W.10-01(Carbone) as for Case #2011-03 (Demoulas south). Janvrin said the Town of Exeter's sidewalks are being maintained. He thought that Route 1 in the Town of Seabrook had much greater economic impact on the State than Exeter. He thought that if the BOS and the Planning Board jointly were to strenuously object to the State's policy this would get good press. Janvrin said he had spoken with two of the four elected representatives for the Seabrook district who were not aware that this was a problem. He asked them to bring it up at the last session, but it was not addressed at the State level. Perhaps there should be a joint meeting among the Selectmen, the Planning Board and the State Representatives to get this to the General Court; something needs to be fixed now. Janvrin would not feel comfortable a year from now having applicants coming in [with the same problem]. Hawkins said what was being done now was unsatisfactory because there was no resolution. If the Board wanted to tie sidewalks [for new cases] to existing sidewalks that did cross over State land. Janvrin wanted the Rockingham Planning Commission to take this up. Hawkins said RPC was aware of this.

Carbone said that if Demoulas, which had deep pockets, wanted to assume liability on a state sidewalk they could do that. Unlike Demoulas, he would not take on the liability. He thought the Town should be contacting its Senator and Representatives; there were plenty of people who could apply pressure to fix the problem. When it comes to fireworks, he makes calls and sometimes things get resolved. He could not take liability for the sidewalks especially on state property, and asked how they would be kept clear in the winter. Janvrin thought the insurance would not cover something that wasn't on the insured's property. Carbone agreed because it was not on his property. He added that the State requires that it be insured on his liability re fireworks. So the State has a piece of paper but the insurance company says it doesn't mean anything because the state has nothing to do with the program. Carbone said he could not assume liability on State property. Hawkins asked if there had been any discussion on the question of insurance ie whether the town would be covered (even though it had signed one



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

agreement for what wasn't on town property. Moore said the Town would be the insurer, and would cover a small space; it would turn the corner and go down Route 1.

Morrill said the Applicant cannot get a NHDOT permit because of the sidewalk issue. Basically the NHDOT said if they want a driveway permit, don't show a sidewalk. Because they don't have a driveway permit, they cannot get a building permit. Carbone asked why couldn't a sidewalk be grass; did it have to be cement or hard-top. Could they put the grass in on the same property and take out the curbing on the end and slope it. Janvrin thought they would run into state standards because the town regulations stipulate this. Morrill said the reason to suggest putting in gravel and grass is because he had been directed by NHDOT to say that is what can be done so it is ready for the next person. Foote asked "what next person". Morrill said that could not be answered. Hawkins said that in order to move ahead on this project, knowing that there is not a sidewalk solution and that the Applicant cannot accept the liability for state property, the Board could probably propose that they go ahead with their recommendation and put money in escrow for the future building of that sidewalk when and if there is some resolution with the State and/or Selectmen. Carbone said as long as he does not assume responsibility and they are allowed to [go forward]. Hawkins agreed that it was difficult to ask small business owners to take liability when they cannot be self-insured [like Demoulas]. For a small business to accept such liability would be like the kiss of death.

Hawkins asked for Morgan's thoughts. Morgan said this is very frustrating, but noted that Commissioner Campbell was no longer at NHDOT. Perhaps there could be better luck with the new Commissioner. Moore said he would discuss what might be done with the Town Manager to see if he might put some apply some pressure, noting that the Selectmen work through the Town Manager. Carbone said he would contact the Executive Council. Thibodeau liked the idea of having a meeting with the BOS. Moore asked what would be gained. Thibodeau said it would be the publicity. Janvrin saw this as a way to sign off on a joint resolution and get it to Concord. Hawkins agreed. Janvrin added that both the BOS and the Planning Board have said they object to this NHDOT requirement. Moore noted that this issue affects the entire state, not just Seabrook. Janvrin said to get to as many public officials as possible and make clear that this is not an issue that the Town of Seabrook can solve; the State must resolve it. Carbone commented that this is stopping a lot of jobs that cannot start up because of the State's position. Foote found it most absurd that for decades the Town tried to get a traffic light so that kids could safely cross Route 1, but the State said there could not be that traffic light until there are sidewalks. So the Planning Board told applicants that they had to put in sidewalks to get the traffic lights so the kids could cross Route 1. Now the State says there cannot be sidewalks.

Janvrin said that Hampton is an Urban Compact community, but wondered what North Hampton and Hampton Falls did. He thought that Seabrook and Portsmouth were the only ones to require sidewalks. Morgan said when he posed this question on the Internet, there was little interest except for someone in Hanover who said they were made to put a sidewalk through a swamp because they weren't allowed to put it along a highway. Janvrin said the Route 107 Bridge project had been affected in the engineering design process, because the State said if the town wouldn't sign an agreement they would remove it. It needs to be resolved. Janvrin asked Carbone if it would be acceptable to have the same stipulation as Demoulas accepted. Hawkins said that Carbone did not want to accept that liability. With Demoulas ultimately the liability would be transferred to the Applicant, which is not acceptable to a small business owner. Hawkins said an alternative would be to put the money in escrow to finish the sidewalk in case the State changed their position. If the State does not, there would be a grass sidewalk in front of Carbone's facility. Janvrin said that as a pedestrian that would be acceptable. Morrill said he was told not to show any impervious surface at all along that corridor.



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Fowler asked about pressed stone that could be packed down and a wheelchair could be pushed on it. Morrill repeated that NHDOT said to put in gravel, loam and seed. Chase asked for the name of the person making this decision. Morrill said Steven Ireland of District six. Foote recalled that the State has to comply with the Clean Water Act re impermeable surfaces and stormwater coming off the roads; they have to have a square-footage amount of permeable surface in their right-of-way otherwise the Environmental Protection Agency would come after them for non-compliance with the Clean Water Act and the treating of stormwater. If they increase impermeable by putting in a sidewalk, and decrease what they are calling permeable, the calculations would have to be recalibrated under the Clean Water Act and they will have to reformulate everything in their reports to the EPA. Foote said, while the Town has to comply with being an MS-4 town, the State compliance is even worse; this might have been a mandate from some scientist who said they cannot afford to give up any of the grass on roadsides. The liability, and treatment of the related runoff, would be changed to the Town.

Janvrin wanted to approve the proposal with using gravel, loam, and grass and placing an amount in escrow for future construction of sidewalks once the issue with the State was resolved. Morgan asked for the escrow amount. Janvrin said to research the amount used in the security calculation. Chase wanted to clarify that the State would be giving approval with no bituminous surface. Hawkins said if the State ever changes their mind, the surface could be put in. Foote said the only cost would be the cost of the bituminous, not the whole sidewalk. She asked for the length of the area. Carbone said 249 feet. Morgan suggested conditioning the motion on a recommendation from the Planning Board engineer as to the amount of the escrow. Foote suggested checking with the DPW Manager to find out what he is paying. Carbone asked how long the escrow would be held. Foote said usually six years by state law. Hopefully by that time this issue would be resolved with the State. Janvrin said in any case the grass would be allowed. Hawkins said another condition should be that the signage would not exceed siteplan standards, and having the Planning Board engineer set the escrow amount. Foote said the security was calculated on the entire sidewalk. All that was needed was the length x 5-foot width for the bituminous. Carbone said the figure would be about \$3000. Morrill thought that \$4000 would be adequate for \$50 per yard. Hawkins said to use that figure.

MOTION:	Janvrin	to accept Case #2011-14E.10-01 as administratively complete for jurisdiction and deliberations.
SECOND:	Foote	Approved: Unanimous In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Janvrin;

MOTION:	Janvrin	to approve Case #2011-14E.10-01 – Steven Carbone to amend his site plan approval for proposed commercial development at 287 Lafayette Road, Tax Map 9, Lot 64, to allow laying in gravel, loam, seed and grass in the area formerly designated as sidewalk, conditioned on (i) \$4000 being placed in escrow for the future potential of installing sidewalks if, as and when the State and the Town resolve the issue, and (ii) the signage not to exceed square-footage allowed in the Site Plan regulations.
SECOND:	Fowler	Approved: Unanimous In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Janvrin;



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

Thibodeau asked about **Case #2011-08 – Proposal by Harold & Beverly Perkins, Ken Wilson, Valerie Brown, and the Town of Seabrook for lot line adjustments at 79 Centennial Street, and a proposal by Harold & Beverly Perkins and Valerie Brown for a 3-lot subdivision at Anchor Way and 79 Centennial Street, Tax Map 9, Lots 29, 33, and 34-3,** continued from April 5, 2011; May 3, 2011; June 7, 2011.

As no representative was present, Hawkins said this Case would be continued to July 19, 2011.

POTENTIAL AMENDMENTS TO LAND USE REGULATIONS

Stormwater Operations & Maintenance Methodology, continued from March 1, 2011, March 15, 2011, May 3, 2011, June 21, 2011;

Hawkins asked if the Proposed Stormwater Amendment had been public noticed. Morgan said it was posted. Hawkins read the proposed amendment, and asked if the DPW Manager had approved it as he had a problem with certain language. Kravitz said that some of that language had been changed. Morgan said the Board had previously intensely discussed the amendment language; there wasn't anything left to talk about.

MOTION:	Foote	<p>to approve adding the following to section 4.610 of the Subdivision Regulations (Stormwater Maintenance Plan), and re-numbering the following sections accordingly, and to approve adding Appendix A, all as set forth below:</p> <p>The applicant shall submit a mylar plan suitable for recording at the Rockingham County Registry of Deeds that depicts the following:</p> <ul style="list-style-type: none"> • The party or parties responsible for operation and maintenance; • A schedule for inspection and maintenance; • A description of routine and non-routine maintenance tasks to be undertaken; • The location of all storm water management facilities, and • The Planning Board's <i>Model Inspection & Maintenance Notes</i>, attached hereto as Appendix A." <p style="text-align: center;">Appendix A Inspection & Maintenance of Stormwater Infrastructure</p> <p style="text-align: center;">Notes to Guide Property Owners and for inclusion on the Maintenance and Operations Mylar</p> <p>The Inspection & Maintenance Plan outlines the regular inspection and cleaning schedule necessary to keep the system aesthetically pleasing, in good repair,</p>
----------------	-------	--



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

		<p>and operating efficiently. It is a critical component for the success of the Stormwater Runoff Erosion Control Best Management Practices (BMP) designed for the proposed improvements on the site.</p> <p>Such controls reduce the types and concentrations of contaminants in stormwater runoff, that in turn, improve water quality. Source controls cover a wide range of practices, including local regulations, fertilizer management, reduced road salting in winter, erosion & sediment controls at construction sites, and comprehensive snow management. The guiding principle for pollution prevention and control is to minimize the volume of runoff and to minimize contact of stormwater with pollutants. Nonstructural practices can reduce these stormwater pollutant loads.</p> <p>The following source controls are included in the Inspection & Maintenance Plan:</p> <p>Sweeping – Street sweeping is an effective source control, and will be implemented on a regular basis. Sweeping efforts shall be conducted biannually, including the period following the winter snow melt when road sand and other accumulated sediments are washed off.</p> <p>Snow and Snow Melt Maintenance – Proper management of snow and melt, snow removal and storage, use of deicing compounds, and other practices can minimize major runoff and pollutant loading impacts. Use of alternative deicing compounds, such as calcium chloride and calcium magnesium acetate, designation of low site area on local roadways, and reducing the use of deicing compounds through better training, equipment calibration, and careful application, can be effectively utilized for comprehensive snow management. Storage of deicing compounds in sheltered and on impervious pads, and improved snow removal and storage techniques have further impacts on pollution reduction.</p> <p>Deep Sump/Hood Catch Basins – Deep sump/hood catch basins are incorporated in the proposed development's stormwater management plan as pre-treatment for the proposed constructed wetland. The sump provides for the settlement of suspended solids, and a hood is provided to remove floatables and trapped hydrocarbons. It is not anticipated that the proposed roadways will</p>
--	--	--



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

		<p>become an area of high sediment loading. The sump should be inspected and cleaned at least two times per year, the more frequently the cleaning, the less likely sediment will be re-suspended and subsequently discharged. Catch basin sediments and debris shall be disposed of at an approved NHDES location. The property owner shall be responsible for the catch basin cleaning operations.</p> <p>Constructed Wetlands – A constructed wetland is included in the stormwater management plan design for the proposed development. The property owner shall incorporate this sediment control feature into the project during construction activities. Upon completion of development, the property owner shall be responsible for proper maintenance and upkeep of the wetland. To ensure proper performance and system longevity, the following maintenance schedule is recommended:</p> <p style="padding-left: 40px;">a) Sediment & Debris Removal - The wetland should be inspected twice a year by a certified wetland scientist during both growing and non-growing seasons, in the first three years after construction. Observations during inspections should include:</p> <p style="padding-left: 80px;">i) Types & distribution of dominant wetland plants in the wetland;</p> <p style="padding-left: 80px;">ii) The presence & distribution of planted wetland species versus the presence & distribution of natural wetland species, and any signs that natural species are overtaking planted species;</p> <p style="padding-left: 80px;">iii) Accumulation of sediment in the forebay and micro-pool. Any sediment and debris should be removed manually before the vegetation is adversely impacted.</p> <p style="padding-left: 40px;">b) Wetland Protection – Efforts should be made, through snow and snow melt management, local regulations, and public education, to protect the wetland from damages of snow removal and off-street parking.</p> <p>5) Maintenance for the following types of activities shall be included in the Operations & Maintenance Plan:</p>
--	--	---



Town of Seabrook Planning Board Minutes

Tuesday, July 12, 2011
NOT OFFICIAL UNTIL APPROVED

		<p style="text-align: center;">a) Lawn & Landscaping Activities - All grass and landscape clippings shall be disposed of off-site and in conformance with state and local regulations.</p> <p style="text-align: center;">b) Pesticide & Fertilizers shall be stored in a dry, covered storage area and maintained in a neat and orderly fashion. Use, application rates, and disposal shall be in strict conformance with manufacturer recommendations and federal, state, and local regulations. Any spills shall be promptly cleaned up.</p> <p style="text-align: center;">c) Pet Waste shall be immediately removed from public areas. Disposal shall be in accordance with state and local regulations.</p> <p style="text-align: center;">6) Best Management Practices – The property owner shall adhere to the Best Management Practices (BMP) cited in the <u>NH Stormwater Manual</u>, on file at NH Department of Environmental Services.</p>
SECOND:	Janvrin	<p style="text-align: center;">Approved: Unanimous In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Janvrin;</p>

Hawkins asked if there were other items to discuss:

REQUEST FOR JOINT MEETING WITH SELECTMEN

MOTION:	Janvrin	to request meeting with the Board of Selectmen in August to discuss the sidewalks issues along the Route 1 Corridor.
SECOND:	Hawkins	<p style="text-align: center;">Approved: Unanimous In favor – Hawkins, Foote, Moore, Thibodeau, Sweeney, Fowler, Janvrin;</p>

CAPITAL IMPROVEMENT PROGRAM

to consider adoption of a Capital Improvements Program pursuant to RSA 674:7.

Hawkins said the CIP would be considered at a subsequent meeting.

Hawkins reminded that **the next meeting would be on July 19, 2011 at 6:30PM in Seabrook Town Hall**, and adjourned the meeting at 10:20 PM.

Respectfully submitted

Barbara Kravitz, Secretary
Seabrook Planning Board