

**SEABROOK PLANNING BOARD
JANUARY 6, 2004 – 6:00 P.M.
SELECTMEN'S MEETING ROOM**

MEMBERS PRESENT: Peter Evans, Mark Preston, Alternate Michael Lowry and Selectmen's Rep. Karen Knight. **Others Present:** Town Planner Thomas Morgan, CEO Paul Garand and Fill-in Secretary Emily Sanborn

Meeting Opened: The board members opened the meeting for discussion of the adoption of the Capital Improvements Program at 6:00 P.M with a quorum present.

Capital Improvements Program (from 6 PM to 7 PM)

Town Planner Thomas Morgan said that the CIP list, instead of the department head proposals, now reflects the actual capital improvements for the town warrant with no changes in the money amounts. K. Knight, selectmen's representative, said that she was 99% sure that funding for the 3 police cruisers, the animal control vehicle, the fire department breathing apparatus and the replacement of the gasoline tanks at the fire station would come out of the surplus.

T. Morgan suggested that they start on page 17-32 which was the DPW proposals that required no changes. Next was page 33 (Fire Department) that matches the warrant.

The following CIP proposals were reviewed and revised:

Page 37: P. Garand asked about the construction of the retaining wall and said that the implementation of the public use of the PSNH pier and the proposed playground and park be pushed forward to the year 2005. K. Knight said that the Board of Selectmen has been negotiating the lease of the co-op for a possible placement of a summer sub-station at this site.

Page 38: The board deferred the construction and purchase of land at Governor Weare Park to the year 2005.

Page 42: M. Preston said that the animal control vehicle was acquired by a lease. *Page 41:* K. Knight said that she was now 100% sure that the replacement of the gasoline refueling system at the fire station would be funded by the surplus.

Page 60: K. Knight said the arsenic removal from the water supply was federally mandated and that it would be by a 5-year bond of 2.6 million dollars.

Page 66. T. Morgan said that the platform vehicle was not on list of warrant articles. He suggested that they leave it in the CIP and the worst that could happen is that it be ignored.

Page 70-73: T. Morgan asked the board if there was anything they wanted to shift around. He said that the fiscal impact correspond to the tax rate.

M. Preston asked if it wouldn't be better to consolidate the Chief's cruiser and the 3 patrol cruisers. K. Knight said that the Chief's cruiser might be included in his budget. P. Garand said that if this was the case then the 3 cruisers would be funded by the proposal and to leave it as is. The board opted to keep the proposals separate and agreed to the changes. T. Morgan said that he would make the changes and have it ready for acceptance and have Chairman Brown sign final draft. *T. Morgan* submitted a CIP report and graph for the 2003 annual report for board's review and approval.

P. Evans made a motion to adjust the CIP as discussed at this meeting. M. Preston 2nd. Vote Unanimous

CIP meeting adjourned at 6:40 P.M.

**SEABROOK PLANNING BOARD
TUESDAY, JANUARY 6, 2004 AT 7:00 P.M.
SELECTMEN'S MEETING ROOM**

MEMBERS PRESENT: Chairman Robert Brown, V-Chairman Susan Foote, Peter Evans, Mark Preston, Alternate Michael Lowry, Alternate Richard Dodge and Selectmen's Rep. Karen Knight. **Others Present:** Town Planner Thomas Morgan, CEO Paul Garand, PB Engineer Michael Fowler and Fill-in Secretary Emily Sanborn.

MEETING OPENED: Chairman Brown opened the meeting at 7:00 P.M. with a quorum present.

MINUTES: of the December 2 & 16 meetings: S. Foote made a motion to accept the revised minutes of December 2, 2003 and that the December 16, 2003 minutes needed to be edited. M. Lowry 2nd. Vote: unanimous

PUBLIC HEARINGS:

Proposed amendments to the floodplain regulations:

T. Morgan explained that the federal government had updated the FEMA maps and that the town needs to make the necessary amendments to the floodplain regulations. T. Morgan said that he would make the changes to the subdivision regulations for the next meeting.

S. Foote made a motion to send the amendment to town meeting with the Planning Board's recommendation. M. Lowry 2nd. Vote: unanimous

#3-40 – Proposal by Ivan Q. Eaton, Jr. for a lot line adjustment at 1 & 6 Eaton Lane, Tax Map 7, Lots 34-4 & 34-5:

T. Morgan explained that the applicant was not available for tonight's meeting and told the board that they could either postpone this application or deny it. S. Foote stated that if the board disapproved it there are still some things that have to be done and this would make it difficult for these things to be addressed.

S. Foote made a motion to continue this case to February 17, 2004 at 7:00 P.M. K. Knight 2nd. Vote: unanimous

#3-42 – Proposal by Tiki Trust, TK Properties, Ray Grasso, Edwin & Maureen Adams, and Mark Investments, Inc. for a subdivision and lot line adjustment at 403 Lafayette Road (opposite the Southgate Shopping Plaza), Tax Map 8 Lots 44, 45 & 46; and Tax Map 9, Lots 62, 231, 238, 238-1, 238-3, 239 & 240:

Real Estate Developer Scott Mitchell introduced Wayne Morrill of Jones & Beach Engineering, Attorney John Daly, Robert Jess, Site Developer for Lowe's, Robert Kroff of Mark Investments, Inc. and Adele Fiorillo of NH Soil Consultants. Mr. Mitchell turned the presentation over to Wayne Morrill of Jones & Beach, to address the few changes that had been made.

W. Morrill said that all the lot lines to be abandoned had been labeled and the bearing distances had been put on the plan. Morrill said that the easement called for on Map 9-11 has not been received and is listed as such on the plan. Morrill addressed T. Morgan's comments in his letter of review with the following: #1) bearings for L1 are listed on plan; #2) property line at rear is existing not proposed and rear lot has a different owner. T. Morgan said that if it is already subdivided, it would not need a waiver and that he was looking at what appeared to be several different lots. S. Mitchell said that the zone line is depicted and has not changed. #3) W. Morrill

said that Don Wilson had done the title search. #4) Wayne Morrill said that he was not aware of any court decision on this piece of property and Scott Mitchell said that the title is correct. #5) W. Morrill said that the boundary markers are on the new parcels created. T. Morgan said that if bearing distances were changed, markers would be needed. P. Evans asked if there was a bearing change. T. Morgan said that L5 & L2 is the only place that he could see where there was a change. W. Morrill asked the board if they would like a monument on the crows foot. Chairman Brown said yes it would be needed for the change. #6) T. Morgan said that the lot line consolidation and the possible development of lot 9-240 would have a significant impact on Route 1 traffic and to ensure vehicular access to adjoining tracts a deed covenant to guarantee at least two cross-access easements to take effect when Phase II is implemented. He said these should be gotten first because you may have lot owners that would not be cooperative after the consolidation. S. Mitchell said that he would like to address the easements on the site plan not the lot line consolidation. #7) S. Mitchell said that the new floodplain map references will not have an effect on this property.

Chairman Brown polled the members. Chairman Brown asked if any abutters wished to speak. No abutters asked to speak on this application.

S. Foote made a motion to approve the lot line/lot consolidation. M. Preston 2nd. Vote: unanimous

#3-43 – Proposal by Mark Investments, Inc. to construct a Lowe’s Home Improvement Warehouse store at 403 Lafayette Road (opposite the Southgate Shopping Plaza), Tax Map 8 Lots 44, 45 & 46; and Tax Map 9, Lots 62, 231, 238, 238-1, 238-3, 239 & 240:

Scott Mitchell asked the board if Adell Fiorillo of the NH Soil Consultants could talk about the wetlands first. Chairman Brown told him that he had to take care of the cross easement first. Attorney Daly said that the future access easement was not on the plan because it would be subject to the approval of the developer. He said a note could be added to the plan to satisfy the board. T. Morgan said that for a cross easement you would need the approval from both abutters. The question was asked about who owned the properties in question. S. Mitchell said that Grasso was out of the picture and that there were only two owners left and that was Adams and Parker. He said that Parker owns all of lot 9-240. Attorney Daly ask if the approval could be conditional on the acquiring of the cross easement. R. Kroff said that it could be a reciprocal easement for tenant and developer. Chairman Brown said that the board’s main concern was safety and that this cross access easement would eliminate some of the traffic on Route 1.

T. Morgan said that the town assessor Scott Bartlett had approached him and told him that the board should make sure that the applicant is aware that this land is presently in current use and that a penalty would have to be paid when it was developed.

Adell Fionillo said that she had put together a dredge and fill application to the state and went over the two isolated wetland areas. She said that there is a considerable amount of wetlands to be filled and went over the importance of preserving Mary’s Pond. Adell said that a lot of the wetland areas are man made. She said that Phase I would have a retaining wall. Adell went over the mitigation proposal and said that a detention pond will be incorporated into the plan to filter the runoff before it goes into Mary’s Pond. Other points discussed were: vegetation, wild life habitant, Cain’s Brook restoration and the assessment of materials on site and placement of removed materials behind Hillside Cemetery.

S. Foote said that there would be a formal meeting on the dredge & fill application on January 12, 2004 if anyone wished to attend. *P. Evans* asked if the 1.3 acres to be filled included Phase II. *Adell* said that Phase II would require approximately another acre to be filled. *S. Foote* said that *Mary's Pond* is starving for water and that the development in this area and that the detention pond will catch and slow release the water to this pond. *S. Foote* said that it would be better to work with this project to restore *Cain's Brook* and *Mary's Pond*.

Abutters were given an opportunity to voice their concerns.

Margaret Hamilton, 15 Greenleaf Drive: asked how the state would know if the dredge and fill was being done right. She went over what some of her neighbors had done upstream that had interfered with the flow of water. She said that on *Autumn Way* pumps are running except for a few months in the winter. She said that the developer of her subdivision, *Greenleaf Drive*, had not used silt fencing. She appealed to the board that what the applicant proposes is done right. *Crystal Dugan, 15 Autumn Way*, asked about the Master Plan and about Article VI and Amount of wetlands that could be developed on this property. She was given the calculated figure, which they were in compliance with.

Robert Jess, site developer for *Lowe's*, went over the site development and said that there are three components of the store, the lumber section, the appliance/hardware section and the garden center. He said that the customer access would be at the front of the store and the rear access would be a service drive to store flat bed truck for lumber delivery and loading gate on side of garden center.

Mr. Jess said that because of the closeness of the residential neighbors a noise barrier has been shown along the lot line at *Autumn Way*. He passed out copies of a noise mitigation study. He went over the location of the wall which he said would be plywood and the height which he said would be 8' in some areas and 10' feet in others. *K. Knight* asked why not the same height all around. *Jess* said that there would be different noise mitigation in areas. He said there would be a chain link fence around the detention pond for security purposes. *Jesse* said that they were also instating self control noise mitigation by not letting tractor trailer trucks in certain areas, no overnight stays, no idling of trucks and signage to enforce this. *T. Morgan* asked what the penalty would be for the infractions. *Jess* said it would be left up to Code Enforcement. *S. Foote* said that her concern was that *Wal-Mart* has not lived up to their promises. It was suggested that the exterior speaker for the garden center be directed away from the neighbors.

Mr. Jess submitted a package for noise mitigation pursuant to Article IX, Section of the Town's Site Plan Review Regulations said that *Lowe's* proposed to undertake the following measures to mitigate noise: 1) Emergency Generator will have a noise enclosure installed; 2) Trash Compactor will have a sound barrier wall; 3) Roof top heating and air conditioning units will be designed to vent upwards and the air intakes will be oriented to the east and /or south and acoustical enclosures shall be designed and installed as necessary. He said that additional measures such as an engineered sound barrier (plywood or equivalent) with the location and heights shown on the Sound Barrier Plan; restricted access to tractors in the area between the traffic control gates between the hours of 9:00 PM to 7:00 AM; no overnight tractor trailer parking allowed; no extended idling of tractor trailers; no truck horn blowing allowed except for safety; and no public address speakers allowed on the exterior of the building, PA speakers located within the garden center shall be pointed to the south and east. *Jess* went over the location of the generator, transformer and trash compactor. He said that hours of operation would be flexible but would be 6:00 A.M. to 10: P.M., Monday through Saturday and 8:00 A.M. to 7:00 P.M. on Sunday. *Jess* said that the hours of operation would be flexible to service

customers, to stock materials upon delivery because there is no place to store them and to cleanup outside after closing.

M. Fowler asked what the decibel value of noise would be for a wall 10' tall. Jess said that it would not address all of the noise. *P. Evans* said that an 8' wall is not sufficient to mask noise because there is a lot of 2 story homes in that area. *S. Foote* suggested plantings on the outside of the wall for noise level and site appeal. Jess said that the wall would be ½ ' inside property line for maintenance. He said a wooden fence is appropriate in this area. *K. Knight* recommended a 10' wall all around. *T. Morgan* said that he appreciated the thought put into the plan but that Article 9 Section J of the site plan review states that truck operations are prohibited between the hours of 11 P.M. to 7 A.M. *Earl Perkins* said that the rubbish noise pickup is worst than a horn blowing. *Phil Stockbridge* asked if there would be any outside storage. Jess said that is not proposed. *M. Hamilton* asked if Lowe's could provide trees for abutters to plant and move the proposed fence in a foot.

Lawrence Harvey, 25 Autumn Way, told the board that he had submitted his concerns and solutions in writing to the planning board. He said that he wondered just what affect this project would have on his property value. He asked what materials the sound proof barrier would be made of and how high it would be. He said other concerns were truck deliveries; hours for loading and unloading; dumpster and compactor hours of use, and lighting. Mr. Harvey made the following suggestions: a wall made of cement along the rear and side of the lot and higher for security with staggered trees to go to the end of his property not just half way. Mr. Harvey also asked that the hours of operation and truck deliveries be restricted. Hours of operation to be 7 AM to 7 PM, no trucking on Sunday, trash compactor restricted to 12 to 5 PM and extend the fence along his property line for security. Mr. Harvey asked the board for their consideration.

Chairman Brown asked why the fence did not go straight along the side to keep the trash out of the pond. Jess said that the pond would be enclosed with chain link fencing. *S. Foote* said that she did not want anything to impede the wildlife and suggested the same plan as Staples/Applebee's had done to preserve wildlife in this terrain.

Paul Antonellis, 1 Autumn Way, asked about the light poles. *W. Morrill* said that the poles will be dropped to 20' in the residential area and will be 35' in building area. Morrill said that member William Cox would review the lighting specs. Antonellis asked that time restrictions be put on the lighting in the parking lot and signage. Jess said that the lights would be on a timer and would go off one hour after closing to allow the help to exit safely and to do outside cleanup. He said this would be on the revised plan. Antonellis asked what the wall would be made of and said that he was concerned that it would be made of pressure treated wood. He said he was not happy with the 8' height of the fence and voiced his concerns with the delivery and trash pickup noise, which he said he was already experiencing from Dunkin Donuts. *L Harvey* asked why the abutters had not seen the noise mitigation plan prior to this meeting. Chairman Brown and *P. Evans* explained that these meetings are working session and the applicants will come back with these suggestions incorporated into the final plan. *C. Dugan* asked if there were any changes made to lighting would they be able to see them. *S. Foote* said that any changes in the plans have to be submitted prior to the meeting and that the plans can be viewed at the Building Office.

Antonellis and Hamilton had a concern with the garden center and the chance of a fertilizer spill getting into the water source. *S. Foote* said that a Property Maintenance Manual is supplied. Jess said that they would have to comply with federal regulations (EPA) also.

Scott Mitchell asked that the traffic report and the drainage study be sent out for review. S. Foote made a motion to send out the traffic study to Bayside Engineering for review. K. Knight 2nd. Vote: unanimous. M. Fowler said that he has reviewed the drainage and that it does meet the intent of the regulations. He said he would like to take a look at the effect of the increase of volume and the release down stream. Also he will look at the future dredge and fill of Cain's Brook and its impact. S. Foote said she would get him a copy of the dredge and fill. S. Mitchell told Fowler to call Eric Saari of Jones and Beach if he has any questions.

S. Foote made a motion to continue this application to February 10, 2004 at 7:00 P.M. K. Knight 2nd. Vote: 2 opposed – P. Evans & M. Lowry. Motion carried.

Proposal by Mr. Pritke: Mr. Pritke was not present.

Informal Discussion on Proposed Land Use Amendments

Subdivision Regulations: T. Morgan said that Michael Fowler, John Starky and himself had reviewed the subdivision regulations submitted to the board by the town manager for their consideration. The board members commented on the following regulations: S. Foote said that the self-calling letter of credit and the check off list was a good idea. P. Evans and the board agreed that any request for a waiver should be put in writing. T. Morgan said that the Town of Seabrook is unique and the zoning regulations are designed for our town. Morgan suggested and the board agreed to hold a work session for these proposed zoning regulations on March 2, 2004 at 6:00 P.M.

Wetlands boundary markers: The board members were in favor of holding a public hearing on February 10, 2004 at 7:P.M to approve the wetland boundary markers that were displayed on page 26 of the packet prepared by T. Morgan.

Vegetation for drainage infrastructure: The board members were in favor of holding a public hearing on February 10, 2004 at 7:00 P.M. to recommend the addition of the vegetation for drainage infrastructure to Article VI of the Subdivision Regulations; and In the first sentence in Article III Section E of the Subdivision Regulations, change "90 days" to "65 days" and in Article IX of the Site Plan Review Regulations, add the following section: O – All Standards and requirements cited in Article VI of the Subdivision Regulations shall apply to site plan review.

Correspondence: T. Morgan passed out the correspondence and Chairman Brown signed the bills. **Bond Issue:** Chairman Brown said that he had informed the developer of Gould's Way that the bond had to be redone. The board received a letter from Attorney Walter Mitchell requesting that a board member who was in favor of the *Carey Condo Conversion Plan* appear in court. M. Preston was agreeable to do this. T. Morgan drafted a letter to *Home Depot* in regards to their release of a performance bond. Morgan also drafted a letter to *Mr. Bagley* in regards to inviting him to update the board on his efforts to bring his project into compliance. Chairman Brown signed both letters.

T. Morgan passed out an update of members E-Mail addresses.

Driveway Permit applications: None

MEETING ADJOURNED: Chairman Brown adjourned the meeting at 10:03 P.M.

Minutes taken by fill-in secretary Emily A. Sanborn.

