



Town of Seabrook Planning Board Minutes Draft

October 18, 2005

Planning Board meeting October 18, 2005 opened at 6:06 PM. Members present: Susan Foote, Chair; Tom Morgan, Planner; Mike Lowry, Paul Himmer, Peter Evans, Paul Garand, CEO; Karen Knight, Selectmen's Representative, Patricia Welch, Secretary.

First item on the agenda are the minutes of October 4, 2005--has everyone had the opportunity to view the minutes? Does anyone have any comments, questions, concerns?

Motion: Himmer To approve the minutes of October 4, 2005

Second: Lowry Unanimous with Karen Knight abstaining as she was not present

Next we have requests for Security reductions: no new requests but a follow-up from Bob Carbone, in receipt of your letter regarding reduction of bond based on reports received from Mr. Felch and Mr. Knowles, I concur with the board's decision to suspend our request. I've already begun collaborating with the engineers and it seems that many of Mr. Felch's concerns can be addressed or simply corrected (aside to secretary: who is Mr. Felch? I think he means Mr. Welch; secretary: he means John Starkey who sent the letter to Mr. Welch). It's our intention to raise and clear the water shut-offs, reset the damaged curbing, and address Mr. Felch's drainage design concerns prior to December 1, 2005.

Next we have correspondence. There are three developments that we have dealt with in the past that I also want to bring up and talk about during the correspondence. One being Pineo with their conservation easement that they still haven't succeeded in ironing out the fine points. If you remember back in the middle of summer, we requested that a cease and desist be put on the parcel until they got the conservation easement worked out. They did get to work on it and we in good faith approved four condo conversions so they could sell, because supposedly they had a closing imminently. From watching several selectmen's meetings, when they've been there, it appears that there just isn't any resolution to three or four items. What really stands out in my mind is the hunting issue. Since the last Selectmen's Meeting and articles in the paper, I have received at home, well over 25 phone calls from residents of Town, who are hunters and have hunted those woods and wetlands in the past and they have asked me to bring it to the Planning Board and if possible have the Planning Board request that the Selectmen accept nothing less than allowing hunting to the whole population or no one. It's got to be one way or the other, it can't be an exclusive hunting preserve for one of the contractors and two or three of his friends. I believe where Seabrook is basically a hunting town and these are the woods that have been used for many years, that we should promote keeping the hunting open to all residents of Seabrook. One of the major reasons being that parcel is like the finger between three other parcels that all allow hunting. There's the Grace Fogg woodland, the parcel that was transferred to the Town from Arliegh Green, that abuts the Fogg woodland and then there is the Mill lane well site and the Pineo parcel is the finger that goes in between those. Including the Pineo area that's designated as a conservation easement, those four areas combined provided over a hundred and twenty-five acres of land. So I think that we should strongly campaign for allowing hunting on that parcel.

Karen Knight: does the Conservation Committee have any input on that either?

Foote: Conservation Commission is pro-hunting. There should be no restrictions, wherever it's legal to hunt in town, following the state guidelines as to open season, hunting should be allowed.

Knight: their concern was liability

Foote: there is no more liability

Knight: than one person shooting another; whoever is hunting is liable

Foote: that's right. The Town is not responsible, the landowner is not responsible unless the landowner happens to be the one that pulled the trigger. I know there was also a question about haying. The



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Conservation Commission is adamant about that field being mowed at least once a year after the middle of July. If it's not mowed, what's going to happen is the shrubs and trees are going to move in and very soon it is not going to be a meadow field, it's going to be a shrub-scrub forest, emergent forest and the meadows like that are what are disappearing from southern NH and they are very crucial to an awful lot of wildlife species.

Knight: I think if you watch the Selectmen's meetings, it's clear that we are in agreement that we want the hunting and the haying and the only thing they came back with was I believe removing the building items.

Foote: appears they are willing to remove the rights to construct ancillary structures, roads, dams, fences, bridges, culverts, barns, sugar houses and sheds.

Knight: and that wasn't even a main issue

Foote: no, I'd say the main issue was the hunting. Now, one of the things I would also like this Board to consider as far as this is how long are we going to just let them drag on and drag on and continue business as usual. Per the dredge and fill application that allowed for that parcel, it stated that the Conservation Easement had to be in place prior to doing any work on that parcel, any clearing, anything. You know they're a year and a half into building and still don't have a conservation easement. I don't know if we might want to consider giving them a deadline like November 1st or 15th to have an easement signed or we're going to request another cease and desist and they can't pass papers on their condos until they get it worked out.

Knight: looking at the calendar, we would be meeting November 2nd or 9th or 16th, so if you want to pick one of those dates it would coincide with the selectmen's meetings and then we could come to a resolution.

Evans: my opinion is we should do it as soon as possible. I think they have had plenty of time and there has been a lot of debate over this already and I'd like to express my support for the public being allowed to hunt on that land. I don't think it's right that hunting be restricted to a privileged few.

Lowry: I agree.

Himmer: I agree with that.

Foote: so it's unanimous. We are all in support of hunting open to the public, residents of Seabrook. I don't know if you can legally restrict it to residents of Seabrook. I believe that parcel is also in current use and the state guidelines under. There are two different kinds of current use. There's the general current use that leaves your land open to virtually any public activity except for motorized vehicle, four-wheeler, you can limit that. If you want to post it with no hunting with current use, then you forfeit I think 15% of the taxation value. So your taxes will be higher on it. From my research in the assessing office, they have the general current use that leaves it open to all uses except for motorized vehicle use. So that's another thing, if they are going to insist on no hunting, except for a select few, then they are also going to have to rewrite and resubmit their current use documents. So Karen, it's kind of late for us to try to get a letter to the Board of Selectmen, but could you represent our viewpoint tomorrow morning?

Knight: absolutely, that's why I'm taking copious notes.

Foote: we'd appreciate that

Knight: I was going to ask if I may do so, so thank you.

Foote: do you want to set a date tonight for when they should have it worked out or we're going to request another cease & desist.

Motion: Evans to set the date for finalizing the Conservation Easement for Pineo Farms (case 03-38) as November 2, 2005 at the Selectmen's Meeting

Second: Lowry Unanimous



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Knight: so I may tell them tomorrow to have it worked out by November 2nd ?

Foote: or we're going to have another cease & desist issued and they will not transfer anymore condo units and they will not build any more houses until they get the conservation easement worked out.

Knight: thank you.

Foote: next is Boyle on Walton Road. I don't know if many people have driven by there recently, but it appears there has been a bit of excavation work both by the Town running in a new water and sewer service and by Mr. Boyle himself grading his lot. None of it has been stabilized and driving by tonight, it appears that all the fines of the gravel in the lot with his new house are now filling the Town's open drainage swale. It used to be maybe twelve to eighteen inches dip down from the road, now it's maybe only four or five inches down. So I believe that we need to, especially since that was combined with a dredge and fill application....

Garand: I visited the site today with DES, Dave Price. So they will be receiving a letter of on-compliance.

Foote: just what does a letter of non-compliance do?

Garand: it gives them a little nudge to restore the property back the way it was and comply with the crossing permit that they have

Foote: but there is no

Garand: that would be a state issue at that point; it's a State enforcement. It's their permit for crossing the wetland area

Foote: what about our storm drains?

Garand: I'm not sure what type of enforcement we would have because they do have the permit from the State to cross that area

Evans: but they don't have a permit from the State to fill in our

Garand: at the same time, it was the Town doing installation of the water service through that area

Foote: but their permit for that area was a driveway. They were supposed to put a culvert in that area.

Garand: exactly, but at the same time the water & sewer services that were introduced to that area are the Town's responsibility because they are in the Town's right-of-way at that point.

Foote: but water & sewer went in three or four weeks ago

Garand: water & sewer went in last week

Foote: last week?

Knight: and that was on approval of Warner signing off

Garand: exactly. So at this point, it's a mess. With the amount of rain we've had in the last two weeks, it's a mess everywhere. I'm running around with DES. This is my third time in less than two weeks.

Foote: at least we don't have any damns failing

Garand: I haven't been behind Lowes.

Foote: I was the other day. It was about eighteen inches below the overflow. Next item is the Tucker project off of Washington Street. I noticed that they have started clearing. Whatever happened to the pre-construction meetings that we were supposed to have?

Henry Boyd: there was one that took place.

Foote: there was? Did the Town know about this?

Boyd: the Town scheduled it and I was invited to it

Foote: what town?

Boyd: the Town of Seabrook

Foote: the Planning Board wasn't aware of, the conservation commission wasn't aware of it, code enforcement wasn't aware of it



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Boyd: it was attended by John Starkey, Warner Knowles, the contractor, the property owner and myself. I was invited to it.

Secretary: when was it Henry?

Boyd: a week and a half, two weeks ago

Secretary: isn't that funny they didn't have the signed plans

Boyd: I was invited to it, told to be there, so I was there. It was a great meeting, they went over everything, the department heads

Ralph Marshall: John does that on his own every once and a while

Foote: yes, well, John meeting with a contractor is different than a pre-construction meeting with everyone sitting down and going over the plan

Marshall: John does it on his own every once and a while with contractors

Boyd: I don't know who schedules these things; I've never heard of one at the, I've been at another one with John that he called just to make sure the contractor was going to play by the rules. He's very good at what he's doing. He knows how to do it. He is the one that should conduct the meeting. I don't what your procedure or protocol is, but in my opinion there is nobody better to conduct a pre-construction meeting than the DPW director.

Foote: My concern is, granted I have only driven by; I haven't walked in. From driving by and actually stopping on Washington Street and looking in, I don't see any silt fencing, I don't see any orange construction fencing.

Boyd: we were hired a week and a half ago to set the construction fencing out; but the silt fencing, the right of way and the easements and the detention pond were all staked before they even went in there. So everything was staked out.

Foote: they were staked but is the silt fencing and construction fencing up?

Boyd: that I don't know. I have not been down in the road. I

Foote: driving by yesterday it looked like there was a very large piece of equipment that was not where the road is, was to the south towards the water tower

Boyd: I don't know but honestly before I would say I wouldn't speculate in a public hearing as to whether it was done or not. I'd go down there and find out if it was done. They hired us to do it, I presume they've done it, but I don't know if they have or not but I don't think it's fair to suggest it might not be there because generally State Line does a great job and I would say it probably is in but I don't know. They hired us to do the right thing. They were very conscientious. A lot of developers won't even hire a surveyor they see it as...

Foote: whoever is doing the tree clearing had equipment beyond where that road should be into the wetlands that's towards the Salisbury end

Boyd: that I don't know whether it's part of the area that needs to be filled or not. I honestly don't know

Knight: do you think it would behoove the Planning board to issue a memo to John to let the Planning Board know when pre-construction is going to take place?

Foote: it should be coordinated between all the offices because there are things the planning board knows about what we expect to see with the plan that the department heads may not know about and may not pick up on the plans

Garand: it could be coordinated with the tech review meeting

Evans: did the planning board require any engineering oversight on this particular plan?

Foote: no

Evans: perhaps we could suggest that the Code Enforcement Officer be sent to inspect



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Garand: the Code Enforcement Officer is stretched beyond his limits at this time. When they call for an inspection, that's when I'll have the ability to go down there.

Boyd: that's what the water & sewer and dpw does

Evans: whoever the proper oversight might be ought to get down there before things go too far

Knight: why don't you send a letter to Warner and John and ask them to go and inspect and reply via memo as to exactly where they are

Garand: and there is a new water superintendent too and he should be involved

Boyd: pre-construction meeting I don't think it's a bad idea to send somebody from the tech review to be in those meetings, but just to let you know, they are instructed before they can put down any sub-grade material, they need to call for inspection. Not only does he see it but he also does a sieve analysis that's conducted, produced by the contractor that they have to pay for that comes from the testing agency to talk about the silt and materials and makes sure it passes the NH standard

Footte: I'm not concerned about the road. What I'm concerned about because it has happened multiple times in the past is the worst destruction and impact to the wetlands happens by the companies that go in and clear the trees and if you don't get on them to start with and get the silt fencing and the construction fencing up before the companies go in to clear the trees, they just run rampant through the wetlands.

Boyd: I don't disagree Sue and maybe someone from the Conservation Commission attends the pre-construction meeting

Footte: had someone from the Conservation Commission known about it they would have been there

Boyd: the meetings take place, since there is no standard operating procedure here, I think Mr. Starkey should be commended for the meeting that he did schedule and has done, I think they do a great job. I do agree if you look on the plans the order of construction sequence, the very first thing there is that the silt fencing will be in place prior to anything being done. I'm not minimizing what you're saying. I'm just saying it may be in place and we may be making a mountain out of a molehill. I don't know, but maybe Paul's right about someone from tech review, from conservation commission or someone but you would have been proud of the meeting that took place before they started anything.

Evans: I have not doubt that we received a top quality tech review and that all the plans are in order, but I see no harm in making sure that the construction schedule is being adhered to.

Footte: yes, because the tech review is prior to us deliberating on it; the construction is when they finally get around to building the thing

Secretary: and the plan is a year old

Evans: I'm sure good work was done at the pre-construction meeting.

Footte: those are the three items I wanted to bring up as far as correspondence; do we have any other written correspondence? We have several inspection reports that have come from DES about sites in Town. Inspection on October 4th, the applicant was Charlie Bagley, the address is Ledge Road Seabrook. The construction sequence per plan is not being adhered to. Contractor is currently constructing a building, the detention pond has not been constructed, the detention pond needs to be constructed immediately in accordance with approved plans, the detention pond needs to be completed within three weeks and a stabilized construction entrance needs to be maintained.

Garand: I visited that site today with Dave Price and Mr. Bagley is working on that and bringing it into shape.

Footte: correct me if I'm wrong, but didn't we recently within the past 18 months or so add to our regulations that all stormwater drainage is supposed to be the first thing you do on the site?

Garand: this site plan was approved prior to that, about two years ago, but the sequence is on the plan, it is there and they have to follow it a little bit closer.



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Footte: we have another inspection report from DES for Todd Gerrish, London Lane Seabrook. Again, the construction sequence per plan is not being adhered to, the building construction is completed, the slopes are not stabilized, exposed soil areas need to be stabilized, rip rap has not been installed at the culvert, rip rap needs to be installed according to the approved plan, catch basin 2-2 is not installed, contractor needs to install in accordance with the plans; and all above work needs to be completed within three weeks.

Garand: site visit there today also.

Evans: what happened there today?

Garand: met with all the contractors and filed a plan to make the bedrock complete with a time schedule
Wayne Morrill from audience: I just want to check and make sure that Mr. Gerrish was made aware of that.

Garand: Mr. Gerrish was present at the meeting.

Evans: in your estimation will they be done by the 25th of this month?

Garand: it will be very tight to be done by the 25th I believe but they will try.

Footte: letter from Anthony George of 88 Blacksnake Road. He's an abutter to Paul Cabral. He's writing this because of the zoning variance and he has concerns and issues that he believes need to be addressed by the different town departments. And it's come to us because we're waiting for the zoning to finish what they are doing because it might eventually be coming to us. Looks like you have copies of it that were in your packet. It is most definitely something that if it ever comes back to us for a subdivision there, we should make sure that all of these issues are dealt with prior to our dealing with any type of subdivision.

Boyd: Excuse me, were you just discussing the Cabral site? May I get a copy of whatever you were discussing.

Footte: yes. Anthony C. George is basically concerned about the site work on the Cabral property.

Boyd: is that the abutter?

Knight: a letter was sent from the Board of Selectmen and the selectmen are not in agreement about everything that's in it. We will have to discuss it at our next meeting. There was a misunderstanding or misrepresentation and I don't think the Board was fully informed.

One of the last things I'd like to bring up through correspondence is that I've received several emails from our legal counsel and also from the finance department in regards to closing cases, outstanding cases, site security bond issues, town roads versus still private roads and in reviewing the excel spreadsheet, I came up with approximately 50 cases that it looks like we're going to have to have another compliancy hearing. Some of them are no-brainers, others are rather difficult. If you don't mind, I'd like to try to put our heads together now to try to set a date for a compliancy hearing so we can shoot for getting everything together otherwise it's just going to be put off.

Garand: could we just take the numbers and go through a few of them at every meeting, do five or ten a meeting so that over the next few meetings we could actually, instead of holding a special meeting?

Footte: we have to public notice all the owners of everyone that we are bringing in for compliancy hearing and that's why I would recommend we do it like we did last time, we have a special night, special meeting and that's all we deal with is the compliancy issues.

Selectmen's representative Karen Knight leaves meeting.

Footte: possibly Paul and I could get together and whittle the list down. They are all either past due or will be due before January 1st. I know some of them are just bookkeeping that didn't happen three or five years ago. But we still have to notify those people and have a compliancy hearing and officially close the case. We can't close the case without the person who has the case open being here and agreeing to close the case.

Evans: I think we should handle these as soon as we can.

Footte: we have a deadline on the zoning regulation changes and we have the CIP we are doing. I would recommend that maybe we work for the first week of December for a compliancy hearing? If we don't



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continue anything to that date, we won't have to schedule a special meeting, we can just dedicate that night to compliancy hearings and the two or three hearings that might come in.

Evans: I agree with that plan.

Footte: that would be December 6th. And if things don't work out for us to have it on December 6th, do it December 13th? Call a special meeting and we'll be meeting the 6th, 13th and 20th.

Garand: it should be done before the end of the year anyway

Evans: I vote for December 6th, St. Nicholas Day.

Footte: another item that has been going back and forth between legal counsel, myself and Patricia and Paul is if you remember at the end of our last meeting, Paul mentioned that there was inquiry about the crematory opening again and wanting to know if we were under any type of liability. After the seven pages of emails back and forth, to net it all down, Walter (Mitchell) says: "if this facility has already been built but the plans never went to HHS, the prospective new owner would be well-advised to correct the deficiency before going through a closing. Other than that, I can't see anything that would interfere with his use of the existing site plan." So all he would have to do is take the approved plans to HHS and notify them that he plans on opening the crematory service there and it's between him and HHS. Once he provides a permit from HHS, then I believe you can give him an occupancy permit.

Garand: he'd have to do a business license anyway. Once he complies with the state regulations he can move forward. I just wanted to cover the town's liability as far as the approved plan from the aspect of having it absolved or whatever it would take to protect the town. Walter's primary thing was that were the individuals running the business that allegedly committed the infractions and the crimes, it was not the building that did anything wrong. So I believe that's it for correspondence. We will now Open the Public Hearing at 6:40PM *First case on the agenda is #05-47 Proposal by Gregory Burzynski, G&D Realty Trust for site plan review to construct a 3,300 square foot addition with stormwater controls to an existing manufacturing facility at 146 Batchelder Road, Tax Map 6, Lot 13-1.*

Henry Harrison Boyd, Jr. with Millennium Engineering representing G&D Realty Trust, Greg Burzynski. He has a facility currently on Batchelder Road that the only thing we are going to change is add an addition out in the back simply so he can realign things within his current factory. He's not proposing putting any new employees on or anything, it will allow him to layout the inside of his facility for better working conditions. It's a proposed 50x72 addition as you see on the plan that will go around the back side of the building. It is an increase in sealed surface so what we have designed here is for a detention basin in the back to take essentially the runoff which would be coming from the building, store it, treat it and then release it over land and eventually it would run to the vegetated wetland area to the south quite a ways away. So there is quite a bit of overland treatment. There is an area to the west that may receive some but that's a forested area. As I said there is no change in anything, utilities, no proposed signage, he's not increasing any volume here, it's a factory facility, there is no retail component in this, no increase in parking for employees, or anything. The site will stay exactly the way it is except for the addition. I had noted that there were several things on the tech review checklist, a number of things that I do not think are pertinent and maybe the TRC didn't understand exactly what was going on. The one thing that may have some pertinence however is some building plans. All I have received from them and it was from the steel guy himself, was essentially a shed roof on the back. He will obviously have to go for a building permit on this and I think at that time Paul has to approve the building plans. There were some comments about abutters and screening. You'll notice this is vegetated here and it's also a wetland area which can't be cut. Mr. Burzynski owns to the south and to the west. We're not introducing any more lighting, no lights on the back of the building for anything so essentially we're just making sure that he's compliant with the stormwater regulations and setting it up so he can get a building permit. Something very similar to this was down last year or the year



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before for Wilmore engineering. If you remember Wilmore had put a substantial addition onto his building and he actually got a waiver for the board for the actual drainage. But I felt where we are going into this culture of the Phase Ii requirements and those things where there is no runoff treatment here on the site at all we at least ought to design for the offset for the new impervious area. But other than that, we're hoping that the board would see fit to grant this as an addition to the building.

Evans: what's the name of the company that's here?

Boyd: two companies: G&D Realty Trust and the other Aerodynamics. They do anodizing and those types of things in the building. If you past by the street you hardly know it's there. They don't advertise. They've got government contracts to make parts for defense and those things. They do great work and they just can't seem to negotiate within the building with the layout the way it is. And that's the only reason for the addition.

Foote: if you want, I'll go down through the checklist. As Henry said, most of the items brought up by the Tech Review are not provided, no elevations of building, no location of proposed signs or existing signs.

Morgan: are there any proposed signs?

Boyd: no. nothing will change on the site other than that addition and the stormwater controls

Foote: no details of advertising devices, no details of outdoor lighting. Is there any outdoor lighting? If there is a company sign there it should be on the plans; if there is lighting on the site, it should be on the plan.

Boyd: I think the only sign is on the building. I may have missed it, but I think the only sign is on the building. I could add it to the plan if there is one. There is no pole lights or anything like that so anything for lighting out there, maybe a light next to the door. It doesn't shed much offsite. Pretty low key.

Garand: lighting by the door would be required as part of egress. It should be shown on the plan. Is it going to be extended to the walkways? Are they any travel ways that will be lit? should there be anything on the drawing?

Boyd: all of the loading facilities are going to stay the way they are. This is all internal stuff. You may as the Building Inspector require a door out there, but there is no access means.

Garand: fire department might also for egress. At the same time this building I know is presently Dynachrome?

Boyd: Dynachrome and Aerodynamics

Garand: basically are they going to be building a containment area for their product or what is this building going to be used for?

Foote: before we get into deliberations can we finish the checklist and decide if we are going to accept it as a complete plan and then we can get into the details. (Foote continues reading through checklist): as far as traffic congestion, hazards, unsightliness, all that was not applicable. Annoyance to others, it's not proven whether it is or not. It appears the only annoyance might be to now or formerly Richard Boswell because G&D Realty owns the other two sides. Buffers proposed and already addressed. Sufficient off street loading?

Boyd: it's going to stay the same

Foote: it's going to stay. Drainage study provided. Mike Fowler says it complies with the PB regulations. Post development drainage okay. Groundwork has no details.

Boyd: we have silt fencing there and we do have the drainage pond. We do have a relatively high water table out here so we only go a foot into the earth. It's not going to be unstabilized for very long but it's all contained with silt fencing. Once it's restored as I suggested, the runoff over the emergency spillway actually will drain to the west and to the south overland and through the tree buffer before it gets to the other wetland area so that was our main concern. We didn't want rooftop runoff and the increase in the



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impervious area. There is no jeopardy of erosion here because the site is so flat. It can't run to the abutter to the north; it will eventually flow on to the abutter to the west but not at an increased rate.

Footnote: one of the other comments was hay bales and silt fencing to remain in place for 24 months. It doesn't appear that is part of the plans and it also appears that this is one of the areas where coarse wood chips would be recommended.

Boyd: Chris just didn't add the hay bale note or the woodchips.

Footnote: fire safety codes, extend sprinkler and fire alarm system. No existing conditions, sprinkler has to comply with backflow.

Boyd: I think that's a building permit issue at that point. We generally don't get inside the building. If we were building a new one we'd have to show water connections and those things at the street.

Garand: they are just showing you must comply with; at one time the town had a backflow protection system that went into place and any system or fire protection system inside any existing building had a time to comply with that. When they put the addition on, they'll have to comply with that.

Boyd: is that triggered at the building permit process?

Garand: water department has control over it; but it should be noted. It's a pretty expensive device so that's why it has been brought to your attention.

Footnote: it doesn't have to be on the plans at this stage, but it wouldn't hurt

Boyd: what would you like it to say?

Footnote: continuing down the checklist: sanitary waste facilities in new building; doesn't show the existing sewer line, how many new people, increase in water use?

Boyd: no

Footnote: sidewalks, liberty elm etc, is NA. Lighting standards, the comment is bring the whole site up to current code standards because of the addition. Other comments: gas service is show, but no water or service is shown on the plans. Consulting Engineer says: "water: the existing building is approximately 15,000 square feet, the addition will create a building in excess of 18,000 square feet, the existing water service is not indicated on the plan presumably the existing service is 6" diameter or larger service for fire protection; applicant should check this detail as fire standards have changed since the initial construction of this building." So we have to decide if this building is complete enough for us to begin deliberations. And if we do, we have to accept it as administratively complete. I believe it is complete enough. There might be changes that need to be added but we can't expect perfection first time out otherwise we wouldn't have a job.

Morgan: I agree with Sue.

Motion: Lowry To accept case #05-47 as a complete plan for deliberations

Second: Himmer Unanimous

Footnote: it is administratively complete we can begin deliberations. Now Paul you can continue on.

Garand: I had a bunch of questions. I was on a good flow too and you broke it. Basically, with the backflow, the size of the water meter is required because the backflow will restrict flow so that is something that should be looked at at this to depict the proper size and flow rate.

Boyd: can I ask a question on that? You're saying that if it doesn't and I should meet with the fire chief on that

Garand: the backflow is a water department; but the flow requirements are for the size of the building. So that you'll have to have it sized for the size of the building and also the restriction that they are going to use on the device, the dual check valve device that has to be installed will restrict the flow at some point.



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Boyd: you would rather have some direction placed on the plan for the applicant other than just when he goes to get the building plan and the sewer and water application.

Garand: it should be reviewed right now because they have to see what is out there and what is required to be changed

Footte: and recently from watching the selectmen's meeting it appears that one of the issues that's coming up with our water is there are an awful lot of buildings out there that have wet sprinkler systems and they have to flush them; I heard it said at the Selectmen's meeting that we should start requesting dry systems so that they don't have to waste water unnecessarily.

Boyd: I agree. Especially on new construction, they've got systems now that go up in the roof.

Garand: actually it's a hazard in a wet system and if it goes into an area that needs to be protected against freezing they have to put a chemical inside it so it adds more of a hazard to the water system also.

Boyd: I don't mind talking to the fire chief about this but a lot of this I thought was going to be necessarily dealt with at the building permit stage.

Garand: I know there are a lot of hazardous materials on this site. Is this going to be used for containment or what is the purpose of this addition?

Boyd: what he has told me and I asked him point blank again yesterday is that everything in the building will simply be relocated within the building, there is nothing new by way of chemicals

Garand: are they adding more amounts? Is it going to be more of a hazard on the site?

Boyd: no. it simply is going to allow them to lay out the facility better; it's too cramped for their current operation

Garand: is there a note on the plan saying that they'll do all the guidelines with the BMP and so forth? It is the well-head protection area and the type of chemicals that are on site are a hazard to that area.

Boyd: as far as the BMP's usually that's controlled by

Garand: I mean secondary containment, the whole new addition should be a secondary containment building with the raised thresholds and everything right there and it should be part of the plan; so that is 110% containment at least

Boyd: do you have specified language for this type of site?

Garand: that right there is the DES standards for BMP practice and basically it has to be an envelope that will contain 110% capacity of the largest container inside there; and I'm not sure what the size of the vats are inside that building that they are going to move the product lines around. Some of those vats look pretty big.

Boyd: will you require a door at the back side of this addition?

Garand: that's an egress point also; depends on the use of the building

Boyd: there's a door on the back already

Garand: depends on how many occupants are in there and the use of the building; that's why the plans should really show that to the fire department so they can say what the use is

Boyd: I'll have them get you a floor plan of it and the layout inside.

Garand: that's all I had to bring forward.

Footte polls the other members of the board. Himmer and Lowry had no comments. Evans felt Garand had addressed his concerns.

Evans: I want to ask you Henry was the detention basin designed with the type of use of the building in mind or just with consideration of the surface area?

Boyd: just for the exterior stormwater runoff; it's not designed to take care of any of that. But I do agree with Paul that the whole point of that containment is to stay within the building and not to run out into the environment; what I'll do is tell Greg to get us together a basic layout of the interior



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Garand: we need to know what they are going to be changing or moving around

Boyd: I'll have him sketch it and a proposed sketch

Evans: I also agree with the Technical Review's request to bring the existing lighting into compliance with the current standards; I don't think that means photometric grids, but making sure that the full cut-offs are in place.

Boyd: I don't think they have much light there, but I will re-look at it again and see what they do have.

Evans: is this dotted line the extent of the pavement?

Boyd: that's right and they don't plan on paving it either which is good and I applaud them for it. They actually have a few employees who do park over here, but they have no desire to increase the pavement. :It's very stable material; it's a hard pack gravel, good load bearing stuff.

Footte: Tom, do you have any?

Morgan: I believe you guys covered all the territory. I say Henry you probably only need a couple weeks to get this ready?

Boyd: that's all I need—actually I need a couple of days

Footte: are there any abutters or other people in the audience who have questions or concerns or comments about this proposal? (None responded.) So I guess we need a continuance to our next meeting and you'll have the water and sewer lines and all the other items we've discussed?

Boyd: I will talk with the sewer department and the fire chief.

Footte: we'll continue this to November 1, 2005 at 6:00 PM. Our next case is #05-48 Proposal by David Tomlinson & Eno Urbani for site plan review to remove existing structures and construct a 5,480 square foot wholesale retail building at 49 New Zealand Road, Tax Map 7, Lot 78.

Wayne Morrill, Jones & Beach Engineers: The site that we are proposing is on New Zealand Road, this is the current hotel that is on the corner of 107 and right now there is an existing house on there with a couple other structures in the back, a foundation and a building being built next door right now. What we are proposing is a 5,440 square foot wholesale retail building. When we came to tech review with our original application we had 5,480 square feet they told us the setbacks were 30 feet for residential so we lost a few feet on the loading dock and revised the size of the building down a little. We are proposing 22 parking spaces with one access off New Zealand Road. After the tech review I went down New Zealand Road trying to find any sidewalks like the board told me and the only one I could find was a little paved sidewalk coming from the building to New Zealand and no sidewalks on New Zealand at all so we are proposing what the board told me, Portland cement sidewalk just like the Selectmen want. So that's being proposed along the entire west side. On the east side all we have is a little sliver, which I felt would be broken up the first day we put it in anyway. We have a loading dock on the east side, the proposed dumpster right next to that. We have an access way along this side of the building and three sides of access for the fire department. Vertical granite curb going into the entrance way, the water line has been switched from a three-quarter inch domestic and a six inch fire suppression to just a six inch and then an internal tap for the domestic for the inside per Warner Knowles' comments. Also added to the plan we have a six inch sewer line with a one percent slope. We have a sampling manhole at the property line per Warner's request. Handicappeds on the far side of the building with the sign attached to the building. Drainage: we're proposing a small depression pond in the front. Surface drainage comes into this smaller one and then goes in sheet flow from the west side of the building goes into a swale into a detention pond at the rear and then out at the access towards the east. I went over this with Erik after the Tech Review meeting, he told me that I misunderstood that it was a type A series soils, I thought it was excessively well-drained; it's a type B type soil and the existing contours everything goes down into this hole right here (pointing to back left corner of plan) because all the contours are going in this direction so we have a decrease in flow to that one point. The detention pond as I told the



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Tech Review, is a dry pond, supposed to be drained. It's only there for the large storm events. Next sheet is our lighting, very minimal lighting. Two fixtures, pole fixtures out on New Zealand Road, the rest are wall mounts on the building itself. We meet the criteria for the town for all lights not going over the property line. Our values are down to zeros all the way around on each side of the building. We have .1 in one corner. No lights in the back where the detention pond is. Landscaping, we're putting a liberty elm out in the front, some shrubs and things around our sign. We do not have a sign detail on the plans. What we are proposing is just a very small sign, at this point the applicant doesn't even know if he's going to put a sign out there. We really don't have any ideas for one. At the most it would be a two by two little sign telling who it is. Little plywood type of sign. Details. Architectural elevations are on the last sheet. We originally brought this building in and it was going to be all block. We took a look at the surrounding properties and felt a block building in the middle of a residential neighborhood wouldn't be the right thing to do so we switched to a vinyl sided building to make it look more like a residential house. We are only having a couple windows on the front, one door, loading zone and an access door on the Westside of the building for a second egress on that side. We tried to make it look more residential and not stick out like a sore thumb out there. That's our proposal.

Footnote: we'll go through the tech review checklist. Color is not indicated. Please tell us it is not going to be canary yellow.

Morrill: it's not going to be yellow or pink, it's going to be a neutral vinyl sided building.

Footnote: we've already addressed signs, outside lighting, outside lighting fixtures, do you have the hours of operation?

Morrill: hours of operation in this building will be 9-5 Monday through Friday. I believe it's on the lighting plan. It's not. I can add that. Lighting levels will be dropped after those hours. 9-5 Monday to Friday, one employee at the building, that's it.

Footnote: photometric grid; next does plan minimize traffic congestion; at the tech review we all agreed it was going to increase traffic because primarily what is there now creates virtually no traffic; does it minimize traffic hazards, that's left unanswered; does it minimize unsightliness, yes it does; minimize annoyance to other land users; there is still the comment about the proposed rip-rap outlet for the rear detention pond, which puts the storm water directly onto Ralph Welch's property. I notice that you didn't pull that back at all.

Morrill: I asked Erik about it and that's what the discharge calls for the riprap being and the actual existing drainage does go into that contour right in the same spot

Footnote: yes, but it goes as a sheet flow not a concentrated pipe direction

Morrill: I understand that. Because of the outlet structure, it will have the different storm event holes into the; what I'll do is try to have Erik pull it back some so it isn't quite so close to the line there and we can put up a couple rows of silt fence there to make sure there is not disturbance to that property on the side.

Footnote: pull it back or kick it more to the corner instead of the sideline.

Morrill: the problem is you have one contour that is right in that corner there and the more you turn it, the less elevation drop you lose there; but we'll pull back the rip rap there

Footnote: but I think that's taking unnecessary advantage of a contour that is 99.9% on someone else's property and you're tagging into it

Morrill: 99 I'll convey that to Erik. He loves that stuff. We'll pull the rip rap back and force it more toward

Footnote: look at C1, it shows that contour. There is only an itty bitty bit of it that comes into this parcel.

Morrill: we're an engineering company and that's what we do best, maximize out properties; if you look at the site, it all comes right down to this hole and if there is a decrease, what the regulations call for here is what you have to go for. To be a good neighbor, we'll pull back the rip rap and make the right thing.



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Foote: I think it would have less impact on King Surf Limited. They have an open field there isn't it?

Morrill: right here you can see the edge of the gravel, that little dashed line, so once you get past that point it's all open land out there and everything is draining to the highway at that point

Garand: I believe they have approval for an expansion on that site but that doesn't have anything to do with this site

Foote: continuing with check list: does plan minimize erosion and other effects detrimental to abutter, there again, tech review stated move the outlet away from the property line. Does plan minimize effects detrimental to neighborhood and environment. That was the side setbacks at 30feet. Is there sufficient off street loading space provided? You did relocate and shorten the loading dock. Sufficient maneuvering area that was okay with fire on three sides. DPW feels proximity of building to top of slope of detention pond is suspect. But that's where you added the travel lane on the side when you redid this.

Morrill: before it was shifted completed over. We've added a travel lane here.

Foote: drainage designed for a fifty year storm, yes it does comply; suggested check with a test pit and you did come back with different types of soils; groundwork installed to prevent erosion or sedimentation of streams, C3 notes, check snow storage location, put down geo-plastic for support.

Morrill: we modified the snow storage. We actually have a bigger space and it's not tight on the side and the drainage schedule was on sheet C3 that day.

Foote: safety codes met, fire alarm okay, needs backflow device.

Morrill: on Sheet C2, a note, #29 back flow needed on fire suppression line.

Foote: and sanitary waste facilities in new building connected to municipal sewere, sample manhole and use to make slight turn in sewer service

Morrill: exactly what we did

Foote: water, show only six inch service to building; potable taken off this service inside the building; show existing residential water service abandoned and disconnected.

Morrill: sheet C1 shows it being abandoned at the property line and Sheet C2 shows the six inch water line and note #28 calls for three inch domestic to be tapped internally

Foote: sidewalks you've got Portland cement sidewalks on. Engineers comments:

Sewer - It appears that the applicant is proposing use of the existing 6" sewer lateral. On Sheet C3, the sewer pipe is to be located under the front of the detention pond. The bottom of the pond elevation and 12" drain is approximately 58.5. The pre-existing elevation was in the 62.0 range. There is a concern as to the depth of the lateral versus the finish grade of the detention pond. Given that the main on New Zealand Road has invert elevations between 53 and 54, the top of the lateral pipe may be at 55.5 +/- as the laterals were typically left 7.0 feet deep at the property line. The sewer lateral should be reviewed for depth concerns at the detention pond.

Morrill: that's why we added that sewer manhole. We were able to take a turn right there and get away from the outlet structure to maintain the cover and we actually pulled all the sewer sheets from the actual design and came up with the exact elevation of that stub and we have adequate cover between the two pipes so it helped putting in the sewer manhole.

Foote: last comment from Public Works is Drain manhole on Sheet 8 does not show a 3-ft sump of an invert application which is appropriate? Note #8 referring to drain manhole talks about a standard catch basin is included with a manhole detail as a manhole is not a catch basin. Typo?

Morrill: no, this is a drain manhole. Drain manholes don't have sumps. Just a flow right through.

Foote: it appears the engineer has given us the amount for performance security but before we get to that we need to decide if this is administratively complete so we can begin deliberations.

Motion: Evans To accept case #05-48 as administratively complete for deliberations.

Second: Lowry Unanimous



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Morrill: just to answer the question of one of the technical review committee comments on the building's use and traffic. As I indicated to the Tech Review board, this building is a wholesale warehouse that is going to be a spot where Seacoast Bargains that is out in Hampton Falls will have a lot of curtain displays and things like that that they are going to be taking customers and shopping in Hampton Falls and they tell them to go to the Seabrook thing. There won't be all the different things that you can get at Seacoast Bargains here, but it's going to be a direction that they send people. That's why are traffic flows were expecting maybe one to two, maybe five cars a day going here. One or two tractor trailers that will load the building and then once the building is loaded then its either a ten wheeler or a pickup truck that would be doing the loading from the site. So we're not expecting a lot of tractor trailers, we're not expecting a lot of traffic and even though the Tech Review committee said people will find it, it's not going to be a destination. It's more of a wholesale thing. And I understand that if someone comes in with a different use they would have to come back in front of the Planning Board so our traffic should minimize a lot of congestion on this road.

Foote: you understand that already New Zealand Road and the businesses on it and its connection to Spur Road is a major problem right now. We're trying to get the state to put traffic lights in at Spur Road because of the problem. So any new traffic that's being directed to this area is just going to be that much more burden on an already bad situation. I understand from what you're saying that the customer would go to Seacoast Bargains, look at what's on display and then someone there would say okay you can go get your order at such and such a place.

That's not completely correct. I'm **Dave Tomlinson**, the owner. This is going to be an off-shoot of our store and basically what it is as he said is a minimum amount of products, but we buy curtains on big-time closeouts. The majority of my customers will be over the phone at the Seacoast location. But we will be open for retail for people who want to come over there. But I would be surprised if we had five customers a day come over there. And as far as the trailer trucks go, you're talking a ten wheeler, one maybe every three or four months. This is where we buy a big closeout deal and we primarily sell it over the phone from the store but we do take the people over to show them. And most of the customers are other retail stores. It's not so much a person coming off the street to buy one or two curtains. If they come in, that's fine, we'll have a showroom there and they can buy, but we're not pushing this. That's why I'll only have one person over there primarily because we're not pushing this as a big full-blown retail type store.

Foote: it's going to be more like a storage warehouse

Tomlinson: it's warehouse, but it's going to be retail/wholesale and it's going to be more wholesale than retail and the wholesale is mostly over the phone.

Evans: like interior designers and that sort of thing?

Tomlinson: Right. I sell to Building 19, Mardens up in Maine, to the Christmas Tree Shop but we sell 20,000 units or 30,000 units and those type of people I just send the samples and it's yes or no. But we do have people from motels on the beach who come in and a lot of times they come in to pick out what they want. We don't care if it's one piece or 20,000 pieces, a sale is a sale but we're not looking to push this as a high-traffic type location.

Foote: any other? Tom

Morgan: the zoning district you're located in is?

Morrill: commercial

Morgan: zone 2? I think the applicant made a good response to the traffic congestion and hazard issue. What we've got to watch out for is if he were to sell the building in two or three years, the Planning Board have some kind of mechanism to review what ever comes next because it might be high traffic. And the way you'd set that up is to make it a condition of approval.

Garand: any change of use will require Planning board approval



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Foot: change of use is not necessarily change of ownership because a couple years down the road you might decide to expand from

Tomlinson: I can't expand that building

Foot: you might decide to expand the product line similar to; we have no idea what might happen in the future, we just have to make sure like Tom said, we're satisfied with there not being an excessive amount of traffic for this application, but if you should decide in the future to turn it more to like what you have in Hampton Falls, or you should transfer it to someone else and they decide to turn it into a retail store, I agree that we are definitely going to have to put conditions

Evans: we need to plan for the applicant's success

Foot: yes

Tomlinson: you don't want me to be too successful that what you're trying to say?

Evans: absolutely not

Foot: use UPS a lot. Any other comments, Tom? Paul?

Himmer: a question about dumpster hours in a residential area?

Morrill: there is a note on there

Foot: Paul Garand? Mike? Peter?

Evans: I have a couple. On sheet C2, it appears that snow storage is shown in the depression in front of the building.

Morrill: it's on the bankings before the depression, hoping the snow will melt and go into the depression, into the treatment. That was one of the conditions that the TRC wanted to make sure that any snow that had any salt or anything got into the pond area.

Evans: good. Note 3 on Sheet C2, makes reference to a proposed restaurant.

Morrill: that's a typo, it should be retail.

Evans: we can strike that then. Note 9, talks about changing the signage unless a variance is requested. I think request is insufficient, maybe an approved variance, that may be splitting hairs.

Morrill: I understand what you're saying.

Morgan: substitute the word grant for request

Evans: in the utility notes on the same sheet, it makes reference to the water infrastructure and conveying to the Town the right to enter the property in order to inspect, etc. is that standard boilerplate or is that in preparation of conding this building?

Morrill: there is no condo happening on this project; it was just a matter of letting the town come in and inspect that connection from domestic to fire to make sure we did it correctly. At the time the note went onto the sheets, we had two services, one for fire and one for water, so it's left over from that meeting.

Evans: Note 25 I would ask if the applicant would entertain the idea of putting in a dry fire suppression system?

Morrill: I think as we go through and get the prices for all the building and everything like that, it's something the applicant can look at, going for a dry system. It's a point well taken.

Garand: my one thing is the trench drain that's out in front of the loading area, it looks like the drain where the sheet flow goes is going to pick up some of the flow where a truck would be—would that require an oil/water separator on that? On Sheet C3. Because that line is going to pick up any fuel or anything that's going to happen down there and at the same time it also picks up a roof feeder doesn't it?

Morrill: the roof leader is going into here, this truck drain, if you look at the grading it goes out beyond the dumpster and stuff, the flow would go past the dumpster into the grass if it missed; but you're saying an oil/water separator might be needed. It's not needed because we're allowing the flow to go past into the detention pond and the sheet flow itself, you can see the flow arrows, really this flow from this point is going



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into here, so it's a very small amount of water that is actually is going to be there. The only reason for the track drain is because we have a flow coming down at that end and we don't want it to puddle up in that corner. We don't plan on having any chemicals coming out of the loading zone or anything like that. It's just dry goods.

Evans: and my final comment on Sheet C4, the lighting notes #8, specifies that all lighting fixtures are to be full cut off unless otherwise noted. Are there any?

Morrill: these are our lights, Peter. This is what has requested, that I put the lights I am going to use right on the plans. This is it.

Evans: so there are no otherwise noted.

Morrill: no otherwise noted.

Foote: if you want to get really fussy about taking off plans, back on Sheet C2, utility notes item #9, as built plans shall be submitted to DPW, it should be Planning Board. Are there any abutters who would like to speak?

Charles McLaughlin, abutter on the 95 side and I want to know if there is going to be some kind of a fence that will separate those two lots?

Morrill: you're on the west side?

McLaughlin: right now there is a row of trees and shrubs

Audience member: are you leaving the trees?

Morrill: whatever trees can remain will remain on that side. (to Tomlinson): do you have any problem putting up a six foot high stockade fence?

Tomlinson: I don't mind putting a fence up. I think we discussed it once and we didn't know what people would want, some might want a row of trees, some might want a fence. So we didn't know.

McLaughlin: little kids play there and if there is a fence they won't wander over there. The other thing, the original owners, there was a problem with the lot lines on my side somewhere around three or four feet. When the guys were surveying I talked to one of them and he said there didn't seem to be a problem. But the original man who was there and put the fence up, he said it's not the lot line but I'm putting my fence there anyway. Now you're going to redo this and the flags look like they start off at the fence and then go halfway toward the garage and then angle back.

Morrill: the only flags that we use are the orange and blue together for property lines; that's the only marks that are property lines. The fence, what we found we had to go back and recreate the whole hotel and then go down the block to get the entire thing and we actually found some of the iron rods and things and everything is where it should have been there.

McLaughlin: it wasn't the iron rod for the fence was it?

Morrill: no it was an actual iron rod monument.

McLaughlin: that's all I had. Thank you.

Foote: anyone else?

Ralph Welch: I live on the opposite side. I have several concerns. Basically one of my main concerns is this pipe that is pointed to my property. I don't have any water here or anything like that right now as far as he said about the water actually running over here. I can't agree with that one. It is definitely a concern. Another concern is this entrance/exit way. They just stated they would put the fence up no problem; that will stop every vehicle that leaves here from shining lights and stuff this way. Every vehicle that leaves the parking lot is definitely going to be aimed at my house, which is right there on the corner. The dumpster I'm not happy about being right there and when the trucks do come in loading and unloading, and say there is an eighteen wheeler, but the length of that eighteen-wheeler, where's the engine going to be running and idling? I know they said they are going from 9 to 5 Monday to Friday, which would be awesome if they are not going



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to be open on Saturdays. And five customers a day I'm having a little trouble swallowing. The water runoff as far as this, this whole ramp is definitely a down slope, so anything from here over is definitely coming my way, which when they plow snow is going to be banking on top of banking and I don't want to be too negative, but I have a lot of concerns with this being my house. This isn't something I'm building to profit, this is where I plan on living. I'm wondering if this might affect the property value in the long run. Is it going to depreciate my value as a residence because it's zoned commercial and residential. When I moved in, there was a residential use on both sides of me. I was surrounded by a house and a house. Now I have a parking lot. I'm just curious, can someone tell me or guarantee that it's not going to affect my property or house value?

Foote: I can answer the snow storage thing. On the plans they have the snow storage designated to be pushed to the front detention pond, the berm along it and the side opposite you.

Welch: I understand that. When you plow downhill, you plow to the outer edge. When they plow that run for the loading dock, the truck is not going to back down in on the grass and push the snow out this way, uphill. I don't know if you've ever plowed snow before, I've been doing it for fifteen years. They are going to hire somebody to come in here which will probably be two o'clock in the morning during a snow storm and they can request that they push the snow a certain way, but if we have a snow season like last season, you know what this whole strip is going to be. It's going to be salt. The road runoff is going to be, it looks like to me, elevation 61.3, 60.9, pretty much the road elevation here, that's showing me this stuff is going to run downhill. I wish they could have just flip-flopped it the opposite direction and I wouldn't have to deal with any of these concerns. If they could make a copy of that and flip in the opposite way and run that pond and water out here where there's nothing instead of, is that possible? I have a lot of concerns like a said. This is where I am going to be living.

Foote: I think you've heard that the tech review and quite a few members of this board are unhappy with that outfall.

Welch: I have concerns because I plan on living here. It's not going to be a rental property. I'll sleep good tonight if they can guarantee me that it won't affect my property value a couple years down the road or if you guys can do it.

Morgan: is it feasible to flip?

Morrill: if you flip the whole building? Just the drainage? It would raise the outlet of the pipe.

Welch: flip flop the whole design so loading dock is on the other side of the property where there is actually a row of trees, some separation between you guys and the neighbors to the opposite side.

Morgan: that's they guy who just left the room isn't it?

Welch: yes but he's gone now so we can talk about it.

Morrill: the reason why the building was set up like that is because that's actually the low side of the site to begin with so it's not as much construction. You'd have to dig that whole hill out on his side

Welch: that's fine. I don't care what you guys do. But as far as it running my way, there's no way I can go for that. That's just crazy.

Morrill: the reasons why we set it up like that is because that was the lowest side

Welch: I understand that, but you've got someone living there, it's not woods or somewhere it's not going to impact someone.

Foote: is there anyway you could squeeze it in tighter so it sort of exits out of the middle back and then has a long drainage swale that runs beside it?

Morrill: can you show me what you mean on your plan?

Foote: draws on plan: have it exit somewhere in here and then a swale

Garand: something similar to what they did at the rec center



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Morrill: oh, yeah, we can do something like that

Foote: instead of this being here dumping directly to you, move this whole structure to here in the middle and then the depression that it follows to the natural contours so it can flow this way, whatever way it goes with the natural contours

Welch: the back corner is not lower than where you are at there.

Foote: I don't know what this invert is

Welch: I don't want to have to deal with the back corner of my property being under water every time there is a major storm and I can't cut my grass or use it. I plan on putting in a pool or garage later on.

Foote: it looks like they have that overflow tied in at what? 59 feet?

Morrill: if the emergency spillway is at 59, the invert, the orifice is at 57, I know what you're saying Sue. You pull this berm back in some and have it dump out here and then slowly, like a 50-75 foot level spreader going in that direction

Foote: so it would soak into the ground in that area and it would only be in extreme storms like we've had for the past three weeks, that water would actually make it there.

Morrill: I think that would take care of the problem of it discharging right out there and it would allow it to fill up and then disperse and bleed into the ground so it would be a lot better situation, I agree.

Audience member: something like a leach bed?

Morrill: like a level spreader that will let the water drain out slowly and not just dump right at the property line.

Foote: does that sound okay to you Ralph?

Welch: anything is better than what it is now.

Foote: it would come out in the middle and then just be a flat spreader that it would soak down through. Because that's an emergency overflow anyhow. 99% of the time all the stormwater is going to stay inside the pond and drain down through the pond. It's only in conditions that we've had for the past month, that you might see overflow.

Morrill: that would be better treatment also.

Evans: how do you feel about the six foot stockade fence?

Audience member: you have it on one side, you might as well have it on the other

Welch: the fence isn't bad but I wish the entrance was on the other side; right there, I don't know if you can actually see how this closing curbing is actually coming to—I take it this might be a curb?

Foote: yes, granite curbing. It actually wraps around.

Welch: so there are no setbacks as far as the boundaries, as far as where that would have to be away from the boundary?

Foote: no. that actually goes out into the right-of-way.

Welch: to me, it would make everything go away if this was on this side. And then I wouldn't have to deal with the trucks and cars pulling in and out right there.

Morrill: the only problem is the way the building is set up now if you put the driveway on the other side, you wouldn't be able to take a truck in and back it into the loading dock.

Welch: what would be the difference on the left side or the right side?

Morrill: right now, a truck comes in, sticks his nose in here and backs in. If he came in here, there is no way for him to back up. He'd be nose in.

Welch: how big a truck is coming in?

Morrill: this is set up for a tractor trailer but like the client said, it's going to be a ten-wheeler at the most. So you come in here, you stick your nose here, we have to set it up to have a tractor trailer be able to make that turn motion.



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Welch: I'm just going to have to deal with every single vehicle going in and out of there that's all. The ten wheelers shouldn't have a problem either way; the eighteen wheelers are what will have a problem. I'm just trying to go by what you guys are offering here. One eighteen wheeler to get started and ten wheelers, two or three months apart or whatever. Those are my concerns. I have to live there and deal with it seven days a week.

Foote: I think possibly one of the conditions we could put on the plan is that no trucks will sit and idle on site. If they are backed up to the loading dock and off-loading they shut off their engine.

Evans: I think that's a good compromise. It will keep having an exhaust pipe pointed right at your bedroom window because that's the height it's going to be at.

Welch: if they are going to stick to the hours they say, it won't be any trouble at all. I'm not going to get on the phone and make a complaint if somebody leaves their rig running. I drive trucks. No way when it's 30 below am I getting out and shutting that motor off. If that's really going to be the hours of operation, 9 to 5, Monday through Friday.

Audience member: that's the question, what is delivery time?

Paula Jones, 41 New Zealand Road: that was my question. You say your operating hours are 9-5 but everybody who works in any kind of retail/wholesale knows delivery isn't 9-5. It's usually before.

Foote to Tomlinson: could you speak to that?

Tomlinson: well I can't promise that every time I'm going to have a delivery it's going to be between 9-5. Like I said, we're talking about one trailer truck every three months, here and we don't have any deliveries before 9 o'clock when I get in because I check them in.

Foote: and you're not likely to be waking up to meet a delivery at 3 in the morning?

Jones: you're going 9-5 but they do run late occasionally, but you're saying nothing for Saturday or Sunday; you're actually not going to have the place open on weekends?

Tomlinson: not for retail, no. We're not basically open. I'm not saying I might not run a truck up there from my store on a Saturday.

Jones: but you're not going to be running an 18 wheeler?

Tomlinson: no. I have two fourteen foot trucks, cube trucks.

Evans: trucks are restricted in residential areas between 11 PM and 7 AM.

Tomlinson: we wouldn't have any deliveries like that. If a guy called me and said he was sitting out there at 10 o'clock to make a delivery from the west coast, I'd say hey pal I'll be in there at nine o'clock; that's when you're going to make it, go up to the truck stop and sack out. Believe me, we don't go for that.

Evans: now this is technically zone 2, but in my opinion it does meet the semantic requirement for a residential area. Obviously there are residences.

Foote: it's more like a 2R than a 2 even though it's zoned for zone 2

Garand: on the opposite side of the road it turns into 2R; so basically, if they have a complaint after hours with the police department about noise of a truck, the police can respond at that point.

Foote: any other abutters have any questions, comments or concerns?

Tomlinson: the only other thing I want to say about as far as trucks go is that we have the delivery of the product by a trailer truck, but the deliveries of things shipped out almost 95% of it is by my own truck. We don't have trailer trucks making pickups for deliveries, not even pallet. I deliver everything we sell ourselves.

Welch: is there any way to get just a continuance or something? I think I'd feel a lot better if I check with my legal counsel to see if there is anything. My biggest concern is definitely that this is going to knock down my property value and if that

Foote: we are going to continue it because he has to make corrections to the plans; there are some typos that have to come back, plus he has to redraw the drainage to the center outlet, so the soonest we would be



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discussing this again would be November 1st. That should give you sufficient time to check with legal counsel and possibly the assessing office as to what impact it might have on you.

Welch: when I started to build this there were two houses there, now this; I'm not so happy to be there.

Jones: November 1st at 6 o'clock?

Foote: yes. Anything else we need to discuss or advise Mr. Morrill to alter or change or whatever?

Garand: so we're looking at fences on both sides and we're looking at drainage

Foote: yes. Ralph is stockade fence okay with you or do you have any preference on fencing?

Welch: the most expensive vinyl stuff they can find.

Foote: if no one else has anything to say we will see you November 1st.

Public Hearing closed at 7:50 PM. Five minute break taken.

Public Hearing re-opened at 8:00 PM

Foote: next case is #05-49 Proposal by Ralph & Virginia Marshall for condominium conversion at 53 Ledge Road, Tax Map 2, Lot 93. Foote reviews the checklist. We have the condo documents now. And the assessing office says that the Map Lot & Sequence should show 2-93-10 as the bottom unit at 51 Ledge Road and the top unit, 53 Ledge Road will be 2-93-100. The title block has to reflect that it is 51 & 53 Ledge Road. The condominium documents were checked for references to the separate units. The documents refer to the 53 Ledge Road Condominiums and not to each unit individually. Only the title block on the plan needs to be changed. The technical review wants wetlands shown on the plan.

Foote: I will go on record stating that I would be willing to waive at this time any wetland delineation. With the condition that should there be any future expansion of buildings or outbuildings placement more than 30 feet away from the existing house structure, then a wetland survey will be required at that time.

So I will make that motion.

to waive at this time any wetland delineation, with the condition that should there be any future expansion of buildings or outbuildings with placement more than 30 feet away from the existing house structure, then a wetland survey will be required at that time.

Motion: Foote

Second: Lowry Unanimous

Foote continues to review the plan and polls the board.

Motion: Lowry To accept plan #05-49 as complete for deliberations.

Second: Evans Unanimous

Foote: then I guess we should redo the waiver as we took it out of order. Continues to poll board.

Garand: It meets the condominium requirements. I think conditional approval with renumbering is all that's necessary.

Lowry: I'm fine.

Evans: I'm your neighbor and I wouldn't have said anything, but since he's got to add 51 Ledge Road in there maybe he can change Border Wings to Border Winds Avenue. Up in the locus map.

Foote: Tom, do you have any?

Morgan: I hate to be a spoilsport but is this shut-off on our public property?

Garand: it's an existing shut off, it's already in place.

Marshall: it's an old blow off from when they put the well in up there and he just gave it to my father when he bought the house

Morgan: what Ernie could do is draw a little box and say easement for a town access. Okay I withdraw it.



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Marshall: they put the new shutoff right at the same trench that way they don't have to dig up another trench in front of the house.

Footte: anything else? Are there any abutters or anyone in the audience who has questions, comments or concerns? (No one).

Marshall: so change the 53 to 51 & 53.

Garand: just have him write it underneath it.

Marshall: so which one gets the 51?

Footte: the bottom is 51 Ledge and the top is 53 Ledge according to Scott Bartlett.

Garand: what is your address presently?

Marshall: 53

Garand: then keep your address 53 and give 51 to the other unit.

Marshall: I don't want to change everything.

Footte: you can work it out between yourselves. 293-10 and 293-100

Marshall: it goes that way.

Morgan: why don't we just have him meet with Scott on this?

Footte: the main thing would be for tax purposes.

Marshall: I'll take with Scott and do what he says. He's going to make the west one be 51 and the east one be 53 I would say. If you want to run in sequence.

Footte: that would make you 51

Marshall: that's okay.

Garand: so we can do a conditional and the chairman can sign.

Motion: Footte To approve case 05-49 insofar as it complies with the Town of Seabrook Condominium Regulations and Chairman to sign when title block is changed.

Second: Lowry Unanimous

Marshall: when do you need them? Do the condo docs need to be redone?

Secretary checks documents. The name is 53 Ledge Road Condominiums. And it refers to the unit as 53 Ledge Road.

Garand: you could ask for 55 Ledge Road and you could keep 53. Check with Scott.

Footte: check with Scott first and put what he says.

Marshall: change unit one to 53 and unit two to 51

Secretary: I don't think there is anything here that actually refers to the specific address; it's the 53 Ledge Road Condominiums and there are two units. I don't think they refer to each individual location in the documents.

Marshall: see you Thursday.

Footte: on to continued hearings. #05-42 Proposal by Marianne Gibbons for a 4 lot subdivision on Dow's Lane, Tax Map 12, Lot 14.

Wayne Morrill, Jones & Beach Engineers: this is a continuance. A lot of the tech review comments were based on the old plan. This is a project that we brought in front of the board there was a little problem with the Dow's Lane right of way. We met with Millennium and came up with a solution on how to do the right of way, we found out we did not even own where we were going to do the driveway, but actually the abutter across the street owned the piece of property. We adjusted the access on the driveway which we actually do own. As part of what we heard from tech review is they wanted the right of way dedicated to them for part of that Dow's Lane which actually came into our project. So we went to the Millette plan that dedicated a thirty foot wide right of way from this part all the way down to almost the end of Dow's Lane so what we



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decided to do is come back in front where this road is and dedicated that amount of land on our side. So what we did is we expanded this piece of property to be dedicated to the Town of Seabrook for any widening or anything like that so the road is a Town road. And we created our lots from that point. All our lots meet the minimum frontage. They all have a minimum acreage over, I think our lowest lot is 48,706. Every lot the uplands is marked on the plans. We do have an access for a utilities mailbox and common drive that goes across here. This will be a mailbox in the corner. The project did come back in front of ConCom just the other night and what we decided to do, we originally had a crossing down in here and there is an existing pipe that connects these two wetlands right now. We're going to remove that and put a two by two box culvert into that area for the access into these lots. The lots themselves on Sheet C2, we're showing the magic square for each lot, two units per lot because we do meet that criteria. We are in the correct zone. We are

Foot: is two by two going to be sufficient for storms like we've been having?

Morrill: there's a 24" culvert in there right now

Foot: yes, but it flows over and around

Morrill: that box culvert right now? I mean that culvert right now?

Foot: yes, that existing culvert the stream flows over, around, underneath; so saying that there is a twenty-four inch in there right now

Morrill: well 24 RCP circle, now it's a 24 x 24 box so you pick up a lot of area by having a box and I know the conservation commission wants box culverts more than

Foot: I'm just wondering if a 24x24 is going to be enough because

Morrill: the existing stream coming to it is an 18 so the additional flow that would be coming at that would be water that would be filling up that wetland and then coming out through that box. The only way that I can actually do that is to do a hydrology study of that whole entire area and find out what the flow is coming from...

Foot: I have a feeling that culvert that's out there now was probably liberated from some construction site ten or fifteen years ago and placed out there by the kids that liked to do the four-wheeling.

Morrill: wasn't there a young man from Millennium here talking about how he used to do that all the time?

Garand: Charlie did it when he was younger

Bagley: no I didn't

Foot: going by saying that was out there and it was specced properly is felonious

Morrill: I agree with you and what we'll do is run a drainage calc on that and make sure that it works because I agree with you. The last thing I want to do is have a culvert out that that washes out and all of a sudden someone comes back and sues me because I didn't size it correctly. What I'll do is a hydrology study of that area to make sure Mr. Bagley doesn't have people out there with no way to get out of their houses.

Evans: The Alstead Memorial Bridge

Morrill: I've had situations like that before and once someone gets washed out of their access way, it's not a pretty site. So we'll do a calculation and give that to Mike

Foot: especially since the weather bureau forecasters say that we are getting into a cycle that is going to be more storms and rain; we've been, for the past fifty years through a dry spell; we are now getting into a wet spell; this is just the beginning of the rains and the hurricanes we are going to be getting into—it's going to be like in the 30's

Evans: Madam Chair did you send that link on culverts, hoppin blue gills and stuff to Jones & Beach?

Foot: yes, he got it. I also sent it to Erik's father by mistake instead of Erik.

Morrill: there is a lot of flow that comes down through there and it would help whatever information we can get would help the town in the future too with Dow's Lane so if something happens there they will know what they can do in the future. One of the things that we are doing here is we had to have our pump station



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looked at by Warner. Warner actually signed the wastewater discharge permit for this project so if you go off to the state because we learned just recently that any pump station in any town requires a state discharge permit for a pump station regardless of if it's tied into the town or not so everything, any pump station, has to go through Warner now. The fee has been paid so we are waiting for that permit and we're also, because it just came in front of the board the other day, there was a letter sent to the DES Wetlands Board for the application that we have in front of them moving the impact to right in here, which is all on site. Before we had a problem having a dredge and fill permit, either on the Town's land or Mr. Perkin's land or somebody's land so at least now it's on our own land for the impact. So that's what we're proposing. Driveways are showing to each one of the buildings, common drive, every lot to be serviced by water and sewer, sewer is going to be coming down from here underneath the culvert into a pump station because the sewer goes this way and this way, this is the high point of the sewer so we had to tie in right into the sewer manhole that is in front of the common drive and then it goes down to the pump station. It all seems to work out and Warner's actually signed our permit to go to the state.

Footte: and these buildings will all be duplexes or single family?

Morrill: single family units

Evans: detached duplex

Morrill: the dirty word in this town

Footte: there is no such thing as a detached duplex

Morrill: are there any questions? A lot of the Tech Review comments were on the box culvert and the cover over the culvert and things like that; Charlie says he has enough money so whatever the Board recommends for a culvert, he'll put in

Footte: then we'd like a 4x6 so there is plenty of room for the aquatic creatures to get through

Lowry: make it big enough for the four-wheelers to get through

Footte: first we have to vote this as complete for deliberation, correct Paul? Do we want to go through the Tech Review sheet first?

Evans: yes, please

Footte: reading from tech review sheet: profiles and cross sections of all existing roadways and proposed roadways are not there, but it's a driveway so it's probably exempt; existing utilities: The existing stub for sewer service to Lot 2 is a 6" diameter. The Town of Seabrook does not utilize 4" pipe until within 10' of the building per Sewer Department Regulations. That's probably from the old plan.

Morrill: it is because now everything is 6".

Footte: same with the water; silt fencing use wood chips not hay bales; assigned lot numbers, has the assessor assigned the lot numbers?

Morrill: yes ma'm

Footte: existing sewer service to existing house not found; width of Dow's Lane; No stormwater management plan has been provided as of 8/17/05 although the lots created are merely frontage lots without a major impact from a new right-of-way. The intersection of a new 8" main with the existing main at Dow's Lane should have a manhole for future maintenance purposes. Although the intent is clear to mitigate wetland crossings for Lots 3 & 4, the use of a common sewer main is not standard practice for two newly created lots. Has a 15' no cut-no disturb been added to the plan?

Morrill: actually there is a note added to the plan for that.

Footte: okay. That looks like it for the tech review comments. I would say it's substantially enough complete to begin deliberations on it. So I'll make that motion.

Motion: Footte To accept case 05-42 as substantially complete for deliberations

Second: Himmer Unanimous

Footte polls Board.



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Himmer: the thing about the sewer line not being standard practice, has that been resolved?

Foote: I'm not sure. It looks like these all kick into the same T and then down to one trunk line that comes out.

Garand: is this going to be condoed? Each one of these houses, afterwards?

Morrill: Condominiumized?

Bagley: it'll have to be some type of association because of the common driveway

Garand: at the same time with a common sewer line you may be running in to problems as far as maintenance issues and stuff down the road so you might want to think about separating those and bringing down a mainline trunk for each lot so at least they would only have the shared burden on two houses

Foote: so if one backs up the neighbor can't

Garand: you might want to look into that

Morrill: are you saying the two houses on four would tie into one sewer manhole

Foote: or if you are going to have some sort of common use document for the driveway, have common use for the sewer where it runs underneath the driveway and then they have the individual ones that come out to the houses

Morrill: that's why the easements for the common drive, utilities, and everything like that

Foote: because they are going to have to share plowing responsibilities

Morrill: that's correct

Garand: nothing more than an Elephant Rock that's all it is, without the Rock

Morrill: we went over it with Warner to show it to him and make sure it was right so.

Foote: but each one is going to have its own water line that will shut off at the street?

Morrill: is that necessary?

Garand: if you are going to condo, that's required to have

Morrill: so we have to run six water lines underneath the ground there

Garand: and it has to terminate on Town property. That first lot, I'll tell you, Mike made a good note about that. I was mentioning pork chop and he said no it looks more like origami so that's a really nice lot.

Morgan: which one is the origami one?

Garand: labeled as Railroad Ave I think

Foote: that was a question of the conservation commission had, do you plan on keeping that driveway entrance on Railroad Ave or is that going to get closed? It says existing driveway to remain in use. Is there going to be an entrance?

Bagley: it'll probably be an entrance to the back house on the first lot

Garand: is that house fed by the utilities presently by Railroad Ave or Dow's Lane? Because I didn't see utilities depicted on there.

Foote: well, if you place the house where you've got it situated in that first lot, they are going to have to come off Railroad Ave

Bagley: that was the original intent anyway; it's there and we might as well use it. It gives them a separate entrance.

Evans: there are six off this one common driveway that's off that whole sewer there and boy will they be mad if Decelle decides to clog up their sewer.

Morrill: I think that Sue's point is good that each lot should have its own sampling manhole so that in both units from that lot would tie into a sewer manhole so you could isolate if there is a problem so you don't have six people having one pump station saying it wasn't me; and I wouldn't say follow the trail but it's a good point. I know Warner likes to have sampling manholes all over.

Morgan: I'm a bit skeptical that six people are going to get along



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Lowry: they'll be all happy and great neighbors

Morgan: chances are sooner or later they won't; and, I guess I'm a little troubled with the situation we are helping to create here. There are any number of things they could fight about, sewer, plowing, stuff we can't even think of tonight;

Foote: that's why we wondered if it was going to be condoed, because if it was a condo association, a lot of those concerns could be addressed in the condo docs and through the condo association.

Morgan: that's why my suggestion to the Board is to nail that down, don't leave that vague and fuzzy.

Garand: you can actually look at the proposed and actually make it part of the approval to do the condominium at the same time as the plan. At least have some sense of what they are going to do and how it's going to be divided up.

Bagley: it will have to be some kind of association just because of the common driveway

Foote: you could leave the first two out of it; the existing house and that other lot; they aren't interdependent on all those others.

Garand: can I just ask did you look into making it a cluster with two lots on one driveway and then the last two lots on another driveway so you'd have not as much impact as with six houses on one driveway, you'd have four on each one.

Morrill: the only problem is that first house on Dow's Lane would have to have the side of the house facing the road

Garand: you could actually take the driveway off Railroad Ave if you wanted to

Morrill: you wouldn't be able to get, put the sewer behind the buildings

Garand: get an easement

Bagley: a crossing with another crossing could meet in the driveways

Garand: just what you do is reverse the two houses on lot number two around and bring the driveways all out and then you'd have less impact on, less traveling on one driveway and increased on the other one

Morrill: there'd be two driveways on lot number two

Garand: there'd be an easement; lot number two is a pretty big lot anyway and it'd be down to the wetlands in that easement area anyway

Morrill: okay, we'll take a look at that Paul

Garand: I'm just trying to give a way that you could separate the sewer, water, everything, a little bit more down the road or down the driveway.

Bagley: you could keep the driveway the same, just bring the utilities and get two out of that

Garand: may be something to look into

Bagley: no it's a good idea

Garand: down at Elephant Rock they actually put this really nice rock wall, do you have plans on doing something like that?

Himmer: all fixed now, they straightened it.

Foote: have they paved it?

Himmer: the driveway that goes parallel to 286?

Garand: that's 286 south

Foote: let's stay on focus here as we've got a lot more to do tonight

Evans: Wayne, in your utility notes again, number 8 specifies DPW for the as built plans.

Foote: so they're missing a note because the other plan that was number 9; what have they omitted?

Garand: is there a construction sequence also? Mr. Bagley has a hard time following those so I want to make sure there is one on the plan.



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Morrill: I know, Mr. Bagley, we had to get him a pair of glasses and give him a scale tonight so he can actually start reading these things

Lowry: he's not going to leave the country is he?

Garand: did you have him a CDL license too?

Morrill: couple other things just so you know Peter I have some spelling errors on the cover sheet and the label is Salisbury Ma and my telephone contact is actually e-telephone, so I've got a few glitches on the plan.

Evans: I appreciate your candor.

Morrill: before you guys pick it out, I wanted to put it right on the table.

Foote: question. If we hadn't noticed it, would he have changed it?

Morgan: oh, yeah it is Salisbury.

Garand: I'm glad our Town Planner saw that.

Himmer: that's why he gets paid the big bucks

Garand: let me review these plans

Foote: are there any other?

Evans: I think the water and sewer situation really needs to be straightened out before we get too much further along the line here. I think that essentially what we have is a road servicing six houses in this common driveway.

Morgan: do we have any kind of mechanism to make sure this is a driveway forever?

Garand: we can actually do the same condition as we did on Katelyn Way down off Adams Ave, which it has to be labeled and approved as a private driveway to be held as a private driveway forever. So you could look at Millennium's and see the way they wrote that on their plan.

Morrill: yeah, okay. I think that what we will do now is our legal counsel is preparing the association documents and what we'll do is give the Board a copy of that so they can see what we are preparing too.

Foote: do we have anything else we want to beat them up on before

Garand: I think this needs to be continued.

Foote: I just want to highlight and let him know everything we can pick apart for tonight so we don't have the pleasure of doing this two weeks from now. Is that it? okay we'll continue this to November 1st at 6:00 PM

Morrill: when is the deadline for revisions?

Foote: November 28th

Morrill: I'd like to ask for a 60-day continuance on case #05-29.

Foote: so for Edwin Adams you're requesting a 60-day continuance. That puts us at December 20th or would you rather go into January?

Morrill: I'd rather go into January.

Foote: January 17th? At 6:00 PM

Morrill: good.

Foote: next we have our Capital Improvements Program

Secretary: you all got the rough drafts in your packet, but now you have a fancy packet.

Foote: Tom, one of the things I brought up, I don't know if you were in the room when I first sat down.

Morgan: take the team photo out

Foote: no. I've got four of these binders at home; I don't need more. We're on a really strict budget.

Morgan: Town's not paying for it.

Foote: that's good because I got talked to last week that just because our proposed was and it doesn't matter what our revenue is, we are on default budget and we are over by about \$25,000.



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Morgan: they are not expensive so I accepted the cost here; and I also anticipated based on past history that even though the CIP was on tonight's agenda nobody would bring their three ring binder.

Foote: so basically the front of it is the same old same old

Morgan: yes, there were a few things that needed to be updated but they were small changes. Then when you get to page 7, I enlisted Scott Bartlett's assistance with these four pages so these figures all reflect the professional opinion of your assessor. And if you compare it with last year's you will see there are some different projections for your tax base

Evans: so we're climbing out of the pit

Garand: no the pit is on page three

Lowry: there's no boat in there

Morgan: Pages 11-68 is the meat of the plan. Those are the project proposals by the various department heads. This year we received pretty extensive proposals from your three largest departments, police, fire and public works. They all got them in at a timely fashion. There were some new projects; I would estimate maybe one out of five received here are new that you haven't seen before; you can pick them out pretty easily because they are assigned the higher numbers; the lower numbered projects have already been completed or are about to be completed. As of this afternoon, I've also received a proposal from the recreation department. In the last couple of weeks, after I put everything together and made the various departments the same format, I shipped the appropriate sections back to police, fire and public works and said I'd like you to look at this and make sure you got it right. Public works and police came back and said yes it looks fine and no further changes are anticipated. The fire department will be returning theirs shortly. The interesting part of any CIP is the very end, bring your attention to page 75, and that's where the Planning Board exercises its discretion to make sure we don't have any spikes or dips here that are going to a burden on the tax payer. It looks fairly good to me if you look not at the bottom line but the second to the bottom line, projected tax rate, that's where you get an indication that you're going to do anything shocking to the taxpayer. Just the way things are going, based on the way the department heads preferences for when things happen, doesn't seem like it's going to have any undue impact.

Garand: the tax rate that's in this report, is that you got from Scott to work with?

Morgan: no it isn't. we run the formula through what we anticipate for revenues, we calculate the cost of the proposals, we anticipate the tax base, which I do get from Scott, and then we do multiplication and division and come up with a tax rate. As it turns out, I can't remember what the current tax rate is, I checked it a couple weeks ago but it wasn't the same ball park. So we're pretty close because if everybody got everything they wanted, which is very unlikely because it needs to be approved by Town Meeting, it'd jump your tax rate up a \$1.50.

Garand: I think even without it the tax rate is jumping without anything on it anyway. It's predicted to go up another dollar and some change I think.

Morgan: so bear in mind where it says projected tax rate, that's assuming the Town Meeting votes yes on everything and they never do.

Garand: even without these capital improvements in the pipeline, the tax rate is going to increase because of the power plant. Did you talk to Scott about that?

Morgan: Scott has gone through this drill every year for the last three years so he knew what I was looking for and that's reflected on page 8.

Garand: I know they just settled into a contract with the power plant that's going to be in place a few more years.

Charlie Bagley returns to meeting.



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Evans: we're cranking out of the whole according to page 9 as far as the nuclear plant is concerned. This year, 2005 is the bottom valuation.

Garand: yes it is.

Morgan: it's represented graphically on page 9 and the numbers are on page 8.

Foote: did you have a question or something Charlie?

Charlie Bagley: I wanted to respond to the last comment that was made (off the record) as far as. I'd put that road against any road in this Town. I get along with not all but almost all the people down there very well. I plow the road every year. The driveways for nothing almost every one of them since I been there. As far as any problems with the road, take a ride down through. The last time there was a comment made by somebody, the newspaper lady herself drove through, met me there and she said she'd be more than happy to live in a place like that so, I'm not going to pay too much attention to some of the comments that are made because I know where they are coming from and you can take it from there.

Evans: would you like to buy a road on the west side of Town.

Bagley: there you go, I'll compare mine to that one

Garand: I could too, it doesn't have granite.

Bagley: can't keep everybody happy all the time; do your best and I've got nothing to hang my head over there; I'm not embarrassed about anything I've done over there. As I said, any of the comments that are made, take them from where they come from and go with that. It's going to be paved, it was supposed to be paved last week, but we no what happened there and so they said it'll be paved by the end of next week. And hopefully all those issues will be gone. We have an order in for an end lap but it's pretty much taken care of.

Foote: okay. You do realize that when you are finally finished you have to ask for a bond reduction and eventually ask us to close the case.

Bagley: something else I did hear. Two years after final pavement?

Foote: yes.

Bagley: so I have to keep maintaining for two more years; I thought after the binder was down after I paved the top and it's accepted you guys took it over

Garand: there were different ways of it being done in prior years; at this point right now, the Selectmen and the Town Manager set the road acceptance

Bagley: I've heard from this one and that one

Garand: I'd just put it in writing and ask them and get them to respond to you

Bagley: then it goes to a maintenance bond?

Foote: yes which is 10% of the original

Bagley: is that an accepted bond or do you go back to cash or

Foote: we don't accept insurance bonds any more; it's got to be cash or letter of credit, passbook

Bagley: that's about it.

Secretary: if you'd like to come in on Thursday I can give you a packet on site security process.

Foote: We now have packets and everything.

Bagley: thank you for your time.

Foote: when we approve the next one you'll get the packet.

Bagley: that's why it's all frontage this next one.

Foote: okay back to CIP. Water department wants to buy land for a new well in 2007.

Morgan: water and sewer did not give a new submittal this year. I asked Warner about this and he said jump everything a year. I took the liberty of doing that with the recreation, housing and conversation unless I hear otherwise from those folks.

Foote: I looked through conservation and I think it's just about right on.



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Morgan: so in terms of procedure, you need to have a Public Hearing before you can adopt your new CIP.

Foote: did we ever get anything from the school or elderly housing?

Morgan: I only got something from recreation when I came into the building today

Evans: what does a SCADA system mean?

Garand: a communication system between the town and the wells so that they can monitor all the pumps

Morgan: so when the sewer pump starts to fail somebody knows about it before it makes a big mess

Evans: I thought they only came out every 17 years?

Garand: SCADA's are something you get from the nuclear power plant.

Morgan: on page 75 does anybody want to reschedule any projects? Maybe you really need to read this and digest it before you make a decision like that. What I would suggest, take this home and read it sometime in the next couple weeks but schedule a public hearing for November 1st and I'll get the recreation update in there pretty quickly

Evans: recreation department still think they are going to stay there on Lafayette Road?

Foote: yeah, they're stuck there

Evans: where are they going to put the swimming pool?

Garand: over across the bridge

Evans: for real

Garand: with the SCADA's

Foote: the swimming pool is a wish dream; it's never going to happen

Himmer: buy a couple extra beavers you won't need a swimming pool

Garand: the sewer plant expansion, stuff like that, the larger projects how come they don't put those into bond and do them over a lot of years like other communities do?

Morgan: how come they don't?

Garand: yes. They're looking to do so much money in 2006, so much in 2007 and they're talking

Morgan: if it was a bond it would be reflected the same way in the table because you'd be paying this bond off in other years; so it would all be there

Garand: but it would be stretched over more than five years also, right? So you're looking at \$300,000 impacting the tax base over a greater number of years.

Morgan: I would assume it is a bond.

Evans: did they really not pass the tank painting, I forget?

Morgan: how did you vote on that one?

Evans: I was for the tank painting; Nextel yellow

Garand: it's Sprint now; Nextel and Sprint the one and all; I think these trucks on page 6 are a safety hazard; I think they should be looked at.

Foote: do we want to take Tom's advice, bring these home, read them over, schedule the public hearing for November 1st, is that when you said?

Morgan: sooner is better than later.

Foote: I'm concerned about the school not getting in touch with us and elderly housing they both were last March when we were having the deliberative session they were quite vocal from the school and elderly housing that they were left out of the capital improvements process.

Secretary: Do we have names I could call somebody this week. I sent letters, and I emailed Michelle at the School but I can call people.

Morgan: when we first began doing CIP's my experience with the schools was they were just not interested.

Foote: and we don't have anything from the Library; I guess they don't plan on improving\

Garand: they're the best already



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Evans: don't even get me started

Foot: we should contact Michelle, Paul Kelley for elderly housing, Betty Thibodeau, Chairman of the Library Trustees and tell them we are about to hold our public hearings and they better get an entry in if they want to put anything in it. Especially the school because a lot of the grants that the school is going for, if they are written up in the CIP, that gives them like 15 attaboys to start out with.

Secretary: I have a question about noticing this. The notice HAS to go tomorrow because if it doesn't go tomorrow, they'll never get it published in time; it takes two to four days after I fax it to get it into the newspaper.

Morgan: maybe we should do it the 15th; it'll give the school and housing more time to get their act together

Garand: any other departments in Town that really need to look into this? Like, how about the historical buildings, like the CAP office works out of the old Sanborn school and that's in need of some major repairs and that really should be in this book also.

Morgan: who owns it Paul?

Garand: the Town of Seabrook

Morgan: it could come from this board, the Town Manager; could come from the Selectmen; they are all valid for taking care of those issues

Secretary: what was in the administrative CIP before because the Town Manager said to use the one he used last time.

Morgan: what he contributed last time was an analysis of town buildings on page 60, 61, 62; town hall expansion and new public works facility. But Paul raises a good issue. There are other buildings that are owned by the town that maybe somebody should look at.

Garand: a lot of them are actually in need of repair and we're looking at \$50-60,000; that's why I'm bringing it up, I'm being thrown in charge of everything. Basically we should look into adding a couple of the buildings.

Morgan: I guess we have two choices. The Planning Board could volunteer to dive in or you could request the Town Manager address it.

Garand: I think the Town Manager has his plate full at this time and maybe the Planning Board could put something together as far as the other buildings in town. We have a list of buildings that we actually go through as far as the safety committee, which are town owned and for which the Town is responsible.

Morgan: are you volunteering?

Garand: no

Morgan: how's it going to happen?

Secretary: who's the gentleman that does all the historical buildings? Eric Small? I could contact him and ask him if he would like to do something on historical buildings for CIP.

Garand: They are looking at relocating that building down on 107 and route 1 intersection onto town-owned property; the old cape building that is on Collins Street.

Evans: as Planning Board, what kind of editorial license do we have? Is it permissible for us to delete things all together or do we just recommend deferring them off?

Morgan: you can do either one and you have done it in the past. The Board has chucked some proposals that didn't sit well. Which is okay. This is an advisory document and it is a document you should be prepared to defend once we are done with it.

Garand: as far as regular maintenance of the building, like I'm looking at refinishing the gym floor and stuff like that for the rec center. Even though it's \$11,000, is that something that should be in here that could be turned down or if it has to be done it should be in the budget.

Morgan: depends on how routine it is, if they do it every year



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Foote: that's something I've been arguing and arguing as Planning Board's representative to the rec commission, that she puts an awful lot in as special warrant articles that should be maintenance.

Garand: exactly. Because if it needs to be done to maintain the building in sound condition, if it doesn't pass, it doesn't get done; it should be part of the budget.

Foote: exactly. I've been arguing with her over the room dividers

Evans: the tank painting

Garand: the tank paint should be actually part of maintenance; that should be part of the budget and they should have that going on as far as maintenance every year; they have one stand pipe on New Zealand Road, they have all the pumps and buildings

Foote: and you don't have to paint the whole stand-pipe in one year, you can do it in sections.

Garand: exactly. They could do the top half, the bottom half. I know it's cheaper to do everything all at once when you're setting up scaffolding, but if the money isn't there you have to work it out.

Foote: and that's exactly what I've been trying to tell Sandy with the room dividers. She's putting in like \$27,000 to replace the ones in the gym and the three in the multipurpose. I said, buy one each year. Put it in your maintenance budget.

Garand: something is always going to break down and need to be maintained

Secretary: it's easier to get one than to get three or four

Garand: exactly. it's just like

Foote: ask the cops

Garand: but they're getting bullet by bullet. But that's the first thing I noticed in looking at this. It looks like an awful lot of small, maintenance issues that should be part of the regular budget.

Morgan: maybe when you guys bring this home to read, keep that in mind when you're going through it. Is this really a capital project?

Garand: I can see like a brand new vehicle it is. But if the floor already exists it needs to be maintained.

Foote: to me capital improvements are big money items that you are purchasing

Garand: to replace or that you have to take and actually

Foote: or it's something new or it's replacing something in its entirety; it's not a maintenance issue.

I think even doing roofing, that's a maintenance thing, not CIP. Putting on an addition is CIP.

Garand: that's like saying if it costs \$11,000 to heat a building every year does that mean it should be in this book?

Morgan: so we're shooting for November 15th, a Public Hearing. My goal for moving it along was to try to make this thing available to the budget committee if they want to use it. Because they'll be doing their thing pretty soon. It'd be nice if the Selectmen had it too, but let's shoot for the budget committee.

Foote: I notice in the front you have tucked in

Morgan: a job description and contract

Foote: okay. I'll have to review them.

Evans: I move we table further discussion of the CIP until our next meeting until we have time to review them.

Morgan: do you want to review them on the first?

Foote: we have to review them if we want to make changes; we have to have it done before the public hearing; move it up on the agenda so it's right after minutes we go into CIP.

Foote: Maybe we can talk these guys into a special meeting for compliancy.

Garand: it's going to have to be done if you have fifty

Secretary: there's almost 60 cases and some of them are major



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Garand: I think we have to watch ourselves as far as the public noticing because we have the Carey Motel and a couple of these things that

Foote: are really touchy

Garand: we should do these to make sure we do all the notification properly, that the meeting is well-documented and everything is all done.

Secretary: a little update on the Carey/Hunter Logan situation. In addition to the gentleman who came in and spoke with Sue and me last week about purchasing it, today an attorney came in Karen Tavares from Sheehan & Gordon, and said that she was in the process of getting the whole situation resolved. So we went through everything in the files.

Garand: also, in Patricia's defense, she's in here and she was in the office after her office was closed. I think if someone comes in off the street requesting files, I think we should have a request paperwork that they have to fill out and submit so that she has the time to go out and pull all the files and not out of everything else she's doing

Foote: not drop whatever she's doing

Garand: I think it's unreasonable for a person to think they can drive up here, come in here and have her just drop everything she's doing, they do it in every office in this building and basically, you have a right to know law, at the same time there is a timeframe, which you have to get the paperwork together.

Morgan: well, not exactly Paul. What the right to know law says you can do that if they request some copies but if they just want to view a public document, you've got to accommodate them.

Secretary: the problem with that particular case file is it's been to court and everything is not a public document so it required my having to go through every single piece of paper in every file to make sure it was a matter of public record with her. I did say to her and she agreed with me that I'm really not open today and you're lucky that I was here in the building. I'm not open in the afternoon and it would have been nice if you had called me to give me some notice that you were coming and she said I agree.

Garand: there is a lot of pressure on the staff to keep this building running

Foote: on to other business. If you remember last year we had quite a few proposed zoning amendments and land use regulations that never made it, we public noticed them three or four times and we still didn't get them down pat. This year I would like to get all the wording down before we do any public notices.

Morgan: that would make it less embarrassing

Secretary: everybody got all those December 7th and 21st minutes in their packets;

Foote: these pages that are stapled together are all the same thing

Secretary: that's something Tom did. Why are they all stapled together?

Foote: other things that aren't on this, I think we need to come up with a definition for substantially complete.

Garand: I was over at Bulbman Holdings off London Lane today. His project was phased and his second phase he planned on doing next year. His two years is going to be up this year in December. At that point, his building is built, he'll have all the infrastructures in and the fill will be brought in and just the second phase of the building won't be constructed. At what point does site plan review run out or authorization because the second phase, everything is in there except for the second part of the building. Does he still have the right to build that building because all the drainage and everything is already done?

Foote: that's why I'm saying we have to have a definition for substantially complete and we've got to be able to have some sort of time limit. Also like with Hannah. They got it pretty much done, but not quite.

Garand: also, I've been watching the phasing on these approvals now and that's one thing I'm working on hard to bring all the past approvals into some kind of sequencing. That's one thing that before they start anything they have to do the site plan site work, things like that and the sequence has to be followed.



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Morgan: in the event the construction is not completed within two years, site approval expires.

Garand: is it construction of the site or is it construction to the building

Morgan: it says in the event that construction is not completed within two years of the date the site approval was granted

Garand: is it completed or substantially completed?

Morgan: it says completed

Garand: so in other words if they are not done in two years their site plan expires?

Morgan: send them back to the Planning Board; tell them don't build anymore until you get the Planning Board's okay.

Evans: that seems pretty clear to me

Foote: they should have had the forethought to come to us before the two years and ask for an extension

Morgan: this is article VIII of the site plan regs

Garand: so if it's in green and black we can go ahead and do it

Foote: but I still think we need substantially complete where is references the state RSA's and subdivisions I have been

Morgan: it would be a good key word to type into the state's web site

Foote: yeah, I got several of them that I have copied down definitions from like Nashua and Rochester and

Garand: did you read on planlink about keeping private roads and keeping roads private; that if they don't at the planning stage say they are going to be private roads and that's not part of the approval that at that point they can't be maintained as private ways

Foote: they have to say right up front that it's going to be a private road

Secretary: speaking of roads, we have a new book in the office if anyone would like to borrow it, it's called *Hard Road to Travel*. It came from the local government center and each week I will give you a little, short excerpts that have been highlighted by various readers and presented to me as something that you might want to browse through. Very briefly. I'm not doing every single page by any means.

Foote: I read the whole thing.

Evans: have you seen that commercial where the little girl says, read me a bedtime story Daddy and he pulls out the zoning regulations?

Garand: is this from personal experience? There was a neighborhood without granite curbing

Foote: once upon a time there was a hard road to travel

Secretary: and here is the municipal law lecture series which I strongly recommend. One is Offsite Exactions and Impact Fees—Balancing Municipal Interests and Private Property Rights; the other is Ethics for Land Use Board Members and the other one is Constitutional Challenges and the Evolving Law of Variances.

Garand: we were looking at the lot on New Zealand Road and they said there was one small section of sidewalk that would have crumbled so they didn't bother to put it in; why didn't we make him put the whole sidewalk in that small section in between there. Because if it's crumbling and it's not worth putting the small section because it'll be plowed away, why not put the six foot section across that whole piece. You know, I'm just wondering why we don't make them do that.

Morgan: you'll get another shot at it

Foote: they could put it all the way into Ralph's?

Garand: right into his driveway, bring the curve around because basically what's happening if the Town is going to put sidewalks in eventually and he was saying oh the sidewalk would crumble here and not be maintained, the first plow would knock it over, make him put the whole thing



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Footte: to finish the granite curbing curve down to Ralph's driveway and complete the sidewalk and have it stop at his driveway

Garand: that way would maintain

Footte: could we get back to reading the land use proposals? These are all things that we couldn't figure out the proper wording to in the past. So we need to figure out the proper wording because as you've heard, we've got to get the Public Notice in soon. As it is we're not having a public hearing on these until the 16th because we can't get the Public Notice in time for our next meeting and I don't want to run into what we ran into last year, it just gets revised and revised and next thing it's January and it's too late.

Evans: we agree. Let's get through this. I suggest that for light trespass we use the physical definition that we use for site plan regulations that light trespass equals greater than .8 foot candles.

Garand: last year we had this same exact conversation and what happened we have residential versus commercial and you're going to have residential people calling and complaining about the neighbors all the time and that's why it failed last year when we were discussing it. You're going to have person out there who has a back porch light that comes on and shines on the neighbor and once you have that in writing then I'm going to have to go out there and enforce it and I'm going to be bringing people to court because they have a flood light on because they're letting the dog go out. You have a lot of neighbors that hate each other.

Footte: well if their flood light floods my yard and makes my eyes go wow at two in the morning because it's coming in my bedroom window, they shouldn't be allowed to have it

Garand: it's true but at the same time where do you draw the line

Secretary: right because if you have a condo and you have lights on your back deck and the lady next door gets up at two o'clock in the morning to let her dogs out and she's got it set on motion detector the light goes off and what am I going to do? It's more of a civil thing where you have to learn to deal with your neighbors if that kind of thing happens than something that can be regulated.

Garand: I think the way you word this thing is fine. Once you put a definition to a point eight or something like that I think you've gone overboard and I think where it becomes a nuisance, I think that right there...

Evans: I think we had this debate last year about what is a nuisance

Footte: this wasn't enforceable because it's so vague

Evans: that's right and that's why I'm suggesting we put a number on it; we've got a number that we use for site plan review and in my opinion if it's good enough for commercial people it's...

Garand: but commercial is also a different beast totally than residential and I think that once you start taking and dictating what type of lighting you can have on your house I can see the next thing will be that you can't have sag glass lights at your house because it's going to give off more than point eight and that is exactly what is going to happen.

Footte: how about we say that flood lights must be directed no more than fifteen degrees up from pointing towards the ground, something like that because people put the flood lights on and you get an array of six of them going straight out

Garand: I think that may be the nuisance part is the basis to go on and I think the nuisance would be something if I go out there and I can read this paper in someone else's yard because their light is on. That's a nuisance.

Footte: trouble is you get off work

Garand: oh no, I've been directed to start looking at these things

Footte: so I can call you at eleven o'clock when Harriet puts the lights on?

Garand: put the complaint in place and then I can set in your yard all night; comp time

Footte: for the true effect you should be laying in my bed!

Garand: oh that's nice, I can see me know as Vinnie says what are you doing here? Boom!



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Morgan: is this board really ready for television?

Garand: I think the nuisance puts it there but if you define it too much you're going to have someone reading this definition and saying my neighbor puts their lights on and I want this taken care of now and it's going to be a nightmare and a half and I think you're biting off more than you can chew.

Evans: I think just saying it's a nuisance leaves you open to a lot more; you only have to go down once and say oops it's not enough

Garand: but once you put a number on it what am I going to do? I'll have to run around and take a picture and go with a light meter to everybody's property and say their light is grandfathered, this light fixture right here...it's going to be a nightmare

Footte: those are some of the things we discussed I remember last year was about setting a time limit that any new fixtures must comply

Garand: on new houses I inspect I make sure

Footte: or any replacement fixtures on existing houses

Garand: people don't come in and get a building permit when they replace a light fixture; that's just how it is; once you occupy a structure the homeowner has the right to go in there and replace his light fixtures as he sees fit even though he could burn his house down

Footte: but you can also tell if a fixture has been there a relatively short time or been there five or six years

Garand: a lot of time I don't drive around at night because I don't want to leave my house and face this world at night, all right? But at the same time if I have someone who comes in and says well my neighbor just put a light up and it's really a nuisance to me, then I can address it. I'll go over there during the day and say hey, I have a complaint you need to redirect your light and you need to look into this issue or something like that. I think once you change this it will be a real issue and create a nightmare. And I personally don't have the staff to start enforcing light trespass to that standard.

Evans: I don't think you need to go around and look for things to enforce

Garand: it's not a point of looking for them if I see something and if I was taking point o eight and on Walton Road there is a woman who has a flood light and it lights up half every abutter on her lot. You don't notice it in the summer time when the trees have leaves on them but in the winter time it's brighter than most of the street lights? Who says it's a nuisance? Maybe her next door neighbor likes her yard being lit up and at the same point, unless I get a complaint on it by one of the abutters I don't even want to go by there and say anything.

Evans: I wouldn't.

Garand: but once it's written into the standards then I have to enforce that. That means that if someone drives by and says there's an awful bright light over here come over here and have it turned off or if I go under a street light and it says it's more than this standard do I have to have them shut off?

Evans: what happens if I get a spot light, you come and you tell me to redirect my light and my neighbor hates me anyway and he still complains

Garand: then I would go there, drive by at night and if I didn't feel it was a nuisance or say there was another person to drive by to see if they considered it a nuisance; just like the fence viewing committee

Evans: we're going to have a light viewing committee?

Garand: we already have a street light committee. If I ask someone to help me because I'm not sure if it's a nuisance, then basically that's where it would go but at the same point if they say point o eight and I bring my light meter down there and it's point o nine then you need to change the light bulb from 100 to 75 watts and if they fall down then who's liability is it? Oh, I couldn't see where I was going in my yard because they told me change the light bulb. I'm not going out there and start enforcing that, it's asinine.



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Secretary: what precipitated this thing? Reading the commentary from your meeting before, you're rehashing exactly the same crap that you did last year. What precipitated putting this definition and the other part of it, was there an issue with a particular light, a commercial thing?

Footnote: I think it was Peter, Cox and myself. We all had complaints about new

Garand: Cox was complaining about lights across the pond, you went along with it and you concurred because your neighbor had a light in their back yard.

Footnote: both sides now

Secretary: I don't think you can regulate what's a nuisance to somebody may not be a nuisance to somebody else; if somebody's light shines in your window, sometimes it may be a nuisance, but sometime you may be glad that you've got that light so you can walk around.

Garand: I had an old street light on garage and when I redid the building I took the light down and Evelyn Fowler across the street came and said you know, I miss that light so much because I used to be able to walk around my kitchen and see where I was going.

Evans: I think there are lots of these muffled machinery category, or the olfactory delights on Centennial Drive,

Garand: that's in the eye of the beholder; one person may see something as a nuisance and another may see it as a blessing. It's called common sense and you have to be able to determine what you want and what you don't want.

Evans: could we compromise and say if it is called a nuisance then we have a back door limit

Garand: I don't even want to see a limit put with it; leave the nuisance there and if someone has a complaint then we can go there. If you have a complaint now it's required in writing unless it's a health issue that deals with food handling or something where a person wants to be kept anonymous because they don't want to lose their job. The complaint has to be in writing and at that point my department goes out to investigate. If it takes going out at night, I will do it. At the same time if you can't talk with your neighbor one on one and have them fix something in the beginning, then you've already spoken with them and you won't mind if I go down and talk with them. That's where it comes in. A nuisance and I can tell them to redirect your light, put a shield on it, take care of it, etc. But if you start putting numbers on it, I have people that are complaining because people are using another person's driveway and they expect me to go in there and enforce it and I've gone down there several times and what am I going to do? Say you can't take your car and put it through their driveway to go into your back area. No. It's called common sense. And if you have someone that's hateful they are going to use that too and that's where I don't want to give that person the right to have the abuse. Because they are going to use the Town as a tool.

Secretary: maybe you want to get rid of that phrase "where it is not wanted or needed" because that implies a judgment call on somebody's part as to what do you mean.

Evans: It doesn't even need a target in my opinion. I'd treat it just like commercial. It would be on the property line you could light up your entire front lawn.

Garand: if you have an exposed light on there

Footnote: this is saying it's going beyond the intended target onto the adjacent property

Garand: where it's a nuisance. Basically if you take out "beyond the intended target" basically you're saying if you need light for my front yard and it's going into somebody else's yard and they don't want their yard lit up then it's a nuisance. So you're not setting a limit at that point.

Secretary: and you can apply it to both commercial and residential

Morgan: being in the zoning ordinance it will be applied to commercial and residential

Footnote: it'll be applied to all



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Morgan: which makes this more dangerous than what you already have because what you already have is only new buildings

Evans: my feeling is I'd like to see a number, but that's just my opinion. I appreciate Paul's

Foote: I think a number would be difficult to go by, there's my house, my driveway, the offending neighbor and streetlight. If Paul is here with his little machine, because this is an array of six flood lights and this is my bedroom window.

Morgan: what's the purpose of the six lights? What is your neighbor trying to light up?

Foote: I don't know

Morgan: I take it you are not on good terms?

Foote: not since he was three years old. My dawg killed his cat. But if Paul stands here how can you say whether the meter reading is from this or this.

Evans: quite simple. You turn that off and say this is the background at this due to that and then you turn that on and the difference is all physics. Photons add.

Garand: he is right in that aspect but when it's on the property line and they have nothing to light up on that side then that would be a nuisance

Evans: there should be no problem with Fat Dan having six lights as long as they are cut off so

Morgan: any wild guesses what Dan is trying to light up?

Secretary: what are you going to do if he has to go out and check these lights with a meter, it's going to depend on the time of year, on the time of day, on the time of night, how dark it is that particular night, whether there is or is not a moon. You've got a zillion natural variables that will affect that reading that he gets

Foote: I would be more than happy with beyond intended target and onto adjacent properties where it creates a nuisance because as soon as it leaves their property line and onto my driveway as far as I'm concerned, that's light trespass.

Morgan: what if your bedroom window is the intended target?

Foote: I have no doubt it probably is

Garand: can't work that video camera without no lights; she turned the light off again

Himmer: maybe it can work both ways, you can get a nice big mercury light—I've got a couple of those

Foote: this whole side of their house, they've boarded up all the windows with plywood.

Garand: the light was bothering them; I wouldn't have to board up those windows if I shut the light off

Morgan: what did we decide on?

Foote: it will read "light that is distributed fixture beyond the intended target and onto adjacent properties where it creates a nuisance"

Garand: how about if you put target or onto adjacent properties

Secretary: and is fine; it's not just that it's beyond the intended target, it's that is onto someone's property; if you put or in there, people are going to say oh, my intended target is here and oh, it's not onto adjacent property and you give them a choice then; if you have and, it has to have both.

Foote: it's got to have both because my house is the intended target and it's on the adjacent property.

Evans: I'm satisfied that we've debated this issue sufficiently.

Foote: article XIV Non-Conforming Use

Morgan: you skipped 2)

Foote: that goes with Article XI; the reason it never happened is because we couldn't settle on number 1. Expansion Non-conforming uses and non-conforming structures shall not...

Morgan: I was the source of this proposal, page 22 in your zoning ordinance. This is a really tricky subject and I would suggest you think about it and not try to make any important decisions at quarter of ten on this



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one. Let's deal with this some other time because it is not a simple thing. What motivated me to propose it is your existing ordinance on page 22 has a lot of problems and would create a lot of enforcement headaches.

Footnote: for those of us who didn't bring our book, what does page 22 say?

Morgan: my intent is to try to clean up page 22 and make it more user friendly so people know what the rules are.

Evans: I've heard cases. I know of one in Groton Center where the guy tore down a building he was renovating and created that it was no longer a renovation according to the particular case and he created a non-buildable lot as a result of his action. And I've also seen houses that have the gable tacked onto the side of the new house and that's considered a repair to the house.

Garand: same thing happened in Amesbury when they tore down a building between two buildings and they couldn't rebuild it.

Morgan: this does deal with situations where there is a lot at stake both for the property owner and the Town and that's why you have to tread carefully here. I'm surprised that Town officials haven't tripped and fallen a number of times based on what's already on the books. It's an area of law that's frequently litigated, NH Supreme Court hears at least two or three of these a year every year there is a lot of case law.

Evans: what is the source of your definitions A through D here

Morgan: my own experience. I tried to take all the legal mumbo jumbo and translate it into plain English. I'm not confident that I have all the bases covered here and I advised you to

Garand: the Merger, can you force a person to merge a lot that doesn't conform.

Morgan: yes you can and most towns do. I threw that out there for your discussion.

Footnote: Scott does that on the beach when a house straddles two lot lines.

Garand: we had the same thing happen at the beach; the okeefes had two lots one with a garage and one had a home. They sold the house and came back and did a lot line adjustment because he produced two deeds. We've allowed him to change the lot line. Now if that was the case and there had been a merger they wouldn't have been able to change that.

Footnote: but that was the house on one lot and the garage on the other lot.

Garand: but it says if you have two adjacent lots which are substandard to zoning at the time, the beach zoning, those two lots don't even create enough to make the zone right now.

Morgan: fortunately we're not talking about beach zoning here because the beach is tricky where you've got zoning with 20,000 on the books and everybody has five.

Morgan: that's where you'd really get into trouble

Garand: Parkersville Lane you have Rusty Dusty's property where he has one small little lot and then you have another parcel next to it with a small lot and a big lot so

Morgan: I'm not pushing hard for this. I put it on the table for you guys to think about because most towns they do

Footnote: I think what is proposed is a lot less muddy waters to tread through than what we have. What we have I agree, the way it's written, it's really, I'm amazed we haven't been sued.

Morgan: actually, there are some famous court cases; the gotta be Seabrook is a good one.

Evans: what is the RSA that deals with the upshot of this?

Morgan: I can't think of an RSA off the top of my head, but I can tell you there are two or three court cases per year.

Evans: Like you say a period of one year in cessation, is that an arbitrary number that you picked?

Morgan: no, that's once again shooting us toward the main stream, that is common practice in NH. If you're looking for the legal ramifications, you've got to go to case law.

A handout on non-conforming use is distributed.



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Morgan: I ask you to think about number 3 because I'm not 100% comfortable that I've thought of all eventualities here. There may be some situation that has been overlooked and that's why we want to make sure we get it right if we're going to go down this road. I can tell you that what you have on your books is certainly deficient and defective.

Evans: I like A. it seems pretty

Footte: if you read the handout, Court defined

Morgan: yes, this is three cases; you can find dozen of cases, but Hampton v. Brust is one of the big ones. That was a penny arcade at the beach. One of the thing where the present ordinance is confusing is non-conforming structures, non-conforming lots, and non-conforming use, but if you read page 22

Footte: treats them all the same

Morgan: they've got them all mumbled and jumbled there.

Garand: that's not a bad definition there; that's the court's definition right there, which is pretty straightforward: "A use of land which, at the time a restriction... I like the part that says "harmful to the public health and welfare"

Footte: so maybe we need to first put in a definition of non-conforming use and then it's article XIV

Garand: we could incorporate this definition into the top definition up here and then we could redo A-D as it goes

Footte: I think that could be one of the problems, a clear and concise definition of non-conforming use

Morgan: I understand whoever wrote this calls it a definition but it really isn't though

Garand: I like the part that says "not a nuisance or harmful to the public health and welfare but the use cannot be changed or substantially expanded without being brought into compliance"

Morgan: I'm not trying to steer you away from language you like, I'm just pointing out that it's not a definition

Evans: it's not a definition at all

Morgan: it's a regulation. I can come up with definitions if you want. I am partial to ones that are short

Evans: actually things can be naturally expanded according to the second part under these three bullets

Garand: but at that point they'd have to go to the Board of Adjustment; part of a natural expansion, a non-conforming use, the Board of Adjustment can allow that

Morgan: doctrine of natural expansion

Garand: say I had an industrial building in a residential zone and they needed something for the expansion of the industrial purpose but it would not be a nuisance or hurt the neighborhood then they'd be allowed to expand and basically they go to the Board of Adjustment

Evans: paragraph A loses then because we say you can't do it "shall not be enlarged" anyway

Garand: that's what the ZBA can do, relieve you from the Zoning Regulations anyway

Morgan: I'm simply trying to make this more user friendly. That was the intent. It's a very tough subject.

Garand: because you can't do a taking or take someone's rights out of it, that the whole thing. Let's continue on because as Tom said, it's pretty in depth and maybe Tom can revisit it and maybe we can all look at it and see if we get some ideas

Morgan: I'll work up some definitions.

Garand: work up some definitions to see wht we can change to make it more user friendly, use this, use what we said

Evans: for expansion I would suggest that shall not be blah, blah, blah, unless it is these three bullet points.

Morgan: you already do have a definition of non-conforming use; you don't define non-conforming lot or non-conforming structure and once again, whoever wrote it muddled the three together.

Footte: they put all non-conforming together



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Garand: it goes with the uses, setbacks, everything, it can be a number of things

Footo: once we get the definitions

Morgan: we'll sort out the apples and oranges here

Evans: A needs a re-write; B I think is okay.

Footo: A needs a re-write for what?

Evans: you can't forbid expansion according to Town of New London Vs. Leskiewicz

Footo: that's why they go to the ZBA, to get a variance from zoning so they can expand

Garand: you can forbid it, but you have to give them an avenue to go and get relief from it. Even when I do a cease & desist, I still tell them they can go to the Board of Adjustment and get relief from this if they grant you and then the cease & desist stops

Secretary: that's why you have a zoning regulation with some steps as to what you would do if you can't meet that regulation.

Garand: there is always an avenue of relief; it either goes to the ZBA, or the Superior Court.

Evans: it just

Garand: it's 9:56 and ticking

Footo: nonconforming use and non-conforming structures cannot be enlarged, expanded or extended nor changed to another non-conforming use. That means you can't take a non-conforming use and make it even more non-conforming.

Evans: unless it is a use that reflects the nature and purpose of the existing nonconforming use blah, blah

Garand: he could argue the ear off a cat

Footo: on to number 4: "in order to demonstrate that a proposed lot can support development without unduly affecting nearby wetlands, the above referenced rectangles shall be situated so as to enclose land that is 100% upland, i.e. not wetland." that's where I think we're continually getting confused with the zoning box, lot conformity that indicates lot width and depth for 100 feet.

Garand: I personally feel we should revisit that whole zoning box issue because we just had that subdivision on Adams Ave that came in and basically it's another pie shape lot that they want to create. Francis Chase came to the Board of Adjustment for relief for an average lot depth and width and so forth and at the same time I think the zoning box should be used a little better than what it is at this time. I know that it's just to show the lot meets the requirements, but I really think it should take in some aspects of the ability to actually hold a house or a dwelling.

Footo: it used to be they had to have one side of it on the road and we've always figured that there weren't supposed to be many wetlands in it, but the regulations don't say anything about it and they take this box and throw it out at the back of the lot where it's 100% wetlands and say it conforms

Garand: at the same time we're getting a bunch of limited lots at this point and it's a bunch of crap out there and they are bending every regulation we have

Morgan: there is a possible legal problem with 4. The box as we have it now is simply proof that you comply with existing zoning for lot width and lot depth. If 4 were doing the same thing there would be no question in my mind about its legality, but what you could be doing is protecting wetland through the subdivision regs. You might want to talk to a lawyer and he's going to tell you to protect the wetland through zoning and you can't come at it through the back door through Subdivisions.

Footo: I think it should go through zoning; I think we've pretty much solved this when we went to the subdivision regs that the upland had to be contiguous

Garand: I think we should readdress the zoning box issue, do away with this the way it is written and maybe do the thing that has the frontage on the road.



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Evans: I have a philosophical problem. For me frontage should be equivalent to how you get onto the lot. This business where you have frontage on Route 107, but you come in through

Garand: didn't we take care of that so it has to have continuous frontage?

Foote: you have to have continuous frontage but that doesn't stop from what we just saw with Timmy Eaton. His frontage is on Worthly Ave but he gets to it from South Main Street

Garand: that was a grand-fathered existing lot. If that was to come before this board today, you know we'd turn that down

Morgan: we would?

Garand: I would personally.

Evans: Dow's Lane right now, but you don't get there from there.

Garand: on Dow's Lane you could though; there are enough uplands on the lot so you could actually put the zoning box on the upland like you're saying. At the same time the frontage requirements are met. The same thing with Elephant Rock, a lot of those lots are on Route 286 and on Adams Ave but at the same time they all have a driveway because there was a wetland crossing. There is always something you have to look at in the bigger picture and that's what the PB does is look at the whole picture and try to do the best a harmonious union of planning and development.

Morgan: so you've nixed number 4 then?

Foote: yes. That wouldn't have been important anyhow because that was subdivision regs. We're in a crunch for zoning right now. What's this bit with the Building Code?

Garand: the building codes were adopted state wide

Foote: so this goes away

Morgan: no. I raised it last year and Fred said he'd have a look at it and he wrote you a memo and said it wasn't such a bad idea but let's do it next year.

Secretary reads minutes from 2004: "M Preston asked if this is just a designation? Tom Morgan explained that the Building Code does not belong in the Zoning Code, this is a housekeeping article. Fred Welch noted this would be a technical problem as the Town has already adopted a building code you can have the state regulations or adopt your own you can't have both" and then we were going to discuss it at the next meeting.

Morgan: I'm talking about page 39, these blue pages here, through 42. Technically years ago somebody put all this stuff in the zoning ordinance but I maintain it really belongs in a building code. So all I'm really trying to do is change the title of the blue page from zoning article 21 to Town of Seabrook Building Code.

Garand: mine says "Administrative Rules for Building"

Foote: so what's the whole bit about we can have a building code and the state can have a building code, we can have the states and add stuff to it?

Garand: from my understanding we can always have more stringent but not less than what they've adopted state-wide. So if we want to say that we're going to adopt something that's more strict, then we can. If we want to go to a higher energy standard or if we wanted to take and mandate that you can't allow such and such because it doesn't meet this requirement, then you could make it stricter.

Foote: I understand the whole concept, but what Fred said is that we can either have our own building code and it has to cover everything or we can have the state building code, we can't have both.

Garand: if we change to the state would that automatically update it every time the state did? Would that make for a nightmare

Foote: is what the state has for a building code is that suitable for what you need and does it exclude anything that's here that we do need?

Garand: the Town is working at 2000 and the state is on 2003 International Building Code. So



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Morgan: there is a lot of stuff in here that is not in the state building code and I'm only saying it doesn't belong in your zoning ordinance it belongs in a separate code; that's all I'm trying to fix here

Footo: addressing **Garand:** you'll take it up with Fred and Walter to find out how we get it out of the zoning and get it into a building code?

Garand: didn't Fred already send you a memo regarding that and just said it's a housekeeping issue?

Morgan: for some reason he said don't do it last year, do it this year.

Garand: is that because we had the codes on the books at the time? Maybe we could send a memo on that and how he wants to proceed.

Morgan: I think it's pretty clear. I'm not sure why we didn't do it last year. Fred said he had some legal issues to think about and that memo was the result of that.

Footo: so the legal issues went away and we can go forward with this?

Garand: I'll send a memo and ask Fred tomorrow.

Footo: okay. Add the following to Article XV Section E (Ponds & Streams) of the Zoning Ordinance: No tree within 25 feet of a pond or stream shall be removed." No that should be there will be a 25 foot no-cut

Morgan: that's the next one down Sue

Footo: why are we putting it in as a footnote?

Morgan: it's dimensional requirements, it's the only way it would fit on the page in that chart

Footo: and you can't say no tree within 25 feet of a pond or stream shall be removed because there are going to be times when you have

Morgan: I thought it was a little bit harsh myself; I was simply working off notes that I took during the year

Evans: what if it falls over? What do you do saw it up and burn it?

Garand: it would already be down at that point and you wouldn't have to do it

Evans: you could remove it

Morgan: the source of number 6 is the Planning Board. You guys came up with the idea and said let's talk about that in the fall and I made a note of it.

Footo: that's when we were doing the whole thing for the subdivision regulations about the—no we have a subdivision regulation that says there is a 25 foot no-cut buffer zone between ponds and streams, how it got around to no tree can be cut I don't know.

Garand: let's adopt seven as a footnote

Footo: but my problem with it being a footnote is people don't read footnotes. They are tiny itty-bitty things. Why can't we in Article XV, Section E, Ponds and Streams, say there will be a twenty-five foot no-cut buffer in all zoning districts?

Morgan: you can. The reason I'm shooting toward Article VI is because that's where all your other dimensional requirements are focused. We all know what's in the book, but someone coming in cold

Evans: can we put another line in the table that says ponds & streams no cut buffer and then put 25, 25, on each column.

Morgan: you could do that.

Footo: I'm just concerned that if it's a footnote, no one is going to read it.

Evans: I agree with you. I think we put another line in the table.

Morgan: I think Peter has a good idea.

Evans: the if later on you want to change it so you have 150 foot no-cut buffers, then

Footo: it should be no-cut, no-disturb. Because we have seen down at Elephant Rock they didn't cut any trees, but they sure had a hell of a time running their equipment right down to the edge of the stream and dragging back the dirt.



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Morgan: no cut, no disturb on its own line

Foote: on to number 8: add the following submittal requirement to Article V Section E of the Subdivision Regulations "foundation drains situated within 300 feet of surface water". Where did that come from? What does this refer to?

Morgan: subdivision submittal requirements when you come in with a subdivision plan, somebody said let's see the drain

Foote: do you know that the Board of Selectmen have passed a private storm drain ordinance?

Morgan: I do. I'm simply making notes every time you guys tell me you want to talk about this.

Foote: why would we?

Evans: all we have to do is dot the I's and cross the t's

Morgan: number 9 you ought to recognize

No one on Board has number 9.

Morgan: I have a number 9: amend Article IX of the Zoning ordinance relative to parking by adding the following: "the number of employees on the premises shall not exceed the number of parking spaces."

Garand: that was something we added to the industrial sites

Evans: that sounds like a great idea

Garand: we should add that in there

Foote: but that could be argued that the amount of employees should not exceed the number of parking spaces—that's encouraging wanton waste of petro-chemical resources by not letting people car-pool.

Garand: we could have a regulation that the site would not be over burdened by

Secretary: no more parking spaces than what is designated on the plan

Evans: no more vehicles

Garand: no vehicle parking allowed

Foote: except in designated parking spots

Garand: on all approved site plans

Lowry: we encourage car-pooling

Morgan: no vehicle parking except in parking places as designated on approved site plan

Secretary: okay, what's substantially complete?

Lowry: when it's finished.

Garand: we have to look at substantially complete—does all the site work have to be complete, is it the building?

Evans: that amount of work done such that the remaining amount in the bond will cover the remaining work to be done

Garand: I think the site plan once they've addressed all the site plan issues and say they have an open flag area which is not impacted by a building and it still creates and percolates and so forth, as long as the drainage is there for the total build out, that right there is substantially complete as far as the site plan.

Foote: I would say for substantially complete it would be they have all their storm water structure in, they have all their permeable surfaces and impervious surfaces stabilized, they have their foundation, outer walls and roofs complete. That's substantially complete. Let them finish off the inside at their will.

Garand: that's a good point and at the same time I think the site plan, that's part of the regulations that we have to look into is that prior to any construction taking place, they have to have the numbers (temporary numbers

Foote: that's something that Jeff Brown asked me



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Garand: that's why I'm bringing it up so it's part of the planning board regulations and I've been doing it on the building permits now. What's happening is we have all these construction sites and they are not numbered. The ambulance or fire equipment have no way to identify the site.

Footo: while it's still under construction they have to have each lot with a number, what lot number it is and all industrial and commercial buildings must have six inch reflective letters on the face wall preferably near the door. Out London Lane, you have no idea what number it is.

Morgan: it's not really a land-use reg; it's a selectman's issue

Garand: the fire department should be doing that on their final inspection and that's why I make them do a letter. If they want to have numbering, strobe lights, whatever they want,

Footo: Jeff was saying when we do the architectural drawings they should indicate the number

Garand: it's part of the code anyway—the Town code says once it's occupied the number has to be on it. But during construction it needs it for emergency purposes and also inspection purposes.

Evans: does that include granite curbs?

Footo: do you want them to put the numbers in the granite curb as it comes around the corner?

Himmer: those are accessories like floor mats when you buy a new car.

Secretary: we are not going to be doing Zoning Regs until the 15h with the CIP.

Garand: we don't want another 10 o'clock meeting

Morgan: when is the newspaper deadline?

Footo: November 1st

Morgan: I will have this before November 1st.

Meeting Adjourned at 10:15 PM

Respectfully submitted,
Patricia R. Welch, Planning Board Secretary

MYLARS RECORDED		
05-10	Proposal by G&D Realty Trust (Gary Boyle, Trustee) for a two-lot subdivision at 124 Walton Road, Tax Map 10, Lot 95.	D33135
05-37	Proposal by Thomas Dieter for a minor subdivision at 33 Weare Road, Tax Map 1, Lot 18-1.	D33136
04-07	Sewer Easement to Town of Seabrook from Jean K.Gove 1987 Trust Plan D-32059	75577 & 75578 1:22 PM