



## Town of Seabrook Planning Board Minutes

Tuesday, March 6, 2007

Members Present: Sue Foote, Chair; Peter Evans; Mike Lowry; Aboul Khan; Paul Himmer; Robert Moore, Ex-Officio; Elizabeth Thibodeau, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary;

Members Absent: Mark Preston, Vice Chair; Paul Garand, CEO, Alternate;

Chair Foote called the meeting to order at 6:00 PM.

### **Minutes of February 20, 2007**

Foote asked if members had had the opportunity to receive and review the minutes.

<b>Motion:</b>	<b>Lowry</b>	<b>To approve the Minutes of February 20, 2007 as written.</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous Abstained: Himmer, Khan</b>

### **REQUESTS FOR SECURITY REDUCTIONS OR EXTENSIONS**

#### **Case # 2007-05 Seabrook Camp Meeting Development**

Foote read a letter from Jones & Beach requesting an extension, and continued Case # 2007-05 to April 17, 2007 at 6PM at Seabrook Town Hall.

#### **Case # 2006-02 Sandra Randall**

Appearing for the Applicant: Attorney Mary Ganz

Foote noted this case for an assortment of lot-line changes and right-of-way had been reviewed and approved early in 2006, but there was a request to not record the plan because a variation was being considered. Attorney Mary Ganz has asked whether this should be submitted as a plan correction or a new plan. Foote suggested if the changing of the lot lines is accomplished within the inner boundaries of the parcels, not affecting the outside boundaries, it could probably be a resubmittal or mylar correction. However, if the lot-lines involve other abutters it would have to be submitted as a new plan. Evans asked if there had originally been an issue with a set-back line on an existing building. Foote recalled there were several houses built with a dirt road that runs along the side and a legal easement owned by Bruce Brown. A court resolution gave the applicants legal access to their parcels.

Foote asked for the Board's view. Moore asked if a plan has been submitted. Foote said the request is for another month's extension. The Board's attorney advised that a mylar should not be held for much more than one year after a plan has been accepted. Moore asked if the mylar is to be changed and if all parties are in agreement. Attorney Ganz said one party has had a change of mind but there would be no new abutters. There is a resolution and the documentation is waiting for one party to return from out of town. Evans asked if the case remains open. Foote asked if the lot lines will be contained within the plan site. Ganz said the abutters remain the same. Evans said the original abutters would not know that the mylar had not been recorded. Foote said it is necessary to see the revised plans. Moore asked if the "one-year" limit is a State or Town statutory regulation.



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Morgan said it is not. Foote said the Board has to wait thirty-days before recording the mylar, and any conditions must be completed within ninety-days or the approval can be automatically revoked. Thibodeau asked for the acceptance date. Evans asked when the year is up. Foote said the Case is #2006-02 and would have been one of the first cases of that year. Evans asked how long a delay. Foote said the application is not in yet and asked the Board's view of the acceptance process. Thibodeau said the abutters should be notified. Morgan concurred, and said the Board would be wise to make abutters aware of the change.

Foote referenced a **letter from Jones and Beach asking for a full security release for Case #06-03, Town Fair Tire**. The Code Enforcement Officer has inspected the property and found the building is complete per the plan, but there were problems with the sidewalks, pavement and lighting. Upon reinspection it was determined the parking lot pavement has not been addressed and will require another layer of paving, weather permitting. The CEO recommends the Town Engineer review the cost for repairing or raising the pavement security amount to be retained. Foote questioned if it was worth the cost for the Town engineer to make the estimate. Moore said it couldn't be too costly and the paperwork could be more costly.

<b>Motion:</b>	Foote	To release all but \$5000 of the construction security for Case #06-03/Town Fair Tire.
<b>Second:</b>	Moore	Approved: Foote, Lowry, Khan, Himmer, Moore, Thibodeau Opposed: Evans

### **CORRESPONDANCE AND ANNOUNCEMENTS**

**Fees for Road Acceptance, Recording of Road Deeds, and Assessing Services:** Foote said the Planning Board asks for drafts of road deeds. If the Planning Board is to record the deeds after the Board of Selectmen accept a road, Foote believes the Planning Board should receive a recording fee and transportation fee, just as when we record a mylar. Additionally, some of the engineering firms utilize the Assessing Office to get abutter lists, labels and the abutter map. Until recently, the Assessor determined that cost was absorbed into the Application fee. The Planning Board Office has become aware of this and Foote believes a service charge for research time and the cost of labels, should be collected either directly by the Assessing Office or added to the Planning Board Application. After discussion with the Assessing Clerks, a \$25 charge is suggested if the service is utilized. When the application is submitted to the Planning Board it can be determined whether Assessing has provided the service. Evans asked if it would be more direct for Assessing to make the charge at the point of sale. Foote said the clerks believe the charge should be at the Planning Board level. Foote asked if the Board of Selectmen might like the Town Manager to look at. Moore said it would have to be calculated on a case-by-case basis as the number of abutters can vary from six to more than fifty; a flat fee wouldn't be fair. **A memo to the Board of Selectmen is the next step.**

**Case #98-11;** Foote referenced a memo from the Code Enforcement Officer regarding a letter and photos depicting wetland alterations received from Mr Hodgkins **about clear cutting sometime**



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after approval of the Susan Lane subdivision. Hodgkins is concerned about the amount of water impacting his property. Review of the property shows the lot owned by Mr Watts is having a substantial amount of wetlands impact. The CEO has referenced this matter to the NH Department of Environmental Services. Foote recalled a DES letter of deficiency written to the property owner about unauthorized clearing of the wetlands. In a discussion, Hodgkins told Foote that equipment has been working within the wetlands area during the past year and excavated a sizable swale that collects everything and drops it in his backyard. Foote questioned whether the Planning Board would have any jurisdiction regarding a subdivision plan approved about five years ago; the matter would be for Code Enforcement and/or DES. Moore said a wetlands area was shown on the plan and agreed Code Enforcement and DES would be the route. Evans noted the CEO is providing information to the Board and not requesting action.

Foote referenced a letter from Jason Page regarding the Beechwoods area, and a memo from the Department of Public Works Manager to Altus Engineering asking for help in resolving this matter. Morgan said Altus contacted him and will investigate the road condition. Foote noted the cases related to Beechwoods are scheduled for the Planning Board's March 20<sup>th</sup> Agenda and asked Morgan to contact Altus about submitting its report and attending that meeting. The Secretary asked Morgan to have Altus email its Report in advance for distribution to the Board.

Foote referenced the Code Enforcement Officer's Cease and Desist order concerning **Case #2006-13 Harley Real Estate, 85 Ledge Road**. The Planning Board requested this action because the site security has not been posted. Additionally, no sewer application has been approved.

Foote circulated a real estate brochure showing a house with a **new private boardwalk across town land**, noting no new beachfront owner has applied to the Planning Board for such permission. There is no address in the advertisement. Except for the town right-of-ways, and about five grandfathered exceptions, no new boardwalks have been granted since the 1980s. Moore noted there's even supposed to be no maintenance or upkeep. Evans recommended submitting this matter to the Code Enforcement Officer for further action. Moore noted the Town owns the dunes. Foote explained the building is inside the Precinct; the Boardwalk is inside the Town, and recommended notifying both Code Enforcement for the Town, as well as the Building Inspector of the Beach who should have stopped the building of the boardwalk. Moore noted a wetlands permit is required for dunes work. Foote cautioned that if a DES complaint were filed, the Town would be the owner of the property. Moore said a memo should go to Code Enforcement and the Beach Building Inspector.

Foote noted the **Zoning Board of Adjustment has granted a variance relating to zone 2R for Planning Board Cases #2006-60 & 61/Kohls**, conditioned on a sound mitigation wall being continuous according to plan C2, dated 11-14-06, and a letter from Scott Mitchell regarding no commercial development behind this project. There is a thirty-day appeal period. Morgan asked what is meant by "behind". Foote said this would be on the plan.

Foote referenced a **Municipal Officials Workshop on junkyard licensing procedures scheduled for March 19, 2007**.



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Foote referenced an email re **SB 217, a bill in the legislature linking workforce housing with conservation planning and innovative design**. It also creates a fund for 3<sup>rd</sup> party technical assistance that would be available to Town and Planning Boards to help work out advantageous changes to zoning regulations. If a member agrees with the proposal an email to local legislators would be appropriate. The initial hearing is March 12 at 9 am.

**State Building Codes:** Foote referenced Morgan's memo on adopting 2006 International Building Code, noting RSA 674-52 allows the Planning Board to adopt updates by reference was repealed in 2002. RSA 674-51 allows Town Meetings to adopt additional provisions so long as they are not less stringent. Morgan said when the State adopts any new standard, it will apply to Seabrook. No action is required.

### **PUBLIC HEARINGS**

### **ONGOING CASES**

**Case #2006-31 Proposal by Developers Diversified Realty (DDR) Seabrook LLC for a 4-lot subdivision at 700 Lafayette Road, Tax Map 8, Lot 55;** continued from January 30, 2007

**Case #2006-32 Proposal by Developers Diversified Realty (DDR) Seabrook LLC to construct a 441,290 square foot shopping center at 700 Lafayette Road, Tax Map 8, Lot 55;** continued from January 30, 2007.

Lowry recused himself from these two cases;

Attending: James Grafmeyer, Senior Development Officer., DDR; Sandro Tobias, engineer, VHB; Appearing for the Applicant: Attorney Malcolm McNeill, Jr

Foote remarked no revised plans had been received since department memos were provided to the Applicant, and noted the Board has asked for traffic submission at least two-weeks in advance. An e.mail was received late Monday from VHB addressing these comments. Morgan asked if the VHB memo is dated March 1, and if there will be further revisions to the site plan. Grafmeyer said if the VHB comments are acceptable, DDR will finalize the planset with the appropriate revisions. McNeill said the Minutes of the January 16<sup>th</sup> meeting show that Grafmeyer asked if the Board was done with the siteplan, and that Foote said that was an assumption, but that department heads would be providing comments. DDR received the department heads' comments five-weeks later on February 23. As promptly as possible DDR responded with the VHB letter. Almost all of the comments, except for Morgan's comments, are technical, or relate to traffic which will be the subject of another meeting. There should be no impression that DDR is dragging its feet. DDR requests the technical people respond to their respective comments addressed in the VHB letter; the adjustments have already been made on the plans. Accordingly, DDR believes that the remaining siteplan issues would take about a half-hour to address.

Because key DDR people and McNeill have a conflict with scheduling the proposed traffic meeting on April 3, and because the traffic study is not yet ready, McNeill said DDR is requesting flexibility on that meeting date. They are prepared to go through the VHB comment letter tonight, however, the responses do need time to be digested. McNeill noted the police and fire chiefs previously



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provided their concerns. He asked if the Board agreed that department heads need time to review the VHB letter, and said the traffic meeting will be the important meeting with regard to this project. Foote suggested April 17 which so far is a light agenda, but new applications might be need to be scheduled. Morgan said there needs to be sufficient time to address the important traffic issues. McNeill thought conducting the traffic meeting could take up to five hours; a special meeting would be preferred but is not being requested.

Foote asked if Board members would consider a special session in fairness to other applicants, as a full and thorough review would be needed for the DDR traffic review. Moore asked the dates of the regular April meetings. Foote said April 3 and 17; in May it is the 1<sup>st</sup> and 15<sup>th</sup>. McNeill said there is no more important case. McNeill asked about April 10 or 24; and said dedicating a night to what everyone accepts is the most important issue is the logical way to proceed. Foote asked for the Board's view. Khan said if the presentation is different than what has been already heard there is no problem with a special meeting, but not to hear about a TIF. Foote said by April the results of the Town Meeting ballot warrants will be known. The traffic presentation would be about DDR's plans on how to revise the roadways coming and going into the Town. How this gets paid for is a different issue. Morgan agreed and said the primary focus should be whether DDR is presenting a workable plan. McNeill said the first issue is a workable plan; the second issue is how it is paid for. Lowry suggested targeting a couple of dates because the Board would like RPC and DOT to attend. Morgan noted the need for an acceptable date for the Board's attorney. Foote tentatively set April 24<sup>th</sup> at 6PM at Town Hall with April 17<sup>th</sup> as the back-up. Traffic consultant, Steve Pernaw, said either date is acceptable to him and asked if the traffic plan will be available in advance. Foote said a minimum of two weeks in advance. McNeill asked if attendance of the Board's attorney is the essential factor. Foote confirmed this.

Evans suggested continuing DDR to April 3<sup>rd</sup> to assure that traffic plans will be available by then. Foote said DDR would be continued to April 3<sup>rd</sup> at 6pm in Seabrook Town Hall. Foote referenced the siteplan items and said department heads would review the VHB letter but would want to verify the placement of their comments on the planset before signing off. Evans agreed. Foote said this should be the most recent revision. Evans noted if the changes are as minimal as suggested, this could be dispatched on April 3. McNeill said the plans will be delivered by Friday. Morgan favored doing the final siteplan and subdivision review on April 3<sup>rd</sup>. Grafmeyer said this would be fine.

Morgan asked if his latest comments should be addressed at this meeting. McNeill said he would prefer to address them all on April 3. Morgan asked about discussions with Florida Light & Power, Sunoco, and McDonalds. McNeill said those negotiations are not concluded. Foote said hopefully the results of those negotiations will be on the plans to be reviewed on April 3. Morgan asked McNeill if those negotiations would be at closure before April 3. McNeill said hopefully yes.

Foote referenced the letter from Derek Heap in re the Unitil right-of way intent-to-cut-issues. Moore said he did not see a buffer yesterday; every tree is gone right up to the Town property line. It was understood there would be a fifty or seventy-five foot buffer.



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McNeill said DDR hasn't seen Heap's letter. Unitil, not DDR, did the work although it is on DDR's property. If the Code Enforcement Officer authorized the work the issue should be referred to him to determine the nature of the problem. Foote said both she, the CFO, and Moore have visited the site. There has been overcutting beyond the fifty-foot easement, and cutting into the Town's land over and above the four or five trees that Unitil indicated. McNeill said, a report from the CFO would be taken up with Unitil, but this should not take up the Planning Boards time. Foote said the activity goes beyond anything indicated on DDR site plans. Foote said the Board of Selectmen is also looking into this. Morgan asked if the vegetative buffer will be reflected on the siteplan. Grafmeyer said after the last meeting he had talked with Scott Shepard of Unitil, who was not receptive to putting in low vegetation. The Town would have to deal with Unitil as it's the town easement. Morgan referenced the seventy-five foot buffer described by Steven Lehman. Grafmeyer said it was indicated if there were areas where there might not be sufficient buffer, they'd need to put in a soundwall. Morgan asked if this has occurred. Foote said some buffer is clear cut and lost. Moore asked where the seventy-five foot buffer is shown on the plan and where does it stop. His inspection yesterday with Heap showed the cut is up to the Town property in some of the Dows Lane area. McNeill said DDR will deal with this. Moore said Heap's letter was sent to the Board and can be heard.

Heap thanked the Board for listening to his complaint and submitted many photographs of the area showing poles, prior buffers, cuts extending up to one-hundred feet instead of twenty-five feet on either side of a pole; ruts even on Seabrook land; berms that are gone and filled in; the lack of original buffer toward the Provident Bank; cuts on the other side of a chain-link fence, etc. Additionally, a water test-area was filled in. Heap maintained this is DDR's land and in his construction experience developers have a site superintendent on site and a project manager checking on the work periodically. Foote reminded that Unitil did the cut on a legal easement. Heap said the scale on the easement plan was exceeded; big trees were felled and shade eliminated. Heap believes DDR should replant every tree within the seventy-five foot buffer at its previous size and girth. It would be costly, but no one was on site to assure the plan was followed. Heap said he had a stop-cutting permit from the Selectmen, but the cutting continued. DDR should make it right. Foote said the anger is understandable and it is shameful that that companies that cut trees don't police themselves better and avoid mass destruction. Before cutting some form of visible rope barrier should be in place.

Moore said Unitil was contacted for a tree-cut plan, which was a proposal to cut nine pine trees. The CEO stopped it because five maple trees were cut instead. The Town wants cut-trees for the wood. Heap said the CEO stopped the cut on Thursday. The buffer cutting resumed on Friday and Monday. Moore said as far as the Selectmen are concerned they aren't going to cut anything else. Heap asked the Board to have DDR make things right. Moore said Unitil was completely in charge of this project. DDR had a right to grant the easement and it is outside what the Town can do. The problem is in the Dows Land area. Heap said he was promised a seventy-five foot buffer plus the trees that were there. Morgan asked if the change in the landscape will be reflected in the revised plan. Grafmeyer said VHB restaked the property, and this is the first he is hearing of cutting outside of the easement area. Morgan said his concern is for an adequate vegetative buffer. Grafmeyer said he will talk with Unitil. Evans said even though there is not yet an approved plan, the proposed plan



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is a promise to do what is indicated. The buffer was a point of contention. Foote said if they have cut beyond the plan, the new revised plans will reflect the true tree line existing after the cut. Heap asked about soundwalls. Foote said that will be discussed on April 3. Heap said he will submit the photos to the Conservation Commission. Foote said often the lumber company goes in before the contractor is on site. Heap said the developer has to be responsible and it is not too late for a reprimand.

Angeljean Chiramida, of the Newburyport News, asked if Unitil had hired a sub-contractor to cut the lumber. Foote said when she and the CEO viewed the site, the loggers said they work exclusively for Unitil clearing lines. Heap asked if they are still cutting. Foote said she did not know. They were told to stop until they have further permission from the town. Moore said they were told to stop until there was a decent plan, and there's been no final approval from the town. Heap said they took any tree that was halfway decent for logging. Foote said hopefully a survey team will recheck the cut area and if it has expanded beyond the plan that will be reflected on the revised plans; another form of buffer mitigation might now be required. Grafmeyer said he will bring this up with Unitil tomorrow. Foote cautioned that soundwalls can reflect sound in both directions and personally would prefer dense vegetation to an unattractive plastic and rubber wall. Evans supported Foote's sentiments. This is an opportunity for the applicant and anyone responsible for overcutting to remedy the deplorable situation by planting vegetation that would make an effective sound buffer as well as obstruct unsightly views. Foote noted the regulation has an extensive list of recommended dense growing plants and shrubs. Chiramida asked if it is customary for a utility to do cutting before siteplan approval. Foote believed this is the first time for a plan to include a utility easement for relocating a power line, and noted with wetlands the Department of Environmental Services only allows cutting when the ground is frozen or dry. Heap asked about setting the poles. Foote suggested speaking with Frank Richardson at DES. Morgan suggested the traffic meeting date be announced on April 3<sup>rd</sup>. Foote continued Cases # 2006-31 & 32 until April 3, 2007 at 6PM at Seabrook Town Hall.

**Case #06-55 - Proposal by CBAN, LLC and Bulbman Holdings for a lot line adjustment at the corner of Ledge Road and London Lane, Tax Map 5, Lot 8-42 & 8-50, continued from January 2, 2007.**

Wayne Morrill of Jones & Beach Engineering representing the Applicant said some ground had been altered during the construction of London Lane. After discussion among NH Soils and DES, Colliander put seven and one-half acres into a conservation restriction. The lot-line is to be removed with the back as the conservation restriction. Foote said the old plans show the only change is the lot-line to be removed which shifts the big parcel out to the left from Bulbman Holdings to lot 8-50. Morgan asked if both property holders have signed off on the application. Morrill said there are two authorization letters to allow Wayne Morrill to act as their representative. The Secretary said the owners need to sign the front page of the application. Foote asked if the conservation documentation had been submitted. Morrill said NH Soils is working on this, but it is not yet submitted. Foote asked whether the "conservation restriction" is at the onus of the property owner or an easement recorded with the deed. Usually some entity accepts the easement and oversees it. Morrill said he would have NH Soils appear to answer those questions. Morgan said to also ask what types of uses they intend. Foote, speaking for the Conservation Commission, said it already holds



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many easements and should not be the primary maintenance designee. Another entity, such as the Southeast Lands Trust, would be a better choice.

Moore said this is a unique shaped lot. Morrill said it will help protect a lot of the back wetlands area. Foote asked if this is ready to be accepted as administratively complete. Evans said more information is needed. Foote continued Case #2006-55 to March 20, 2007 at 6 PM at Seabrook Town Hall.

**Case #2006-60 - Proposal by Edwin F. Adams, Griffey Seabrook LLC, and SOFIST (USA) Inc. for a lot line adjustment and lot consolidation off Lafayette Road, between Lowe's and the Seabrook Recreation Center, Tax Map 9, Lots 62, 238-1, 238-10, and 240.**

**Case #2006-61 - Proposal by Edwin F. Adams and Griffey Seabrook LLC to construct a 89,911 sf Kohl's Department Store, a 12,500 sf retail establishment, and a 5,495 sf restaurant off Lafayette Road, between Lowe's and the Seabrook Recreation Center, Tax Map 9, Lots 62, 238-10, and 240.**

Attending: Scott Mitchell, representing Mark investments & Griffey Seabrook; Attorney Mary Ganz; Stephen Pernaw, Pernaw & Company, traffic consultant;  
Appearing for the Applicant: Wayne Morrill, Jones & Beach, project engineer;

### **The Lot-Line Adjustment, Case #2006-60**

Morrill said this is a lot-line adjustment among three parcels: the existing parcel owned by Edwin Adams, a small parcel housing a cigarette store formed at the time of the Lowe's submission, and a part of Griffey Seabrook LLC. Property. The proposal is to swap some land so the roadway entrance for the proposed development can be opposite Boynton Lane. This creates Map 9 Lot 62 as 1.6 acres; eliminates lot 238-1; and the remainder of land would go into lot 240 which would also receive 9,293 square feet of land from lot 238-10 (Lowe's). The proposed line runs parallel with Lowe's parking lot and helps square it off in the front. An open space calculation requested by the Tech Review Committee was done to assure the Lowe's property meets the open space specifications. A letter to the Board shows this at sixty-five percent impervious, so it does meet the requirement. The result is lot 240 with a total area of 13.24 acres the first 500 feet in the commercial zone and the back being in Zone 2R. The Zoning Board of Adjustment granted a variance to allow commercial uses in the 2R portion. An access easement to the Lowe's has been added through the property going out to Boynton Lane which will act as access for both lot 62 and Lot 238-10 and connects to the other traffic light at Lowe's. Also the zone 2R information, and Griffey Seabrook as the abutter to the Wesley property, have also been added. Foote said this is only the lot-line adjustment

<b>Motion:</b>	<b>Foote</b>	<b>to accept Case #2006-60 as administratively complete for deliberations</b>
<b>Second:</b>	<b>Evans</b>	<b>Approved: Unanimous</b>



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Foote polled the Board for comments. Morgan asked for an explanation of the reference to Griffey Seabrook being west of the abutter. Morrill asked Ganz to respond. Ganz said Griffey owned a one-half interest along with the heirs of Ruben Smith that will become 100 percent pending a rockingham court action. Morgan asked if the western boundary line is proposed or existing. Morrill said this is existing. They have been working with Don Wilson building parcels out to Route 95. Morgan asked if this proposal is creating that line or if it is existing. Morrill said it is existing.

There being no further comments or questions from the Board, Foote asked for comments from abutters only about the lot line adjustment at this time. Attorney Malcolm McNeill asked to speak as an interested party, and requested no action on this application in the same manner that the Board has steadfastly refused to act on DDR's request for a subdivision until the full extent of the development on the site is known. He noted the boundary-line adjustment in advance of site review is very similar to the adjustments DDR sought to make. This developer on the same street scape and traffic area, represented by the Board's traffic review person for the DDR project, to be treated in the same fashion as DDR has been treated and asked the Board to defer acting on this boundary line adjustment. Morgan said his recollection is the cross-access easements were the primary cause of deferral in the DDR situation. McNeill said it is premature to act on the boundary line adjustment when the full extent of the plan to be considered is not known. Consistency requires treating this proposal in the same way DDR was treated. Morgan said consistency would require consideration of cross-access easements to be in the mix which is not the case. McNeill said if the Board wants to treat this applicant differently it can do so, but DDR believes it would be premature to act now. He asked if there is access between Lowe's and Kohl's and, if so, are the easements in place. Foote said they are not noted on the lot-line adjustment plan.

Mitchell said this development team did the Lowe's project which did reference Phase 2 and that there would be reciprocal easements, and, disagrees with McNeill's statements. McNeill said if the easements aren't here and that was the reason the DDR subdivision wasn't acted upon, the Board should not act in this situation because the DDR plan was just as complete as this one. Morgan said McNeill has a good point and inquired when the easements would be available. Mitchell said there is no issue in not acting tonight; the easements could be available for the next meeting. Morgan asked if there are any other cross-easements. Mitchell said there is also one for the proposed restaurant. Morgan asked about the Community Center. Mitchell said no cross-easement is proposed.

Morrill said two waivers are requested. One concerns the revision block placement on the right hand side and the other a waiver for showing the entire Lowe's parcel which the Board has previously seen. Morgan asked if these are in writing. Foote noted the waiver request explains that including the Lowe's parcel would make the scale too small, and the original parcel map is attached. Evans asked if there are parking spots to be transferred to Lowe's. Morrill said "no". Foote asked Morgan if the waivers could be considered at this meeting. Morgan said that is not a problem. Foote said for office functions it is far easier to have the pertinent information in the lower right corner making it unnecessary to open the plan to find it. Morrill said some information is in the right margin. Evans asked about the "ownership unknown" reference. Ganz said this has been researched over five years to find the owners, because the Town doesn't have it on any Tax Map. Foote asked for further questions from the Board and then the Attendees: there being none:



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<b>Motion:</b>	<b>Foote</b>	<b>To approve the Case #2006-61 request for waivers to (i) Article V item e-17 plan content specifically relocating the latest revision in the margin of the lower right-hand corner, and (ii) Article V item e-6 plan content specifically not including the entire Lowe's parcel on the plan.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Foote said the easements and cross-connects are needed on the plan, and the easement language submitted, and continued Case # 06-60 to April 17, 2007 at 6PM in Seabrook Town Hall. Morgan noted this is the back-up date for the DDR traffic session and Kohl's would be heard after DDR. Mitchell said they would want to be present then. Morgan said the cross-easement signatures would also be needed.

### **The Site Plan - Case 2006-61**

Mitchell introduced Pernaw, Morrill and Ganz as the project team. Referring to charts, Mitchell said the Kohl site consists of the land-swapping with Adams. The entire parcel consists of 13.24 acres plus the Adams 1.68 acres. The ZBA granted a variance to extend the commercial zone to the back of the detention pond, with the conditions that there will be no further development beyond the detention pond area, and the provision of a soundwall. Adams owned a 1.24 acre parcel. Because Town officials wanted Boynton Lane to line up with a traffic light, the development team worked with Adams to arrange a land swap so a traffic light could be installed on Boynton Lane opposite the Demoulas entrance which is a currently an unsignalized intersection. The land shift also enabled a 5,495 square foot restaurant with 117 parking spaces. The Kohl's will be 89,911 square feet, a retail section of 12,500 square feet; and 475 parking spaces. The restaurant does not need additional parking, but there will be other cross-easements.

Morrill said applications have been submitted to the DES re wetlands, and to DOT re traffic. There have been three meetings with the Conservation Commission; there are two wetlands permits already granted for the original restaurant next to the Community Center and a small retail totaling 9,500 square feet. Morrill showed the wetlands complex was part of Red Maple Swamp that was half-filled in offsite mitigation with the Lowe's project. This results in total wetlands impact of 53,100 square feet. The mitigation proposed to the Conservation Commission is to do sampling analysis of Mary's Brook and focus on freshwater parameters known to affect the quality of the fish habitat. These affect the water quality of Cains Brook. A donation to the Cains Brook Watershed Management Plan is also proposed potentially for fish-ladders or indirect drainage needs near Home Depot/Route 1. Morrill described the parking field, aisles, and dimensions; and 733 linear feet of soundwall along the side and running the entire length along the pond so traffic in the drive aisle and the back area will have that soundproofing; and retaining walls. After discussion with the fire and police departments, access around the property is fine, and there is adequate paved surfaces around both the Lowe's and this site. As suggested at the Tech Review Committee the restaurant is now labeled as "future"; the Kohl's and retail area are going forward. Mark Investments are looking for retail tenants.



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Morrill showed a dedicated right-turn lane coming out of the site, and a through and left onto Lafayette Road; crosswalks is the driveway, and across to the Demoulas property. The police department has asked for those to be signalized so pedestrians can get from the Community Center to the other side of Route 1. Of three existing curb-cuts, only one will remain. A stop sign was also added. Evans said Note #6 on sheet C2 referenced sloped granite curbing and asked if the current requirement is for straight curbing. Foote thought it is straight for sidewalks as the State now does. Morrill said there is vertical granite curb at the entrances and sloped inside the site to match the Lowe's development. There is a closed drainage-system with sumps and greasehoods on all catch-basins which is an off-line system similar to Lowe's where the basins don't directly attach but go in the drain manholes. These are focused out back within a sediment pond with a sediment forebay into a permanent pool, into a level spreader as was done for the Lowe's. The future restaurant is an underground stormtech system as was done at Town Fair Tire; the stream comes out behind and goes down into the culvert, and eventually discharges into the swale that separates the Community Center and this property. The lot front has a couple of catch-basins that jump into a treatment swale, and Morrill described the stabilization.

For erosion control the construction entrance is stabilized, there are vegetative treatment swales on both outlets of the ponds, and a twenty-foot wide all-access road around the site to avoid tracking mud through the site onto route 1. The engineers met with the Sewer Superintendent and Water Department, added hydrants at the westerly side of Lafayette Road and made agreements with Lowe's to connect the water line from Lowe's through the hydrant which allows free-flowing water in a constant loop between both units. The sewer comes in off Lafayette Road to the front of the buildings; the future restaurant has a grease-trap and a sewer tie-in. Underground gas and utilities are proposed for the entire site. Final water and sewer comments are not in yet.

The lighting is the same type of lights as with Lowe's and asked for a waiver to allow Kohl's parking lot lights to be thirty-five feet high; restaurant lights would be kept to twenty-feet. Lights near the proposed retail and backside of Kohl's have been turned to face into the truck docks and for the retail lights are on the side of the soundwall facing in to the building. Foote asked if those along the brook can be as low as possible. Morrill said perhaps they can go down to twenty feet. Evans said at thirty-five feet the lights are about sixty-five feet above the residential area because of a steep slope. Morrill said this includes the Mary's Brook ravine - it goes up to about forty-four feet at the top of the bank for the residential abutters. A landscape plan was done by the same firm that did the Lowe's project. It needs to be modified but shows a variety of red oaks, paper birch, ash, sweet gum, pine, oaks trying to fill up the landscape islands in through the restaurant and the Kohl's parking lot, and planting between the Lowe's and Kohl's buildings. The sidewalks attach to the Lafayette road sidewalks; and landscaping including benches and stabilization are designed for the pool area similar to Lowe's plans.

Morrill referenced the highway access plan but said there is to be further consulting with the traffic consultant for the dedicated turn lanes, and increased width for Boynton Lane to allow better use of the signalized intersection. They are discussing with Demoulas the possibility of adjusting access to only the two signalized intersections. The soundwall will be of pressure-treated



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wood and held together with steel beams to which the guardrail is attached above the retaining wall. Building height is 30 feet above ground, with neutral colors, and landscape planters in front.

Mitchell said they are looking at sidewalks near the Community Center as suggested at Tech Review. The Community Center has wetlands and is too close to the intersection to have direct access to the site. It would not be a problem connecting to the curb-cut if the set-back were greater. Morgan asked about extending the sidewalk to the Community Center. Mitchell said this can be done. Evans asked if there is an internal sidewalk to walk from Route 1 to the Kohl' Building. Mitchell said there is no dedicated sidewalk. Khan asked if a sidewalk for walkers from Route 1 would be possible, and noted this was brought up with DDR. Mitchell said this has not come up before and they will look at the possibility. Khan asked if going from the Community Center to the roadway could be looked at again to give access to the traffic signal. Foote said there is a bit of a drainage ravine but would it be possible to angle access across from the turn into the future restaurant. Mitchell said Pernaw would look at that. Foote said possibly the Town and the Rec Department might be willing to restructure their parking lot. It's understood that access from the rear is physically unfeasible.

Mitchell said they have no problem separating the restaurant from this application, but want to assure that access for the restaurant is as described here. Foote said it is the applicant's choice whether the restaurant and Kohl's stay together. Mitchell said separation is no problem as there would be no need to involve Kohl's if there were future restaurant changes. Morgan asked if the site plan for the restaurant is included in this submission. Mitchell said it is not. Morrill said originally the restaurant was included.

Mitchell said Pernaw is submitting his traffic report at this meeting and asked him to briefly inform the Board about the process to this point. Pernaw said his firm is representing Mark Investments. The traffic study will be submitted at the end of this presentation. There have been two scoping studies - the first, for the Lowe's project in 2003, envisioned two signals and a connecting road plus five lanes at each signal, and roadway widening. Because the development was split into two phases, only one signal was implemented. A second scope meeting with DOT occurred in October of 2006 when the DOT and the Town reviewed the proposed six intersections for counts (more intersections were actually done) including southerly at Home Depot and Walmart - up to Railroad Avenue. Upon completion of Phase 2 there will be three points of access: the north which is existing and signalized; the middle driveway remaining stop-sign controlled; and new intersection across from Boynton Lane that will be fully signalized. Even though the project was split into two phases the mitigation on Route 1 was completed all the way through for a continuous five lanes. Now the last traffic signal is being proposed. The counts were done in weekday evenings during the 3 - 6PM peak, and on Saturday during mid-day. The report comprises data about the different driveways.

This is Pernaw's third study in this area, and noted that the calculations done during Phase 1 were a lot higher than the more current actual count. This is because the DOT requires looking at a development as an isolated site, so the Lowe's was called a home improvement superstore, even though there is another home improvement store down the street for which no discounts can be



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taken. Also by doing counts at the Phase 1 site it was possible to tell how many people are traveling to and from the store from both the north and south. The same calculations were also done for Home Depot, Walmart, and the Southgate driveways. All three sites showed a 50/50 directional split in each direction. However, in the prior studies more trips to the South were anticipated. Pernaw believes this is because at that time there was new construction at the bottleneck of Routes 107/1 which has been fixed, so that the trend is more even. Future projections were done for 2008 & 2018. The projections without Phase 2 include the potential DDR development and retail development on the South side of Provident Way, as well as the hotel restaurant at Rocks Road. The impact of estimated future trips outside of the immediate study area are about 5-6 percent both north and south.

The signalized intersections operate a C level or higher in the opening year, and in the horizon are at level D or higher. The traffic signal warrants analysis at Boynton Lane met both the eight and four hour criteria, certainly justified. A lane configuration is recommended and a widening at Boynton Road will be reflected on revised plans. The intersection will operate well below capacity through 2018. Pernaw's six recommendations are (i) to relocate the existing site driveway to line up with Boynton Lane and widen it for two exit lanes, (ii) widening and reconfiguring Boynton Lane approach to Route 1. (iii) the Route 1 continuous center turn lane should be converted to two exclusive left turn lanes - one for southbound lefts into Boynton and for northbound lefts into the site. (iv) raised medians to separate inbound/outbound vehicles, (v) a fully actuated traffic signal controller interconnected to signals north and south; with an overall interconnected signal, traffic should flow more smoothly, and (vi) to test the intersection, it was assumed a right-in/out driveway would be eliminated and traffic would come out on Boynton. The second traffic signal should create a lot of diversion for existing trips. At the northern signal, traffic will be reduced; many coming from the south will enter the first driveway whether they are headed for Kohl's or Lowe's. Similar diversion to the south signal is pictured for exiting vehicles. This means there will be some reductions on that part of Route 1 at the northerly signal.

Khan asked how to talk with Pernaw when he is the Board's traffic consultant for DDR. Pernaw said for any questions, he would have the same answer. Khan asked if Pernaw's report went any farther than the Walmart intersection where Route 1 becomes one lane. In the DDR traffic report it was shown that from the Getty station to Dunkin Doughnuts needs to be widened. In this presentation Pernaw didn't mention there is only one lane from the Cains Brook Pond to the Town Hall, and Khan asked if this isn't going to be a massive problem. When people come out of the two Walmart lanes many cars go south toward Massachusetts while only a few go north. It will be the same for Kohl's. It is a road race every day by the pond. Pernaw said he was asked to look at the signal at Lakeshore across from Home Depot and that intersection has two throughlanes on the southbound approach that taper back to one lane. Pernaw said that intersection was analyzed and can handle the traffic increases from Phase 2, and commented that was the extent of the study area. As specified at the Scope meeting.

Morgan asked Pernaw to confirm that the increase in traffic is 5-6 percent. Pernaw said 5 percent in the PM and 6 percent in Saturday peak. Morgan asked what measures are being proposed to mitigate that traffic increase. Pernaw said the mitigation proposed is interconnecting all of the



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signals and optimizing the cycle lines; the roadway widening is already done. Morgan asked about cross-easements. Pernaw said this is a legal point if they are needed. Morgan asked if they could be well situated. Pernaw said cross-easements ought to be along a common drive. Evans asked if there is any chance the southerly right in/out driveway at Southgate Plaza with its long wait time to exit can go away, and also for improving the enforcement of the intended restriction. Pernaw said in looking at the traffic data it's anything but a right in/out and the applicant is working with Demoulas to see if that can be closed. But, the new signal will attract in/out traffic and the volume at the right in/out will go down automatically. Lowry referenced two Demoulas entrances at Boynton Lane and asked if the one closest to Route 1 could be closed to allow room for stacking of cars or at least there be more of a barrier. Foote suggested the two might be combined into one. Moore said then they could be in line with the travel lane to the stores. Mitchell said this is the first time for that question and they will look at it. He noted that there had been a lot of good cooperation with Demoulas at the Lowe's site but that decision is not up to [Mitchell].

Mitchell submitted a memo from Kohl's given to the ZBA indicating a maximum of three truck deliveries per week over the year, noting that this would be higher during the Christmas holiday. Foote said the Board needs to decide if this submission is administratively complete to begin deliberations. McNeill asked to be heard. Morgan said the public needs to be heard. Foote said the decision on completeness needs to come first. Mitchell emphasized that at the DOT scoping session for the Lowe's project they indicated the intersection could not be "half" fixed; the road work needed to be done all at once. The Board and DOT were informed this would be a two phase project and all the road improvements would be done up front. The cost was approximately \$1,000,000 in off-site improvements. At the time the estimated square footage for Phase 2 was about 100,000 square feet.

Khan said if the Board votes this as administratively complete, can the entrance for the Community Center still be addressed. Foote said there would be plenty of time for revisions. McNeill asked to be heard on this matter because the plan is not complete. There is no final form of mitigation for the street system, no finality with regard to the wetlands - no presentation as to why the wetlands should be filled, whether that can be avoided or for the least impacting alternative, no comment at this session, as occurred with DDR, as to how the fire department could possibly service the building or how the police department could possibly allow another 100,000 square feet of retail to come into Seabrook. McNeill also requested to comment on the developer's actions in front of the DOT as well as the actions of town officials. Khan pointed out the case has not yet been opened for public comment. Foote said the acceptance decision has not been made yet, and asked if the Board feels there is sufficient information submitted to accept this case as administratively complete to begin deliberation. This would not preclude revisions and changes in the future. Moore said he would make that motion and Khan said he would second it.

Morgan said the RSA's don't address the matter of public comment at this specific point, and he would feel more comfortable talking first with legal counsel. Moore said this vote is whether the paperwork and information is in front of the Board, not on any aspects of the case. Foote asked if the Board will say there is insufficient data to be accepted at this time. Morgan advised to speak with counsel before voting on that question. Evans said on the basis of that advice he would vote



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against the motion at this time. Foote asked for further discussion. There being none, Foote asked for those in favor.

<b>Motion:</b>	<b>Moore</b>	<b>to accept Case #2006-32 as administratively complete for deliberation.</b>
<b>Second:</b>	<b>Khan</b>	<b>In favor: Moore, Khan Opposed: Lowry, Evans, Himmer, Thibodeau Abstained: Foote</b>

Foote noted the motion to consider this case as administratively complete has not passed, and suggested a continuance. Morgan said the Board can still discuss submissions. Foote asked how issues can be discussed if the case has not been accepted for deliberations. Morgan noted the previous presentations. Khan said now there is a vote. Evans said he wants to hear the abutters who have made the effort to participate. Lowry said this should be only for direct abutters. McNeill said DDR has the right to be heard as interested parties as landowners up the street. Lowry suggested a time limit for each person. Foote said when the plan has not been accepted the Board can listen to concerns but cannot respond. Morgan said this is reasonable considering the hour. Evans suggested limiting comments to five minutes. Foote said this would apply to abutters in the audience and asked speakers to be concise and not repetitive. She thanked the audience for attending, and asked speakers to state their name for the record when called.

Cheryl Karinen said giving abutters or others who are affected a time limit when those who are not direct abutters weren't limited would be unfair. The ZBA did grant using residential property as commercial property. This definitely will be appealed within the 30 days allowed. Everything looks great on paper but this does not mean it will actually work. Someone can do a traffic study but the residents can say what the traffic is like on Route 1. You can't get people off the Route 107 intersection. She questioned that the study was done between Memorial Day and Labor Day when you can't get an ambulance or fire truck up and down Route 1. Foote referenced Karinen statements that the ZBA decision will be appealed, and asked if the appeal had been filed. Karinen said "yes" Foote asked if they plan to file in time to be on next month's ZBA agenda. Karinen said "yes" Foote recommended avoiding a similar situation to the appeals re Black Snake Road, and continuing this case to May 1 after which the result of the ZBA appeal would be known. Khan agreed. Evans said before that vote comments from those in the audience should be heard. Foote agreed, but said if this case goes back to the ZBA the Planning Board cannot begin working on it until the outcome is sure. Morgan thought in the beginning of the DDR review, they were subject to appeal and wants to maintain consistency. Foote said it was already in the court system awaiting decision. Moore said an intention to appeal has been stated but not yet done. Kernan said all of the trees will be coming down; the Christmas season for retail stores starts in September and Kohl's is known to opens at 5 AM and until midnight; the noise will be unbearable with backhoes cleaning snow in the winter, noisy dumpsters, and cardboard crushers and a generator. The land was residential; the project is too large for the site; the soundwall much closer to residences than they were told.



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Foote said once the ZBA has made a change of zone ruling the Planning board cannot counter it. That is why this should be continued at least beyond the first appeal to avoid having to repeat presentations. Once the Planning Board is in deliberations it can address issues like acceptable times for truck delivery or opening hours as a condition of approval. She urged Kernan to persevere at that time. Foote asked if there are items that have not yet been brought up. James Walsh asked how the soundwall will be positioned and why it will not be the same height as the Lowe's soundwall. Walsh also expressed concern about no separation between the Community Center and the site parking spots where he has seen parked cars with people watching children at the center summer camp. Foote said this can be addressed in deliberations.

McNeill requested that comments on the Kohl Traffic Study be given by all Tech Reviewers at the earliest convenience, and asked that the fire chief and police chief examine the serviceability of this building as was done with the DDR project. McNeill said it is obvious that the permitting of the Lowe's project was not interconnected with Kohl's because in the DOT permit issued on September 9, 2004, condition 2 said the applicant understood and agreed to receive no additional access to and from the State highway system in the future either to or from its own property directly or through the property of another. McNeill said various interconnections are being proposed contrary to that permit, and said the Traffic Study completed by Pernaw for the Lowe's project specifically indicated that it only related to Lowe's, a garden center and one restaurant, and not to a larger project. At the scoping session on October 20, 2006 Seabrook's Town Planner and Chief Enforcement Officer attended and unsuccessfully requested the applicant be required to review the Bridge over the highway as well as the intersection of Route 107. Given all of the comments relating to the DDR projects, and Pernaw's comments, that review also needs to be done on this project. The Route 107 intersection is obviously impacted by all the testimony that has been heard, and expert opinions advanced. The prior approval was in 2003-04 and this is 2007. The public's concerns as to infrastructure, fire, police, ambulance and other services are applicable to this project. With regard to the fairness and equity and reasonableness of what the Board does, there needs to be reciprocity with regard to the requirements. Similarly any traffic report should be subject to peer review. McNeill suggested VHB could do this, since Pernaw is reviewing DDR's project. McNeill said for all of the issues relating to further impacts on Route 1 there needs to be equity, fairness, fair sharing and shared consideration of what is fair and appropriate with regard to this important accessway. Which is one reason DDR suggested a TIF. DDR believes reasonable developers can work to accommodate growth, but reasoned decisions need to be made by the Planning Board based on fully addressing actual impacts in this corridor. DDR is asking for the impacts be fairly assessed and distributed, which this submission hasn't done.

Foote said Route 1 belongs to the State which, at least during the last ten years, has been asked to give Seabrook relief by expanding the scope and asking more of the developers. Concord doesn't listen. McNeill said DDR is familiar with this process and would certainly like competent people to overview any traffic considerations for this project so the Planning Board can be adequately informed and make reasoned judgments. DDR will be taking a position as an interested party under the statutes, it is affected by this project and will be here for the future deliberations.



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Raymond Mace said he has been watching this meeting on TV and sees that McNeill has spoken more on Mitchell's project than anyone else sitting here. It appears to those at home that McNeill is running the meeting which is not good. Foote asked how that pertains to the application in front of the Board. Mace said townspeople have been quieted by the Chair. Foote said public meetings have a protocol. Opportunity to speak goes first to the Board and its advisors and next the presenters. After that the Board makes questions and comments. Then the public and abutters have a chance to speak. Mace said McNeill spoke earlier. Foote noted Mitchell also spoke out of turn; both were stopped at that point, and Mace's point is heard. Foote asked for questions from those who have not yet spoken. Madeline Campbell said she does not see how Kohl's will help Seabrook. There will be noise and air pollution, trees cut down, animals displaced. As for traffic, all that's needed is to look at the Massachusetts license plates going north on Route 1. In the summer, without Kohl's, residents can't go left to go north on Route 1 and have to turn right and go up Route 95 to get to Hampton. And it is bumper-to-bumper, and they're bringing 475 more cars. Foote again stated that the Board has not yet received the traffic study or the State's comments, and it has not begun deliberations. Cambell said at the ZBA they were told to voice their concerns to the Planning Board. Foote said over time there will be lots of opportunity for comments to be made over the next months.

Tricia Starr said this proposal has already hugely affected her quality of life even without any approval. It is always in her thoughts. She hoped to come to these meetings to express her feelings and concerns. And stand up for her rights as a homeowner. Chiramida said she was here in August 2006 when DDR presented its application; many people spoke and even a Board member stepped down. Foote said that actually happened later on. Chiramida asked if the DDR application for consideration was accepted on at their first meeting. The Secretary suggested Ch contact her for the dates of DDR meetings. Foote noted minutes are on-line, and asked for further questions. There being none:

<b>Motion:</b>	<b>Foote</b>	<b>To continue case #06-61 to May 1, 2007 at 6PM at Seabrook Town Hall.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Morgan asked if the Board would like him to present names of qualified traffic engineers for peer review. Foote said that would be appreciated.

### **Case #2007-04 - Proposal by Sandy Seas Properties, LLC for a condominium conversion at 46 & 46A River Street, Tax Map 23, Lot 46.**

Attending: Mike Macera

Mary Ganz, Attorney, appearing for the Applicant.

Ganz said the Tech Review minutes have been reviewed and the minor changes made on the plan. Macera also worked through the Assessor's Office to get the numbering on the plan ok'd. Ganz said the DES sent an e-mail that the project is complete as long as there are no further changes. Foote questioned the designation of Unit 46 and 46A on the plan and said the division lines are confusing. Macera said this is common land with two separate units and indicated placement on the plans.



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Moore asked if the property line is at the top of the marsh; the tie-lines are confusing. Foote said it appears the limited common area is being divided. Himmer requested a more clear plan be submitted. Macera said he will simplify the drawings and submit the revisions. Thibodeau noted no abutters are listed by name on the plan, and the property line need clarification. Foote continued Case #2007-04 to March 20, 2007 at 6 PM at Seabrook Town Hall.

### **Case #2007-03 Proposal by Scott Mitchell for a two-lot subdivision at 103 Ledge Road Tax Map 5 Lot 8-120.**

Attending Scott Mitchell

Appearing for the Applicant: Wayne Morrill of Jones & Beach Engineers

Morrill presented the condominium site plan for Lot 120 approved previously by the Planning Board, having six parking spaces per unit and ten guest spaces. The subdivision proposal meets the minimum frontage and lot area for both lots, and fits the minimum square on both lots. There is one access point for both lots with an access easement for the benefit of Lot 8-220; and a parking and access easement for certain parking spaces. None of the spaces on the original lot are used for the second lot. The topography and design plans were delineated in the original proposal and signed by Mark West. An industrial building may subsequently be proposed for the back area. The lot sizes meet the requirements. Two waivers are requested: one for the topography on the site plan and the other for placement of the revision block. As many of the Tech Review comments as possible have been addressed or waivers submitted.

Morgan referenced his comment # 16 re the parking as it was approved in the prior plan. There is not much precedent for shifting parking to a new owner. Mitchell said this is similar to units sharing parking in shopping malls. Morgan said one day this could be a different owner. Mitchell said this would not matter if there are easements in perpetuity, and his intentions had been previously made known to the Board. The proposal meets the subdivision criteria and the second lot could have been set up with no parking. But he sees industrial condominiums allowed with two parking spaces per unit and while there are six in this situation. Mitchell said the Board can make it a condition that this parking will stay with the condominium association in perpetuity. He and Mr Grasso intend to hold the property and build to suit for a warehouse tenant that wants to occupy 6000-8000 square feet. He said the set-up is similar to what was approved for Kevin Karpenko.

Morgan said the zoning ordinance speaks to each lot having a set number of its own parking spaces, and there is not precedent for shared parking. Mitchell said he is over-parked on these units and his request should be allowed. Foote said experience has shown problems when parking waivers are granted. Mitchell said the Board should have a square foot formula for industrial parking, but there is substantial parking here. If the regulations allowed two buildings on one lot there would be no issue. Morrill said the relevant Article does not prohibit this. Morgan said he is referring to Board policy. Mitchell said he meets the zoning requirements and has developed a lot of property in Town. He has no intention of using the other parking spaces for the back lot. Morgan said the danger of diverting from established policy is establishing precedent for others. Morrill noted the Board's requirement was for five spaces and Mitchell has provided six. Mitchell said the neighboring units haven't more than two spaces per unit. Morgan said the problem is one lot can't stand on its own.



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Morrill said there are about twenty-two extra spaces on the front lot, Moore asked if eighteen spaces are not needed at all. Foote said the assessor has assigned 220 and 320 as the Tax Map lot numbers; the address remains 103 Ledge Road. Mitchell said he will stipulate that none from phase 2 will have parking rights in phase 1.

Moore asked how far discussion should go before a plan can be administratively complete. Foote said the administratively complete designation should be done after the applicant's presentation. Evans said the merits of the exhibit are being debated now. Mitchell said if an applicant meets the listed criteria the Board should accept the plan as complete. Moore said if everything is passed in properly, the case should be administratively complete. Moore asked if there is sufficient access for the new lot. Mitchell said "yes". Khan said if Mitchell agrees to no parking from building 1 to building 2 he does not see a problem. Foote asked for questions from abutters or the audience. There being none:

<b>Motion:</b>	<b>Evans</b>	<b>To accept Case # 2007-03 as administratively complete for deliberations.</b>
<b>Second</b>	<b>Himmer</b>	<b>Unanimous</b>

Foote agreed with Moore that before discussing the fine points an Applicant makes the presentation and then the Board decides whether the package is administratively complete.

<b>Motion:</b>	<b>Moore</b>	<b>To approve Case # 2007-03 for the two-lot subdivision at Map 8 Lot120 in so far as it meets the NH Condominium requirements and Town of Seabrook regulations.</b>
<b>Second</b>	<b>Khan</b>	<b>Unanimous</b>

<b>Motion:</b>	<b>Foote</b>	<b>To approve the waivers concerning Article 5 Section e-16, e-17, e-19, m, and n, requested for Case # 2007-03: as described in the letter(s) dated February 28, 2007, provided the items are to be addressed in the site plan.</b>
<b>Second</b>	<b>Moore</b>	<b>Unanimous</b>

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### OTHER BUSINESS

Thibodeau said Minutes are due in six days by State law and she would like to see them. Foote said the Minutes are in the book by the Monday after the meeting. Thibodeau said she was not aware they were ready. The Secretary said they are in draft and are sent out the Thursday before the next meeting per the regulations. Foote said most members get them by e-mail and mailboxes are set up for Moore and Thibodeau. Thibodeau said receiving minutes the day before the meeting is



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late when they are so involved. She would pick them up sooner. Khan added that in coming to the Planning Board Office he has seen the massive collation process and had no idea there is so little room to work that the folders are assembled on the floor. We need a bigger room or more help

Foote said the Planning Board space is at a crisis point with inadequate drawers for 2007 files. More room is needed. Evans said perhaps off-site offices. Foote said the draft can be put in the boxes when first ready or they can be mailed. It was the past practice that the members would receive the minutes and the next agenda the Thursday before the meetings. This was thought to be a reminder and in time to be read. Moore said a plan for review was also sent. Foote said that hasn't been done since 1996. Moore said it is helpful to have a plan in advance or to take home between meetings. Foote said perhaps the application needs to be revised to request an additional number of plans. The Secretary said ten plans are requested which go first to Tech Review. Foote noted Department Heads tend to keep them and perhaps we need to up the number requested. That would mean members would have to pick up their packets at the office as mailing costs for plans would be very expensive. Also the plans are always available at the office. A gentleman in the audience said in Salisbury the police deliver the plans to Planning Board members.

There being no further comments or questions,  
Foote adjourned the public meeting at 10:47PM

Respectfully submitted,  
Barbara Kravitz, Secretary  
Seabrook Planning Board