



TOWN OF HUDSON

Planning Board



Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison

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HUDSON PLANNING BOARD MEETING MINUTES November 10, 2010

I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:05 p.m. on Wednesday, November 10, 2010, in the Community Development meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Selectman Massey to lead the assembly in pledging allegiance to the Flag of the United States of America.

III. ROLL CALL

Chairman Russo asked Secretary van der Veen to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

Present: James Barnes, Glen Della-Monica, , Tim Malley, Vincent Russo, Ed van der Veen, Richard Maddox (Selectmen's Representative), and George Hall (arrived at 7:47 p.m.).

Members

Absent: None. (All present.)

Alternates

Present: Stuart Schneiderman and Ken Massey (Selectmen's Representative Alternate).

Alternates

Absent: None. (All present.)

Staff

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Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Russo seated Mr. Schneiderman in place of the tardy Mr. Hall.

V. MINUTES OF PREVIOUS MEETING(S)

Chairman Russo addressed the minutes for the meetings of 06-09-10, 07-28-10, and 08-25-10, asking if anyone were prepared to review the minutes. No one coming forward, he asked that the member be prepared to review at least the 06-09-10 and 07-28-10 minutes at the next meeting.

VI. CASES REQUESTED FOR DEFERRAL

No cases had been requested for deferral for this meeting.

VII. CORRESPONDENCE

No items of correspondence received in tonight's handouts were addressed at this time, in accordance with the Board's practice of taking up such items in conjunction with the associated cases, with any remaining items being taken up under **Other Business** at the end of the meeting.

VIII. PERFORMANCE SURETIES

No **Performance Sureties** items were addressed this evening.

IX. ZBA INPUT ONLY

No **ZBA Input Only** items were addressed this evening.

X. OLD BUSINESS/PUBLIC HEARINGS

A. Fairview Nursing Home (Expansion)
SP# 04-10

Map 216/Lots 1 & 2
203/205 Lowell Road

Purpose of plan: To construct an expansion to the existing Fairview Nursing Home facility, to include 31 additional beds, and a new facility (23,000 ft² footprint). The proposed new facility will consist of a three-story building, which will include 73 units of assisted living and ancillary facility space. Hearing. Deferred Date Specific from the August 25, 2010, Planning Board Meeting.

Chairman Russo read aloud the published notice, as repeated above.

Mr. Tony Basso, of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, noted that he was accompanied by Mr. Tim Beaulieu, one of the owners, and Atty. Morgan Hollis, the legal representative.

Mr. Basso reviewed details of the plan on the wall, noting changes that had been made in the plan since the last meeting in response to concerns raised by members of the Planning Board at that time, as well as concerns that had been raised by Road Agent Burns. He stated that they had subsequently met with Road Agent Burns, Town Planner Cashell, and the Fire Chief, noting that the left-turn-out had been eliminated from the curbcut across from Hardy Road, so that people wishing to turn left (go north) from the site would have to exit via Hampshire Drive. He said Road Agent Burns and the Fire Department and Police Department had been okay with having left-turn-in and right-turn out, because there was a dedicated pocket and there were traffic gaps created by the traffic lights at Flagstone Drive and at Executive Drive. He said the traffic engineer had also reviewed the change, reporting the curbcuts were the proper distance apart with enough left-turn stacking ability. He said they were now back to talk to the Board about this. He noted that an elevation drawing had been provided (also affixed to the meeting room wall), and he described details of the color and materials.

Chairman Russo opened the meeting for public input in favor. No one coming forward to provide input in favor, Chairman Barnes asked if there were anyone who wished to speak in opposition or with comment.

Ms. Marilyn McGrath, River Road, asked if there would be two driveways exiting from the site onto Lowell Road. Mr. Basso agreed, saying there were three now but the plan would have only two, with another on Hampshire Drive. Ms. McGrath expressed concern, saying she felt having two driveways on Lowell Road would be a safety hazard.

Mr. Basso noted that Ms. McGrath had not been present a month ago for the discussion about the need for those two exits to provide access to the proposed assisted-living facility, saying the driveway on Hampshire Drive would be close to the building and there was no alternative way to go that provided the needed volume

access around the building. He said this kind of business model needed its own access and could not be coming through the back door of the nursing facility.

Ms. McGrath said she had noted her concerns about two driveways when this plan came before the Zoning Board of Adjustment, saying her issue was safety. She noted that this was a very busy area of the highway, and she expressed concern about drivers exiting and turning north. Chairman Russo noted that the design had tried to avoid having northbound traffic cut across the southbound lane on Lowell Road; Ms. McGrath responded that "We all know human nature." Chairman Russo concurred.

No other comments being brought forward at this time, Chairman Russo said the public hearing was still open but he would get input from members.

Selectman Maddox said Town Planner Cashell had just told him that he had not been at the meeting, as had been stated by Mr. Basso. Mr. Basso clarified that there had been two meetings, and the entire staff had been at the first one, and that Road Agent Burns had asked him to come back with the revised plans. Selectman Maddox asked if the Town Engineer had been present at that second meeting. Mr. Basso answered in the negative, saying the Town Engineer had been at the initial meeting but not at the second, which came about when Road Agent Burns asked Mr. Basso to step into his office. Mr. Basso then listed the people who had been at the meetings.

Selectman Maddox said he had been at the site today, and he voiced his opposition to the driveway onto Lowell Road, saying it was very busy and the traffic was not going to get any calmer. He questioned why they were not wanting to take on a signalized intersection. Mr. Basso said coming around to the back end of the existing building, where there was not a lot of room, and funneling all of the site traffic through there, was not good business; he suggested that the Planning Board would not be telling any other business to have its traffic come in through another business property. He said it would be convoluted, confusing, and not an appropriate way to design the site. He reported that the Police Chief had said there was not a huge accident history in this section, and their biggest concern was not having left-turn-out traffic; he said signage would be designed for this, adding that people could not be prevented from breaking the law but that was what the police were there for. He then repeated that the two facilities needed to stand alone, pointing out that they might not even be under the same ownership at some time in the future, and he reiterated that it was an whole different business model, with its own administration, staff, kitchen service, etc. He pointed out that the site currently had three full-movement driveways on Lowell Road, noting that the owners had applied a left-turn restriction on one of those, themselves. He said they were willing to compromise to an extent, such as restricting left-turns-out, but needed their own access. He said Road Agent Burns and the Police Chief and the Fire Chief had been concerned about left-turns out crossing four lanes of traffic on Lowell Road, which was the real issue, and this had been addressed. He concluded by stating that there was no way to have just a back-door entrance to the facility, saying it would not be marketable.

Selectman Maddox said the Police Department was not willing to enforce no-left-turn requirements, so it was a non-issue. Mr. Basso said he had heard all the stories about the police not enforcing this, but the police certainly could do so, saying it was an

enforcement issue, not a reason for not allowing anything. Selectman Maddox demurred, saying it was a design issue, and it came down to this Planning Board having to make a decision. He commented on accidents. Mr. Basso repeated that it had been found not to be the case in this area; Selectman Maddox responded that 16% of the accidents on Lowell Road were in the corridor area between Wason Road and Harding. Town Planner Cashell said it had been 8% of 850 recorded accidents, saying that was significant. Mr. Basso contended that was not what the Police Chief had told him.

Mr. Barnes said the traffic studies had been focused on morning and evening peak hour traffic, but this would be minimal because of staff—but the assisted-living people would tend to be leaving at odd times, with Saturday having the greatest traffic. Mr. Basso said non-peak times were not looked at for traffic studies, as there would not be stacking issues. He said the Saturday noon traffic was considered, and they looked at which peak was critical, so the morning and evening peak numbers had been considered, as the critical ones.

Mr. Barnes asked if any modeling had been done with respect to daily trips in and out. Mr. Basso said that would be in the study, but probably not for the total daily trips, as it was the peak-hour traffic that affected operation of the road. He said this was the basis on which all traffic studies were done.

Mr. Della-Monica asked how many employees would be working in the facility at noontime. Mr. Tim Beaulieu said the new assisted living building would probably have a total of 50, noting that there were about 25 at Laurel Place, the existing assisted living facility. Mr. Della-Monica asked where the employee parking was located. Mr. Beaulieu said it was at the back. Mr. Della-Monica asked if they would consider putting the employee parking along Hampshire Drive. Mr. Basso said the assisted-living residents predominantly did not have cars. Mr. Beaulieu addressed Mr. Barnes's previous concerns about the assisted-living residents driving; he described the layout of the building, saying all the parking spaces on Hampshire Drive were dedicated to people visiting residents or staff, saying they did not have enough parking today at the existing facility. He said the nursing facility would be geared toward Medicare patients, very much short-term stays, saying it would have a substantial amount of visitor traffic. He said the three-story assisted-living facility would be completely separate, saying they were trying to create a business model that kept everything separate from the nursing home. He said assisted-living facilities took elderly, frail people, very few of whom ever drove; he predicted there would probably be virtually no public driving. He said they were very concerned about safety of their residents and they were trying to minimize the amount of traffic. He said what was being proposed by the Board was to funnel all of the traffic through the bottleneck at the rear, saying this would increase the traffic on the campus, thereby increasing the risk. Selectman Maddox asked how wide the bottleneck was; Mr. Beaulieu consulted with one of his employees, who said it was about 20 feet wide,

Mr. Della-Monica asked if they had thought about putting the entrance on one side with the exit on the far side, saying he had been to a number of buildings that did that—noting that the problem would be that people would have to go south to exit. Mr. Beaulieu said they were trying to balance the traffic on the campus, saying the

proposed plan met their business needs and provided overall safety on Lowell Road and the campus. He said the proposed building could not happen if it did not have its own access on Lowell Road, noting that they were looking at spending more than \$15,000,000 and that it would provide 80 jobs in the area—adding that it was a compromise from what they had originally proposed.

Selectman Maddox said the management had said as many parking spaces as feasible were needed, but they had 175 spaces. He said he would be willing to allow use in the rear setback to make that passageway safe—reiterating that the traffic on Lowell Road, as he had witnessed it today, was a challenge. Mr. Beaulieu said the reality was that 175 spaces probably would not be enough. He said cars were parked everywhere today, including the lawn, and often in fire lanes. He said the building was built 30 year ago, having half the number of employees then as were now employed. He noted that hospitals were pushing people out faster, meaning they moved to nursing homes, but these nursing homes were not built to house therapists. He said they did not have capacity to limit parking below what they were asking for—adding that there were perhaps as many as 25 cars currently being parked in other than parking spaces. Mr. Basso spoke against funneling all the traffic for the nursing home around the back side of an assisted living facility.

Selectman Maddox asked if the driveway could be made wide enough for the purposes of the facility, saying he did not want this to be taken away, but people would go the other way, asserting that it was a given that insane people did insane things behind the wheel. If that driveway were there and they gave the residents a chance to go around the nursing home to use a signalized intersection, he said, that would be giving them a chance. Mr. Beaulieu said the drivers had that option. Mr. Basso explained that Selectman Maddox was proposing that the driveway be widened to 28 feet, into the setback, which would encourage people to do it the right way, saying he did not disagree with that. He said they would have to definitely look at that.

Mr. Hall arrived at 7:47 p.m. and took his regular seat at the table, although not yet recognized by Chairman Russo for the inprocess hearing.

Mr. Basso said this was a lot different from typical retail, saying these were people who kept coming back and could be told where to go. Mr. Beaulieu said they could enforce no-left-turns with staff, as they could put in the handbook that employees would be fired for doing that. Selectman Maddox reiterated his preference for widening the driveway so that drivers could have a choice of coming out on Hampshire Drive to a safe signalized intersection. Mr. Basso said they could look at widening the driveway, noting they would need a waiver to do that.

Mr. van der Veen asked if they would put in the handbook that employees must go through the lighted intersection. Mr. Beaulieu said they could do that. Mr. van der Veen asked about the turn down Lowell Road, asking if it were a low-use emergency exit path. Mr. Basso concurred, saying it was a delta island that would allow bigger vehicles to swing in.

Mr. van der Veen asked about the two lots. Mr. Basso said the lot line would have to be moved, but they would stay separate, or they could not get financing.

Mr. Della-Monica said in reality employees for either facility would be parking in back of the new building. Mr. Beaulieu described where on the map he thought parking would occur. Mr. Della-Monica commented about the affect on parking if the two facilities changed to different hands; Mr. Basso said they might have to have overlapping parking easements, noting that the nature of the assisted-living facility might change over time. Mr. Della-Monica expressed a belief that, if they were given permission to go back into the setback and make a straight drive out to Hampshire Drive, it would not seem to be coming around the back of the building but would instead seem to be a great entrance. Mr. Basso said it would still be going behind the back of the building, crossing whatever was going on for a separate business. He said the proposed arrangement would be cross-access but it would have its own identity. Mr. Della-Monica and Mr. Beaulieu then discussed details of the driving patterns, with Mr. Della-Monica expressing a belief that drivers would look for the most convenient route.

Selectman Massey said he was still trying to understand why two north-bound left turns were needed, asking why the northernmost entrance would not be inbound and the southernmost would be outbound. Mr. Basso said there was just one, saying there was a delta island and a half-delta, saying there were not two left-turns being proposed. Selectman Massey reiterated his question. Mr. Basso said they had talked about that, but one of the concerns was that people did not know what they were supposed to do, but this way there would be recognizable two-way traffic. Selectman Massey suggested that could be prevented by draconian measures such as spikes in the road, but another way would be to create an island such that no car could make a left turn on a south-bound exit, because there would be an island there. Mr. Basso said that such an island would be on Lowell Road. Selectman Massey noted that he had seen people making left-hand turns out of Nottingham Mall's right-turn-only exit. Mr. Basso responded that the employees could be regulated and the visitors could be instructed. Selectman Massey asked what would be the difficulty in putting a traffic island there that would make left-turn maneuvers very difficult. Mr. Beaulieu said that was really a Town issue. Mr. Basso said he had talked with Road Agent Burns about that, saying Mr. Burns was not fond of road islands in the middle of the road, because of plowing issues. Mr. Basso said the traffic for this site was not people who were in a rush.

Town Planner Cashell said that, if the Board were gong to contemplate this change, he would suggest that the applicant modify the plan even more and make the island even more pronounced, as had been done at the Nottingham Mall. Mr. Basso commented about the need to comply with AASHTO (American Association of State Highway and Transportation Officials) standards with respect to driveway separation. Mr. Beaulieu added that the Fire Department liked the fact that they would have access to the building if needed. Mr. Cashell said the thing that must be avoided was a situation that might cause new drivers to stop in the traffic on Lowell Road, unsure of where to go. Mr. Basso said it would be well signed and they could do a little more without going overboard.

Selectman Maddox said the straight road coming out of Hampshire Drive would be safer, saying he agreed that there would be a barrier on Lowell Road at some point in the future to stop cross-road traffic. He said the more curbcuts were allowed on Lowell Road, the more the corridor was inclined to failure, and the Planning Board was trying to make it as safe as it could. He argued that most people would go to the signalized

intersection if the firm exercised control, saying the Planning Board was trying to take care of the town's needs for the next 30 years. Mr. Beaulieu said he agreed but he had to look at the viability of the project and whether it made sense to do it under the allowed terms. With most of the traffic being funneled through the bottleneck, he said, it might not be feasible. He pointed out that he could not be able to sell the nursing home if traffic had to be routed across the adjoining business. Mr. Basso concurred, saying it was not marketable. Mr. Beaulieu repeated that this proposal was a compromise from what had been originally planned, saying it further enhanced keeping Lowell Road safe in front of their property. Mr. Basso added that they were eliminating movement. Mr. Beaulieu said they were in the best position of working with the town, as they did have the option of moving the traffic through the other property—adding that he did not know if his partners would go forward if they did not get this.

Selectman Massey said the majority of the people who would be parking here would be employees. He said all northbound traffic would have to exit through the signalized intersection. Even if they wound up with cross-easement access, he argued, people would still be willing to take the job.

Mr. Schneiderman asked if the restriction to the employees would be on the plan. Both Mr. Beaulieu and Mr. Basso said they could put it on the plan.

Mr. Schneiderman asked about putting an island on Lowell Road. Town Planner Cashell said the Board of Selectmen would have to make that decision, but right now there was not municipal staff support for that.

Ms. Marilyn McGrath commented, in response to Mr. Basso's claim that there were not many accidents, that her nephew had been in a very serious accident there a few years ago. She said she was not opposed to this facility, but she was concerned about the safety of traffic traveling on Lowell Road, and human nature allowed for conflicting traffic movement out of the site. She noted that the applicant had indicated that there was potential for sale in the future, and she questioned how the Town or this Planning Board could be sure the new owner would continue to abide by this traffic flow. She then noted that the parking was already inadequate, and that Mr. Beaulieu had conceded that it would be so in the future—which suggested to her that the property was being overbuilt.

Mr. Basso said he had not said there were *no* accidents, but that the Police Chief had said there were not *tons* of accidents. He then stated that the note would be on the site plan and in the Development Agreement, and any new owner was supposed to adhere to the restrictions.

Ms. McGrath said currently the two lots were being considered for consolidation but they could be separated in the future; if that happened, she continued, this Planning Board should make sure that both lots would meet zoning requirements. Mr. Beaulieu said what they were talking about was moving the existing lot line.

Selectman Maddox suggested they look at people leaving the Heffner's fueling station site, noting that people were driving faster than the speed limit. He suggested eliminating one of the lanes on Lowell Road would give more space.

Chairman Russo closed the public hearing and than asked for a motion from the Board.

Selectman Maddox moved to defer further review, date specific, to December 10, 2010. Mr. Barnes seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Chairman Russo recognized Mr. Hall as having arrived during the preceding discussion saying Mr. Hall would be seated from this point on, with Mr. Schneiderman returning to his nonvoting alternate position.

**B. Robinson Road Self Storage
SP# 09-10**

**Map 105/Lot 017
Robinson & Derry Roads**

Purpose of plan: To construct 53,085 ft² of self-storage along with a shared access driveway between lots 17, 18, 19 & 20, as previously approved by the Town of Hudson. Hearing. Deferred Date Specific from the September 22, 2010, Planning Board Meeting.

Chairman Russo read aloud the published notice, as repeated above.

Mr. Patrick Colburn, of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, appeared before the Board as the engineering representative of the property owner, noting that Mr. Peter Noury, the property owner, and Atty. J. Bradford Westgate, of the firm of Winer and Bennett, LLP, 111 Concord Street, Nashua NH, legal representative for the applicant, were also present.

Mr. Colburn discussed details of the plan, referring to a colored copy of the site plan affixed to the meeting room wall, including extensive description of the drainage plans. He noted that the proposed loop road would be private, saying the revised plans had removed the loop connection between Robinson Road and Derry Road and just showed a shared driveway for Lots 17, 18, 19, and 20. He noted that the office had been changed to the other end of the site, along with the parking spaces. He said he had designed a turnaround area for the Fire Department at the end of the shared driveway, saying it would be gated with a knocklock. He said they had received and responded to comments from CLD, the Fire Department, the NHD Authorization & Training program, and the State wetlands Bureau, but had not received any response from any of those parties. He said they were planning a treatment plan in response to DES's comments, creating an echo plan. For the Fire Department, the largest building had been reduced in size, so the buildings did not require a sprinkler system; also they had provided pedestrian gates at four locations, to provide Fire Department access. He said this plan now proposed two identification signs, and he then provided handouts depicting those signs, he said one would be located on Lot 17, facing Route 102 (Derry

Road), and the second would be on a berm that would be constructed to keep street water on Robinson Road.

Mr. Colburn then listed the required waivers, and he described the reasons given for these. He announced that he was now prepared to request an additional waiver, at the recommendation of CLD, as Lot 17 was being connected to the mix, creating a new easement, which was required so that the driveway alignment would be correct with the Irving fueling station driveway across the street. He said utilizing this shared driveway removed the need for a curbcut on Route 102 and a wetland crossing.

He then addressed Mr. Cashell's staff report, saying he thought what CLD had been doing was making a point that continuing development might lead to a time at which the capacity on Robinson Road would warrant offsite improvements, but he did not think they meant that offsite improvements would be necessary for a storage facility which made no impact on peak hours. Secondly, there had been a reference to an off-site contribution, saying the CAP fee listed in the staff report was suitable for a development and that was their proposed contribution.

Chairman Russo opened the meeting for public input and comment, in favor or opposition. No one coming forward to provide input, despite two requests by the chairman for comment for or against, Chairman Russo asked if any members of the Board had any questions.

Selectman Maddox asked if there were any vehicular storage at the facility. Mr. Colburn said there would not be.

Selectman Maddox asked Atty. Westgate if the only thing being changed with respect to the waiver was to add Lot 17. Atty. Westgate said the mechanical easement had been drafted by him years ago but had never been recorded with the plan; he said he would create a similar document, noting that there were common utility liens for all four lots, and he would submit that to Town Planner Cashell; he said he would create a similar document, noting that there were common utility liens for all four lots, and he would submit that to Town Planner Cashell for review.

Selectman Maddox asked again if the only change was to add the new lot. Atty. Westgate concurred. He noted that the waiver had been granted in 2001, before Mr. Noury bought this property.

Selectman Maddox stated for the record that someone had told them last time that there would be no one living at the facility. Mr. Colburn said that was correct.

Mr. Barnes asked if the 30-foot sign height were in accordance with zoning regulations. Mr. Colburn said it was. Mr. Barnes asked if the sign would be illuminated from within. Mr. Colburn said it would be.

Mr. Della-Monica asked if there were anything saying that non-indigenous plantings would not be planted around the wetland. Mr. Colburn said that could be added, saying his landscape person had added typical plantings.

Mr. van der Veen asked if the signs would just be flat-panel signs, without animation. Mr. Colburn said that was correct. Mr. van der Veen said this seemed like a lot of office

space. Mr. Peter Noury said he had another business that would be located at this site. Mr. van der Veen asked if there would be any equipment for that business. Mr. Noury said it would strictly be an office.

Selectman Maddox moved to grant the requested waiver from the requirements of HTC §275-8(26), *Off Street Parking*, citing the reason as being because the proposed use did not require the amount of parking called for within the said regulation and, as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations. He also noted that the applicant had stated that there would be no onsite storage of vehicles requiring additional parking.

Mr. Hall seconded the motion.

Mr. Colburn referenced Note 16 on Sheet 6.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Selectman Maddox moved to grant the requested waiver of the requirements of HTC §275-8(30), *Off Street Loading Spaces*, citing the reason as being because the proposed use did not call for a central off-street loading area, but rather, each storage unit had off-loading capacity conducive for the associated use—and as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Selectman Maddox moved to grant the requested waiver of the requirements of HTC §275-8 (31) B, *Parking Lot Landscaping*, citing the reason as being because the parking lot was not sufficient in size to warrant internal landscaping; rather sufficient landscaping was provided for around the perimeter of the site—and, as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Selectman Maddox moved to grant the requested waiver of the requirements of HTC §275-9 C, *Noise Study*, citing the reason as being because such a study was unnecessary, relative to the minimal amount of noise that would be associated with this

development, and because the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Selectman Maddox moved to grant the requested waiver from the requirements of: HTC §275-9 D, *Fiscal Impact Study*, citing the reason as being because the said study, in addition to the submitted plans, traffic study, CAP fee and other submitted application materials, was not necessary to evaluate the fiscal impact of this development and because the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Selectman Maddox referenced item 5 in the draft motion, saying he was paring the CAP fee to \$5,000, as the Town knew that area was going to be developed. Mr. Hall asked if the Board had a list of what other businesses had contributed. Other numbers were recalled, but Town Planner Cashell suggested that the Board had to keep in mind that these funds would have to be expended or given back, noting that there was a six-year limit. Mr. Hall said he would suggest mitigating the offsite contribution because of the CAP fee.

Selectman Maddox moved to grant the requested waiver from the requirements of HTC §193-10 (I), *Shared Driveway*, citing the reason as being because the proposed shared driveway for the subject lot(s) provided the safest means of access to the site and its associated use—and, as such the granting of this waiver was not contrary to the spirit and intent of the Driveway Regulations.

Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Atty. Westgate referenced the \$5,000 off-site contribution, saying he could see how certain developments might require additional contribution, but in this case there was a project that had a traffic report that clearly demonstrated peak-hour traffic would not be generated. He said there was a substantial infrastructure for this lot, and the other three lots would be coming before this Planning Board in the future, with the nature of the use of those lots possibly supporting Selectman Maddox's concept with respect to a

Route 102/Robinson road interchange analysis, but this project by its very nature would not. He said that issue would be better served with those other lots, adding that there would be more data about the intersection when those lots came before the Board. Selectman Maddox noted that the Board had charged \$2,000 in the past for people to put a shed on their property.

Chairman Russo declared a break at 8:53 p.m., calling the meeting back to order at 9:10 p.m.

Selectman Maddox moved to approve the Site Plan entitled ***Non-Residential Site Plan Robinson Road Self Storage, Map 105; Lot 17, Robinson Road & Derry Road (NH Rte. 102), Hudson, NH***, prepared by Keach-Nordstrom Associates, Inc., dated: August 2010, last revised October 25, 2010, consisting of Sheets 1 through 21 and Notes 1 through 32 on Sheet 6 of 21, in accordance with the following terms and conditions:

1. All stipulations of approval shall be incorporated into the Development Agreement, which shall be recorded at the Hillsborough County Registry of Deeds, together with the Site Plan-of-Record.
2. Prior to the Planning Board endorsement of the Site Plan, the Development Agreement shall be favorably reviewed and recommended on by Town Counsel.
3. All improvements shown on the Site Plan-of-Record, including Notes 1 through 32 found on Sheet 6 of 21, shall be completed in their entirety and at the expense of the applicant or his assigns.
4. A calculated CAP fee of \$16,636.50, prepared in accordance with the 2010 CAP Fee Matrix, shall be submitted to the Town prior to the issuance of the Certificate of Occupancy. Said CAP fee amount shall be inscribed on the Site Plan-of-Record prior to Planning Board endorsement.
5. A contribution of \$5,000.00 shall be submitted to the Town prior to the Certificate of Occupancy. This contribution shall be used exclusively for the design, engineering, and/or installation of road improvements in the vicinity of the Robinson Road/Route 102/West Road intersection. Said contribution shall be inscribed on the Site Plan-of-Record prior to Planning Board endorsement.
6. After the issuance of foundation permits for the structures and prior to the issuance of framing permits, the applicant shall submit to the Hudson Community Development Department foundation "As-Built" plans on a transparency and to the same scale as the approved site plan. The foundation "As-Built" plans shall include all structural dimensions and lot-line setback measurements to the foundation and shall be stamped by a licensed land surveyor. Any discrepancy between the approved site plan and foundation "As-Built" plans shall be documented by the applicant and be part of the foundation "As-Built" submissions.
7. Prior to the issuance of a final Certificate of Occupancy, an LLS-certified "As-Built" site plan shall be provided to the Town of Hudson Community

Development Department, confirming that the site conforms with the Planning Board approved site plan.

8. The Applicant shall be responsible for implementing and maintaining the Stormwater Pollution Prevention Plan (SWPPP).
9. Onsite landscaping shall be provided for in accordance with the plant and tree species specified on Sheets 5 and 6 of the Site Plan.
10. Construction activities on the site shall be limited to between 7:00 a.m. and 7:00 p.m., Monday through Saturday. (No construction activities shall occur on Sundays.)
11. This approval shall be subject to final engineering review, including approval of the SWPPP.
12. The applicant or his assigns, at his/her expense, shall be responsible for repairing all construction cuts, if any, on Robinson Road, and this work shall be properly bonded with the Town of Hudson and, if applicable, the State of New Hampshire.
13. The common driveway waiver (#6) shall be reviewed by Town Counsel prior to Certificate of Occupancy.

Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

**C. 75 River Road (Fueling Station/Retail/Fast-Food) Map 251/Lot 10
SP# 06-10 75 River Road**

Purpose of plan: Site plan showing the construction of a 3,200-ft² retail building with retail gasoline sales, convenience mart, and fast-food drive-thru window, together with associated parking, at 75 River Road. Hearing. Deferred Date Specific from the October 6, 2010, Planning Board Meeting.

Chairman Russo read aloud the published notice, as repeated above.

Selectman Massey recused himself from his nonvoting alternate position, leaving the table. Mr. Hall stepped down, as he had before with respect to this plan, and Chairman Russo seated Mr. Schneiderman in place of Mr. Hall.

Town Planner Cashell noted that a letter had been received from a concerned citizen who was not able to be here this evening but had asked that the letter be read aloud at the meeting.

Mr. Brian Milisci, PE, of Whitman & Bingham Associates, the engineering representative for the applicant, passed out copies of the revised site plan, noting that it

was just the sheets that had been revised (Sheet 2 and 5). He reviewed details on an easel-mounted copy of the plan, saying the drive-up use remained but the drive-up windows had been moved to the southerly side of the building, noting that the size of the building had been reduced from 3200 ft² to 3000 ft² in order to make that accommodation. He commented on the landscaping and reported they had met with NH-DOT at their Concord office but had nothing in writing as yet; noting that Town Planner Cashell had been present at that meeting, he said NH-DOT had asked him to get any curbing off the right-of-way for ease of plowing. He said the left-turn lane had been discussed, saying there was no warrant for it, so NH-DOT did not see the need for it. He said the parking had been recalculated for the reduced building size, coming to 24 spaces, so they had an extra three spaces according to the zoning regulations. He noted that a lighting plan had been passed out at the beginning of the meeting, commenting that Town Planner Cashell had not seen it before tonight. He identified the display plan on the easel, which he said had been pulled from the information in front of the Board, as ***Proposed Site Plan prepared for RES LLC***, dated November 10, 2010, prepared by Whitman & Bingham Associates—noting that this demonstration plan was not in the packet but all information on the plan was.

Chairman Russo opened the meeting for public input and comment, in favor. No one coming forward to provide input in favor, he asked if there were any input in opposition or with questions.

Ms. Marilyn McGrath, 81 River Road, noted that she had submitted a letter, adding that her brother, Gary McGrath, who was also an abutter and was also a signator to that letter, was not able to be here tonight. She expressed a belief that the intended use was far greater than what should be allowed, noting that it was to have a gas station, the fourth convenience store in the area, and a drive-through doughnut/coffee business. She said there were ostensibly four egresses, saying this caused safety concerns. She said this road was very busy—and particularly busy in the summer time. She said the changes to the driveway that had just been indicated by Mr. Milisci were insignificant, saying it would have been more to her brother's comfort if they had moved the drive-through window to the other side of the building. She said there would be noise generated, cars idling, and large trucks pulling in, creating noise and odor which the local residents should not have to endure. She expressed concern about possible contamination of Limit Brook, and she urged the Board not to waive the 100-foot buffer and also to deny the plan.

Mr. Ken McGrath, 79 River Road, said he had invited everyone in to demonstrate how ambient noise from refrigerators and other electrical equipment could impact his business, which was testing products. He said the radiant noise from this proposed building could potentially put him out of business, and he described the sorts of things that could affect his business, noting he had built where he did because there was nothing else around him.

Mr. Barnes asked Mr. McGrath about the impact of the signs and equipment of the facility across the street, asking if this affected his business. Mr. McGrath said the noise was there and that he kind of weaved through it, but there were issues with the new site, such as the emissions from the gas tanks, which could potentially wipe out an whole section of the frequencies he needed to test.

Selectman Maddox said Mr. McGrath had just moved to one of the busiest roads in New Hampshire, saying he could not see how the Board could say the applicant could not build on the property because it would affect his business. He asked if Mr. McGrath could make any suggestions on how the interference could be eliminated. Mr. McGrath said the most critical part of his business was measuring radio frequencies, so he needed to be in a quiet area—saying this had been a quiet area when he put his business there. He said what Mrs. Landry, the current property owner, had there now was not a problem, but the compressors and refrigeration pumps that would be coming in with this proposed business would not meet the residential-class requirements. For him to make suggestions, he said, the first thing he would do would be to eliminate the lighting, along with other things that the applicant could not do. He said it was not one thing that was a problem, but almost all of them. He then described the problem he had just from wires.

Selectman Maddox said he was looking for something such as putting the canopy light at 25% capacity, saying the Board could work with that. Mr. McGrath said reducing the power might help.

Mr. Della-Monica noted that Mr. McGrath could suggest using a double-pole switch to turn off the lights, so that there would be no ground wire going to the lights, or using non-ballast lighting, etc. Mr. McGrath said the new LED lighting was as bad as the ballasted lights, saying what typically was done was to put filters on the equipment. Mr. Della-Monica asked if it would be possible to shield one side of the new structure, saying he had seen such an approach in California. Mr. McGrath said it would not be effective until the building was enclosed in a Faraday Cage, saying a slot big enough for a piece of paper to slide through would be a problem. Mr. Della-Monica asked if Mr. McGrath could recommend equipment for them to use; Mr. McGrath said he did not have that experience.

Mr. McGrath said he saw a lot of reasons for this building not to be there, but it was especially true for him, noting that it had been a quiet area when he put his radiant-emissions testing business there. He said it would be different if he were second, but he had been first.

Chairman Russo noted that he had been on the Board when Mr. McGrath had come in, and at no time had Mr. McGrath said nearby properties would be restricted after his business came in—adding that it was part of the minutes of that meeting that the Planning Board knew that other businesses would come in. He then asked what Mr. McGrath had been thinking as possible businesses coming in that would not affect him. Mr. McGrath said the previously discussed storage facility would not bother him, saying he had not anticipated a garage and convenience station being allowed to be put on this small lot. He noted that Country Kitchen was across the street, but they were far enough away and did not have canopy lighting. He said a dentist's office or something like that would be less harmful. He said it was the type of business that mattered, reiterating that he had not thought this sort of business would be put on this small lot.

Town Planner Cashell displayed the distances on the aerial map projection, saying the proposed business would be 390 feet away, while the existing store would be 370 feet away (noting that it had refrigeration but no gas station pumps); he asked if Mr.

McGrath picked up noise from that. Mr. McGrath said he saw a lot of ambient noise, but all of those businesses had been there when he came in, and it was an issue of site attenuation, noting that his building was all fiberglass, with no metal, to reduce reflection. He then described what he had done in designing his building to minimize electrical noise, saying he had no advice to give, but he knew this business would be potentially harmful to his business.

Mr. Schneiderman asked if anyone else did Mr. McGrath's kind of work in an urban environment. Mr. McGrath said he had two competitors, one in Sandown and the other in Goffstown. He said the only way to do his sort of testing would be a 10-meter anechoic chamber, chamber, which would cost about \$3,000,000. Mr. Schneiderman asked how much it would cost for Mr. McGrath to relocate. Mr. McGrath said he did not know where he would relocate to, noting that he built there because he already owned the property.

Chairman Russo asked for questions from the Board members.

Mr. Malley said there was no space allocated to the food service in the parking calculations. Mr. Milisci said they did not really consider this to be a fast-food service.

Selectman Maddox asked what the peak traffic from the south would be. Mr. Houle, the applicant, said the peak was a little over 6,000, saying the count for the doughnut shop was considerably less than what the vendor went by, as they generally liked 12,000, but the drive-up window would be more conducive, as opposed to people driving by and not stopping. Selectman Maddox said the Ayott's store was so wide open that people veered into that lot, but there could be backup problems if someone wanted to pull into Roger Coutu's store, and this was his concern. Not having a turn lane, he continued, was a concern. He then said the arbor vitae was not enough to convince him to waive the 100-foot distance. Mr. Houle said one of the reasons for moving the drive-through window was to get trucks to be able to get to the rear of the building for deliveries. The applicant said there was a 6-foot vinyl fence, which would also provide some noise barrier; Selectman Maddox said the applicant needed to say what the reduction would be, noting that there were also issues with the conservation easement, and he felt they were trying to cram too much onto the lot. He then concluded by questioning what type of program would be used to protect the groundwater.

Mr. Barnes said he wanted to echo what Selectman Maddox had said, saying he thought there was one too many uses being proposed for this property. He then expressed concern about the loading area, saying it looked like trucks would interfere with the traffic pertaining to the drive-up window—saying he knew there were notes on the plan, but he saw multiple trucks delivering at the stores up the street when he drove that way in the morning.

The applicant said this was not the type of convenience that was full-blown, merely to provide stock that would be used to get things that had been forgotten when shopping elsewhere. He said the stock would be minimal, and the only things on that side of the building would be the fueling trucks.

Mr. Della-Monica asked what negation between non-permeable and permeable surfaces would be provided, to stop a gas spill before it got to the permeable surface. Mr. Milisci said standard protection would be used, including grooves in the concrete pavement of the pads. He said he did not know what level it would be but that they would be held to the required limits.

Mr. Della-Monica said the figure was given for the average number of customers, asking what the number for the peak would be. Mr. Houle said they did not have a customer count, saying he had only given staffing figures. Mr. Della-Monica asked how many customers would be expected at rush hour; the applicant said he could not answer until he was up and running. Mr. Della-Monica referenced another site that experienced back-up problems. The applicant said there would be a big difference between his site and that one. Mr. Della-Monica said there had to be some sort of business case presented. Mr. Milisci said it was stated in the traffic report, but he could not remember what it was, but the analysis had shown that there was plenty of queuing and the use did not meet the warrant for a turn lane.

Mr. Barnes referenced Table 7 in the traffic study, noting that it said 101 entering, 100 exiting, and other figures for different times.

Chairman Russo said his concern would be people jumping onto the shoulder if they were tired of waiting, noting there was also a problem of people walking on the shoulder. He then said he was not convinced about the two ways in and the two ways out, saying the less choices that people had to make could make it more predictable. The applicant said they had discussed one in and one out, but the Board had not been in favor. Chairman Russo said it might not have been in favor with *some* members. Mr. Milisci said this was a standard NH-DOT design, saying having more decisions made the site work. He said the size of the curbcut could be reduced, but this would cut down on the maneuvering on site.

Chairman Russo asked members for ideas to move this matter along.

Selectman Maddox said the traffic figures said 40% of the customer traffic would be coming from the south, saying the two accesses needed to be there because the site did not have the internal space to get trucks around. He said he did not see much improvement in the plan. He said local people saw traffic backing up on a regular basis, saying he was not sure the site had enough property to do what they were trying to do.

Chairman Russo asked for the waivers to be addressed.

Selectman Maddox asked if the applicant wished to go to the motion to defer to a date specific. Town Planner Cashell suggested the next available date would be January 12, 2011.

Mr. Houle said other than shrinking the building a little more, the only other thing he could think of would be moving the trailer location to the right to provide parking off the lane.

Chairman Russo said he, if he were designing a site, would put the loading/unloading area on the south side of the property. Mr. Milisci said they had left

with the idea of putting as much as possible to the north, to keep noise away from the residential area to the south.

Chairman Russo said he would recognize Selectman Maddox as having made a motion to defer to the meeting of January 12th; Mr. Della-Monica seconded the motion.

Selectman Maddox discussed traffic, saying traffic was his concern, and adding that that roadway was going to get busier.

The applicant asked if there were anything specific that he should be focusing on. Chairman Russo said he needed to weigh the comments of the Board members and try to get the majority vote.

VOTE: Chairman Russo called for a verbal vote on the motion to defer. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Mr. Hall returned to his place at the table, with Mr. Schneiderman resuming his nonvoting alternate position.

XI. DESIGN REVIEW PHASE

No **Design Review Phase** items were addressed this evening.

XII. NEW BUSINESS/PUBLIC HEARINGS

A. Denise True Subdivision Plan SB# 02-10

Map 200/Lot 40
81 Bush Hill Road

Purpose of plan: To subdivide one lot (5.759 acres.) into two lots – one lot is 1.257 acres and the other lot is 4.5 acres. The existing house will have 150 ft. of frontage and the new lot will have 36 ft. of frontage. A variance was granted for the new lot. **Application Acceptance & Hearing.**

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell said the application was ready for Application Acceptance. Mr. Barnes so moved; Mr. Della-Monica seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion to grant Application Acceptance. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Mr. Michael Grainger, engineering representative for the applicant, distributed copies of full-size plans.

Selectman Massey returned to the table as a non-voting alternate.

Mr. Grainger described the proposed development, noting that the Zoning Board of Adjustment had approved a Variance and a Wetlands Special Exception.

He noted that a couple waivers were being requested, including a driveway in the buffer because of the need to get away from the wetlands, and the driveway sight distance.

Chairman Russo noted that the only person left in the audience was the applicant.

Mr. Barnes said he saw the Variance but did not see a Wetlands Special Exception from the Zoning Board of Adjustment. Town Planner Cashell confirmed that a Wetlands Special Exception had been granted by the Zoning Board of Adjustment.

Mr. Barnes said the main issue was the driveway, saying it was difficult to tell what the slopes that would be traversed would be. Mr. Grainger said it was sloping 6% or 7% off the road but would flatten out when it hit grade. He affixed a plan (***Wetlands Property Plan, dated Nov 11, 2007***) on the wall, saying it was a 20-foot drop but basically flat after that.

Mr. Barnes asked what the distance would be between the proposed driveway and the existing driveway on the adjacent lot. Mr. Grainger said it would be about 65 feet, measuring it on the plan. He said there was 400 to 500 feet of sight distance up the hill. He confirmed there should not be any turning conflicts.

Selectman Maddox asked for clarification of some lines on the plan; Mr. Grainger said there was a 50-foot buffer, with a small buildable area being shown. He said that was not being proposed for development, noting that the Zoning Board of Adjustment had put in a stipulation for no further development on the property.

The applicant displayed the copy of the Wetlands Special Exception, which Chairman Russo then showed to Mr. Barnes.

Selectman Maddox asked how long the driveway would be. Mr. Grainger said it was roughly 350 feet. Selectman Maddox asked where the Fire Department turnaround was. Mr. Grainger said they had room for a turnaround, acknowledging that he had missed that.

Selectman Maddox asked why Mr. Grainger could not get 400 feet of sight distance. Mr. Grainger said there was one spot where they could put the driveway, noting that there was a telephone pole near it, so he had moved it, but the Town had repaved Bush Hill Road and filled in the bump. Selectman Maddox said he had a tough time voting for anything under 400 feet. Mr. Grainger said it was going up hill, with people not driving fast.

Mr. van der Veen asked what the distance was for the 8%; Mr. Grainger said it was 2% for 20 feet, to comply with regulations and then dropping for less than 50 feet, possibly about 40 feet.

Mr. Barnes asked Town Planner Cashell what the posted speed was for this section of Bush Hill Road. Mr. Cashell said it was 35 mph.

Mr. Hall moved to grant the requested waiver from the requirements of HTC §193-10 (H), *Driveway Within Sideline Setback*, citing the reason as being because there was no reasonable alternative route/location for the proposed driveway without affecting a greater amount of Wetland Conservation District Area than proposed—and, as such, the granting of this waiver was not contrary to the spirit and intent of the Driveway regulations.

Mr. Della-Monica seconded the motion.

Mr. Barnes said he normally would not be in favor of granting this waiver but that he thought this was appropriate in this case because they were trying to protect the wetlands.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7–0).

Mr. Hall moved to grant the requested waiver from the requirements of HTC §193-10 (E), *Driveway Site Distance*, for proposed Lot 40-1, citing the reason as being because of having only 36 feet of frontage, so that no alternative could be provided, adding that the 365-foot south facing driveway site distance for which the subject waiver was requested provided sufficient safe sight distance for the associated speed and volume of traffic along the subject area of Bush Hill Road—and, as such, the granting of this waiver was not contrary to the spirit and intent of the Driveway regulations.

Mr. Della-Monica seconded the motion.

VOTE: Chairman Russo then called for a hand vote on the motion. All members present voted in favor except for Selectman Maddox, who voted in opposition, and Chairman Russo declared the motion to have carried (6–1).

Mr. Hall moved to approve the subdivision plan entitled ***Denise True Subdivision Plan, 81 Bush Hill Road, Map 200/Lot 40, Hudson, NH***, prepared by MJ Grainger Engineering, Inc., dated August 3, 2010 (no revision date), consisting of Sheets 1 through 4 and Notes 1 through 27, shown on Sheet 1, in accordance with the following terms and conditions:

1. All stipulations of approval shall be incorporated into the Decision of Approval, which shall be recorded at the Hillsborough County Registry of Deeds, together with the plan.
2. A Cost Allocation Procedure (CAP) amount of \$779.49 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.

3. A public school impact fee in the amount of \$3,578.00 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.
4. A public library impact fee in the amount of \$124.00 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.
5. A recreation contribution in the amount of \$400.00, per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.
6. All monumentation shall be set or bonded for prior to the Planning Board endorsing the Plan-of-Record.
7. Approval of this plan shall be subject to final engineering review to include satisfaction with the driveway turnaround by the Fire Department.

Mr. Della-Monica seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

XIII. CONCEPTUAL REVIEW ONLY

No **Conceptual Review Only** items were addressed this evening.

XIV. OTHER BUSINESS

Selectman Massey noted that there had been talk a while back about a library impact fee; he then asked if the Board should not exact that fee, since the Town now had a library. Selectman Maddox noted that the Library Trustees had plans for a \$5 million addition; Selectman Massey expressed agreement. Mr. Hall said the Planning Board should not be collecting a library impact fee at this time, as there had not been a study performed for the addition. Selectman Maddox suggested that the Planning Board ask the Library Trustees if they were willing to pay for the study. Chairman Russo asked what the process would be to stop collecting the impact fee. Mr. Hall said the Board could just stop. Chairman Russo asked Town Planner Cashell to consult with the Town Attorney on this issue.

XV. ADJOURNMENT

All scheduled items having been addressed, Selectman Maddox moved to adjourn; Mr. Barnes seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor.

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**HUDSON PLANNING BOARD Meeting Minutes
November 10, 2010**

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Chairman Russo then declared the meeting to be adjourned at 10:47 p.m.

Date: March 26, 2011

Vincent Russo, Chairman

J. Bradford Seabury, Recorder

Edward van der Veen, Secretary

These minutes were accepted as submitted following review at the 05-25-11 Planning Board meeting.