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**HUDSON PLANNING BOARD  
MEETING MINUTES  
February 11, 2009**

**I. CALL TO ORDER**

Chairman Barnes called this Planning Board meeting to order at 7: 01 p.m. on Wednesday, February 11 , 2009, in the Community Development meeting room in the Hudson Town Hall basement.

**II. PLEDGE OF ALLEGIANCE**

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

**III. ROLL CALL**

Chairman Barnes asked Town Planner Cashell to call the roll. Those p ersons present, along with various applicants , representatives, and interested citizens, were as follows:

**Members**

**Present:** James Barnes, George Hall, Suellen Quinlan, Vincent Russo, Tierney Chadwick , and Richard Maddox (Selectmen's Representative) .

**Members**

**Absent:** Terry Stewart (excused) .

**Alternates**

**Present:** Brion Carroll , Stuart Schneiderman, Timothy Malley, and Ken Massey (Selectmen's Representative Alternate) .

**Alternates**

**Absent:** None. (All present .)

**Staff**

**Present:** Town Planner John Cashell.

**Recorder:** J. Bradford Seabury.

**IV. SEATING OF ALTERNATE S AND ANNOUNCEMENTS**

Chairman Barnes seated Mr. Schneiderman in place of the absent Ms. Stewart.

## V. ELECTION OF OFFICERS

Chairman Barnes noted that the next item on the agenda would be reorganization of the Board. He then called for nominations for the position of Chairman.

Mr. Hall nominated Mr. Barnes. Mr. Barnes declined the nomination, saying he would let someone else control the gavel for a while.

Selectman Maddox nominated Mr. Russo. Mr. Schneiderman seconded the motion.

No other nominations being brought forward, Mr. Hall moved to close nominations; Ms. Chadwick seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion to elect Mr. Russo as Chairman. All members voted in favor except for Mr. Russo, who abstained, and Chairman Barnes declared the motion to have carried (6 –0–1).

Mr. Barnes said he would continue as Chairman until the reorganization was completed. He then asked for nominations for the position of Vice -Chairman.

Selectman Maddox nominated Ms. Quinlan; Ms. Chadwick seconded the motion.

Ms. Chadwick moved to close nominations; Mr. Hall seconded the motion.

**VOTE:** Mr. Barnes called for a verbal vote on the motion to elect Ms. Quinlan as Vice -Chairman. All members voted in favor except for Ms. Quinlan, who abstained, and Mr. Barnes declared the motion to have carried (6 –0–1).

Mr. Barnes asked for nominations for the position of Secretary. Ms. Chadwick nominated Ms. Stewart. Mr. Hall seconded the motion and moved to close nominations. Ms. Quinlan seconded the motion to close.

**VOTE:** Mr. Barnes called for a verbal vote on the motion to elect Ms. Stewart as Secretary. All members voted in favor except for Mr. Schneiderman, who abstained, and Mr. Barnes declared the motion to have carried (6–0–1).

Mr. Barnes and Mr. Russo exchanged places, passing the gavel to Chairman Russo.

Selectman Maddox expressed thanks on behalf of the Board of Selectmen to Mr. Barnes for his years of service. General applause broke out around the room.

Selectman Maddox then introduced the new Assistant Town Administrator, Mr. Mark Pearson.

**VI. MINUTES OF PREVIOUS MEETING(S)**

No minutes were addressed this evening.

**VII. CORRESPONDENCE**

Chairman Russo stated that items of correspondence received in tonight's handouts would be taken up in conjunction with the associated cases.

Ms. Quinlan noted that some people were present out of interest to the Derry Street Professional Building. Chairman Russo said that the Board probably would be deferring that item when the Board got to that point and any abutters would be given insight at that time.

**VIII. PERFORMANCE SURETIES**

**A. Copper Hill Estates  
Maintenance Bond Reduction**

**Map 223, Lot 043**

**Reference: memo dated 01-08-09 from Gary Webster, Acting Town Engineer to John Cashell, Town Planner Postponed from the 01-28-09 Planning Board Meeting.**

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

Ms. Chadwick moved to reduce the 2 -year maintenance surety for Copper Hill Road from \$123,600.00 to \$10,000.00 , noting that said surety shall be established in the form of a Hampton -style letter of credit or cash deposit held by the Town , in accordance with the written recommendation of the Acting Town Engineer, Gary Webster and Road Agent, Kevin Burns. 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).

Ms. Stewart not being present, Ms. Quinlan volunteered to serve as acting Secretary and to do the decision notes for this meeting .

IX. ZBA INPUT ONLY

A. Jarry Subdivision  
ZI# 05-08

Map 207/Lots 3,4,5 & 8  
Map 213/Lot 1  
Map 206/Lot 32  
Bush Hill Road

**Purpose of Plan: Depict wetland impacts and wetland buffer impacts associated with a 39-lot open-space development. Deferred Date Specific from the 01-14-09 Planning Board Meeting.**

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

Mr. Jeff Merritt, professional engineer from 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 present to provide a **ZBA Input Only** presentation relative to the wetlands and buffers associated with the proposed plan. He then placed highlighted copies of the plans on the meeting room wall and reviewed details of the wetlands locations, noting that there were six separate tracts of land being consolidated and resubdivided. He identified the main drawing as the **Master Plan for Jarry Subdivision**, dated August 2008, prepared by Keach -Nordstrom Associates, Inc. He noted there were 194 acres, total, with 99 being put in conservation land, with an additional ten acres on the private residential lot held in a conservation easement, all in the G -1 zoning district. He then referred to the **Open Space/Conservation Land Plan for the Jarry Subdivision**, also dated August 2008. He identified the wetlands and noted that a new roadway, Moose Hill Roadway, would intersect Bush Hill Road at two different points, noting that there was a significant distance from Bush Hill Road to the back of the property, with 4800 linear feet of roadway, impacting the wetlands for 8,942 ft<sup>2</sup>, consisting of 7,180 ft<sup>2</sup> associated with construction of the roadway, and with the balance impacted for the construction of a driveway and sidewalk to access the conservation land. He noted that there were also impacts to the wetland buffer, totaling 67,733 ft<sup>2</sup> of impact for the roadway, sidewalks, and treatment of storm water.

Mr. Merritt referenced three hearings before the Conservation Commission, as well as a sitewalk with that group, saying a number of changes had been made to the plan as a result of those meetings. He identified one of these changes as being a conservation easement, which he identified on the second subdivision plan, to supplement any changes to the buffer, totaling 10.5 acres. The second major change pertained to the three crossings, originally proposed as culverts, which the Conservation Commission members had not felt to be adequate, so multi -plate arch culverts were being used, instead, with a 6 -foot wide bottom to allow crossings of wildlife.

Chairman Russo asked for comments by members of the Board.

Mr. Barnes asked where the 3,000 -foot cul-de-sac requested by the Conservation Commission would go. Mr. Merritt discussed the reasons for the request and showed

the location on the second plan, noting that this would be discussed with the Planning Board when they came back, as a waiver would be required.

Mr. Hall asked if they had done alternate designs to see if they would get the same number of lots. Mr. Merritt said they had not but that he did not feel they would lose any lots as there were no lots fronting the wetlands. He said they would explore alternate plans once they got approval from the Zoning Board of Adjustment. Mr. Hall asked if the preference was to have the cul-de-sacs rather than a through road. Mr. Merritt said his preference for the purpose of this meeting was to have the two points of access, saying they would come back after they got a Special Exception and consider amendments. Mr. Hall again asked if they had a preference for two cul-de-sacs rather than a through road. Mr. Merritt said he did not have a preference, but he felt they needed to go through the motions to ensure that the Town's safety officials were satisfied.

Ms. Chadwick referenced the photographs that had been supplied, asking when they were taken. Mr. Merritt said he thought they were taken in the summer. Mr. Hall noted that no leaves were shown on the trees in the photographs. Ms. Chadwick showed some of the photographs, noting that no water was shown. Mr. Merritt said he could not remember when the pictures were taken, adding that the reason not much water was shown was that the waterways were very tiny.

Selectman Maddox referenced the wetland going out to Lot A, asking what the roadway was. Mr. Merritt said the wetlands had to be crossed in order to access Lot A, with a lot on the opposite side, so the 1752 ft<sup>2</sup> of impact was to provide a driveway for that parcel and also a sidewalk providing access to the conservation space. He said there appeared to have been a crossing there at one time in the past.

Mr. Schneiderman asked what the offset for the impact of the wetland was. Mr. Merritt said there was none, as a significant land area was being offered for conservation, amounting to over 100 acres. Mr. Schneiderman asked about the nature of the wetlands with respect to habitation; Mr. Merritt described the connections as hydraulic links.

Selectman Maddox referred to Map 207, Lot 4-2, noting a 655-ft<sup>2</sup> impact on the buffer that was not tied in with the roadway. Mr. Merritt said a way to access the parcel had been detailed, noting that there was an existing driveway, and the same path would be used, but the impact was to tie the new driveway in with the existing driveway. Selectman Maddox asked if that did not also apply to Lot 207-13. Mr. Merritt said they would build between the wetland buffer and the right-of-way. Selectman Maddox noted that a significant amount of conservation was being offered, but he expressed concern about the lot at the rear.

Mr. Hall said he assumed that the reason for leaving the existing driveway was that it would take significant impact to get to the new road. Mr. Merritt said the driveway to Lot 4 would come off the new roadway.

Mr. Barnes asked if the conservation land were upland. Mr. Merritt said it had some grade, saying it was developable, and adding that they had performed the exercise to

see what could be developed. He noted that the carry-out from the steep slopes meant that it was better to preserve that type of land.

Mr. Hall asked if the drawing used to establish density would be presented now or at the time of subdivision approval. Mr. Merritt said it would be at the time of subdivision approval.

Ms. Quinlan said the Conservation Commission had found this road configuration to be preferable to the original plan, which had called for three different roads cutting into the wetlands, but its members knew this exceeded the Planning Board's limits. She noted that this was a significant wetland, saying the density was a bit intense, and she questioned whether the northern connections to Bush Hill Road would meet the sight-distance requirement. She commented that this was a very unique wetland property.

Chairman Russo asked if there were any public input. No one came forward.

Chairman Russo asked if there were any inputs to the ZBA. Selectman Maddox referenced what Ms. Quinlan had said, saying this was what the Board should provide to the ZBA. Ms. Quinlan said the Board would make recommendations expressing concern about the density about a very sensitive wetlands area. Mr. Hall said density was not an issue for the ZBA for a Wetland Special Exception, saying the Board should either be in favor of the plan or else be expressing concerns about the issue raised by the Conservation Commission, adding that he felt the length of a 3000-foot cul-de-sac was more of a concern to him than the three small slivers of wetland, as far as access to the project was concerned. He said the issue of how many lots would be on the property should be an issue for another meeting in the future, adding that replacing the roadway with cul-de-sacs would be more of a concern to him than the wetland crossings.

Chairman Russo asked if Mr. Barnes had any comments. Mr. Barnes said he would prefer the loop road, noting that the 3000-ft cul-de-sac would be over half a mile long and would be three times longer than the Planning Board regulations permitted.

Ms. Quinlan asked how many lots would be obtained with the cul-de-sacs. Mr. Merritt said they had not developed that concept, but they felt no lots would be lost, as access could be provided in a different way. He said they would be willing to consider that approach, however. Ms. Quinlan asked about the length of the southern cul-de-sac. Mr. Merritt said it would be in the neighborhood of 800 to 900 feet, while the northern one would be roughly 3,000 ft.

Chairman Russo said it looked to him as about five or six lots would be lost. Mr. Merritt said the Conservation Commission had recognized the roadway impacted the wetlands and would rather see cul-de-sacs. Mr. Merritt said they had not put in the effort to plan that, as they could not imagine that the Fire Department safety personnel would support that concept.

Chairman Russo asked how Ms. Quinlan would go. She said she would go with the cul-de-sacs, saying she would go with the Conservation Commission's preferences.

Mr. Hall said the Conservation Commission had recommended approval of the crossings as approved, saying he did not know if it were correct to say the

Conservation Commission wanted cul-de-sacs. Ms. Quinlan said there were issues either way, saying this had been a tough plan, and the Conservation Commission had not liked the impact on the northern egress, or the large parcel. She said she did not recall if these wetlands had been designated by VHB in its recent wetlands survey as being of significant importance. She also noted that the Conservation Commission knew it just provided recommendations to the Planning Board.

Mr. Merritt said he felt it was the duty of the Board to consider that at two points of access were needed, and he expressed concern about the process. Town Planner Cashell said the Fire Department had made it clear to him that they preferred the loop road and did not want cul-de-sacs this far out on Bush Hill Road.

Chairman Russo asked Selectman Maddox for comments. Selectman Maddox said he felt it needed to be a loop road, adding that he was not yet convinced that all of the buffers were necessary.

Chairman Russo asked Ms. Chadwick for her comments. Ms. Chadwick said her preference would be the loop road, adding that she felt this plan would have trouble before the Planning Board.

Mr. Schneiderman asked how many lots would be on the southern cul-de-sac. Mr. Merritt said he could not tell, without having done a conceptual. Mr. Schneiderman expressed a belief that there were nine lots affected. He then asked where the northern cul-de-sac would end. Mr. Merritt identified the point on the plan on the wall, estimating its length as being approximately 2200 feet. Mr. Schneiderman asked if it would be limited to 20 lots; he then asked if 20 lots would be there and nine on the southern, saying he would prefer the cul-de-sac design, limited to 29 lots.

Chairman Russo asked Mr. Malley for his comments. Mr. Malley said he preferred the loop road.

Chairman Russo said it appeared that the Planning Board was in favor of the loop road, but density remained a concern. Ms. Quinlan reviewed the proposed motion, including a comment about a previous cul-de-sac approach. Mr. Hall said the Planning Board did not know about this earlier plan. Mr. Merritt said they had discussed that but had never shown a plan showing that.

Mr. Schneiderman asked if it would be appropriate to allow a minority opinion. Chairman Russo said the Board majority would be the recommendation, but the minutes of the meeting would reflect his minority viewpoint.

Mr. Hall moved that the Planning Board had no planning concerns with the three wetland crossings as proposed. Ms. Chadwick seconded the motion for the purposes of discussion. Mr. Barnes noted that there were actually four crossings, including the one for the driveway. Mr. Hall said he would add that the Planning Board also had some concerns about the impacts but believed they had been addressed. Ms. Quinlan read aloud her version of the motion as being that Mr. Hall had moved that the Hudson Planning Board had no concerns with regard to the four wetland crossings as proposed on the plan, last amended on 10-01-08, adding that the Hudson Planning Board had concerns about the environmental impacts but believed they had been addressed.

Ms. Quinlan then asked why Mr. Hall felt the impacts had been addressed. Mr. Hall said it was because of the way that Mr. Merritt had described it, saying there was a significant difference between standard pipeline culverts and the multi-plate arch culverts being proposed, saying the latter were substantially easier to clean out in case of beaver activity.

Ms. Chadwick expressed concern, saying she did not know if she agreed with access to the last lot. She said she agreed with the three roadway impact areas. Mr. Hall said the guidance being provided would have to address all four impacts, saying the Planning Board would be obligated to allow the property owner to develop that lot if the Zoning Board of Adjustment gave the Special Exception. He then suggested that the motion could be divided, if she preferred. Ms. Chadwick said she would, saying she would withdraw her second. Mr. Hall said he would change his motion to apply just to the three crossings for the roadway. Ms. Chadwick agreed to second that. Ms. Quinlan read aloud the revised motion as being to forward to the Zoning Board of Adjustment that the Planning Board had no planning concerns with regard to wetlands crossings on Moose Hill Road as proposed on Plan Map 207/Lots 3,4,5,8 and Map 206/Lot 32—adding that the Planning Board did have concerns regarding environmental impact, however, but believed these concerns had been addressed by the applicant.

Ms. Quinlan said she was going to go along with the Conservation Commission, saying the reason for the 3,000-foot cul-de-sac was to reduce the intensity of this development—adding that the Conservation Commission did not have to deal with the Fire Department and Safety people, but had concern about the crossings for wildlife.

Mr. Russo said he would also be in favor of the loop road.

**VOTE:** No further comment being brought forward, Chairman Russo called for a voice vote on the motion. All voted in favor except Ms. Quinlan and Mr. Schneiderman, who both voted in opposition. Chairman Russo then declared the motion to have carried (5–2).

Mr. Hall said he felt the driveway should be allowed, noting that there was only one house, considering the size of the lot, with roughly a third of the overall area being located there, and people would not be able to use it without that access. Selectman Maddox suggested to make the same motion as before, except for one crossing. Mr. Hall so moved, and Mr. Barnes seconded the motion.

Mr. Hall noted that he did have pretty significant concerns about the density and how it had been arrived at, and he advised Mr. Merritt not to misunderstand the Planning Board's lack of concern about the proposed layout, as he did have significant concerns about the density, with 2-acre lots on this parcel.

Ms. Quinlan read the second motion, as follows: Mr. Hall moved to forward to the Zoning Board of Adjustment that the Planning Board has no planning concerns for the driveway crossing to Map 207/Lot 4-10—adding, again, that the Planning Board had



environmental concerns, but believed that these concerns had been addressed by the applicant.

Selectman Maddox said it was only one lot, and he did not see the benefit of a crossing for one lot, saying he felt a nice wooden bridge could be built to cross the open stream. Mr. Hall said a Special Exception would still be needed.

Ms. Quinlan said she agreed with Selectman Maddox, adding that the Conservation Commission had wanted access, but she felt that there were some parcels that should just be left as they were, adding that she would be content to leave this parcel for the wildlife.

Mr. Barnes said that a wetland crossing would be needed to provide access to the wetland area, whether there was to be a house there or not.

Chairman Russo asked what would be wrong with just having an easement, so that people could go there in hip boots. Ms. Quinlan said there had to be a way for someone to walk across the parcel. She noted that all of the visitors would be traversing across the very private lot to visit the conservation land, saying this did not work in a residential development, and she did not feel a lot of public access should be needed for this. Mr. Russo asked if there had to be an access if there were no tent house lot. Mr. Barnes expressed a belief that the people in this neighborhood would want some kind of easy way to access the conservation land, noting that there was a significant conservation area off Musquash Pond, and he questioned if the two could be connected.

Mr. Hall said the Planning Board had typically asked that a developer provide some sort of access to the provided open space—adding that there was nothing to say the Planning Board could not limit that when the plan came back before this Board. He said he did not believe there had ever been a conservation parcel for which public access had been required. Chairman Russo asked if it were incumbent upon the Board to provide access, noting that access could be available during the winter. He suggested that the access could be very limited. Ms. Quinlan said this might be too far ahead, saying all that was before the Board at this time was to make a recommendation to the Zoning Board of Adjustment.

Mr. Russo referenced Mr. Barnes's comments, and he asked Town Planner Cashell to display the Musquash preserve on the projector screen. Mr. Barnes identified the Musquash property, noting that it amounted to about 300 acres. No one could determine from the aerial view if the two parcels abutted, but Town Planner Cashell said it was all part of a large wildlife corridor at this time.

**VOTE:** Chairman Russo then called for a voice vote on the motion. Mr. Hall, Mr. Barnes and Mr. Russo voted in favor; Ms. Quinlan, Ms. Chadwick, Selectman Maddox, and Mr. Schneiderman voted in opposition. Chairman Russo declared the motion to have failed (3 -4).

Chairman Russo said he interpreted the vote as being that the Planning Board had both planning concerns and environmental concerns for this access .

Ms. Chadwick asked if the Board could opt not to make a motion. Members of the Board indicated that this would not be appropriate. Ms. Quinlan moved that the Hudson Planning Board forward that the Hudson Planning Board has both planning concerns and environmental concerns for the driveway crossing to Map 207/Lot 4 -10. Ms. Chadwick seconded the motion.

**VOTE:** Chairman Russo then called for a voice vote on the motion. All members present voted in favor except for Mr. Hall, Mr. Barnes, and Mr. Russo, who all voted in opposition, and Chairman Russo declared the motion to have carried (4 -3).

[**Note:** this discussion was subsequently reopened for a further motion, as detailed on Page 11.]

**X. DESIGN REVIEW PHASE**

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

**XI. CONCEPTUAL REVIEW ONLY**

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

**XII. OLD BUSINESS**

**B. Derry Street Professional Bldg.  
(Amended Plan) SP# 15-08**

**Map 174/Lot 23  
26 Derry Street**

**Purpose of plan: To amend the previously approved plan, HCRD #35723, to include: existing white fence, exterior lighting, and additional parking along rear. Application Acceptance & Hearing. Postponed from the 01-28-09 Planning Board Meeting.**

Chairman Russo noted that a comment had been made about the Derry Street Professional building; he then stated that the applicant was looking for a deferral to March 11.

Selectman Maddox so moved. Ms. Chadwick seconded the motion.

Ms. Quinlan noted that this item had already been deferred four or five times. Chairman Russo said the applicant's engineer, Mr. Maynard, was not available, as he was on his annual vacation trip south.

Ms. Quinlan said she felt this should be the last deferral, saying there must be an end to this, and noting that there had been copious correspondence from residents of the neighborhood—but she then questioned what the Board could do about this situation. Ms. Chadwick said it was not Mr. Maynard's fault that the January 28<sup>th</sup> meeting had been canceled because of a storm.

**VOTE:** No further comment being brought forward, Chairman Russo called for a voice vote on the motion. All voting members voted in favor except for Ms. Quinlan, who voted in opposition, and Mr. Barnes, who abstained. Chairman Russo then declared the motion to have carried ( 5–1–1).

Selectman Maddox referenced the earlier discussion about the Jarry Subdivision, noting that nothing had been said about the proposed buffer impact for Lot 4-2 on Map 207. Chairman Russo confirmed that the applicant's representative was still present, and he then stated that the matter could be reopened for discussion.

**IX. ZBA INPUT ONLY (Continued)**

**A. Jarry Subdivision  
ZI# 05-08**

**Map 207/Lots 3,4,5 & 8  
Map 213/Lot 1  
Map 206/Lot 32  
Bush Hill Road**

Selectman Maddox moved that the Planning Board had no issue with the buffer impact for Lot 4-2, Map 207. 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).

**XII. OLD BUSINESS (Continued)**

**A. Tip Top Tree Service (Existing Conditions)  
SP# 05-08**

**Map 161/Lot 48-1  
6 Clement Road**

**Purpose of Plan: Site Plan Review, relative to wholesale distribution of bark mulch products. Hearing. Postponed from the 01-28-09 Planning Board Meeting.**

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

Town Planner Cashell said he had no further comments.

Mr. David Buhlman, engineer for the applicants, noted that they had been before the Board several times, and he wanted to show that all of the comments from the last meeting had been addressed. He then distributed copies of the revised plan and posted another copy on the meeting room wall. Mr. Buhlman addressed details on the wall-mounted plan, which he identified as **6 Clement Road**, dated 20 Aug 2008, revised 11-30-08. He noted that an easement had been provided. Mr. Hall asked if the Board had this copy. Town Planner Cashell noted that Mr. Buhlman should go over what had been discussed at the Board of Selectmen meeting and then continue, as the Board had not had these new plans.

Mr. Hall expressed concern about the plan being new. Town Planner Cashell stated that he had told Mr. Buhlman to just go over what had been discussed, saying there would be no motions on the plan tonight, although the Board could open the meeting to go over the plan if it wanted to.

Mr. Russo clarified that this was just relative to the wholesale distribution.

Town Planner Cashell said the big problem at the last meeting had been whether the Board was going to require the applicant to have rest facilities on the 6 Clement Road parcel. He said the applicant now intended to include manufacturing, which would require them to have people on the property for eight or more hours a day, but he had proposed that they have the manufacturing across the street on the existing site.

Mr. Hall said his concern was having a site plan review without a site plan which had not been reviewed by the Town Planner or by the engineering consultants.

Ms. Chadwick said she would like to hear from one of the selectmen as to what had occurred during their meeting.

Chairman Russo said Mr. Buhlman should stick to the wholesale distribution aspect of the plan.

Mr. Buhlman said they had not gotten into the full porta-potty issue, but had gone to the Selectmen to see if that would trigger the betterment issue, and it had turned out that it would cost \$40,000 to \$50,000 to put a porta-potty down there. He said the upshot was that they had to go along with that, if this site were developed, and that they would have to pay that amount—adding that this was a deal-breaker. He then stated that they were suggesting that there were employees, which he defined as three, tops, who currently used the Cormier's house on the opposite side of the street, but alternatively could drive ...

Chairman Russo interrupted to state that the Board had already held that discussion, and he asked that Mr. Buhlman address the wholesale distribution issue. Mr. Buhlman said wholesale distribution had been the whole thrust of the plan from the beginning, saying he was not sure what Mr. Russo wanted.

Ms. Chadwick asked if she were correct in understanding that this lot would only be used for storage. Mr. Buhlman said the applicant's preference would be that

manufacturing would take place on both lots. Ms. Chadwick then asked if the applicant were asking that the Planning Board declare that a porta-potty would not be needed, so that they would not have an issue with the Sewer Utility Commission.

Mr. Hall said in reality the intent was that, as long as the lot was vacant, there was no need to pay the betterment fees, but if the lot were being used the property owner should have to pay. He said the intent had been that the fee would have to be paid if the property were being used—adding that the issue to him was that the applicant was using the property and should pay the fee.

Selectman Massey said it was not a case of the Board of Selectmen being hard-nosed, but it was clear that certain uses on the property triggered the requirement to pay the betterment fees.

Ms. Quinlan said the activity that required a porta-potty was the trigger, as employees would be on the property for a period of time. She said she agreed with Mr. Hall, noting that the property across the street had been involved in controversy, and the use was now moving across the street. She noted that the quite-vocal abutter wanted the Planning Board to apply all of the regulations as required. She said the Planning Board could not ignore what the Sewer Utility Commission and the Board of Selectmen had said—adding that what would be fair would be that the lot could be used for storage but the manufacturing use had to be pulled back.

Selectman Maddox said a betterment district was put in because this area was identified for an industrial area. He said an industrial building or commercial use had been expected on the lot, but what was proposed was not an industrial use, saying it would turn fallow if this business went away. He said the use of #6 Clement Road had to be tied to the ownership of #1 Clement Road. He said the property owner should start paying down that \$48,000, but a common-sense decision had to be made—suggesting that one would be to put a path to the end of the lot, so that the only thing would be a minimal crossing of Clement Road. He said he did not see the necessity, when there were sanitary facilities available one lot away, adding that balance was needed.

Mr. Russo said the amount of hours on the property could not be controlled, adding that he believed some sort of facilities needed to be provided. He said a porta-potty made sense to him, adding that he did not understand why the betterment fee would be triggered by that, and adding further that it was not this Board's purview to deal with the issue of the betterment fee.

Selectman Massey said Lot #6 would have to be tied to Lot #1 such that it would not be possible to separate the ownership of the two lots, adding that the Board of Selectmen and the Sewer Utility Commission did not make the rules, which had been written into the Betterment District legal documents. He said that to keep the \$48,000 from growing, the Selectmen had capped it, but there had to be some type of fee being paid on that as things went forward.

Ms. Quinlan noted that the Cormiers now owned the lot.

Ms. Chadwick said the Board had to remember that there had been activities going on at this lot before they came before the Board, and they had gotten along fine. She felt that they should not have to pay \$48,000 for property they had been using.

Chairman Russo pointed out that it was a requirement for sanitation facilities to be put on a lot even for the three-month period in which a house was being constructed; he said he would require some sort of sanitation facilities on the property.

Mr. Barnes said the construction site described by Mr. Russo was a temporary use, but what was being asked here was a permanent use. He said there had to be a way of tying the two lots together, saying the Board could not approve it as a site that could be used without sanitation facilities.

Chairman Russo asked about the wholesale distribution. Mr. Buhlman said it was critical for the Cormiers to have some sort of manufacturing on the property, to make it economically viable. Chairman Russo said the Board needed to move forward on the manufacturing process. Town Planner Cashell said he felt the applicant needed to go back before the Board of Selectmen and the Sewer Utility Commission to possibly work out some sort of long-term arrangement. If the Planning Board were going to make the Cormiers provide sanitation facilities, he said, they would have to pay the \$48,000.

Ms. Chadwick asked if there were any way that this Board would be willing to take on this plan without making the Cormiers put a porta-potty on it—and, if that were possible, eliminating the betterment requirement.

Selectman Maddox said sending them back to the Board of Selectmen would not change anything. He said they needed to have a plan that deemed that the use of this property, solely as manufacturing of a wood product, was tied to the ownership of Lot 1, with the approval to be lost if that connection should be broken. Town Planner Cashell said that could be done by a vote of the Planning Board.

Ms. Chadwick said the applicants needed to know if they had enough votes to get approval if they came back with a plan showing what Selectman Maddox had asked for, and she asked if a motion to that effect would be appropriate. Selectman Maddox said he would rather deal with it by consensus.

Chairman Russo said he would poll the members of the Board.

Mr. Schneiderman passed. Chairman Russo said he would take that as an abstention.

Mr. Malley said they should be able to walk across the street.

Ms. Chadwick concurred.

Selectman Maddox said: "As long as the plan was sufficient."

Chairman Russo said he would vote in opposition, as he knew people would use the woods.

Mr. Schneiderman called a point of order, saying the distance was 300 feet. Chairman Russo said that would be fine, as it was still a hop.

Selectman Massey said "Down the road."

Mr. Barnes said "Down the road."

Ms. Quinlan said she was going for a porta-potty."

Mr. Hall said there should be facilities on the property.

Mr. Buhlman asked if this would apply if there were just storage, so that the Cormiers could continue to use the property.

Mr. Russo posed the question around the Board, asking if the members felt there was a difference between material storage and manufacturing of the material as far as need for facilities were concerned.

Mr. Schneiderman said the law was clear that there had to be a facility, and he would defer to the ruling of the Board of Selectmen, adding that he did not think he had the right to overturn that. He then stated that he abstained.

Mr. Malley said he did not see any difference,

Ms. Chadwick expressed agreement, saying a porta-potty should not be needed either way.

Selectman Maddox said manufacturing was what they wanted to put there, so he [unintelligible].

Selectman Massey said he wanted to reiterate that the Board of Selectmen was not requiring the applicant to put a porta-potty on the area but just pointing out that the use triggered the need to pay the betterment fee. He then said that even just storage meant someone would be on the site, so he saw no difference between the two uses, adding that sanitation services needed to be provided.

Mr. Barnes said he saw no difference.

Ms. Quinlan said she would vote for a porta-potty, saying there was no difference.

Mr. Hall said they need a porta-potty either way; he then noted that there was only a one-vote difference, and one member and one alternate were not present this evening.

Chairman Russo said he felt there was no difference either way, saying having anyone spending time on that site would require some sort of facilities.

Selectman Maddox moved to defer to the meeting of March 11<sup>th</sup>, Mr. Barnes seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor except for Mr. Schneiderman, who abstained, and Chairman Russo declared the motion to have carried unanimously (6 -0-1).

Chairman Russo declared a break at 9:16 p.m., calling the meeting back to order at 9:35 p.m.

**C. Nancy and James Gruenfelder Subdivision  
SB# 11-08**

**Map 135/Lot 001  
26 Robinson Road**

**Purpose of Plan: To subdivide one lot (5.18 acres) into two lots – one lot is to be 3.16 acres and the new lot to be 2.01 acres. The 3-acre lot will have 208 feet of frontage. The new lot will have 482 feet of frontage. Hearing. Deferred Date Specific from the 01-14-09 Planning Board Meeting.**

Chairman Russo read aloud the published notice.

Mr. Michael Grainger, of M. J. Grainger Engineering, Inc. , appeared before the Board as the representative of the applicants.

Mr. Hall noted that the Planning Board had made a big deal about not being willing to approve the plan without the proper name , which was the Nancy and James Gruenfelder Subdivision , but the plan had not been advertised with the proper name, was not on the agenda with the proper name, and was not referenced in the staff report by the proper name; he then expressed a hope that the minutes would show the proper name.

Town Planner Cashell said the applicants had taken care of all the issues.

Mr. Michael Grainger, of M. J. Grainger Engineering, Inc. said he was present to answer any questions.

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 referenced the "TO BE REMOVED" label on the plan , asking what this meant. Mr. Grainger said the Board had asked for the driveway to be removed and loamed and seeded. He said the main issue was down by the road itself, pointing to the location on the plan mounted on the meeting room wall. Selectman Maddox asked where the removal stopped. Mr. Grainger identified a location. Mr. Hall said the issue was the driveway in the setback; Mr. Grainger concurred. Selectman Maddox said his point was that there was no way for the Building Inspector or whoever inspected the site to determine what was meant. Mr. Hall said the best thing would be to cross-hatch the portion that was to be removed on the copy that would be put on record. Mr. Grainger concurred.

Mr. Hall moved to approve the subdivision plan entitled: ***Nancy & James Gruenfelder Subdivision Plan, Map 135/Lot 1, 26 Robinson Road, Hudson, NH***, prepared by M. J. Grainger Engineering, Inc., dated June 10, 2008, last revised Jan. 20, 2009, consisting of Sheets 1 through 4 and Notes 1 through 26, as 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 \$639.65 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. If lot development involves blasting and/or ramming of bedrock materials, said activities shall be limited to the hours between 7:00 a.m. and 5:00 p.m. Monday through Friday, only. Said blasting/ramming activities shall be prohibited on Saturday and Sunday.
7. Construction activities involving the new lot shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday.
8. All monumentation shall be set or bonded for prior to the Planning Board endorsing the Plan -of-Record.
9. Approval of this plan shall be subject to final engineering review.
10. Existing driveway in setbacks extended to the proposed well shall be removed and loamed and seeded.

Ms. Chadwick seconded the motion.

Selectman Maddox asked for an explanation of the 11% grade on the driveway. Mr. Granger said that was the old plan, saying the revised plan had an 8.7% grade. Town Planner Cashell confirmed that had been corrected, noting that it was subject to engineering review.

Chairman Russo asked for another stipulation, covering the driveway cross-hatching. Mr. Hall complied. Ms. Chadwick expressed agreement, making this a friendly amendment.

The copy to be put on record shall show the portion of the driveway to be removed by cross-hatching.

Selectman Maddox said his point was that the Board had not received the final approval from CLD. Town Planner Cashell said this was always taken care of during final plan review, stating that site plans could go on forever.

**VOTE:** Chairman Russo then called for a voice 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 -1-0).

**XIII. NEW BUSINESS/PUBLIC HEARINGS**

- A. St. Joseph's Medical Center (Amended)                      Map 105/Lot 12**  
**SP# 01-09    206 Robinson Road**

***Purpose of Project:* to amend the previously approved St. Joseph's Medical Center Non-Residential Site Plan (HCRD #36224). Specifically, the amended site plan has been revised to utilize the existing CAP fee credit on the property. Application Acceptance & Hearing.**

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

Town Planner Cashell said he had nothing new to report other than what was in the staff report.

Mr. Jeff Merritt, of the firm of Keach -Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, distributed large size copies of the plan.

Mr. Hall moved that the Planning Board grant application acceptance; 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).

Mr. Merritt reviewed the history of the development, describing the location. He said the proposed amendment to the site plan approved by the Planning Board in April 2008 was limited to how the payment of the CAP fee was going to be dealt with, noting that the fee had been \$99,701.28, and they had requested a waiver of the CAP fee at that time because of the benefits being provided, but the Board had felt that as not sufficient, so the amended plan proposed to utilize the CAP fee that was permanently attached to the property because of prior approval. He said they had performed research to establish that credit and its reduction through the years. He then referenced **Lot-Line Relocation Plan**, dated Feb 25, 1988. He noted that the Town of Hudson had approved this plan in 1989, creating two parcels identified as Lots 11 and 10 on Map 41, which had been intended for use in the Merchant Shopping Site plan. He then addressed Exhibit B, a two-sheet plan set entitled **Merchant Square Shopping Center**, dated April 25, 1998, noting that this project had been advanced on Lots 10 and 11 for commercial/office space, with \$125,400 advanced. He noted that at this property was subsequently occupied by the St. Joseph's building and the dance studio, as well as the gasoline fueling station, carrying a CAP fee of \$192,440. He then addressed a 1994 letter drafted by the Hudson Planning Board chairman of that time, saying that \$140,000 of the \$192,440 CAP fee was attached to the Merchant Square property as the result of a settlement in the case of Tate v. Hudson, leaving a \$52,400 fee balance that needed to be paid if and when the Merchant Square Shopping Center was constructed. He noted that the Merchant Square property was not developed, so

the \$140,000 remained attached. He then addressed Exhibit B-1, entitled **Subdivision Plan for Tate Subdivision 329 Derry Road**, dated June 12, 2002, which created Lots 11 and 11-2, where the gas station was now located. He then referenced Exhibit B-2, the plan for the development of the gas station, noting that the CAP fee had been waived in exchange for payment of a traffic light at the intersection of Robinson Road and Route 102, meaning that the \$140,000 credit was not used. He then addressed a Master Subdivision Plan, called the **Tate Subdivision, Derry Road, Robinson Road, and Christine Drive**, dated 11 Oct 2005, noting that the Hudson Planning Board had approved the consolidation, which altered a part of Lot 11-1 and created the lot where the St. Joseph's Medical Center was constructed. He then addressed the **Hoffman Site Plan, 221 Robinson Road**, dated 11 Oct 2005, noting that the CAP fee for that development was deducted, leaving \$122,300 in the attached CAP fee, as shown in Note 8.5. He then referenced the St. Joseph's Medical Center plan, which called for a CAP fee of \$99,007.28, saying he was proposing an amended plan which would take advantage of that credit, leaving a remaining CAP fee credit of \$22,598.73 as still attached to the remainder of the Merchant Square property.

Chairman Russo opened the meeting for public input and comment, in favor or opposition.

Mr. Bill Tate, 271, Nashua Road, Londonderry NH, said the Tates had settled with the town on this back in 1994, and this would make it easier to go back if the Planning Board would agree with this, to clarify the situation.

No one else 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 said he was not sure all the \$140,000 was tied to the Merchant Square property. Mr. Hall stated that he had gone through the whole thing and he felt that Mr. Merritt had laid it out correctly. He noted that this had also been discussed with respect to the Chasse property. He said it made sense to him, but he did not see why last year's CAP numbers were being used, since this was a new application. Town Planner Cashell said the application had been submitted before the new matrix was prepared, adding that he had gone through the figures over a two-day period, and he felt the applicants had done what the Board had asked them to do. He noted that the two-sheet plan (Exhibit B) for Merchants Square clearly identified the land involved, which had been changed since, and the St. Joseph's development clearly was part of that land. He said the main thing was to keep these figures in mind through the future.

Selectman Massey said a credit said to him that someone in the past had paid \$140,000, meaning that the applicant had put that much money into the CAP fee at some time in the past. He then asked why the Board should not return the additional money, since the remaining land had not been developed, thereby clearing up the whole situation for the future.

Ms. Chadwick said she would like to see that it was \$140,000 of the original \$192,000. Town Planner Cashell said it was part of an already-developed lot. Ms. Chadwick said the Board should be able to start at the beginning one more time, although she did like Selectman Massey's suggestion.

Mr. Hall said an engineer had just laid out on the plan how the money had been spent. With respect to the question of returning money, he said the Board would have to show who paid it and make sure it was returned to the same person —adding that the same thing would have to be done to the other accounts that the Town was holding. He said the Planning Board had decided to consolidate the accounts, and he expressed concern about other accounts pertaining to properties that had not been developed. He then expressed concern about having to return the school impact fees, since the School District had seen fit not to spend it.

Ms. Chadwick said her concern was that the note did not reference the original \$192,000. Mr. Hall said he thought it would be a good idea to include that.

Selectman Maddox said he felt it just needed to be documented —adding that the School Board was responsible for not having spent the CAP: fee. Mr. Hall said the Board of Selectmen was holding the money and ought to give it back. Selectman Massey said he understood that the School Board was seeking legal opinion as to whether using the money to reduce the principal was a valid use of that money. He said Mr. Hall had brought up a good point, and it would be a good idea for the Board of Selectmen to query the School Board as to its intent with respect to those fees. Mr. Hall said the Planning Board was the one that came up with the Impact Fee, had hired the consultant, and had been handling it, so the Planning Board had some responsibility, too. He said the Planning Board needed to be thinking about not collecting the money if it were not going to be spent, noting that the Board had been talking about this for a year, and saying he felt an obligation to do something about it.

Selectman Maddox moved to appoint Mr. Hall the designee of the Planning Board to go speak to the School Board about this issue. Mr. Schneiderman seconded the motion.

Following discussion, Chairman Russo requested Selectman Maddox and Mr. Schneiderman to withdraw their motion at this time and to bring it up later; both agreed.

Atty. J. Bradford Westgate, of the firm of Winer and Bennett, LLP, 111 Concord Street, Nashua NH, legal representative for the applicant, said they would like to be done with it tonight, saying the \$192,000 could be tied in with a letter included in the packet that Mr. Merritt had put together. He said it was irrelevant, as the amount was based on the matrix in 1994, and any new project had a new figure, and the relevant figure was the credit. He suggested wording to show that the \$192,000 was involved, saying that language could be submitted to Town Planner Cashell. Mr. Hall said the complication came in with respect to discussion of what the remainder applied to, saying it should be clearer what the balance applied to, which was complicated. Atty. Westgate said Town Planner Cashell's staff report concluded that it applied to Lots 8, 11, 11-1 and 12, saying the only difference from the Merchant Square configuration to the present lot configuration was that the front portion of Lot 8 was already developed when the Merchant Square development was approved. Mr. Merritt pointed this parcel out on the overhead aerial view of the area, saying the remaining credit got applied to the back part, if any at all.

Chairman Russo asked if the remaining funds could be used if the back portion of Lot 8 were developed. Atty. Westgate said that was a good point, as it might be that the Medical Center would be expanded with Lot 8 never being used.

Ms. Chadwick said someone in the future would want to know which lots were included and what was the original number, and no one should have to go through what Town Planner Cashell had gone through. Mr. Hall said Mr. Tate had \$22,000 applied to Lot 8, and he would not want the hospital to use that. He said it should be cleared up right now. Atty. Westgate explained this to Mr. Tate, who protested that he was hard of hearing. Mr. Barnes said the Board would not want the other parties involved to be putting in a claim for part of the credit. Atty. Westgate said he did not think there was any issue with determining that Lot 8 had the balance. Town Planner Cashell said that should be included in the note that was going to be revised on the plan. Mr. Hall said it would be better for the Planning Board to see that language before approving it. Selectman Maddox expressed a belief that this could be done by correspondence, with no hearing before the Board needed.

Selectman Maddox moved to defer this matter to March 11<sup>th</sup> for review of the documentation for the credit to be applied to Lot 8, only.

Ms. Quinlan noted that waivers were being requested. Atty. Westgate said they were the same as the first time. Town Planner Cashell said he had asked for that, as this amendment plan would replace the previous one. Selectman Maddox said the waivers could be dealt with afterward. Chairman Russo demurred, saying the matter would be deferred. Selectman Maddox withdrew his motion.

Town Planner Cashell said the Board could approve the waivers tonight.

Ms. Quinlan moved to approve the following waivers:

1. HTC 275-9(D) -- Fiscal Impact Study
2. HTC 275-9(C) -- Noise Study
3. HTC 275-8B(11) & 9(H) – HISS Mapping

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).

Ms. Quinlan said she was ready to partially approve with a stipulation to defer it until the revision with the new note came in.

Ms. Chadwick moved to defer this matter until the March 11<sup>th</sup> meeting. Mr. Hall seconded that 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).

#### XIV OTHER BUSINESS

Selectman Maddox moved to appoint Mr. Hall as the Planning Board liaison to the School Board. Mr. Schneiderman seconded the motion.

Mr. Hall said he assumed that the Planning Board felt strongly that the money should be spent. He said he felt the Planning Board needed an answer from the School Board one way or another. Ms. Chadwick asked that Mr. Hall not threaten the School Board, but instead encourage the School Board to make a prompt decision.

Selectman Massey said the clear issue was that the money was going to go away if the School Board did not act.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor except for Mr. Hall who abstained, and Chairman Russo declared the motion to have carried unanimously (6 –0–1).

Ms. Quinlan reported that the Conservation Commission was in the process of finalizing the wetland study, and would be meeting with VHB, which wanted to hold a joint workshop with the Planning Board. The consensus of the Board was in favor. Mr. Barnes noted that this was important, as a vote of the Town would be required to approve the plan. Selectman Massey said the goal of the May 6<sup>th</sup> meeting would be to have a discussion as to whether the 24 wetlands being designated rose to the level of a Prime Wetland, which changed the setbacks involved. Ms. Chadwick asked if advance notice could be given, so that members of the Planning Board could go view the wetland bodies in question. Ms. Quinlan said there were a lot of them, adding that she would try to bring in a copy of the study for viewing by the Planning Board.

Mr. Hall asked what the goal was. Ms. Quinlan said the goal was to look at wetlands that the Town might want to preserve so as to ensure clean drinking water and protection for fauna, for a safe and healthy community, meaning the Planning Board then might want to talk about changing the Zoning Ordinance to protect those wetlands, but the intent of this meeting was to provide information as to why these wetlands were important. Mr. Hall said he felt the Planning Board members needed to know ahead of time what wetlands were being talked about. Mr. Barnes asked if there were not an electronic copy somewhere. Ms. Quinlan said she would find out.

Selectman Massey said the main goal would be to open up discussion so that somewhere in the July or August timeframe the Board could make a decision about proposing a warrant article.

Selectman Maddox moved to place the matter on the 05-06-09 agenda. Ms. Chadwick 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 noted that the next meeting (February 25<sup>th</sup>) had been canceled, as the SP-1 application had some wetland issues. Members of the Board expressed surprise. Selectman Maddox expressed a hope that staff and the chairman had a file of things to fill in, using the meeting time to apply to workshop decisions. Mr. Barnes said he was the one who had made the decision to cancel the meeting. Town Planner Cashell said he had thought a couple things were coming in, but they had gotten sidetracked. He said he agreed with Selectman Maddox and in the future would try to work that out. Selectman Maddox said his point was that it would be better to have a 2-hour meeting, with one hour of it devoted to workshop items.

Ms. Chadwick suggested that the Planning Board get the sign industry people to come back at that time. Town Planner Cashell said they were scheduled, noting that the Board had all of the coming year to lead up to a final decision as to what to propose to the voters. Ms. Chadwick said she felt there would be multiple meetings with the sign industry people, and she felt they should get started.

Selectman Massey said a motion to defer implied that a date certain was stated. He expressed a belief that the Board could not have the meeting, as the applicant or the Planning Board otherwise would be in a position of having to renotify every abutter. Town Planner Cashell said the case had been deferred to February 25<sup>th</sup>, but the applicant in the meantime had asked for an indefinite deferral, adding that notice had been sent out to the abutters that the deferral date had been suspended until further notice.

## XV. ADJOURNMENT

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

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

Chairman Russo then declared the meeting to be adjourned at 10:53 p.m.

Date: February 25, 2009

\_\_\_\_\_  
Vincent Russo, Chairman

J. Bradford Seabury, Recorder

\_\_\_\_\_  
Suellen Quinlan, Acting Secretary

These minutes were accepted as submitted following review at the 03-25-09 Planning Board meeting.

The following changes were made in accordance with the Board's review of these minutes at its March 25, 2009, meeting:

Page 1, last line — Misspelling of Mr. Schneiderman's name was corrected.

Page 5, 4<sup>th</sup> full paragraph, last sentence — changed the phrase “discussed details about the wildlife in the area, describing ” to “described,” so that the sentence now reads “Mr. Merritt described the connections as hydraulic links. ” [Note; this change was requested on the grounds that Mr. Merritt had not actually said anything about the wildlife habitat.]

Page 10 — Corrected designation of Section XI as “**Conceptual Review Only**” rather than a redundant “**Other Business**” (which was the designation of the next following section).

**Note from the Recorder** — In addition to the foregoing, Chairman Russo had noted that the **ZBA Input Only** item had been discussed at the beginning of the meeting and then continued later on in the meeting, and he asked that the earlier part be moved to the rear, to be together with the second part. I presumed at that time that this was simply a matter of moving a reference, but when I examined the minutes and the original recording, I found that the Board first addressed the Jarry Subdivision under Section IX, **ZBA Input Only**, with this process extending from Page 4 to Page 10, presumably completing the action on that item at that time. The Board then addressed Item XII, **Other Business** (with no mention of items X or XI, so I marked them as not having been addressed), to take up Item B, Derry Street Professional building, presuming it could be handled quickly as a deferral item. Selectman Maddox at that time noted that something had not been resolved with respect to the Jarry Subdivision, and Chairman Russo said that it could be reopened for discussion, after confirming that the applicant's representative was still in attendance. Selectman Maddox then made a motion to address the neglected item, which was passed unanimously, after which the Board returned to **Old Business** and took up Items A and C. While what had been suggested was that I move the first Section IX discussion up to the second, which would place the whole thing in the middle of Section XII, I question the validity of doing that (and doubt that it would make things any clearer). What I have done instead, then, is expand the introductory paragraph on Page 11, preceding the diversion, to clarify what was happening, as follows:

I changed “Selectman Maddox referenced the preceding case, noting that nothing had been said about Lot 4 -2 with respect to the prior case. Chairman Russo said that item could be reopened for discussion. ” to read as follows: “Selectman Maddox referenced the earlier discussion about the Jarry Subdivision, noting that nothing had been said about the proposed buffer impact for Lot 4-2 on Map 207. Chairman Russo confirmed that the applicant's representative was still present, and he then stated that the matter could be reopened for discussion. ”

To complete the clarification and make sure nothing was lost, I added the following note following the vote at the end of the first discussion, on Page 10:

[**Note:** this discussion was subsequently reopened for a further motion, as detailed on Page 11.]