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**HUDSON PLANNING BOARD
MEETING MINUTES
March 28, 2007**

I. CALL TO ORDER

Chairman Barnes called this Planning Board meeting to order at 7:00 p.m. on Wednesday, March 28, 2007, in the Hudson Community Center .

II. PLEDGE OF ALLEGIANCE

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

III. ROLL CALL

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

Members

Present: James Barnes, George Hall, Marilyn McGrath, Suellen Quinlan, Vincent Russo, Richard Turcotte, and Richard Maddox (Selectmen's Representative) .

Members

Absent: None. (All present .)

Alternates

Present: William Cole and Ken Massey (Selectmen's Representative Alternate) .

Alternates

Absent: Robinson Smith (excused).

Staff

Present: Town Planner John Cashell.

Recorder: None. (Minutes extracted from HCTV's broadcast DVD .)

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Barnes noted that all regular members were present. He then noted that there were only three microphones at the Planning Board's table, so the microphone would have to be passed to a member who wished to speak, following recognition by the chair.

V. MINUTES OF PREVIOUS MEETING(S)

Chairman Barnes noted that there was one set of minutes to be reviewed, stating that these minutes would instead be reviewed at next week's workshop meeting.

VI. CORRESPONDENCE

No items of correspondence were noted.

VII. PERFORMANCE SURETIES

No performance sureties items were discussed by the Board.

VIII. OLD BUSINESS

**A. Golen Subdivision
SB# 15-06**

**Map 241/Lot 035
17 Dracut Road**

Purpose of plan: To subdivide the existing 5.908 acre parcel into two lots. The remainder lot will consist of the existing structures, and the new lot will be for Mr. Golen's House. Hearing. Deferred Date Specific from the 01-24-07 Planning Board Meeting.

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

Town Planner Cashell said he had nothing to add to the staff report, stating that everything had been resolved from the last meeting.

Mr. Tom Huot, land surveyor from Bedford Design Consultants, representing the applicant, Chad and Amy Golen, referenced the previous hearing in January, noting that the Planning Board had declined to take action at that time because the plan had not been before the Zoning Board of Adjustment for the wetland buffer impact. He said the property had since then received a Wetlands Special Exception permit for the driveway, as approved by the Conservation Commission and the Department of Environmental Services. He offered to answer any questions the Board might have.

Mr. Carroll asked if there were a plan that actually showed the house and the new facility on the same plan. Mr. Huot said the only plan that would show the proposed house was the typical septic plan that would be filed for the Building Permit, but the one shown was not the actual house that the Golens were going to build.

Selectman Maddox moved to approve the following waiver requests:

HTC §289-26 B (10)
HTC §289-20

HISS Mapping
Storm Water Management Report

Ms. Quinlan seconded the motion.

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

No further discussion being brought forward, Ms. Quinlan moved to approve the Subdivision Plan entitled ***Golen Subdivision, 117 Dracut Road LLC, 17 Dracut Road, Hudson, New Hampshire***, prepared by Bedford Design Consultants, 136 Harvey Road, Londonderry, NH 03053, dated January 29, 2006, revised through March 16, 2007, consisting of Sheets S1, T1, SD1, DV1, G1 & ST1 and Notes 1 through 18 on Sheet S1, 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 amount of \$760.64 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy, subject to annual inflation indexing, as permitted by the impact fee methodology.
3. A public school impact fee in the amount of \$3,578.00 per residential units 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 prior to the Planning Board's endorsing the Plan -of-Record.
7. 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 Saturdays and Sundays.
8. Construction activities involving the lots shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Saturday.
9. This approval is subject to final engineering review, including dumpster relocation.

Ms. McGrath seconded the motion.

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

Ms. Quinlan noted that the Board had said at a previous meeting that this meeting was just going to be for an explanation of the process, and that the public would be invited to attend but not to participate. Based on what had been provided to the Board, she continued, the applicant had considered the thing to be considered for a conceptual, so she wanted to be clear on what the parameters were. She then asked if the Board was to be looking at the plans that the Board had received as a conceptual with public input, or not, at this point? Noting that the Town Attorney was present at this meeting, with the applicant and his attorney present, as well, she then stated that she needed to know how to proceed, saying she also felt the public needed to know.

Chairman Barnes said the discussion tonight was about process, adding that the Board might look at the submitted plans as conceptual plans in front of the Board, but what the Board had to discuss tonight was what the process was going to be.

Chairman Barnes invited Atty. J. Bradford Westgate, of the firm of Winer and Bennett, LLP, 111 Concord Street, Nashua NH, legal representative for the applicant, to speak. Atty. Westgate introduced other representatives of the applicant—including Atty. Jay Leonard, representing the property owner; Bob Fraser, vice-president of construction and development, W/S Development Associates, LLC; Edward Vydra, project engineer, of W/S Development Associates, LLC; Art Scarnio, Jason Plourde, and Ron Muller, of Greenman Pederson, Inc. (W/S Development's traffic/road engineers); Tim Williams, from Allen & Major, the site planning engineer; Jim Gove and Jeff Cantara, wetlands/environmental scientists, of Gove Environmental Services; and Jim Petropoulos, from Hayner/Swanson, Inc., the project surveyor.

Atty. Westgate said they were present to discuss process matters. He then noted, however, that Town Planner Cashell had put out a staff report noting five prospective orders of business. He said they were prepared to do that and thanked Mr. Cashell for providing that potential approach, adding that he hoped the Board would go along with that. Atty. Westgate noted that he had filed on March 20th two letters—one a background letter explaining how everyone had got to this meeting, and also discussing a couple process points that they had thought might be discussed tonight, and the other a request that Mr. Cole recuse himself from proceedings involving the RiverPlace project. He stated that he wanted to note these two letters for the record, and also reaffirm his request that Mr. Cole recuse himself from any of the proceedings involving RiverPlace.

Chairman Barnes noted that what the Board was reviewing tonight was under conceptual review, and NH RSA 675:4 II (a) stated "such consultation shall not bind either applicant or the Board, and statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken." He then said he did not think the Board was even at the point of considering Atty. Westgate's statement—adding that, in any case, the applicant did not have the right to request a member of the Board to step down. Atty. Westgate acknowledged that to be true but said it was incumbent on the applicants to make note to the Board, for the record, that they believed Mr. Cole should recuse himself. He said that remained their position, irrespective of what happened this evening.

Atty. Westgate noted that in the other letter he had suggested that the applicants could give some background to the project and provide some of the planning efforts made to date, to put in context the procedural and process items. He said they had a PowerPoint presentation to give that presentation, which would be given by Mr. Fraser—noting that it was the Board's choice. He said this hopefully would set the stage for the next step, which would be commencement of preliminary subdivision application. He said the presentation would be from 45 minutes to an hour in length.

Selectman Maddox asked if this were the same presentation the Board had already seen four times—adding that he did not want to see it, if it were. Selectman Massey echoed those same sentiments, saying the Board was not here tonight to rehash marketing documents and conceptual plans, *per se*, but instead was here to talk about how to go forward with the project. Selectman Massey then added that, if the Chairman were to allow that long a presentation to be made, he thought that it would be relevant to allow the public to comment on that presentation.

Town Planner Cashell said what the Board was trying to do tonight was come to a conclusion as to where the Board was in the process. He said the applicant had tried to submit the application for subdivision and site plan approval a couple months ago, but it was decided during review of that documentation that there was a problem in that the applicant needed a Wetlands Special Exception prior to submitting subdivision and site plan applications. He noted that the Special Exception process involved having the Conservation Commission look at the plan and doing its input process to the Zoning Board of Adjustment, after which the Planning Board got involved in providing its input to the Zoning Board with respect to the wetlands issues involved with roadway layouts. He said that all had to take place prior to formal submission of any application, but the Planning Board had decided to have the RiverPlace applicants come in first and show the Planning Board the plans for the roadways leading into the site and within the site, as the Board wanted a chance to look at the roadway layout to see if it could be better laid out prior to any formal review by the Town, to see if a roadway system that lessened the impact on the wetlands could be developed.

Mr. Cashell said the Board wanted to deal tonight with the process of how to deal with all that on a preliminary basis. He noted that this process involved having the Planning Board stay at the conceptual consultation process prior to getting into preliminary subdivision review, which would be a formal process that would require the Planning Board to formally accept the subdivision plan as a first order of business, prior to starting the preliminary subdivision review process. He noted that this was different from what had been discussed in conversations he and Atty. Westgate had had prior to this evening, but consultation with the Town Attorney had shown that this was really what the Board needed to do—stay at the conceptual consultation level and work through the roadway design to the extent possible prior to getting into any formal review.

Atty., Stephen Buckley, the Town Attorney, said he wished to reaffirm what Mr. Cashell had just said, noting that the Town's regulations clearly anticipated under subdivision the process called preliminary application review. He said this did not fit neatly into the set of rules binding the Board in the RSAs, which required plan acceptance prior to plan review, with a specified time table to be followed. He said it

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made more sense for the Board to conceptualize what it was going to do in terms of the preliminary review of the roadway plans as just a continuation of the conceptual review process. He noted that no binding decisions were made by the Planning Board during this conceptual review process, but the plans would then be ready for the ZBA input process and then subsequently for the ZBA Special Exception process, eventually coming back to the Planning Board as a proposed application for acceptance, which would actually start the formal review process by the Planning Board.

Chairman Barnes said the Board would decline the offer for the background presentation and just go ahead with the conceptual process.

Atty. Westgate said that was fine. He then referenced the five orders of business outlined in Town Planner Cashell's staff report, asking if these were still the issues on the table and the protocol that he should follow. Chairman Barnes said he thought the discussion should start with that, but it might go off in other directions.

Town Planner Cashell clarified that the phrase "conceptual preliminary subdivision submission" and "conceptual preliminary site plan" should be kept in mind, saying this was how the Board would deal with it until such time as the Board was done looking at the roadway layout and possibly making any changes to what had been designed to this point, ultimately leading to the ZBA input process. He said the Board could not get into a formal application submission until such time as the ZBA issues were all taken care of.

Chairman Barnes suggested that this meant that Item #2 in the listed order of business in the staff report should be skipped.

Mr. Carroll said he had a general question on the conceptual review, saying this brought in all facets of the plan but the Board had always followed that with the road layout. He asked if this conceptual review were really limited to the roadway layout or was it broader than that, including other specific areas. Chairman Barnes said he was not sure that the Board was ready to get into other areas yet. Mr. Carroll noted that there were other large areas other than the roadway layout. Chairman Barnes said there might be other large areas but he was not sure the Board would be talking about them tonight.

Atty. Westgate said he thought he was hearing that, despite the concept developed a couple weeks ago that the applicants should come before the Board with a preliminary subdivision application based on HTC §289 7, 8, and 9, and despite Town Planner Cashell's staff report, the Board would prefer that the applicants not take that route but instead function under a conceptual application. If that were the route to take, he continued, the discussion should talk about what that application should contain, as Mr. Carroll had started to allude to. He said he was a little surprised that filing a preliminary subdivision application under the Town's regulations somehow engaged the formal process; he then asked if there were a concern that commencing the preliminary subdivision application under the Town's regulations somehow was a component of the final process and therefore not available to the applicants because of the ZBA action.

Town Planner Cashell said everything had been going along smoothly, and the intent had been to stick to the staff report procedure, until he had talked with the Town

Attorney this afternoon, at which time Atty. Buckley had noted that the Town's regulations and the RSAs simply did not match up. He said the Board could not get into a preliminary subdivision application without getting into a formal review process, and the Board clearly at this point of time wanted to stay within the realm of just conceptualizing, trying to come up with a better roadway system that was more sensitive to the wetlands within the site. He expressed a belief that the applicants and the Board would be in a formal review process already if there were no wetlands. Atty. Westgate expressed agreement.

Town Planner Cashell said the first order of business, as far as the Planning Board was concerned, was to deal with possibly coming up with a better, less -impacting roadway system, if possible, which would allow the applicants to go forward with the ZBA input process, followed by the formal review process, which might ultimately lead to approval or denial of the project.

Atty. Buckley noted that the Board had in its regulations a list of requirements of what a preliminary plan could look at. He suggested as a way to proceed forward that the Board could say to the applicant, "Let's continue the conceptual consultation process—and the next thing we want to see from you is some or all of the items listed in HTC §289-26." He suggested that what the applicant brought back in response would form the content information that would be the conceptual consultation review.

Mr. Cole noted that he had met Mr. Fraser and Mr. Vydra about two years ago, so he was relatively up to speed with regard to the concept of RiverPlace, and he considered himself a relatively intelligent individual, but he was thoroughly lost this evening. He said he had thought that, since W/S Development had submitted a plan, which was subsequently returned to them because of deficiencies, the Board's purpose this evening was to meet with the applicants and come out with a road map of the steps to be taken to get their plan back on track for resubmission. Noting that he had not been at the last workshop meeting, he said he had thought the key issue was that the Wetlands Special Exception was not included in the plan as submitted, and that the Board had been going to sit down with W/S Development this evening and map out how they could possibly get their plan back before the Town in the future.

Ms. Quinlan said her understanding of what the Board was going to be discussing were the many concerns with the plan that had been presented—that the Board basically had been given a *fait accompli*, as a site development plan that already had the parking lots, the buildings, the roadways, and the internal loop road, so that there was very little else for the Planning Board to do. She said this was different from the usual process, in which the Board received a conceptual plan, then a preliminary plan, and then a subdivision plan—adding that this plan as presented did not leave any leeway for the Board to provide input. Another concern of hers, she continued, was that what was presented was RiverPlace Phase I, and this was all that the Board was being asked to look at as far as the roadways were concerned. She said the Board's traffic consultant had told the Board that his firm had only received the calculations for Phase I, not for the total buildout—but Atty. Westgate's letter had indicated that all of figures for the total project, including the residential component and the office -park component, had been generated and provided to both the State and the Board's traffic consultant. She said she could not look at this roadway configuration and say whether

it was acceptable or not unless VHB (Vanasse Hangen Brustlin, Inc.), the Board's traffic consultant, was given those numbers. Another issue, she said, was that the Board was being asked to look at this site with the residential component included in the plan, but the Zoning Ordinance did not provide for that, and this would be something that the voters would have to vote on. She said that needed to be taken out of the equation for the Board's consideration. She concluded by saying that she thought there would be a lot of benefits to the town if this project were done right, but the Board had to be very mindful that this project was massive, affecting a town that for many years had been an agricultural town with agricultural roads, and the Board had to be able to determine whether the town's roads and infrastructure could sustain this project.

Mr. Carroll said Ms. Quinlan had actually begun the dialog on a conceptual process, covering roadway layout and other issues. He said this was kind of talking process and conceptual review at the same time, which got everything out in the open. He said it appeared that roadway was one thing, adding that he wanted Mr. Hall to weigh in on his thoughts on the roadway, but the Board believed that there were things the applicants should have done, relating to the layout —noting that there were parking lots, lamp posts, and other things, but there were large chunks that had not gone through the zoning process or had not been taken into account with respect to the impact. He said he thought the Board needed to have dialog on the plan in order to figure out what the next step in the process would be.

Atty. Westgate said the discussion happening now could all be put into the proper context after the applicants submitted a conceptual plan application, and he then expressed concern that the discussion was starting to go into substantive aspects of the proposal without the applicant having put on the table in a formal way what he was doing. He said that needed to be done and was fundamentally important, adding that the applicants had no problem following the route that Atty. Buckley had suggested: filing an application effectively following the preliminary application procedures in the ordinance. He expressed agreement to do so if it were deemed a conceptual application rather than a preliminary, saying they could then do like every other applicant did and follow the same process that the others do, in which the applicant submits his plan and describes his plan in detail to the Board —then the Board has a chance to absorb the plan, ask questions, has a first-flush analysis of what is being proposed, interacts with its consultants, goes to another meeting and lets the applicant respond to those questions. He said he felt the applicants could address the issues that Ms. Quinlan had brought up, but the applicants should put the plans on the table first and then have the chance to address them.

Atty. Westgate said one of his goals for tonight had been to do what the Board wanted: to get this proposal functioning on a track that normal applications would follow. Part of that goal, he continued, was to not allow misconceptions. Citing the issues of road layout and traffic data and how it became what it became, and the notion that it was a *fait accompli*, as examples, he said this was totally not the case —adding that he had tried to describe that a little in his letter of March 20, 2007. He said the proposed interconnection with Sagamore road was further east and into the wetlands than originally designed by GPI because of interactions on both formal and informal bases with the NH DOT, because the DOT wanted more separation between this proposed interchange and the Daniel Webster Highway on the Nashua side. He said

these were the kinds of things the applicants would like a chance to present to the Board, adding that he knew they would be able to do so with the conceptual approach.

Mr. Hall said that what he had had in mind when he made the motion to have this evening's meeting was that there were a lot of conceptual issues that needed to be discussed at one point—but that everyone would become so confused, if too many of them were on the table at once, so that nobody would know where they were going. The only issue he wanted to address to begin with, he said, was the subdivision plan, including the three connections to the existing road system of the Town of Hudson. He stated that the residents of the town and the Planning Board needed to understand how those three connections functioned and what the potential implications for traffic impacts were at those particular points, as well as the impacts of the subdivision to the Town's roads, how those interconnections impacted wetlands and traffic at the individual intersections, with some thought processes based on the impacts of those specific intersections, as well as might happen to other intersections in the nearby areas. He said that was so complex and there were so many issues that he felt that should be the limit of the conversation to be had at the next meeting. He said this conversation should be vetted until the Board was done, with a general consensus that it had the best design of those connectors. He stated that there were major impacts to other intersections in the town, but the Board could not deal with those until the decision of where the connectors were going to be and how they functioned, as well as their impacts to the wetlands. If any changes were made in those connectors, he continued, those changes would affect the site plan—so to talk about the site plan would be premature until everyone was satisfied. He then stated that to come in with a plan that said "Here it is" and to make a final application to the State's Wetlands Board indicated to him that the applicants thought that was the only way to go—adding that it would have been a lot better to come through the conceptual process and ask if the Planning Board had any issues with the proposal before submitting the final application. He concluded by stating that this was where the process should have started six months ago, but that to him the only issue that the Board and the applicants should be talking about to start with was what those connections were and how they functioned—with a detailed description of how that traffic pattern worked at each of the three intersections.

Atty. Westgate said that what Mr. Hall had said was exactly what he had thought, coming into tonight's meeting. What the applicants filed, whether called a conceptual or a preliminary, should be comprised of the already prepared plan set, together with the data that supported it, and the road plan and profiles for the connector road, the Route 3-A intersections, and the Sagamore Bridge interchange. He said that information, plus all the existing data that the applicants had assembled, would allow the very discussion that Mr. Hall had outlined. He said they were prepared to do it and would love to do it on April 25th, as Town Planner Cashell had suggested.

Selectman Maddox noted that the applicant had come on January 19, 2007, with all the plans, filling the Community Development Room. He said that he, like Mr. Cole, thought that the applicants had come in with a set of plans ready to ask for full acceptance, together with a minor novel listing waivers and adjustments being requested because of the size of the plan, and he had thought that the purpose of tonight's meeting would be to go over the process that the applicants should follow, and

also to go over any requests the applicants might have, such as to do the planning and the zoning process at the same time —which he felt needed to be talked about.

Atty. Westgate said he thought everyone would leave from this meeting tonight knowing exactly what the process should be. To the extent that the January 19th delivery caused consternation, he said, he apologized. He said he thought everyone understood the next step to take, but he thought the details of that ought to be played out a little more this evening. He then asked for permission to outline what he thought he was hearing the Planning Board saying, so that the Planning Board could then say whether it thought he was on the same wavelength. Chairman Barnes told him to proceed.

Atty. Westgate said he now envisioned that the applicants would submit a conceptual subdivision application, which probably would have to follow something like the Board's formal subdivision form, because the Board had no other application forms—adding that there were elements of the formal form that would not be applicable, because the submission would be conceptual, only, but he felt those details could be made to work. He said the applicants would also submit with that a subdivision plan package, which they had, as an 18-sheet set, and add to that package the road plan and profile set, that had the interchange with the Sagamore Bridge road, the connector road, and the Route 3-A intersections—adding that this would probably be it, in terms of plan data, although it might make sense either to put a little narrative together or maybe just “shrink down” some prior narratives. He suggested that there should be discussion as to whether or not the Board wanted an abutters' list and whether the Board wanted abutters notified for this conceptual review meeting. He said he was assuming that the Board agreed that the road layout issue should be the sole matter of discussion at that first meeting, so that there would not be too many issues happening at once—noting that he had been suggesting all along that successive meetings be broken down to just focus on a specific substantive item each evening. He said he did not know how the Board envisioned having its peer-review consultants work on the matter at this point—suggesting that maybe that should kick in after the applicants and the Board had a chance to actually talk about the conceptual plan on the merits at the first meeting, so that the Board would have seen it, and maybe better direction would be given to Town Planner Cashell as to what the Board thought the consultant review area should be. He concluded by saying this was how he saw it and he would like to leave this meeting seeing if he had read the Board's thoughts correctly—or knowing what pieces of the puzzle he should add if he had not.

Chairman Barnes recognized Mr. Carroll, who referenced the issues of phases, saying a road could not grow, as it took a lot of work to widen it to make it more robust, and he agreed with Mr. Hall that the road layout and the intersections were very important. He said just taking up the road with respect to Phase 1, without taking into account Phases 2 and 3, to his mind was really looking very short term, but he did not want to look too far into the future. He then asked the Board if the information regarding traffic should be related to the full plan and all three phases, or just in relation to Phase 1. Atty. Westgate said this was a precise example of how the reaction to the proposal had sped ahead of the applicants' ability to explain the proposal in a formal setting. He said there were elements of Phase 1 traffic analysis and full-buildout traffic analysis in what W/S Development had prepared already through its traffic engineer.

He said GPI had used full -buildout traffic analysis in designing the interchange with the Sagamore Bridge road —meaning all phases, and what all phases would generate for traffic—and the same was true for the connector road, which was being proposed as a four-lane road, with two lanes in each direction, and with a fifth lane for a turning area in some places. He said GPI had designed the interchange and the connector road to handle the whole project, acknowledging that it would be difficult to widen the roads after Phase 1 was up and going. What data gathering and traffic analysis had been submitted, however, he continued, was for Phase 1 because that was the only one precisely designed at this point (the life -style center component —restaurant, smaller shops, and cinema complex) —and GPI had done an analysis of the impact that Phase 1 would have on intersections on River Road, Lowell Road, and even up to Route 111. He said GPI had done an intersection analysis and a traffic analysis on the local roads, based on Phase 1 data, but had not finalized that for Phase 2 or full buildout, yet, because they were awaiting some further response from NH DOT as to agreeing with methodology and approach —and also the need to firm up with W/S Development the type of uses that would be in Phase 2, so they could be more precise with the full -buildout data on the local roads. He said GPI engineers would be able to detail that to the Board when the applicants had a chance to have that first meeting.

Mr. Hall said those were good questions, but this was a perfect example of why the Board and the applicants were not going to get anywhere, because those were topics that really were not what everyone was here for this evening. He said Atty. Westgate was making a presentation on traffic —adding that nothing would ever be accomplished if everyone kept digressing as they were now. He said he had not meant to short -circuit the other topics, earlier, but had been sticking to the first topic (to discuss the review process). He expressed a belief that the Board should have its engineering consultant present at the next meeting —adding that the Board needed to vote on who that consultant would be and also to figure out how that consultant was going to be paid. He then suggested that another topic should be that Atty. Westgate in his letter had expressed thoughts about not paying the complete application fee for various reasons—but he then acknowledged that it might be premature to get into that topic at this time. He said the Board needed to have a way to pay its consultant, however, and he believed strongly that the Board needed to have that consultant at the meeting, as there were several issues he felt the Board would want its consultant to analyze, and the consultant needed to be here from the start. He said he thought it was premature to talk about a preliminary site plan tonight.

Selectman Massey said he wanted to make sure that everyone was using the same words to mean the same thing. He said he thought “conceptual” simply meant “This is what I think I’d like to do; what do you think of it?” ... whereas “preliminary” meant “This is what I plan to do; what do I need to do —either tweak it or modify it —to be in compliance with the Board’s and the Town’s site -plan regulations?” If the Board did a conceptual plan review at the next meeting, he continued, this simply meant that the developers would be providing another look at what they wanted to do, and there was no way to hear from the public, whereas a preliminary subdivision plan would avail to the public an opportunity to participate. Chairman Barnes agreed that a preliminary subdivision plan would allow public input —but he pointed out that the Board had also

allowed public input at the previous conceptual presentation, last year; he then stated that the Board could take input at a conceptual.

Selectman Massey said he thought the Board needed to see a preliminary subdivision plan with the planned road layout, so that the Board could make a decision as to whether that was the appropriate way to do it —and that that would constitute the first step. Once the Board and the developers got agreement on what the subdivision and the road layout were, he continued, the Board could then begin looking at a site plan, but he hoped that what all the Board members would be looking at at the next meeting was exactly what had been talked about at the previous meeting, which was a preliminary subdivision plan with a road layout, which would be what the Board would discuss.

Mr. Carroll said at the next meeting, as it related to the conceptual plan the developers would bring in at that next meeting, when the discussion would be about road layout, the applicants should bring information that was not Phase 1 specific. He said the applicants had taken Phases 2 and 3 into account in regards to their own internal site plan layout, as shown by the comments about a four-lane road with some fifth-lane areas. He then stated that the Town's consultants could review the data for what the applicants believed would be the impact for traffic coming to those locations to generate that number of cars to be inside the site. When the applicants came to the next meeting, he said, they should bring information as to how all that traffic was brought there in order for that site to have been planned for that level of traffic — meaning Phase 3 level of traffic. He said he could guarantee that this audience would be asking questions relating to what the full traffic implications were going to be or at least would know that this Board took full traffic implications into account.

Town Planner Cashell thanked Mr. Hall for better explaining the issue than anyone else at the table. He said the reason for tonight's meeting was that Mr. Hall had brought up the idea that the Board had to focus on roadway layout within the site and with the tying in of that layout with the local roadways. He said the point that Mr. Hall was trying to make was that the Board had to determine in this first review process if this roadway layout were adequate enough to handle Phase 1 and Phase 2, adding that the Board's consultant could look at all of the traffic pertaining to both Phase 1 and Phase 2 and figure out whether the proposed roadway system within the site and leading into/from the site could handle all the traffic —adding that going beyond that at this time would really confuse the issue. He said the Board would eventually get to what needed to be done on Dracut Road, River Road, Route 102, and Route 111 at a later date, but the Board had to focus initially within the site and with the immediate roadways leading into the site, to make sure that the roadway system was adequately designed for Phases 1 and 2 —and to achieve that prior to the ZBA Input process, with plenty of time after that to address other issues.

Mr. Hall said he would be concerned about listening to numbers from traffic consultants for the next meeting, saying that had to be addressed but that the Board first needed to decide how the traffic patterns worked and assume that the designers had done the right thing. Before the Board could agree that it worked, he continued, the Board's own consultant would need to tell the Board that the capacity was there with the design the applicants had come up with, but the Board would be lost if it

started trying to prove that the designers had taken the right percentages from whatever formulas, where the traffic came from, how it got there, where it was going to, etc. He said the first thing should be to figure out where the roads were and how they worked, not how many cars were going down those roads, which would be addressed later.

Chairman Barnes said the current proposal was the largest impact on the wetland, so wetland discussion would be a part of that.

Atty. Westgate said he agreed with Mr. Hall, in that one had to crawl before one walked. He said the discussion first had to focus on road design —the interconnection design, the connector road design, and the fundamentals of how the roadwork system for the project should be designed. He said that would inevitably lead to a discussion of the wetlands, adding that he thought that would give a good leg up on the ZBA input process.

Selectman Maddox asked how this would dovetail into the NH DOT discussions, saying he understood that the NH DOT did not believe that the bridges over the Merrimack River were adequate to handle the traffic counts that the applicants were looking at—or, at least, with how the present interchanges were designed. He questioned how the Board could make this work.

Atty. Westgate said he did not think the DOT had made any official conclusions as to present ramp design, capacity to handle the traffic volume, or to interact with the weave system leading over the Daniel Webster Highway. He said the DOT had received a substantial level of engineering design and traffic analysis reporting, but it had not made any formal judgments as yet —adding that GPI had a meeting coming up with the DOT to hopefully start getting some response from the DOT. He agreed, however, that what the applicants solved with DOT they also had to solve with the Planning Board — arguing that this was why some of these things had to work in parallel, because they would not make it in sequence.

Town Planner Cashell asked if April 25th was sufficient time to meet this guideline. Atty. Westgate responded that all of the applicants' representatives were nodding their heads. Mr. Cashell asked if this also meant to do the work with the DOT. Atty. Westgate said he did not know about that, saying the applicants needed to present the present state of design to the Planning Board, but he did not know what the DOT's timetable was at this point; he then expressed doubt that the Planning Board's critique of the proposed road system was going to be resolved on April 25th, either.

Town Planner Cashell asked if it were still on the table that the applicants would be paying the Board's consultant's fees. Atty. Westgate answered in the affirmative, saying they had been doing so. Mr. Cashell asked if this included having the consultant at the next meeting. Atty. Westgate answered in the affirmative. Mr. Cashell then asked if the applicants would be prepared to present the plans to staff and the consultant in sufficient time for review for the April 25th meeting. Atty. Westgate said the plans would be portions of the very plans that had already been prepared —the subdivision set and the road plan and profile set; he said he thought all he needed to do was take the application form and label it "Conceptual/Preliminary" —adding that this might cause Atty. Buckley some concern, but he did not think so. He said he thought it

was just a matter of redoing the application and submitting those two plan sets, perhaps with a little bit of narrative, and this could be done very promptly.

Town Planner Cashell said he thought the Board had gotten to where it needed to go, despite a very confusing beginning.

Chairman Barnes affirmed that Atty. Westgate for the next meeting would be bringing in the subdivision plan and the road layout. Atty. Westgate expressed agreement, saying the submissions would be the equivalent of what had been prepared to this point. Chairman Barnes noted that the Board had essentially seen that, in the materials that had already been presented at the January package. Atty. Westgate noted that the site plan submission would not be in the package, saying only the subdivision package would be filed, which he thought was what the Board desired. He said they could verbally discuss what was going to be on the site, if the Board had questions about that, but the focus would be road design and layout.

Chairman Barnes noted that Atty. Westgate at that point would be making a presentation about the roadway layout and the overall subdivision, and would be allowing public input. Atty. Westgate expressed agreement, saying he envisioned talking for 30 seconds and then not speaking again for the rest of that evening — acknowledging that this probably would not happen. He said he would then hand it over to Mr. Petropoulos, who had laid out the subdivision plan, and then the engineers from GPI, who would discuss the road analysis.

Selectman Massey said he wanted to be sure that W/S Development was clear that, when RiverPlace was before the Planning Board, it would be the only item on the agenda, except for some minor items that required very little time. In order for the applicants to meet the April 25th date, he noted, all of the application documents had to be submitted by Tuesday, April 17th. He said he did not want to schedule this meeting for April 25th, when the Board had a large backlog, if the applicants would not be ready. Atty. Westgate said it was merely a matter of reformatting the application and repackaging it with plans that already existed.

Chairman Barnes noted that abutter notification would be required. Atty. Westgate expressed agreement, saying he would update the list and provide it.

Mr. Hall said he would also like to see notification sent to NRPC and the same communities that would be notified if the project were determined to have regional impact, saying he thought this stage of the game was the one of most concern to any communities that would be concerned —especially Nashua and Tyngsborough. Atty. Westgate expressed agreement.

Selectman Maddox asked if the Board had provided all the answers to the questions that Atty. Westgate had posed in his January 19th letter, including that Atty. Westgate wanted to reduce the fees, pay them in percentages, etc. —asking if the applicants understood that the Planning Board was going to treat them like anyone else, and that they were going to pay the fees, whatever they were. Atty. Westgate said the applicants would be pleased to be treated like everyone else —adding that tonight's discussion had not talked about many of the questions he had posed on January 19th.

but that a lot of that was moot, now, and would become relevant only when they got to the formal application stage, so it lay on the table at the moment.

Chairman Barnes asked if there were other things that needed to be discussed.

Mr. Hall expressed a belief that the Building Permit should be voting on what consultant it would use, adding that he personally thought that VHB (Vanasse Hangen Brustlin, Inc.) was the most appropriate choice, not only because the Board of Selectmen had already hired that firm but that its engineers were the most highly qualified and had been the most involved in the aspects to be discussed on April 25th. Mr. Hall then made a motion that the Planning Board retain VHB to act as its consultant with the conceptual phase of the subdivision plan. Ms. Quinlan seconded the motion.

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

Chairman Barnes asked Town Planner Cashell to notify VHB of this action.

Chairman Barnes asked if it were clear where everyone was headed for the next meeting. Atty. Westgate said the applicants were going to file a document called "Conceptual/Preliminary Subdivision Application" and put with it the two plan sets as he had described, adding that they would update the abutter list and add to it the regional impact communities and the NRPC —adding that he might try to put together a narrative to help people go through this first thing. He suggested that the Board members should focus on the package that would be submitted, as that would narrow the discussion — adding that it would be in sooner than April 17th.

Selectman Maddox moved that the Planning Board conduct a conceptual subdivision review of the proposed River Place Development on April 25, 2007. Ms. McGrath seconded the motion.

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

Chairman Barnes noted that the Board had a couple other items to discuss, and he then declared a 10 -minute recess while members of the public departed the meeting place.

A. Growth Management – 2007 Discretionary Certificate Allocation

Chairman Barnes read aloud the published notice, as repeated above, and then asked if there were any questions with respect to the allocation order to Town Planner Cashell's staff report on that subject.

Mr. Russo moved to allocate 41 discretionary certificates to the applicants as listed below in accordance with the process and procedure prescribed in §334 -115.D.(1) through (8) of the Town of Hudson Zoning Ordinances:

<u>No.</u>	<u>Applicant</u>	<u>Certificates Requested</u>	<u>Certificates Allocated</u>
1.	Oblate Retreat (1 st applicant)	10	10
2.	Nadeau Village (2d applicant)	7	7
3.	Wason Heights (3d applicant)	6	6
4.	River Ridge (4 th applicant)	10	9
5.	Riverwalk (5 th applicant)	<u>10</u>	<u>9</u>
Total s:		43	41

Ms. McGrath seconded the motion. Chairman Barnes asked if there were any discussion; none was brought forward.

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

XI. OTHER BUSINESS

Chairman Barnes reminded the members of the Board that the OEP Spring Conference would be held April 28th, in Manchester, and he asked that anyone wishing to attend fill out the application and get it to Town Planner Cashell for registration.

Ms. Quinlan reported that CTAC now had a breakout group for economic development, adding that she had signed up for that because of the possible relevance to the issues surrounding the proposed RiverPlace project. She said she had gone to a morning-long session the previous week and planned to go to another on April 15th, but she would not be able to attend the April 30th meeting and she wanted to know if anyone could go in her place.

Ms. Quinlan referenced the discussion held by the Board of Selectmen the preceding evening at that Board's meeting, and she asked if the Board wanted to discuss the possible revocation of the Stop & Shop site plan. She noted that she had been on the Planning Board when that firm came to town, noting that there had been a lot of discussion about that intersection, which was rated as being at Grade B Failure at that time, and the Planning Board had discussed with Stop & Shop personnel ways in which the intersection could be improved. From reviewing letters to the editor in the local newspapers, she continued, it was apparent that people had continuing concern about the safety of that intersection, adding that the Board had many times in the past expressed its dissatisfaction with respect to the improvements that had been negotiated with the developer. Referring to her notes, she stated that, as part of the negotiations, this Planning Board had asked the developer to provide a benefit to the Town of

Hudson in the form of a ball field that could be used by the youth of Hudson, with this ball field to be built by the applicant at a cost of approximately \$75,000 on the land adjacent to the Stop & Shop property, in the area formerly set aside for the Hudson Circumferential Highway, which was State-owned property, with the applicant having obtained permission from the State to construct the ball field—with the caveat that, in the event that the State subsequently decided to use that area to build the Circumferential Highway, the ball field would be razed by the State when the State took over that property. Ms. Quinlan said the Planning Board had had the understanding that, as long as the State was not going to be using that property for a roadway, the Town would get the ball field, with this being one of the concessions given by the applicant. Now, she continued, she understood from what she had witnessed on the televised broadcast of the previous evening's Board of Selectmen meeting, the Town had communicated five times to the developer, asking if the developer would consider instead allocating the \$75,000 to build the ball field not necessarily on that parcel but on another parcel, elsewhere in the Town of Hudson, and the applicant had refused.

Ms. Quinlan stated that she also wished to express her frustration in that the Stop & Shop firm was leasing the property, which was owned by Manny Sousa and his wife, who were prime developers in the Town of Hudson—adding that she felt Hudson had done very well by Mr. Sousa and Sousa Realty, and she felt that Mr. Sousa was being dishonorable in not living up to his promises to the Town of Hudson and not doing what he had promised. She then moved to invite Mr. Sousa and Stop & Shop representatives to come in to the next available Planning Board meeting and discuss with the Board why the Board should not revoke the site plan approval for the Stop & Shop development, based on their inability to work with the Town and their refusal to respond to correspondence, and the express disavowal of the promises that had been made to the Planning Board. Ms. McGrath seconded the motion.

Selectman Maddox suggested that this motion should be held in abeyance for a couple weeks, stating that Selectman Jasper was contacting the attorney for the property to see if dialog could be initiated. Before invoking the revocation process, which would be painful to the Planning Board, he suggested, he would like to have the time to pursue this other approach. He expressed a belief that there had been a lack of communication on both sides, adding that he would prefer to take up the matter of revocation later, if the other side did not respond. He noted that the Town still held a \$100,000 bond—adding that the estimates for the cost of the ball field ranged from \$75,000 to \$150,000. Noting that it had been discovered later that there was a clause in the agreement that Stop & Shop was to provide \$25,000 if the ball field were not built by a certain date, and also that the Board had received a letter from the then DOT Commissioner that the Town could move forward with the ball field, he said it appeared that not all the t's were crossed nor the i's dotted. He then reiterated his request that the Board hold off for another two weeks.

Mr. Hall said he did not recall that Mr. Sousa was the applicant. Town Planner Cashell said Mr. Sousa owned the property. Mr. Hall asked if Mr. Sousa had put up the bond. Town Planner Cashell responded that Stop & Shop had put up the bond. Mr. Hall then expressed a belief that it was wrong to drag Mr. Sousa's name into this discussion, as he did think that Mr. Sousa had been involved in that arrangement and it was not up to Mr. Sousa to build a ball field. He said that Mr. Sousa had done well by

the town, noting that Mr. Sousa had built the other ball field, as he had promised to do. Mr. Hall then added, however, that he did not see any problem with proceeding with the motion, which was just to ask the applicant to come in and explain why the Planning Board should not revoke the site plan —that it was simply an invitation to come in and discuss the Planning Board's understanding of what the conditions were with respect to the site plan and why the Board should not move forward with revocation. He suggested that this action might get more attention than just talking to the attorney, adding that he would like to go forward with the motion.

Selectman Massey stated it was not Stop & Shop that had failed to execute the agreement, stating that the Town had received the letter from the DOT saying the Town could use the property but with the understanding that the State reserved the right to sell the property —on which basis the Board of Selectmen had entered into an attempt to ask Stop & Shop if that firm would be willing to look at another piece of property. He said he did not consider Stop & Shop as being unwilling to build the ball field, but the firm had failed over the course of the past year and a half to respond to his two letters as past Chairman of the Board of Selectmen, as well as one or two letters from Selectman Maddox when he had been the Chair.

Mr. Cole said he believed that the development agreement had a clause that \$25,000 would be contributed to the Recreation Department fund if the ball field were not built by a certain date. Subsequent to that, he said, the Selectmen had received the letter from the DOT about the availability of the property, at which time the Town had negotiated with Stop & Shop to get the bond. He said he agreed with Selectman Massey that the Town had not built the ball field, and the due date of October 2006 had come and gone. He then expressed a belief that Stop & Shop had made its \$25,000 contribution to the Recreation Department. Selectman Massey demurred, stating that the \$100,000 bond still existed —adding that what the applicant had done was request return of \$75,000 from that bond. Mr. Cole expressed surprise that “the business men” had not immediately jumped on the \$25,000 “kick -out” clause. He then expressed a belief that the Town did not stand a chance of getting the \$75,000, saying the Town should take the \$25,000, as it would lose in court.

Mr. Carroll asked, if the Board let the \$75,000 fall through its fingers because the use of that land was transient to the completion of the Circumferential Highway, what would be the reasoning for not trying to execute against that location and build the ball field. He suggested going back to the original agreement and seeing if the applicant would be willing to honor it.

Ms. McGrath noted that the motion on the floor, as recorded by her, was that Ms. Quinlan had moved to invite Mr. Sousa and the representatives from Stop & Shop to discuss whether the site plan should be revoked due to the failure of the applicant to abide by its agreement, as a condition of site -plan approval, to construct a ball field or contribute the monetary value.

Selectman Maddox, responding to Mr. Cole's statements, said the Board of Selectmen had had the Town Attorney look at the agreement, adding that the Selectmen were of the mind that they did still have the right to still get the ball field. He

again expressed a desire to wait a little longer before going through the revocation process.

Town Planner Cashell expressed concurrence with Selectman Maddox, saying the matter was being handled effectively by Town Counsel and should not be put on a burner at this point.

Ms. Quinlan said her only concern would be whether the Town was under the gun because the applicant was saying that the Town had not built the ball field. She said that inviting the applicant to come in would be an indication that the Town was going to take action. She expressed concern that the proposed discussion between Selectman Jasper and Atty. Holl might not take place in the needed time frame, saying she agreed with Mr. Hall that there was no harm in having the applicant come in for a discussion to see if something could be worked out. She said the townspeople had been expressing concern about when the Town would get the ball field, as well as expressing distrust about the Planning Board's ability to get these amenities. She said the ball field was one of the reasons why she had voted in favor of approval of the plan, and she felt it was important to have a dialog with the applicants.

Selectman Massey said it was his understanding that the clock would start ticking when the Town told Stop & Shop to start to build. He reiterated, however, that it was not that Stop & Shop had said it would not build the field; instead, the Town had not given Stop & Shop the green light to go build it on a specific piece of land. Once the Town learned that long-term use of the land was problematic, he continued, the Town had not been able to get the applicants to respond to the question of whether they would consider constructing the ball field in another part of town, which was what Selectman Maddox had been referring to.

Town Planner Cashell said he really believed that Manny Sousa had nothing to do with this particular issue, as Mr. Hall had said, but it was probably better to build the ball field in another location —adding that it probably would have been a better approach to try to extract a sum of money for a recreation field associated with that project but built elsewhere.

VOTE: No further comment being brought forward, Chairman Barnes had Secretary McGrath read the motion aloud again, and he then called for a hand vote on the motion. Ms. Quinlan, Ms. McGrath, and Mr. Turcotte voted in favor; Selectman Maddox, Mr. Hall, Mr. Russo, and Mr. Barnes voted in opposition. Chairman Barnes then declared the motion to have failed (3-4).

XII. ZBA INPUT ONLY

No **ZBA Input Only** items were scheduled for this night's meeting.

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XIII. ADJOURNMENT.

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

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor (7-0).

Chairman Barnes then declared the meeting to be adjourned at 9:12 p.m .

Date: May 11, 2007

James Barnes , Chairman

J. Bradford Seabury, Recorder

Marilyn McGrath , Secretary