

-- DRAFT COPY --

**HUDSON PLANNING BOARD
MEETING MINUTES
September 13, 2006**

I. CALL TO ORDER

Chairman Barnes called this Planning Board meeting to order at 7:04 p.m. on Wednesday, September 13, 2006, in the Board of Selectmen's meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

Chairman Barnes led the assembly in pledging allegiance to the Flag of the United States of America.

III. ROLL CALL

Chairman Barnes asked Ms. McGrath to serve as Acting Secretary until the arrival of Ms. Quinlan and 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, Richard Maddox (Selectmen's Representative), Vincent Russo (arrived at 7:16 p.m.), Jeff Rider (arrived at 7:20 p.m.), and Suellen Quinlan (arrived at 7:21 p.m.).

Members

Absent: None.

Alternates

Present: Richard Turcotte, William Cole, and Ken Massey (Selectman's Alternate Representative).

Alternates

Absent: Thomas Murphy (Excused).

Staff

Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Barnes seated Mr. Turcotte in place of the tardy Mr. Rider and seated Mr. Cole in place of the tardy Mr. Russo.

V. MINUTES OF PREVIOUS MEETING(S)

Chairman Barnes noted that there were several sets of Planning Board meeting minutes to review in tonight's packet, pertaining to the meetings of, February 1, 2006; May 10, 2006; May 24, 2006; June 14, 2006; June 28, 2006; July 12, 2006; and July 26, 2006. He then stated that, because of the full agenda for tonight's meeting, the Board would review those minutes at a future Planning Board meeting.

VI. CORRESPONDENCE

Chairman Barnes noted that items of correspondence received in tonight's handout packet would be taken up in conjunction with the associated cases, with any remaining items being taken up under **Other Business** at the end of the meeting.

Chairman Barnes stated that without objection, he wanted to take up **Old Business** item A, Mary Farm Trust LLR, out of order. Hearing no objection, Chairman Barnes proceeded with that item.

VIII. OLD BUSINESS

A. Mary Farm Trust LLR SB# 13-05

Map 243/Lot 032
17 Richman Road

Purpose of Plan: To request a deferral for plan review until applicant acquires variance(s) from the Zoning Board of Appeals. Applicant proposes a lot-line adjustment between Tax Map 243, Lot 32 and Tax Map 243, Lots 24-1 and 24-2. Hearing. Deferred Date Specific from the July 12, 2006, Planning Board Meeting.

Chairman Barnes read aloud the published notice, as repeated above. He noted that the applicant had requested in writing that the case be deferred to the December 13, 2006, Planning Board meeting.

Selectman Maddox moved to defer further review of the Mary Farm Trust Lot Line Adjustment and Land Transfer Plan application, date specific, to the December 13, 2006 meeting. Ms. McGrath seconded the motion.

Ms. McGrath asked if the abutters had been notified regarding the applicant's request for deferral, noting that the Planning Board had requested that action. Chairman Barnes and Town Planner Cashell both indicated that they did not know if the abutters had been notified. Ms. McGrath said she would have to assume that the abutters had been notified—adding that, she would have to vote to deny the applicant's request for deferral if she knew they had not been notified.

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 (6–0).

VII. CONCEPTUAL REVIEW ONLY

A. River Place (aka Green Meadow Golf Course) Map 239/Lot 001 CSP# 03-06 43 Steele Road

Purpose of Plan: Conceptual Master Plan Presentation for a planned “Life-Style” Center (office buildings, resort-style hotel, retail outlets, cinema complex, restaurants, outdoor parks, amphitheater, outdoor ice rink, river walk, public boat launch, limited residential development, etc.)

Chairman Barnes noted that the applicant’s presentation was scheduled to last about 45 minutes, adding that the applicant’s presentation would be followed by questions and comments from the public and members of the Board.

Mr. Robert Fraizer, Vice President of Development with W/S Development Associates, said a lot of work had been done since the March meeting. He said the goal was to make it a very responsible development. He said over two dozen environmental agencies had been on the site. He said the traffic issue had been worked on extensively, noting that many traffic consultants had worked on the traffic study, and adding that consultants had worked on the exterior of the project as well as the interior of the project. Mr. Fraizer then introduced Mr. William Tucker, Jay Leonard, Richard Askin (W/S’s Director of Planning), David Chilinski, and Ed Vidra (W/S’s Project Manager for the development).

Mr. Russo arrived at 7:16 p.m. and took his seat at that time.

Mr. Richard Askin said the bulk of tonight’s presentation would be about the Master Plan. He said he and David Chilinski, of the firm of Prellwitz/Chilinski Associates, Cambridge, Massachusetts, would make that part of the presentation. He noted that that Mr. Chilinski’s firm had been involved with the development of the Quincy Market/Faneuil Hall project, had also worked on Harbor Place in Baltimore, and was currently also working on a project in Conway, New Hampshire.

Mr. Askin started the visual presentation with a map of Hudson that showed the location of the property. He talked about the conditions of the site—i.e., vegetation, lay of the land, etc. He said the property was located near the Sagamore Bridge Road, adding that direct access to the property from that road would be proposed.

Mr. Rider arrived at 7:20 p.m. and Ms. Quinlan arrived at 7:21 p.m., with both taking their seats at the table.

Mr. Askin said the key component of the Master Plan would be retail space, noting that retail projects were what W/S Development did. He defined “life-style retailing” as

better quality retailing with good architecture, open air walking environments, etc. He said those types of developments were personified in Hingham, Massachusetts, at the Derby Street Shops, and in Canton Connecticut, at Shops at Parkinton Valley.

Mr. Askin said that the vision for River Place was for it to be a responsible development. He said the Master Plans posted on the display boards at either side of the room were either scaled at 100-inches to the foot or 200-inches to the foot, explaining that the image on the screen was not to scale but that it was the same image as the plans posted on the boards. He said the plan was consistent with the plan presented at the March meeting. He noted that the north side of the plan was shown on the right side of the board/screen.

Mr. Askin pointed to the proposed access-ramp intersection on the far right side of the plan, adding that the road connecting the ramp to the property would be called River Place Boulevard. He said the boulevard would relieve traffic from Route 3-A and would provide direct access onto the property. He said there would be three signalized intersections on the boulevard. He explained that the Master Plan was made up of many layers, including a streets diagram, a parks and parking diagram, a places diagram, and a sidewalks diagram.

Mr. Askin said the boulevard was shown in a bright red color. He said there was a hierarchy of streets, adding that the existing Vectron Drive would intersect the boulevard. He said the orange-colored roadways created a grid across the rectangle of the property and that the hierarchy of roads would provide drivers with a sense of orientation and the ability to get off-site or to find a destination on-site in an efficient manner.

Mr. Chilinski referenced the parks and parking layer of the Master Plan. He noted that Main Street was shown in yellow and that that part of the property would be a pedestrian environment. He pointed out the retail, office, hotel, and residential areas of the plan. Mr. Askin said there were different types of retail on the site, stating that the retail use would consume 900,000 ft². He said the theater component would consist of a multi-screen, 3,400-seat stadium-seating complex. He said leasing was on-going, but that there were three types of retail: Main Street, anchor retail stores, and convenience retail pods. Noting that the overall parcel was about 390 acres in size, he said another component of the project would be office space, adding that office buildings could be located in several places on the site, but he also noted that the market for office space was weak at this time. He said another component of the project would be residential, noting that the residential component had been reduced significantly since the March meeting. Mr. Askin said there would also be a hotel component.

Mr. Chilinski stated that the yellow area was office, retail, etc., while the rest of the space would be a public realm. He said the major components of that realm, the parks and parkways, would be a waterfront park, golf, hiking trails, etc., adding that streets would be tree-lined with ponds and other landscaping features. Mr. Chilinski said the next layer of the public realm would be streets and sidewalks, noting that different neighborhoods would be created. He said there would also be the possibility of an ice rink.

-- DRAFT COPY --

Mr. Askin noted that there would be an on-site management team. He then showed pictures of other life-style developments created by W/S Development, adding that the skating rink was a real possibility. He said sidewalks would be built of various materials, and he showed pictures of sidewalk scenes.

Mr. Frazier noted that Atty. Gerald Prunier would be working with Atty. Andrew Prolman on legal issues, while Mr. Sutton would be working on the fiscal issues associated with the project. Mr. Frazier said the project would eventually generate about \$8,000,000 of annual tax revenue to the community and might account for 2.5 million dollars worth of municipal services, meaning that the net benefit to the community could be \$5,500,000 in annual revenue.

The applicant's presentation having been completed, Chairman Barnes opened the meeting for public input and comment, in favor or opposition.

Selectman Maddox read questions from the overflow audience assembled in the Community Development room and watching the proceedings via television.

The first question stated that the applicant kept talking about conceptual plans, saying that they would not reflect the final project. Stating that this was very worrisome and amounted to nothing more than smoke and mirrors, the questioner asked when the applicant would be definitive. Mr. Frazier said it took a lot of input from a lot of people for a project of the size proposed. He said it was not smoke and mirrors, explaining that what was being presented at tonight's meeting was a vision for the project.

Mr. Jim Whitten, 12 Linder Street, said he had not been contacted about a buffer zone. He said it would be useful if the applicant would commit to a buffer zone for everyone who abutted the site. He then asked how he could be assured that the applicant would stick to the plan, commenting on the fact that one of the applicant's representatives had talked about a weak office market, and he asked what would happen to the plan if the office market continued to be weak. He also asked about the cost of additional sewage and water, asking if his taxes would go down. Mr. Frazier said it would be up to the Town to figure out where the revenue would go. He said the Town water and sewage facilities would be expanded, reporting that the applicant was working with the Town on those issues. He said they were currently working on plans and permits. He said the plan approved would be the plan. He stated that the applicant would meet with all the abutters but noted that summer was a tough time to do it, and he suggested that this could happen within the next 30 to 60 days.

The next question from the other room stated that traffic would increase as a result of the project and asked if the traffic plan would include a traffic signal at Chalifoux Road. Mr. Frazier said he was not sure about that. He said that would be addressed when specific issues were addressed, adding that this phase of the project would take place in about three months.

Ms. Connie Owen, 3 Bruce Street, asked how the public could get access to the reports from meetings with interested parties—e.g., the Conservation Commission. Mr. Frazier said Sherry Flynn would put that information on "Inquest." Ms. Owen said she had not been able to get to the Inquest link after the March meeting, adding that she had followed all of the directions. Selectman Massey said he had been working with

the Community Development Director to create a link from the Town Web site that would allow the public access to documents pertaining to the project. He said those documents not suitable for the Web would be available to the public at the Community Development Department.

Ms. Owen expressed sadness about the prospect of destroying 375 acres of beautiful land in order to get a few linear parks along the river. She asked if Hudson really needed the type of development that was being proposed. She said the project sounded almost like a grownup Disneyland. She said the concept was artificial and was a sad kind of a thing. Mr. Frazier stated that the Friel family had made a business decision to sell the property, adding that the applicant's team had been working hard for a year to create a project that the entire Town could be proud of. He suggested that the public visit one of the existing life-style centers. He pointed out that the Town had had the opportunity to buy the property but had decided not to buy it. Ms. Owen strongly suggested that the Planning Board and the Board of Selectmen check communities where developments of the type being proposed for Hudson had not been welcomed.

The next question from the other room asked about a senior center. Mr. Frazier questioned whether this would be the place for such a use. He suggested a police substation might be a better choice.

Ms. Kathy Leary, 8 Par Lane, asked about the traffic that would come from Nashua. Mr. Frazier said that had not been decided yet. Ms. Leary said that one of the members of the applicant's team had said during the presentation that the bulk of the traffic would come from Nashua. She said her concern was that all of the traffic from the Hudson side of the river was not being addressed. Mr. Frazier said the applicant's team had been working for the past six months on counting traffic from all directions, at 31 points. He said a traffic plan would be developed after the traffic counting had been completed, adding that the NRPC was also providing input. Ms. Leary expressed a belief that the roads around the project would have to be widened.

Ms. Joann Walsh, 2 Eagle Drive, said no one had addressed all the people who would come up from the south on Route 3-A. Mr. Frazier said the team would be addressing that problem. Ms. Walsh said widening Route 3-A would mean taking people's property. Selectman Massey said that the issue of local traffic concerns was addressed at the last DOT scoping meeting. He said additional intersections and roadways were being added to the overall traffic impact analysis, and he noted that several locations that had been talked about would be included. Chairman Barnes said the Planning Board had to recognize that the project would not just impact Hudson and had to take input from surrounding towns into consideration.

Selectman Maddox read aloud the next question from the other room. The question asked for a definition of "convenience retail." Mr. Frazier said those types of stores were stores such as dry cleaners, grocery stores, camera stores, etc., adding that stores like 7-11s would be filtered out. He said the anchor stores might include stores like Barnes & Noble, Coles, Target, Dicks, etc.

-- DRAFT COPY --

Selectman Maddox followed up that question by asking if the stores would be able to be seen through the woods. Mr. Frazier said buffers would be included on the plan and additional buffers would be added where anchor stores would be located.

Mr. William Marsh, 3 Fairway Drive, asked how wide the buffer would be. Mr. Frazier said it would be 150 feet wide. Mr. Marsh asked what he would see when he looked out his patio. An unidentified member of the applicant's team stated that plans describing the applicant's intentions had been distributed to about ten abutters, adding that a berm would typically be constructed with large trees on top of it. He then stated that the buildings in the development would not be able to be seen from Mr. Marsh's patio. Mr. Marsh expressed concern about noise. Mr. Frazier said that was something that would have to be included in the plan through lease agreements and would also be included on the plan as stipulations of approval. Mr. Marsh said traffic would also be an issue.

Selectman Maddox stated that the next question from the other room centered around what the applicant said "could be done," noting that the applicant always qualified that statement with "but we're not making any promises." Selectman Maddox read the question as follows: "Will you be putting what you are planning to do for the abutters in writing, clearly defined as to buffers, dust, and all the things you've just talked about?" Mr. Frazier said that was a good idea, stating that the applicant had worked with the abutters in other developments to meet their needs. He talked about berms, buffers, etc., concluding by stating that the applicant would be willing to transpose commitments into an agreement with individual neighbors.

Mr. Dan Cronier, 5 Birdie Lane, asked if the Town of Hudson had a Master Plan that spanned many years. Ms. Quinlan said it did and that it was available at the Hills Library and at Town Hall. Selectman Maddox said it was also online at [HTTP://NASHUA.RPC.ORG](http://NASHUA.RPC.ORG). Mr. Cronier asked if the property had been purchased. Mr. Frazier answered in the negative. Mr. Cronier asked when it would be purchased. Mr. Frazier said it would be purchased when the plan was approved and the tenants were approved, adding that a time-line was in progress.

The next question from the other room asked why the anchor stores on the Master Plan did not allow for the move of aesthetically pleasing parts of the project. Mr. Frazier said the larger anchor stores were near the rear of the project to give the smaller retailers more exposure. He said he did not think a big box store would be pleasing right at the entrance to the site.

The second part of the question asked if there would ever be single-family homes built on the river. Mr. Frazier said he did not think so, based on the cost of the land.

Mr. Campbell Gibson, 31 Fairway Drive, said his property backed up to the Merrimac River, stating that he was concerned about how far the river walk would go. Mr. Frazier said it might continue quite far. Mr. Gibson said he did not want the walk to go through his property, contending that it would not go through it. Mr. Frazier stated that how Mr. Gibson's property was used was up to Mr. Gibson. Mr. Gibson also expressed concern about the traffic on Route 3-A if toll booths were built on the Massachusetts/New Hampshire line. Ms. Quinlan stated that plans for those toll booths had been removed by the NRPC when it was determined that the Circumferential Highway would not be

-- DRAFT COPY --

constructed. Mr. Gibson asked about sewage. Mr. Frazier said it would be preferable if the site could tie into Hudson's municipal sewer system.

Mr. Lennie Leone, 19 Fairway Drive, said his concern centered on the south side of the property, close to the Merrimac River. He said the original Master Plan showed that entire side of the property as residential. He said the buffer zone that he and others on Fairway Drive and Eagle Drive were used to was 400 acres, noting that the first plan he saw had a buffer zone of 200 to 300 feet. He said he was in favor of the mall but thought that there should be a minimum buffer of 400 feet, and he proposed that a 400-foot buffer be deeded to the Town or the property owners. Mr. Leone said there was a lot of wildlife in the area. He said he went out and measured a 150-foot buffer, declaring that he could hear a match being lit at that distance. He said he used a tape measurer and had determined that a minimum of 400 feet was needed. Mr. Frazier said he could not provide an answer to that request at tonight's meeting because of the cost of the land, but he said it would be taken into consideration. Mr. Askin said the design of the buffer should be taken into consideration, in addition to its linear size. He said the team would be visiting individuals, noting that each resident had particular concerns. Mr. Frazier said the buffer would be recorded as a restricted easement.

Chairman Barnes noted the intent had been to go until 9 p.m. and that time had already passed. Ms. McGrath said she thought the Board should take a 10-minute break and that the members of the public should be allowed to ask additional questions after the break, adding that the members of the Board could ask questions once all the public questions had been answered. Selectman Maddox commented that there were at least three other items on tonight's agenda.

Chairman Barnes declared a break at 9:14 p.m., calling the meeting back to order at 9:21 p.m.

Mr. James Crowley, 4 Fairway Drive, said the Town had already set precedence regarding berms and anchor stores. He said the berm over at the Wal-mart store was 42-feet high with an eight-foot stockade fence on top of it. He said he felt that the residents in his area should be treated the same as the residents around the Wal-mart site. He asked if the roads would be public or private, noting concerns about emergencies and law enforcement. Mr. Frasier pointed to the boulevard, saying it would be a Class 5 public road. He pointed to other roads, saying they would be built to almost the same standard. He said those roads would be private as far as maintenance and upgrading. Mr. Crowley said the applicant might have problems with green-space requirements and wetlands. Mr. Frazier said the engineers would work out those details. Mr. Crowley said he was bringing these issues up so that, when the project got to the Application Acceptance phase, those issues would have already been worked out.

Mr. Crowley asked if the street continuance on Steele Road had been mentioned. Chairman Barnes said the Board of Selectmen would have to be involved with that issue. Selectman Massey noted that the members of the Planning Board and the Board of Selectmen were attending a seminar regarding roads on November 8th. Mr. Crowley asked about traffic law enforcement. Mr. Frazier said violators would be

-- DRAFT COPY --

ticketed. Chairman Barnes said the Board of Selectmen controlled Town roads. Chairman Barnes said the Planning Board would control signs, etc.

Mr. Crowley asked about the phases of the project. Mr. Frazier said the first phase was currently in progress, adding that he thought the Phase One plan would be ready this fall.

Mr. Crowley expressed hope that abutters would be notified at least 15-days before the Phase One plan went before the Planning Board. Chairman Barnes said the process would be a long one and that the Planning Board would definitely not approve the project in one meeting. Mr. Crowley said the plan showed a lot of activity along the shoreline, and he noted that the NH Protection Act might severely limit what the developer could do along the shoreline. Chairman Barnes stated that permits, special exceptions and the like were all things that had to be addressed. Mr. Crowley expressed hope that the public would be kept informed as to what was happening with the project.

Mr. Rick Wickham, 22 Chalifoux Road, said he was concerned about property values outside of the plan. Mr. Frasier said, generally speaking, property values in the neighborhood of the other life-style centers had gone up. Mr. Wickham said the infrastructure development would affect everyone in Hudson. He said he wanted to see a plan for when the projected cash flow from the project would find its way into the Town's balance sheet. Mr. Fraizer said a plan that would address the impact on the Town was due out in a couple weeks. He said the applicant had agreed to pay for a 3rd-party expert to review what the applicant's experts provided to the Town.

Mr. Ed Thompson, 22 Burns Hill Road, asked how the base-line traffic study would be done. Mr. Frasier said there were seasonal adjustment factors that would be taken into account when the traffic study was done.

Selectman Maddox said there was a request from the other room asking that the Planning Board restrict hours of construction, etc.

Mr. Robert Walsh, 2 Eagle Drive, asked if the traffic study incorporated accident data. Mr. Frazier answered in the affirmative. Mr. Walsh claimed there was an accident every day on the Tyngsboro Bridge.

No further input being brought forward from the attending public, Chairman Barnes asked the Board members for questions and comments.

Ms. McGrath asked where the southerly access onto River Road would be. Mr. Askin said it was south of the driving range, on the Braccio property. Ms. McGrath asked if the Department of Transportation had suggested that location. Mr. Frasier responded that the Department of Transportation had not liked the previously proposed T-intersection.

Ms. Kathy Leary, 8 Par Lane, asked if there would be an access road at the Golf and Ski Warehouse location. Mr. Frasier said that plan had been modified with the future acquisition of the Braccio property, adding that access to the property would be from Route 3-A to the connector.

-- DRAFT COPY --

Ms. McGrath expressed concern that a big anchor store such as Ikea would add tremendous traffic problems, as had happened with the Ikea store in Massachusetts, and she said she felt that the Planning Board should consider that possibility. Mr. Frazier said that sort of thing happened when retailers held special events. He said that the area in which the Ikea store in Massachusetts was located only had one access in and one access out. Ms. McGrath said River Road had very limited capacity for handling traffic.

Ms. McGrath said she had been to Settlers Green, a project that one of the applicant's team members had been involved with, and to the Hingham facility, noting she much preferred the Hingham site to the Settlers Green project.

Ms. McGrath stated that five members of the Planning Board lived in the south end of Town, and she assured the attendees and television watchers that the traffic concerns would be taken very seriously.

Ms. Quinlan said she was very excited about the project. She said the Planning Board could not restrict how land-owners used their land, providing the plans were in compliance with Town regulations. She said this project had a lot to offer. Addressing the request for a 400-foot buffer, she said a 400-foot buffer would be viewed as extortion by the courts, noting that the Town regulations called for a 100-foot buffer. She said the Planning Board could not look at how a plan affected property values, adding that the Zoning Board of Adjustment dealt with those sorts of things. Ms. Quinlan said the Planning Board could not have a dead-hand control over the tenants, but that it had to anticipate the traffic needs of the area. She said the Planning Board had no control over roads, adding that roads were the responsibility of the Board of Selectmen. She expressed hope that the Planning Board and the Board of Selectmen would meet to discuss road improvements in the area of the proposed site. She then concluded by expressing a belief that the project would be a great benefit for the town.

Selectman Maddox said the traffic issues would drive his input. If the traffic problems could not be addressed, he continued, he would not support the project. He then concluded by stating that he felt the project was too much for Hudson.

Chairman Barnes asked the applicant what the next step would be. Mr. Frasier said there were a lot of agency issues to deal with. He said he hoped they could come back before the Board in this fall.

Selectman Massey, noting that the developers had said they were going after better quality retailers, stated that he had counted over 100 stores in the right quadrant of the plan. He said he found it difficult to imagine that the developers would find 100 "better quality" stores to fill those spaces. He said he would be interested in seeing Plan B, in case the Town voted not to allow the type of residential plans the developer was proposing for the site.

No further questions or comments from the Board being brought forward, Chairman Barnes thanked the applicant's team for coming in and thanked the public for attending the meeting. He then declared a short break so the room could be cleared.

Chairman Barnes recognized and seated Mr. Rider, Mr. Russo, and Ms. Quinlan at their regular seats as voting members of the Planning Board at this time, noting that Mr.

Turcotte and Mr. Cole were returning to their non-voting positions as alternate members of the Board. He also noted that Mr. Cole had been appointed as an alternate to the Planning Board at the past Monday night's Board of Selectmen meeting.

VIII. OLD BUSINESS

**B. Tip-Top Tree Service –SP# 10-06 Map 161/Lot 55
(Existing Conditions) 1 Clement Road**

Purpose of Plan: To conform to Zoning Board of Adjustment stipulation to submit a Site Plan to Planning Board, and to update existing conditions. The only proposed work is tree planting for screening. Hearing. Deferred Date Specific from July 12, 2006, Planning Board Meeting.

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

Chairman Barnes asked Mr. Cashell if there were any updates regarding this case. Mr. Cashell said he thought that all remaining issues had been addressed, adding that each of the issues were addressed in tonight's staff report.

Mr. Dave Buhlman said he was in attendance at tonight's meeting to present the plan on behalf of the applicant. He displayed two plans, stating that Plan B, shown in blue, was the plan the Zoning Board of Adjustment had seen and approved for dual use. He identified the date on Plan B as October 30, 1998, and he then identified Plan A as Revision 1, dated August 15, 2006. He said that Plan A was the plan that the Planning Board had seen at the last meeting, explaining that Plan A was the same as Plan B except for the addition of material storage bins and additional plantings. He noted that photos were included in the package. He said there had been a garage and gravel parking area shown on Plan B, explaining that they had not been built and that there was no intention to build them. He said there was an additional 55 feet of setback along Route 111, beyond the buffer wall, adding that the largest use on the property was open space, at 45 percent.

Chairman Barnes asked if the members of the Board had questions or comments.

Selectman Maddox asked if there would be a sign on Plan A. Mr. Buhlman answered in the negative.

Mr. Hall asked if the plan would be recorded. Mr. Cashell answered in the negative—explaining that, in accordance with the actions of the Board at the last meeting, condition number one had suggested that the plan only be recorded with the Community Development Department. Chairman Barnes said the purpose was to meet the Zoning Board of Adjustment's requirement of having a plan and having that plan on record in the Town.

Mr. Hall said he could not vote to approve the plan but could vote to accept it. He said a number of waivers would be required in order to obtain approval, adding that he

did not think the Planning Board would approve the waivers even if they were requested.

Ms. Quinlan asked if accepting the plan was all that was required. Mr. Hall said he thought that was the case. Ms. McGrath said that the minutes of the Zoning Board of Adjustment meeting of May 28, 1998, stated that a motion was made to grant an area variance with the stipulation that the applicant would go before the Planning Board and that all Planning Board recommendations be documented on the site plan and that the property comply with all site plan regulations. Mr. Hall stated that the site could not comply with all of the regulations.

Mr. Cashell said the conflict was that the plan the applicant had submitted to the Zoning Board of Adjustment showed business activities taking place on the site. He said the Zoning Board of Adjustment was allowing a residential use on the site in addition to the business use, and the applicant had been requested to appear before the Planning Board with a plan. He said it was more of a courtesy call on the applicant's part.

Mr. Russo expressed confusion, saying that the variance was granted with Stipulation 1 requiring Planning Board review and approval. Mr. Cashell noted there were no permanent structures being proposed, and he questioned why the applicant would have to appear before the Planning Board. He said the applicant was given permission for the dual use and had not proposed any additional permanent structures.

Ms. McGrath referenced Page 9 of the May 28, 1998, Zoning Board of Adjustment minutes, stating that the applicant's attorney had interrupted an abutter and stated that his client had to go before the Planning Board. Ms. McGrath noted that the applicant's attorney had said his client would meet with the Planning Board and would be willing to meet any legitimate concerns of the Planning Board. She said she felt that testimony had been taken into consideration when the variance was granted. She said she did not have a problem accepting the plan but that she was worried that the Planning Board might be setting a precedent. She said she felt that the Planning Board might want to consult Town Counsel on the issue before taking further action.

Mr. Russo said he did not have a problem with the use but that he was concerned about a dump truck on the site, with the truck body raised above the wall, presenting a sign advertising firewood. He said that was not represented on the plan—or whether it was temporary. Mr. Buhlman said it was temporary. Mr. Russo said he thought the sign was “tacky.” If signage were needed, he said, he would want it to be approved by the Planning Board. Mr. Buhlman suggested that a condition of acceptance be that the applicant take the truck-body sign down.

Mr. Buhlman said he felt the stipulation was put in by the Zoning Board of Adjustment because of the proposed building and parking lot. He reiterated that neither the garage building nor the parking lot was ever built.

Selectman Maddox moved to defer further review of the Tip-Top Tree Service Plan, date specific, to the October 25, 2006, Planning Board meeting in order to get legal opinion on Planning Board action. Ms. McGrath seconded the motion.

Mr. Hall said he did not think the attorney would give an answer that would say anything. He said he thought the Planning Board should just accept the plan and let someone else deal with the issue.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor except for Mr. Hall and Chairman Barnes, who both voted in opposition. Chairman Barnes then declared the motion to have carried (5-2).

IX. NEW BUSINESS

A. Whitney Subdivision SP# 13-06

Map 101/Lot 16
3 Tracy Lane

**Purpose of Plan: Subdivide tax map 187, Lot 3 into two (2) buildable lots.
Application Acceptance & Hearing.**

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

Chairman Barnes asked Mr. Cashell if the plan were ready for Application Acceptance. Mr. Cashell asked if both owners had signed the plan. Mr. Craig Bailey, Professional Engineer, of Brian Bailey Associates, LLC, appearing before the Board as the engineering representative of the applicant, said they had not but that they were both in attendance at tonight's meeting. Chairman Barnes asked the owners if they were both willing to sign the plan at tonight's meeting. Both owners answered in the affirmative. Mr. Cashell said there were a couple of minor issues that needed to be addressed but that he would recommend that the Board accept the plan. Ms. McGrath asked what the minor issues were. Mr. Cashell said the CAP fee was not shown on the plan, adding that he was not sure if the applicants were aware of Mr. Burn's request for a larger right-of-way.

Ms. McGrath said another problem might be that there were not large size plans available for the members of the Board. Selectman Maddox noted that large-size plans were part of the check list. Ms. McGrath said that the applicant's representative should have been aware of the check list, adding that she would have a problem voting for application acceptance because all other engineers and attorneys that appeared before the Planning Board were held to the check list.

Selectman Maddox said the plans that had been distributed at tonight's meeting were different than the plans in tonight's packet. Mr. Hall concurred, declaring that there were huge differences between the plans.

Chairman Barnes noted the concerns about the checklist not having been completed and the differences in the plans being presented.

Mr. Bailey suggested that a design review be held. Chairman Barnes expressed agreement, and he suggested that Mr. Bailey present a conceptual plan.

Mr. Bailey said the waivers had been requested, adding that he felt that the plans were ready for acceptance at tonight's meeting. Selectman Maddox said he did not see a waiver request in the packet. Chairman Barnes said it was in the form of a letter, rather than on the usual form.

Chairman Barnes said he wanted to conduct the presentation as a conceptual at tonight's meeting. Mr. Bailey said that, if the waivers were accepted by the Board, he wanted to go for an acceptance hearing at tonight's meeting. Chairman Barnes said the process was to do the application acceptance, then a public hearing, address concerns, and then consider the requested waivers. If the waivers were in the application form, Mr. Bailey said, then the plan could be accepted. Chairman Barnes reiterated the process followed by the Board.

Ms. Quinlan expressed agreement with Chairman Barnes. She said the plans distributed at tonight's meeting were not the same as those in the packet, saying she could not vote for Application Acceptance at tonight's meeting.

Mr. Cashell noted that the original plan said two lots but the new plan said four lots. Mr. Barnes said that was getting into the details, reiterating his desire that the applicant's representative give a conceptual presentation.

Mr. Cashell noted that Town Engineer Sommers had agreed to review the plans.

Selectman Maddox said he would agree to treat the plan as conceptual.

Mr. Bailey said the property was at the intersection of Gibson Road and Hawkview Road. He said the lot was about 13 acres in size, with a considerable amount of wetlands. He said the applicants wanted to subdivide the large lot into two lots, but that eventually the applicants would be requesting a four-lot subdivision.

Mr. Russo stated that he did not think that the four-lot plan was what was on tonight's plan. Mr. Bailey expressed agreement. Mr. Bailey said the Whitneys wanted to go forward with a two lot subdivision at tonight's meeting, which would create a single lot around the farm house, noting that he had labeled that as Tax Map 187, Lot 3 (new). He said that next month, when the applicant returned, the two-acre lot would be shown with the 10+-acre lot wrapping around it.

Mr. Russo said he thought the Board should defer the plan. Chairman Barnes suggested that the applicant's representative be allowed to finish his presentation.

Mr. Bailey asked if the plan were confusing to the Board members. Chairman Barnes said that it was. Mr. Hall said the applicant was making the process as difficult as possible; he then asked Mr. Bailey about the frontage on one of the lots, noting that the Community Development Department would probably not allow the frontage as shown on the plan. Mr. Hall urged Mr. Bailey to discuss the plan with Community Development Director Sullivan. Mr. Bailey said he had been before Mr. Cashell twice and that they had poured through the regulations and could not find any reason why the plan was against the ordinance.

Mr. Bailey said the applicants wanted to create a two-acre lot around the farm house, separate the farm house from the major lot, possibly improve the building, and

then, at a later date, create the two-acre lot just south of the farm house, and create a large lot near the beaver pond and then the fourth lot, which the applicant intended to front on Hawkview Road. He said wetlands were a challenge, noting that the State Wetlands Bureau would have to be involved with two crossings.

Referring to the earlier discussion about frontage, Mr. Rider referenced the 2005 Hudson Zoning Ordinance, noting that the last line of the definition of *frontage* stated that frontage shall be capable of providing access. If the wetlands blocked the frontage, Mr. Rider stated, access would not be possible. Mr. Bailey said that paragraph could be argued. Chairman Barnes said that it could not be argued successfully, and he recommended that Mr. Bailey talk with Director Sullivan. Mr. Seabury, a member of the Zoning Board of Adjustment, noted that this issue had gone to court with respect to another property, with the decision being in favor of the Town's interpretation.

Chairman Barnes noted that an existing well was shown on another lot, adding that there must be some way to keep the well on the original lot. Mr. Bailey said that was a possibility.

Selectman Maddox moved to defer further review of the Whitney Subdivision, date specific, to the October 25, 2006, meeting, with the provision that the applicant re-notify abutters. Ms. McGrath seconded the motion.

Ms. Quinlan said that the Conservation Commission would have an issue with the leach field for the house on the corner lot, and she noted that there was a giant shed in the setback. She also suggested there would be a concern about the right-of-way requested by Mr. Burns. Mr. Bailey said he did not understand the concern about the right-of-way, noting that the applicants were willing to transfer what would constitute half of a 50-foot right-of-way to the Town. Mr. Cashell said that was what Mr. Burns was suggesting. Mr. Cashell suggested surveying the other side of the road, since the applicants also owned that property, so that the entire 50-foot right-of-way was dedicated to the Town. Mr. Bailey said the applicants did not want to survey the other side of the road at this time.

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

Selectman Maddox noted that it was past eleven o'clock, the Board's normal quitting time.

X. PERFORMANCE SURETIES

A. Leor Subdivision Bond Reduction, Map 193, Lot 12

Reference memo dated August 21, 2006 from Tom Sommers to John Cashell.

Mr. Cashell suggested that the Board reduce the surety based on Town Engineer Sommers' written recommendation.

Selectman Maddox moved to reduce the surety for the Leor OSD Subdivision in accordance with the written recommendation of Town Engineer Sommers (see recommendation file, dated August 21, 2006), from \$400,000 to \$108,425, with the provision that said surety shall be established in the form of a Hampton-style letter of credit or cash deposit held by the Town. 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 (7-0).

XI. OTHER BUSINESS (Closed Nonpublic Session)

Ms. Quinlan moved to enter nonpublic session under NH RSA 91-A: 3 II (e) pursuant to recommendation by Town Counsel, as properly scheduled on the agenda. Mr. Hall seconded the motion.

VOTE: Chairman Barnes called for a roll call vote on the motion. All members voted in favor except for Selectman Maddox who abstained. Chairman Barnes then declared the motion to have carried (6-0-1).

Chairman Barnes noted that the televised portion of the meeting would end at this point and that any votes taken during the non-public session would be announced at the next meeting. The Board then went into nonpublic session at 11:21 p.m.

Following return to public session at 11:29 p.m., Ms. Quinlan moved to seal the minutes of the nonpublic session. Mr. Hall seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor except for Selectman Maddox, who voted in opposition, and Chairman Barnes, who abstained. Chairman Barnes then declared the motion to have carried (5-1-1).

XII. ZBA INPUT ONLY

Chairman Barnes noted that there were no **ZBA Input Only** items to discuss at tonight's meeting.

-- DRAFT COPY --

XIII. ADJOURNMENT

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

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

Chairman Barnes then declared the meeting to be adjourned at 11:31 p.m.

Date: September 29, 2006

James Barnes, Chairman

J. Bradford Seabury, Recorder

Suellen Quinlan, Secretary

Transcribed by:
Joseph F. Hemingway and J. Bradford Seabury