

**Pembroke Planning Board
Minutes of Meeting
(Adopted)
Tuesday, November 24, 2009**

MEMBERS PRESENT: Robert Bourque, Chairman; Alan Topliff, Vice Chairman; Cindy Lewis, Selectmen's Representative, Brian Seaworth; Kathy Cruson; Kevin Krebs;

ALTERNATES PRESENT: Larry Young, Sr.; Jeff White; Ron Nowe

EXCUSED: Mark Zydel, Stephanie Alexander, Interim Planner

STAFF PRESENT: David Jodoin, Town Administrator; Jocelyn Carlucci, Recording Secretary

Chairman Bourque called the meeting to order at 7:00 p.m. He noted that Member Zydel was absent and appointed Alternate Member Young to vote in Member Zydel's place.

Old Business

1. Update on Site Plan Progress. Chickering Meadow. Case #03-104, #03-105, and #07-104. Board voted at last meeting to not revoke site plan if open items on Phases 1 and 2 on Town Engineer's punchlist have been completed by November 24, otherwise proceedings will begin again.

Mr. Jodoin said that Mr. Chabot was ill and it was not clear if he had recently visited the site. He said that Mr. Batchelder agreed to wait until the spring to evaluate the runoff.

Chairman Bourque asked that Mr. Jodoin send an e-mail to Mr. Chabot for a status report.

2. Major Subdivision. LTC Properties. Case #09-02. Map 565, Lot 193-3 at 245 Pembroke Hill Road in the Medium-Density Residential (R1) District and the Wetlands Protection (WP) Overlay District. The applicant, LTC Properties Inc, proposes a five-lot residential subdivision on 14.595 acres which includes a new road and a detention pond. *65-day extension granted at last meeting. Applicant is asking for a continuance due to delay in obtaining legal documentation. Application and public hearing continued from previous meeting.*

A letter dated November 16, 2009 from Jason Hill, Project Engineer of Holden Engineering & Surveying, Inc. requests that the hearing for the above-captioned matter be continued to December 8, 2009.

MOTION: Vice Chairman Topliff moved to continue the public hearing on LTC Properties, Case #09-02 to December 8, 2009. Seconded by Alternate Member Young.

VOTE: R. Bourque - Y A. Topliff - Y C. Lewis - Y B. Seaworth - Y
 K. Krebs - Y K. Cruson - Y L. Young - Y

MOTION TO CONTINUE THE PUBLIC HEARING ON LTC PROPERTIES, CASE #09-02 TO DECEMBER 8, 2009 PASSED ON A 7-0 VOTE.

3. Major Subdivision. Silver Hills Business Park. Case #09-06. Map 559, Lots 12 and 12-1 at 830 North Pembroke Road in the Rural/Agricultural Residential (R3) District, Aquifer Conservation (AC) Overlay District, Flood Development Overlay District (FD), Shoreland Protection Overlay District (SP), and Wetlands Protection (WP) Overlay District. The applicant, TF Bernier Inc, on behalf of owner Silver Hill Development Corporation, is proposing a five-lot subdivision on two lots totaling 116.1 acres which includes the construction of a new road to be dedicated to the Town. *Extension to 11/24 meeting granted at the last meeting. Application and public hearing continued from previous meeting.*

Present: Tim Bernier of T.F. Bernier, Inc. representing Silver Hill Development and Frank Merrill, owner of Silver Hill Development, Pembroke Sand and Gravel, and Merrill Construction, Douglas G. Woodward, Concord City Planner, Gerry Drypolcher, Chairman of the City of Concord Planning Board, and Philip Bilodeau, Deputy Director of Concord General Services Department

With regard to the Alteration of Terrain Permit, Mr. Bernier said that they have addressed the comments from the Department of Environmental Services (DES) and are awaiting comments from Emery & Garrett Groundwater, Inc.

The applicant is working with the Fish and Game Department regarding the drafting of Conservation Easements to protect a butterfly habitat identified near the river.

Per KV Partner's letter dated November 17, 2009,

- A note has been placed on the plan that indicates that new lot owners in the subdivision will be obligated to prepare a comparative traffic study with the applicant's already-submitted traffic study.
- With regard to easements, Mr. Bernier said that the applicant has easements that encompass the entire drainage facility. The easements stipulate that the drainage facility will be maintained by Silver Hill Development Community. The Town of Pembroke will have the right to go to the facility if necessary. A note has been added to the plan. Mr. Bernier also said that, because the zoning ordinance required the drainage easements to be deducted from the lot size, Lot 1 was increased to 5.2 acres.
- A note was added to the plan that stipulates that the "High Load Areas" cannot be discharged directly into the retention pond.
- The applicant has agreed that the top 12" of material at the bottom of the retention basin will contain a material to slow down the flow and will be tested to make sure that it meets state criteria.

When comparing the Covenant supplied to Capital Regional Development Council and the Pembroke Zoning Ordinances for the Aquifer Overlay District, Mr. Bernier concluded that the restrictions in the Ordinance were clearer and would be easier to enforce. The Covenant covers larger and more intense uses than the Ordinance. Because the subdivision has an onsite septic and well, Mr. Bernier said that the size of the potential development is restricted. An onsite well allows a maximum of 24 employees. Mr. Bernier pointed out the Well-Head Protection line on the map. He said that the paved parking/maintenance area would drain away from the Aquifer Protection District per a Pembroke Zoning Board condition.

MOTION: Chairman Bourque moved to open the public hearing at 7:45 p.m. Seconded by Member Seaworth. Unanimously approved.

Mr. Woodward said that the Wellhead Protection Area, dating back to 1998, consisted of a 4,000 ft. diameter and 2,000 ft. radius around the wells. In 2005, General Services commissioned a study of the water works. The well field had been relegated as a backup use but the study affirmed its worth at 1 million gallons a day and the need to upgrade the equipment and bring the wells back to regular use.

Concord received a CTAP grant to explore the Aquifer and Well-Head Protection Ordinances. They retained Emery & Garrett Groundwater, Inc. to perform a study. They stumbled onto the new DES Wellhead Protection Area which illustrates the full Well-Head Protection Area for Concord and Pembroke

as they exist today. They anticipate a second CTAP Grant to complete the Aquifer Protection and Wellhead Report. Concord will ask Emery & Garrett Groundwater, Inc. for their recommendations.

The Planning Board's goal is to protect the water quality in the well. Pembroke's Aquifer Ordinance does not cover the entire subdivision area.

Vice Chairman Topliff reviewed the results of his comparison of Concord's Covenant with Pembroke's Zoning Ordinance:

- (1) Pembroke does not preclude the bulk storage of fuel unless it is subsurface.
- (2) The outdoor storage of road salt or other deicing chemicals in bulk is covered.
- (3) The siting or operation of a junkyard is covered.
- (4) The siting or operation of a snow dump for storage of snow brought in from off the property is covered assuming it contains deicing chemicals.
- (5) The subsurface disposal of non-domestic untreated wastewater is not covered. Pembroke precludes the "disposal of liquid or leachable wastes except from residential, commercial, or industrial systems which discharge human sanitary wastes only." (He said he would need clarification on "non-domestic untreated wastewater".) Pembroke precludes "industrial uses which discharge contact type processed waters on site. Non-contact cooling water discharge is permitted."
- (6) Automotive and vehicular-related uses including service, repair, and body shops; fleet/trucking/bus terminals; car washes; and automotive salvage yards. Not permitted in Pembroke.

Selectmen's Rep. Lewis noted that Pembroke does allow the applicant to maintain its own vehicles over the aquifer but cannot maintain or service outside vehicles.

- (7) The retail sale of gasoline and other petroleum-based fuels. Pembroke does not specifically preclude that activity.
- (8) Subsurface storage of regulated chemicals and substances, or petroleum and other refined petroleum products. Pembroke precludes subsurface storage of petroleum-based products.

Selectmen's Rep. Lewis said that Pembroke allows the tanks only if they are housed in a secondary approved storage container.

- (9) Dry cleaning plants or establishments are not addressed.
- (10) The excavation of earth materials pursuant to Section 28-5-26 of the Concord Zoning Ordinance. Pembroke allows it if the landowner can demonstrate through hydro-geological studies that there will be no adverse affects on the aquifer.
- (11) Materials recycling and processing. Pembroke does not address.
- (12) Commercial painting, wood preserving, and furniture stripping. Pembroke does not address.
- (13) Operation of a hazardous waste disposal facility, solid waste landfill, or septage lagoon. Pembroke has addressed in its ordinance.

Mr. Bernier said that the ordinance discusses the volume of chemicals stored on site in the Well-Head Protection Area with regard to commercial furniture stripping. He emphasized that this is a scale issue. Dennison Cabinet has 8 employees. If City sewer and water were available, the use could increase, but, because of the amount of sewer and water available, they are limited to no more than 24 employees in the same space. The scale of use is directly related to water and sewer availability. He also noted that

the environmental requirements necessary in the Well-Head Protection Area are independent of volume and create another safeguard to the aquifer. Mr. Bernier pointed out that every project in the subdivision must be reviewed by the Alteration of Terrain and Ground Water Bureaus.

Mr. Bernier said that a portion of the subdivision is outside Pembroke's Aquifer Protection District. He also said that Pembroke Zoning Board of Adjustment placed a restriction that all construction equipment storage, and parking areas, even though they are outside the Aquifer Protection District, must drain away from the City's well field. He also said that, even though the subdivision does not have sewer and water, all industrial discharges have to be collected on site and removed by a licensed hauler.

Mr. Woodward suggested that Pembroke extend its aquifer protections to the limits of the Well-Head Protection Area.

Chris Culverson, Superintendent of the Pembroke Water Works said that they adopted the State model for Pembroke's Well-Head Protection Areas. The model guidelines act as Pembroke's control within the Well-Head Protection Area. Outside of Well-Head Protection Area, they refer to the Zoning Ordinances for the Aquifer Conservation District. He said that extending the area to Concord's Well-Head Protection Area would be helpful.

MOTION: Chairman Bourque moved to continue the public hearing on the application of Silver Hills Business Park (Case #09-06) if the application is not approved. Seconded by Chairman Topliff. Unanimously approved.

Chairman Bourque asked the representatives of the City of Concord if they would feel comfortable with Pembroke using the Aquifer Protection Zoning Ordinance to mirror Concord's covenant restrictions? Mr. Woodward said that it seemed reasonable.

The Board discussed the following potential conditions of approval outlined in Concord's Covenant:

(1) Bulk storage of fuel. Selectmen's Rep. Lewis said that bulk storage of fuel is typically for distribution which would be restricted. She said that the applicant can have fuel for the facility on site but not for resale.

(5) Subsurface disposal of non-domestic untreated wastewater. To be restricted.

(9) Dry cleaning plants or establishments. To be restricted.

(11) Materials recycling and processing. To be restricted. Selectmen's Rep. Lewis asked Concord representatives to clarify the intent of this restriction. Mr. Woodward said that the intent was to restrict the recycling of metals, plastics, etc. in large bulk. Merrill Construction recycles and processes asphalt, concrete, and aggregate. This would be allowed.

(12) Commercial painting, wood preserving, and furniture stripping. Mr. Drypolcher reminded the Board that, in the future, there may be municipal water and sewer available to the subdivision which could increase the potential uses of the property. The scale issue could become problematic. Chairman Bourque said that furniture stripping material is hazardous and disposal of hazardous material is not allowed. He did not feel that there would be an issue if the hazardous material was handled diligently and properly disposed of. Selectmen's Rep. Lewis said that notifying Concord of any activities that would fall within the Well-Head Protection Area radius would be the best way to handle future situations since no one can predict the types of businesses that will be considered in this subdivision. Concord, at that time, could review the site plan and comment accordingly.

Mr. Bernier said that in the covenants, there is performance standards for regulating chemicals, etc. He would be willing to take that language and add it to the plan so that future subdivisions would be put on notice.

Mr. Bernier will submit the condominium documents when they are finalized. He agreed that it would be best to continue the application until the conservation easements are solidified.

Chairman Bourque said that the Board would be looking at the following conditions to a final approval:

- (1) Board must receive and review Condominium Association documents;
- (2) Include §143-68. Aquifer Conservation District;
- (3) Add, from the City of Concord's Covenant, the following:
 - (a) No bulk storage of fuel for distribution be allowed;
 - (b) Dry cleaning plants or establishments not be allowed;
 - (c) The recycling and processing of asphalt, concrete, and/or aggregate be allowed;
- (4) Plan Note: Performance Standards for Regulated Chemicals and Substances.
 - (a) Any storage of these regulated chemicals and substances in containers with a capacity of 5 gallons or more shall be product-tight containers and stored on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;
 - (b) Storage facilities where regulated chemicals and substances are stored shall be secured against unauthorized entry by means of doors or gates which are locked when authorized personnel are not present and shall be inspected on a weekly basis by the facility owner;
 - (c) Outdoor storage areas for regulated chemicals and substances shall be protected from exposure to precipitation and shall be located at least fifty (50) feet from surface water or storm drains, at least seventy-five (75) feet from private wells, and outside of the sanitary protective radius of wells used by public water systems;
 - (d) Secondary containment shall be provided for outdoor storage of regulated chemicals and substances if an aggregate of two hundred seventy-five (275) gallons or more of regulated chemicals and substances are stored outdoors on any lot.

Mr. Bernier asked if the criteria pertain to all areas of the subdivision that is in the Aquifer Protection District and Well-Head Areas. The Board said yes but asked Mr. Woodward to review the lots, specifically the triangled area that is marked for construction equipment storage, parking, and a maintenance garage and send his comments to the Board. Mr. Bernier reiterated that the triangled area drainage will flow away from the Well-Head Protection Area per the Pembroke Zoning Board condition of approval.

Mr. Bernier will submit a request to extend the application deadline to December 8, 2009.

MOTION: Chairman Bourque moved to continue the public hearing application of Silver Hills Business Park (Case #09-06) to December 8, 2009 if the application is not approved. Seconded by Vice Chairman Topliff.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y
K. Cruson – Y K. Krebs – Y B. Seaworth – Y L. Young – Y

MOTION TO CONTINUE THE PUBLIC HEARING APPLICATION OF SILVER HILLS BUSINESS PARK (CASE #09-06) TO DECEMBER 8, 2009 IF THE APPLICATION IS NOT APPROVED PASSED ON A 7-0 VOTE.

4. **Special Use Permit-Wetlands. Concord Sand and Gravel, Inc. Case #09-SUP-14WP.** Map 559, Lot 3 on North Pembroke Road in the Rural Residential (R3) District, Aquifer Conservation (AC) Overlay District, and Wetlands Protection (WP) Overlay District. The applicant, Concord Sand and Gravel Inc., on behalf of owners Robert A. Cole, Successor Trustee of the CS&G Revocable Trust and Lucille A. Ladd, Successor Trustee of the Levi K. Ladd 2004 Revocable Trust, request a Special Use Permit from Article 143-72.E, Wetland Protection District, for the removal of 790sf of wetland on Map 559, Lot 3. This permit is associated with the related excavation expansion plan application #09-107. *Development of Regional Impact declared at last meeting. Application and public hearing continued from previous meeting.*
5. **Special Use Permit-Aquifer. Concord Sand and Gravel, Inc. Case #09-SUP-15AC.** Map 559, Lots 3, 5, and 6 on North Pembroke Road in the Rural Residential (R3) District, Aquifer Conservation (AC) Overlay District, and Wetlands Protection (WP) Overlay District. The applicant, Concord Sand and Gravel Inc., on behalf of owners Robert A. Cole, Successor Trustee of the CS&G Revocable Trust and Lucille A. Ladd, Successor Trustee of the Levi K. Ladd 2004 Revocable Trust, request a Special Use Permit from Article 143-68.E, Aquifer Conservation District, which is required for any activity taking place in the District, for the use of the existing haul roads on Map 559, Lot 6 by excavation activities on Map 559, Lots 3 and 5. This permit is associated with the related excavation expansion plan application #09-107. *Development of Regional Impact declared at last meeting. Application and public hearing continued from previous meeting.*
6. **Existing Excavation Expansion. Concord Sand and Gravel, Inc. Case #09-107.** Map 559, Lots 3, 5, and 6 and Map 258, Lot 13-3 on North Pembroke Road in the Rural Residential (R3) District, Aquifer Conservation (AC) Overlay District, and Wetlands Protection (WP) Overlay District. The applicant, Concord Sand and Gravel Inc., on behalf of owners Robert A. Cole, Successor Trustee of the CS&G Revocable Trust and Lucille A. Ladd, Successor Trustee of the Levi K. Ladd 2004 Revocable Trust, propose to expand the existing grandfathered mineral extraction and processing operations on Map 559, Lot 6 onto Map 559, Lots 3 and 5, and to retain Map 258, Lot 13-3 as a buffer lot not to be used for excavation. The expansion would encompass 17 acres. *Development of Regional Impact declared at last meeting. Application and public hearing continued from previous meeting.*

Present: Mark Sargent of Richard Bartlett & Associates representing Concord Sand and Gravel, Brett Kay of Nobis Engineering, Inc., Bob Cole, Gerry Drypolcher, Chairman of the City of Concord Planning Board, Douglas G. Woodward, Concord City Planner, Philip Bilodeau, Deputy Director of Concord General Services Department, and Tom Abaski, Hydro geologist, of Nobis Engineering

Mr. Woodward reviewed a letter from the City of Concord Planning Board to Robert Bourque, Chairman of Pembroke Planning Board dated November 20, 2009. He said that the areas focused on was: The proximity of the well; the quality and quantity of water; traffic changes; and reclamation of the Concord side. Mr. Woodward said that Nobis Engineering provided a (1) review of the hydrogeological study of the well. (It is Concord's understanding that the impact is moving away from the well.); and (2) Traffic data on the average number of trips that could be expected. The Concord pit is scheduled for rezoning and redevelopment. The intent is to proceed with reclamation of the site.

The two areas of concern for the Concord Planning Board are:

- (1) Traffic. Department of Transportation (DOT) has discussed expanding the divided median which would result in a right-turn-in and right-turn-out access. The concern is that it is possible that, in the future, the empty travel trucks may wish to use North Pembroke Road.

- (2) Water quality. The City of Concord would like to have a review study performed by Emery and Garrett Groundwater, Inc.

Chris Culberson, Superintendent of Pembroke Water Works said that, in the past, any studies performed in the Aquifer Protection and Well-Head Protection Areas, were financed by the applicant in advance. Mr. Culberson has no objection to Emery & Garrett Groundwater, Inc. performing the study.

Since the Pembroke Planning Board did not have a copy of the November 20, 2009 letter, Chairman Bourque read the letter aloud.

Mr. Cole said that the operation of Concord Sand and Gravel began in 1970 by Levy Ladd. He said that, to be grandfathered, RSA 155-E states that there must be stationary manufacturing on site (a crusher located on the Concord side, purchased in 1978). Any land that was contiguous or of common ownership previous to 1989 was grandfathered. August 24, 1989 was the cutoff date on the revised statute. After 1989 the rule was changed to say "in common ownership in the same town". Mr. Cole said that the stationary manufacturing plant was in continuous use in August 1979.

Mr. Kay clarified that excavation began on Lot 6 in Pembroke which is the grandfathered lot. Lots 3 and 5 are not grandfathered.

Selectmen's Rep. Lewis said that the grandfathered issue was resolved in the early 1990s. The gravel pit has, since then, been assessed annually by Pembroke's assessor.

Mr. Sargent said that the applicant is aware that DOT may expand Rt. 106 in the future and are willing to work with them concerning access to Rt. 106. Restoration to the Concord pit has not been performed because the land is for sale and they feel that any restoration should be done at the time that the site is developed. They are aware that the property is within the Well-Head Protection District.

Mr. Cole has several citations for safety and environmental protection of the property.

Mr. Cole presented a drawing of Concord Sand and Gravel's ideas of a 3 to 4-tiered granite ledge system for site reclamation. In order to create the safest possible situation and create something aesthetically pleasing, Mr. Cole explained that at the top of the ledge, they would place a fence with a warning sign (in a no-cut zone so the fence would be visible), followed by a shallow elevation drop of 7 ft. The next plateau would create a 10 ft. bench with trees planted every 15 ft. and vegetation planted. The next level would consist of a 20 ft. bench with trees (15 ft. apart) and the natural vegetation would be allowed to take over. He anticipates that the trees, at full growth, will be 25 ft. high. At bottom level (floor level), they would create a 10 ft. berm which would come away from the face. They would plant trees at the top and bottom of the berm. The height of the tiers will vary from approximately 50 ft. to 20 ft.

Mr. Kay noted that some of the excavation area will only consist of 1 bench. Approximately 500' of the area will be three-tiered. The entire face consists of approximately 3500 ft. The tallest portion of the system is 150 ft. which will require a four-tiered system.

Mr. Cole said that every year the area will be reviewed and regulated by the United States Bureau of Mines.

Chairman Bourque suggested that the maintenance of the fence and signage be a condition of approval for future property transfers as a plan note. Selectmen's Rep. Lewis also suggested that the note be placed as a deed restriction.

Mr. Kay said that they realize that they will be excavating in the ground water and have prepared a waiver to the Board. Tom Abaski, Hydro Geologist, of Nobis Engineering said that the water level at the time of the study was approximately 3 ft. below grade. They anticipate excavating 150 ft. As they remove the rock, the water would drain out. The well fields are in the overburden and the water level at the ground level is 1-1/2 ft. to 2 ft. below grade.

With regard to KV Partners letter of November 17, 2009 to Stephanie Alexander, Interim Town Planner, Mr. Kay said that:

1. Reclamation and the blending of the final phase of reclamation: Mr. Cole's rendition clarified that point.
2. Treatment of soil overburden at the top of the ledge face: It is incorporated into another detail on the plan (Sheet C15). He will follow-up with KV Partners to make sure that it is clear.
3. Financial guarantee: There will be no combined area greater than 10 acres of Lots 3 and 5 disturbed at one time. They will add a note to the plan. With regard to the applied reclamation rate of \$3,500 per acre, the applicant will provide KV Partners with the data supporting the proposed rate. The financial guarantee is issued from the owner of Concord Sand and Gravel to the Board of Selectmen.

Mr. Kay addressed comments from Central New Hampshire Regional Planning Commission letter dated November 9, 2009 to the Pembroke Planning Board:

1. It was recommended that a pre and post drainage report be required. Mr. Kay has had extensive conversations with NH Department of Environmental Services (NHDES) Alteration of Terrain Bureau. Gravel pits and operations of this type are not required by NHDES to conduct a drainage study because a bowl is being created and all the stormwater is kept on site. The application to NH DES is pending. It was submitted October 26, 2009.
2. With regard to the proximity of the aquifer and surface water, Mr. Kay said that they plan to employ a sampling program on site in order to monitor any impact to the aquifer. The hydro geological study will be reviewed by the Alteration of Terrain Bureau.
3. The traffic impact on Route 106 identified approximately 350 peak day vehicle trips which is identical to the present traffic count.
4. Noise/nuisance from blasting is minimal because it is conducted below grade. There is a call list that notifies the abutters as to when Concord Sand and Gravel will blast. They have received no abutter complaints. Blasting hours are restricted by local regulations.

Prior to submitting the application to the Town of Pembroke, Concord Sand and Gravel went through a compliance submittal hearing with NHDES and Alteration of Terrain Bureau for Lot 6. Lot 6 is in compliance. Lot 7 is a small parcel located along the river and is active at the present time.

Referring to Ms. Alexander's memo dated November 18, 2009, Member Cruson asked if the Board felt that Concord Sand and Gravel should provide documentation that Lot 6 is a grandfathered lot and have Town Counsel comment, at the applicant's expense? Selectmen's Rep. Lewis said that the issue was put to bed in 1991 and 1992 and, since then has been assessed accordingly. Member Cruson asked Selectmen's Rep. Lewis if she tracked the pieces of land to show that they were grandfathered, continuous, and of same ownership. Selectmen's Rep. Lewis said yes.

MOTION: Chairman Bourque opened the public hearing at 9:10 p.m. Seconded by Vice Chairman Topliff.

At 9:11 p.m. Chairman Bourque closed the public hearing for the present meeting which will be continued to January 26, 2010 if the application is not approved.

Vice Chairman Topliff said that since this is an excavation permit and not a site plan application, it is limited to the public hearing and the approval of the permit. Selectmen's Rep. Lewis said that the Special Use Permits must be accepted as complete.

MOTION: Selectmen's Rep. Lewis moved that the Special Use Permit-Wetlands, Concord Sand and Gravel, Inc. Case #09-SUP-14WP and Special Use Permit-Aquifer, Concord Sand and Gravel, Inc. Case #09-SUP-15AC be accepted as complete. Seconded by Member Seaworth.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
 K. Krebs – Y B. Seaworth – Y L. Young – Y

MOTION THAT THE SPECIAL USE PERMIT-WETLANDS, CONCORD SAND AND GRAVEL, INC. CASE #09-SUP-14WP AND SPECIAL USE PERMIT-AQUIFER, CONCORD SAND AND GRAVEL, INC. CASE #09-SUP-15AC BE ACCEPTED AS COMPLETE PASSED ON A 7-0 VOTE.

MOTION: Vice Chairman Topliff moved to continue the public hearing on the Special Use Permit-Wetlands. Concord Sand and Gravel, Inc. Case #09-SUP-14WP and Special Use Permit-Aquifer. Concord Sand and Gravel, Inc. Case #09-SUP-15AC to January 26, 2010. Seconded by Selectmen's Rep. Lewis. Unanimously approved.

MOTION: Vice Chairman Topliff moved that the applicant create an escrow for the review of the hydro geological study by Emery & Garrett Groundwater, Inc., such review to be shared with the Town of Pembroke. Seconded by Chairman Bourque.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
 K. Krebs – Y B. Seaworth – Y L. Young – Y

MOTION THAT THE APPLICANT CREATE AN ESCROW FOR THE REVIEW OF THE HYDRO GEOLOGICAL STUDY BY EMERY & GARRETT GROUNDWATER, INC., SUCH REVIEW TO BE SHARED WITH THE TOWN OF PEMBROKE PASSED ON A 7-0 VOTE.

The Planning Board recessed at 9:20 p.m.

Chairman Bourque called the meeting to order at 9:25 p.m.

New Business

7. Approve Planning Board Meeting and Submission Deadline Schedule and Calendar for 2010

MOTION: Chairman Bourque moved to accept the Planning Board Meeting and Submission Deadline Schedule and Calendar for 2010 as presented. Seconded by Vice Chairman Topliff. Unanimously approved.

Conceptual Consultation

8. Retail Agricultural Business at 143-145 Sheep Davis Road, property owned by John M. Harrison. *Board to decide whether this business currently operating should come to the Board for site plan review.*

Present: John Harrison, Ann Harrison, and Brian Johnson

Mr. Harrison has had an electronics business in Town for many years. He has an interest in healthy/organic foods. Brian Johnson of Pembroke has been allowed to use 143-145 Sheep Davis Road to sell fresh produce from a Londonderry, NH farm. A shed was moved from the rear of the property to the front of the property. Mr. Harrison is hoping that more fresh produce from local farmers would be sold at that location in the future.

Selectmen's Rep. Lewis said that, according to the ordinance, the applicant must submit a site plan.

Member Young said that the farm stand is an auxiliary use to the commercial building use. Vice Chairman Topliff referred to §143-44 of the Zoning Ordinance and read the section aloud.

Mr. Harrison asked if the Board would consider the use a farmer's market or a farmer stand? He said that the 2004 Master Plan does not discuss agriculture. Selectmen's Rep. Lewis said that the use is not a farmers' market because the building is permanent.

Mr. Young said that the Master Plan encouraged homeowners to grow locally and place farm stands in front of their homes. The difference is that this is a lot in a commercial zone and is a change of use.

Chairman Bourque suggested that Mr. Harrison meet with the Town Planner to review a minor site plan application. Vice Chairman Topliff noted that, although the application may seem daunting, the applicant may seek a waiver from some of the submittals.

Member Young said that he would like to think that anyone could sell vegetables from their front yard. The use does not pollute nor is it bad for the neighborhood. It seems senseless to put someone through a process that will cost time and money with the possibility of not making a great deal of money. Selectmen's Rep. Lewis said that the ordinance pertains to growing and selling vegetables from a resident's property not selling vegetables from outside sources.

Mrs. Harrison said that for 6 years, the electronics program from Concord High School was held at the Sheep Davis Road building. They would like to help farmers bring their goods to one location to sell. Mr. Harrison still has an electronics business on the premises. The farmer stand is an incidental use of the property.

Minutes

9. Review and Approve Meeting Minutes of November 10, 2009

It was agreed that the motions taken at the November 10, 2009 meeting pertaining to bringing information to "Town Meeting" should have said "public hearing". Therefore, the committee agreed that the Board would reconsider the votes previously taken.

With regard to the reconsideration of Motions taken on November 10, 2009, Chairman Bourque appointed Member White to vote in place of Member Krebs as was the case on November 10, 2009.

MOTION: Vice Chairman Topliff moved to reconsider the vote taken on November 10, 2009 to bring Amendment 143-35.1 to Town Meeting. Seconded by Member Young.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
 J. White – Y B. Seaworth – Y L. Young – Y

MOTION TO RECONSIDER THE VOTE TAKEN ON NOVEMBER 10, 2009 TO BRING AMENDMENT 143-35.1 TO TOWN MEETING PASSED ON A 7-0 VOTE.

MOTION: Chairman Bourque moved to bring the Amendment to public hearing as amended. Seconded by Member Young.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – N K. Cruson – N
 J. White – Y B. Seaworth – N L. Young – Y

MOTION TO BRING THE AMENDMENT TO PUBLIC HEARING AS AMENDED PASSED ON A 4-3 VOTE.

MOTION: Vice Chairman Topliff moved to reconsider the vote taken on November 10, 2009 to bring Notes 14 and 15 to Town Meeting. Seconded by Chairman Bourque.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
 J. White – Y B. Seaworth – Y L. Young – Y

MOTION TO RECONSIDER THE VOTE TAKEN ON NOVEMBER 10, 2009 TO BRING NOTE 14 AND 15 TO TOWN MEETING PASSED ON A 7-0 VOTE.

MOTION: Vice Chairman Topliff moved to accept Notes 14 and 15 as proposed and bring them to public hearing. Seconded by Chairman Bourque.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
 J. White – Y B. Seaworth – Y L. Young – Y

MOTION TO ACCEPT NOTES 14 AND 15 AS PROPOSED AND BRING THEM TO PUBLIC HEARING PASSED ON A 7-0 VOTE.

MOTION: Vice Chairman Topliff moved to reconsider the vote taken on November 10, 2009 to send Article X. Open Space Ordinance to Town Meeting. Seconded by Chairman Bourque.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
 J. White – Y B. Seaworth – Y L. Young – Y

MOTION TO RECONSIDER THE VOTE TAKEN ON NOVEMBER 10, 2009 TO SEND ARTICLE X. OPEN SPACE ORDINANCE TO TOWN MEETING PASSED ON A 7-0 VOTE.

MOTION: Vice Chairman Topliff moved to send Article X. Open Space Ordinance to public hearing. Seconded by Chairman Bourque.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
 J. White – Y B. Seaworth – Y L. Young – Y

MOTION TO SEND ARTICLE X. OPEN SPACE ORDINANCE TO PUBLIC HEARING PASSED ON A 7-0 VOTE.

MOTION: Vice Chairman Topliff moved to reconsider the vote taken on November 10, 2009 to send the amended definitions for 143-8 to Town Meeting. Seconded by Chairman Bourque.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
J. White – Y B. Seaworth – Y L. Young – Y

MOTION TO RECONSIDER THE VOTE TAKEN ON NOVEMBER 10, 2009 TO SEND THE AMENDED DEFINITIONS FOR 143-8 TO TOWN MEETING PASSED ON A 7-0 VOTE.

MOTION: Vice Chairman Topliff moved that the amended definitions for 143-8 be added to the Definition Chapter and sent to public hearing. Seconded by Chairman Bourque.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
J. White – Y B. Seaworth – Y L. Young – Y

MOTION THAT THE AMENDED DEFINITIONS FOR 143-8 BE ADDED TO THE DEFINITION CHAPTER AND SENT TO PUBLIC HEARING PASSED ON A 7-0 VOTE.

MOTION: Vice Chairman Topliff moved to approve the Minutes of Meeting of November 10, 2009. Seconded by Chairman Bourque.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Y
K. Krebs – Abstained B. Seaworth – Y L. Young – Y

MOTION TO APPROVE THE MINUTES OF MEETING OF NOVEMBER 10, 2009 PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

Miscellaneous
10. Other Business

MOTION: Vice Chairman Topliff moved that Agenda Item #1 regarding Chickering Meadow be continued to the January 26, 2010 meeting. Seconded by Chairman Bourque.

VOTE: B. Bourque – Y A. Topliff – Y C. Lewis – Y K. Cruson – Abstained
K. Krebs – Y B. Seaworth – Y L. Young – Y

MOTION THAT AGENDA ITEM #1 REGARDING CHICKERING MEADOW BE CONTINUED TO THE JANUARY 26, 2010 MEETING PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

The Board received a resignation letter from Mark Zydel. Chairman Bourque directed Mr. Jodoin to forward Member Zydel's resignation letter to the Board of Selectmen.

MOTION: Chairman Bourque moved that the Board recommend Alternate Member Young as a permanent member to replace Mark Zydel. Seconded by Vice Chairman Topliff. Unanimously approved.

MOTION: Member Krebs moved to adjourn. Seconded by Chairman Bourque.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 10:20 p.m.

Respectfully submitted,
Jocelyn D. Carlucci, Recording Secretary