

TOWN OF BEDFORD
PLANNING BOARD MEETING MINUTES
January 23, 2012
BEDFORD MEETING ROOM

A meeting of the Bedford Planning Board was held on Monday, January 23, 2012, at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Jon Levenstein (Vice Chairman), Bill Dermody (Town Council), Harold Newberry, Karen McGinley, Chris Bandazian (Town Council Alternate), Philip Cote (Alternate), David Wall (Alternate), Rick Sawyer (Planning Director), and Colleen Mailloux (Planner II)

I. Call to Order and Roll Call

Vice Chairman Levenstein called the meeting to order at 7:00 p.m. Chairman Goldberg, Mr. Stanford, Ms. Sklar, and Mr. Riley were absent. Mr. Cote and Mr. Wall were appointed voting members. Mr. Sawyer read the agenda.

II. Old Business: None

III. New Business:

A. Application Acceptance and/or Public Hearings on Applications:

1. The Planning Board will hold the second and final public hearing on proposed zoning amendments submitted by the Planning Board. The full text of the amendments is available in the Town Clerk's office during normal business hours and on the Town website at www.bedfordnh.org

MOTION by Ms. McGinley to accept the agenda as submitted. Seconded by Mr. Newberry. Vote taken – all in favor. Motion carries.

Vice Chairman Levenstein stated I am going to take the zoning amendments out of order and start with Amendment No. 3 as there is someone here to give a presentation.

Amendment No. 3

Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Bedford Zoning Ordinance to create new Article XV River Corridor Smart Growth Overlay District.

[This amendment is intended to create an overlay district that would provide for more compact mixed use projects, which could include residential components within the Performance Zone provided certain design and zoning standards are met. The creation of this overlay is a recommendation of the 2010 Master Plan. The complete text of the 17-

page amendment is on file for public viewing at the Town Clerk's Office and on the Town's Website.]

Rick Chellman was in attendance to give a presentation to the Planning Board and the public regarding Smart Growth. Mr. Chellman stated I have a slide presentation to provide some background information on Smart Growth to show what the ordinance would allow the Town to do. There are some lofty goals and principles within the ordinance, and this presentation is to show how it will make a difference and how Bedford can grow differently than otherwise within the current Performance Zoning District. Posted is a slide of a traditional Town pattern with interconnected streets that would allow no car trips on major roads. Mr. Chellman reviewed the use of a 5-minute walking radius as used by a lot of planners as part of a performance district, with examples of this shown on aerial photographs of Portsmouth, New Hampshire. He explained that this would allow for a lot of pedestrian activity, a park once area, and the difference from a transportation perspective. A reason why traffic calming is so important, speed reductions are important, and why if we want to encourage pedestrians and bicyclists that you need to get vehicle speeds down. Portsmouth really has a 10-minute walking radius reality, really double the normal for most American locations. Locally and globally this could mean huge traffic reductions, reduce carbon monoxide emissions, mixing land uses and making walkable places is really very significant for traffic reduction. In Abu Dhabi's urban street design manual it lists pedestrians first, then transit, then bicycles, and motor vehicles fourth and last. The principles of what they did aren't too far from many of the principles in your Master Plan of trying to encourage compact, walkable, mixed-use places. The point being that it is globally getting more and more understood. Again, a posted aerial of Portsmouth where it is not too unusual for residents to drive in to the supermarket and park, drive to the store and park, and drive to the liquor store and park; very, very different behavior than around the Market Square area because of the physical nature of the place. In the downtown area where we have a 10-minute walking radius reality, here we have a 30-second walking radius reality. Public policies are very important. Another top in your Master Plan is non-vehicular travel, such as bicycles. Cycle tracks are becoming very much a part of planning these days globally, which is a separate space for bicycles, which sometimes are adjacent to a sidewalk and more often they are separate. They are very popular in China.

Mr. Chellman continued I'm going to encourage as you go forward if this ordinance passes that the next step, which is the design guidelines, to be very image oriented so that you as people who live in Bedford and have been on the Planning Board for however long you've been on and look at photographs, sketches and other things of that nature. That's good and I like that. That's the sort of thing that should end up getting constructed and rely on formulas and the need for complicated consultants. The buildings shown in the Celebration information could be incorporated into design guidelines to ensure that what gets built looks like this sort of product. In China they build models out of Lucite and illuminate them. You can do Photoshop changes to show how you can take an existing condition of a place unchanged and start to do things like adding a bicycle track, adding in-fill buildings and how a place can change quite dramatically over time. Street dimensions are important. There is a checklist of information that designers need to think about as they are designing streets for projects like this, and it's not just numbers of lanes for traffic, it is how are pedestrians dealt with, how are bicycles dealt with, what's the threshold gap in terms of a pedestrian willing to feel comfortable to cross this street. That's a

function of the width of the street and the speed of the traffic. To me this is one of the most important parts of the proposed ordinance, the design review guidelines. These would be adopted by this Board, and as I mentioned earlier, in my opinion, the more heavily image oriented they are the better they will be to help guide future development in the corridor. You can have diagrams that help provide additional details and probably should.

Mr. Chellman stated the bottom line is to make what is good legal. It's unfortunate that in most New Hampshire communities, downtown Portsmouth, which many people think is a pretty nice place, it is illegal due to land use regulations.

MOTION by Ms. McGinley to open the public hearing. Seconded by Mr. Wall. Vote taken - all in favor. Motion carries.

Vice Chairman Levenstein asked for comments or questions from the Planning Board or audience on Amendment No. 3.

Amendment No. 1

Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 275-7 District Names, Article 275-8 Location of Districts and the Zoning Map, Article VIII U.S. Route 3 Corridor Performance Zoning District, Article 275-73 Signs, Article 275-74 District Regulations for Signage and Attachment 1 – Table 1 Table of Dimensional Regulations to modify 27 varied references to U.S. Route 3 Corridor Performance Zoning District to all read Performance Zoning District.

[This amendment is intended rename the U.S. Route 3 Corridor Performance Zoning District to simply be the Performance Zoning District which will allow for Performance Zoning to be used in other parts of the Town should it ever be proposed. The complete listing of the renaming locations is on file for public viewing at the Town Clerk's Office and the Town's Website.]

Vice Chairman Levenstein asked for comments or questions from the Planning Board or audience on Amendment No. 1.

Amendment No. 4

Are you in favor of the adoption of Amendment No. 4 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 275-6 Definitions, Article 275-74 District Regulations for Signage, Article 275-68 U.S. Route 3 Corridor Performance Zoning District Sign Standards and Attachment 6 – Table 6 Table of Performance Zone Sign Standards, summarized as follows:

To create a new projecting sign category and to allow for projecting signs not to exceed 8 square feet in the Commercial, Office, Neighborhood Commercial, Highway Commercial, Service Industrial, and Performance Zoning districts.

[This amendment is intended to allow for most business to have up to an 8 square foot projecting sign. Projecting signs are generally intended for being viewed from within the

lot and will not be internally illuminated. The complete text of the 2-page amendment is on file for public viewing at the Town Clerk's Office and on the Town's Website]

Vice Chairman Levenstein asked for comments or questions from the Planning Board or audience on Amendment No. 4.

Amendment No. 5

Are you in favor of the adoption of Amendment No. 5 as proposed by the Planning Board for the Bedford Zoning Ordinance to:

Amend Article 275-6 Definitions by adding the following words shown in bold as follows:

“Structure” – A combination of materials for occupancy or use, such as a building, bridge, trestle, tower, framework, **an above ground** tank or group of tanks exceeding 500 gallons, tunnel, tent, stadium, platform, shelter, pier, wharf, bin, sign, fences and retaining walls over six feet (6') in height, swimming pools, sports courts, or the like.

Amend Article 275-28 Specific Provisions subsection A by adding the words in bold as follows:

Structures **and underground storage tanks** shall be set back at least fifty feet (50') from Hydric A soils and at least fifty feet (50') from Hydric B soils.

[This amendment is intended to allow tanks or groups of tanks that exceed 500 gallons which are located below ground to be exempt from the minimum structure setback requirements but not the wetland structure setback.]

Vice Chairman Levenstein asked for comments or questions from the Planning Board or audience on Amendment No. 5.

Mr. Wall stated it seems strange that we're not speaking. I think for our own purposes these have been over three or four times, and silence is golden.

Amendment No. 6

Are you in favor of the adoption of Amendment No. 6 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 275-8 Location of Districts and the Zoning Map to remove the Historic District Overlay from those properties that have a base zone classification of Commercial.

[This amendment is intended remove the commercial properties primarily along Route 101, Chestnut Drive and Bedford Center Road from the Historic District. A map of the area to be rezoned is on file for public viewing at the Town Clerk's Office and the Town's Website.]

Vice Chairman Levenstein asked for comments or questions from the Planning Board or audience on Amendment No. 6.

Bill Greiner, 12 Aspen Lane, Bedford, stated when I get done I would like to drop off some information. We weren't sure what time this was going to be on tonight. Brian Fortin who owns the Modern Bride and Tux Shop gave me this sheet to give to the Board. Vice Chairman Levenstein stated we have this. Mr. Greiner stated obviously I'm in favor of the amendment. One of the things that we have heard is that Route 101 represents a historic part of Bedford, and when asked what does historic mean, the answer was given well it is historic in nature because of the view. One of the things that I stated at a previous meeting is that Route 101 is nothing but a highway. It is three lanes now, it's going to five lanes hopefully soon, so I'm not sure at this point what is left to preserve from a view perspective. We have what we have. As far as the buildings that are on Route 101, Chestnut Drive, and Bedford Center Road, most of those buildings have come in front of the Historic District Commission, they've come in front of the Planning Board, so based on whatever regulations were at different points in time, they have met those criteria, specifically ones that have been built recently. I would argue that the Historic District Commission may be well intentioned, ebbs and flows over time based on who sits on that Board, what are personal opinions, what are very subjective views. And whereas in the past landscaping fell under their purview, as we heard two weeks ago, now landscaping isn't under their purview, so that makes it a little easier but there is nothing to say over time that might not get changed or other things get modified again based on who sits on those boards. I would say the Planning Board has done a great job over the years in terms of trying to work with developers and business owners as to the types of character of the buildings and the properties that we're dealing with, and if we look back over the last ten years, some of the buildings that have come in, in the Historic District and outside, I would suggest that this Board has done a great job. When you look at the Bedford Mall, I think that looks very nice, that's a nice redevelopment. Washington Place, the medical park down there, there was a lot of effort that went into that as far as architectural review, the buildings on Wallace Road, yes, there were some folks that wanted nothing to happen there, but at the end of the day I think that this Board, and those who were sitting on the Board at that time, did a good job trying to work with the residents and to have some sort of character, and I think that was done regardless of whether we would have a Historic District Commission or not. If you look at two buildings that are not in the district, Steve Beals' building up at Hardy Road and Route 101, which is not in the Historic District, I think he's done a great job with that. Again, coming forward working with the Planning Board we end up with a nice building, yet there were no special sets of regulations that told him what he needed to do. The same is true with the Copper Door, which again is to the east of that district. I would take exception with the comment that was made, not in front of this Board but in front of the committee, that business owners and developers don't have a stake in the Town, don't really care what they put up. I would suggest that history proves that the people who have developed in this Town, particularly on Route 101, they care about their buildings, and they care about their landscaping. The Planning Board is very well aware of some of the concerns and what people would like to see and continue to exercise that judgment going forward, again, without having a literal bureaucracy, which again ebbs and flows based on peoples' personal opinions. I would also say that being in the Historic District with another set of rules and regulations puts those property owners, those businesses, at a disadvantage with similar businesses in other parts of the Town, even similar businesses that are on Route 101 but just outside of the district. So I think the Board should consider that. I would be happy to answer any questions, but I think a lot of this has been rehashed, as somebody said before, that there's a lot of silence because these are not new issues, these are issues that have been dealt with for a while. I'm glad to see that it has

come to a head here. It's come to a head because many of us who have businesses or have property in the district or that live in the district have grown tired and frustrated over the last number of years with the arbitrary way that the district impeded upon our ability to deal with our property the way we want to deal with it.

Mr. Wall stated you mentioned that the current rules and regulations are inhibiting fair competition; I'm assuming that's what you meant. Could you tell me how the historic requirements right now are inhibiting competition?

Mr. Greiner replied in terms of right now, when you're dealing with certain signage. I guess I would say maybe not so much today, but if you were to go back three years ago, four years ago, five years ago, when you had to come in and you were required to have certain types of windows. When you're doing a project or redoing a project, you're spending more money than if you were located a quarter of a mile to the west or a quarter mile to the east. When you're looking at signage or lighting, there were different standards. Again, that's not maybe the case today, but there is nothing that says that in two years or three years when everybody goes away and this doesn't become an issue again, that you get some changes, some folks on there who take us back to a point in time when things were tougher. So when you end up spending more money, it affects your business. So when I want to come in for a site plan, I end up coming in front of the Historic District, so that might slow my project down and time is money, I end up spending money. Then I come in front of the Planning Board, they might have a different opinion, then you go back to the Historic District, and then you go back to the Planning Board. I think the most recent project that I got, two projects ago, the one that's being built on Bedford Center Road now, I was in front of this Planning Board at least a couple of times, the Historic District Commission I think three different times, and you go back and forth. So if somebody else wants to build a similar building, they don't have to go through those hoops. I ended up losing a tenant, you lose it to somebody else because you're going through like a ping pong match back and forth between the Boards, and in the case of the Historic District Commission a lot of the objections raised there were personal objections. It was a great looking building, the wrong place. Whose decision is that? That should be a Planning Board decision, it ends of being a Historic District Commission decision and you have to fight with that so I spend more time and more money, which ends up costing project X amount more money than it would cost somebody else who might be building it a mile down the road. Mr. Wall asked did you say you live in Bedford? Mr. Greiner replied I do, at 12 Aspen Lane. Mr. Wall asked can you imagine Route 101 looking like South Willow Street, and if you were sitting on the Planning Board, how would you address that. Mr. Greiner replied that's a good question. The answer is no, and I think that is in the letter that Brian set forth. I think he specifically talked about how he is a Bedford resident and he has a business in Bedford and feels the same way. If you drive along South Willow Street or even Second Street, I've heard Second Street characterized, we don't want to be another Second Street. It's different in that with your lots you've got a little bit more depth say than Second Street and certainly more width. You've got more landscaping in front, so if you were to go and transition even from parts of South River Road in Bedford and head north along Second Street, you would see that there's more landscaping in Bedford than there is in Manchester, so it breaks it up. So one of the ways that you can prevent it is what we have already with requirements in terms of how buildings are going to be positioned. If you put the building up front and parking in the back you, get bonus credits down in the Performance Zone.

There's a reason for that and it's how the visual perspective is going to be when you're driving down there. Look along Route 101 and there's a fair bit of landscaping between where the existing roadway is and where parking is or buildings are so I think that helps. Did we learn as a Planning Board, as a community from developments that are much older in Manchester, probably. With a lot of with what's been developed, it's not as if we're going to rip those buildings down and start putting more and more development encroaching on the green space that's there, so I think what we have on Route 101, in the area we're talking about between Wallace Road and Meetinghouse Road, is pretty much developed at this point. There is one lot left in between the real estate company and Nashua Road, but they're going to have to comply with the same percentage of green space that everybody else has. And again, I think that's a formula that's worked in Bedford. I don't think that formula existed in Manchester; if you go on Second Street, you would see that. I've heard that the first thing that comes up is the landscaping and again, the architectural quality that this Board and boards before has wanted to see. The CVS on South River Road doesn't look like a traditional CVS. The Walgreen's on Route 101 doesn't look like a traditional Walgreen's. There's more money that those developers and those corporations spent per square foot than they have in other communities, and I think this Board held them to a little higher standard than they were held to in other communities. I don't think that's going to change. Certainly the CVS on South River Road was not influenced at all by the Historic District Commission, again, neither was Steve Beals' building at Hardy Road and Route 101, nor was the Copper Door.

Andy Noyes, 46 North Amherst Road, stated full disclosure is I'm a member of the Historic District Commission and I was on the ad hoc committee. To this gentleman's question; I live in the Historic District, I'm a resident and I don't want Route 101 to look like Elm Street or anything like that. But I'm kind of wondering why are we only trying to look at that part that's red on the posted plan. Is that 500' long? I don't want any of it to look like that, not to the east of it, not to the west of it. It seems like everybody is saying "Oh my gosh we have to protect that!" Well, we need to protect the whole thing not just this one little, tiny, microscopic slice. We want the whole road to look nice. It seems like that's what this Board, as Mr. Greiner said, has been doing a really good job of making the whole Town look nice, and I think that's where we should be headed is trying to keep the whole Town looking nice. And I also appreciate his comment about residents as well. People are very concerned about the historic residences being reserved and say that's great, I think that's an admirable thing. There are an awful lot of them in the whole Town, why are we only focusing on this one small spot. It seems to me that it would be reasonable, more fair and preservation if we dealt with it at a townwide level as opposed to putting a small area under additional, different rules, different regulations and effectively under a microscope. Councilor Dermody asked Andy are you suggesting then that you agree with Mr. Greiner that the Planning Board acceptably oversees this district that we're talking about. You don't see a need for the Historic District oversight in that area? Mr. Noyes replied no I don't. I think that it should be handled on a continuous, equal basis. I don't think any of us really want this one small section of Route 101 to have a different or better appearance than the rest of it. I think we all want the whole Town to be nice. I think that that should be our goal. Councilor Dermody stated I'm still trying to understand myself exactly what you're telling me, whether the Historic District's rules and regulations should be laid over the whole Town. Is that what you're telling me? Mr. Noyes replied the ones that are really worthwhile should be. Councilor Dermody asked so we should take what's now the oversight in that red hashed area on the posted

drawing and just extend that to the borders of Bedford? Mr. Noyes replied as Mr. Greiner said, I think that the Board has been doing a really good job, the Beals' building is a perfect example, there are several examples that he did. I think that it's already been doing a very good job, maybe there are a few things I suspect that you have things that you would like to improve, and everybody has things they would like to improve. Councilor Dermody asked then with just a few exceptions, as you point out, and we did hear from Debbie Sklar who was also on your ad hoc committee and certainly sits on this Board too, she has a couple of thoughts of what might be brought forward to the Planning Board as inclusions or restrictions if the voters do agree, if it ever gets to the ballot. You're saying then that you think that confidently the Planning Board, if they accept these several things that have suggested to them, that they're able to control the development of Route 101 in this area without the Historic District Commission's influence or governing? Mr. Noyes replied let me ask you this. The whole rest of Route 101, other than that one short section, is only controlled by the Planning Board currently. Councilor Dermody stated and they've done a good job. Mr. Noyes stated the proof is in the pudding. It's not a question of would it be okay, what would happen, I say there is no question, there is no what if, the whole rest of Route 101 other than one short section is proof that you're doing a good job already. Councilor Dermody stated I'm just trying to get it straight in my mind and maybe other people understood it clearly the first time you stated it, I didn't. Now I better understand it. Thank you for the time you've served. I have one quick question. Talking about parking lots; I don't recall from the short period of time I was a member of the Historic District Commission, the Historic District Commission's purview really is not parking lots. Am I correct? Mr. Noyes replied I think if you had an area and you wanted to pave it, I think that technically according to the currently regulations I believe that that would be something that would be covered. Mr. Sawyer would you agree? Mr. Sawyer replied absolutely. Councilor Dermody stated I guess nothing came up along that line at the time, but I think from what I heard you say the Planning Board is equally capable to give oversight to that. Mr. Noyes responded in my humble opinion, the Planning Board has been doing a nice job throughout Town. Councilor Dermody stated I think I understand exactly what you're saying.

Alan Clark, President, REI Service Corporation, stated we are located in Manchester. I live in Sugar Hill, New Hampshire, which is about 120 miles from here to the north. It is a beautiful colonial village. In 1983 I developed Bedford Village Shops. There was nothing historic about what we preserved other than other people's trash because that was partially the Town dump, which encroached on the land that we owned. What wasn't dump, much of it was filled in marsh that today probably would be classified wetlands; it wouldn't have been built upon at all. I didn't fill it in; it was filled in by who we bought it from. Route 101 is not historic, depends on how you determine historic, I guess, but that section of Route 101 where Bedford Village Shops and much of what is being considered taking out, didn't exist. That was added later, that's why there's nothing historic of any type along that section of Route 101. What the Historic District Commission required us to do was to create a fantasy world of somebody's idea of what a shopping center looked like, I guess, in the 1700's or 1800's. There's nothing historic. There was a question raised about how does that put people, our shop owners, at a disadvantage. It puts them at a disadvantage because we were forced to use materials that were antiquated at the time, and certainly today are antiquated. So we have wooden clapboards that we have to paint every four years instead of being able to use a more efficient type material. We have a design that's not terribly accommodating to retail because we were required to maintain somebody's idea of what historic colonial looking windows, instead of modern retail type environmental.

And we were required to essentially build an inefficient shopping center because, again, of what somebody thought was historic. I've never seen a facility like Bedford Village Shops that's 100 years old, maybe somebody here has, but I haven't. So you ask why are we at a disadvantage; it is because we're saddled with buildings that just don't meet modern criteria. Now I understand, or at least Mr. Sawyer had told us at a previous meeting, that the Historic District Commission has relaxed their interpretation of the rules. Well I can certainly tell you that in 1983 there was no relaxation of any rules. They were very, very difficult to deal with, and they were very demanding in what they wanted. We were also asked that we don't want that section of Route 101 to look like South Willow Street. Well it can't because your zoning doesn't allow that type of signage, that size building. You've done a good job, Bedford has done a great job in their zoning, but what they created, at least as it relates to this commercial district on Route 101, is some attempt to create some type of Disney World fantasy. It just doesn't make sense, it continues to hamper our ability to maintain that property and to utilize modern, more energy efficient materials that would improve and reduce the overhead so that our shop owners can compete with those people that are outside. Plus, within that district you have, maybe the most historic thing in that district was the Mobil gas station. I'm a little lost why we would put in there. It seems maybe what you were trying to accomplish some architectural design review, which normally would come under the Planning Board's requirements and certainly I think that's great. I also am very much favor of preserving historic structures that should be preserved, but there was none there, it was vacant land. We continue to live with that and I would hope that the Planning Board would see fit to not change the current proposed amendment and to put it forth to the Town voters so that they may have a chance to vote on this amendment. Thank you.

Joan Reeves, 98 Bedford Center Road, stated I live in the Historic District, and I was born and spent my life here in Bedford so I do have an interest in the historical preservation of the Town of Bedford. I live right in the Historic District and I'm very pleased that I live in the Historic District. I think for me it's a benefit to live in that area, to feel that in some way we're trying to maintain some of the historical structure and feel of an old Bedford community. Now I realize what a lot of the people that are here that are developers or commercial owners of property, that yes I was here back when Route 101 wasn't Route 101. Bedford Center Road was the main road through the center of Town. That's where the buses went and everything and the railroad bed went through that whole area that is now Route 101. Again, yes we've lost a lot of that history and no, we can't put the railroad back probably where Route 101 now exists, and yes, I was here when the dump was where this gentleman stated, so I know what it looked like back at that time, and no we didn't have those commercial buildings there. But I think it is still important to maintain the historical district and to try to keep the commercial properties from just encroaching more and more on of the center of the Town, and to try to keep the feel of that old historical community when people drive along Route 101. I'm not sure that just because we've said that yes the buildings outside of the Historic District turned out all right, that that's a guarantee that they will. I guess I would certainly want us to in the future maybe look at a historic commission. There is another vehicle other than a Historic District Commission that can look at a whole Town like a Heritage Commission, and we might want to look at that in the future, which would have a different function, but I would hate to just throw this out. I think that the properties along Wallace Road and Route 101 might have turned out differently if we hadn't had some opportunity to have them also looked at through the Historic District Commission. I know that there will be changes. Just as you look at the Town Council, you look at the Planning Board,

you look at any of our boards. Members change, people come, people go and those are going to have some impact on how people view things. I just think that's part of the democratic process of living in a community and being able to have various people serve on boards.

Jim Lamp, 30 French Drive, stated I'm just on the northern edge of the Historic District. I wasn't going to say anything on this but it is interesting listening to the conversation. It sounds like it is more about taste and doing things tastefully than it is necessarily about historical construction and development. I think that everybody in the Town wants things to be done tastefully, especially around Route 101 because it is where everybody sees what Bedford's about. They don't necessarily if they don't live in Town, they don't go on the side streets. It does sound like we have two regulatory agencies that actually have divergent desires, and if you could somehow combine the two, to have the same interest but have it under one board, so you don't have the back and forth. I agree with Mr. Greiner that it creates a real permitting problem and a disadvantage for someone who wants to tenant or do things on a timely manner, which time is money as Bill said. Also in my mind, one of the books that I think my wife has read is *Front House, Middle House, Back House, Barn*. That's a historical structure in New England but it's something that evolved over maybe 100 or 200 years because historical structures need to be adapted as the society adapts. So to try to say listen here is a snapshot, this is what a historical property should be and it should always be that way, I'm not sure that that's absolutely correct. So if there are better materials that do look historic but aren't necessarily cedar shakes and will last longer and will allow people to do things more economically but have the same look, I think that that could all be done under the purview of the Planning Board, and I think it sounds like everything is heading in that direction and I agree with that philosophy.

Mr. Greiner stated I just wanted to respond to when Councilor Dermody asked Mr. Sawyer about the parking lots. When we first came in for the concept for Bedford Center Road, the very first meeting that I had with Cynthia and Rick, the question was would you consider pushing your building to the front of the lot, have all of your parking in back, we'd rather not see any there. And talking about with the staff and presuming what the Planning Board would like to see, not just on that one lot but likes to see everywhere. So in that case I presume, as Andy said the Historic District Commission would have had some say and I don't imagine their say would have been any different than what Rick and Cynthia were looking for. To Jim's point and what's been discussed, you guys as this Board understand what the community wants, you understand what's there, Boards before you certainly set the tone, and I would suspect as boards change, the message will be clear as to what makes Bedford different, what has worked in the past, and what works. Most of the lots are already developed, so we're talking as far as development goes, pure development, one left, it's been approved by this Board or maybe the Board right before it, so a lot of that stuff is in the past. As I said, everything has come in front of the Historic District Commission and Planning Board but going forward having one streamlined board that really gets it, makes all the sense to myself and would suggest to the property owners that are being affected.

Susan Tufts-Moore, 27 Bedford Center Road, stated I spoke at the first public hearing, but for the gentleman from Sugar Hill, I would like to let you know that we do have five very historic buildings in that commercial area on Route 101 and Bedford Center Road that we discussed at the last meeting. In addition, I was on the Ad Hoc Historic District Commission study group,

and I think at the hearing that you attended there we also made this point but I think you really need to double check with Mr. Sawyer because the building materials no longer have any kind of strict requirements for wooden clapboards for example; modern materials are allowed. So I think that your concern about not being able to upgrade your buildings is ill founded at this point. I think you need to go and get a little more educated because I think you'll be presently surprised at the things that you can do now. Also, as I did mention last time, the Planning Board does have excellent, I think, architectural guidelines, but they are guidelines, they are not requirements. I don't feel that they have as much potential effect on the building design as the Historic District Commission. I will conclude by saying, again, that I feel it would be a real mistake to take the Historic District overprint off from the commercial area on Route 101 and Bedford Center Road.

Councilor Dermody asked are we going to address Ms. Sklar's comments? Vice Chairman Levenstein replied I was going to do that right after public comments.

Mr. Cote stated I'm the Planning Board liaison to the Historic District Commission. I do understand some of the points that have been brought up about how there is a lot of subjectivity on the Historic District Commission, and from what I've observed it has changed for the better recently, but that could change again in the future. The rules in there are relatively easy for the Historic District Commission to change, so even those rules today may be acceptable to a lot of people, it is relatively easy to change those rules. We did that this year and we had a public hearing, but nobody even showed up. I have some reservations about taking it out of the Historic District, even though not all the properties are historic, and there are some very nice buildings in other parts of Town that have been recently approved that are very nice buildings, but whether they fit into the character of this district or not, I don't know if that's the case. As it is written now if you do remove it, I'm worried about unintended consequences that we may not have thought about. If there is a way to address that, I think I'm fine with that. Maybe the answer is to have a Historic Commercial District, where they would have certain restrictions on that district to try to keep the character. I'm not sure what the best solution is.

Vice Chairman Levenstein asked Mr. Sawyer, in our guidelines, which we write, we can have separate guidelines for an area if we chose to. Could we? Mr. Sawyer replied no, I would say you could not. Your guidelines currently are written for all commercial uses, architectural guidelines. I think what Ms. Sklar was suggesting was something that the Ad Hoc Committee talked about recommending to the Town Council and ultimately couldn't come to a consensus on, was having the Planning Board suggest a zoning amendment that would create a new district in place of this district that would continue to have the regulations of the 20,000 square foot building footprint size limitation and the internally illuminated sign prohibition. But that would mean creating another zoning district or a sign district or some other district other than the Historic District, which we have not proposed. Vice Chairman Levenstein asked that would have to be in the Zoning Ordinance? Mr. Sawyer replied I'm not aware of a way you could do it in your regulations, no. Those are your land development control regulations, those are not by zoning district, those are overall. And I don't believe you could amend this ordinance as it stands today to make those changes without having an additional public hearing. We could physically do it, but it would be very challenging to do it and meet the deadlines required by the RSA's.

Mr. Wall stated as many of you on the Board know, I'm a new member or a new resident, so I don't have the historical background, if you will, to take a very strong position on either side of this issue. However, I've digested every piece of material that's come before me and listened to the positions on both sides of the issue. It almost sounds to me that we may be premature with dealing with this, Mr. Chairman. My recommendation would be to consider taking this off the ballot entirely and attempting between now and the next Town Meeting to come up with an amendment that finds some way to bring the competing issues together in such a way that it does not destroy the beauty of Route 101 and allows the commercial activities to proceed in such a way as not being competitive. The idea of a new district may make sense, but I don't think between now and the Town Meeting we could conjure up anything that would begin to address the issues we've heard here today and in previous meetings. Mr. Sawyer stated I guess I should clarify. We have to have our zoning amendments to the Town Clerk in final form by February the 7th, and if we make changes that are substantial, we have to re-notice them with a 10-day notice requirement, so physically are there enough days to do it, if we wrote it tonight and posted it, yes, but in reality this Board has always used this process of the two public hearing process and only made minor changes at this point in time. Councilor Dermody stated what I heard suggested is we take it down and continue to discuss it. I think there's been some observation made on some other proposed amendments that we're rushing some things. It may be a very valid thought that we consider, that we sit back and think through how we would do this, if we agree in the first place that we ought to go forward with it. Vice Chairman Levenstein stated my only feeling on that is that this isn't a new issue. It's been discussed; the Town Council had a whole commission, this has been discussed for years and years, and my feeling is sort of that let's put it on the ballot and see what people think. We've tried to come together with some sort of consensus, you had a committee and the Town Council and they weren't able to reach any sort of consensus. And in some ways unfortunately because of time constraints, it sort of limited people's ability to bring their own petitions forward because the Town Council's committee, I believe, came in with their recommendations, or lack of recommendations, after the date. I'm sort of leaning towards the idea of just letting the people decide. Ms. McGinley stated Mr. Chairman, I agree with you. I think that we have to remind everyone that we are not adopting anything by our putting it on the ballot. In Bedford we do adopt Zoning Ordinances or change Zoning Ordinances by our annual meeting in March. So putting it on the ballot doesn't mean it's going to pass, it just means it will be a decision for the Town to make.

Vice Chairman Levenstein asked Rick, do we on the ballot say that the Planning Board recommends a yes vote on this or the Planning Board recommends a no vote this, or is that only citizens' petitions? Mr. Sawyer replied correct, they would only be on citizens' petitions. This is a question that the Board is putting forward, so in theory the Board recommends it otherwise it wouldn't be on the ballot. Usually you take your motions after the public hearing process. Vice Chairman Levenstein stated I'm planning on doing that. Mr. Sawyer stated if this group here tonight supports it, it will go on the ballot as being a Planning Board initiative.

Mr. Newberry stated I agree with the last two statements. I think that this should go forward so that the voters of the Town can express what they would prefer to see. I think the fact of putting it up for the ballot would also help to generate some discussion on the pros and the cons, no matter which side of yes or no you're on. I think that that discussion and the results of that voting might also help us as a Town figure out what to do with this. As you pointed out, it is not

a new issue, and I think that tabling it is just putting off something that needs to be addressed. Mr. Wall stated the risk of doing that is that it gets passed. Mr. Newberry stated then the voters have expressed their desire. Mr. Wall stated but when in fact there may be a middle road solution that addresses the concerns of both parties. If it gets passed, trying to unwind it for legitimate reasons that may come out at a later date. Mr. Newberry stated if it is removed, I don't think that says that you can't propose some other solution. It doesn't say you can't propose something else for that area. Ms. McGinley stated if this were on the ballot and passed, that doesn't prohibit us from looking at this and saying this is commercial, but do we have areas of the Town that are zoned commercial that need to be treated differently. I know we have the three ballot proposals that we're going to discuss that treat an area differently than it is currently zoned, in creating a Commercial-2, and it may be that one size does not fit all. But I actually would be in favor of putting this on the ballot and letting this go forward and addressing any tweaks to this particular section of Town, or even a longer stretch along Route 101, if we see that we want more control over it. Mr. Newberry stated and I think we've heard arguments both ways that are good arguments, and I think in my view it's the Board's responsibility to bring the idea forward for the Town to express what they would prefer to see.

Mr. Noyes stated I'm a little confused because we're talking about such a small area and admittedly that's not exactly the point, but it seems like everybody is saying "Oh my gosh, if we stopped having this be in the Historic District, think of what would happen." If we're really that worried about that, how come we're not worried about 200' to the left and 200' to the right? I can't understand. It seems like everybody's saying we hate the rest of what we've done, and I don't really think that the people think that. And if it seems like we really think that, then we've got a much bigger problem that we need to be addressing how to make everything else be right as well. I get a little confused. Ms. McGinley stated I agree with you. I think what we have been doing on Route 101 has turned out really well. Not that everything on Route 101 looks great, but some of it preceded this Board and really a lot of earlier Boards also. So the architectural review exists because they do look the way they do, I think we can still do that in this area without it being a part of the Historic District. Vice Chairman Levenstein stated with what you just said in mind, they are some of the uglier buildings in Town in that little area, and some of the nicer buildings are outside, and I don't know how they, I wasn't around when the district was drawn up, I don't know how those lines were picked, but it does seem sort of arbitrary that you can be in one spot and just down the road a couple of hundred feet there can be a building and it's not subject to the same regulations. I agree with your point there.

Kathy Shartzter, 7 Roblin Road, stated I think if you put the amendment on the ballot, its interpreted by the voters as the Board feels that that commercial district should come out of the Historic District. If there are reservations, is there any way that you could put this on the ballot and have it be non-binding, it is just a suggestion, where you could get the actual pulse of the Town townwide. It is something I just thought of. I don't know if you can ever do anything like that. Vice Chairman Levenstein stated we had surveys back at one point, I know, but I don't think we could just have a ballot like that.

Ms. Tufts-Moore stated I just wanted to comment on the last comment that one of the Board members made. Of course the Historic District was not established until 1970. So I think part of the problem is that a few of the buildings were probably built in the 1960's before the Historic

District, and I'm sure that's one of the main reasons that the Historic District was formed in the first place, it was there were some buildings that really could be a lot better. I think the Historic District has been very helpful overall.

Vice Chairman Levenstein stated we do have some correspondence regarding this. Do I have to read these out, or can we just make them part of the record? Mr. Sawyer replied maybe just list the names of who sent the letters. Vice Chairman Levenstein stated there is a letter from the Bedford Village Shops Condominium Association, Howard Viens, President, wrote supporting putting it on the ballot, from REI, Mr. Clark, saying what he stated here this evening, from Modern Bride and Formal Shop, Brian Fortin, owner, stating that he is in support of putting it on the ballot, and letter from Ms. Sklar who was a member of the Ad Hoc Committee and is also a member of Planning Board, she is not in favor of placing the amendment on the ballot, and she does have some other suggestions, which Councilor Dermody mentioned regarding signs and limitations of size in the area. Those pretty much sum up the correspondence that we have.

Vice Chairman Levenstein asked for any further comments on this amendment.

Mr. Lamp stated I just want to be so bold to suggest that sometimes over-restriction keeps people from actually putting money into properties and saving historical properties. I can think of a couple that are in the Historic District that I think are residences that are in disrepair, and you would think even something crazy like having it in the commercial zone that we give the value to that property and allow someone to come in and retrofit that building might help it more. Sometimes things work in different ways, but if you restrict things too much and there is unsurity of how to get permitted and the time process, it keeps things from happening and you lose that structure eventually anyway.

Vice Chairman Levenstein sated we're going to take the next three together because they really are on the same topic.

Amendment No. 2

Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 275-7 District Names, Article 275-8 Location of Districts and the Zoning Map, Article 275-21 Use Regulations, Article 275-22 Dimensional Regulations, Article 275-73 Signs, and Article 275-74 District Regulations for Signage summarized as follows:

To create a new Commercial-2 zoning district and to rezone Lots 1-24-1, 1-24-2 and 10-2 located at the intersection of Route 114 and Donald Street Extension to be Commercial-2. The Commercial-2 district will allow for buildings with footprints in excess of 40,000 square feet.

[This amendment is intended to create a new zoning district title Commercial-2 and rezone the three lots that make up the current Commercial Zone located at the intersection of Route 114 and Donald Street Extension to be Commercial-2. Creating the Commercial-2 district will provide flexibility for commercial developments with building footprints in excess of 40,000 square feet to be located in a portion of town other than the

Performance Zone. The complete text of the 3-page amendment is on file for public viewing at the Town Clerk's Office and the Town's Website.]

Amendment No. 7

Are you in favor of the adoption of Amendment No. 7 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 275-7 District Names, Article 275-8 Location of Districts and the Zoning Map, Article 275-21 Use Regulations, Article 275-22 Dimensional Regulations, Article 275-73 Signs, and Article 275-74 District Regulations for Signage summarized as follows:

To create a new Service Commercial zoning district and to rezone all of the lots currently shown as Service Industrial, Lots 1-24-1 shown as a mix of Commercial, Service Industrial and General Residential and lots 1-24-2 and 10-2 shown as Commercial located along Route 114, Donald Street Extension, Bellmore Drive, Cote Lane, Rundlett Hill Road and Plummer Hill Road to be Service Commercial. The Service Commercial district will allow for buildings with footprints in excess of 40,000 square feet and allow all the uses currently permitted in the Commercial and Service Industrial Districts.

[This amendment is intended to create a new zoning district title Service Commercial and rezone the Service Industrial zone along Route 114 and the lots that make up the current Commercial Zone located at the intersection of Route 114 and Donald Street Extension to be Service Commercial. Creating the Service Commercial district will provide flexibility for commercial developments with building footprints in excess of 40,000 square feet to be located in a portion of town other than the Performance Zone. The complete text of the 3-page amendment is on file for public viewing at the Town Clerk's Office and the Town's Website.]

Amendment No. 8

Are you in favor of the adoption of Amendment No. 8 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 275-8 Location of Districts, Article 275-59 Boundaries of Performance Zoning Districts and the Zoning Map summarized as follows:

To rezone all of the lots currently shown as Service Industrial, Lots 1-24-1 shown as a mix of Commercial, Service Industrial and General Residential and Lots 1-24-2 and 10-2 shown as Commercial located along Route 114, Donald Street Extension, Bellmore Drive, Cote Lane, Rundlett Hill Road and Plummer Hill Road to be Performance Zoning District.

[This amendment is intended to rezone the Service Industrial zone along Route 114 and the lots that make up the current Commercial Zone located at the intersection of Route 114 and Donald Street Extension to be Performance Zoning District. Rezoning this portion of Town will allow for flexibility of development and maximization of the tax base. A map of the area to be rezoned is on file for public viewing at the Town Clerk's Office and the Town's Website.]

Ms. McGinley stated again, these three ordinances seem to conflict with each other and that we will most likely not choose more than one to go on the ballot. Vice Chairman Levenstein stated these are three alternatives, and I believe, I can't speak for the other members, but I believe that we will decide tonight which of these three, if any, to put on the ballot and only one of them, if any, will be on the ballot.

Linda Dumont, 1 Plummer Hill Road, stated I've got a few questions about this. In a letter stated by William Ingalls, this is a quote from the letter, "As long as the owner is living there and that is all that's going on there, then no changes in value would take place. But if the property was rented or used as an office, then the value would increase." Two of the three homes involved on Plummer Hill Road are already in trust funds. So as I understand it, those families living there are actually tenants of the Trust. I don't understand how this rezoning is going to impact us. Mr. Sawyer replied the residential properties would continue to have that same exemption as they do now being in the industrial district. If that were to change to some other commercial or industrial type district, the same exemption would apply for residentially used properties. I can't speak to the assessing piece about it because it is in a Trust, whether that makes them non-compliant with that or not. That would be something for the Assessor to address. Ms. Dumont stated it was also suggested to us, the residents on that street, that we might end up having to fill out a yearly form stating we're living here and nothing commercial is going on. Mr. Sawyer stated I believe that is the case currently as well. Whether the Assessor forces that to be done every year or he simply continues to apply that exemption, it would still be the same case in the rezoning. Ms. Dumont stated but yet again that's a burden put on a few of us. Mr. Sawyer stated but it exists today because the homes are in industrial land and that wouldn't change. Ms. McGinley stated what we're speaking of is whether or not someone's tax assessment on the land would go up because of his zoning change. Mr. Sawyer replied residentially used land only. Just because there are houses along Plummer Hill Road, there is also one along Rundlett Hill Road, that are in the district today, they don't get taxed as being industrial land because they are currently used 100 percent as residential land. Ms. McGinley asked so it is an exception from the highest and best use. Mr. Sawyer replied for tax purposes only. Ms. Dumont stated also the three houses on Plummer Hill Road, they are all owned by people who are over 60, and we're all, I'm sure, thinking the same thing, that when we get older and we want to retire, do we want to hand over the property to our kids because a lot of families are doing that, and then in exchange the children are taking care of the parents hopefully. Are you putting a blockage on that because once we turn over the property to somebody else? Mr. Sawyer replied again, ownership would not come into play in any regard. Ms. Dumont asked until there is an actual usage change? Mr. Sawyer replied correct. Ms. Dumont stated I noticed on our letter that we received that there is quite a bit of mention of the Whisper Drive Common Lands. I don't even see how that can be involved in this because I understood that that land was established because the houses up on Whisper Drive didn't have enough footage or something, so they had to have common lands. Vice Chairman Levenstein stated like a cluster development. Mr. Sawyer stated it is a cluster subdivision with common open space. I don't know what letter you're referring to. Ms. Dumont stated the letter from the Town. Mr. Sawyer asked is that from Mr. Ingalls? Ms. Dumont replied no. I have a copy right here if you would like to see it. Mr. Sawyer stated because some of that common land is also in the Service Industrial district, that common land that I'm trying to show posted, they are copied on that letter because some of that land is already in the industrial district. That is the only reason they're listed there. Ms. Dumont asked so they wouldn't

actually be able to use it then? Mr. Sawyer replied no. That is still common land for the subdivision; open space. Ms. Dumont stated and most of the land between White Avenue and Plummer Hill Road used to be categorized as wetlands. Mr. Sawyer stated it very much is. I don't think you could build on most of it. Vice Chairman Levenstein stated this wouldn't affect whether it is wetlands or not or what you could do with it. Wetlands are controlled by the State and by the Conservation Commission, but it doesn't matter what zone they are in, they are still protected. Ms. Dumont stated in summation I just want to say that it seems like to White Avenue to the Goffstown line along Route 114, what you have are wetlands, then my property and my two neighbors and none of us three want any rezoning, want any changes, so why not just stop at White Avenue. I know in this letter that was sent to me from the Town dated December 27th, that the third house that I keep on mentioning, they never even received this letter, and I had to speak to someone at the Town to say there is another member on Plummer Hill Road. Vice Chairman Levenstein stated those properties are Service Industrial. Mr. Sawyer replied correct. Why the Service Industrial line was drawn where it is, when it was, I can't explain that. It might be something we want to look at in the future about taking Plummer Hill out of the industrial district or whatever future district that might get created. The only reason they're on the amendment right now is because they are currently industrial and we wouldn't want to just leave a tiny, little spot of Service Industrial all by itself.

Jeannette Langlois, 6 Plummer Hill Road, stated I just wanted to know what the benefits would be to rezone it for us residents there. Vice Chairman Levenstein replied it would give residents more options as to what they might want to do with their land in the future. At some point in time you may decide that you don't want to live there and depending on which amendment came into being, it would give somebody who is looking to buy the land more options as to what they could do with the property. But it wouldn't affect your ability to keep it as a house because that is grand fathered in as it is.

David Patron stated I'm a principal at the two real estate properties across the street, Lots 10-3 and 10-4 that are currently Service Industrial. The total square footage of those two buildings is approximately the same size as Market Basket. They were engineered for Service Industrial use, that's what they are; you just can't wave your magic wand and turn them into restaurants. They don't have the power capacity, the accessibility or anything like that, but my point is we support Amendment No. 2. We can't afford to pay any more taxes on those buildings. I'm in the process of negotiating leases right now, and the first thing these people want to see is our tax bill. They think I'm lying to them, and I literally walk it right over to them. It is a lot of money, and we can't sustain it. If these buildings are rezoned and the uses are going to be different, then we're going to have to take a look at what we're doing, and you may see something different over there and you might not like it. That's all I have to say. Thank you.

Ms. Shartzler stated a couple of things. First on the process; I would like you to compare what's happening with Amendment No. 2 and No. 7 and No. 8 and what's happening with Amendment No. 3 and Amendment No. 6. Just listening it looks like with Amendment No. 3 you had a subgroup study it; you brought in an outside consultant to explain details of it. With Amendment No. 6 it looks like you had an Ad Hoc Committee, you had a Commission, you had a hearing. With this it seems like some people got some letters in the mail, I read it in the Town paper, and I don't understand the rush. I would love that with this section of Town if you're going to rezone

it, you bring together the residents and business owners and the people who walk through the neighborhood and you really have a thoughtful process about how this should be rezoned. I just think there was a time crunch to try to get it on the ballot, so that's just with the process. Specifically when I spoke at the first public hearing, I mentioned sidewalks in the area and how I really believe that that should be part of the zoning, and Mr. Sawyer mentioned the architectural design standard and he was nice enough to email me a copy so I did read that. I do have to respectfully disagree with the fact that the architectural design standards would be a way to put sidewalks along the road. What it says specifically, and you folks probably know it, is that sidewalks along building facades with a customer entrance. Those aren't the sidewalks that I'm talking about. I'm talking about just somebody who wants to walk up the road. I may go in there or I may not. And I'm just talking about keeping pedestrians safe and it comes in Paragraph P, which talks about pedestrian amenities. I really view sidewalks as an extended shoulder or whatever as really a safety issue. If I'm walking up Rundlett Hill Road and that property down at the bottom of that hill gets developed into a commercial retail establishment or a restaurant, the amount of traffic on Rundlett Hill Road is going to greatly increase. With these amendments you're increasing the density because you're minimizing the minimum lot size, and I think by and large retail establishments bring in a lot more traffic than a Service Industrial. I mean it just does. Vice Chairman Levenstein stated I think a trucking company like Yellow Truck, which can be in Service Industrial, probably has as much traffic as a lot of retail establishments. Ms. Shartzler stated I think in the size if you had a bunch of smaller shops that were all retail. But anyway, I just think there needs to be something in the regulation that is written, and I'm not exactly sure how to write it so that you're looking out for pedestrian safety. That's in your Master Plan now, especially in the Service Commercial where you're creating a whole new zoning. When I brought this up two weeks ago, the concern was the cost of maintaining it, and I have to tell you when you look at Amendment No. 3, you never talked about maintaining those sidewalks. I think we have to be careful about being willing to spend money to maintain sidewalks for some pedestrians in some parts of Town and not other pedestrians in other parts of Town. I just think that townwide, and you kind of heard that with the Historic District, townwide we have to think about pedestrian safety, and if you're creating a new Zoning Ordinance, I think according to your Master Plan, you want to think about that. The other thing is the connectivity, if I'm saying that right. I think you want to think about that. According to the Master Plan, the implementation graph, in six to ten years from when the plan was developed, so from five to ten years, the plan is to develop a long-range plan to widen Route 114. So we're talking about developing a long-range plan if I understand the Master Plan correctly in five to ten years. So I think we have to be very careful about trying to limit traffic on Route 114 because the plan to try to widen that or work with the State is quite a bit off in the future. So I think you want to think about if you're going to come up with a new Zoning Ordinance, about how you could give a bonus incentive if developers would allow connectivity, which is what I think you're doing in Amendment No. 6, having those connect to limit traffic. The example I have is when we amend Article 275-22, what you're going to do is you're going to add the Service Commercial into that, to just add it, and that gives land for shared-access driveways. So it is for individuals who voluntarily agree to provide an easement, give some of their land over for a shared access, but the next part is to facilitate access management for Route 101. That's not going to help Route 114 or the roads Rundlett Hill or Donald Drive. Do you know what I'm saying? It would be nice if there was a zoning requirement for this development that talked about shared driveways if it would ease access to Route 114. Vice Chairman

Levenstein stated there is no access to Route 114 except where it is. There is no other access that we can have. At least that is my understanding. That is the State and it's all limited access State highway. We can't put any more accesses to it and I don't think we can have driveways onto it or anything coming off from it. So I think we're limited there as opposed to Route 101, and I think probably what you were reading was we combined commercial and that was probably in the regular commercial section, which was all the Route 101 stuff. This is commercial, which we kind of forget sometimes, but that little part in there, which is what basically created this whole issue, which has been going on for over a year because actually a year ago we discussed this as an amendment to that area too. It isn't that new as far as something that we just decided in the past couple of months. We talked about this quite a while ago. We did change it, we didn't talk about changing it to Performance Zone or to a new Service Industrial, but we did talk about changing what was going to take place in that area back a year ago. Ms. Shartzter stated you talked about creating the Commercial-2 and eliminating the size of the buildings, eliminating the 40,000 square foot limit. I attend almost every meeting that deals with this part of Town, and I don't remember any conversation about the Service Industrial, and you'd have to tell me what meeting that the Service Industrial was discussed. Vice Chairman Levenstein stated no it wasn't. Ms. Shartzter stated but that's my concern. I'm speaking specifically of Amendment No. 7 and Amendment No. 8, which is the Service Industrial part. Again, I just think if you're going to create either a new zone or you're going to extend the zone, that you take the Master Plan into consideration and you think about what you're trying to achieve in the River Corridor with the pedestrian safety and you apply it here also. Vice Chairman Levenstein stated I think clearly if it is made Performance Zone, that's something that we're very familiar with as far as what we can do there. I don't know whether we need to study to know what the Planning Board has to do as far as Performance Zone and those ordinances have been in place for a really long time. The other one, the Service Commercial; that would be something which we haven't dealt with before.

Mr. Lamp stated I am representing DSM, the owner of the commercial zone, or actually two of the lots in the commercial zone, which is the orange zone on the posted map. As I stated at the last meeting, we're in favor of Amendment No. 2 because we think it keeps things a little bit simpler and easier to understand. The way I read it is that it keeps everything the same except for the restriction on the 40,000 square foot footprint. The Zoning Board has granted, I think, three variances on two separate projects to allow for that footprint to be exceeding. I think the Planning Board has acknowledged that and come up with this language. I think what we're trying to do is get past the log jam where there are law suits out there that are occurring where the industrial zone has no limitation on footprints; it basically surrounds all the commercial property so it doesn't really make sense to have a commercial property inside that that has a restriction of 40,000 square feet. Again, we're in favor of Amendment No. 2. One suggestion to the Board might be to allow for Amendment No. 2 to go on the ballot and Amendment No. 7 or 8 are actually included in that ballot and voted in, that it would supersede Amendment No. 2. If the Board feels that there's some merit to 7 and 8, which again, it doesn't really affect our property, but it sounds like it's pretty complicated as far as the consequences or unintended consequences, but that might be one way to have two items on the ballot. Thank you.

Ms. McGinley stated I think that changing the Service Industrial to a different zone in the future may be a wise thing to look into. I think given some of the issues that were raised today that we ought to take more time to look into it. I am in favor Amendment No. 2, which would change

the commercial area to Commercial-2, and I do think there may be some benefit to a broader expansion or broader change in the future that we can look at in a more detailed way. Mr. Wall stated I concur. I think Amendment No. 2 is the simplest way to go. The thought of changing this to Performance Zone and the fact that this is a limited access highway, I can't imagine anybody who would want to do any development under the umbrella of the Performance Zone standards on a piece of real estate where you can't get access to a main highway. Mr. Newberry stated I really can't grasp the logic of only doing the lots in question, and I think the 7 and 8 proposed amendments really make more sense than just the limited area covered in Amendment No. 2. But I also think, and partly from what I've heard tonight, that it may be premature to try to address the whole area, which kind of leads me to the conclusion that I don't support any of the three. Councilor Bandazian stated I don't have a vote on this, but I guess I would agree none of these hit the sweet spot with me. Honestly I think rezoning the commercial district would create new grounds for litigation, not end litigation, but that would be interesting to see play out. I would love to see a Performance Zone and that flexibility and our familiarity with it, but what it does is eliminates workforce housing, elderly housing and allows adult entertainment, although given boundaries, that's not a realistic threat. But eliminating workforce housing where we specifically looked at that zone as a potential location if there was to be redevelopment, I think would be a loss. I also think elderly housing would be a good buffer use where there are residences abutting and would be a good neighborhood creating device. I think the Service Commercial in terms of uses comes as close to what we would want to see but it doesn't have the flexibility of the Performance Zone. I think every one of those alternatives has a flaw, unfortunately. Councilor Dermody stated I'm inclined to agree with what both gentlemen said down there. I don't see any rush to get an amendment too. They have their variance; they can proceed and are proceeding with that property, so the issue is not one that we have to address right this minute. I think what I've heard about the rest of that property down there and listening to what this lady said; and thank you, I think you're probably the only person in Town that is a student of the Master Plan. We should be very encouraged that somebody in this Town, other than the people who were on the Steering Committee, has gotten into the document itself. I fear with Amendments No. 7 and 8 it's like someone at a higher level of government than we're talking about here tonight when it was stated I guess we'll have to pass this so we find out what's in it. I don't see the need for jumping into this until we get a little bit more understanding of what should be proposed down there, as against what can be proposed down there. And again, right now I don't see the necessity for 7 or 8 and I don't see jumping into Amendment No. 2. I just don't see it necessary.

Ms. McGinley stated I've got a question and I'm not sure who on the Board would be the person to answer this. If the Town of Bedford passes Amendment No. 2, can that be challenged legally? It would be a legally adopted ordinance. Councilor Bandazian replied hypothetically someone might challenge it as spot zoning, and it may not survive a motion to dismiss, but that motion to dismiss can be appealed and that's the situation we're in now. Councilor Dermody asked wasn't that our Attorney's objection or pointed that out as a concern last year? Ms. McGinley replied not on this ordinance, but on the one that was proposed last year; this piece of property. Councilor Dermody stated same piece of property, slightly different ordinance. Vice Chairman Levenstein stated the difference last year was that we were keeping it in the same zone and we were trying to give it different rules for that particular property as opposed to other properties in commercial. This is taking it out of that zone and making it a new zone, which I think is what

Bart's analysis is. Mr. Sawyer stated any amendment can be appealed to court. Mr. Chairman you did have one written communication.

Mr. Lamp stated I guess I take exception to Amendment No. 2 being a jump into. We were before this Board a year ago. Language was agreed to by Town Counsel, and then it was also changed and decided that there was an appeal issue so it was withdrawn. The Board has taken a year or two look at it and figured out the right way, and staff has worked on trying to figure out the correct way to create a zone where almost every abutting property has no restriction on building size and the doughnut hole in the middle does. It doesn't make sense. We have probably \$10 to \$15 million of local work and new jobs to be created on this job. It is tied up in the court, and I think this is a perfectly legitimate request to be before the Town for the vote. Town Counsel has agreed with the language, I believe. Mr. Sawyer responded yes. Mr. Lamp stated so there is no question about that at this stage, and it's truly we're going at risk. We have to bond for everything that's being done on that site so that it can be undone and torn apart if the suit doesn't go through. Right now we're just in the Supreme Court on the issue of standing. We haven't even gotten to the issue of whether or not there's a real suit to be had there. Vice Chairman Levenstein stated let me ask a question. Again, I don't know who I'm asking this to. If the Town changes this to Commercial-2 and that is appealed, does that have any effect on the variances you have to it being a variance to the commercially zoned property? Mr. Lamp replied I don't believe so. I think you'd end up going to court on two different levels. You would pursue both on different tracks. Councilor Dermody asked what happens if this goes to vote and the voters turn it down? Mr. Lamp replied it doesn't change anything. Councilor Dermody stated the variance gives you permission. Mr. Lamp stated we're before the court with a frivolous lawsuit, in my personal opinion, and it's meant to delay and it really is by an entity that has a property four miles away saying they haven't been treated equally under the regulations and they never asked for a variance for the same relief. So we're kind of stuck between a rock and a hard place. We feel comfortable at this stage that things will pan out. At Superior Court they ruled in our favor that there was no standing, but it has been appealed to the Supreme Court. There is no time restriction on that. It is sitting there and we are trying to get this building underway, again, helping local jobs, and actually having full-time jobs once the store is open, and I think it's an important part of this Town to move forward with this project. It's a big project. Thank you.

Mr. Greiner stated I wasn't going to speak on this. Mr. Lamp brings up an interesting point. The Town has talked for at least three years about wanting to be pro-business and do what it can to foster economic development. That's been vetted in the community and I think that most people agree with that. You have two amendments today, which in different ways deal with economic development and being business friendly. Two things come to mind: we want to attract businesses to Town, what Mr. Lamp is involved with is doing that, that increases the tax base, puts people to work, all those things that we think are good as a community. The other issue that's talked about is how do we retain businesses, how do we keep them here, how do we be business friendly not just to get them through the door but keep them here so that we're not worrying about releasing buildings and having vacant buildings. Because when you have a vacant building, or you have vacancies, you go in and you explain to the Assessor and when you were taxed at \$30,000 and now maybe you're taxed at \$20,000 because it's not the same value. So when we're trying to maximize our tax base, we need to attract these businesses and we need

to keep them here. Amendment No. 6 with the Historic District, you're hearing from your business community that the system is broke, something needs to be done, and I would suggest letting the residents vote on it. Same thing with Amendment No. 2; they're going to tell us whether we're making a mistake or we're not making a mistake, and I would suggest in the climate that we're in, you're going to see that people want to do what they can to help foster that economic development that we've talked about so much for the last three years.

Vice Chairman Levenstein stated I was going to agree with Ms. McGinley and say that we should probably have Amendment No. 2 go on the ballot, is my feeling; it is probably the best course of action, at least at this stage. I do think that it makes sense, that it doesn't make sense where it is and what it is, and I know I was on the Board back when we changed the rules and made it or proposed that 40,000 square feet be switched to 20,000 square feet. I can pretty much guarantee, and probably Mr. Newberry was the only other one here, that we never thought of that piece of property. Mr. Newberry stated no we didn't. Vice Chairman Levenstein stated no one had any clue that that property was commercially zoned and that that would affect that piece of property.

Mr. Newberry asked could we go back to Amendment No. 3 for a moment. I was surprised there was no comment on it. I've got a comment and a question. My comment is that I think that amendment is future-looking. Clearly it won't happen overnight, but it does set a direction, and I think that it enables new and effective development in areas that are largely built out or have redevelopment potential. And I think that it allows for controlled and improved land usage, and I think it's an excellent concept. My question is in looking through the ordinance, clearly a lot of work and thought has been put into that document, and I was just interested if Mr. Sawyer or Ms. McGinley could just briefly give us a little bit of background on how that ordinance was generated. Ms. McGinley responded I can tell you that. I was the initial drafter of this ordinance, and after struggling with various formats for our new ordinance, I did actually go back to our original traditional neighborhood development ordinance from 1991, and bring it current by use of an ordinance from Reading, Mass. Massachusetts has had a law in place that encourages a style of development for about three or four years and I was able to find some ordinances in Mass. to use. So I brought that one current using some of our concepts and thoughts from the early ordinance, and then we asked Rick Chellman, who spoke earlier, with his expertise in the field, this is what he does, to tighten it up and to make it more succinct. As Mr. Chellman mentioned, a companion with this will be our regulations that we adopt if this is passed by the Town, and the development under this ordinance would not be able to proceed without those regulations. Mr. Sawyer stated to follow-up on that; the more global genesis came out of the Master Plan process as was stated earlier. This was one of the primary goals of the Master Plan all the way throughout is to try and create higher intensity uses. If some place in Town in the Performance Zone that would be the right place to provide those interconnections, to provide, again, the possibility of housing at affordable levels or a broad market for elderly population, for seniors, for empty nesters who don't want the big house anymore, give additional housing opportunities. Those are all things that came out of that Master Plan process and it is this amendment that's hoping to allow for that to happen. Ms. McGinley stated with regard to the housing. I think the other housing type that we don't have much of in our Town is housing for our young adults, for our children, and this might provide the same level of housing for them. Mr. Sawyer stated both at workforce housing levels and at market rate levels of all kinds. Mr.

Newberry stated I just wanted to understand myself and make sure that anyone else that's interested understands that this ordinance wasn't just slap-dashed together. Councilor Dermody stated I've had some conversations with Ms. McGinley, and I certainly don't disagree with the concept. I think it's something that the Town needs to address. My concern is that this has come together rather recently, it's only borne out of the Master Plan, I'll acknowledge that, and that's been on the table for a few months now. But this concept has not been brought to the people. There are very few people; I got a question asked of me the other day. Someone heard about this and they heard that an 18-story building would be permissible. I tried to assure them that that's not the case, but it brings the point out that this has not been exposed at all or very little. We've had two discussions, the Planning Board, on this whole concept. I agree there is some attractive literature about Mashpee; I think it's very attractive, we all understand the concept in Portsmouth. That whole town was developed under an entirely different concept than Bedford, New Hampshire was developed. I think there are a lot of questions that have to be answered. There are some questions about infrastructure. What does this cause in terms of infrastructure? I believe, and I'll just take what was talked about as far as drawing from the empty nester community that lives out in the residential areas of Bedford. They will move possibly into this area. That leaves those houses open for children around here. I think schools have to be addressed as far as going forward, but that also brings in the School Board and I don't know that the residents understand the concept. A question has been asked too about what does that do if you have this community within Bedford because that's what it becomes. It suggests there is a community within Bedford. How is that treated with respect the rest of the Town? I think there are good answers for those things, but those questions are out there. I'm not so sure the Town is able to vote from a position of information on this particular mixed-use concept right now. I think it is good. Ms. McGinley was attempting tonight to tape a show, which I support, is probably a good first step in making information available to the public. I would suggest that someone get a hold of the local papers, introduce this subject; I understand we can only get the horse to the troth; we can't make the horse drink. If the people don't read the papers, they don't listen to BCTV, and then I would suggest that's their problem. If we don't bring that information forward to them, it is our problem that we didn't inform the people correctly as to how this should go about, and I think Mr. Newberry's observation that this isn't something that's going to happen overnight, I just suggest maybe a period of a year to expose this thing, get people to understand it better. I don't think it's something that we have to vote on or bring to the people right now. It could fail because of rumors or misinformation about how this concept is to be accepted, may cause it to go down, and I don't think we want to do that. I think the concept should be brought to Bedford, but I think we have to do it with a bit of information. Vice Chairman Levenstein stated I understand what you're saying and my feeling is sort of one of frustration because in 2009 we started working on the Master Plan, and Ms. McGinley and I were both on the Master Plan Committee and we discussed it at meetings for the Master Plan, we had public hearings, a few people showed up, and after we adopted the Master Plan or wrote the Master Plan we had public hearings and maybe a few less people showed up, and then we've had meetings here, how many times now. We had meetings before this where we've discussed mixed-use and people haven't been here talking about it. I say I'm frustrated, but I've been on boards now for a while and it's sort of been my experience the only time people do come out is if they don't like something. And if you're doing things that their sitting there looking at and saying they are doing okay and sort of looking out for our interests, what you don't get is a lot of people coming out to meetings. I know that we could study it for a year, we can study it for two

years, we can study it for three years, but I don't know that we're ever going to be in a position where we can sit there and feel comfortable that everybody knows exactly what we're doing and everybody agrees with it or everybody doesn't agree with it. My feeling is we just put it on the ballot; we're doing what we're supposed to be doing, we're supposed to be planning and this is something we're suggesting planning for the Town and let's see what people say. Ms. McGinley stated I will have to say that I have already begun on the piece for BCTV. I did an onsite with Rick Chellman in Portsmouth that could be a part of that, and it was going to be taped today but the third person, we felt that was important to have someone other than Rick Chellman and I, to ask the questions that Bill is asking and the third person could not come. We will schedule that so there will be a segment on BCTV going over the ordinance and going over the conceptualls that were done for the Master Plan in 2010, and that's almost two years ago that we had those conceptualls done because not everyone can visualize. The Chairman tonight and I are both in real estate, and I think people who are involved in real estate have an ability to visualize, but we wanted to make sure that the voters in the Town of Bedford could see what we had talked about and that's why we had the Celebration plans done and those are an appendix to the Master Plan. In addition, Bill, I do agree with you because we are a multi-media society that not everybody watches BCTV; I can't say that I watch it all the time, but I do read the paper and I think that doing that, now that I'm thinking of about it, might want to do a short segment of the filming for BCTV that could be put on YouTube because that will be available for our 20 something's. We could put a note in the paper that it is on YouTube if you want to see an explanation of it. I was recently involved in an exercise where we were trying to come up with the best way to address an issue and get it to the public, and really given our multi-media generations, you need to hit them all, those that watch TV, read the paper, and also some of the social medias, which YouTube would be able to reach. Bill I do agree that education is needed, we're in January, this vote is not until March, and I think we can educate the Town that doesn't already know between now and then.

MOTION by Mr. Newberry to close the public hearing. Seconded by Mr. Cote. Vote taken - all in favor. Motion carries.

Mr. Sawyer stated before we start I'd like to thank everyone that came to the last public hearing and that came into the office to see Colleen and I. It's actually been one of the more informative years for getting input back from the citizens, and I think it's great that so many people have taken an interest in all of the amendments this year.

The Planning Board took a 5-minute break at 9:07 p.m.

Vice Chairman Levenstein stated the Planning Board will now vote on which amendments we are going to place on the ballot. We will go in the same order as the public hearing, so that way we will take the three that are related all together.

MOTION made by Mr. Wall that the Planning Board place Amendment No. 1 on the March 2012 ballot. Seconded by Councilor Dermody. Vote taken - all in favor. Motion carries.

MOTION by Councilor Dermody that the Planning Board place Amendment No. 4 on the March 2012 ballot. Seconded by Ms. McGinley. Vote taken - all in favor. Motion carries.

MOTION by Councilor Dermody that the Planning Board place Amendment No. 5 on the March 2012 ballot. Seconded by Ms. McGinley. Vote taken - all in favor. Motion carries.

MOTION by Ms. McGinley that the Planning Board place Amendment No. 3 on the March 2012 ballot. Seconded by Mr. Wall. Vote taken - all in favor. Motion carries.

MOTION by Councilor Dermody that the Planning Board place Amendment No. 6 on the March 2012 ballot. Seconded by Ms. McGinley. Vote taken - all in favor. Motion carries.

Mr. Sawyer stated this may be where you want to discuss Amendments No. 2, No. 7 and No. 8. I'm hoping from a staff perspective having to administer this; that only one of those three options makes it to the ballot, unless we change the verbiage of any of the amendments to reflect which one would be valid. Ms. McGinley asked can we do that? Mr. Sawyer replied it wasn't discussed with Counsel. I don't know if any of the attorneys on the Board want to weigh in on it. I would try to avoid that if we could, but I guess that is an option. Vice Chairman Levenstein stated we've been advised by staff that it is probably not a good idea to put all three on the ballot. Ms. McGinley stated Mr. Chairman, I have a suggestion. Why don't we move the amendments to see which ones get a motion to be placed on the ballot, and then we'll know what we're voting. That may flush out that some aren't even going to be on the ballot because there is no motion to put them on the ballot. Mr. Cote asked are we allowed to reconsider once we vote? Vice Chairman Levenstein asked why don't we have a straw poll. What is your feeling? Mr. Cote replied I guess in the long term my preference would probably be the Performance Zone, but not at this point when it hasn't been fully vetted yet. With Amendment No. 2 I support the project, I think the Zoning Board made the right decision and I expect that the courts would rule in their favor. But I do have a problem with putting Amendment No. 2 on the ballot. I could reluctantly agree to put it to the voters if it came to that. I couldn't support Amendments No. 7 or 8 at this time. I think it is worthwhile to look into either one, but preferably the Performance Zone one, in the future but not at this time. Mr. Wall stated I would support putting Amendment No. 2 on the ballot and agree with Phil, that Amendments No. 7 and 8 are too complicated and too many unresolved issues. Councilor Dermody stated I agree Amendments No. 7 and 8 shouldn't go on the ballot and I'm opposed to Amendment No. 2 going on. It is in the hands of the court. Councilor Bandazian stated I have to say that none of these amendments hit the sweet spot with me. I'd like to see a Performance Zone-2 with a couple of uses added. Mr. Newberry stated as I said before, I think Amendments No. 7 and 8 both have merit, but may be premature and I'm opposed to Amendment No. 2 because it just doesn't make logical sense to me. Ms. McGinley stated I support Amendment No. 2. I do think that a rezoning of a greater area is something that we should look into. I'm not sure that Performance Zone with some of the concerns that we have, in other words, in possibly having a Performance Zone-2 would be appropriate, but I think that the larger area needs more study. I would not support Amendments No. 7 or 8. Vice

Chairman Levenstein stated I think we need an overlay zone. Ms. McGinley stated I thought about that, but I wasn't going to mention it. It actually does work here, but I think we need to actually see if it passes and look at it and it may have a variation of this one. We may want to have some fewer uses permitted, for instance. Vice Chairman Levenstein asked how much of an area is it total? Mr. Sawyer asked do you mean acres? I honestly don't know. Vice Chairman Levenstein stated my feeling is to put Amendment No. 2 on the ballot and not to put Amendments No. 7 and 8, pending looking into those later on. Do further work as far as whether Amendments No. 7 or 8 or something that's similar. Ms. McGinley stated I know this is outside of what we're deciding tonight, but if we want to look at this area for further zoning, I think it would be really important to have a subcommittee look at that, have a couple of Planning Board members on it, so we have that experience, but also have people from the community that live in the area and can bring their own personal experiences to the review.

MOTION by Ms. McGinley that the Planning Board place Amendment No. 2 on the March 2012 ballot. Seconded by Mr. Wall. Vote taken. Motion carries, with Councilor Dermody and Mr. Newberry voting in opposition.

Vice Chairman Levenstein stated there was no motion to put Amendment No. 7 on the ballot. There was no motion to put Amendment No. 8 on the ballot.

V. Approval of Minutes of Previous Meeting

Amendments: Page 8, middle of paragraph, ninth line down, beginning with already, "can" should be "can't" with regard to "if a property owner can't repurpose their building, it's a Service Industrial building."

MOTION by Councilor Dermody to approve the January 9, 2012 Planning Board minutes as amended. Seconded by Ms. McGinley. Vote taken. Motion carries, Mr. Newberry abstaining.

VI. Communications to the Board

Vice Chairman Levenstein stated we have a notice of lot merger that I need signed by two more Planning Board members.

Mr. Sawyer stated we have two agenda items for the February 13, 2012 meeting.

VII. Reports of Committees

VII. Adjournment

MOTION by Ms. McGinley to adjourn at 9:28pm. Seconded by Councilor Dermody. Vote taken – all in favor. Motion carries.

Respectfully submitted by Valerie E. Fysh