



**Town of Seabrook  
Planning Board Minutes**  
Tuesday, April 15, 2014  
NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; Jason Janvrin, Vice Chair; Roger Frazee; Francis Chase, Michael Lowry, Ivan Eaton III, Aboul Khan, Ex-Officio, Paula Wood, Alternate, Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Paul Garand, Code Enforcement Officer; Members Absent; Sue Foote, Alternate; David Baxter, Alternate,

Hawkins opened the meeting at 6:35PM.

**CORRESPONDENCE/ ANNOUNCEMENTS**

**Case #2013-24 – Proposal by GRA Real Estate Holdings, LLC to re-locate the Seabrook Truck Center and construct a 23,600 sf building (service, office & retail) and a fueling station (diesel & CNG) at 27 & 39 Stard Road, Tax Map 4, Lots 9 & 11, continued from January 7, 2014; March 4, 2014; April 1, 2014;**

**At the Applicant's request Hawkins continued Case #2013-24 to May 20, 2014 at 6:30PM at Seabrook Town Hall.** Hawkins commented that this case was still being heard at the Zoning Board of Adjustment.

**Case #2013-26 11 New Zealand Road LLC and Charles Mabardy to establish a convenience store and restaurant at 11 New Zealand Road, Tax Map 7, Lot 87, continued from January 7, 2014, January 21, 2014; March 4, 2014, April 1, 2014;**

**At the Applicant's request Hawkins continued Case #2013-26 to May 20, 2014 at 6:30PM at Seabrook Town Hall.**

**Case #2013-27 Adams Subdivision Case #2013-27 – Proposal by Edwin Adams for a 4-lot subdivision at 97 – 111 Folly Mill Road, Tax Map 9, Lot 205, continued from January 21, 2014, March 4, 2014; April 1, 2014;**

**At the Applicant's request Hawkins continued Case #2013-27 to May 20, 2014 at 6:30PM at Seabrook Town Hall.**

**MINUTES OF APRIL 1, 2014**

Hawkins asked for corrections or changes on the April 1, 2014 Minutes. Janvrin noted that he had abstained from the votes for Vice Chair and Rec Commission representative.

<b>MOTION:</b>	<b>Khan</b>	<b>to accept the Minutes of April 1, 2014, showing Jason Janvrin as abstaining on the votes for Planning Board Vice Chair, and representative to the Recreation Commission.</b>
<b>SECOND:</b>	<b>Chase</b>	<b>Approved: Unanimous</b>



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**SECURITY REDUCTIONS, EXTENSIONS, ROADWAYS**

**Case #2012-02 Waterstone, West Marine**

Hawkins referenced the Waterstone request to return the security for Case #2012-02 West Marine. The department head signoffs were in hand. He asked if Garand had any reason not to return this security. Garand said he'd discussed this with Morgan and everything was in order.

<b>MOTION:</b>	<b>Hawkins</b>	<b>to return the balance of security for Case #2012-02 Waterstone – West Marine at 337 Lafayette Road. .</b>
<b>SECOND:</b>	<b>Eaton</b>	<b>Approved: Unanimous</b>

<b>MOTION:</b>	<b>Janvrin</b>	<b>to close Case #2012-02 Waterstone – West Marine – 337 Lafayette Road;</b>
<b>SECOND:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

**Case #2013-15 Waterstone Retail Development – shopping center**

Hawkins asked the purpose of this item. Kravitz said the Board needed to set the security amount. Hawkins said the Board had agreed to allow security to be posted when there was a final approval; the Board was waiting for NH Department of Transportation written approval. Hawkins said the Board had given approval to pour one building pad. The question was if there was a purpose now for the full security amount, or to let them do the pad at their own risk; nothing else for the project had been approved. He asked Morgan if there was a reason for a partial security for the onsite work that had nothing to do with the roads. Morgan said the purpose of security was to protect the town's interest. Hawkins asked if any member thought security should be posted at this time. Janvrin suggested the minimum security of \$5,000. Hawkins commented that this is could be waived. In this case the Board would set the full security after the comments from the NHDOT were received. Lowry thought there was no need for partial security for the one pad process, and asked if Garand would be issuing a building permit. Hawkins asked Garand about his process for pouring the one building pad as the Planning Board had approved, and for the Routes 107 and 1 intersection. Garand had no objection if they submitted the plans for the pad as well as the water and sewer permit applications, so he could issue the permit for the pad. Janvrin thought security might be considered for the water and sewer work that would be done first, and asked if that would come under the permitting process. Hawkins said that the Board had made an accommodation for the Applicant to lock in one tenant before a deadline. He thought the security should be posted after the final approval because the amount of money at risk for the town and the applicant was not very high; he asked if the Board felt otherwise. Chase said no street work was involved with this pad work; it would bring existing water and sewer utilities to the pad. Melchionda said this would be moved as part of the final siteplan. Chase said there were no new town connections at this time. Hawkins asked for the Board's preference. By consensus, the Board agreed that the security could wait for the final approval.

**Case #2013-26 11 New Zealand Road application extension**

Hawkins asked if this request for a 90 day extension of the Case #13-16 Application had been approved by the Board of Selectmen. Khan said it had.



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**NextEra Complaint**

Hawkins referenced a letter from NextEra citing certain issues after the last storm arising from the DDR site construction, and asked Garand the status. Garand said nothing had been done by his office. Morgan asked if Jim Kerivan of Altus Engineers should be asked to take a look. Garand said that would be up to the DPW Manager. Hawkins asked if the letter had gone to DDR. Kravitz said it had been sent. Jim Grafmeyer, Vice President of DDR, said they were in conversations with NextEra. Hawkins thought this was a failure of design or of implementation; something would have to be done. Grafmeyer said it would be fixed.

**Cross-Connect from the Atomic Fireworks property to the Town Property on Lafayette Road.**

Hawkins asked if the Board of Selectmen had addressed this. Khan said the BOS had received an email from the engineering firm on this project saying that the height differential for a cross-connect would create a new system of water drainage which was a risk. The DPW Manager was present at the meeting and recommended not proceeding at this time. Mr Carbone was willing to create this in the future, at his expense, if the town approached him. Chase asked why the wait. Khan said it would be very expensive to do at this time The property owner did not want to pay all of that expense alone, and had asked if the town wanted to share the cost. Hawkins asked for the height differential; Garand said the tow property was 15 inches higher; because of the grading they chose not to move forward. .

**Beach Commissioner Request**

Hawkins referenced a request from the Beach Commissioners to waive jurisdiction for a potential new tenant in the Beach Village District Building for the portion of the building that the police occupied during the past year i.e. less than 1,000 square feet. This would be a scooter rental business. The Beach Commissioners were asking that the Board waive jurisdiction as it had done for other town buildings. Janvrin asked if this was a change of use, and recalled that a scooter rental company had previously come before the Board. Hawkins said that never materialized, and the space had been open for more than a year. Hawkins said the business came before the Beach Commissioner meeting; there would about 3 three wheelers that would not be stored offsite and brought to the building as needed. Basically this would be a sales office with no gasoline or maintenance on site. The parking requirement would be for 4 of the 10 spaces. Garand asked if they would abide by the prior approval for that site. Hawkins said if the board waived jurisdiction, the Commissioners would have a list of conditions of what would be allowed on the site, using existing lighting and signage. Garand recalled there had been assigned parking spaces and hours of operation. Hawkins said the Board could send the prior case to the Commissioners, or let the Commissioners handle this themselves.

Janvrin asked if any problems were seen with parking and the adjacent properties. Hawkins said cars would come in one at a time; there was parking around the building. Khan said the precinct had its own parking. Hawkins said there would be an agreement on the hours of operation, in the summer probably to 11 PM. There were state restrictions such as helmets. Eaton had seen scooters crash into many things, including police cars. Hawkins said riders had to watch a training video. Hawkins asked for other issues; there being none

<b>MOTION:</b>	<b>Hawkins</b>	<b>to waive jurisdiction for the scooter rental business in the Beach Village District Building proposed by the Beach Commissioners.</b>
<b>SECOND:</b>	<b>Khan</b>	<b>Approved: In favor: Hawkins, Eaton, Lowry, Frazee, Chase; Khan;</b>



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		<b>Opposed: Janvrin</b>
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**Case #13-22 Lord Subdivision**

Hawkins said the Applicants had requested that the mylar not be recorded at this time. Options were for the Applicant to withdraw the case or wait 180 days. If the Applicant did not want it recorded, that should not be done. Janvrin asked if the case would expire in 180 days, and if they had made any move to fulfill the conditions. Hawkins asked Henry Boyd of Millennium Engineering, said the property had been listed and the real estate agent keeping the existing duplex house and putting a house in the back. They did not want to record the mylar and have to come back with a change. If the prospective buyer makes the purchase they would have to return to the Board with a different application. The applicant did not want to withdraw; all of the conditions had been met, other than making the house single family. They are asking the Board to hold on to the approved mylar up to the 180 days when they would have to make a decision whether to withdraw or record the mylar. They are asking the Board to do nothing until they decide whether they would record it or withdraw and ring in a new application.

Johanna Lord asked how long before the June deadline they had to notify the Board, as they did not want to lose the approval Hawkins said the board would work with them if the conditions had been met. However, they could ask the Board for another 180-day exemption. Let the Board know what they wanted to do, even for an extension. The Board will let the approval expire unless they tell it to record the mylar or that they want an extension. Hawkins asked Boyd if he understood the two time periods. Boyd said he did.

**PUBLIC HEARINGS**

Hawkins opened the Public Hearings at 7 PM.

**NEW CASES**

Lowry recused himself from Case #2014-10;

**Case #2014-10 – Proposal by DDR Seabrook LLC to erect a 5,633 square foot Outback Steakhouse at 712 Lafayette Road, Tax Map 8, Lot 55-10.**

Attending: Jim Grafmeyer, Vice President, DDR; Stacy Miller, Michael Goldstein, Outback Steakhouse, Blooming Brands;  
Appearing for the Applicant: Attorney John Sokul, Hinkley, Allen for Blooming Brands; Mark Verostick, civil engineer, Robin Bousa, transportation director, VHB; Attorney Morgan Hollis for DDR;

Hawkins said this case would go to the Technical Review Committee, and asked for a brief summary of the proposal. Verostick said the Outback would occupy the DDR Parcel #1 with a 5,633 square foot restaurant with 227 seats and 96 parking spaces of which 78 would be on the site and 18 would be cross-parked on the adjacent site. The SUNOCO station is to the north, all of the gas, electric, water, sewer, telephone, and drainage was done during the development of the overall DDR site. 34% of the overall area would be open space. Cross connection sidewalks were added to the SUNOCO property. Access would be through the DDR main site. Two landscape waivers were requested.

Hawkins asked for Board comments. Janvrin asked that the Liberty elm be moved to the front of the maples. Chase asked if the TRC would get the new SUNOCO layout. Verostick said it would



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Janvrin asked that the screen fencing be the same color as the building. Miller said it would be the same material as the building. Bousa said that previously they had submitted a traffic memorandum including Parcels #1 and #3 as part of the overall shopping center. In response to comments by several Board members, memorandums for each of the sites were now presented. The Outback was now calculated as ITE 932, a high-turnover sit down restaurant, with 59 trips during weekday peak hours and 79 on Saturday. Bousa said that 29 percent of the restaurant traffic would come from the retail shopping center, and 41 percent of the exiting traffic would go to the retail site. This would reduce the traffic count to 37 peak hour weekday trips, and 56 on Saturday. The fair share calculation would then be 2 trips per hour or \$2,400. Hawkins said to reread the ordinance which called for no internal capture. Bousa said the counts related to in and out on Route 1. Hawkins said the formula is written for cars in and cars out of the property. Bousa said the count should be in and out of Route 1, and not the traffic from the retail center which had already been mitigated. Hawkins said this would go the Board's traffic peer reviewer for subsequent discussion.

Sokul said waivers for the 20 percent parking area landscaping, and that all parking spaces to be on the site were requested; 12 percent of the parking area would be landscaped, and 78 spaces would be around the Outback with 18 spaces in the DDR retail parking area. Also, not every one of the landscaped islands would be at least 15 feet in each direction, and one island did not have a proposed tree. As compensation they intensified the landscaping toward the Route 1 side. Overall, 34 percent of the site would be landscaped, which would be about a 3:1 compensation. To meet the 20 percent requirement in the rear would mean the loss of 16 parking spaces. The Applicant thought this was the right approach for this site. Hawkins said this would be discussed at the next meeting, but saw the problem as the building going on the last stand of trees along Route 1. The Board wanted a really nice landscaping which was not very expensive. Also, he did not see the 10-foot perimeter on the north or south side. The Town was trying to get Route 1 to look better. The McDonald's looked great because of the beautiful stand of trees next to it, which now would come down leaving one big flat area to the end of the DDR property with no variation in height or trees. He wanted the landscape plan to go further.

Sokul said they would take the comments for consideration, noting that the McDonald's area looked great. Sokul said they did a tree survey; maybe one could be saved. Hawkins just wanted a really good landscaping of the site. Chase said that the Board did not see the potential plan. Hawkins said the Board's job was to review the presentation, not design the site. He wanted recognition that the last stand of pines on Route 1 was going. He liked what was done in the front, but not the back. Janvrin recalled similar discussion for the Sea City site. If the landscaping requirement couldn't be met they could reduce the size of both the parking lot and the building. Hawkins said another option would be to use more offsite parking. He wanted them to look again at making the complete site look really nice. Verostick called attention to the location of some water lines. Janvrin asked if all of the onsite site drainage would be handled offsite. Verostick said this was all included in the original drainage report. Janvrin asked if this meant there would be no treatment of water before it left the site. Verostick said other than the culverts. Janvrin said the regulations said that when water leaves the site, it must meet certain content. Verostick said that DDR owns all of the site. Janvrin said that might not be so in the future. Grafmeyer said when the DDR plan was approved in 2009 and again in 2013, it was understood that all of the treatment would be on the DDR site.

Morgan thought the case for a waiver was not very persuasive because of the proximity to the large parking lot and the owner was the same. Hawkins commented that developers first size the building, then the parking, and then the landscaping, rather than starting with the landscaping perimeter and then seeing what the size of the building could be. The adjustments should meet



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all of the requirements. Sokul said the landscaping would be reconsidered, but they had to account for customer convenience with parking nearby. Hawkins referenced Morgan's memorandum, and said that the TRC would address the plan from an engineering and technical standpoint. Khan asked if they could see if one or two trees could be saved. Sokul said they would look at that.

<b>MOTION:</b>	<b>Chase</b>	<b>to accept Case #2014-10 as complete for jurisdiction and deliberation.</b>
<b>SECOND:</b>	<b>Hawkins</b>	<b>Approved: Unanimous</b>

**Hawkins scheduled the Case #2014-10 Technical Review Committee Meeting for April 28, 2014 at 10AM in Town Hall. Hawkins continued Case #2014-10 to May 20, 2014 at 6:30PM at Seabrook Town Hall.**

#### **REMANDED CASE**

**Case #2012-18 – Latium Management Corporation, Tropic Star Development, LLC, and Scott Mitchell to demolish the Getty North station and replace it with a 1,200 square foot “retail” building and two gasoline dispensing islands at 663 Lafayette Road, Tax Map 7, Lot 87. continued from April 1, 2014;**

Lowry recused himself from Case #2012-18

Attending: Scott Mitchell, Tropic Star;  
Appearing for the Applicant: Attorney Richard Uchida, Hinkley Allen representing Tropic Star; Jeff Dirk, Vanesse Associates; Frank Monteiro, petroleum engineers, MMF Design Consultants; Appearing for 11 New Zealand Road LLC: Attorney Chris Aslin, Bernstein Shur;

Hawkins said this case had been approved and wound up in Superior Court which remanded it back to the Planning Board for further review. The Judge said the Board erred because it did not consider evidence relating to the use of the site by lot in back of it, and parking spaces in the rear of the property should have been striped.

Uchida said the remand was about site circulation as it affected the back site owned by 11 New Zealand Road LLC. Also whether allowing the pavement but removing the striping would impact congestion, safety and the like on the Applicant's site. Uchida recalled that the Chair had asked for an effort to resolve the situation. They had had a half-day session with Aslin about the Applicant's proposal to put parking on the back site, as well as other proposals in good faith negotiations, but at this time there was not a resolution. The parties were trying their best. Uchida showed the siteplan, pointing out the parking easement area at the rear of the site, the entrances on Lafayette Road and New Zealand Road. The Court said to look at the circulation on the site and how it would affect the use of the parking easement and the parcel. Uchida commented that substantial evidence was heard on this, but they would provide additional evidence.

Uchida said that since the approval, in response to Charles Mabardy's concerns the tank farm had been moved forward to the canopy area, away from the easement area. [Uchida presented a new site drawing, and a truck turning radius] There is still a remote fill for the tanks. The



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Board's traffic peer reviewer, RSG, had notated the traffic increases from the development were very minor and did not generate any impact as to congestion or safety. They have provided a new truck circulation plan which is not very different from that presented in August 2012. It demonstrates that the trucks can get on and off the site without back-up problems, especially along that parking easement to the rear. The stop bar at New Zealand Road had been pulled back away from New Zealand Road in case a big truck was going there.

Uchida said that as a result of the September 4, 2012 hearing one driveway was changed to a dedicated in, and another to an exit only. All of the circulation goes counter-clockwise on the site RSG had recommended that the tank fill be moved to be out of the way of the parking easement – it was moved to the west side. He pointed out the signage for the parking easement and a one-way do not enter. Arrows will demonstrate how had no problems, commenting that the traffic should be moving. Bollards were added around the islands. Uchida commented that the NHDOT representative had no problems, and thought any issues would come from operator error, and not as a result of the site circulation design. NHDOT did not favor closing the Route 1 driveways, because having entry only on New Zealand Road would mean some cars would have to loop around twice to get gas and get out to Lafayette Road. Also, in response to the Board's concern in re the impact on the easement area, snow will be trucked offsite; dumpsters will be picked up at night so the trucks would not be onsite during the primary gas station, or restaurant and convenience store operation hours.

Uchida recalled that the Court took notice of the comments of engineer Michael Fowler that if the adjacent building business was successful there would be congestion, however, that was before the September 2012 hearing and the subsequent siteplan changes to accommodate concerns about traffic circulation on the site. Uchida said that Fowler's report did not account for those changes. Similarly, the Court took notice of the 11 New Zealand Road's traffic report which was dated in August and did not reflect the circulation changes. He wanted to get on the record the many changes to improve circulation that were made after the September meeting, attended by the NHDOT. Uchida said the other thing the Court wanted the Planning Board to look at was the adverse impact of not including the striping on safety traffic congestion, and use of the properties on the patrons. He thought the Board had done the best it could to try to imagine the use of the parking easement and unimpeded access throughout the site. Now there was information about what would happen on the site, so they asked Dirk to produce a report detailing the future site circulation, the parking easement, and the use of the site to the west. Hawkins asked if the court had distinguished between an approved uses, and allowed uses, i.e. there was no approved use for the back lot because it was empty. He thought the Judge did not account for that. Uchida said that their supplemental memorandum to the court and reconsideration motion called attention to the 35 allowed uses. He agreed there may have been some confusion about what would go into the back lot building.

Hawkins thought that the Judge said the Board had not considered the volume of traffic produced by the back lot, and would the use then be too intense. The Board had to relook at this for the Court. Dirk distributed a revised traffic analysis covering the internal site circulation, and the prior and proposed interactions of the two sites reflected in Case 2012-18 (front lot) and Case 2013-26 (back lot). They looked at circulation, parking and traffic related to those uses and in combination. The access circulation, parking, and loading needed to function operationally and with regard to public safety. The front lot had right turn in access and right turn out on Lafayette Road, and access from New Zealand Road that services both lots. The peak hour traffic for the front lot, reviewed by the Board's peer reviewer, was determined to be about 100 trips (50 in and out) morning or afternoon. The proposed uses for the convenience store and



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restaurant on back lot were projected at about 50 additional trips – 150 trips realized during peak hours for both lots. The assumption was that 60 percent of the Route 1 traffic would be drive-by.

Dirk said the access points and circulation for both sites needed to be uninhibited, except occasionally. Circulation from Lafayette Road would be counterclockwise around the fueling facility, or to the easement parking. Those areas are not blocked by the offloading of the fuel which would be on the south side. Vehicles coming in from New Zealand Road can access the back lot parking without interaction with the front lot activity, and exit either to Lafayette Road or New Zealand Road. Dirk said there was sufficient circulation around a truck at the fueling station. Khan said most fueling truck unload on the same side, and asked how that would occur. Dirk said most tanker trucks would enter from New Zealand Road and proceed around to the fueling area facing Route 1; there was sufficient distance to go around the fuel island bollards. Morgan asked how far away the town land was from the fueling area, and thought there might be a zoning violation. He pointed out a difference between the truck turning plan sheet and the plan set. Dirk said that would be reconciled. Chase asked about spillage if the fuel unloading it was four feet to the property line. Most of the traffic to and from the gas station would come from Lafayette Road so there were not be much interaction with the New Zealand Road access.

Dirk estimated about 10 percent of the traffic would come from New Zealand Road. Eaton thought there would be traffic on New Zealand Road, e.g. to and from a 96 unit apartment complex. Dirk said they did not process that traffic, but it was very important that the signal at Route 1 be functioning. Morgan asked what Dirk meant by "occasional obstructions. Dirk said that meant when a vehicle had to wait to exit the site, which would not be a permanent backup. Morgan thought that the owner of 11 New Zealand Road expected unobstructed access. Uchida said the easement did not say unimpeded access. Chase asked if traffic that might go from the front lot to the town lot had been considered. Dirk said they had not been asked to look at traffic in re the town site. Mitchell said they had agreed to help the town out; there was no one at the town site so how could they count trips. Dirk said if the town provided information as to the proposed use, they could generate the traffic estimates. Hawkins said typically traffic flow was not considered from an abutting property. The front lot differed because there was an easement for parking and flow across the property. The court challenge in this case was that the traffic from the 11 New Zealand Road easements had not been considered for the intensity of use of the lot. For example, the intensity of use from Walmart was not considered for the cross-connect from the Verizon store. The Town could decide to sell the adjacent land even for a mall, so the Board was not in a position to speculate its use. Mitchell said there was no use on the back lot to consider. Hawkins said the Judge did not agree.

Dirk said there had to be unfettered access for the parking in getting into and out of the spaces. If they were blocked they would not be available for either property's use. The front lot parking was at the convenience store and also the pumps. The parking for the back lot was to the south of that building. 23 feet was needed to either enter or back out of the spaces. Dirk said the unfettered spaces behind the parking ranged from 23 feet to 35 feet i.e. there would be at least 23 feet before there could be any blockage. Morgan said the Judge was unhappy that the stripes were taken away; they were not put back. Dirk said for the Case #2013-26 plan to be approved, the spaces would have to be marked, and they would have unfettered usage. Janvrin said the new town standard was for 16 x 10 feet. Dirk explained how the space was figured. There also had to be unfettered access for loading and delivery. The loading areas for the front lot were clearly defined. The loading area for the back lot was in the south driveway. Dirk said there was nothing blocking the loading for either lot, even if a tanker truck were unloading. Janvrin asked if there was enough room for a 53 foot tanker truck to unload, and a 53 foot truck to make delivery



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to the back lot. Dirk said there was. Eaton asked how the back truck would exit if the traffic was counterclockwise. Dirk said there was 2-way traffic across the back of the site to the curb exit. Janvrin asked for a drawing to show that. Dirk will show that on the plan

Janvrin asked if the 3 foot clearance on the south side needed a ZBA variance. Morgan thought it did, or it could be moved. Hawkins said on the original plan the discharge of the truck took place along the town property line, and the tank was under the easement. Now the filling location is the same, but the tank is relocated. Hawkins said the traffic and circulation would go to TRC. Morgan asked what would happen if a row of cars were parked across the property. Mitchell said the parking was not exclusive. Morgan asked how parking access would be guaranteed. Uchida said they had no problem striping the spaces, noting that the Board had been concerned about going above the allowed 5 spaces, so they did not stripe the spaces. If they wanted to use the back spaces they would need a waiver because they already have 5 spaces, so any blockage would be related to the 11 New Zealand Road patron use. Morgan asked what would prevent a Tropic Star patron from parking there. Khan suggested a making the existing canopy bigger, rather than making a second canopy. That way all the fueling would be together and there would be more room. Mitchell felt that Mabardy was creating obstacles. Hawkins said that was not the Planning Board's province. The Board had to do the review and meet the Judge's requirements.

Hawkins asked if the Board would encounter any other problems. Montero said they were hired to design the system and file the application with the DES. Nothing had changed from the approved siteplan, except that they suggested moving the tanks from under the parking easement. This meant going from two 30,000 gallon tanks to a 30,000 gallon tank under the canopy, and two smaller tanks on each side. Nothing on the surface changed. The truck unloading had always been and continued to be on the passenger side. The tanks were about four feet from the property line as before. The fill buckets were 18 inch diameter with a steel lid and a concrete pad around them; they could also put a curb. Montero showed how the drainage would flow. Hawkins said the traffic would go to peer review and the siteplan would return to the Board. He asked for further questions; there being none.

Aslin said much testimony and information had already been given, but clarified that under the remand the Board was not limited to reviewing only the new information. Other issues besides circulation should be considered. He believed that the Board had previously been provided with a lot of information about internal and offsite circulation, but had not been provided with how the back lot would interact. That was what the court found lacking; they would review the new traffic report. He thought that the striping had been removed from the original siteplan so that it would not show more than the 5 parking spaces zoning allowed for Case 2012-18, and that everyone had agreed that removing striping from the ground would cause confusion. The spaces would have to be shown for Case 2013-26. Hawkins thought Aslin was differentiating putting the spaces on paper from on the parking surface. Aslin said that would be for safety, commenting it might no longer be an issue if the easement area did not have to be dug up for the tanks. The striping could be the responsibility of either party. Hawkins agreed that one way or another there would be striping.

Hawkins asked Morgan for the best path forward, now that tanks were being moved. Morgan recommended the case going to the Technical Review Committee. Hawkins asked if the same level of engineering detail would be available now that the tanks were moved. It would be a short meeting unless department heads perceived issues. Uchida said the plan distributed at the meeting showed the revised tank location; nothing else had changed. Morgan's understanding was that when a case was remanded, the request was for siteplan review. Uchida said there would need to be another vote on the siteplan. They wanted the TRC so they could tell the



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Judge that the case had been looked at as thoroughly as possible. Mitchell agreed. Morgan said that the Board would need to look at a complete siteplan with the tank in the right place, not just sheet 3 of 11. Janvrin asked how long before the TRC meeting the plans had to be submitted. Kravitz said department heads want at least a week for their review. Hawkins asked Morgan if the review ought to start from scratch. Morgan said the department heads were fairly familiar with the site. If the presentation highlights what had changed, it should go quickly. Hawkins asked that the changes be listed in a cover letter.

**Hawkins scheduled the Case #2012-18 Technical Review Committee meeting for April 28, 2014 at 10 AM in Seabrook Town Hall with plans in by April 18, and continued Case #2012-18 to May 20, 2014 at 6:30PM in Seabrook Town Hall.**

Eaton departed.  
Lowry resumed his seat;

#### **ONGOING CASES**

**Case #2013-15 – Proposal by Arleigh Greene, GRA Real Estate Holdings, LLC and Waterstone Retail Development, Inc. to demolish existing buildings on Tax Map 8, Lots 54-2, 54-4, 54-5, 54-7, 54-8 and 90, and to construct a 168,642 square foot shopping complex with associated parking and access drives, continued from July 2, 2013, July 16, 2013, September 3, 2013; September 17, 2013, October 1, 2013, November 5, 2013; November 19, 2013, December 3, 2013, December 17, 2013; January 7, 2014; March 4, 2014; April 1, 2014**

Attending: Arleigh Greene, GRA; Anton Melchionda, Waterstone Retail Development (together ASKJA Real Estate Holdings);

Hawkins said nothing further had been received from the State. Melchionda said that Kevin Russell of NHDOT had drafted his approval of the plan, which they had expected to have in hand for this meeting. However, last week they learned that when the letter had been sent to the executive committee for final approval there was confusion because NHDOT thought the Planning Board had tied the final approval and certificate of occupancy to the entire NHDOT widening of Route 1. In a trip to NHDOT yesterday, they learned that all of the offsite design plan had been approved, and it was made clear that tying the Case #2013-15 completion to the NHDOT widening was not the Planning Board's intent. That was now understood; they had verbal confirmation of approval, and the plan had been put forward; they were expecting written confirmation any day. Hawkins asked if NHDDOT had made any significant changes since the Board last looked at the plan. Melchionda said they had not. Hawkins said when the writing was received, the plan would go for peer review and the traffic engineers would be asked to attend a Board meeting for the discussion. Greene said they had tried to get a letter for this meeting, but were only able to get a verbal from Russell.

Melchionda asked if that was the only outstanding item, or if they were missing anything to change the conditional approval to the final approval. Morgan said that offsite would need approval. Hawkins added that the exaction discussion was to come. Morgan recalled that the Board had been satisfied with the onsite discussion. Khan asked for the ok from NextEra for the roundabout; a letter was referenced. Garand thought that the NHDOT letter would clarify the offsite, and that the onsite as far as service connections was taken care of. Hawkins said there had been some confusion about what they could do in advance of the final approval. The Board had approved the one pad and not the construction on the whole site at this time. Melchionda



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said the Board's accommodation was allowing them to proceed for one tenant where they had a time constraint. The conditional approval was requested so that they could deliver the pad to the one tenant by May 1. This did require having the utilities completed onsite including the drainage, but not for the roadway work. To alleviate the confusion, he had met with the department heads during the last week to assure they had the right plans for inspections for the pad to be completed, and that 100 percent of the onsite work had to be completed by August 29 to meet their required schedule.

Melchionda thought that everyone was now clear on the process. Hawkins commented that [the confusion] was an unintended consequence for going outside of the usual process. Normally, he signs plans after the Town Planner sends a memo stating his satisfaction. The signed plans go to the Garand and the department heads for the preconstruction meeting, because they will have approved plans to use. The Board did not foresee that issue. It intended that the Applicant proceed at its own risk for the pad, but had not intended the whole site at this time. Melchionda thought that Water, Sewer and DPW were now clear about the conditional phase. As soon as they had the MHDOT letter, that could all be cleared through. Garand said as long as the plans were in hand, and the water and sewer applications went before the Board of Selectmen, he did not see a problem. Hawkins asked if it would be useful for him to sign a set of plans specifically designated for use only in this conditional time period, so everyone was working off the same set. Garand said he had received 5 plansets and marked them "per tech review". Melchionda said that plan was the final plan, unless there were an unforeseen change later on.

Garand preferred no signatures on plans until those that were finally approved in the normal process, and thought the plans he had marked were sufficient. He suggested marking them with a Planning Board stamp. Greene commented that the department heads and town staff had bent over backwards to help them out, and this was appreciated. Jim Grafmeyer of DDR said they had conceptually approved, but had not seen the final Provident Way – roundabout drawings. Greene said those drawings were at the NHDOT; Melchionda said they would provide them to DDR's traffic engineer. Hawkins hoped those plans could be reviewed at the May 20, 2014 meeting. Greene called attention to the landscaping requests of two abutters, stating they hoped to have the plantings done in the next week. Hawkins wondered if they would be unhappy during the construction process e.g. the dust. Greene said they would keep them happy. Hawkins asked for other questions. Kravitz noted that the security amount had to be voted on by the Board. Melchionda said they were in agreement on the amount. Hawkins said that would be part of the final agreement. Kravitz called attention to a letter from John Starkey requesting comfort from Greene. Greene and Melchionda said it would be taken care of.

Hawkins asked Morgan to rewrite the conditions of approval as appropriate for the final approval.

**Hawkins continued Case #2013-15 to May 20, 2014 at 6:30PM in Seabrook Town Hall.**

**Case #2014-09 – Proposal by DDR to erect an 8,580 square foot mixed use building (retail space and a [57] 87 seat restaurant) at 5 Provident Way, Tax Map 8, Lot 55-30.**

Attending: Jim Grafmeyer, Vice President, DDR;  
Appearing for the applicant: Mark Verostick, civil engineer, Robin Bousa, Transportation Director, VHB; Attorney Morgan Hollis, Gottesman & Hollis;



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Grafmeyer said they had Morgan's memorandum, met with the TRC on March 31, and referenced Verostick's April 7 letter responding to the comments. Verostick would address the comments; Bousa would speak to the traffic memorandum as a standalone project.

Verostick said the stormwater design and treatment had been included in the original DDR project application. Morgan explained that the town's water quality standards had been upgraded after the DDR shopping center approval. He was looking for some assurance that the new restaurant would meet the new standards. Verostick sent Jim Kerivan of Altus the revised plan, but had not had a response. Morgan said the current standards require reducing the suspended solids, phosphorous and nitrogen. Those questions had not been posed to DDR for the main shopping center, and asked if the current proposal meets those standards. Verostick will pull the current numbers from the Department of Environmental Security, and submit them for the detention area. .

Verostick said the reason the free-standing sign was located at the southwestern corner of the lot, was to avoid calling attention to the private way. Morgan said the question was whether the sign was advertising the restaurant or the shopping center. Grafmeyer said the proposed Noodles would be on that monument sign along with other tenants for that building. Morgan asked how people would know to turn left to get into the shopping center. Grafmeyer said there would be directional signage. Verostick said no additional signage was proposed. Morgan did not want people who had not been to Seabrook to be confused and end up turning around. Grafmeyer said they would work with NextEra to put a sign indicating that beyond their property was a private drive. Hawkins noted there were tenant signs on all four sides of the building that would be visible from the road. Janvrin asked if there would be directional signs for pedestrians at the cross connect from the shopping center to this building as well as the SUNOCO parcel. Grafmeyer said they would do a complete signage review for the shopping center to address those concerns, including for the internal area. Janvrin wanted them to assure compliance and to have the signs depicted on the plans.

Verostick said after conferring with Garand, a 12-foot island was removed, the parking shifted and a pedestrian sidewalk and landscaping added. The cut sheets for the lighting on the building had been submitted. Impervious and open space square-footage on the lot was added. The purpose of the concrete patios was for restaurant seating. The stormwater operations and maintenance plan was added to the plansheet. They were showing the sidewalk connection to the bank parcel and were conferring with the owner who wanted it to be only partially constructed at this time. The owner will pick up the sidewalk after completing his new parking lot design. Morgan asked if there was a schedule for this; Grafmeyer said it was not given to him. Verostick said the non-draining hydrant and anchoring T details were added. Grease trap vent and details were added; maximum cover would be 12 inches. The relocated manhole and the piping plug were detailed. They would recalculate the allowed signage on the free standing sign. They would look at the lighting shields with an eye to giving better lighting for pedestrians. Chase commented that the whole area was very dark at night, and thought that there was new lighting at the Bank. Janvrin asked if they would consider lighting about 4 feet high for pedestrian visibility that would tie into the bank parcel. Grafmeyer said they would be provided with the bank parcel lighting plan and would discuss illuminating the pedestrian walkway.

Verostick said they would review how they calculated the interior parking lot landscaping. Janvrin asked how the grease trap would be serviced. Verostick said from along the driveway. Garand said there was a testing manhole for the grease trap from the kitchen. The Sewer Department requires an external manhole. Janvrin asked about a bike rack. Grafmeyer agreed to add a bike rack. Garand said the pylon sign was an issue.



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Grafmeyer said they understood [100] square feet plus 24 square feet per Additional tenant for actual tenant panel lettering, but the structure could be larger than that. Garand said the 23 foot pylon sign was defined as a structure; the Board should clarify the pylon and monument definitions. Grafmeyer said they were willing to give up the “Seabrook Commons” lettering, but it was detrimental to include the entire structure in the sign dimension. Garand said that was how the code defined “sign”. Grafmeyer asked if the Board would consider the sign as shown if they took Seabrook Commons off the top. Garand was concerned that if the Board allowed that, every applicant would demand the same. Grafmeyer thought that if they had 3 tenants, they could have 148 square feet on each side. Janvrin asked if this application was under the Zone 6M rules. Garand said it was the same signage as allowed in Zone 2. Janvrin asked if that meant that the main sign on Lafayette Road was not in compliance. Garand said that he had brought that to the Board’s attention, but the Board decided that that had been within the Court’s decision. Grafmeyer agreed, and asked about directional signs. Garand said that size was in the code. Grafmeyer asked if there were a limit on the number of directional signs. Morgan said there was no limit, and thought the most useful thing for the public would be a big sign pointing to the entrance to the shopping center. Hawkins thought that would be a secondary sign on the secondary entrance. Morgan explained that they might use this parcel’s free standing sign to advertise the shopping center; for that to work it would have to be a little further to the east. Grafmeyer said that would take sign space away from other tenants in that building. Morgan wanted to avoid people not familiar with the area not knowing where to turn in. Janvrin commented they would be going around the roundabout. Grafmeyer asked if shopping center sign could be considered. Morgan said the Planning Board did not have the authority for an additional sign – only the Zoning Board of Adjustment. The easy adjustment was to give the sign a dual purpose and move it a little further east. Grafmeyer said they had not seen the roundabout design.

Khan asked about the delivery entrance for this parcel and what type of truck would that require. Verostick said deliveries would be internal to the site on private property, with box trucks. Janvrin wanted to be sure that even a larger truck would have enough delivery room. Chase asked if tractor trailers would park in the road and deliver with dollies. Janvrin explained that in the past some applicants with tight parking areas assured the Board that deliveries would be from their parking area, but even that day a truck was parked on Lafayette Road to make a delivery; he was not sure how to restrict that. Verostick said if a truck did that, it would be parked on the private driveway, and there would be another lane. Chase asked if there could be no parking signs; Verostick said it would be on private property. Janvrin asked if the plan could be notated for nothing larger than box trucks. Garand said it would not be enforceable. Grafmeyer Hawkins commented that every site could not be designed for a 53 foot truck to turn around in the parking lot. Janvrin added not with the landscaping requirement.

Hawkins asked if there were other comments on the siteplan. Grafmeyer asked if they would get feedback that they had addressed all of the TRC comments. Hawkins said if they had satisfied all of the department head requirements, then Morgan would have a final review. The point was that applicants had to satisfy all of the department head requests, or tell the Board what they could not satisfy, and why. Grafmeyer said they thought that they had satisfied the department heads requirements, but were asking for some confirmation, so that at the meeting on May 20 no one would emerge with some unmet requirement on the site. Morgan thought everything but the water quality issue had been addressed, and Verostick would check out that requirement. Hawkins asked if they wanted a letter from Morgan to that effect. Grafmeyer said they would. Morgan said he would wait to hear from Verostick on the water quality. Hawkins said they would have to return with the sign changes, noting that the Planning Board could not accept a variation



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in zoning, only the ZBA could do that. Grafmeyer said they would comply. Janvrin suggested to either comply, or take the sign off the plan and notate that it would be compliant. Hawkins asked for other comments before addressing the traffic issues; there being none.

Bousa said a standalone traffic memorandum had been submitted. The big change was that because this site was so small in size (about 8500 square feet), it no longer fit the definition of shopping center which was based on about 380,000 square feet. Rather it fit the definition of specialty retail center e.g. apparel, small restaurants. The new in calculation was for 42 trips in evening peak hour and 55 trips on Saturday. She acknowledged the disagreement on internal capture, and said that 20 percent of the trips entering and exiting the site would be from the larger site. That would mean 34 evening peak hour trips and 44 on Saturday, both of which would be below the 50 trip threshold. Hawkins said when Panera Bread was discussed, Bousa had argued forcefully that ITE 820 had applied because that restaurant was part of the mall; all along the outparcels were part of the shopping center. He asked why this restaurant would not be 820 as well. Bousa said the average size store under the 820 was 380,000 square feet so 820 would not be applicable. Hawkins said that they had designated 820 for Panera and each of the outparcels at the beginning. He wanted to understand the basis for the change. Grafmeyer said the new calculation was based on prior Board comments for a standalone restaurant. Hawkins said this would go to traffic peer review, and be discussed at the next meeting. Grafmeyer asked if the Board had a problem with Bousa speaking with the Board's peer reviewer. Hawkins said the traffic people should communicate before returning to the Board so everyone was on the same page, and he would have the Board's reviewer contact Bousa. He wanted the technical discussion to take place before the Board meeting.

Hawkins asked if there were other questions to think about before the May 20 meeting; there being none. **Hawkins continued Case #2014-09 to May 20, 2014 at 6:30 PM in Seabrook Town Hall.**

#### **OTHER BUSINESS**

##### **MAY 6, 2014 Planning Board Work Session Agenda**

Hawkins enumerated potential items for the work session shop:

1. He agreed with Chase that the fees for expedited applications should be looked at again.
2. The Town and Board road standards should coincide. The current standards used by the Board should be compiled for the DPW Manager and/or his engineer to reconcile. Khan John Starkey might be available for discussion at the workshop. Hawkins explained that this would be a topic for another meeting.
3. Lighting standards for street lights should be addressed e.g. only at intersections; along roadways; the height of poles. Khan thought the electric company determined this. Hawkins thought that would be good to discuss at the workshop.
4. Some work had been done on the zoning map. Garand said this was important especially along Route 286 where some houses were in the conservation zone, and banks were reluctant to lend. Janvrin suggested that after the Route 107 grant was done in June, that committee would be "jobless", and asked if it would be a good idea to have that committee look at 286. Hawkins thought that would not be a bad idea. Hawkins said the next zoning focus would be on the aquifer. Garand said they had resolved issues in the beach area and cross-beach zoning, and that he and Morgan should look at the current 286 zoning, especially the back side lot lines,



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and in the Firebarn and Washington Street areas. They could create a color coded map and bring it forward to the Board. They could also look at the dog track area. Hawkins noted that some of the residential around the dog track had been done. Khan said that was very important and that he had brought it to the Board before. Hawkins was cautious about trying to tackle another zone. He asked Morgan if they could be ready with 286 recommendations by May 6. Morgan thought this was doable.

5. As the North Village Zoning was approved, the Site Plan regulations needed to be reviewed to see what corresponding changes had to be made. He would look at that for the discussion.

6. Hawkins said there was new information that if the investment was made and there was capacity, a new developer could be asked to chip in. The conversation with Bruce Mayberry was an eye-opener, and differs from what had been thought.

7. Hawkins went through the Master Plan action items; the Planning Board was making progress; there was more to do. The Selectmen had to look at this.

8. Case tracking would be an administrative task.

9. Hawkins asked Morgan about the utility easement; Morgan will contact our attorney.

10. Hawkins said there would be an update on securities, and what had expired, from the Treasurer. Khan suggested that this be the first item of business.

11. Parking regulations for retail and restaurants differ and need to be looked at, i.e. should there be a minimum and a maximum on retail parking. Garand noted that the 5 Guys had opened and the parking area was jammed. He was concerned that there were still 5 open units in that building. Khan said there was one very large unit. Hawkins said that when sites get consolidated, the Board had limited ability to define what parking spaces were for which store, so it gets confusing. Morgan said there should be a range for every use. Garand recalled that when the Demoulas site was approved, there was no restaurant. Hawkins said there were a set number of spaces for restaurant seating, but no comparable standard for retail. Garand added that handicap spaces were set during an original approval, but if the use is amended for a unit, that may be inadequate.

Khan commented that the gas station was one canopy and one small booth; it would now be allowed two canopies and a big convenience store. Garand said the Planning Board could say something was going beyond what was reasonable. The developers were now in the driver's seat as long as they could prove it out, even if it was know that it would not work. Khan thought that corner would be the same thing as what Janvrin had mentioned today on Lafayette Road. Garand added that the only the back side of the building was the place for pumping fuel so the odor would not get to the front where people park or food was delivered. Hawkins said these things needed to be addressed through the ordinance; otherwise the Board would be in court. Someone would say they complied fully with the ordinance; the town would waste money on lawyers and would lose. These items could be discussed and addressed through the ordinance, but a decision could not be based on what one or another of the Board members thought.

Garand said the developers were pushing. Hawkins said for their businesses, they wanted to have as big a retail establishment as they could on a small parcel. He thought the landscaping was the key. Developers start with the building, then the parking, and there is little space for the landscaping. Janvrin recalled how the Board stuck to its guns on the West Marine landscaping,



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and the same situation arose on an earlier case at this meeting. Hawkins said that applicant was asked to submit a different landscaping plan; he did not think the Board should do this for them. It would take giving up parking or building size. The objective was first to make the site look good. Janvrin added that the building equation needed to be separated from the necessary setbacks and green space. Chase said some communities require a drawing showing what would look good according to the ordinance, and another drawing showing what they wanted. Hawkins said maybe that's a good idea for Seabrook plansets, rather than have developers say they cannot get the parking they need on their site, so they will get it elsewhere.

Chase was concerned about what would happen if someone arranged for parking on someone else's site, and that site were sold. Hawkins thought an arrangement would need an easement. Chase recalled that a church was using an adjacent inn lot for some parking with a pathway in between. They were supposed to return to the Board if they purchased their site, but they did not return.

12. Hawkins said another item for the work session was to look at the sign ordinance to eliminate the confusion, as discussed earlier in the meeting. Chase said the Signage Committee was looking at the entire ordinance and town wide, and would make recommendations, including in re LEDs. .

Hawkins will put a Work Session Agenda together. Morgan will address the Route 286 zoning map, and bring in a parking proposal.

**Case #2013-28 Marshall Way Subdivision**

Morgan said in a conversation after this subdivision was approved, the Water Superintendent expressed disappointment that the Board had been unable to get a water line from Marshall Way to the North Access Road because that would have been good for water pressure and water quality. When asked if he could do anything about this, Morgan said he would approach Green. However, before doing that Morgan had a conversation with Henry Boyd, who volunteered to speak with Green. Boyd returned to say that Green had agreed to put \$10,000 in escrow for a couple of years to give the town an opportunity to negotiate with NextEra for the pipe connection. If the negotiations were successful, the money would be available to construct the pipe. Morgan said the Treasurer would like something in writing from the Board stating the purpose of the funds, and allowing him to accept the funds and hold this amount for 2 years.

Janvrin recused himself from this discussion and vote.

Hawkins asked if a motion would be appropriate to accept the funds to be held in escrow for 2 years. Chase wondered if the amount could be reduced to \$9,000 and the money retained (as with an exaction). Kravitz said the \$10,000 check was already at Town Hawkins wondered if the money could be used to install the pipe up to the property line, leaving a small to connect to the NextEra line if possible. Garand noted that the power plant had a number of items to bring before the Board. Chase recalled he had asked that question earlier. Hawkins said they had to do the easement, and that the Water Superintendent had pointed out where the shutoff should be. Hawkins asked if Morgan could address Boyd or Green to ask if they would be amenable to take the pipe out to the property line. The completion would be a short distance and would not be a big deal; no yards would then have to be torn up. Hawkins said to ask them to take the money back and just install the pipe to the property line. Garand was concerned that the town



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would have to be involved. Hawkins said the Water Superintendent saw a lot of advantages to the water circulation, without dead ends. He wanted to accomplish what had already been offered. Garand thought it would be about 35 feet from the property line to the North Access Road. Morgan asked that this be in the form of a motion.

<b>MOTION:</b>	<b>Hawkins</b>	<b>to ask the Greens to apply the \$10,000 to installing the pipe out to the property line during construction, avoiding inconvenience at some later time.</b>
<b>SECOND:</b>	<b>Eaton</b>	<b>Approved: Unanimous</b>

Hawkins adjourned the meeting at 9:55PM

Respectfully Submitted

Barbara Kravitz, Secretary  
Seabrook Planning Board