



Town of Seabrook Planning Board Minutes

Tuesday, December 21, 2010
NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; John Kelley; Robert Fowler; Jason Janvrin; Robert Moore, Ex-Officio; Elizabeth Thibodeau, Alternate; Michael Lowry, Alternate; Paul Garand, Code Enforcement Officer, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary;

Members Absent; Sue Foote, Vice Chair; Keith Sanborn; Paul Himmer, Alternate;
Hawkins opened the public meeting at 6:45 PM. Even with the large agenda he wanted the meeting to end by 9:30PM.

MINUTES OF NOVEMBER 16, 2010

Hawkins asked if Members had corrections to the minutes of November 16, 2010: Kravitz indicated the appropriate language to fill in certain blanks.

MOTION:	Moore	to accept the Minutes of November 16, 2010 with the Secretary's adjustments.
SECOND:	Lowry	Approved: Unanimous Abstained – Janvrin, Kelley;

MINUTES OF DECEMBER 7, 2010

Hawkins asked if Members had reviewed the minutes of December 7, 2010, there being none

MOTION:	Moore	to accept the Minutes of December 7, 2010 as written.
SECOND:	Hawkins	Approved: Unanimous Abstained – Kelley, Janvrin;

SECURITY REDUCTIONS; EXTENSIONS;

Hawkins referenced a request by Paul Lepere for a one year extension of the Notice of Decision for Case #2005-24 at 89 Ledge Road due to a slow real estate market. Hawkins noted that such extensions had been regularly granted. Kravitz said no security had been assigned for this case.

MOTION:	Hawkins	to grant a one-year extension to the Notice of Decision for Case #2005-24 at 99 Ledge Road as requested by Paul Lepere.
SECOND:	Moore	Approved: Unanimous Abstained – Janvrin, Kelley;

CORRESPONDENCE/ANNOUNCEMENTS

Hawkins referenced a communication indicating that the NH Department of Environmental Services had granted Case #2008-23 DDR an alteration of terrain permit extension until December 11, 2015.

Hawkins noted there is an additional 30 day extension for the DDR litigation because the State needs to complete some paperwork.



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PUBLIC HEARINGS

Hawkins opened the Public Hearings at 6:45PM.

A PROPOSAL TO INCORPORATE IMPACT FEE PROVISIONS INTO THE ZONING ORDINANCE PURSUANT TO RSA 674:21.

Hawkins said that impact fees and the petition had been discussed at least two prior meetings this year, and this was the meeting to take the vote. He noted that the Planning Board's attorney had been asked to provide counsel that members had previously received in their packets. [The Secretary asked if anyone needed a copy of the citizens' petition.] Hawkins said an opportunity for comments would be first given to Planning Board members so they can indicate whether they support the petition or not, after which the hearing would be open for comments from those in attendance. The Board would then vote whether it would or would not recommend the petition.

Hawkins said he is generally in favor of impact fees. Any time developers increase the costs to taxpayers of operating the town they should be making a contribution and this would be one way to do that. However, Hawkins said he was not in favor of the submitted citizens' petition because the methodology written into the petition severely restricts the town's ability to actually execute a well thought out impact fee ordinance. For example, impact fees would not be in effect on the first two dwellings of a subdivision or the first 2500 feet of any expansion or construction. That would cut out all but the big-box applications. Also there is no timeframe for credits for already assessed property taxes; he wondered if the intent was that prior taxes paid by big developers would be applied against the impact fees. He also cited counsel's concern with a provision crediting specialty retail shops, and asked if that meant that large food supermarkets would be exempt, noting that counsel had questioned the legality of a provision crediting individual businesses. Hawkins also expressed concern about crediting developers for a portion of municipal taxes paid by employees living in Seabrook which would require a deed restriction, as well as waivers of fees outside of a "congested corridor ie Routes 1 and 107 east of I-95. Hawkins said too much in this petition was restrictive on the town, and said he would rather see an ordinance that gives the Selectmen or the Planning Board authority to develop an impact fee ordinance. Hawkins said for those reasons he would vote not to recommend this petition, noting that counsel had a couple of other concerns. Additionally, some Board members do not favor impact fees because they believe that the time for such fees in Seabrook has passed and there would not be much payback.

Moore thought Hawkins had covered most of the issues. He said that impact fees probably would not do a lot for Seabrook because there was not a lot of land to expand. When there are large tracts of land that could be developed for residential expansion impact on the schools could occur. Using the current process developers have to take care of roadways, utilities etc with exaction fees. Impact fees might go to schools, some fire needs or police. Moore thought the petition was too vague and doesn't spell things out definitively. He would vote against it.

Kelley also agreed with what had been said. He thought that impact fees could be good for a time and place, but this was neither the right time nor the right place. Developers could go elsewhere, and he thought they might do so or be less inclined to redo or upgrade. .

Lowry thought agreed – perhaps twenty years ago; he did not see it as viable now.

Thibodeau recalled impact fee discussions over many years. One way impact fees can be used is with the schools but right now the school population is going down. Also there is not a lot of land available; so much is wetlands that cannot be built on. She disagreed with the petition.

Fowler agreed with the comments from the other Board members; it seemed right to vote it down.



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Janvrin said he was absent from the discussion at the last meeting. He did not see this as trying to close the barn door after the horse had left, and thought it would be incorrect with given 135,000 square feet expansion.

Hawkins asked for Morgan's view. Morgan said that Seabrook had done quite well in terms of soliciting contributions from developers for roadway improvements – much better than most towns. He thought less money would be collected from impact fees, and noted that a developer cannot be hit twice for a particular improvement. He thought that what Seabrook has now works quite well and that impact fees would probably generate less revenue.

Hawkins asked for comments from the audience.

Albert Abramson said that the impact fee ordinance is the second step to the initial RSA enablement; it is not the fee itself. He thought a lot of development would be coming in during the next few years. If the town tries to come for an impact fee for public safety, police, recreation, or town offices and the ordinance isn't sitting there, even dormant, it couldn't be done. Putting an impact fee ordinance on the ballot and into the zoning doesn't create a mandate by itself. Abramson said he'd talked with people around town and hadn't met anyone other than the Planning Board that was against it. The dog track, a second reactor, the workforce housing mandate, and six-house subdivisions are coming. He thought it was pretty sure that the town wouldn't be hit with a law suit to allow some developer to come in to build more apartment buildings but that isn't sure. He thought that if DDR Phase II came in there would be nothing in the zoning ordinance to cover parks, school, library or the transfer station. Abramson said that impact fees cover everything that's already being done, but not additional facilities. He noted that he'd been given the Planning Board counsel's comments at the meeting, although he'd submitted a draft three months ago; some of the comments were about things in that earlier draft. One valid concern was about specialty retail shops; there are different uses referenced in the ITE manual for trip generation so some stores generate more traffic than others. You can't charge all restaurants the same amount – proportions would vary. Hazardous materials are spelled out, including the equipment; it's not fair to charge one developer for the impact of another developer.

Abramson said the Local Government Center said that if the Board of Selectmen had a problem with some of the [petition] language it could recommend amending it in another warrant on the same ballot. If the BOS or the Planning Board still had a problem with some of the language they should put it in another warrant and let the voters decide. Other concerns raised were that the town can't double charge one project through exactions, property taxes or impact fees for capital facilities. Towns run into problems because they tend to charge for facilities and vehicles but the land has already paid some property taxes. Abramson said that leads to litigation. He did not think impact fees would lead to litigation, and thought they were preferable to exaction fees as long as the methodology was done properly, not arbitrary, hold up better, and apply to everyone. The town was taken to court and lost a lot of money on DDR; those were negotiated exactions. Developers are not shy of the courts, but the notion that the horse has left the barn is ridiculous. Abramson said he looked at all the development and the current pace of development and expansion. \$2 or \$3 a square foot should bring in several hundred dollars a year – maybe a million dollars a year in potential revenue [to meet] a like increase on increased demand on water, gas etc. it would bring new equipment. He did not think it fair to bring this on taxpayers or subsidize developers. He said the methodology and the definitions were written out very carefully – most is boiler plate. He thought that credits for hiring Seabrook residents was a novel idea; for big box stores or restaurants deliberately hiring only out-of-town people have them driving a lot farther. If there isn't a technical memo or impact fee ordinance then some developers are being charged too much. Abramson said that Mayberry &



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Associates recommended a lot and all the attorneys said to be sure to have definitions for redevelopment and expansion. Every impact fee has a cutoff point ie expansion, number of houses and the like. From an administrative point of view it is not worth it to charge very small expansions; the legal costs are too high and exactions aren't charged on small expansions. Transportation fees are only charged on very large projects above a certain threshold. Impact fees have a fixed fee schedule - one rate for gas stations, one rate for large retail stores, subdivisions, machine shops, warehouses etc. It saves the developer time and money on a transportation impact analysis, consultants and litigation. The work has already been done and the developer knows as early as possible, but actually pays at occupancy. It gives the town more time.

Chief Jeff Brown of the Fire Department said everyone knows how he felt about impact fees, which he had pushed for four years. The statute that authorizes impact fees contemplates that the Planning Board would create the ordinance. It should not have to be done by citizens petition. The only reason it was done [as a petition] was because the Planning Board refused to do it. Brown said that if the Planning Board is against it [the petition] then the people should vote against it, because the Planning Board would have to carry it out and enforce it. If the Board is not in favor to begin with then he did not want to stick it with the responsibility of having to enforce the ordinance. Brown said that impact fees exist through the state. Developers will not go elsewhere whether Seabrook does or does not have impact fees. Anyplace else in the Route 93 corridor already has impact fees ie Derry, Salem, Manchester, Hooksett. Developers come to Seabrook because of the low tax base; it's on the Massachusetts border and ten miles from Maine, and on Route 95. There is also the legality that if there are certain sections in an ordinance that aren't compliant or need to be tweaked, those sections don't need to be enforced; the whole ordinance isn't thrown out. Brown said that if this Planning Board is against it and doesn't recommend it, he will vote against it [the impact fee petition] if it is on the ballot. Even though he was one of the signers. He said it is the stampede that is coming that he is worried about. The people who are coming ought to pay like everywhere else because they will cause the impact. If people don't believe that there will be future development in Seabrook that would justify an impact fee ordinance, they will be in deep trouble trying to get exactions for Routes 1 and 107.

Brown said that what the Planning Board does at this meeting would impact what happens at the Thursday Budget Committee meetings when the department heads have to appear to justify their budgets. For the most part they are either level funding or cutting even though what happens at the Planning Board increases the workload in all departments. Brown asked that if the Board does not vote for the impact fee, it save department heads time, efforts and money by not forcing department heads to come up with useless documents like Capital Improvement Programs and Master Plans, because the only reason they exist is to have impact fee ordinances. If the town is not going to have them, don't waste the taxpayers' money and department heads time by making up useless documents.

Hawkins said he agreed with Brown and Janvrin that the horse had not left the barn. However, in this citizens petition the statement indicating that in the case of new development by a change of use or redevelopment or expansion or modification of an existing use the impact fee shall be based on the net positive increase of the impact fee on the new use as compared to that that would have been assessed for the previous use. This statement would just reduce the town's ability to collect money. Hawkins thought an impact fee ordinance should give the town the greatest amount of flexibility to collect the amount of money that the town is being impacted by new development. He thought the citizen petition would reduce the ability to make that kind of collection. Brown stated that if the ordinance is passed it did not mean that that would be the ordinance forever. If the town is to do impact fees they have to get on the books soon, otherwise it would miss out on millions of dollars. This ordinance could be passed and enforced against those people who would pay today and there would be a year for amending an article paragraph at the next Town Meeting to include everyone. Also Brown said there was never any discussion of assessing a development of less than five houses to allay the fears of people that were



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already here that were worried about having to charge a child or grandchild impact fees if they built a house. A five-unit plus subdivision is not a family subdivision and the developer is probably not living there. If people don't want to spend an extra \$3000 in a [Seabrook] subdivision, they can go to another town and pay it there. If there is to be an ordinance it should go on the books; it is the key and could be amended later on. Brown said he would rather see the Planning Board do the ordinance, but he did not think it would do so; they were asked to do so for three years and voted against it every time. He did not think the [citizens petition] was the way to go but it would be something going in the right direction. Once the ordinance was on the books it would be subject to the impact fee; he thought there was probably a million dollars represented at this meeting.

Abramson said, whether for impact fees or exactions expansion, the reason it has to be for expansion is that double charging is not legal. There are towns that will take a building that has become unused for a year or more and lost its grandfathering or permit and charge impact fees again. They should not do that as the building had paid property taxes. Abramson said the [citizens petition] was not written carelessly; it was really written to cover [Seabrook's] tail as a town. Voters could put this in the ordinance and leave it there just to cover [the town]. Enacting an impact fee ordinance just covers the town and does not require an impact fee schedule. Once an impact fee is on the ballot; it gives a little more leverage and leeway when negotiating with developers. A fee schedule goes in later. Abramson said he got the Planning Board attorney's comments at the start of the meeting, and referenced some of the comments that were made. He said that some of the case law supports the definitions; the courts require that there is no double charging.

Abramson said that most consultants that draft impact fee ordinances and work on the methodology say to improve the definitions, make sure there is no double charging, and spell out the definitions so that there is something in the ordinance that supports the ordinance rather just copying the RSA boiler plate. The [citizen's petition] language is just taken from either the statute or from other impact fee ordinances, or definitions and requirements taken from consultants who say to be sure the definitions and the methodology are included; to make sure there is some kind of reference to the basis of assessment. The safer bet is to enact the ordinance – put it on the books – for coverage. Abramson said there could be changes in the case law next year and exactions are under continuous scrutiny. There wouldn't be any coverage in the Seabrook ordinances. There needs to be some kind of ordinance in place that authorizes it. Abramson said that even if there is a typo or an error in a citizens petition the courts follow the intent of the petition/ warrant article. If the Planning Board was still concerned that some measure in the ordinance was badly written it was responsible, whether voting up or down, for proposing an amendment for the March 2011 ballot and let the voters decide. The Local Government Center's website said that the Board of Selectmen should propose an amendment if they want a change in the language; the language in the ordinance [petition] cannot be changed but a warrant article could be proposed for March and let the voters decide.

Hawkins thought everyone's comments had been heard and said that a motion to recommend or not recommend could be made.

MOTION:	Thibodeau	that the Planning Board does not recommend the Citizens Petition submitted by Albert Abramson et al proposing an impact fee.
SECOND:	Kelley	Approved: In favor – Hawkins, Moore, Kelley, Fowler, Lowry, Thibodeau Opposed – Janvrin



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A PROPOSAL TO RE-FORMAT THE TOWN'S LAND USE REGULATIONS - ZONING ORDINANCE, BUILDING ORDINANCE

Hawkins recalled that he Board had liked the Town Planner's recommendation to reformat the Seabrook Land Use Regulations, and asked Morgan to explain what he had done. Morgan said the proposed reformatted subdivision regulations had previously been submitted. The Board liked the new format and asked that he proceed with the drafting of the other ordinances as well. Morgan said that unlike the subdivision draft, no substantive changes had been made to the Zoning and Building sections other than to correct a few minor grammatical errors; they would be the same as it is now. The difference is the use of numbers instead of letters which will make it much easier to amend. Hawkins asked if the proposed Zoning and Building Ordinances had to go to the Town Meeting. Morgan said they did. If the Board wanted to send it to the March 2011 Town Meeting the only option at this meeting would be to vote to recommend or not recommend submitting it to the Town Meeting. The Board could also table the reformatting for another day. Hawkins asked if the renumbering is the only change so that paragraphs could be added and the working order maintained. Morgan said there had been no changes of substance; a couple of typos had been fixed.

Hawkins asked for further comments from the Board or the audience; there being none.

MOTION:	Hawkins	to approve the proposed reformatting of the Seabrook Land Use Regulations Zoning and Building Ordinances as presented at the December 21, 2010 and to recommend them to the March 2011 Town Meeting for Warrant Article approval.
SECOND:	Moore	Approved: Unanimous

Hawkins noted that other proposed changes are in the packet and would be heard at the January 4, 2010 meeting; they were discussed at the workshop meeting. The text would be in the January 4, 2011 packet. Morgan noted that those items were submitted by Grand and other Planning Board members.

A PROPOSAL TO INCORPORATE LANDSCAPE STANDARDS AND REQUIREMENTS INTO THE SUBDIVISION AND SITE PLAN REVIEW REGULATIONS.

Hawkins said that throughout the summer the Master Plan Steering Committee had been discussing how to develop better landscaping standards along Route 1 and has proposed changes for lots greater than an acre. He noted that the existing standard requires one tree. The intent had been that the tree be at the front of the lot, but that wasn't always the case. He thought that Route 1 didn't look as good as it could have. The greenspace should be put back even if it takes twenty years. As there was no expertise in town to write landscaping standards, the Committee has been working with Rockingham Planning Commission's Julie LaBranche who assembled standards and language from other towns. It would apply mostly to larger development lots; the intent is to draft another provision that would scale it back for smaller lots. The draft had also been reviewed at the Planning Board workshop meeting. Hawkins referenced various sections including landscape vegetation, and buffers and screening along the lot edges with a 10 buffer along the sides and the back of the larger areas particularly where there are residential areas behind the buildings. This is to give a little more privacy from the retail and commercial development that has grown a. Also, there are standards for internal access roads with detail on soil preparation so that the investment in planting and making lots look better will survive. Another section deals with trying to cut down on massive parking lots with endless black top aiming for a little nicer look.



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Hawkins noted that the Board had gone through the provisions line-by-line at the workshop meeting and needed to decide whether it would adopt the landscaping standards into the Site Plan regulations. He asked for additions, questions or comments from the Board. Kelley said there needs to be attention on avoiding having trees block signage as is occurring at one Route 1 establishment. Hawkins said that not a lot of thought went into that landscaping design and now they want to cut down the tree. The Board would not want them to do this but it is covering the sign. They could have used a little help. Kelley said to be alert to this in the future.

Hawkins asked for comments from those present. Abramson referenced a comment at the last meeting by Keith Sanborn that this is one of a lot of new mandates; it is not optional. There should be some kind of a variance if there are concerns about hiding places for criminals or other problems. Abramson said this should be optional. Morgan explained that the proposal is to incorporate this standard into the siteplan review regulations, which means the Planning Board, and not the Zoning Board of Adjustment, would have the power to waive provisions. He said that "mandatory" would not be a good work to use. Abramson said if the Board said where a tree had to be that could be a big cost for the developer. Morgan said at least they could talk about it. One problem he had with the impact fee discussion was that it was mandatory, and not just authorizing the Planning Board to do it. The landscaping standard is not and gives the Planning Board a lot of leeway and flexibility. Abramson said his problem is that this would be an unpredictable cost for developers and small businesses. Hawkins noted that that could apply to almost anything in the site plan regulations. One objective is to know how the town wants it to look; the roadway seems to just look a bit worse every time.

Hawkins said a business can make a lot of money and still have the building look nice. The Board wants to say that it wants the buildings that are being brought into Seabrook to look a little better than they do now. So they are being asked to comply with the standards. Some businesses have done a spectacular job landscaping their property; others clear-cut right up to a neighbor's back yard with no buffer between the residential and commercial. That's not the right thing to do so the Board is trying to say that it's not just about the development itself. It's also about people who are neighbors to that development and the Board is trying to protect their property values as well. This is a start do this. Abramson asked about the cost benefit and how much more area would be used or how many parking spots would be lost, and the waivers needed. Hawkins noted that currently the regulation is for maximum parking, not minimum parking for large lots which is what the proposed standard applies to. The Board is trying to reduce the amount of hot-top; for most of the year the parking lots are empty, ugly-looking spots. It doesn't have to be like that and can look better. The Board is asking developers to take that into consideration if they want to build in the town. They can still make a lot of money.

Hawkins asked for other comments; there being none.

MOTION:	Kelley	To accept the new landscaping design standards as presented at the Planning Board meeting of December 21, 2010 and incorporate them into the Seabrook Site Plan Regulations.
SECOND:	Moore	Approved: Unanimous



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ONGOING CASES

Case #2010-29 - Proposal by Midway Utility Contactors and Swanky Nominee Trust, David Pritchard (Trustee) for a voluntary lot merger and the construction of a 7,000 square foot industrial building at 106 Ledge Road, Tax Map 6, Lots 7, 9 & 10, continued from November 2, 2010; Appearing for the Applicant: Pat Ciccariello; Henry Boyd Jr, Millennium Engineering;

Boyd said they'd had a very productive technical review meeting. The most important factor at the TRC meeting was learning that the water main goes up to Poland Springs and then eastward across the woods and back to Batchelder Road where it runs up to Tyler manufacturing and then stops. So it was an unpleasant surprise to learn that the Midway site is one of the few parcels in Seabrook that does not have water service. Boyd said the applicant is prepared to install the water lines. The other TRC item was that the Sewer Superintendent wanted that line to go directly into the sewer main for sampling. Boyd asked Ciccariello to explain about Midway's business.

Ciccariello said they are currently located in Massachusetts about 11 miles from Seabrook. They do underground utility work – gas and electricity in New Hampshire and Massachusetts. They dig through trenches, put in gas mains, bury the pipes, do hard-top and roadways. They want to build in Seabrook to house trucks and equipment and office space with a parking area. One parking area would house trucks and vehicles, most of which are out every day and the drivers go home at night. In the winter when it is slow the trucks come back and park on the lot. They do plowing in the winter. The building would be 7,000 square feet of which 2,000 square feet is office space with the balance used for the mechanics to repair trucks etc. He pointed out the area for gravel etc that is used every day.

Boyd said they and resolved everything at the TRC and also had a list from Garand including hours of operation, certification that the site would meet ADA compliance. Hawkins asked Boyd to review the TRC list. Boyd explained each item:

- (i) *coordinate with water department and resolve connection issues* – they will install about 200 feet of new water main that will add another hydrant for flushing on the end of the line; the ordinance also requires all industrial buildings to have fire suppression in the building.
- (ii) *separate sprinkler and domestic connections* – there is a 6 inch line for fire suppression and a 1 inch line for domestic service;
- (iii) *depict clean-outs and/or manhole connection; consult with DPW about sampling – details will be show on the plan with a bend and a cleanup steel cover, and into the manhole;*
- (iv) *depict water and sewer cross-over relationship* – will do ;
- (v) *show water, sewer, and gas lines, positions in trench, and depict acceptable pipe cover* – there is a no-cut strip on lots along Ledge Road; some trees would be planted;
- (vi) *use plastic or copper line into the utility room* – plastic pipe will be used;
- (vii) *depict guardrails; request waiver if necessary* – originally along the north parking bank they had concrete bumpers that would stop cars and a proposed row of shrubs, however, they will have a guardrail for the length of the parking area;
- (viii) *show preventive indoor berm, and how leaks from external equipment will be prevented* – there is no floor drain that goes out of the building and the note would be changed to show the floor submerged to contain a spill;
- (ix) *provide lighting cut-sheet* – these were added to the plan or submitted separately;
- (x) *provide a rendering of the building* – color photos submitted;
- (xi) *certify handicap accessibility* - notated;
- (xii) *discuss sidewalk issues with the planning board (see below);*



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Boyd said sidewalks were discussed at the TRC but it is an outstanding issue. It is out of place for the Midway location; a lot of ledge would have to be removed and it would be a sidewalk to nowhere in both directions. He did not think it belonged and said the applicant had chosen to remove it from the plan and has asked for a waiver from installing sidewalks. The TRC gave no direction one way or the other. Janvrin asked if the light poles were 20 feet. Boyd said the note had been changed to 20 feet. Kravitz said that the Sewer Superintendent communicated that he was satisfied with the revised plan. Boyd thanked the Water superintendent and his assistant for meeting with him on the site. Janvrin asked about an emergency generator being muffled. Boyd said that was a general note that external machinery has to be muffled. Garand asked if there was a note stating that the property would be in compliance with the BMP ordinance; also in re salt. Hawkins asked if the Planning Board engineer had provided comments. Boyd said the only issue was to ensure that if there are larger trucks exiting the site they wouldn't go into the outer lane. A special auto-cad program was used for this. The engineer was ok with everything else. Hawkins asked if the security were designated. Boyd was not sure. Kravitz referenced the engineer's memo in the file that showed required security of \$71,125.

Kelley asked if the sidewalk would happen. Hawkins said that would be up to the Board, noting there are not sidewalks on that area of the road and the significant ledge where a sidewalk would be installed. Boyd said if there were a sidewalk it would overlay the sewer which the Sewer superintendent does not like. There is a significant shoulder on the other side of the road where people walk now. Janvrin commented that drainage issues would have to be dealt with. Moore said that most of that road drops off and it would need extensive fill into the wetlands. Boyd said sidewalks should have been dealt with when the road went from dirt to pavement.

MOTION:	Janvrin	to waive the requirement for sidewalks for Case #2010—29.
SECOND:	Moore	Approved: In favor - Hawkins, Moore, Thibodeau, Fowler, Lowry, Janvrin; Opposed - Kelley

Hawkins asked for further comments; there being none.

MOTION:	Moore	to approve Case #2010-29 - Midway Utility Contactors and Swanky Nominee Trust, David Pritchard (Trustee) for a voluntary lot merger and the construction of a 7,000 square foot industrial building at 106 Ledge Road, Tax Map 6, Lots 7, 9 & 10, conditioned on posting security of \$71,125.
SECOND:	Janvrin	Approved: Unanimous

NEW CASES

Case #2010-33 – Proposal by Teledyne and Donald G. O'Brien Realty Company to install gas and chemical storage units at 1 Chase Way, Tax Map 5, Lot 18.

Attending: David Duafee, Phil Amado, Teledyne D G O'Brien, Jeff Brown, Fire chief, town of Seabrook;
Appearing for the Applicant: Henry Boyd Jr, Millennium Engineering;



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Boyd indicated that Brown had comments. Brown said they had reviewed the proposal and matched the state and federal codes. Teledyne is just moving chemicals outside to a safer storage area. The storage containers are state-of-the-art. The proposal should be commended.

Duafee said that the location is at the corner of I-95 and route 107 with a 42,000 square foot manufacturing plant on 6.26 acres of a 16 acre site. About 180 employees work at the Seabrook location. The company makes a variety of niche products that are unique in the world. They supply electrical and optical connection systems used in harsh environments where extreme reliability is required to the US Navy, the Oceanographic Research Institute, and the offshore oil and gas industry. While none of their products were used in connection with the Gulf oil spill, some of their products were used for the devices used to cap the well. The facility consists of engineering and design space, sales, administrative and office space, and a complete machine and weld shop and assembly operation. These processes require using a variety of different chemicals for cleaning solutions etc. Gases including nitrogen, hydrogen are also used. These materials have to be used, transported and stored during operations. Currently the storage is in a number of places inside and an outside storage shed for chemicals that are being stored recycled and/or transferred off the site. That building is age, cold and not very well protected; Occasionally security cameras pick up suspicious activity.

The Company wants to tighten up the security and safety by consolidating the storage into a more state-of-the-art storage facility that meets all of the fire protection codes for gas storage. Currently gas cylinders are brought into the back of the building and carted around the plant one by one. This is inefficient for manufacturing and safety, although they have never had an accident. They want to install two self-contained, segregated, pre manufactured units for chemical and gas storage. Delivery trucks could then deliver and pick up right from the units which would also open to the facility. They also want to put a small pad on the western side of the building to upgrade dust collection.

Hawkins asked if the chemical storage will be smaller or larger. Duafee thought it would be about the same length. Amado said it will combine some internal storage. It may be about 50 square feet larger. Duafee said the business is growing and they are constantly moving things around to get more internal space. The storage proposal will result in more internal space for production. Boyd said from a site plan perspective they could not afford to lose the parking. They will restripe for another four spaces and have one handicap spot by moving the dumpsters. Lowry asked whether the dumpster space would be screened. Boyd said it would be fenced. Duafee said only the back wheels of the tractor-trailers will enter the loading bay into the building. Amado said that the copper cable will go inside the building.

MOTION:	Lowry	To accept Case #2010-33 as administratively complete for jurisdiction and deliberation.
SECOND:	Janvrin	Approved: Unanimous

Boyd said they did not submit the wetlands survey and markers because they are asking for a waiver. Hawkins asked if this case should go to the Technical Review Committee. Brown said this was a marked improvement and one of the best well-run sites. Garand asked for the notation that the machinery needs to be muffled. Janvrin suggested the minimum security of \$5000. Morgan agreed.



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MOTION:	Lowry	to approve Case #2010-33 – Teledyne and Donald G. O'Brien Realty Company to install gas and chemical storage units at 1 Chase Way, Tax Map 5, Lot 18 including waivers of the wetlands survey 25 foot off-site requirement and wetlands markers, and conditioned on posting security of \$5000,
SECOND:	Janvrin	Approved: Unanimous

Hawkins acknowledged that large projects with lots of material were coming up and set forth the procedures. He asked for an overall presentation of approximately 15 minutes describing what the Applicant is trying to accomplish, then accept the plan, and send it to the Technical Review Committee. A continuing date would also be set for returning to the Planning Board. He asked that the Demoulas representatives consult with the Town Planner and lay out a logical schedule of how the various particulars would be addressed. That way there would be topics and expectations for accomplishment at each meeting; the Board would not be kept in session until 11PM. The preparation for both the Applicant and the Board would be manageable.

Case #2010-34 – Proposal by Demoulas Super Markets and RMD, Inc. For a lot line adjustment that would reduce the number of lots from three to two at 836 Lafayette Road, Tax Map 7, Lots 92, 92-2 & 92-4.

Case #2010-35 – Proposal by Demoulas Super Markets and RMD, Inc. To demolish Seabrook Plaza and to build a 135,113 square foot shopping center on the site, that being 836 Lafayette Road, Tax Map 7, Lots 92, 92-2 & 92-4.

Attending: Michael Kettenback, Demoulas Super Markets, RMD;
Appearing for the Applicant: Jim Lamp, J&Company; Earle Blatchford, Hayner-Swanson – site engineers; Kevin Dandrade, Principal Project Manager, TEC Inc, traffic engineers; Anthony Guba, Ayoub Engineering;

Blatchford asked if the presentations for Case #2010-34 and #2010-35 should be combined or done separately. Hawkins said to give an overview of the whole project (both cases), not just the lot-line adjustments.

Blatchford said the existing site was 16.5 acres with 500 feet as C2 Commercial and the balance in the rear of the site as C3 Industrial. The site is currently configured as three lots and the proposal would be to reconfigure it to two lots of which a 1.4 acre parcel would be for the Prime gas station. Currently, there is approximately 110,000 square feet of retail space with Market Basket, the liquor store and the gas station. There are four existing unsignalized access driveways off Lafayette Road. There are a couple of pocket wetlands of low functional quality at the northeast corner and in the back. A tributary of Browns Brook cuts through the corner. There are 460 striped spaces, about 10 acres of impervious space and very little landscaping. Municipal water and sewer service as well as electrical service and natural gas are existing.

Blatchford said the proposal consists of a complete teardown of the buildings and pavement on the site and rebuilding it. Four variances were obtained from the Zoning board of Adjustment in re the wetlands,



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parking, an expansion of the commercial area, and for two buildings on a single lot. They have been to the Conservation Commission to discuss wetlands filling of approximately 9,600 square feet. The main building will be 115,000 square feet including the Market Basket which goes to 77,000 square feet from 44,000 square feet. Two other retail spaces are also planned and the building is 100 feet further back on the site. The total of 135,000 square feet of buildings includes an 18,000 square-foot building for relocating the existing liquor store, and a 2400 square foot convenience store in the northwest corner at a relocated Prime gas station. The total proposed square footage is 135,000 square feet. Four curb cut driveways are proposed, however only one would be full access at the main driveway opposite Dearborn]]] Avenue; the others are restricted to entrance only or right in/out. Proposed parking is increased to 584 spaces – a little less than requested at the ZBA. In addition, there are proposed widening improvements on Lafayette Road for turning lanes for the new signal at Dearborn Avenue]]] Lane to meet the increased site traffic.

Blatchford said the exiting stormwater system is basically a series of catch basins with pipes in front and sheet flow in the back with no treatment or detention. The proposal is for significant enhancement with pretreatment, detention, and infiltration stormwater to meet the requirements of the alteration of terrain permit. The parking fields are separated by wider areas, the landscaping has been significantly upgraded, and there is new energy efficient site lighting. An 8-foot wide sidewalk is proposed along Lafayette Road which can also serve as a bike path, and a comprehensive network of sidewalks into the site to the storefronts which is a considerable improvement. Three state permits have been applied for; (i) curb-cuts, (ii) wetlands filling, and (iii) for the Alteration of Terrain. Blatchford said the owner is looking to make a significant investment and improvements to the 30-year old underperforming site in sore need of upgrading.

Hawkins said the details would be reviewed in subsequent hearings. He said that the Rockingham Planning Commission Route 1 Corridor Study talked about five lanes and asked if the Applicant would have a plan for an alternative to that. Dandrade said he had done all the traffic analysis and the conceptual roadway plan. He used a diagram to show where the RPC plan shows five lanes, and then further north tapers down to three lanes. The conceptual improvement plan is consistent with that and pointed out that the plan depicts a full five lanes in front of the site and widening into the site as a permanent easement, showing a significant donation of property. The lanes decrease from five lanes to four which is out of the applicant's control due to a cemetery (partly in the right-of-way) and private property corners. They have maximized to the extent feasible within the right-of-way to provide the cross-section. All the signal analyses are done based on conservative traffic estimates and discussed with NH Department of Transportation district 6 which is reviewing it now. Dandrade said the operations provide a great public benefit from Dearborn Avenue and access for the areas behind. One important reason it is such a benefit is that the RPC showed a need to acquire property to go from Gove Road through and across to the North Access Road. That's being provided on an existing public street but having the same public impact slightly to the north, directly across from the site. Dandrade said they had been consistent with the RPC plan, made enhancements that reduce impacts on the westerly side, and provided sidewalks consistent with the tapering down. The four lanes are needed to get good signal operations, but they are not proposing to go further to the north. .

Hawkins asked for questions from the Board. Lowry referenced the North Access road signal and asked if anyone had spoken to the Power Plant to gain an easement to use it. Dandrade said their traffic study does not propose a cross-connection at that point, but they have modeled in the analyses the Town's desire to have a connection from Rocks Road and the Transfer Station. Lowry said he had mentioned this a few times before and thought it would be looked at. Lamp said his intent was to try to look at that, and asked if the objective would be to funnel all of the site traffic to that signal. Lowry's concern was in having two signals so close together. Morgan asked how many trips currently come out of the North Access



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Road. Dandrade said about 40 left turns per hour which would go up with the introduction of traffic from Rocks Road. There are things like the gas station for which mitigation is out of the control of this project. It has no control over the properties to the south. Lowry said there could be another access point. Hawkins said that the entrances and access points would be discussed at a later hearing. Hawkins asked for other comments; there being none.

Hawkins asked Morgan about his memo to the Planning Board enumerating some concerns. He said that the Applicant needed to get that letter and consult with Morgan about priorities to accomplish with a discussion schedule so that meetings do not go to 11PM. He asked Morgan about his concerns with easements. Morgan said that he noticed in his review of the file that easement holders were not included for the notices. State law treats easement holders the same as abutters which means that there is a requirement to notify them as well as the abutters. the only question for this meeting would be whether the Applicant had complied with that law or at least made a good faith effort to do so. Morgan said the concern was conveyed to the Applicant who then supplied more information in terms of easement holders. He had not seen that yet but suggested the Board seek assurance from the Applicant that they have investigated the property thoroughly enough to come up with a comprehensive list of easements and that they have been notified. If that is the case here is no reason not to accept the plan and refer it to the Technical Review Committee. Blatchford said he brought the easement list to the Planning Board office after Kravitz had brought this to their attention so they went out on time. Hawkins asked for a short written statement stating that they had included all of the easements associated with Cases #2010-34 and #2010-35 and that everybody had been notified. Blatchford said he would do that. Hawkins asked if Morgan had other issues. Morgan said that the plan is fairly complete and recommended the Board accept it and send the plans to the TRC.

MOTION:	Moore	to accept Case #2010-34 as substantially administratively complete for jurisdiction and deliberation.
SECOND:	Kelley	Approved: Unanimous.

Morgan questioned whether department heads would have enough time to review the plans before January 10, 2011, and recommended January 24 because the Water Department had been uncomfortable with a faster pace for a previous case.

MOTION:	Hawkins	to send Case #2010-34 to the Technical Review Committee for review at its January 24, 2011 meeting at 10 am in Seabrook Town Hall.
SECOND:	Lowry	Approved: Unanimous.

Hawkins asked about a date for continuation. Morgan said that the TRC usually recommends several revisions so it would be important for the applicant to have enough time to respond. Kravitz asked if a revised planset would be needed before the first hearing on the merits. Hawkins did not have a problem with keeping a list. Morgan said the Applicant would have a lot to tell the Board after the TRC. Lamp said they anticipate meeting with Morgan several times before the TRC meeting to address his issues. Morgan said the department heads would have a long list of comments.

Morgan noted that the Board had adopted new landscaping regulations and that most would apply to this project, and all would apply to the Demoulas south project and suggested the Applicant review them before the TRC. Morgan complimented the Applicant on the proposed landscaping, so far.



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Hawkins continued Case #2010-35 to February 15, 2011 at 6:30PM in Seabrook Town Hall.

Case #2010-35 – Proposal by Demoulas Super Markets and RMD, Inc. To demolish Seabrook Plaza and to build a 135,113 square foot shopping center on the site, that being 836 Lafayette Road, Tax Map 7, Lots 92, 92-2 & 92-4.

Hawkins referenced Morgan's extensive comment letter and asked if there was any discussion or reservations before acceptance. Morgan said the status discussion for Case #2010-34 applied to Case #2010-35 as well. Hawkins asked for further comments; there being none.

MOTION:	Moore	to accept Case #2010-35 as substantially administratively complete for jurisdiction and deliberation.
SECOND:	Lowry	Approved: Unanimous.

Morgan thought there might be comments from those in attendance. Hawkins asked for comments. Bill Tanguay of McNeill, Taylor and Gallo said he was appearing on behalf of DDR with Jim Grafmeyer of DDR and wanted the record to note they were in attendance and part of the process.

MOTION:	Janvrin	to send Case #2010-35 to the Technical Review Committee for review at its January 24, 2011 meeting at 10 am in Seabrook Town Hall.
SECOND:	Lowry	Approved: Unanimous.

Hawkins continued Case #2010-35 to February 15, 2011 at 6:30PM in Seabrook Town Hall.

Hawkins said that the process for the other Demoulas project would be the same with a 15 minute introduction, the process for accepting the case, and then to the TRC. He said the Applicant should work out the prioritizing with Morgan toward an efficient process. .

Hawkins asked for comments or questions; there being none.

Hawkins adjourned the meeting at 9PM.

Respectfully submitted

Barbara Kravitz, Secretary
Seabrook Planning Board