



Town of Seabrook Planning Board Minutes

Tuesday, July 16, 2013

NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair, Jason Janvrin, Vice Chair; Dennis Sweeney; Roger Frazee; Francis Chase, Michael Lowry, Aboul Khan, Ex-Officio; Paula Wood, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Paul Garand, Code Enforcement Officer;

Members Absent; Sue Foote, Alternate;

Hawkins opened the meeting 6:43PM, indicating that the Minutes of June 18, 2013 and July 2, 2013 would be heard at the next meeting. .

SECURITY REDUCTIONS, EXTENSIONS

Case #2002-37 Irene's Way

Hawkins said the Board was awaiting a letter from the DPW Manager.

CORRESPONDENCE

Hawkins said any correspondence was in the Board Packet.

PUBLIC HEARINGS

Hawkins opened the Public Hearings at 6:45PM.

NEW CASES

Case #2013-14.09-02 – Proposal by Arleigh Greene, GRA Real Estate Holdings, LLC, 492 Lafayette Road, LLC, ARG Real Estate Holdings, LLC, West River Road, LLC, and Waterstone Retail Development, Inc. to consolidate six lots in the vicinity of Lafayette Road, Chevy Chase Road, Provident Way, and the South Access Road, namely Tax Map 8, Lots 54-2, 54-4, 54-5, 54-7, 54-8 and 90, and to discontinue most of Chevy Chase Road.

Attending: Arleigh Greene, GRA Real Estate Holdings; Anton Melchionda and Doug Richardson, Waterstone Retail Development;

Appearing for the Applicant: Wayne Morrill, Jones & Beach; Attorney Mary Ganz, Ganz Law;

Morrill explained that Greene came to the Planning Board with Case #2009-02 to have a gravel parking lot which extended over 3 of 6 lots on the parcel show in this siteplan. The Applicant proposes to combine those 3 lots and 3 other lots into a 19.026 acres parcel, and to relocate a portion of Chevy Chase Road to line up with the driveway at the back side of the CVS. This would be a 50-foot right-of-way which expands a little bit onto Chevy Chase because they could not leave a non-conforming piece of land on the opposite side of Chevy Chase Road. They have submitted a letter responding to Morgan's comments; Ganz could speak to questions about Chevy Chase Road. Morrill said at this time the Applicant was asking the Board to accept both Cases #2013-14 and #2013-15 and move on to the Technical Review Committee.

Hawkins referenced issues that Morgan had raised in his memorandum re the Town Meeting decision on Chevy Chase Road. Morgan was seeking more information about what happened at the Town Meeting, and why a warrant article had been submitted. Morrill suggested that Ganz could speak to that roadway status. Ganz said a warrant article was submitted to the townspeople in 2011, to abandon the roadway as one approach. This warrant article failed. Subsequently, in



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August of 2012 they petitioned the Board of Selectmen to relocate Chevy Chase Road, which would be a better approach as a cross-easement would get some traffic off Route 1. Ganz said that the Selectmen at the time were very in favor of this proposal, and understood the request had gone to the Town Counsel. Ganz said unfortunately nothing had happened. Today she contacted Attorney Ciandella who will be in touch with the new Town Manager to get this activated. There is a process to do exactly what the Applicant wants, which she thought would be in the best interests of the town. Ganz said part of that petition had previously been provided, and thought it would be in Morgan's or the Town Manager's file. Morrill said it had been provided to the Planning Board that morning. Ganz said the process had been started last year, and that Khan had expressed interest that it seemed a good thing to do. Khan said there had been no follow-up from the attorney. Khan understood that Chevy Chase Road would get better. Ganz said it would be located to a better location to serve the town, and enable Provident Way cross-connections.

Hawkins asked if Morgan had other comments. Morgan had made a lot of technical comments which Morrill said would be addressed. Hawkins asked if the expectation for this meeting was for approval or just acceptance. Morrill asked for acceptance. Hawkins did not want to go through a lot of detail, as he thought it would be tied to the project (Case #2013-15.09-02). He asked if they would rethink this proposal if the project was not approved. Morrill said the lot lines would disappear for the project, so the cases were integrally related. Morgan asked if any other lot-lines were planned for removal. Morrill said the application for the siteplan actually followed this proposal's property lines. Hawkins asked Morgan if this was only a consolidation of lots. Morgan said such a proposal was generally simple, but this required more careful study because it had a road. The Board's traffic consultant should be asked what impact moving the road would have in the larger area. Janvrin asked how many feet would be moved in re Route 1. Morrill said Chevy Chase road would stay in its original position between Bob's Furniture and Phantom Fireworks; when it passes Bob's it will turn and go to Provident Way. Janvrin asked if the building housing the stone operation would be razed. Morrill said it would, and the right-of-way would go through that area. The new roadway would line up with the back of the CVS and Pizza Hut in a straight line. Chase wanted to see how that would tie in on the plan. Morrill pointed out the sheet where this was shown.

Morrill said providing information on 19 acres on one siteplan was a lot to detail. For example, the easements were listed but the detail was too much to set down; one page would be all notes. Khan said some residents were concerned about the graves on the property. Morrill said they had been located through survey, and they would stay where they were and be protected. The surrounding green area would be enhanced and a lot larger. Hawkins asked for other comments; there being none.

MOTION:	Janvrin	to accept Case #2013-14 as administratively complete for jurisdiction and deliberation.
SECOND:	Chase	Approved: Unanimous

Janvrin asked if Case #2013-14 and Case #2013-15 would go to the TRC together. Hawkins said that both should go to TRC where they might also be comments on the roadway. Morrill agreed the cases should go together.



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Hawkins scheduled Case #2013-14 for the Technical Review Committee on August 12, 2013 at 10 AM at Seabrook Town Hall, and continued Case #2013-14 to September 3, 2013 at 6:30PM in Seabrook Town Hall.

Case #2013-15.09-02 – 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.

Attending: Arleigh Greene, GRA Real Estate Holdings; Anton Melchionda and Doug Richardson, Waterstone Retail Development;

Appearing for the Applicant: Wayne Morrill, Jones & Beach; Attorney Mary Ganz, Ganz Law; Jeff Dirk, traffic engineer, Vanesse & Associates

Morrill said the Applicant proposes to demolish the existing buildings and construct a 168,642 square-foot retail development. One of the larger buildings in the rear would be up against the pond that was built in 2009. Chevy Chase Road would turn to line up with the CVS. There would also be access through the Staples plaza to the development. There is an entrance only at the DDR driveway location. The Applicant is negotiating with the power plant for a full-access driveway on the South Access Road. 504 parking spaces were proposed. Morrill said all of the buildings would be one-story with the exception of one two-story retail shop; a bank and a fast-food restaurant are part of the proposal. The cemetery is inside of a green area. The main entrance would be through Chevy Chase Road, with full access from Provident Way. A new Route 1 signal is proposed to the Staples plaza. Morrill said those plans and the traffic analysis had been submitted to the New Hampshire Department of Transportation; a scoping session was held a few months ago.

Janvrin asked what the signal at the Staples would line up with on the other side of Route 1. Morrill said it would be almost at Perkins; the details had to be worked out with the NHDOT. There would be pedestrian access from Route 1 and Provident Way into the site. As Morgan asked, he will get a little more interconnectivity within the site buildings. The intent is for people to park and use the pedestrian sidewalk system within the site. The 50,000 square-foot building will be designed with green technology. Other buildings will be individually built with roofs determined by the building design, but are depicted as flat roofs with design enhancements.

Morrill said a majority of the site was modified and approved via Case #2009-02. At that time, it was designed to be an impervious site, and the New Hampshire Alteration of Terrain permits were approved. The gravel parking lot was built; the ponds were stabilized; and Department of Environmental Services permits granted. Areas of the site not addressed in 2009, will be treated with infiltration basins and bio-retention areas located in some of the green spaces shown in the parking lot. They tried to adhere to the town landscaping standards to break up the paved area. All of the site drainage is directed to the rear ponds that were previously constructed. Infiltration on the area not previously addressed, would be compliant with AOT regulations. The drainage analysis was submitted to the Board for review. Utilities, including gas and power will be underground; water will come from Provident Way, and loop the site with a 12-inch water main and tie back into the 8-inch line that goes out through Chevy Chase Road to Route 1. The sewer will be connected from Chevy Chase Road existing lines to service the buildings. They had



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applied for the NHDES wastewater connection permit; those plans were sent to the sewer department for review.

Morrill said there would be 10-foot wide landscape islands throughout the parking lot, and shade trees along the perimeter; more detail will be shown. Landscaping will break up the facade for the two large buildings in the front. The lighting is dark site compliant with 20-foot high mounted boxes through the parking lot, and 15-foot high boxes on the buildings. The required applications had been submitted to the NHDOT and NHDES. The Application was seeking acceptance at this meeting, and move forward with the town and state reviews.

Hawkins said the submission had not included a traffic study, and asked for the status. Morrill said the study now had been submitted to the Board and NHDOT. Hawkins asked if the traffic study had recommended any mediation, or if they were waiting for the NHDOT. Morrill said there were quite a few modifications included in the proposal; they wanted to work with the Board and the NHDOT on the modifications, as well as the fees. Hawkins asked if the traffic study had recommendation on what should be done. Morrill said it did. Hawkins asked Morgan for remarks. Morgan commented that the deadline for submitting materials was a week before the meeting, so the traffic study would not be of much good for this meeting. Morrill acknowledged the Board's one-week requirement, but said they had gone as fast as they could. He asked for grace because the Board now had traffic study, and they were looking forward to moving forward with the town to have a nice project that they hope will enhance the whole corner area. Hawkins said the Board wanted him to get things in on time. Morrill said he would do so. Hawkins asked if Morgan had any other missing items or comments before the Board voted on acceptance. Morgan said the lack of a traffic study would have stopped progress. He'd seen Kravitz open a large document an hour before the meeting, so the traffic study was in hand.

Hawkins asked for further comments or questions from the Board. Khan noted the 5 entrances for this project, and asked if there were a particular main entrance. Morrill said this would be the signalized entrance at Staples. They wanted to make this a nice thoroughfare, and would have to make some adjustments to the current Staples access. Hawkins asked if there would be signage at that location. Morrill said there would be signage at the main entrance, and they hoped for signage at Provident Way. Janvrin noted these were depicted on the plan. Janvrin asked if the frontage was on Provident Way. Morrill confirmed this. Chase asked if there were any to shift the building back and taking some of the greenery forward. Morrill explained that the NHDOT used the largest pond for drainage, and they had left room for the fire lane and the loading activity. For Case #2009-02 there was a limit to where the gravel went; the ponds were built and the landscaping enhanced along that perimeter. This plan could not go any further back. Morgan suggested coloring the ponds blue so they would not be mistaken. Janvrin asked if they had been before the Conservation Commission for this plan. Morrill said they had not because there were no wetlands. All of the wetlands impact was taken care of in 2009. He called attention to a large conservation easement on Stard Road as part of that wetlands impact. Hawkins asked for other comments; there being none.

MOTION:	Janvrin	to accept Case #2013-15 as administratively complete for jurisdiction and deliberation.
SECOND:	Lowry	Approved: Unanimous



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Hawkins scheduled Case #2013-15 for the Technical Review Committee on August 12, 2013 at 10 AM at Seabrook Town Hall, and continued Case #2013-15 to September 3, 2013 at 6:30PM in Seabrook Town Hall.

Morgan said that state law R.S.A. 36:56 states that when a big project is accepted, the next course of action was to determine if it would have a regional impact i.e. impacting nearby towns. He suggested that the Board give this some thought, and make an appropriate motion. Janvrin asked if the Market Basket project had been determined to have regional impact. Hawkins said the Market Basket north project had been determined to have regional impact. Janvrin noted its proximity to Hampton Falls. Khan said that the DDR project had been sent to the Rockingham Planning Commission. Janvrin asked about the Market Basket south project, and the Kohl's. Hawkins said that had been an expansion, and probably was not sent to RPC. Regional impact for the Kohl's may not have been addressed at that time. Hawkins commented that the Board had been trying to work more closely with the towns. He saw no harm in making a regional impact designation. It's known there will at least be traffic impact that would filter up to Hampton Falls, and the Board wanted to encourage neighbors to continue to work with it.

Janvrin asked if the regional impact designation made those towns abutters under the state statute. Morgan said that it did, and asked the Board to consider which towns could potentially be impacted because a notice is required. Khan said it would be Hampton Falls, Kensington, South Hampton and Salisbury, MA. Hawkins asked if Salisbury had previously received notices, noting that they had asked to be included in the Market Basket South discussion. Also, Salisbury had notified Seabrook about a big residential project. Hawkins asked if there were implications to consider, other than as abutters, in re regional impact. Morgan said abutter notice was the only thing. The RPC would be notified; it would hold their independent review and invite representatives from the towns to attend. Comments from that review would be sent to the Planning Board. Chase asked if the Board had to provide invitations to that meeting. Morgan explained that the Board would notify the towns directly, but they would get an invitation from the RPC to attend a meeting.

Scott Mitchell asked if there were a minimum threshold e.g. 180,000 square feet. That number did not seem like very much to him, when considering that DDR was 440,000 square feet. He asked if the R.S.A. drew the line. Morgan said that R.S.A. 36:56 stated that the Planning Board "... shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact...". Morgan said this me

and that if the Board was unsure, it should go for regional impact. Janvrin said this would give the towns the benefit of the doubt. Hawkins asked if Scott Mitchell perceived problems. Mitchell said he did not, but was wondering if there was a magic number. Hawkins supposed that if Hampton Falls were going to decide on a 160,000 square-foot project on Route 1, he would like or expect to be notified. From a town and planning standpoint, it would be important to know what was going on so it could be included in plans. Janvrin commented that when the Route 1 Poker Room was put in place in Hampton Falls, Seabrook was notified only because it had a sewer easement and the town was an abutter. The project was never determined as a regional impact. He thought that gave the scope of the why or how regional impact. Mitchell thought it would be tied to a square-footage which he thought would make sense. Janvrin thought putting something in the regulations would be moot, because the Board would still have to make the determination. Mitchell thought they went through the regional impact with the Lowe's.



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Khan asked if Morgan felt this project was big enough to be of regional impact. Moran said it absolutely was, and agreed with Hawkins that to the next town it would look like a big project. Chase thought this project was substantial enough in size for the other towns to know what's going on and understand that there was the potential for more traffic and more business in their towns.

MOTION:	Janvrin	to determine that Case #2013-15 has the potential to be a project with regional impact, and to so notify the Rockingham Planning Commission and the towns of Hampton Falls, Kensington, South Hampton, and Salisbury, MA.
SECOND:	Khan	Approved: Unanimous

By way of information, Kravitz said the Applicant would be hearing from the RPC Development of Regional Impact Committee which would set up the meeting at the RPC office in Exeter. They would make their report to the Planning Board. Morgan said that it would be in the Applicant's interest to go to that meeting, to avoid a one-sided review. Janvrin thought it would be noticed in the newspapers. Scott Mitchell asked if they would get a registered letter. Kravitz said the notification would come from the RPC, so questions should be directed to the Commission.

One attendee asked if there would be notices to abutters for the next meeting. Hawkins said discussion would begin on September 3; there would be no further notice [directly to abutters]. Interested persons should keep track of the continuances and call the Planning Board Offices with questions. He noted that two weeks ago this case had been postponed. In the future, Hawkins would try to do the postponements early in the meeting, but they could call the Planning Board Office in advance of the meeting.

ONGOING CASES

Case #2012-18 – Proposal by Latium, Tropic Star Development, Scott Mitchell to remodel and expand a gasoline station, and to construct a convenience store, at 663 Lafayette Road, Tax Map 7, Lot 87. Among other pending issues the Board will consider is the applicability of Section 14 of the Zoning Ordinance (abandonment) and the proposal's compliance with Section 6 of the Zoning Ordinance, continued from continued from July 17, 2012, August 21, 2012, September 4, 2012, October 16, 2012, November 20, 2012, January 15, 2013, February 19, 2013; May 7, 2013, May 21, 2013, June 4, 2013; July 2, 2013;

Lowry recused himself from Case # 2012-18.

Attending: Scott Mitchell and Jim Mitchell, Tropic Star Development;
Appearing for the Applicant: Attorney Richard Uchida, Hinckley Allen Snyder, representing Tropic Star Development; Wayne Morrill, Jones & Beach Engineering; Jeffrey Dirk. Vanesse & Associates;
Attending for the Abutter: Charles Mabardy, 11 new Zealand Road LLC; Attorney Chris Aslin, Bernstein Shur et al, representing 11 New Zealand Road;



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Hawkins called attention to the many continuances, and asked for the Applicant's view about proceeding ahead, given the abutter's intent to challenge the Zoning Board of Adjustment ruling in re the Planning Board zoning interpretation to Superior Court.

Uchida reading of the state statutes was that once the ZBA makes a decision there was no grounds for everyone to stop. If there were to be an injunction issue, they would have to go to court under RSA 677.9 to file an injunction ordering everyone to stop. To his knowledge there had been neither a filing nor injunctive relief granted.

Hawkins asked for Morgan's comments. Morgan agreed that the ZBA matter was in the past, and should not affect the Board's decision whether to go forward. Janvrin recalled that the ZBA had agreed with the Planning Board's interpretation. Scott Mitchell said that the ZBA had agreed with the Planning Board's findings; the appeal request was denied by the ZBA. Hawkins said the Planning Board's counsel had provided similar advice re proceeding ahead. Hawkins said his reluctance was always about whether moving ahead would subject the town to litigation expense, although at this point that was not for the Board to determine. However, as there was potential litigation on the horizon, the Board should at least notify the Town Manager and the Selectmen of that possibility. Janvrin asked how the town would be a party to a challenge about the redevelopment of the site. Morgan thought that both the Planning Board and the ZBA could be sued. Scott Mitchell said in that event, the Applicant would ask to become a party to the suit so they could defend their lawsuit together with the town. He commented that it was no surprise that Charlie Mabardy was suing them; it was expected. Scott Mitchell said they were going forward; Mabardy was wasting his time and money.

Morgan clarified that the ZBA had made its decision, and that was subject to challenge in court. The Planning Board had to decide what to do about the siteplan application in front of it. Khan agreed that the Board had to protect the town from any lawsuit. A developer could spend money on any kind of legal action. He agreed with Hawkins, that when the town gets sued, the [Boards] had to protect the town any way they could. Hawkins said the Planning Board's counsel was clear that there was nothing in the statutes that should keep it from acting on the case. His reservation was more related to avoiding legal cost if at all possible. On the other hand, Case #2012-18 had been before the Board for more than a year. He thought if there were a way to push forward it should be done. Khan asked for a memorandum from Morgan to the Town Manager describing the case status after this hearing.

Hawkins commented that the Board had not lately worked on this case. He asked Morrill for a status report, indicating there were some open questions. Morrill said at the last hearing the board asked if the sidewalk could be extended so that the people from the condominiums across the street could have an easy way to access the site. He pointed out the proposed sidewalk extension that had to be in the grass area for correct drainage. Crosswalks could not be placed across the road unless there was a signal; crossings were painted across the driveway entrance for the walking area down New Zealand Road. Hawkins asked Morrill to identify the revision. Morrill said it was revision #3 dated June 10, 2013. Morrill said the surveyor's stamp was added to Sheet C3 of the plan showing the drainage and the erosion control; this sheet could be recorded if the application were to be approved. Janvrin asked about the operations and management plan. Morrill said it was on Sheet C3.

Janvrin asked that Note #15 easement include the DPW for stormwater sampling, noting the new MS-4 requirements. The Applicant would be restricted to the hours of operation in Note #18 – 4:30 AM to 11 PM 7 days a week. Scott Mitchell wanted to be sure that the Board had received a



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letter from the New Hampshire Department of Environmental Services. Hawkins asked about the DES statement that it was holding the certificate of no further action, although the letter speaks about the issuance. Scott Mitchell said this would be re RSA 147-B. The environmental consultant was told that when the tanks were installed they would be notified if there were any soil contamination. They will let NHDES know when the tanks were being installed so they could be present if desired; the Applicant will also take their own samples. Khan said this was the normal procedure. Scott Mitchell commented that NHDES had not been notified that the tanks were being removed; the Applicant alerted them.

Khan asked for the number of parking spaces. Morrill said 5 spaces were required and shown. Hawkins asked about the easement for 9 other spaces. Scott Mitchell said that was not an exclusive easement [for the abutter], and they would use those spaces. Hawkins asked if they were on the plan, noting they had to be dug up to install the tanks. Scott Mitchell said they had to be rebuilt and were in the plan. Janvrin understood that the Board was being asked to consider the 9 spaces in the rear as having been approved in a prior application and attached to this siteplan for the change of use. Uchida recalled that originally the Applicant had asked for a waiver to allow for that parking to be included as part of this site. The waiver was withdrawn when the dispute about who could use them arose. The 5 required spaces would be used. Janvrin asked if it would be advisable for the 9 spaces to be notated as having been approved in the abutting siteplan. Uchida understood only that the case number would be notated; the dispute was a private matter. Scott Mitchell said the owner would sign an affidavit that those spaces were non-exclusive. Chase asked if only 5 spaces would be shown for the plan.

Hawkins said the Board's position was this case was entitled to 5 spaces, although it is known there was an easement at least for the benefit of the abutter to the west. For the Board to remove them would open a big problem, because it would be taking away parking that was supposed to be at least partly or wholly land use for the benefit of the property to the west. The Board might want to make a statement, because it could not settle who had what rights to those spaces. Chase asked if, absent the easement, the board would not allow the 9 spaces. Hawkins said the only reason to allow it was because there was an easement that gave rights to someone else. for a 1,220 square-foot store, 5 only spaces were allowed. Janvrin thought that solely making a reference to a prior plan in Note #1 was inadequate; the situation in re the adjacent lot should be spelled out. Uchida thought the notation could say that the 9 spaces exist pursuant to the approval for Case #2005-25. Hawkins asked for the language. Uchida said the note would be modified to say that the [8] spaces to the northwest side of the property were approved pursuant to Case #2005-25 for lot 7-87-1. Chase thought that meant that the Applicant could use those spots. Hawkins said that was what Mitchell claimed said; the property owners would decide between themselves. The Board would approve 5 spaces. The (easement) document was not clear as to whether the 9 parking spots were for mutual benefit; this was not for the Board to decide. The Board did not have the right to remove the 9 spaces. Hawkins asked if Morgan had other comments; Morgan said it was covered.

Janvrin pointed out that Notes #21 and #25 were redundant; Morrill will modify this. Hawkins asked for the resolution about certain "puddling" Morgan said the DPW does not believe that the pipe was blocked; rather the water could not get into the basin because of the height of the grade. Once the drainage was modified, they believe it will function correctly. There would be a holding tank for oil and grease. Khan asked how the gas delivery trucks would enter and park. Morrill said they would enter from New Zealand Road, park around the back of the building, remote fill, and exit through the Lafayette road curb cut. Khan asked if they would block one of the canopies. Morrill said they would not. Khan asked about delivery trucks for the store. Morrill said they could



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use the same pattern or park in a small loading area behind the building. Chase asked if the size of trucks would be limited. Khan's concern was that some delivery trucks continually park on Route 1. Morrill said Note #29 said no offsite parking or loading permitted for this development.

Hawkins said the driveway and landscaping waiver requests would be addressed. The Case #2012-18 application fee had been miscalculated - \$567 was due for the additional impacted area. Morrill asked if this was for modifications. Hawkins said that fee application had been in effect for some time. Scott Mitchell wondered about the amount as the impervious surface was less. Hawkins said the fee calculation included ground impact. Hawkins thought the State was waiting for the Planning Board approval to release the driveway permit. Morrill confirmed this was for the right in-out on Lafayette Road.

Hawkins noted that the Applicant calculated no exaction. The Planning Board's traffic consultant calculated \$18,000 if the DDR site was not completed, however, the DDR shopping center is being constructed. Hawkins explained that in the future, exactions would be calculated on the peak hour additional entering and exiting number of trips, less the 50 trip credit, x \$1200. For the Applicant's proposal had 107 peak hour trips; the old station had 80, leaving 27 trips to be accounted for. As the first 50 trips were deducted, no exaction would be due. Either way, the calculation was \$0. This methodology is designed to protect the smallest businesses from the exaction; everyone gets the 50 trip discount. If a site went from 25 trips to 100 trips i.e. 75 new trips, less the 50 trip credit, the exaction would be 25 trips x \$1200. Hawkins explained that the traffic engineer and Morgan did a lot of work envisioning what a Route 1 build-out could be, and what would be required to support that traffic level. Developers will be asked to contribute based on the number of trips in and out; the direction of travel will not matter. The ITE Traffic Manual will be used to determine the number of trips for a particular business site. This calculation could be done by anyone, and could be refined by the Planning Board when necessary.

Janvrin added there is a special provision for a lump-sum contribution. Scott Mitchell said this was done for the Kohl's because they had a different vision [than DDR]. For example, the Board wanted a signal on Rocks Road, and there was talk of revamping the Route 1 area at the Home Depot. They thought the Planning Board would be best to determine the changes. Hawkins said that is what the new methodology does by identifying all of the improvements needed in the future, the amount of traffic that would support, as well as the potential cost. Then the per trip cost was selected based on prior exaction experience. It's a formula that can be figured by anyone. He noted that the previous formula had been calculated for the Route 107 Bridge; nothing had been calculated for Route 1. Scott Mitchell said they paid their way in re the Home Depot, but then it got complicated. Hawkins said when large dollars are involved, the question would be who would benefit; it would also be people in the future. He noted that Janvrin was referring to a provision in the new ordinance that allows a developer to make a donation amounting to 90 percent of the site calculation, in which case the town can decide how the money is spent rather than the state.

Scott Mitchell asked if the exaction monies would go to the state. Hawkins said it would because Route 1 was a state road. In effect, the state had been very responsive to Seabrook's needs because the town could contribute to the cost. He thought this moved Seabrook up on the state's project list. Taxpayers would not be paying the cost, but developers who want to be in this location would provide funds. Scott Mitchell asked if this meant that the fee would be discounted to 90 percent of the calculation if the monies are a direct donation to the town. Hawkins said that way the town could say where and when it could be used. Scott Mitchell asked if there was a time limit. Hawkins said an exaction would have a six-year limit; for a donation there would be no return of funds. Janvrin noted that when funds are returned, it would be with interest earned, if



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any. Khan commented that the Board's discussion during the last few months kept in mind not harming smaller businesses.

Janvrin asked about the traffic engineer's calculation for Case #2012-18. Hawkins said that the traffic engineer figured 107 trips, with an original fair share calculation based on a cost of \$200,000 on the assumption that DDR financing was also involved. That figure did not look out into the future. Hawkins said that exaction amount would have been \$18,300 but only if DDR did not proceed. Since DDR is proceeding, the threshold for Case #2012-18 falls below the 50 trip credit. Janvrin commented that it was also well below the NHDOT threshold of 100 trips. Hawkins said the Board decided to give the first 50 trips free so that smaller businesses that don't create a lot of traffic would not decide to avoid Seabrook. Janvrin asked if this meant no exaction for this property. Hawkins confirmed this. Janvrin recalled that the voters had turned down funds for residing and repainting; it is very shabby-looking. Scott Mitchell said that had been noticed as an eyesore. Janvrin said in light of no exaction, he would personally ask if the Applicant would consider a contribution toward that cause. Scott Mitchell said they had already agreed to an easement, but had other ideas to speak about with the Historical Society. Janvrin said the town wanted to keep that building as part of its heritage.

Hawkins said it was not the Board's intention to ask for any funds that were not related to the roadway and the particular projects. Scott Mitchell said they were trying to make a difference for the towns with the projects they are currently developing. They wanted to set the bar as at the Provident Bank site. They would take Janvrin's suggestion under advisement, and had other ideas as well.

Hawkins said because of the time lapse, the waivers should be addressed again. He asked if abutters or others in attendance had questions or comments.

Aslin said that 11 New Zealand Road LLC is the abutter directly behind the property at lot 7-87-1. Certain issues had been addressed before, but given the passage of time he wanted to refresh the Board's memory. Aslin understood and respected the Board's position that it was not to get into the discussion of who had the rights to use the parking spots that are a private matter between the abutter and this property owner. However, the issue of those parking spots is relevant to the decision for the Case #2012-18 siteplan, because the ordinance only allows 5 parking spots for this use. Given the discussion, he thought the Board intended a note on the plan stating that those spots had been allocated based on a prior siteplan, but no discussion as to who could use them. Aslin said that outcome would be open to the Applicant using those 8 or 9 additional spots on the property. He believed that the Board should consider whether it was appropriate - to in essence give the nod to having those 9 additional spots on the property for use under this application - if there would not be a decision on exclusivity; his client believes that those spots are exclusively for the benefit of the lot behind. He thought the Board would essentially be saying that the Applicant could use those spots, therefore allowing the use of 13 or 14 spots, not just 5. .

Hawkins asked Aslin if the roles were reversed, would the Board have the right to allocate those spots. Aslin agreed that the Board did not have the ability or right to preclude those spots. Hawkins said the Board's alternative would be to remove the spots, which he did not think would be the desired outcome. Aslin said they were not asking for them to be removed. They were asking for [those spots] to be removed from approval for this use. He said that was different than saying who had the right to use them. The issue was whether the Board should go forward with 13 or 14 spots in this approval. He stated that it would be within the Board's power to say that the



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Applicant could not use those 9 spots because that would not be compliant. That could be accomplished on the plan and also with signage saying those spots were not for use by the Applicant. Aslin said, regardless of who actually used those spots, his client [11 New Zealand Road LLC] had the right to use them.

Aslin said his client also had issues with safety and traffic flow within this plan. There was an access issue for two cars getting in and out of the lot. With delivery trucks and other cars going around the site there would be traffic in conflict with cars parked in the rear. He did not think there had been sufficient review of how the customers or employees of the lot behind would be affected by the interaction with the Applicant's customers and employees. Janvrin asked if the use of those parking spots were included in this plan, and it raised the traffic to over 50 trips thereby triggering an exaction, who would make the payment. Aslin said raising the trip number would only apply if the Board said the Applicant had the right to use them. He thought there could have been an exaction when those spots were approved. No proposed expansion was before the Board. Janvrin clarified that for this property the Board had the right to decide an exaction. That 11 New Zealand Road LLC had the right and ability to access that site over and above, meant they were adding to the calculation that the Board should be looking at, and probably assess an exaction fee. However, the board was not taking that into account. Aslin said it should be taken into account for the safety and flow.

Hawkins said the Board's traffic engineer reviewed the plan for in and out flow. Comments on the in and out traffic had been made by the NHDOT. As an accountant he would not make that decision, and asked Aslin who else there was to go to. Aslin said it was not going to someone else; it was making sure about the interaction between the two lots. Hawkins said professionals had looked at that and given the opinion that the siteplan will work; would there be a higher authority on parking lots. The Board had been going at this for a long time; everyone who typically looks at a plan looked at this siteplan, which is not very big, and provided feedback. One of the earliest discussions was about how tankers and trucks would access and get around the site. The questions had been asked multiple times. If the site meets the driveway widths and the ordinance, he did not know what else could be addressed other than to reject the plan. Janvrin thought Aslin wanted the Board to determine that the Applicant could not use the 9 parking spaces at all, but that is not within the authority of the Board. It could not tell a landowner that it could not utilize their land for a specific purpose. He thought that would have to be upheld in a court. Scott Mitchell said that Mr Pescosolido had been using those spots for a long time. Janvrin said that did not exist for the merits of this plan.

Morgan agreed the Board should not mess around with the easement, noting that Aslin had raised this issue. Section 11 of the Site Plan Regulations states the maximum parking spaces for legal use. He wanted to hear a response to Aslin's point. Hawkins asked Morgan's view of what the response should be, because the Board could not say that those parking spaces had to be removed. The ordinance said that the Board could approve a plan with a maximum of 5 spaces. Morgan agreed, but said the plan had 14 spaces. Hawkins asked if the Board could not approve the plan based on an easement. Morgan said if the Board thought the plan was reasonable and wanted to go forward, the proper procedure would be to vote on a waiver for the parking spaces. Janvrin commented that parking provisions were now in the Site Plan Regulations – no longer in the Zoning Ordinance. He asked Uchida to speak to that.

Uchida noted that originally they had introduced a waiver request, and wanted to suggest a process that would accommodate the parties. It had become obvious that by asking for a waiver and the implications of that waiver, they would be enveloping the Board in the entire issue of who



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had, or did not have, the right to use them. Additionally, what implications would the waiver carry with it, if granted. Uchida said the Applicant decided to pull the waiver and have the 5 spaces. Whatever happens on the rear easement happens. They are seeking only the 5 space use at this point. If the issue became resolved in a manner that they could use the 9 spaces, they would return to the Board and seek a waiver for the additional spaces which the Board could grant or not grant. The whole exclusivity or non-exclusivity issue needed to be resolved. He thought the Board should not go into the issue of whether the Applicant could or could not use those spaces. The Applicant would stay with the 5 spaces. If they want to use additional spaces in the future, there would be a municipal permitting process to go through. He presumed that the Board would not look for that until the exclusivity issue was figured out. Janvrin assumed they would be litigating the issue. Uchida said it would do no good to get the permitting if there were exclusivity. They would need to return to the Board.

Morgan commented that Uchida's position was similar to that of Aslin. Uchida said it was from the standpoint that he did not think the board had to worry about this issue at this time. Chase said if the approval was made without the use of the 9 spots, he would feel more comfortable. If the plan were approved as is, and not exclude those 9 spots, it would be unapprovable. Scott Mitchell disagreed, saying that the 9 spaces had been there; Pescosolido had used them with the Getty Station for as long as he could remember. He recalled Sue Foote testifying on this matter. He thought the Board should take no action on the issue, commenting that Mabardy owned a gas station in town and did not want the Applicant there. He thought enough time had been spent. He had accommodated everything that the Board had asked to be done, and thought [Mabardy] was just trying to poke a hole [in the proposal]. They will go to court and keep fighting. He did not think the Board was in a position to determine who would use the easement, or would not. The Board had approved the easement for the business behind the property. Mitchell said that that building had been vacant for many years.

Khan asked that at this point the Board Members have a discussion without interpretation. Hawkins wanted to be sure to give Aslin time for any other comments. Aslin said the apparent solution would be to approve the plan with a maximum of 5 spaces, which is what is allowed under the regulations, and some sort of condition or note that the use of those 9 spaces is subject to further approval at a later date. In order to comply with the regulations, there is a maximum of 5 spaces. The plan as proposed had 14 spaces. Janvrin asked Aslin if he believed Note #1 should be changed, stating that it was not up to the Board to restrict someone's use of their property. Aslin said it was up to the Board to decide if they were complying with the regulations as to the maximum number of allowed parking spaces.

Hawkins recognized Lowry from the audience. Lowry said when the building on the lot behind the property was a Brick Oven Express, they came before the Planning Board and the 9 spaces were exclusive to the Brick Oven Express on the site plan. Janvrin asked if that was Case #2005-25. Lowry said at the time of that case the Getty Station was not using any of the 9 spaces and they were exclusive. Hawkins said the problem was that the opinions about the easement did not say that. The easement says what it says; that is where all of the confusion comes from. Aslin again stated the concern about the traffic flow and the interaction between the customers and employees of both sites.

Hawkins closed public comment for the Board's deliberation. Khan asked Morgan to give some ideas for the Members. Morgan thought that Aslin had pointed to a way forward, which would be to effectively take the 9 spaces off the table. It also had the advantage of putting more distance between the Planning Board and the easement dispute. He thought that Uchida's opinion was



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close to the same. Hawkins said the property would be dug up and a tank put under those 9 spaces. He asked what the Board should tell Garand, who would then be responsible for determining what's done on top of the tank(s). Morgan thought both attorneys wanted to restrict the use of the 9 spaces at this time. Hawkins asked for Garand's insight. Garand thought the omission should take care of things. Basically the Board was looking for the site to be approved with 5 spaces. The Applicant wants to go forward without the 9 spaces as they do not need them. He thought the right thing was for the Board not to say anything about those 9 spaces, which would be handled with the next review of the property.

Hawkins asked if the 9 spaces should be removed from the plan. Morgan said to add a note that at least for the present time those 9 spaces were not to be used by the gas station owner. Hawkins said then the Board would not be approving a plan that allowed use of those spaces. Garand said to add a note that these spaces were not approved for any use at this time. Morgan said that meant that they could build the parking, but the note would say they cannot use them until this disagreement was resolved in the courts. Khan thought this would involve the Board in the dispute. Morgan said this would give the Board more distance. Janvrin said that would let them make the decision and notify the Board. Garand said that would keep the town out of the process. Morgan said there was the practicality for the Planning Board's decision to be challenged in court. When the judge gets to Section [7] of the Site Plan Regulations, it will say only 5 spaces. Hawkins said the approval would have to have specifics about what was approved or not approved. Chase felt good about approving the proposal, subject to the statement that they are not being given more parking spaces i.e. the plan could not be approved with more than 5 spaces. Frazee asked how anyone could police the 9 spaces. Chase said it was not for the Board to police. Janvrin thought the 11 New Zealand Road LLC people would be on the phone for towing. Frazee thought that would be a nightmare.

Khan felt that if the Board said not to use the 9 spots at this time, it was getting involved in the dispute and making comments. He asked to approve 5 spots and not to make comments. Morgan reminded that the siteplan shows 14 spaces. Chase thought Khan would be right if the 9 spaces were not shown on the siteplan. Hawkins thought a solution might be to modify the plan to allow the pavement but not the striping. Chase agreed take those parking spots away. Hawkins commented that the 121 New Zealand Road LLC building had been vacant for more than a year and would have to apply to the Planning Board, at which time parking would be reconsidered. He asked for Morgan's view. Morgan said more space would become available. Hawkins asked if that path was the Board's choice. Chase favored approving 5 spaces, as 14 spaces would not be approved. Janvrin asked if those spaces were not to be torn up for the tanks, this would be a moot point because they were not being changed. Morgan commented that almost everything on the site was being changed. Khan said it would be a building and canopy, and 2 tanks. Morgan said when a site is redeveloped, the standards must be met. Hawkins said that the 8 parking spaces depicted on the west side of the site had to be removed. Chase asked whether there were 8 or 9 spots. Morrill said the 9 existing spaces did not meet the town criteria, so he showed 8 spaces on the plan. Janvrin said after the repaving, they would not put in the striping. That meant the Board was not making a determination as to who could or who could not park there; for the purposes of this plan there are no parking spaces other than the 5.

Hawkins wanted to revisit the waivers. Janvrin recalled that the waiver request in re the New Zealand Road driveway was so that the trucks could make the turns. The stop line was moved back further so pedestrians would not be crowded. He asked if the stop line had been widened. Morrill said it was 30 feet. Janvrin commented that the same change was made for the Market Basket driveway off Boynton Lane to accommodate truck swings.



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MOTION:	Janvrin	to approve the Case #2012-18 request of September 20, 2012 for waiving the 20-foot driveway width regulation, and approve the 30-foot driveway width off New Zealand Road.
SECOND:	Chase	Approved: In favor – Hawkins, Khan, Janvrin, Chase; Abstained – Frazee;

Hawkins said the landscaping waiver request was unnecessary because the regulations applied to sites of more than one acre, and not to site of less than one acre.

Janvrin asked if lighting and light trespass had been previously discussed. Hawkins said there was a request to waive the lighting trespass onto the commercial property to the west [11 New Zealand Road]. Janvrin said that meant the lighting would bleed over the site. He asked if the abutter had objections. Morrill explained that the Case #2005-25 did not have lighting and relied on the gas station lights. Janvrin said light trespass was negligible for New Zealand Road and Lafayette Road was not an issue. There was no light passage onto the Old South Meeting House property. Janvrin said it was customary to ask an abutter if they would permit the light trespass. He asked if there were objection to asking the abutter who was present if they would be willing to authorize that. Mabardy said he had no objection to the lighting.

MOTION:	Janvrin	to approve the Case #2012-18 request dated July 30, 2012 to waive the Section 9.04 of the site Plan Regulations regarding lighting requirements.
SECOND:	Chase	Approved: In favor – Hawkins, Khan, Janvrin, Chase; Abstained – Frazee;

Hawkins listed several items as standing conditions of approval:

1. providing security of \$22,900 payable prior to the Planning Board Chair signing the plans;
2. submitting the final revised planset, the requirements for which meet the town standards and are entirely satisfactory to the Town Planner;
3. all New Hampshire Department of Transportation driveway permits and New Hampshire Department of Environmental Services permits are on file in the Planning Board Office.

Hawkins said the above items needed to be in hand before the Chair could sign the plan. Morrill said a letter from the Board would be needed in order to get the NHDOT Driveway permit. He would provide the permit to the Board upon receipt.

Hawkins said the following were case related conditions:

4. The easements had to be listed on the plan. An access easement for the town departments would be required. Janvrin said this would be referenced in Sheet C2 Note #15. Morrill noted that Janvrin had asked for additional language. Hawkins said that would be adding the Department of Public Works for stormwater sampling.



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5. The ZBA findings relating to this case need to be listed on the plan.

6. He noted that the Stormwater Operations and Maintenance Manual needed to be on the plan. Hawkins said the conditions of approval needed to be listed on the plan to build some record history into the plans for enforcement and for follow-up case reasons. Morrill said they usually wait for all of the conditions of approval. Morrill asked if the Board wanted the conditions listed on the cover page. Morgan thought that appropriate.

7. The applicant must send a letter to the Planning Board including appropriate evidence showing that all of the conditions of approval have been met before the expiration date of 180 days from the date of approval.

Janvrin asked if the \$22,900 security stated in 1 above had been delineated. Hawkins said that would be as specified by the Planning Board Engineer in his letter.

Hawkins listed certain additional changes to occur on the siteplan:

8. Hawkins said that the written communication the NHDES stated that "...the developer have a qualified environmental consultant on-site during excavation activities to screen soils for the presence of petroleum hydrocarbons. Soils exhibiting elevated petroleum contamination are to be stockpiled, characterized, and appropriately disposed of offsite.

Hawkins asked Uchida for the appropriate modification language for the site Note #1 on page C2. (see below).

9. Hawkins said the parking spaces on the west side of the site are to be removed from the site plan; only 5 parking spaces would be approved for this project. Janvrin noted that the paved area would remain. Chase suggested not to refer to the pavement because the spaces were to be removed from the plan. Khan liked Janvrin's idea. Hawkins agreed because the party in the back had rights even if they won't need it right away. Chase clarified that only the stripes, not the pavement, were to be taken away. Janvrin said they shall not be striped. Mabardy said they are currently striped; he had an easement and used them. Hawkins said they would be dug up. Mabardy said they had to be put back. Hawkins said they would be put back without striping until [Mabardy] came in with a siteplan. Janvrin said that would be for the rear lot. Hawkins thought that property had been abandoned for a year. Mabardy said it had never been abandoned. The use for the tenant was gone; he still used the building. Hawkins said that for the Board's purposes, it's not going to be grandfathered. Parking would be discussed when Mabardy had a tenant. Janvrin said it did not mean he couldn't park there; only that the striping would be removed.

10. Hawkins said the application fee had to be corrected by adding \$567.

Hawkins asked if there should be any other conditions. Janvrin thought the MS-4 on that site had been covered. Kravitz referenced the reimbursements.

11. Hawkins said all outstanding invoices to date had to be paid before the Planning Board Chair signs the plan.



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Hawkins added that all of the [above] items were tied to the Planning Board Chair signing the final revised plan; Garand would not do building permits before he gets a signed plan. This would force monitoring of these activities back to the Planning Board where it should have been. Hawkins asked Morgan for any other comments; Morgan thought they had been comprehensive at this meeting. Hawkins asked for any other comments; there being none.

MOTION:	Chase	<p>to approve Case #2012-18 – Latium, Tropic Star Development, Scott Mitchell to remodel and expand a gasoline station, and to construct a convenience store, at 663 Lafayette Road, Tax Map 7, Lot 87. Among other pending issues the Board will consider is the applicability of Section 14 of the Zoning Ordinance (abandonment) and the proposal’s compliance with Section 6 of the Zoning Ordinance, subject to the following conditions:</p> <p>(i) providing security of \$22,900 as delineated by the Planning Board Engineer, payable prior to the Planning Board Chair signing the final planset;</p> <p>(ii) submitting the final revised planset, the requirements for which are entirely satisfactory to the Town Planner;</p> <p>(iii) all New Hampshire Department of Transportation driveway permit(s) and New Hampshire Department of Environmental Services permit(s) are on file in the Planning Board Office prior to the Planning Board Chair signing the final planset;</p> <p>(iv) provision of an access easement for town department employees, including Department of Public Works stormwater sampling, prior to the Planning Board Chair signing the final planset;</p> <p>(v) notating on the final planset the outcome of the administrative appeals to the Zoning Board of Adjustment of the Planning Board’s interpretation of Section 14 of the Town of Seabrook Zoning Ordinance;</p> <p>(vi) the Stormwater Operations and Maintenance manual to be stated on Sheet C3 of the final planset; Sheet C3 to be suitable for filing at the Rockingham County Registry of Deeds;</p> <p>(vii) notating the conditions of approval on the cover sheet of the final planset;</p> <p>(viii) a maximum of 5 parking spaces as depicted on the final planset;</p> <p>(ix) removal of the striping for the 9 parking spaces on the north side of the property subject to the resolution of an easement issue with the abutter;</p> <p>(x) payment of \$567 application fee balance prior to the</p>
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		<p>Planning Board Chair signing the final planset; (xi) payment of all outstanding reimbursement invoices prior to the Planning Board Chair signing the final planset; (xii) the developer to have a qualified environmental consultant on-site during excavation activities to screen soils for the presence of petroleum hydrocarbons; soils exhibiting elevated petroleum contamination are to be stockpiled, characterized, and appropriately disposed of offsite per the communication from the Department of Environmental Services; and (xiii) the applicant to provide a letter to the Planning Board with appropriate evidence demonstrating that all conditions of approval have been met before the 180 day expiration date.</p>
SECOND:	Hawkins	Approved: In favor – Hawkins, Khan, Janvrin, Chase; Abstained – Frazee;

Case #2013-13 – Proposal by Scott Mitchell, Sea City Crossing, and IStar Seabrook LLC to demolish the McDonalds restaurant at 652 Lafayette Road and replace it with a 3,500 square foot medical office building and a 4,452 square foot retail building, continued from June 4, 2013.

Attending: Scott Mitchell and Jim Mitchell, I Star Seabrook LLC;

Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineers; Jeff Dirk, Vanesse & Associates;

Hawkins said Case #2013-13 had been to the Technical Review Committee; he was looking to make some progress at this meeting. Morrill had two questions for the Board, explaining that they had shown the siteplan with the driveway going along the back of the site, which tied into the DDR entrance. Both the Building Inspector and the Town Planner had pointed out that the DDR siteplan showed the driveway going off the back of this site in the future. The driveway proposal had been submitted for review to the NH Department of Transportation. The Applicant thought that the driveway design shown in the Case #2013-13 siteplan was better than going out the back, because the original driveway flow had always been shown as being one driveway going all the way through for access to future development. Hawkins said at that time they could not have known the current location of the DDR entrance, or how it would be configured. Morrill showed a drawing of how it would look going out with the driveway in back of the site. They think going out from the back would be not as good as the continuous flow design. Morgan asked if this question had been posed to DDR. Morrill and Scott Mitchell said they had, and that DDR said they would live with whatever happens at the NHDOT.

Scott Mitchell said that Dirk had looked at this, and said it should line up and there was plenty of stacking room. He said that DDR's view was to go with this for now, and if they needed to come back and the Board was ok with it, they would be ok. He would have Dirk work with Robin Bouser of VHB, but asked Dirk to attend this meeting to explain this from a traffic point of view. Hawkins



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said there was time to listen to Dirk; there were questions, e.g. a left turn coming out of DDR into the IStar site would not be easy. Garand said that one curb cut had been allowed; this would make two and change that approval. He asked what impact that would have on the Memorandum of Understanding, the approval, and the DDR site permit. Hawkins thought this would be a change to which all parties had to agree; they had talked with DDR. Garand said the town, the state, and DDR would need agreement to approve the change. Hawkins had thought that the right-in on the west side was further up when DDR showed it to the Board. Garand said the Minutes stated that that driveway would be one right-in right-out that could be relocated anywhere past the 30-foot mark from the beginning of the entrance. Hawkins' question was whether it was too close to Route 1. Garand said if they want two, or want to change things beyond what was approved, that would be an issue to be addressed.

Janvrin asked if Garand was referring to the Minutes for the McDonald's case re the site to the north of its current location. Garand said that just before the DDR Settlement was granted, there was an issue with Scott Mitchell in re an access easement across the property that was discussed with the Town Manager. Janvrin thought someone from NHDOT came to the Board. Scott Mitchell said that Steve Ireland of NHDOT came to the Planning Board. Mitchell pointed out where the access was always meant to be (as Morrill had shown). He said that Dirk would prefer it to line up perfectly as it had before. Mitchell stated there was a right in and out that the Planning Board and the NHDOT approved. The Applicant wanted only a right-in; a right-out would be better elsewhere. He wanted Dirk to speak to the merits. He would get whatever DDR documentation the Board would need to prove that the Applicant and DDR were in sync. They had talked briefly to Doug De Porter and Kevin Russell of the NHDOT. Mitchell did not think they would have an issue because it was on private property. He believed his traffic engineer that it would work better; it was how it was set up before DDR and operated for a number of years. He wanted Dirk to explain his professional opinion.

Garand said the Board had received correspondence in re the traffic flow and the approvals that were granted when the state was questioning the approval from the Target to the Super Center. He wanted the Board to keep in mind that there already had been a change by adding a driveway curb-cut in, and were now looking at redoing it again. He thought the town should talk with the state before looking at any plans. Khan asked Garand what correspondence had the town had received from the state in the last few weeks in re that the MOU was different than the proposed plan. Scott Mitchell asked which development Khan was referring to. Khan said in re DDR and curb-cuts. Mitchell said he would get DDR aboard and had already talked with them so they know what is being proposed. They would have DDR's traffic engineer review it, and go through the process. Hawkins said administrative steps would have to be taken; alternatives could be dealt with. He wanted to hear the pros and cons of one way vs another.

Dirk said the Applicant's proposal keeps the traffic flowing around the perimeter of the buildings. The other plan had a primary flow between the uses. This works better for circulation; the traffic stays around the perimeter of the site, which makes it safer for pedestrians. The parking field is in the middle with pedestrians walking to the buildings flows better and minimizes the interaction between vehicles and pedestrians entering and exiting the site. It would be safer and more efficient from that perspective. Dirk said that key to selecting the location of the driveway was looking at the analysis for the traffic signal to make sure that the queuing from the intersection did not block that driveway access. The location allows that access to take place. Similarly, entering at the back of the queue would still bring that benefit. This location keeps the traffic around the perimeter of the parking field, and disbursts itself coming in; interactions with pedestrians would be minimized. As long as the driveway was outside of the influence area to the queue, it still



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maintains that function where people aren't entering in the middle where traffic could be backed up with the potential for blocking the entrance. Dirk said this is what they would be discussing with DDR. He thought the key thing for NHDOT, was not having traffic entering the traffic flow where the queue backs up. Accomplishing that needed to be worked out with the NHDOT and the property owners.

Janvrin asked for the distance from the driveway entrance to the site to reaching the DDR site. Dirk said about 100 feet. Janvrin thought that NHDOT's concern was that it be more than 30 feet. Dirk said that related to traffic entering from Route 1 and slowing to get into the site. The other distance issue was operational i.e. that the slowing down to transition to the site did not cause rear-enders. Internal to the property slower speeds give better stop control. Chase asked where crossing occurred. Dirk said crossing would happen with for a left turn. The painted island would have to be modified with striping for a left out-left in. Hawkins said the island stopped about 20 feet before. Dirk said that was purposely because that was where they expected the queue to come to i.e. the island is set so the queue is stored in that protected area. Khan asked what would happen if the McDonald's wanted to align its entrance there. Dirk would want the interaction at that opposite location. The issue would be the crossings, which he would have to look at more closely. Right turns were not a problem; left turns could be made. Hawkins said that McDonald's plan did not call for that. They have a driveway on Route 1, and a back entrance. Dirk said he would be concerned with crossings.

Khan said there was a similar situation with the Walmart – Home Depot intersection, which is a mess. Janvrin agreed, because people blow past the stop sign. It's not enforceable by the police. Chase asked how the queuing would be affected by dumping traffic out the side vs dumping it out the rear. Dirk showed where there might be more queuing. Chase asked if the street would be safer street if the traffic went out in the rear. Dirk said a problem would be exiting into the queue and could block vehicles entering the property causing spilling back on the driveway. He said their proposal would not do that. Hawkins asked Morgan to comment. Morgan noted that VHB was not present. He asked Dirk to speak to the advantages of the original design. Dirk said from an operational perspective, not introducing any impedance to flow in the driveway. Not breaking the curb lines for exiting traffic allows everything to flow into the property when the signal turns green. The first interaction would be at the first internal intersection. Janvrin thought there might be traffic calming by having another entrance that slowed people down. Dirk said it would slow people down, but if looking at how the site functions the proposal is a better location for queuing and general circulation within the site. To minimize interactions on the driveway, the interactions would happen completely internal to the site.

Dirk said now that there was a siteplan with uses, and looking at what would happen to the property, there would be queuing because of the stop signs and all of the entering traffic. Rather than introducing a new intersection that already would have queuing, having free-flow up to the intersection would not cause back-ups. He said that was not a bad positioning, although he understood the original design. Dirk said that u-turns were awkward and not desired unless they could be controlled. Chase was concerned that the traffic would be a mess with people cutting across. Hawkins noted that there was also an exit on Provident Way; traffic was not boxed in. Going in the back way would not be a bad way to get into the DDR site, or get out onto Route 1 at the Provident Way. Janvrin thought the distance problems would be the same on Provident Way. People would have the equal opportunity to exit the site either way. Khan noted that a new project to the south had been proposed earlier in the meeting, and asked if that changed anything. Dirk said it did. There would be a full access driveway on Provident Way opposite the CVS, and an entrance only at the DDR driveway which had a double right turn out. The full access driveway



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would be further to the east. He estimated that about 40 percent of the exiting would be additional traffic coming out on Provident Way headed to the signalized intersection. This means that the improvements would need to be expanded. Two lanes would need to continue on.

Khan wanted to know what, if anything, changed on the new curb cut at the DDR entrance. Dirk said that capacity would have to be added to Provident Way so that the queue did not get back far enough to block driveways. There would need to be more travel lanes heading toward Route 107. Morrill thought the question was about the proposed new retail shopping development having a curb-cut line up across Provident Way, and if that additional traffic would change anything. Dirk did not think it would change the alignment; it would be better to have that alignment, because the entrance opposite the DDR driveway would be entrance only. A full-access driveway would be further to the east. The cross-connect avoids having to go out adding traffic onto Route 1, to get between the two sites.

Janvrin wanted to talk about pedestrian traffic, and recalled adding a pedestrian access from the Provident Bank site to the DDR shopping center. He noted there were sidewalks on the DDR entrance, but nothing coming onto the Applicant's property. He asked if there would be pedestrian access to the Applicant's site, as there was not any depicted. Morrill said that had been discussed and they would add a sidewalk along the front. Scott Mitchell showed where some parking spaces would be moved. Janvrin asked if there would be pedestrian access to the east of the driveway entrance. Morrill confirmed sidewalks and a cross-walk; there would be access around the entire buildings. Chase asked if anything would go over to the Bank. Morrill said the Bank's access was through Provident Way. Chase asked about sidewalks to the Pizza Hut side, and thought those customers might be parked and want to walk in. Morrill said that had not been proposed.

Janvrin noted the snow storage, and said the Master Plan wanted to encourage parking in one place and walking elsewhere i.e. shutting off motors and getting people to walk. Morrill said they would have to meet with the Pizza Hut and CVS owners to authorize sidewalks across the back. Scott Mitchell said they had not thought about that, but it made sense. Janvrin asked if that would impact the drainage plan. Mitchell said they would be back to correct that. Morrill said at this point a sidewalk in that location would have to be at grade. Mitchell said they would want customers to have access. After this project he would be coming back to clean up the swampy area to the east. It's an eyesore for the developments; he wanted to do the infiltration correctly, even though it would be expensive. Janvrin asked if it would make sense for this site to put the infiltration under the parking area. Mitchell did not want to delay this project. Janvrin said he did not want to see things torn up later on. Mitchell said one tenant is ready to go. They created the wetlands and would have to go for a [DES] permit and before the Conservation Commission. It's not a small thing to do. Morrill said that wetlands area could be maintained and modified, so it would not be a wetlands impact. Mitchell said when DDR did its paving, the Provident Bank would get its parking expansion. He would then return about the wetlands area.

Janvrin recalled a conversation with someone at the Rockingham Planning Commission, who felt that traffic engineers and planning boards did not think about people on foot as the number one traffic user. Second, are people on bicycles and pushing carriages. Third are vehicles, which he said should be last in priority. As a pedestrian he thinks about accessing a site without getting struck by a car; he does a lot of walking. Morgan said for the plan sheet with the Waterstone site. He asked if he were shopping at the Waterstone shopping center and was heading home to Hampton Falls or Hampton, wouldn't he be tempted to cut through the cross-connecting driveway to head north. Mitchell said that was not yet built. Morgan said it would be. Janvrin said the



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easiest way would be to use Chevy Chase Road. Morgan said that would be to avoid the traffic and the traffic lights, and asked if it would become a "bowling alley". Dirk said the goal was getting the traffic signals, and getting them synchronized and coordinated. He said it wouldn't save travel time, and would be uncomfortable to consider shooting through if the destination was to go north on Route 1. Mitchell would go through the Provident Way light, and asked why he would go through an internal road. Morgan said because there would be hundreds of cars. Janvrin said even today people go north through Chevy Chase Road and cut across Provident Way to get around the McDonald's. Jim Mitchell thought that movement would be deterred, because Waterstone positioned a building so much closer than the existing tile place, making it clearly visible. He thought now it was like an alleyway. Janvrin commented there was not supposed to be an access there.

Hawkins said that one of the Master Plan objectives was to connect the sites together, but not as a highway. Every vehicle that uses this stays off of Route 1 which was part of the thought process. Janvrin was totally in favor of the cross-easement, but if a 15 mile per hour speed limit were posted, the police had no way of enforcing it on private property. Janvrin said there should be some type of traffic calming measures built into the site plan proposal. Dirk did not disagree, but said they wanted traffic to circulate around the outside, but provide traffic calming measures like raised cross-walks for linkages and show vehicles that they do not want to use a high rate of speed. Drivers should feel uncomfortable with traffic calming and narrower roadways measures in place. It would not save travel time, and there would be a wait at signals anyway. Whereas if they came right out to the Provident Way signal, they would proceed through the green light passage lane.

Hawkins said the time had come to get the comments of its traffic consultant. He asked if the traffic study for Case #2013-13 had been redone. Morrill said they had submitted a traffic memorandum from Vanesse which was also submitted to the NHDOT with the siteplan. Hawkins said that the McDonald's traffic was moved to a new site on an empty lot. The Applicant says that the impact on its site would be the difference between the McDonald's count and that of the new use. Hawkins said it should be the difference between the new use and 0, because McDonald's took its traffic to its new building site. He recognized that would have implications for the Applicant, but it needed to be discussed. He asked for the Applicant's view. Scott Mitchell said they had comments from the TRC and had wanted to show the project and the architectural rendering to the Board. Khan asked if they had had any conversation with the NHDOT about the new curb-cut. Morrill said they had submitted the plans to the NHDOT for review, together with what had been approved for DDR in the back, and the Vanesse memorandum.

Kravitz asked if the traffic memorandum submitted to the Board had the changes that were being described at this meeting. Dirks said a new letter that reflects "net new traffic" would be needed because the uses had some differences, and the Chair's point about the McDonald's traffic being moved to its new lot had to be considered. Kravitz said this was of concern because the Vanesse memorandum had been sent to the Board's traffic engineer. He would need a revision, and so would the NHDOT. She suggested that some money could be saved for the Applicant. Morrill commented that they had never dealt with a site like this. Hawkins commented that no store in the DDR project had access to Route 1. Scott Mitchell said that Morrill would set up a meeting with the NHDOT. Hawkins said the Board wanted to be represented at the meeting, noting the provisions of the Memorandum of [[Agreement]] between the Town and the NHDOT. The Board should be invited, although he did not think it always had been invited. Morrill said one of the units would be a sit-down restaurant so new numbers would need to be considered. It would be office space, retail, and possibly a restaurant.



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Hawkins had an original site plan dated May 3 for Case #2013-13. Morrill said that was the plan submitted to the NHDOT. Hawkins said that the plan shown to the Board at this meeting had a bigger building and parking elimination; he asked if the Board would get an update. Morrill said at this meeting only a concept plan that he and Scott Mitchell had worked on was shown. Hawkins asked what the TRC looked at. Morrill said it was the original plan, without revisions. Janvrin asked if the Sheet C2 was the same. Morrill said they did a concept plan to show the Board. Janvrin asked what had been on the DDR plan. Morrill said the approved DDR had a right-in right-out and a driveway. Janvrin recalled that Ireland had said the right-in access would be ok as long as it was located a number of feet from Route 1. Chase asked if that was now a right-in right-out. Morrill said they got rid of the right-out. Mitchell said it had been a right-in right-out; now as Dirk recommended, it would be right-in only. Hawkins said it would be useful for the Board to have a list of the pros and cons on why this is better than going through the back side. So far it seemed that the queue in the back would not hold many cars.

Dirk wanted to provide a new letter with the positives and negatives and a new trip generation count; a revised site plan was also needed. Mitchell said the Board would be invited when they meet with the NHDOT. Hawkins said that way everyone would hear the same thing without confusion or misunderstanding. Janvrin asked if the TRC and Morgan's comments had been incorporated into a revision. Morrill said they had told the TRC there was no reason for a revision until they find out where the driveway was going. Janvrin asked if they now had the answer. Hawkins said they did not. Morrill said the other question was the waiver for landscaping between the site and the Pizza Hut. Hawkins said that would be revisited. Morrill thought the discussion about the traffic had been important. Hawkins agreed, and said other things could be dealt with as the case progresses. When outside services were involved, they needed to get working so as not to hold up the process.

Chase asked about the right-in right-out. Hawkins recalled that was a temporary driveway access into the other properties until the shopping center was done. He wanted to reread those Minutes. Scott Mitchell was positive as to his view. Hawkins asked Morgan if that had been part of a case or a modification requested by DDR. Morgan recalled that Attorney Malcolm McNeill made a special trip to the Board for that. They made a point of avoiding anything that could be appealed. Hawkins said there would not have been a case approval, although there may have been a motion. There was supposed to be an entry through that location for the sites that historically had a right to get out. Mitchell said this was confusing. It was his responsibility to tear down the existing McDonald's. He maintained that the curb-cut was approved with a right-in and right-out, and a curb-cut out the back. Mitchell said the Minutes would show him to be correct. If not, he would never have shut his curb-cut down; they would not be doing this project, and DDR would not be doing anything. Morrill said there had been a plan signed by Morgan and Garand allowing that right-in right-out and in the future at the rear. According to Morrill, that was in the record of the DDR approval. Hawkins emphasized that the DDR approval was a court approval. Morrill said he would forward a letter signed by Morgan and Garand allowing that right-in right-out and a future driveway in the rear.

Scott Mitchell explained that Dirk did not want the right-out, only the right-in. Hawkins asked them to provide the documents they were referring to a week before their next meeting. Janvrin said Ireland had been at that meeting and that DDR had raised the issue, not Mitchell. Said if DDR had not gotten approval for the curb-cut, he would not let them go forward getting his curb-cut cut down and moving New Zealand Road over; he could not break his REA to do that.



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Hawkins continued Case #2013-13 to August 20, 2013 at 6:30 PM at Town Hall. He noted that August 6 would be a quarterly work session. Mitchell asked if they could be heard first. Hawkins said the routine was to do the new cases first to get them off to technical review, and then other cases in the order that they had applied. Hawkins said he would try to put a schedule together indicating the date certain subjects, including traffic, would be heard. The schedule would be agreed so consultant did not have to appear at every meeting.

Hawkins adjourned the meeting at 9:35 PM.

Respectfully submitted,

Barbara Kravitz, Secretary,
Seabrook Planning Board