



Town of Seabrook Planning Board Minutes

Tuesday, July 17, 2012
NOT OFFICIAL UNTIL APPROVED

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

Members Absent; Robert Fowler; Paul Himmer, Alternate; Paula Wood, Alternate

Hawkins opened the meeting at 6:30 PM.

MINUTES OF JUNE 5, 2012

Hawkins noted a typo in "non-conforming use" on page 8; there being no other comments.

MOTION:	Chase	to accept the Minutes of June 5, 2012 with typo corrected.
SECOND:	Khan	Approved: Unanimous

MINUTES OF JUNE 19, 2012

Hawkins asked for questions or comments; there being none.

MOTION:	Khan	to accept the Minutes of June 19, 2012 as written.
SECOND:	Sweeney	Approved: Unanimous Abstained: Lowry

SECURITY AND EXTENSIONS

Hawkins noted that no requests re security or extensions had been received.

CORRESPONDENCE

Hawkins announced that at the Applicants' request, **Case #2012-17E.12-09 – Proposal by John Dussi and Harborside Restaurant Group, LLC to expand the upper deck at the Harborside Restaurant at 209 Ocean Boulevard, Tax Map 26, Lot 91, would be continued to August 7, 2012 at 6:60PM in Seabrook Town Hall.**

Hawkins referenced **Seabrook's submission to the Rockingham Economic Development Corporation to place a study of the Route 107 Corridor in the CEDS Comprehensive Economic Development Strategy priority listings.** The Master Plan Steering Committee felt that the town needs help in visualizing and planning for the best uses for future development along the roadway, the potential impact of increased traffic, and identifying the associated traffic mitigation it would require. Important factors to consider are the wetlands area, the potential for the raceway to evolve into a destination casino with gambling and hotel amenities, and protection of the wellhead protection area and the town wells at the Water Treatment Facility. Kravitz said the factors compelling this project are the inevitable spillover of the substantial construction of retail business along Route 1 and the potential for increased industrial activity off Route I-95, while recognizing that Route 107 currently has a mix of residential and small businesses, and becomes quite rural toward the western end. This is the only new regional project in the 2012 CEDS and is listed in the high priority category. Hawkins commended Kravitz



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for a wonderful job in writing up the project in a short time, and getting it on the list. The next step would be to find funding for the study.

Hawkins called attention to **Seabrook's success in being awarded a challenge a grant from the New Hampshire Housing Finance Authority, which had been approved by the Interim Town Manager and the Board of Selectmen.** The purpose of the \$12,225 award is to extend the Smithtown Village concept from along Route 1 from Route 107 up to the Hampton Falls town line. As the Master Plan Steering Committee had worked with the Rockingham Planning Commission on the rezoning for Smithtown Village, Hawkins proposed that RPC should continue this work for the NHHFA grant. Kravitz said that the NHHFA Administrator confirmed in a phone call, that if the services were provided by the RPC, no further qualification inquiry would be needed. Khan said that the RPC work had been right for Smithtown Village, which was approved by the Town Meeting.

MOTION:	Hawkins	to recommend that the Town of Seabrook accept the \$12,225 funding provided under the New Hampshire Housing Finance Agency Challenge Grant award.
SECOND:	Janvrin	Approved: Unanimous

MOTION:	Janvrin	to recommend that the Rockingham Planning Commission become the provider of services for the work to be performed under the \$12,225 funding provided under the New Hampshire Housing Finance Agency Challenge Grant award.
SECOND:	Khan	Approved: Unanimous

Khan will apprise the Board of Selectmen of the award and Planning Board recommendations.

Case #2007-11 Beckman Woods

Hawkins referenced **letters from the Department of Public Works Manager concerning holding off on the roadway paving until the driveway problems are resolved.** As of this date, the developer has a plan to fix the driveways and has committed to do this work. Khan said with 52 houses the developer needs to talk with the owners now about their concerns. Hawkins said that the DPW Manager will get feedback from every house (before allowing the paving). .

Case #2012-01 Dawson Seabrook, Verizon

Hawkins referenced the letter from Attorney Mary Ganz reporting the status of the negotiations with the Walmart interests concerning the cross-connect from behind the Verizon store to the Walmart parking area. Ganz said they had been aggressively pursuing an agreement with the owners of the Walmart Plaza. At this point they would the Walmart interests would agree to the roadway but only if Dawson – Verizon were to pay all of the expenses including the legal fees of both sides. Robert Korff of Dawson Seabrook believes that they have made a good enough



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effort and taken the talks as far as they can go. They suggest waiting until the property comes to the Planning Board for another site review. Hawkins thought this a reasonable approach. Janvrin asked if the reserve funds for doing the work on the Walmart section of the roadway (and not for legal expenses), had been provided to the Town. Kravitz did not think it had. Janvrin thought the opportunity would surface soon again given that Walmart is expected to relocate in Seabrook. Chase said this was a legal battle. Hawkins said neither the Town nor Dawson is in a position to dictate the outcome. He thought they had taken the issue as far as they could at this time. The town should retain funds for completing that part of the cross-connect. Hawkins asked Kravitz to follow up on the status of the funds. Hawkins and asked Morgan if there were any other action to take. Morgan noted that the Board had asked Ganz for quarterly reports, and Ganz had agreed.

PUBLIC HEARINGS

Hawkins opened the public hearing at 6:50PM.

NEW CASES

Case #2012-16E – Proposal by Lynsey Page, Glitter & Gold Entertainment, LLC, and Timothy Johnson to: 1) allow live bands; 2) establish an outdoor seating and smoking area; and 3) install a mechanical bull at the Honey Pot Bar & Lounge at 920 Lafayette Road, Tax Map 7, Lot 91-203.

Attending: Lynsey Page and Kamnl Green, Glitter and Gold, Honey Pot;

Hawkins asked for a representative to provide the background and speak to the proposal. Page explained that the Honey Pot is often confused with the Chop Shop activity located nearby in the same parking area. Page said they have been asked by musicians to support live bands, which they do not have now. Their space is big enough even with the restaurant and bar. They also want permission to add a mechanical bull as an additional music and amusement device; they would purchase liability insurance. Additionally, they want to add a temporary section in the back with chairs for an outdoor smoking area away from the front door. This would reduce congestion at the front and customers would not have to walk through the smoke to get inside. This would not be a permanent structure, only that people could sit in chairs while they are smoking. Chase asked if the smoking area was at the rear between the chain link fence and the building, and if the fencing went the whole way. Page said it was and they have two exit doors at the back. They would not want a permanent structure because the area is still a passage way at night. Chase asked if the exit would be between the bull and the bar. Page said at the entrance there was a large partitioned area, and then the passageway to the bar.

Hawkins asked for Morgan's comments. Morgan asked how many people would be in the establishment when it was full. Green said 100-150 people. Having the smoking in the back would also keep the Honey Pot patrons separate from the Chop Shop which has a lot of people at the site. Sometimes there are 25 people out in front, who may be smoking; a smoking area in the back would be easier to control as there are two bars in the same parking lot. They would hire a police officer when the back area is being used. Morgan asked how many parking spaces has his landlord allocated for the Honey Pot. Page said the parking lot itself is for all the condominium tenants. Each building has certain lots assigned and they share spaces in the rest of the lot. When they open at 4PM, the gym and the Chop Shop are the only other businesses that are open. Morgan asked how many spots are exclusively for the Honey Pot use. Green said they have 8 spaces directly in front of the building. Morgan understood that some spaces were



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allocated and some were communal. He asked how many spaces were shared. Green thought there were about 180 parking spaces overall. Most of the businesses are closed after 5 PM.

Morgan asked if their customers ever park beyond the property. Page said they did not park off the site. Morgan said there are two separate condominium associations, and asked how many Honey Pot people park beyond the south building. Page said most of their customers park in the south area; the Chop Shop has spots at their end of the parking lot. Janvrin asked if half of the parking lot belongs to the north and half to the south. Morgan wanted to get a sense of how many cars are in the parking area at night and where they are parking. Green said that would be hard to judge as their customers go back and forth and also frequent the gym, Linda's, and the Chop Shop. The all share customers in the same plaza.

Hawkins said repeatedly the problem in that location is that there are two condominium associations supposedly sharing the parking lot, and never agreeing on the allocations. Neither the Planning Board nor the Code Enforcement Officer has seen a parking allocation map or plan. According to the regulations, a restaurant needs one spot for every three people and one for each employee. If all of the businesses are counted, there is not nearly enough parking – not even close. There are repeated disagreements relating to the parking, and there is still not a breakdown of where spaces are allocated to each of those businesses. While there is a condominium association that may provide the Honey Pot access to parking spaces on the south, they don't have rights to the north condominium spaces. Further, the north condominium has told the Board many times that it is not up to their businesses to provide for parking overflow. The Board has many times asked that the spaces in the parking lot be lined, so the number of spaces could be defined. Janvrin pointed out that at this point they are not in compliance with the existing regulations. Hawkins cited the numerous problems relating to parking in that facility.

Hawkins asked for a response about noise issues, noting there had been some complaints about live music. Also, there had been letters from Code Enforcement, but did not know if there had been complaints to police. He asked what the Applicants would do to ensure they are not disturbing their neighbors, e.g. is there soundproofing in the building. Green said they have double pane glass and are having companies review the noise aspect, for example, with different baffling and other things that would bring down the noise level in front of the building. He was aware of 2 complaints from Hampton Falls, but not actually continuous complaints from Seabrook residents. Janvrin noted that under the law, the people from Hampton Falls would still be abutters.

Garand said expanding the smoking area into a safe location away from the front and the parking area, was very important. The Fire Department should review this before any decision. Similarly, the Police Department should look at any noise issues, noting that the Hampton Falls abutter then calls Seabrook Police. Recently, they submitted a complaint to the Board of Selectmen and were told this would come before the Planning Board. The ordinance states that noise should not be discernible at the property line, so they are not in compliance. Garand had no issues with the mechanical bull; the issues were the noise, safety, and the parking.

Janvrin asked if the fencing would be considered a structure under the ordinance, as it does not discern permanent or temporary. Garand said it would not. However, in a back smoking area in the past there was (vulgar) graffiti because of lack of supervision. In that case the abutter repainted at his own cost to bring it into compliance. The Board historically allowed separate, secured smoking areas e.g. Master McGraths, Common Island Restaurant, and Sharon's Grill, where people could smoke and bring their drinks, meets compliance with the alcohol



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commission, and is safe. Janvrin asked if it were a structure. Garand said if it were considered a structure, it would not be allowed in the set-backs. Garand noted that the passageway was the fire lane for the building and asked how emergency equipment would get there or how 50 people could exit so the fire equipment could go around the building. This is why the Fire Department needed to review this proposal.

Janvrin asked about the type of fencing. Page described it as easy to remove. Garand said the chain link runs down the length of the building; and there is a gate that is left ajar. That was part of the original subdivision. Janvrin asked if it could be like snow fencing with a post and gate. Page thought something like that. Janvrin said in an emergency it had to be removed immediately. Page agreed. Green said they'd done their homework. It is a fire lane but there already were propane tanks in the rear, so trucks could not get through. They would come around the other side of the building. Janvrin asked about the setback between the building and the chain link fence. Garand said it was 15 feet; the area could be cordoned off as a corral. Garand asked if there were couches or lighting, what would stop the live music from coming through when the doors open, noting there already was one complaint. Janvrin thought the liquor commission would allow alcohol in a fenced in area; he was opposed to that use. Garand said liquor would not be allowed. Page said they did not want an outside drinking area. They wanted to relieve the congestion in front of the building.

Green explained that they do more than 18 events; when people leave the building by the front door, they are not allowed to come back. They will have better control if the smoking is out back. There are young people who sometimes leave the premises to drink in their car. The Honey Pot needs some control to avoid underage drinking. Garand said underage drinking is one of the issues that needs to be resolved. Khan asked if the drinking age was 21+. Green said they are a restaurant so all ages are allowed. Garand noted that the Honey Pot is riding on the old Tang restaurant approval which had been for buffet. There is no approval for a night club. This proposal is changing the use. Janvrin said that any place that serves alcohol must serve food. Page agreed that this applied in New Hampshire. Green said there are no night clubs in New Hampshire. Lowry asked how far the smoking area would be from the propane tanks. Green said the tanks are over 100 feet away at Linda's, and there is a building in between them. The Honey Pot smoking would be at the middle of their building. Garand noted that Linda's told him that some of her landscaping had been removed. Page said that did not happen

Lowry asked what would happen to the smoking area in the winter. Page said they will remove the snow and clear the smoking area. Lowry asked where it would be stored. Page said they would shovel it away, noting that their building is the longest section. Green said there is no use beyond the smoking area. Lowry said the Fire Department would look at this as they have to gain access.

Khan did not know that 18 year olds were allowed in the restaurant, as the name was bar and lounge. He asked Garand about a letter sent about a year ago that a certain competition was not allowed. Garand said a year ago they had advertised live entertainment and were told that was not allowed. Page said they decided not to do this at all, but they've had requests for [live music] from musicians because of the location and the size of the facility. Janvrin said he'd been on the Honey Pot facebook page, and other sites, where there are pictures of people with beer bottles in the parking area, and rap competitions. He thought that a DJ would announce and play a song; a rap battle is live entertainment. He felt they had violated the live entertainment issue on several occasions, and referenced the document stating that the Applicant is responsible for complying with all town and state regulations. He thought live entertainment was occurring as a DJ with two rappers. Green said they have a license for a DJ and Karaoke, which is the same



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thing as a DJ and someone to perform it. They were told that they could not have live entertainment like a band, but they can have a DJ with someone singing or rapping.

Chase asked if they would have a security guard in the smoking area at all times, and asked what qualifications that individual would have. Page said a security guard would be present any time the smoking area was in use. They are now working with a company that trains security people who are certified to handle situations. Chase suggested that if the Fire Department was going to use this passage to gain access, the fences should be on hinges and locked open when they are not in use. The security person should be responsible for closing and opening the gate, although the Fire Department might have other requirements. Hawkins asked about the hours of operation. Page said from 4PM to 1AM. Hawkins asked for the hours if they had a band. Page said from 9PM to 12.

Hawkins polled the Board on the open questions. He agreed with Garand that the Fire Department should be contacted about any issues or requirements with the smoking area; the Police Department should be asked about any noise issues, other than Garand's report. The Applicant must address soundproofing should there be a live band, as there were already noise complaints. The Board would not approve something that would result with complaints. Green said they have another bar with live music where they had checked the decibels for the noise levels off the property. He was confident that they cannot tell from which building the noise is coming. There are two places that have music. He thought the Honey Pot got picked because they are toward the front of the plaza. The other bar is closer to and facing where the complaints come from. Page said she particularly checks the sounds with a decibel meter. On a Saturday night with a DJ the decibels readings are lower than when a car goes by or at the car wash across the street. The Seabrook Police sit next to the car-wash during the day and they've never come to them about noise. She knew about discrepancies from Hampton Falls neighbors who complain that the Honey Pot does nothing about this.

Page said they pay attention to the soundproofing and move the baffles and speakers. Green said that Uncle Hilde's is across from them. A phone call from a regular house phone is louder than their decibel readings across the street. They do not understand how people continue to say that the noise comes from them. They have done everything short of taking out the windows. Page said they would install temporary baffles to block the sound. They check that the noise doesn't leave the plaza, even checking the decibels from across the street.

Hawkins said that the Board's responsibility is to ensure that their neighbors are not being disturbed. It is a legitimate request to find out from the Seabrook Police Department if there are complaints that the Board is unaware of. It is also in the town ordinance that sound does not travel past the property line. The Board's obligation is to review these matters and understand that the applicant had done what is required to ensure that doesn't happen. Janvrin read the following from Section 8.010 of the Site Plan Regulations:

"8.010 Detrimental Effects to be Minimized: Plans shall be reviewed in order to minimize traffic congestion, traffic hazards, unsightliness, annoyance to other land users, erosion, and other effects detrimental to the abutters, the neighborhood and the environment."

Janvrin said the Board's job is to look at whether they are bothering neighbors, even those in Hampton Falls.

Hawkins raised the parking issue, stating that the Board had never had a solution to the parking in that area. Before looking at expanded use in the area, the Board wanted to see the parking



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allocation according to the existing condominium agreement. New uses had been approved, but if all the uses of the units in the property were added up there would not be enough parking spaces. Page said they had never been approached about parking. Green said, if needed, they would pursue finding additional parking in back of the property, just as the poker room does. Janvrin asked for the number of seats allowed by the Fire Department. Page said about 250-275 in total. Janvrin asked for the number of actual seats in the restaurant. Page said 75 -100. Green said the tables are moved around. The center is a big open space; the area is about 11,000 square feet. Janvrin asked if Morgan had issues with the completeness of the Application. Morgan had asked about landscaping, sign details, and parking dimensions. Janvrin noted a waiver had been requested, but no rationale was given as required by the regulations. Morgan said the parking situation was ambiguous and should be resolved. Janvrin asked if the case should be accepted. Morgan thought it should not, because there was insufficient information about the parking.

Hawkins said the application could be accepted, and rescheduled for a future meeting when they should return with the information the Board wanted them to address. During the interim, the Fire Department could review their plans, and feedback from the Police Department could be provided. The Applicant could then speak to sound issues and how the parking and noise issues would be handled. Parking and noise would be the big issues. He proposed accepting the Application, and have them return to address the issues. Page asked if this meant asking if the Fire Department about the smoking area, and addressing then noise and parking. Hawkins said the Board wanted to see the allocation of parking associated with the Honey Pot building and the other buildings in the plaza, per the condominium agreement(s). To say that the gym had 800 spaces and the Honey Pot had 200 spaces would not be rational because there are not that many spaces. The Board needed to see the condominium allocation of parking spaces to each business. Green said that their customers do not don't mix with the Chop Shop customers and don't go down to that area.

Janvrin said on the basis of seating 180 people at 3 per parking space, meant they needed 60 spaces plus one per employee. In some way, that is what they need to provide without interfering with other businesses in their condominium, and not using the condominium spaces to the north. They may not be able to substantiate that. He noted that they had not provided a copy of the lease which may have that information. Page understood that there were two condominium associations, and asked if they could speak with all the other businesses that are closed at night about using their spaces during some events. Janvrin thought that the two condominium associations would have to do cross-easements about the parking.

Page asked about permission for the mechanical bull. Janvrin did not see a problem with it. Hawkins' question was whether the Fire Department would reduce their occupancy when they designated the area for installing the bull. Green said that area was always an open space. Hawkins wanted to know from the Fire Department, if the allocation of space for the bull would reduce the seating occupancy number. Green thought it would not, because the bull was going into a part of the building that was not used when the occupancy permit was issued. It was a blank space; the number of tables would be the same. He stated that the Fire Department indicated the space was big enough to have more people, except for the parking. Hawkins asked for that in writing. Green said they paid for the bull thinking it was an amusement device, but they were told to come to the Planning Board. Hawkins did not have issues [with the bull] other than whether the Fire Department would reduce the occupancy numbers. Page asked how their requests would be handled. Hawkins said this would be voted as one application, and not piecemeal. At the next meeting they will look for the requested information; the Board could then make a decision. The items needed were (i) allocation of parking from the condominium



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agreement, (ii) review of the smoking area by the Fire Department, (iii) whether the Fire Department would reduce the occupancy when the bull was installed, and (iv) review of the soundproofing and whether noise goes past the property lines to affect the neighbors. Hawkins said the Police Department would be contacted.

Hawkins asked if there were comments or questions from abutters. Janvrin noted that a letter from one abutter was on the record. Hawkins said the letter was from an abutter and was provided to the Board. The letter writer, Tocky Bialobrzkeski, said the letter speaks for itself, although at some point they might want to read it into the record. In re the parking situation, she provided/copies of the condominium site plan, and the document section of the condominium agreement referencing parking spaces in the middle and the general cross-easements. B said this would require more discussion.

MOTION:	Janvrin	to accept Case #2012-16E as administratively complete for jurisdiction and deliberation.
SECOND:	Sweeney	Approved: Unanimous

Hawkins continued Case #2012-16E to August 7, 2012 at 6:30PM in Seabrook Town Hall.

Kravitz said that written submissions needed to be in the Planning Board office the Tuesday before the meeting July 31, by noon.

Case #2012-20 – Proposal by the Town of Seabrook Water Department to upgrade gravel pack stations #2 & 4 off True Road and Ledge Road.

Attending: Curtis Slayton, Water Superintendent;
Appearing for the Applicant: Robert Bell, AECOM:

Slayton said the construction for the treatment of arsenic, which was part of the administrative order, had been completed. It now makes sense to connect up two of the gravel pack wells - #4 from Ledge Road, built in 1975, and #2 from True Road, built in 1956. This involves upgrading the small well house, and eliminating the direct drive from the power company. Additionally, they need to redo the roof, reinsulated the building to bring it up to energy codes, putting in an outside generator, moving the propane. They also need to upgrade the electrical systems to communicate with the treatment plant. Slayton said these wells are an important source of town water. The work would improve the quality of the water on that side of town, and hook the wells up to the main water supply, which is worth the investment.

Hawkins asked if these are maintenance items or require a warrant article. Slayton said the funding comes from the Water Treatment Plant construction appropriation which included well-treatment, and was voter approved. Khan said some of the money comes from the Warrant Article, and the town is bonding \$1,000,000. Slayton said that was all part of the warrant article. Hawkins asked how many wells would not be hooked up to the Water Plant. Slayton said gravel packs #7, 3 and 1 would not be hooked up as their water quality was really good. With good quality water wells, they do not want to take up the treatment plant capacity if not necessary. Also there are other sources of water that they may want to develop in the future. Khan thought this project was part of the \$12,000,000 Water Treatment Plant allocation, and is the last of the



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project to be finished. Hawkins asked if there were any other contracts Slayton said there was a separate contract to lay the water mains to the wells. Then they would be done, unless the water quality changes for some reason.

Janvrin asked if it would be appropriate to waive jurisdiction. Morgan said that would be one option; another option would be to offer non-binding comments as the Board had been doing. Janvrin asked if they could waive jurisdiction and ask for an as-built. Morgan said that would be ok.

MOTION:	Janvrin	to waive jurisdiction for Case #2012-20 to upgrade gravel packs #2 and 4, and request that the Water Department forward an as-built to the Planning Board upon completion.
SECOND:	Sweeney	Approved: Unanimous

Case #2012-19.12-03 – Proposal by SustainX and Jayce LLC to construct a 4,160 square foot expansion to the industrial building at 72 Stard Road, Tax Map 4, Lot 19-1.

Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineers; Kent Worden, ARENCO;

Hawkins noted that the Applicant had previously been granted approval in Case #2012-03 for an expansion of 3,750 square feet. Morrill said in that prior approval, waivers were granted for dumpster screening and landscaping. The remaining conditions were to post security of \$5,000, and to provide the Stormwater Operations and Maintenance Manual. They were in the process of preparing the Manual when it was determined that the size of the addition needed to be revised. Morrill said the Manual would be provided following expected the Case #2012-19.12-03 approval.

Morrill said the Applicant now proposed an expansion of 4,160 square feet which is still within the overall building expansion previously contemplated. A concrete pad in the rear houses the water tanks, heat exchanges, etc. A gravel drive that would be used only a few times during the year is proposed for the delivery of equipment. The detention pond is already sized for the total expansion, so no change to the pond or the drainage is needed. A sign-off from Altus Engineers from the original proposal was submitted with the application. Only the square-footage is changing, and new architectural are being supplied.

Worden reiterated that SustainX currently is in the process of developing and constructing its initial product and found that to accomplish this, the building must be wider to house the coolers and load bank needed for demonstration purposes. Morrill said outdoor mechanical equipment is located on a pad at the back of the building. There is a swamp beyond it, so the building serves to reduce any noise. There are industrial uses on both sides of the building. Worden noted that, as the Board had asked, it met with the water, sewer, and fire departments and responded to all their questions. Morrill said that the original conditions of approval as well as the waivers are listed on the Case #2012-19.12-09 site plan. They met with Morgan informally to see if this could be an expedited application; Morgan requested they submit a full application.

Khan asked exactly what is being changed. Morrill said the size of the building is increased from 3,750 to 4,160 square feet; a concrete pad that had been located in the middle is not sited at the rear of the building, and a gravel driveway is being added for equipment to be dropped off twice a year. Worden explained that because the product(s) is a prototype, some equipment might have to be changed out for a larger item. The driveway is so that a crane could get to the rear of



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the building to lift components if necessary. Hawkins asked how they would get access when they go to full expansion. Worden said they would never be able to expand this building without coming back to the Board with the building expansion design. Hawkins commented that they are not looking for full expansion in the short term. Worden commented that SustainX is a typical R & D company. In five years they'd be out of business if they had not progressed. He could not know what their new technology would be, or how the physical plant requirements might have to change. Morrill said that they've always known that some changes might be needed and that is why they are again before the Board. Worden thought the major components now in place.

Hawkins asked for Morgan's view. Morgan said the requested change is quite small. The Board is looking for a stormwater maintenance plan that is recordable. Morrill said they would put the stormwater requirements on the plan so it would be recorded. That mylar would be for the amended plan re this case. Hawkins asked about the \$5,000 security. Worden will follow up on the security. Morgan said those were his only issues. Hawkins said the security would be tied to the building permit. Janvrin thought the security was in re the detention pond. Hawkins asked for other Board comments, and to hear from abutters; there being none

MOTION:	Khan	to accept Case #2012-19.12-03 as substantially complete for jurisdiction and deliberation.
SECOND:	Janvrin	Approved: Unanimous

Chase said the \$5,000 security had not been specific, and asked it should be tied to the detention pond so it would be released at a certain time. Hawkins did not think that was needed, and asked for Morgan's view. Morgan thought it a good idea to be specific in case there is a dispute. Chase wanted the Applicant to know what had to be done to get his money back. Janvrin agreed because the detention pond was the only reason for the security. Janvrin asked if the security was submitted at the time of the building permit issuance. Hawkins said Kravitz asked if Morrill would be submitting a revised siteplan. Morrill said he would, and it would have the Stormwater Operation and Maintenance Plan stated. Hawkins asked if Morrill would be addressing Morgan's comments about the title block location. Morrill said that the regulations require a title block at the lower right and a revision block to the left of that. He thought that is what he does, but he is repeatedly cited for not complying. He wants to allow the requirement, but asked for some clarification from the Board. Morgan said the standard is that when the plan is folded up for archiving, the revision dates should be visible. Kravitz said that Jones & Beach is the only firm that finds this an issue. Morgan folded a plansheet showing that the revision date is not visible. Hawkins suggested that Kravitz give Morrill a plan that folds correctly.

MOTION:	Janvrin	to approve Case #2012-19.12-03 – SustainX and Jayce LLC to construct a 4,160 square foot expansion to the industrial building at 72 Stard Road, Tax Map 4, Lot 19-1, conditioned on (i) \$5,000 security tied to the detention pond, (ii) a recordable stormwater maintenance plan stated on the mylar, (iii) meeting all of the conditions from the Case #2012-03 approval, and (iv) a revised planset entirely satisfactory to the Town Planner).
SECOND:	Sweeney	Approved: Unanimous



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Worden asked if a check for the security should be made out to the Town of Seabrook. Kravitz said it should, but to see her for the correct paperwork.

Lowry and Chase recused themselves from Case #2012-18, and Case 11-31.10-22;

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

Attending: Scott Mitchell, Tropic Star Development;

Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineers;

Morrill showed renderings of both the current and proposed sites. The property is a 19, 604 square-foot lot, .45 acres on the corner of New Zealand Road and Lafayette road (Route 1). Currently there is a pump island in the front, an 8 x 16-foot building, 7 parking spots along New Zealand Road, an easement along the back with 9 parking spaces on it for the benefit of lot 87-1- the building at the rear of the lot. The Applicant proposes to (i) resurface the pavement, (ii) redo the area under the canopy, (iii) dress up the front canopy, (iv) remove 2 parking spots on the New Zealand side, (v) add a 20-foot greenspace along the front, and (vi) install a new convenience store with an attached additional canopy and a couple of [new] pumps on the side. They will remove 3 to 4 feet of pavement on the south side, remove pavement that goes off the property into New Zealand Road, and reduce pavement in the front to create a grassy island. This would result in a reduction of impervious pavement from 18,760 to 18,029 square feet. The 2 existing curb-cuts along Lafayette Road and the curb-cut on New Zealand Road will remain in place. Morrill said the curb-cut along New Zealand Road is also the access easement for the 9 parking spaces [[[for the benefit of the adjacent lot]]; that easement is also a blanket easement across the lot so that the building at the rear can access the 9 parking spaces and have access through the Applicant’s property.

Morrill said 16-foot high pole mounted shoe-box mounted lights are proposed. Toward the south side the pavement area to be removed will be landscaped. Around the New Zealand corner existing trees will remain and they will try to fill in with landscaping. The Applicant thinks this will be an improvement from what is currently on the site. They did receive Morgan’s comment letter but had not had time to address all of those issues including the title block, and the landscaping. Currently there is pavement right to the edge of the property. They intend to add as much landscaping as possible, but are asking for a waiver from the requirement. It is a tight space. They have 5 parking spots on the north side of the lot; one is behind the proposed building. The 5 spots are the maximum that would be required for the proposed 1,200 square-foot building. Morrill said there are 14 parking spots, 9 of which are at the rear of the lot and are for the benefit of the adjacent lot next to the rear of the site. In response to Morgan’s request for the documentation of that easement, Morrill referenced a plan (and deeds) previously prepared by Millennium Engineering. The corner parking at Route 1 is being removed; the tanks would be on the south side of the property. The access easement goes over the entire property.

Morrill asked the Board to accept the application so they could go forward to the Technical Review Committee and work with the Town Engineer. He noted that the Building Inspector had comments about the signage, and sidewalks from New Zealand Road. At this time, everything is pavement.



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Janvrin said in Zone 2 the maximum height is 35 feet. He asked why the greenbelt had only been depicted in one corner. Morrill said the state had brought the pavement to the property line at the canopy, which would have to be ripped out for a 20-foot greenspace. Mitchell said they had checked with the DDR representatives to see if any right-of-way was needed in front of the Applicant's property, but it is not. Janvrin cited discrepancies in re the fuel tank depictions between sheet 2 (proposed) and 3 (to be reused), and asked if it was within the 30-foot setback. He asked if the island would remain in its current space or would it be replaced. Morrill said the structural membrane of the canopy would be retained, and the island resurfaced where the concrete does not meet the regulations. Janvrin noted that the pedestal sign is on town property. Morrill agreed, and said it would be removed. Janvrin said the south side steel guardrail and concrete barrier are also on town property and not proposed to be removed (sheet 2). Morrill said the guardrail had been protecting the sign. Now that the sign would be relocated, the guardrail could be removed. Janvrin's concern was at the meeting house corner. Morrill said existing Jersey barriers would be removed; he did not know their intended purpose. Mitchell thought they probably could be removed.

Janvrin said according to the proposal the 30,000 gallon underground tank would be placed right on the property line, with a 20,000 gallon tank right behind it. He asked if this would be considered a structure within the 15-foot site setback, and asked if it could be closer to the center of the lot and not near the property line. Mitchell said the tanks would be double walled fiberglass. Janvrin wondered if the diesel island was on town property. Mitchell said they had contemplated using that pump, but the covers could be annoying and they did not want cars driving over them. Also, drive access is needed for the loading trucks, although they would not be active during peak traffic hours. Janvrin called attention to Morgan's questions about how and when deliveries would be made. Mitchell said the trucks would go along the side. They would set things up to assure the tankers could get into the site, noting that there would be a traffic signal at the intersection. Morrill said Vanesse Associates will be submitting a traffic memorandum. Mitchell said they would go forward through the NH Department of Transportation as well as the Planning Board.

Garand noted that the tanks were depicted as existing. Morrill said they had just been removed. Garand said they were removed prior to the survey work. Morrill said they showed the tank locations on the plans. There is still a lot of concrete. Garand said that a lot of that had also been removed. He pointed out that some drainage was directed off-site; it had to be brought back on to the applicant's property. Also, there was a lack of snow storage. Morrill said that was shown on the south end of the property and on the front. Garand said that area had been designated as landscaping. Janvrin thought that in the past some of the back parking spaces had been used for snow storage. Morrill said that was not depicted on the plans. Mitchell said that this is a very small site; snow would have to be hauled offsite. Janvrin asked about the Stormwater Plan. Morrill said when the pavement was removed the impervious area was decreased and there was some puddled up. There is a drain on the town property that would fill up first. Janvrin asked if they would find a way to tie into that drain. Garand said that could not occur without some kind of onsite treatment. Janvrin noted that there would be lubricants on the site; there needed to be a way to shut that off in an emergency. He explained that a few years ago stormwater was contaminated with gasoline at the Irving site.

Janvrin asked about pre-existing, non-compliant property because of the 1,000-foot rule re gas stations, and also regulations in re expansion of space. Garand said it has always been measured from the property line; it should be clarified. Previously, the Board had determined gas station containment would go from property line to property line. Janvrin did not question about whether there could be a gas station because this is a pre-existing, non-conforming property, but



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wanted to know about the zoning. Garand said gas stations are allowed in Commercial Zone 2. He noted that Attorney Malcolm McNeill had asked the Planning Board about this site, and the Board gave its opinion that the distance was only to the property line. Hawkins asked Morgan to follow-up on the expansion of an existing, non-conforming building. Morgan said typically a variance would be needed to expand a non-conforming building. Janvrin asked if this is a non-conforming property. Garand said that was clarified at a previous meeting i.e. gas stations are allowed in Zone 2. The only thing that is non-conforming would be the 1,000-foot separation. Janvrin thought they are fine, as long as they come back into operation within one year. Garand said that was the determination of the Board. Hawkins asked if that addressed the expansion aspect. Garand said it is not an expansion as an existing gas station. Hawkins thought this was not clear as the building is being enlarged, and another set of pumps added. He asked if that were not an expansion of use. Garand said the gas station is allowed. The Board would have to make a determination as to the second set of pumps and the convenience store. Hawkins asked Morgan to check on these issues. Mitchell noted there were a number of pumps on the front island without the diesel island.

Morgan read from Section 14 of the Zoning Ordinance:

“Non-conforming uses and non-conforming structures shall not be enlarged, expanded or extended nor changed to another non-conforming use.”

Morgan will review the prior discussion in light of the ordinance. Janvrin pointed out that abutter's names and locations to be shown on the drawings. He understood that abutter information had been submitted for certified letters, but had not seen this information on the plans. Morrill will do this. Hawkins asked if Morgan had comments other than or about those in his memorandum. Morgan said the information on landscaping was conflicted, noting that Sheet C-4 was the landscaping and lighting plan, and there are some junipers at the perimeter. The drawings show a more extensive landscaping. Additionally, there is a request to waive the landscape requirements, but there is no rationale for this request. Morrill said he was not a landscape architect. He attempted to open some greenspace with some plants, but Mitchell had an architect do the rendering. Morrill asked for the waiver because he cannot meet the buffer and perimeter requirements of the ordinance. Also, he'd had trouble finding the landscaping ordinance on line and might have had the section wrong. The drawing was much better than he had depicted; he would ask Mitchell for the help of the landscape architect to achieve the look in the drawing.

Mitchell referenced the Provident Bank property, which they own, as their standard for landscaping. Hawkins said that is the Board standard as well, and would want a better effort in this application. Mitchell said the CVS Plaza was another of their examples; however, this site was a gas station. Hawkins acknowledged that the site was small, but the expectation is that the Applicant would make a very good effort to do a decent job making the site attractive. Mitchell said one reason for the building style and canopy is to try and make it look more “beachy” like Seabrook. Morgan asked if this meant they would not need a waiver. Mitchell thought they would still need a waiver because they cannot meet the 20-foot standards. Janvrin said another important factor was sidewalks. Morrill understood there were sidewalks down Lafayette Road, and they would have to work on at least a cross-walk from the sidewalk to access the building. Janvrin thought the signal at the intersection would have sidewalks and cross-walks and should be referenced on these plans. Morrill said that Mitchell had tried hard to get a copy of the DDR [roadway] plans from VHB, but was told they could have this when it was approved by the State. They had hoped to show on these plans what would happen at the corner. Morgan said that



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Kravitz had the [roadway] plan. Morrill said he wanted to get it from the source. Mitchell said they would like to get the plan from Kravitz.

Janvrin asked if they were doing LED lighting. Morrill said the lights would be 16 feet high and LED. Janvrin asked about light infiltration onto abutter land, including next to the easement. Morgan said the photometric grid would show this. Janvrin's concern was light trespass onto town property, although that might be needed. He suggested considering whether to ask for a waiver. Morrill said light poles could not be added into the easement area because it is very open. The lights are low and with high efficiency fixtures to look nice.

Khan noted that this property had been for sale for quite some time, during which the Selectmen received a couple of calls and letters asking it to buy the property for town use as a park; both to the north and south sides of this property are town property. That is not happening. The land is only .45 acres. It seems it will be another cigarette store like the one near the Town Hall where there are Pepsi trucks parked on the street. The plan does not show how the gasoline trucks will make their delivery' this is a very small site with a 1200 square-foot building. He thought the drawing looked nice but doesn't have enough space. Morrill said they will submit a truck turning plansheet to show how the trucks get in and out. They do not want trucks stacked in the roadway. Khan said putting those big underground tanks on .45 meant that to get to or take them out, the building and the canopy would have to be taken out. Garand asked if there would be a dumpster on site. Mitchell said there would be a small dumpster. Janvrin asked for the location. Mitchell said in back of the building.

Hawkins referenced Morgan's memorandum, and asked if enough information had been provided, or if there were insufficient items provided, to accept the application and send it to TRC. Morgan said before listening to the discussion he would have recommended against acceptance because the submittal material indicated that no significant effort would be made for landscaping. At this point he did not see a problem with accepting the plan and sending it to TRC. Mitchell commented that they do want the site to look good. Hawkins wanted them pay attention to all of the items in Morgan's letter; some would be dealt with in tech review but others would not. If the application is accepted, they will have had a technical review before returning to the Board which would expect a lot of this to be addressed with a set of plans that shows how it all would be done. Twenty-eight items, even if one is the title block, is a long list that says a lot more thinking has to go into this. His question was whether there could be a legitimate technical review, given the number of missing items. Initially, he felt there were too many items missing and that they should be brought to the next meeting for acceptance. Morrill said after the TRC they will bring the updated plans and a marked set to see now they have addressed specific items.

Hawkins said that the application requires that certain things be delivered so that the town Planner can see them before the TRC. There are enough items that Morgan has questioned in his primary review. If the Board granted acceptance at this meeting, Hawkins wanted to be assured that they will have addressed and cleaned-up these items, noting that Board members had already offered a number of bothering comments. For the next meeting the Board's expectations will be for a planset that cleans up all of the issues raised. If they disagree with comments, they still have to address them. Janvrin asked if the next TRC meeting would be after the next Planning Board meeting. Kravitz said the next TRC would be July 30, and the next Board meeting would be August 7. Janvrin questioned whether the TRC should be scheduled until before coming back to the Board with revisions. Hawkins asked Morgan is the plans submitted were adequate for tech review. Morgan said the landscaping is not. There are a lot of



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omissions and things that were just missed. Hawkins asked if there were enough for department heads to consider. Morgan said there was. Mitchell asked that the Board date be later in August.

MOTION:	Janvrin	to accept Case #2012-18 as sufficiently complete for jurisdiction and deliberation.
SECOND:	Sweeney	Approved: In favor: Hawkins, Janvrin, Sweeney; Opposed: Khan, Frazee;

. Kravitz asked if there would be a revised planset for TRC. Hawkins recalled that Morgan said the plans submitted would be adequate for TRC. Mitchell said all the changes would be made before the next Board meeting.

Hawkins set the Case 2012-18 TRC meeting for July 30, 2012 at 10 am at Seabrook Town Hall, and continued Case 2012-18 to August 21, 2012 at 6:30PM

Chase, representing 12-16 New Zealand Road LLC said he has discussed with the Department of Public Works Manager about a drain that leaves this property and goes across to travel down the property adjacent to his. He has concluded that the pipe is not large enough; when there is a lot of water there it is a hazard. He wanted to know if the Applicant would address this. Hawkins said that should be addressed at the TRC. Mitchell asked for the detail. Chase pointed out his detention pond and catch-basin; he said the problem is an 8-inch pipe that has 4 inches of sand. The path is supposed to go across the Weare apartments, to a brook and down to Rocks Road. Shoveling out the pipe did not solve the problem. Chase was sure that the DPW Manager would raise this but he wanted the Applicant to be aware of the problem. Mitchell thought that the catch-basin was high. Chase agreed it needed to be aligned and have a proper pump. Khan asked what brand of gas the Station would use. Mitchell did not say, but they were considering operating the station themselves.

Hawkins asked for other public comments. Charles Mobardy, the abutter to the west of the property, distributed copies of his recorded access easement across the property. Khan asked if Mobardy owned the white building. Mobardy said he did. He sold off the Latium property from his deed to the applicant, with a parking and access easement. Mobardy read from the relevant Warranty deed:

“This conveyance is made together with a parking and access easement shown and described on a plan of land entitled “Plat of Lane in Seabrook, NH showing a Parking Easement for the benefit of Parcel 2 on New Zealand Road Across Parcel 1 at 663 Lafayette Road,” prepared for Latium Management Company by Millennium Engineering Inc dated May 15, 2008, which plan is recorded in Rockingham County Registry of Deeds as Plan number D-35446. The parking and access easement contains easement contains 2714 square feet and is conveyed with the right to repair and maintain the easement area to include paving and snow removal. The Grantee shall have a further easement for access to and from the demised premises, over, upon and through Parcel 1 as shown on said plan.”



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Mobardy said because his easement is 2,714 square feet across the whole property, the Applicant technically has approximately 16,000 square feet which is a lot less that stated. Mobardy said when he bought the property there was a little kiosk. He has access at every point along the property. Now the Applicant wants to take that and add on another canopy which absolutely would make the property look better. However, even though Mitchell says the gasoline trucks would come at night, they will come when they want. The trucks are 65 feet long and 8.5 feet wide. They will also add a canopy building. Mobardy asked what would protect his rights as an abutter, or any of the users of his property, He was concerned about what would happen out front, and wanted to know how the Applicant and the Planning Board would assure him that his access (and parking) would be open, and that vehicles would have room to back up if there is another island with gasoline pumps. There is no direction showing how vehicles would access the gas pumps; he thought they would stick out about 8 to 10 feet. He thought there had to be about 24 feet [open] beyond parking.

Mobardy wanted to see the vehicle flow depicted on the plan, including walkers and 18 wheelers. He asked where the room is for all these vehicles, and would the 18 wheelers block the pumps. Khan asked Mobardy for the size of his abutting property. Mobardy said about 12,000 square feet, which is almost 15,000 square feet with this 2714 square foot easement. Essentially, Mobardy thought the access he had when he purchased the land would now be blocked. He wanted to be sure that the parking and access to his sight remained.

Hawkins asked Morgan about the Board's responsibility to ensure that the easement would remain available, given the Applicant's proposed siteplan i.e. what is the Board's role to see that the easements are left open. Morgan said the siteplan needed to address this issue, and commented that Mobardy's issue was similar to Mitchell's issue with DDR. Hawkins said it would have to be addressed in the Board's deliberations. Morrill said they would consult with counsel about the easement. Morgan said that at the least the siteplan should spell out the easement and access as the Millennium plan did. He noted that the cross-hatching did not spell this out. Mobardy said that he had run the gas station and there were 5 pumps on it which were more than 30 years old. He thought one dispenser could accommodate anything that had been there. This means that with new pumps and a new canopy the usage would be increased by at least double. If someday they had a special promotion, there would be vehicle lines at both islands. He asked how vehicles would get to his property in that event. Janvrin suggested that Mobardy might need to get his own driveway cut to New Zealand Road. Mobardy asked what was needed to get a landscaping waiver. Morgan said for one thing they had to give a reason. Mobardy asked if they had to show hardship. Morgan said they had to show the reasons.

Mobardy reiterated that the easement says he can access his site from any point on the Applicant's property. Morgan asked Mobardy if the cross-hatching on the plan seemed accurate. Mobardy said it would have to refer to the deed. Morrill said they would review the dimensions and adjust the plan as appropriate. Mobardy commented that when Latium owned all of the property, the drainage had been designed for the whole site. He noted where the water can be seen in the photographs he submitted. Morrill asked if there was reference to drainage [in the easement]. Mitchell thought the reference was to access and parking. They would have to look into these items.

Chase resumed his seat.



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ONGOING CASES

Case #2011-31.10-22 – Proposal by NextEra to amend its conditional approval of August 17, 2010 so that the stipulation (iv) reads as follows: Noise shall not be discernable at the Rocks Road residences closest to the firing range. Noise level along the existing transfer station road shall be limited to 15 dBA above the measured background of 44 dBA. The indoor firing range in question is situated off Rocks Road and immediately east of the Town's Transfer Station, continued from November 15, 2011; December 20, 2011; January 17, 2012, February 21, 2012, March 6, 2012; March 20, 2012, April 3, 2012; April 17, 2012;

Attending: Steven Coes, Project Manager, Sarah Gebo, Supervisor of Nuclear Communications;

Hawkins said the Board had extended the use of the firing range to 10PM, and asked Coes for an update. Coes called attention to the material submitted for the Board's packet. Construction of the Firing Range was completed in March of 2011. They tested for the noise and received a conditional occupancy permit in October 2011 for 7AM to 6PM. Although noise was not to be discernible beyond the property line, they found that gunfire was slightly discernible toward the Transfer Station. NextEra then submitted an application to the Planning Board for relief [from that limitation] after which 120,000 rounds were fired without complaints. On April 17, 2012 the certificate of occupancy hours were extended to 10PM. During that three month interim 45,000 rounds were shot off, much of which was from 6PM to 10PM during the hiring training period. The result was that 165,000 rounds were fired during a nine month period without complaints.

During that period they performed sound monitoring on nighttime live firing and identified options for reducing the noise. Architectural sketches of potential options were done, and the noise consultant did sound renderings of each of those options. The results were in the Board material, and showed that the gunfire sounds were below the typical surrounding background noise levels. The noise was still not discernible toward the residential neighbors. Coes said they have operated for nine months without complaints, and ask that the Board agree with issuing a permanent occupancy certificate for the hours of 7AM to 10 PM for seven days per week at this time. Toward next year they would be asking for 24 hour operation approval, but they understand the Board's concern about making sure the neighbors are not disturbed. Another three month trial period would be acceptable. Coes asked if there were questions in re the material submitted to the Board.

Janvrin asked for Garand's comments. Garand had not had complaints from any abutter nor had he been made aware of any noise issues. Hawkins appreciated that the Applicant had done the items requested at the last meeting, as well as some modeling of potential mediation items. He had been surprised at how little effect any of the options would have on sounds in the immediate area. Hawkins asked if sound reduction is so small, why are sound barriers constructed. Janvrin said that is because of the frequency of the noise – the megahertz. The higher the sound pitch, the harder it is to absorb. Cars may be high volume, but is a low pitch. Gunfire is high pitch and is hard to dampen. Coes added that the level of noise coming from a highway would be a lot higher. A high barrier in front of a low source would bring noise some reduction.

Coes introduced a member of the Seabrook Police Department, Sergeant Jason Allen. Janvrin asked if Allen was the training officer. Allen confirmed this. Hawkins asked if Allen had listened to the firing from a Rocks Road location. Allen had not, and said he'd only been inside the range during the firing, and had seen engineers measuring the decibels. Hawkins explained that the Planning Board takes its responsibility to the neighbors very seriously. It did not want to approved the Applicant's request only to find that in a couple of months there are complaints



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from neighbors that the gunfire keeps them up at night, and that the Board did not do its job to assure there are not sounds disturbing the neighborhood. That is the reason for caution and taking slow steps in re the decision. He noted that concern applied to future homeowners as well, and thought the caution should continue for at least one more step. He wanted to give people ample opportunity to speak about a problem; so far that hadn't been heard. Allen commented that he'd checked with some of the nighttime supervisors, who had not had complaints.

Frazeo asked if Allen had been present when the 50 caliber rounds were fired. Allen had not. Hawkins asked how many, how often, and at what time of day, the 50 caliber rounds had been fired. Coes handed out firing data for April 17 to June 30 (45,000 rounds), showing about 1500 rounds of 50 caliber rounds fired. Hawkins asked if any of those rounds were from 6PM to 10PM. Coes said the data doesn't show the exact time of day. Hawkins said if the Board were to agree on an extension to 24 hours, they would want to know the times of day for the 50 caliber rounds so that could be correlated to complaints, if any. For example, it might show no problems up to 6PM, but identify a problem later in the evening. The Board would want to understand whether the 50 caliber rounds had been used in a time when people might be bothered [likely when the neighborhood is quiet]. Coes said that next year NextEra would be fine with a restriction on firing 50 caliber during certain hours e.g. 6PM to 7AM.

Janvrin proposed allowing the 50 caliber round to be fired between 7AM and 10 PM as currently happening, but for a conditional permit to allow 50 caliber rounds for 24 hours daily. If no issue surfaced, there would not be an issue. Hawkins asked if there were a reason not to allow 24 hours with the current stipulations; if there were a complaint from a neighbor, everything stops for a discussion at the Planning Board. Janvrin thought that NextEra would like a permanent occupancy for the current operating hours, and a conditional occupancy to 24 hours. At some point the hours could all become permanent. Hawkins preferred to go another three months allowing 24 hours of operation, and ask them to keep track of when the 50 caliber rounds were fired. At the end of that time period, if there had been no feedback, the Board could make a decision and a recommendation. He wanted to use the 50 caliber during 24 hours to see if there is any feedback.

Janvrin recalled that the Board had asked Coes if some pricing on monitoring equipment could be provided. It would be helpful to the town if the Police Department and the CEO had such equipment. Coes said the equipment they used took data over a long period of time and analyzed it. Those meters used by their consultants were about \$14,000 apiece, which is too expensive for individual readings. Chase asked if there was interest in putting vegetation around. He thought the \$145,000 cost in the report was for trees that were 50 feet high. He wondered if some vegetation that would grow over time would be a help. Coes said the sound consultant was asked to recommend something that would reduce the noise – 50 feet width and 45 feet high. If the Board had an interest in something that would be attractive, they would be amenable. Coes asked if there were an esthetic reason for landscaping. Hawkins said this is in the industrial zone; the landscaping standards were designed for the Route 1 Corridor. Perhaps approving the appearance near the Transfer Station and for the neighbors could be discussed with NextEra at the next meeting. Coes said that the neighbors cannot see the range. Only people using the new access road would see the facility. Hawkins noted that users of the road would be coming from another direction.

Hawkins wanted to continue the trial for three months, allow all different weapons to be fired, keep track of the 50 caliber firings and the time of day. He wanted to have the Board's approval cover all of the items at once. Khan wanted at least 25 percent of the shooting to be at night.



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Hawkins asked Coes expectations about what would be fired after 10 PM. Coes explained that they have a large contingent of security officers; through attrition there are regularly replacements. In the recent three month trial period, the new hires were put in the Thursday through Monday night timeframes for that experience. Most of the current training would be for maintenance. He could not guarantee late night firing until the next trainees arrive. The other nighttime firing could be when other professionals are using the range. Hawkins asked when the Seabrook police would be using the range and at what times. Allen said generally they shoot twice a year in a day shoot and a night shoot until about 10PM. He also runs up to 7 training sessions during the year.

Hawkins asked who else would be using the range. Coes said the Seabrook SWAT team (1 x per month) and emergency management. Chase asked if the military used the range. Coes said they did not. Chase asked if they knew about it. Janvrin said the armory had its own shooting range. Chase commented that when he was in the Coast Guard, the closest range was in Maine. Coes said there are discussions with the State Police, who are part of their security plan. The Seabrook Police have already signed an agreement. Coes asked to be apprised if there were complaints. Khan said that Lowry lives nearby, and asked what he had heard recently. Lowry had not heard anything recently, although he had heard some shooting some time ago. Coes asked if that had been daytime or nighttime. Lowry could not say what time. He did not have a problem other than whether the 50 caliber could be heard at night. Coes repeated that they would be agreeable to a stipulation restricting 50 caliber shooting later than 10PM. Hawkins agreed that could be a possibility, but was interested in the actual result.

MOTION:	Janvrin	to continue the Case #2012-31.10-22 NextEra firing range trial period for another three months for the firing of all size weapons up to and including 50 caliber rounds for 24 hours per day, provided that (i) the times for firing the 50 caliber rounds will be tracked, and (ii) if there are any complaint(s) the operations time will revert to 7AM to 10PM.
SECOND:	Sweeney	Approved: Unanimous;

Hawkins continued Case #2011-31.10-22 to October 16, 2012 at 6:30PM at Seabrook Town Hall.

Lowry resumed his seat.

ONGOING HEARINGS

PROPOSED AMENDMENTS TO THE TOWN'S SUBDIVISION AND SITE PLAN REVIEW REGULATIONS THAT WOULD GOVERN DEVELOPMENT IN THE NEW SMITHTOWN ZONING DISTRICT THAT IS SITUATED IN THE VICINITY OF TOWN HALL

Hawkins asked if the Board had reviewed the revised Smithtown Village regulation in the packets, noting that the few changes had been underlined. As some members had not gone through them, Hawkins continued the review to August 7, 2012 at 6:30PM in Seabrook Town Hall. The vote would be early in the meeting. Chase asked if existing signage would be allowed to remain. Hawkins said that organ would have comments on grandfathering.



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OTHER BUSINESS

Case #11-26.11-09 NextEra Lot-line

Attending: Steven Coes, Project Manager, [[Sarah Zeko]], Manager of Corporate Communications; NextEra Energy;

Hawkins asked Morgan to address this issue. Morgan reminded that the Board had granted the lot-line adjustment, but controversy had emerged around the closing of the gate to the Transfer Station. The lot-line adjustment plan had not been recorded. Coes had asked the Board to revisit this issue, as the road through the power plant property had been built. Henry Boyd Jar, of Millennium Engineering, had proposed an amended version of the plan that had been submitted that would include the actual roadway depiction, the gate and the Jersey barriers. Those would be the differences between what the Board approved in October 2011 and what they now propose to be on the plansheet. Hawkins said the lot-line adjustment would be identical to what was approved; the change would be that the gate and the Jersey barriers would also be depicted. Morgan did not see a problem, but brought it to the Board because of the additions to what had been approved. Hawkins asked if anyone had issues with approving the amended plansheet that had the lot-line in the same place as was approved, but also depicted the roadway as it was built, the gate and the Jersey barriers. He thought this was essentially the same plan, and explained that at the time of the approval NextEra had been asked to show where they thought the roadway would be. Now the actual road can be placed on the plan.

Khan asked if this is the last item that is holding up the road to be opened. He said the Town had done everything possible. Coes said that the DPW Manager has the signs (for the outfalls) and is waiting for the go-ahead. They are waiting for the insurance certifications according to the provisions of the easement. Khan said that had been provided about a week ago. Coes said 4 of the 5 items had been provided to NextEra, and the Town Manager's Secretary was working on the remaining item with someone in Concord. Hawkins asked for the expectation of the opening date for the roadway, once the fifth item was submitted. Coes said once he had the last insurance certificate, the mylar could be signed. Once NextEra gives the ok, the access road can be used. Coes said he has the keys for the Town to lock the gate, and the signs can go up. Khan said the Board should approve the amended plan, and the insurance and workman's compensation certificates provided. He hoped the Planning Board would approve the amended plansheet at this meeting, and he could let the Selectman know this.

MOTION:	Hawkins	to accept the revised Case #2011-26 NextEra lot-line adjustment plansheet as presented to the Planning Board on July 17, 2012.
SECOND:	Khan	Approved: In favor: Hawkins, Khan, Sweeney, Frazee, Chase; Opposed: Janvrin

Morgan said that the mylar needed to be submitted. Coes said he would inform Boyd to submit the mylar. Kravitz asked for full size and 11 x 17 copies accompany the mylar. Chase asked if the road could be open in a couple of weeks. Coes thought that possible; they would wait for the insurance certificate. Khan thought he would find that the insurance certificate had been sent.



Town of Seabrook Planning Board Minutes

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NOT OFFICIAL UNTIL APPROVED

Hawkins asked if the condominium regulation and recording of site plan discussions could be continued. Morgan said it could

Hawkins asked if there were action to take on the DDR Security. Morgan said not at this time; Kravitz is following this.

Hawkins called attention to the signage problem that the Yankee Fisherman's Cooperative encountered. He asked when the Planning Board could act in terms of changing the zoning for that property. Garand said when the proposed changes had been public noticed. Hawkins said this could not be done more than 180 days before the next Town Meeting. Janvrin asked if they could get a variance from the Board of Adjustment. Garand said they would have to make application which would require notice to very many abutters and would be very expensive. Hawkins said the better route is for the Planning Board to take the action and let the voters confirm this at Town Meeting. Morgan said the Board could address this in September, noting that the Legislature had not given specific guidelines. He had posed the question to an attorney years ago, and was told not to do anything before Labor Day. Hawkins said to try for a public hearing at the first meeting in September.

Janvrin had received a draft of the Rail Trail agreement and would be meeting with the Interim Town Manager and the Selectmen. The Planning Board would be asked to sign off that this is consistent with the Master Plan. He will provide a copy for the board packet. Hawkins commented that the State wanted everyone (municipalities) to have the same form of agreement. Janvrin said this draft is consistent with that used in Lebanon, NH.

Kravitz announced that the 2011-20 Master Plan is on line at the Planning Board webpage.

Hawkins was also looking for volunteers to help out with future projects including the North Village, and a study for the best uses of Route 107. Anyone with a couple of extra hours a month would be welcome.

Chase announced that the Safe Routes for School had sent in two \$9000 planning grant applications. Morgan asked what chance there was to get the funding. Chase thought they were good.

Janvrin announced that the Recreation Commission would be discussing Capital Improvement projects.

Hawkins will be working on the Planning Board proposal for the CIP and also on the 2013 Budget.

Hawkins adjourned the meeting at 9:45 PM.

Respectfully submitted, Barbara Kravitz, Secretary Planning Board