



Town of Seabrook  
Planning Board Minutes  
Tuesday, September 16, 2014  
NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; Jason Janvrin, Vice Chair; Roger Frazee, Michael Lowry, Francis Chase, Aboul Khan, Ex-Officio; Tom Morgan, Town Planner; David Baxter; Alternate, Barbara Kravitz, Secretary; Steve Zalewski, Building Inspector; Rick Friberg, Peer Review Engineer, TEC;

Members Absent: Ivan Eaton III, Sue Foote, Alternate; Paula Wood, Alternate,

Hawkins opened the meeting at 6:33M.

#### MINUTES OF SEPTEMBER 2, 2014

Hawkins asked for corrections or comments for the Minutes of September 16, 2014; there being none.

<b>MOTION:</b>	<b>Lowry</b>	<b>to accept the Minutes of September 2, 2014 as written.</b>
<b>SECOND:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

#### SECURITY REDUCTIONS, EXTENSIONS, ROADWAYS

##### Case #2013-13 Sea City Crossing

##### Acceptance of \$10,000 additional security

Hawkins explained that during the Case #2013-13 Sea City Crossing Phase 1 construction (Aspen Dental), water and other pipes were installed to the proposed Phase 2 site (in back of Phase 1) in anticipation of Phase 2 approval. Phase 2 (Case 2014-17, 16), currently before the Planning Board, had not yet been approved. The Town Manager and the Water Superintendent have negotiated an additional \$10,000 to be held as security in re the water pipe issue.

<b>MOTION:</b>	<b>Hawkins</b>	<b>to hold \$10,000 in additional Case #2013-13 security in connection with the unapproved water pipes installed to the proposed parcel to the rear of this property.</b>
<b>SECOND:</b>	<b>Chase</b>	<b>Approved: Unanimous</b>

#### CORRESPONDENCE AND ANNOUNCEMENTS

##### Case #2007-11 Beckman Woods

Hawkins called attention to the several letters in the packet concerning Beckman Woods which had been discussed at the last board meeting. At least the communications had started, although he could not say what the outcome would be.

**Chase recused himself from Case #2014-22.**



## PUBLIC HEARING

### NEW CASES

**Case #2014-22 – Proposal by Michael Casey and Francis Chase to establish a garden supply store in Unit #4 at 14 New Zealand Road, Tax Map 7, Lot 71;**

Attending: Michael Casey; Francis Chase;

Appearing for the Applicant: Attorney Jeffrey Brown;

Casey said he wanted to relocate his organic garden supply store at 11 New Zealand Road, a mixed use building with commercial space on the first floor. There would be no hazardous substances; hours of operations would be from 8AM to 8PM. There would be no outside changes. Lowry asked if all the sales were inside. Casey confirmed this, and said the products would be organic nutrients, seeds, fertilizer and the like. Janvrin asked about parking and if the signage would be the same as the other businesses, complying with the Zone 6M ordinance. Casey said it would comply and have 7 parking spaces. Hawkins noted that the building had been approved for retail.

<b>MOTION:</b>	Janvrin	<b>to accept Case #2014-22 as administratively complete for jurisdiction and deliberation.</b>
<b>SECOND:</b>	Lowry	<b>Approved: Unanimous</b>

Deborah Crow was concerned about the signage and that the mail boxes were falling down. Chase said some mail boxes were across the street; they will handle this problem. Janvrin commented that the Post Office had standards for the placement of mail boxes.

<b>MOTION:</b>	Janvrin	<b>to approve Case #2014-22 – Michael Casey and Francis Chase to establish a garden supply store in Unit #4 at 14 New Zealand Road, Tax Map 7, Lot 71 conditioned on: (i) hours of operation from 8AM to 8PM, and (ii) no outside storage.</b>
<b>SECOND:</b>	Lowry	<b>Approved: Unanimous</b>

Chase resumed his seat.



**Case #2014-23 – Proposal by Christopher Austin and Alan Ganz to establish a retail store for the sale of electronic cigarettes in Unit #5 at 779 Lafayette Road, Tax Map 7, Lot 62-1.**

Attending: Christopher Austin, Alan Ganz

Austin described his business as the sale of electronic cigarettes and accessories. The hours of operation would be from 10AM to 8PM Monday through Saturday, and some hours on Sunday afternoon. Hawkins suggested he ask for 10AM to 8PM daily, and asked for the location of the dumpster. Austin said that Ganz provides a dumpster on the side of the building. Hawkins asked if Zalewski had issues; he did not. Janvrin asked about the previous tenant's Cell Mart roof mounted sign, and asked how long the unit had been vacant. Austin said for more than one year. Morgan said that sign would have to go, or they could go to the Zoning Board of Adjustment, as it was not compliant with the 6M zoning. [Secretary's note: Subsequently, Morgan decided that the sign was grandfathered.]

Lowry asked about the products to be sold. Austin said they were batteries, tanks, liquids and nicotine. He explained that the use of these products was meant to wean down the smoking of tobacco. The products were made and packaged in the US. The store would not sell tobacco products. Lowry asked if customers would remain in the store. Austin said they would have a sample area with a couch for comfort, so that a customer could try a product out. They would need a half hour to explain to the customer how to quit tobacco. Hawkins said this would be a retail operation, and asked Morgan if any restrictions were needed. Morgan said none as there was no food or beverage involved. Chase asked if the fire code would apply to the occupancy. Zalewski said it would depend on the size of the unit. Hawkins asked about age restrictions. Austin said no minors would be allowed; customers would have to be 18 years of age to enter the store. Hawkins asked for further questions; there being none.

<b>MOTION:</b>	<b>Chase</b>	<b>to accept Case #2014-23 as administratively complete for jurisdiction and deliberation.</b>
<b>SECOND:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

<b>MOTION:</b>	<b>Khan</b>	<b>Case #2014-23 – Christopher Austin and Alan Ganz to establish a retail store for the sale of electronic cigarettes in Unit #5 at 779 Lafayette Road, Tax Map 7, Lot 62-1 conditioned on:          (i) removal of the roof sign prior to occupancy;          (ii) no patrons under 18 years of age;          (iii) hours of operation from 10AM to 8PM daily; and          (iv) employees to take the training offered by the NH Liquor Commission in re how to handle the age restriction and identification procedures.</b>
<b>SECOND:</b>	<b>Janvrin</b>	<b>Approved: Unanimous</b>



## REMANDED CASE

Baxter and Lowry recused themselves from Case #2012-18

**Case #2012-18 – Latium Management Corporation, Tropic Star Development, LLC, and Scott Mitchell to demolish the Getty North station and replace it with a 1,200 square foot “retail” building and two gasoline dispensing islands at 663 Lafayette Road, Tax Map 7, Lot 87,** continued from April 1, 2014, April 15, 2014, May 20, 2014, June 3, 2014; June 17, 2014, July 15, 2014, 08-05-14,

Attending: Scott and Jim Mitchell, Tropic Star;

Appearing for the Applicant: Attorney Richard Uchida, Hinckley Allen; Wayne Morrill, Jones & Beach Engineers; Jeff Dirk, traffic engineer. Vanesse & Associates

Appearing for the Planning Board: David Saladino, traffic engineer, RSG.

Attending for 11 New Zealand Road: Charles Mabardy, Michael Lowry;

Appearing for 11 New Zealand Road: Attorney Roy Tilsley, Bernstein Shur; Robert Woodland, traffic consultant, Woodland Design Group;

Hawkins this was the case that had been remanded, and had been before the Board for at least a year and a half. The Court found that the Planning Board had made two errors:

1) The Court found that the Board erred because it did not hear any evidence on what effect traffic on the front lot would have on traffic attempting to use the easement to access the back lot; the Court found the Board’s decision was unreasonable because it approved the siteplan without considering evidence about the internal traffic dynamics of the front lot and the back lot; and

2) The Court found that the Board erred because there was no evidence in the record that the Board considered whether allowing pavement in the parking easement to remain, but removing the striping of the parking spaces in that easement would allow to increase congestion, decrease safety and other impacts on the patrons using both businesses.

Hawkins recalled there had been a dispute over who had the right to use the easement. The Planning Board said that since the size of the convenience store was 1,200 square feet, that would only entitle the Applicant to 5 parking spaces which were on the plan, and therefore the parking spaces in the back were undesignated. At that time there was not an application specifying the use of the back lot, so the Board did not know the use and told the Applicant to make sure the hot top remained but not to stripe it. The Board did not want to make a decision on who would be able to use it. The Court found that to be incorrect; the striping should have been left. This would be easy enough to fix.

Hawkins said that after many hours of back and forth between the Applicant and the abutter, both had been asked to give the Board their final thoughts before the Board made a decision. One hour would be dedicated for this. Each of the Applicant and the abutter were asked to take 15 minutes to describe specifically (i) for the Applicant what had been done to address the errors cited by the Court, and (ii) for the abutter what the Applicant did not address relating to the



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Court's two issues, and if anything what they wanted the Board to consider. Hawkins said there were letters from both parties outlining the issues, but it would be appropriate to give them one more time to state their issues, and 30 minutes to let the Planning Board ask questions, if any. He thought that plenty of time had been spent on the issues for a 1,200 square foot store and some gas pumps. He wanted to move this case off the table at this meeting, if possible. Hawkins asked the Applicant to specifically address the issues that the Court decided that the Board did incorrectly.

Uchida had represented Tropic Star since the beginning. With respect to the Planning Board approval, as to the removal of the striping, the Applicant had no objection to installing the striping back onto the pavement. Ultimately, they would have to resolve the issue with the abutter as to who had the right to use the spaces. They fully realize that they would need to employ only the 5 spaces that the ordinance allowed to the Applicant. To the extent there were more spaces on the property, from a zoning perspective they were not entitled to use any more than those 5 spaces. With respect to the issue of internal traffic circulation, Uchida said, with respect to the Court's error issues, he did think the Board had heard quite a bit of evidence in 2012 and 2013. However, he was not the Judge nor was anyone else who was present. They respected the ruling and were returning to the Board.

Uchida wanted to emphasize through Morrill and Dirk, that some minor changes in the layout of the site had been made to accommodate the internal traffic circulation. For example, the driveway movement shifting and also the movement of the fill area - all to enhance the internal traffic circulation on the site vis a vis the 11 New Zealand Road site. He commented that the Court kept saying it didn't hear evidence relating to the ability to access the parking easement parking easement and the 11 New Zealand Road site, noting that their only access to parking was the area to the rear of the site, and the driveway that comes to the 11 New Zealand Road property. Uchida asked Morrill to speak to the changes that enhance the site and enable the parking and access, and Dirk to speak to highlights again on the internal traffic circulation vis a vis the back lot.

Morrill said following the August 25 meeting, Jones & Beach submitted to the Board 5 items that had been changed:

- (i) a "do not enter" sign was added on the easterly canopy facing south so that all the traffic flow in the front of the site would head south;
- (ii) the exit only stop bar onto Lafayette Road was modified slightly to give some space to the pedestrians crossing;
- (iii) in response to RSG comments they added "no parking" signs to the side of the building so there would be no cars parked around the building;
- (iv) they thought the Board had a good idea to add on the southerly side of the property cape cod berm along the entire edge so that all surface runoff would stay internal to the site and go through the oil/water separator; and
- (v) note #35 was added to the plan to outline the use of the video surveillance to monitor the fueling stations, and responding to Janvrin's wanting the fueling stations monitored when the trucks were there.

Hawkins thought that since the initial plan that the Court saw, the location of the filling station had been moved. Morrill said the remote fueling location had originally been on the south side of the site. Some time ago it was moved toward the front of the building. There had been 8 revisions so far, including responding to the DPW comments in re the New Zealand Road culvert pipe and the replacement of the catch basin, presenting 4 not 5 parking spaces, and the area in



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the back of the building had been striped for loading and was now not a parking space. Turning motions had been submitted to the Board to show that deliveries could be made to the building. The dumpster had been relocated from the south to the north side of the lot, closer to the entrance. Also the Board had originally given a waiver for the size of the driveway at New Zealand Road which was enlarged to 30 feet which was the same as now shown. The depth of the driveway location on New Zealand Road had been increased and moved back to align with the parking spots in the easement, creating more stacking on New Zealand Road and moving of a hydrant.

Uchida added that in the original plan that the Court saw, the underground storage tanks were right next to the easement area parking spaces. So that they could maintain or replace the tanks without interrupting that easement, those tanks had been moved to the eastern side of the property and the driveway was adjusted. They also had shown that the types of trucks that Tom Frowley had discussed at the last meeting that would make deliveries to the site for both lots could move into the driveway with better access, and how the movement of the driveway enhanced the circulation of the traffic and the loading process on the Applicant's site as well as on the back lot. Chase had been involved with the pipe on the other side of the street, and asked how the new pipe would replace pipe going into the apartment complex. Morrill said that driveway had been recently repaved. They would replace the catch basin on the Applicant's side; when it goes across the street it changes to a plastic pipe. Somewhere the apartment complex pipe connects in but there was no structure to clean it. The Applicant will replace that entire pipeline and catch basin on the opposite side of the road so the apartment complex line could tie in to the discharge pipe so it's all one material.

Chase thought 3 catch basins would be installed. Morrill clarified that they would replace the catch basin on the Applicant's side, and there would be another one at a junction on the north side of New Zealand Road. When the original sewer plans were developed for the town a catch basin was designed for that location. Three pipes joined somewhere underneath the road; they did not know where. The new structure would be dropped where all three pipes are joined. Chase noted that there was a concrete pipe sticking out of the ground on the east side of the street, and asked if a catch basin would go there. Morrill said no, and asked what would be there to catch. Chase said to catch whatever would be there, or to take the pipe out. Morrill thought it was collecting some kind of drainage coming off the apartment complex. Chase said it was coming from Route 1 and was full of sand. Morrill agreed that now it was full of rip rap and sand; they will create an actual entry. Chase thought there should be a catch basin with a grate on top. Morrill said there was also an existing telephone pole; putting in a four foot structure would create a problem with the telephone pole. There was brand new pavement in the apartment complex driveway. They want just to do the tie-in structure and not rip up that pavement.

Dirk said Morrill had talked about the site plan circulation and other modifications to the driveways and other project changes. He wanted to focus on the circulation as it relates to the back lot, which was what the Court had asked it to do. He noted that the modifications were very deliberately done to improve the circulation and the relationship between the front and back parcels which was the primary focus of what the Court had asked them to do. The deliberate changes improving circulation have resulted in a site plan that addressed each of the several comments raised by the owner of the back parcel in re circulation.

Dirk said the modifications starting with the back parcel and focusing in on the parking easement area allowed improved access to the back parcel for large delivery trucks on the site. Additionally, modifying the loading areas also ensured and demonstrated that retention of those



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parking spaces would also allow vehicles to access and back out of those parking spaces, even when the loading zone is occupied by a delivery truck. The modifications to the access plan or driveway on New Zealand Road, through various turning template design iterations, show how vehicles would get into the site for access to the front as well as the back parcel, there is no change relative to the ability of any vehicles to access the back parcel from the conditions existing prior to the proposal redevelopment and what the conditions would be in place with the redevelopment. The same type of access would be afforded under either scenario both for customer vehicles as well as for the various types of vehicles that could currently access the site Dirk said it had been demonstrated that the same customer and other vehicles that could access the parcel today would still be able to access the back parcel. Dirk said that had been demonstrated and stated that the Planning Board's traffic consultant had concurred with those findings. This was the central element that the Court had asked them to look at.

Dirk said they had taken a further step to look at the offsite to ensure that the driveways and the infrastructure that would be supporting the developments on both parcels had adequate capacity. There were a number of improvements taking place along Lafayette Road, so they looked at the signalized intersection of Lafayette Road and New Zealand Road, and looked at the queuing on both roads to ensure that the queue when the improvements are in place didn't get too backed up and constrain operations and access at the New Zealand Road driveway i.e. access there would be maintained. They looked at the left turn lane providing access to New Zealand Road to make sure that the traffic did not cause a back up on the roadway. Additionally, in response to the owner of the back parcel, they've made sure that circulation is maintained relative to offsite, and the driveways would continue to function no differently that they functioned with the prior use on the site. Dirk said that with all the directional signage that had been added to the siteplan, there were more regulatory signs that would be found on any typical commercial site. This was to ensure safe and efficient on site access to the front parcel as well as the back parcel. Traffic is regulated and would work in an efficient manner and that all types of vehicles could access the site.

Uchida referenced his letter dated August 25, 2014 which responded to the Board's request for a summary of the evidence that the Board heard. The lengthy letter was done as an outline to adequately describe for the Board the evidence that they heard on about safety and traffic circulation on the site; it was not a blow by blow description. He noted that the Board had set an August 26, 2014 deadline for submission of materials. Nevertheless a letter dated September 1, 2014 was mailed to the Board on September 3, 2014. He did not know if the Board would accept that letter submission. Uchida explained that to the extent that the Board might accept that letter, he had submitted a point by point response that dealt with those materials. To the extent that the Board might accept the late submission, Uchida asked that his response letter also be accepted.

Uchida reiterated that there had been a dispute with the land use codes used for the traffic generation figures for the back parcel, and testimony had previously been given as why that land use code had been selected in scoping meetings with the NH Department of Transportation. The NHDOT provided the information and scope that they needed to use for the traffic analysis; there was information and emails supporting that. He noted that RSG had also looked at that, and believed that RSG concurred. Uchida reminded that the whole case had been motivated by the concern over the safety and traffic circulation that relates to the parking easement in the rear of the site. The Applicant's offer to build a separate parking area on the 11 New Zealand Road lot (not giving up any of the easement parking) to eliminate some of these issues, still stands. To the extent the Board was concerned about getting to a parking space to help the back lot, they stand ready to build parking on that site. They were not asking the owner of the back lot to give



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up any of their easement rights, but why not do that to make it safer for parking and loading. Uchida noted that that offer was made in 2012 and 2013, and reiterated in 2014.

Hawkins asked for the abutter's comments.

Tilsley said he was substituting for Christopher Aslin, the attorney who has been representing 11 New Zealand Road LLC, who had left the firm to work in the Attorney General's office. There had been a lot of changes to the plan since the case had been remanded. He said that all of those changes had to comply with all of the site plan regulations, not just the issues that were remanded by the Court. In terms of the two issues remanded by the Court, the Court said the Board was obligated to assess the impact of the internal traffic flow of the front lot as it affected the back lot with its own traffic flow issues considering it was zoned for restaurant use. Because he had not been present for the whole process, he was reluctant to present a summary of the evidence. From what he heard at this meeting, and what he saw in the file, he did not think the Board had seen any information from the Applicant regarding his client's lot as the Court required. Also he wanted to respond to Uchida's concern with the submission from Woodland Design. His understanding from Attorney Aslin was that the Board had requested summaries from each party by the August 26 deadline. Tilsley said they did comply with that and did not understand that to be a deadline for submission of expert engineering type reports. Woodland's report was submitted in advance of the Board's normal deadline for submissions; they hoped the Board would accept it for consideration. He had no issue with the Board accepting and considering Uchida's response for the Applicant.

Woodland said he was asked to consider the circulation issues in re this redevelopment and the potential redevelopment or re-occupancy of the back lot. A couple of memos had gone back and forth. His latest summary highlighted the salient issues that still matter. First he wanted to make the Board aware of their primary concerns. There had been discussions about site circulation and how that might affect the back lot. Changes to the site plan had been made on several occasions; often they had not been given substantial time to address those changes to the siteplan. He'd had a chance to print out several pages of the site plan and wanted to bring up specific concerns, all of which were summarized in his latest letter to the Board. He referred to photos at the back of his summary that showed vehicle queues during the weekday afternoon peak period.

Woodland showed [a partial view] of the existing condition page, exhibits from the Jones & Beach site plan submittal materials which, more so than their turning templates, explain his primary concerns of access and circulation on the site which still remain. There were fixed obstacles at the small kiosk that sells limited convenience items. There were some vending machines on the outside for beverages and limited gum and cigarettes primarily. Transactions for the sale of gas were managed [from the kiosk]. Maintained in that siteplan was the original canopy and some fixed pumps to allow diesel vehicles to pull wide into the site and service vehicles including WB-65 and 67 vehicles - 53 foot trailer with a day or sleeper cab. They understood that those types of vehicles had access to the site to gain access to the diesel fuel vehicles. He pointed out, under the existing site plan, the rear property and loading area. Woodland said these were the only fixed points of interference to allow very large vehicles to access the site and maneuver around the site. So it was important to look at the "before" snapshot and note that the existing driveway was approximately 34 feet wide which also provided a better commercial access to service some of these vehicles. There were very limited constraints on site to block circulation, and very wide driveway openings that would accommodate commercial vehicles coming and going from the site.



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Woodland said, in contrast, the new siteplan not only introduces additional circulation elements that constrain movements on the site, they've narrowed a driveway and added additional obstacles. In looking at the fixed objects and circulation restraints imposed by this plan one can see that there are significant constraints to maneuverability to vehicles on the site i.e. the narrower driveways and the constrictions around the building. Large fixed objects had been introduced that significantly changed the before and after access for vehicles attempting to access the rear of the parcel. He referenced the above mentioned vehicle queues taken at approximately 3 to 4PM on a Wednesday that show the vehicle queue extending past the site driveway. This would be an issue because vehicles attempting to make a left into the site would be constrained by that potential vehicle queue spilling back into the street from the signalized intersection. It doesn't take many vehicles waiting for a gap if they were stuck at a traffic light and cannot move forward and there aren't mitigation measures implemented to allow the left turn into the site. It would not take many cars waiting to spill back into the street.

Woodland said their concern was that the new signal could introduce queues that, if not managed properly or mitigated, would result in potential cars waiting to turn left spilling back into the intersection. Similarly that same vehicle queue could prevent vehicles exiting efficiently onto the road system. Internally a car or a car and a half of queuing could block the circulation element around the building. One car queue would be partially blocking a lane, and the introduction of another car could physically block the circulation leading to the rear of the site and the abutter's property. The idea of repeatedly asking for a detailed traffic impact study that analyzed the current projections and all of the development that recently occurred since the mall development, plus the additional outparcels currently under construction, plus the redevelopment of the [gas station] site and the potential re-occupancy of the rear lot needed to be evaluated as part of the internal circulation discussion. They had asked for this study two years ago and again in his two letters. The issue was that it did not take much for the system to start backing into the street or backing into their site.

Woodland said to date the only analysis provided was based on old studies for the mall property. His understanding was that the square-footage of the mall had changed, outparcels had been added, even the main tenant had changed from what was going to be a Target to a super Walmart. Volumes over that time period and projections would have radically changed based on what was out on the street today, without the consideration of additional mall outparcels under construction. The queues were already spilling back past the site. Eventually the capacity at this location would be splitting time between the mall as it grows and the need for servicing of the side street which impacts the queue and, importantly to the NHDOT, the main through traffic affecting the left hand turns into the site and potentially spilling back in the southbound direction.

Woodland wanted to be clear about why they were asking for that study, and what should have been done. They never analyzed the operations of the truck driveways and vehicle queues that could potentially spill back cutting off aspects of circulation. That study should not be based on eight year old counts and five year old data. Now the sites were up and running and there were new developments; the actual volumes for the site and pass-by vehicles, and driveway use should be used in the study for the future volumes with redevelopment of the gas station site and re-occupancy of the rear parcel. At several times they requested, doing a detailed traffic study to get up to speed with all of the current volumes and development occurring in this area. They were told that the NHDOT did not ask for that, but the Planning Board had the right to ask for that. He also submitted that based on the volumes originally submitted to the NHDOT the [redeveloped] site was going to generate less traffic than before, even though they were expanding the convenience store. Woodland said that was laughable and it might not require a traffic study to know that. It might not scrutinize what trip generation rates were used for an



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expanded convenience store, and the number of pumps were reduced showing a reduction in vehicle trips.

Woodland said in subsequent submissions the Applicant openly realized that they didn't understand what was happening i.e. that they had the number of fueling positions incorrect, and changing their projections they did not show an increase in traffic. The traffic study they were requesting would give how many vehicles were approaching the site from the north and the south, and turning into the site. The only way the northbound traffic could get into the site is a left turn and then a left turn into the site. They want to know how many vehicles were making a turns out of the site, what those vehicles do once they get to the main intersection, and how they impact the vehicle queues and internal circulation. Woodland claimed that had never been looked at; he'd been asking for that information for some time. the answer had always been that the NHDOT review showed a negative reduction. Woodland said with more convenience items traffic would be more intense. Because of that they believe the trip generation estimates were understated.

Woodland did not want to speak to the last letter from the Board's consultant, but the same issues were brought to the Board's attention concerning the actual figures and what was brought to the NHDOT and the comparison between the figures for the old and new site. . He showed the old convenience site photo, saying that if this was shown to the NHDOT they might change their opinion. It would not result in less traffic, even by the Applicant's own projections it would generate more. A more appropriate trip generation would be recognizing the change in use. Vehicles could come to their site heading northbound and southbound. They should go back to the NHDOT now that they had an understanding of this project, and concerns of an adjacent parcel that would be contributing volume to driveways and what would be the appropriate trip generation given the traffic increases expected for the 2 parcels to evaluate the operations at the intersections. Woodland said the descriptions of the ITE code were pretty clear. [That analysis] had never been done and that was the primary issue.

Tilsley added that Uchida said the Board should consider the Applicant's willingness to construct a parking area on his client's lot, saying that was a matter of private land rights and nothing that the Court remanded. The issue was whether the site met the site plan regulations; legally the site was too crowded.

Hawkins asked Saladino to address the two different ITE Codes that were used in re traffic volume and why one was correct and the other was not. Saladino said which of the two codes to use depended on whether the primary use was a gas station with a convenience store, or a convenience store with gas pumps. He agreed with the NHDOT assertion that this was primarily for gas pumps determined by the ratio of pumps to square footage. Today one can see 3,000 up to 9,000 square foot convenience stores where the trips were driven by the store that happened to have some gas pumps. Given the number of pumps in the size of this footprint his inclination was to go with the [[945]] which was what the NHDOT and the Applicant used. Hawkins asked what would be the case for the reverse using 853, and if it would be a big convenience store. Saladino said it would be the number of pumps. Hawkins asked if this meant it was the relationship of the size of the store to the number of pumps. Saladino said that would be RSG's judgment.

Hawkins asked if Saladino had any other recommendations for the Board to consider. Saladino had issued two memoranda since the last meeting. His August 27 letter confirmed that the changes had been satisfactorily addressed, and there was no problem with a revised lane geometry going south on Lafayette road to show that the fuel trucks entered from the correct



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lane. His September 15 letter addressed Woodland's point about whether delivery truck could successfully leave the site under the current as well as the proposed conditions, which gets to the heart of the Court's question as to whether there was any difference in circulation or access. Saladino reviewed new diagrams and confirmed that the large delivery trucks could not access the site today, nor would they in the future. Secondly, given the use and the predominance of pass by trips, Saladino had no reason to doubt the NHDOT decision in re not doing a formal traffic study which usually sets 100 trips as the threshold. He suggested that the Board request a writing from District 6 to confirm that for the record.

Chase referenced the northbound entrance into New Zealand Road, and asked if there would be a no "U" turn sign. He enters that direction a lot and could see the potential for many accidents when people decide they want to make a "U" turn. He asked Saladino if the Board should suggest a "NO U TURN sign. Saladino asked if the concern was that the radius was too tight. Chase said his concern was that people in the turning lane would suddenly decide to make a U turn to go back to I-95. Hawkins noted there was a light for a left turn at New Zealand Road, so why would a sign be needed. Chase said they might turn into the gas station too. Saladino did not see the issue as this was not a heavy truck turning area and there was a signalized light.

Hawkins commented that the DDR project had been approved for 450,000 square feet of retail space. Although some of the stores had changed, only 400,000 square feet was built plus about another 15,000 square feet for the outparcels. DDR had made an agreement with the town and the Planning Board that they would not build more than 415,000 square feet. This meant that although their mitigation was to handle 450,000 square feet they had committed not to build more than about 420,000 square feet. So the numbers in re traffic for the Route 107 and New Zealand Road intersections would be reduced from the primary design. Given the addition of the gas station with the pumps, he asked if Saladino saw that as a utilization issue on Route 1 at New Zealand Road. Saladino did not think so, as many of the trips (60%) would be pass by and already proceeding south. The capacity was sufficient for the remaining 40 percent new trips; that analysis had been done.

Hawkins asked Saladino about the abutter's comments about the queuing, noting that the light timing still had to be aligned. He asked whether a development of this size would affect the queuing. Based on the analysis of the Applicant's consultant where the assumptions included the DDR as well as the Waterstone developments and their own project it showed 60 to 90 foot queuing which would get back roughly to the driveway entrance; it didn't show the queuing being an issue. Janvrin recalled that around Memorial Day he had a conversation with someone from the NHDOT light division because of concerns about the coordination of the New Zealand road light in light of the increased traffic due to the Walmart opening and queues backing up into the intersection. He was advised to speak to DDR's traffic consultant which he did. Originally they were not doing anything about the signal coordination until the mall build out had full occupancy. Janvrin understood that after the Dick's opened, they did an interim traffic count and adjusted the timing. It had not been adjusted to account for the additional trips for the other new stores, and asked Saladino how that would contribute to the traffic from the other new stores. Saladino said there would be longer wait times at the side street, and probably be longer backups on Route 1; it was not timed appropriately. Janvrin understood the next optimization would be in the spring of 2015, unless they were requested to do it sooner. Hawkins asked for further questions for Saladino; there being none.

Hawkins summarized the issues as follows, before discussing whether to approve the project. The Court asked that the board consider the impact of not striping those parking spaces. Everyone agrees they should and will be striped and this would be on the plan. The other Court



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issue was whether the Board considered the onsite traffic circulation and kits impact on the use of the back site. The Court did not think the Board did a good job on that. The driveway on New Zealand Road would stay at about 30 feet wide based on a waiver previously granted and ease access onto the site. The tank filling station was moved to address circulation. While the Vanesse traffic analysis was not complete, they did look at the analysis for the DDR site and added in what they thought the project would be adding to the site and asked the NHDOT if that was appropriate. They considered the trips off and on and around the site. One [parking space was removed to allow better movement and truck delivery at the back of the convenience store.

Hawkins said the Court did not think the use of the back property was addressed, but at the time there was not case to consider. Currently there is a case before the Board and they have said how it would be split between a retail store and a restaurant. The Board determined that for the use applied for, the 9 spaces would be adequate. So the use of that back site and the amount of traffic it would bring in and out had been considered. The abutter did not think that the traffic information was adequate, the queuing numbers were not known and a more intense traffic study should have been required. The abutter seemed to think that the increase in the building size and the addition of another lane of pumps had reduced the circulation and access to the back site. The Board would have to decide what to do about the logic of the conflicting testimony. He asked Morgan how much development would be allowed on a site, and did an easement allow an abutter unfettered access to a site. Did a bigger gas station and another set of pumps really reduce the access to the back lot, and had the Board done a better job of assessing that.

Morgan did not think that consideration was missed; it would boil down to the specifics. He thought the various lawyers would comment on that. Hawkins asked if there was anything else that Morgan would have the Board consider. Morgan said the Board had considered a lot. He was persuaded by Woodland's argument that ITE 853 was more appropriate based on the products that likely would be for sale. Now there was a convenience kiosk; there would be many more products for sale in the convenience store, so ITE 853 was more persuasive. Hawkins asked how the Board determines what would be right if the abutter feels the circulation was inadequate. Two traffic consultants said it was adequate and one said it was not.

Chase asked if it was adequate for what was allowed currently, as he thought they can no longer bring in the big tractor trailers and something was being taken away. Hawkins noted that Saladino had said those trailers could not access the site now. Saladino said according to an auto-turn analysis those tractors could not get into the site currently from New Zealand Road. .

Hawkins noted there were many applications for which the Board had limited the size of vehicles, and asked if that would be a problem for this site. Morgan said the Board had heard very capable experts; the Board had experience with the Route 1 corridor and would have to use its best judgment. If circulation was not adequate it would cause congestion and safety issues. Hawkins asked Morgan if the codes were switched, other than for an exaction calculation, would the additional 45 trips be significant enough to impact the offsite. He thought probably not. He asked about the onsite. Morgan said that would be relative to deciding whether there would be congestion. He thought there would be more convenience store patrons than they had been led to believe by the Applicant. Hawkins asked if Saladino thought that would be a significant impact. Saladino commented that if people see congestion they will drive to the next gas station. Personally, he would go to larger convenience stores for a greater variety of products. He thought this project was more of a pared down offering. For this project it was more of an added attraction when getting gas. Morgan thought there would be a huge potential for customers to



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shop at the DDR Mall and stop at this convenience store on the way home. He was not persuaded by the argument that there would be a better convenience store down the road.

Hawkins asked for other questions. Frazee said to think about what this would be like in 5 years when everything is built out; also the rare chance of a nuclear emergency. Chase asked if signs could identify the parking spots for the rear lot. Hawkins said that would be a civil issue, not for the Board. Janvrin asked about the no parking signs at the building, noting it was to have been marked as a fire lane. The Fire and Police department would not enforce a no parking area on private property unless it is a handicap spot used by a non-handicapped person, or if someone was violating a fire lane. The signs should be changed. Morrill said it did make sense if the Board wanted it changed. Hawkins asked for other comments; there being none. He proposed a number of conditions that were used in the first case, as well as whatever additional conditions the Board felt appropriate. Hawkins said that the vote would be whether the testimony was adequate for an approval, or that the intensity is too great and the application should not be approved.

<b>MOTION:</b>	<b>Hawkins</b>	<p><b>to approve Case #2012-18 – Latium Management Corporation, Tropic Star Development, LLC, and Scott Mitchell to demolish the Getty North station and replace it with a 1,200 square foot “retail” building and two gasoline dispensing islands at 663 Lafayette Road, Tax Map 7, Lot 87, conditioned on the Applicant:</b></p> <ul style="list-style-type: none"> <li><b>(i) providing security of \$22,900;</b></li> <li><b>(ii) submitting the final revised planset meeting the requirements of the Town Planner;</b></li> <li><b>(iii) submitting all NHDOT driveway permit(s) and NHDES permit(s) on file in the Planning Board office prior to the Chair signing the final planset;</b></li> <li><b>(iv) 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;</b></li> <li><b>(v) 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;</b></li> <li><b>(vi) notating the conditions of approval on the cover sheet of the final planset;</b></li> <li><b>(vii) a maximum of 4 parking spaces as depicted on the final planset;</b></li> <li><b>(viii) the striping of the easement parking spaces on the [[north]] side of the property shall remain in place subject to the resolution of an easement issue with the abutter;</b></li> <li><b>(ix) payment of all outstanding invoices ;prior to the chair signing the planset;</b></li> <li><b>(x) the Developer to have a qualified environmental consultant on-site during the excavation activities to screen soils for the presence of petroleum</b></li> </ul>
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		<p>hydrocarbons; soils exhibiting elevated petroleum contamination are to be stockpiled, characterized, and appropriately disposed of offsite per the communication from the NH Department of Environmental Services;</p> <p>(xi) providing a letter to the Planning Board with appropriate evidence demonstrating that all conditions of approval have been met before the 180 day expiration date – said expiration date is March 16, 2015;</p> <p>(xii) signs depicted on the plan as R8-3A at the perimeter of the building be changed to [[R8-31]] and sized at 18 x 24 inches and notated on sheet D-1;</p> <p>(xiii) using WB-62 fuel delivery trucks (48 foot tanker and truck);</p> <p>(xiv) provide a letter from the NH Department of Transportation reaffirming their decision to use ITE Code 945 in their analysis of the traffic in which case the exaction would be \$0; should the NHDOT use Code 853, the exaction would be \$42,000;</p> <p>(xv) getting a letter from the DPW Manager confirming that the new piping and catch basin depicted on the planset is satisfactory;</p>
<b>SECOND:</b>	Chase	<p>Approved: In favor: Hawkins, Khan, Chase;          Opposed: Frazee, Janvrin;</p>

Hawkins recessed the meeting at 8:25PM and resumed at 8:40.

**ONGOING CASES**

**Case #2013-15 – Proposal by Arleigh Greene, GRA Real Estate Holdings, LLC and Waterstone Retail Development, Inc. to demolish existing buildings on Tax Map 8, Lots 54-2, 54-4, 54-5, 54-7, 54-8 and 90, and to construct a 168,642 square foot shopping complex with associated parking and access drives, continued from July 2, 2013, July 16, 2013, September 3, 2013; September 17, 2013; October 1, 2013, November 5, 2013; November 19, 2013, December 3, 2013, December 17, 2013; January 7, 2014; continued from March 4, 2014; April 1, 2014; April 15, 2014, May 20, 2014, July 15, 2014. August 5, 2014; August 19, 2014; topics -- site security, letter from NHDOT, Route 1 work schedule; letters from DDR and NextEra;**

**At the request of the Applicant, Hawkins continued Case #2013-15 to October 7, 2014 at 6:30PM in Seabrook Town Hall.**



**Case #2013-19 – Proposal by US Foods to renovate the Poland Springs warehouse at 100 Ledge Road (Tax Map 6, Lot 1), to construct a loading dock on the building's east side, and to construct a truck maintenance & fueling facility for the maintenance, washing & fueling of the company's truck fleet;** continued from August 19, 2014;

Attending: Alex Raines, Vice President Corporate Real Estate, Mike Marsh, acting Vice President of US Foods, Peabody; Art Roman, Design and Construction Manager, Anna Fernandez, Director of Environmental Services;

Appearing for the Applicant: Tim Gibblns, architect, VP Design, Dan Frigge, Director of Civil Engineering, David Bye, project manager, ESI;

Attending: Michael Bergeron, NH Department of Resource and Economic Development

Hawkins said the Technical Review Committee recommendations would be reviewed at this meeting, Friberg would be asked for his report, the stormwater drainage, as well as the Applicant's waiver requests addressed; signage, landscaping and conditional approval would be reviewed. The Applicant was also requesting to begin work during the 30 day appeal period. He asked that the TRC findings be discussed first.

Gibbons said they had met with the TRC on August [[25]]. One concern was how the ammonia dilution tank and back-up systems would be contained. Subsequently, he met with the Water Superintendent and Friberg at the site and discussed the containment plan. Drawings were provided. Chase asked if the Water Superintendent agreed with the plan. Gibbons said he did. Hawkins said this process was dependent more than usually on the consultant civil engineer's peer review, and asked Friberg for his comments re the TRC as well as his September 4 and September 16 letters to the Board. Friberg said they had addressed all of the TRC recommendations and comments. Waivers for the lighting specification and landscaping requirements were requested, and they want to submit the sign package after the merger is settled. Based on the conditions TEC saw no reason to deny these requests. He and the Water Superintendent met on site to review the containment for the ammonia tank and generator conditions; the details were attached to his September 4 letter and were satisfactory. The concerns about the Aquifer Protection District were discussed and adequately addressed.

As some of the details remain to be inserted in the final planset, Friberg recommended the insertion of those items be a condition of approval. Friberg said the existing parking and required future parking had been depicted and meet the ITE parking rates; ADA accessibility requirements are met. The stormwater operations and maintenance plan is listed on the plansheets; spill containment plans were provided. A wheel closure capacity in the event of a spill will be in place so the drain could be manually closed in the event of an emergency; there would be signage posted on how to do this. Hawkins asked what if it was not closed. Friberg said this was a third redundancy in the event that oil spills outside of the canopy and was not picked up by the separators in the catch basin or by the vortex unit. Friberg thought that pipe would never be closed, but in the event of a significant oil spill that overrides some of the protections, the wheel would close the pipe. Hawkins asked what if the spill was not observed e.g. in off hours, and if Friberg meant that his was a third and final redundancy to keep a spill within the system and likely the first two would contain the problem. Friberg said this was a final measure but even downstream the stormwater goes into a sediment fore bay and detention area where there are vegetative means to absorb oil. Hawkins said that would be an opportunity for clean up as well. So it was not getting offsite; it may get into a pond. Friberg agreed.



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Friberg said they clarified the details for washout area. The floor drains would tie into a tight tank and sanitary line to the sewer. They confirmed the alarms system and that the size of the piping was adequate. They confirmed the containment areas and that the water and sewer crossings had good separation with no risk of contamination of the water pipe from sewer pipes. Valves have been changed to open left at the gate valves for the hydrants, and pipe specifications changed to the municipal standard. Morgan asked if there was anything that the Applicant had not done. Friberg said nothing, except that there were details recommended in his September 4 letter had not yet been incorporated, and should be provided on the last set of revised plans that have the conditions of approval. Hawkins commented that was covered in Friberg's September 16 letter. Chase asked if the gates going to the detention pond would be shown on the plan. Gibbons said they would.

Janvrin asked if Friberg had received certain details. Friberg said the site specific details were on the plans. Janvrin asked about the maintenance schedule. Friberg recommended monthly facility sweeps for opening and closing valves. Khan asked if there had been discussion with the Water Superintendent about how many gallons of water the facility would use. Friberg said that had been discussed during the TRV meeting. Gibbons said those figures had been given to the Water Superintendent who did not seem bothered. Khan explained that there was a possibility that the Planning Board might recommend to the Selectmen certain water limitations or an impact fee which would affect this location. Janvrin asked if the fixtures could use less water. Gibbons said the building would be Leed certified which would have water saving measures like the bathroom fixtures, and irrigation. The refrigeration system saves about 30-40 percent of the water. The truck washing saves about 85 percent of that water. Janvrin asked if the flat roof would have greenery.

Khan asked that the number of gallons of water be provided to the Board. Janvrin asked that the impervious surface and any percentage changes be notated on the planset, which would help with the MS-4 requirements. Gibbons said they would, noting that some impervious surface would become grass. Janvrin said with that information, a town-wide survey could be done. Hawkins asked Friberg if there were any other outstanding items other than in his letters. Hawkins asked for Morgan's comments. Morgan wanted to hear about the waiver requests. Gibbons said all of the existing light poles would remain and the candles would not change. As that had been previously passed, they were asking for a lighting grid waiver. The landscape architect was following all of the requirements, except for a small amount. They were asking for a signage waiver until after the acquisition. Morgan wanted specifics on the landscaping stamp waiver request. Gibbons said the landscaping architect was not licensed in New Hampshire but was complying with the regulations. Lowry asked if there would be lighting changes around the fueling facility. Chase asked if they would use LED lights. Gibbons said not at this time. Hawkins said the 3 waiver requests were in the packet.

Khan asked if anything had changed since their last meeting with the Board. Gibbons said only the specifics as to how they would handle the containment around the generator. Chase asked if they would be changing the sign. Gibbons said they were asking for a deferral until they knew that the Sysco acquisition went through. Janvrin asked what was now on the site. Gibbons said the Poland Springs sign was covered. Raine said they had consented to the Poland Springs request to remove their sign. Khan liked the guard post.

<b>MOTION:</b>	<b>Janvrin</b>	<b>to approve the Case #2013-19 request to waive the site lighting regulation.</b>
<b>SECOND:</b>	<b>Chase</b>	<b>Approved: Unanimous</b>



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Khan asked if the Board would need to see the signage when they are ready.

<b>MOTION:</b>	Janvrin	<b>to approve the Case #2013-19 request to defer the signage requirement and waive jurisdiction to the Code Enforcement Officer in compliance with the Town Code.</b>
<b>SECOND:</b>	Hawkins	<b>Approved: Unanimous</b>

Hawkins noted that the Board was not asking for the Applicant to follow the regulation designed for the Route 1 corridor. Janvrin agreed, saying the only thing they had to comply with was green space and open space requirements, and that they had actually done plantings. Morgan agreed. Hawkins said there should be no misunderstanding; the Board was not asking for the type of landscaping required for retail development along Route 1.

<b>MOTION:</b>	Janvrin	<b>to grant a waiver for the Case 2013-19 landscape architect's stamp provided there is written evidence that the landscaping is in compliance.</b>
<b>SECOND:</b>	Lowry	<b>Approved: Unanimous</b>

Hawkins asked for other comments; there being none. He asked if the Board was ready for a vote and to hear his proposed conditions. By consensus, it was. Hawkins emphasized that getting the conditions of approval letter to the Board quickly would move the process along. Raine asked if a City Bank or Bank of America could be substituted for a New Hampshire chartered bank. Kravitz said as long as there is a domicile in New Hampshire. Hawkins said the town did not want to be chasing banks out of state. Hawkins commented that there would be a preconstruction meeting, but that was a scheduling item, not a condition of approval. He asked for any other conditions/there being none.

<b>MOTION:</b>	Chase	<b>to approve Case #2013-19 – US Foods to renovate the Poland Springs warehouse at 100 Ledge Road (Tax Map 6, Lot 1), to construct a loading dock on the building's east side, and to construct a truck maintenance &amp; fueling facility for the maintenance, washing &amp; fueling of the company's truck fleet conditioned on:</b> <b>(i) final plans shall adhere to: (a) Technical Review Committee Recommendations dated November 8, 2014 and August 26, 2014; and (b) Planning Board peer review consulting engineer recommendations outlined in the TEC letters dated September 4, 2014 and September 16, 2014;</b> <b>(ii) <u>Compliance with departmental recommendations:</u> Seabrook Water Department and Department of Public Works recommendations issued via memoranda dated November 7, 2013, and subsequent Sewer Department recommendations. The applicant shall comply with the recommendations enumerated therein, to the satisfaction of the respective department heads;</b> <b>(iii) <u>Financial Security:</u> In order to ensure the timely and proper completion of utilities, landscaping,</b>
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	<p>drainage, lighting, and other infrastructure improvements, US Foods shall provide cash or an irrevocable letter of credit issued by a New Hampshire bank in the amount of \$310,000. The above referenced letters of credit and other financial guarantees shall be subject to approval, as to form and content by the Planning Board's legal counsel and the Town of Seabrook Treasurer.</p> <p>(iv) <u>Engineering Oversight</u>: The Planning Board peer review consulting engineer will monitor for compliance the installation of on-site utilities and other infrastructure improvements. Improvements to the interior of the warehouse are exempt from this requirement. US Foods shall reimburse the Town for the cost of this site plan monitoring;</p> <p>(v) <u>Reimbursement</u>: US Foods shall fully reimburse the Town for expenses incurred from the review of the Case #2013-19 US Foods Application including all of the Planning Board's professional and technical review expenses.</p> <p>(vi) <u>Diesel Fuel Only</u>: The fuel tanks are to be used only for diesel fuel. If change is ever required US Foods or its successors will return to the Planning Board for approval.</p> <p>(vii) all Zoning Board of Adjustment findings related to the subject property to be listed on the site plan;</p> <p>(viii) the Stormwater Operations and Maintenance Manual to be listed on the site plan;</p> <p>(ix) the conditions of approval to be listed on the site plan;</p> <p>(x) all waiver requests granted by the Planning Board have been received in writing, with reasons, and listed on the site plan;</p> <p>(xi) all outstanding bills to date are paid prior to the Planning Board Chair signing the site plan;</p> <p>(xii) Applicant sends a letter to the Planning Board including appropriate evidence that all conditions of approval have been met. Letter is due 10 business days before the Planning Board Chair signs the site plan;</p> <p>(xiii) all final plans must meet the requirements of the Town Planner and Planning Board peer review consulting engineer;</p> <p>(xiv) application will expire in 180 days if conditions of approval are not met (March 16, 2015);</p> <p>(xv) signage will comply with Town of Seabrook sign ordinance;</p> <p>(xvi) spill prevention plan will be on file in the Planning Board Office before the Certificate of Occupancy is issued and will be reviewed and approved by the Planning Board consulting peer review engineer; and</p>
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		<b>(xvii) emergency shutoff valve shall be opened and shut at least once per month.</b>
<b>SECOND:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Khan said that the Planning Board is a voluntary Board and hoped that US Foods would that thinks about jobs for Seabrook residents during the construction period. Hawkins said one reason for moving quickly on this application was looking to US foods to hire Seabrook people. Raine said that [[John Glynn]] President of US Foods, Peabody, would be looking to hire employees from Seabrook.

Hawkins called attention to the ESI September 5 request to allow construction on 13 items to move forward earlier than usual. Hawkins was not enthusiastic because the town got burned when making such accommodations. However, there had been discussions about how the process could be advanced more quickly. He wanted to review the request point by point to see which the Board would be comfortable with.

He would sign [the plans] before the expiration of the 30 day appeal period, but, if challenged, everything stops. However, the Town Planner and the Planning Board peer review engineer consultant need to review the revised plans, with a cover page, and ok the Chair signing it in advance of the pre construction meeting. Hawkins asked for Morgan's view. Morgan said if the security had been satisfactorily posted, it would be ok to begin even if the plan had not been signed. Janvrin agreed that the security had to be posted before work could commence. Time needed to be allowed for Morgan, Friberg and the Water Superintendent to review the final plan and it's ok to sign. There is no preconstruction meeting until the plans are signed; the only plans to be on the site are those that had been approved. Morgan would not feel comfortable moving forward with construction until the Security had been delivered and accepted. Hawkins commented that if the final plan was not in the field, what would the departments be working on He could not see a reason not to do demolition or fencing. He had a reservation about doing earth work or underground utilities on the new facility before the plan was signed. Minor sitework around the existing building was ok, but not at the new facility. His concern would be construction going ahead without plans approved by the peer review engineer.

Janvrin agreed that the security had to be in, and offered his view of the priorities for the requests. Chase asked when the revised plans could be submitted. Gibbons said within a week. Chase asked about US Foods deadline. Janvrin noted that one condition was that the Water Superintendent, as well as the Town Planner and the peer review engineer review the final plans That would take some time. Certain of the requests could then proceed at the Applicant's own risk if the security was in. Hawkins asked what if the plans did not come in for a month. Janvrin said the utilities could not be done. He did not want there to be changes from the final signed plan in on the site. Also there needed to be a signed plan for department inspections. Zalewski thought they could go ahead with the foundation and use sleeves for the utilities. Gibbons said they would be working with Unitil for new transformers and a generator that had been ordered

Chase asked when they needed to be done. Raine said they must move out of the Peabody facility and into Seabrook by May 1, 2015, which means construction had to be completed by April 1, 2014 to give 30 days to prepare to turn over the Peabody building. Hawkins understood they needed the existing building by then, but asked whether the fueling and maintenance facility was in a critical path. Raine said for operational efficiency they must move all of the operation, including the fueling and maintenance to Seabrook at the same time. Khan said the burden was on the Applicant to bring in the plans as soon as possible.



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Baxter was concerned about being consistent for all applicants and setting a precedent for the next applicant. The Board needed to be more efficient, but to treat all the applicants the same way. He thought they could go ahead with some things to provide some flexibility, but not to change the timing on foundations and the like. Hawkins thought the Board needed to be more efficient, but had to protect the town from adverse conditions. Fencing was not an issue, but having site work begin before a signed plan, and the work was done wrong, would be a problem. He did not anticipate that, but it had happened. He thought there were some things that would have no impact on the town, commenting that individual properties differed from subdivisions where neighbors could protest. He thought there could be some flexibility but not give up the protections to the town. Baxter agreed, but said some things had to first be on the plan. Janvrin thought the Applicant could proceed at their own risk on certain items if the security was in.

Hawkins asked Gibbons for his view. He said the footings, foundation and utilities were paramount. In Wisconsin they give the state a hold harmless and they have to build to code and do no harm. They have to build by the code, and may have to modify what they did. Hawkins said that the Board allowed some things to begin and all of a sudden there were changed unapproved plans in the field. Gibbons said there were some assurances because the architect and engineer's name was on the plan. He did not see how the town would be harmed by allowing them to do the footings and foundation. Chase asked if that would be completed within 30 days. He wanted to allow construction to move forward within limitations. Hawkins asked if the plans revised on September 4 were sufficient to begin. Gibbons said they were.

Lowry asked how soon they could begin. Gibbons said in about a week to mobilize. Lowry asked if they could have the revised plans in the Planning Board Office and the security in place within a week. Khan asked if there were an early start, could the responsibility be given to the engineering consultant. Hawkins said that was a conditional of approval and the company would be responsible for payment. Friberg did not want work to begin without security in hand. It would take him a few days to review the revised plans; he would hook up with the Water Superintendent. Gibbons said they had already submitted architectural construction plans. Lowry asked if Friberg could be comfortable with a week; Friberg said he could. Hawkins said the preconstruction meeting would be after the plans are signed. Frigge asked if they could go ahead if the security was in place. Hawkins thought that foundation permits could be issued, and a preconstruction meeting after the plans were signed. Frigge asked if that would hold up the underground work for which there was the security. Hawkins did not think the security would be enough to dig up and redo it. Frigge thought that if something needed to be changed it would be minor. Janvrin said that the department heads want a signed plan for inspections before the excavation is covered. Friberg thought it would have to be at least two weeks. Zalewski would not go forward without the revised plans and the security in place. Baxter was concerned about using plans that had not been reviewed.

<b>MOTION:</b>	<b>Hawkins</b>	<p><b>to approve the Applicant's site work on the requested work items listed below to begin prior to the end of the 30-day appeal period provided that:</b></p> <p><b>(i) the security amount of \$310,000 (and required documentation) is in place, and</b></p> <p><b>(ii) the revised plans have been delivered to the Planning Board Office on or before September 23, 2014. If (i) and (ii) are not met then all construction would cease.</b></p>
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		<p><b>Requested Work Items before signed plans:</b>  <b>(a) site demolition:</b> saw cutting and removal of existing paving and site improvements per the approved site plan;  <b>(b) fencing:</b> new fencing and gates including minor clearing and grubbing associated with fence installation;  <b>(c) site/earthwork:</b> earthwork and grading associated with the new truck maintenance facility, fueling island and underground utilities;  <b>(d) footings and foundations:</b> new footings and foundations for the new truck maintenance facility;  <b>(e) minor site improvements:</b> new equipment pads and structures;  <b>(f) minor site electrical:</b> repair and service existing site lighting;  <b>(g) site monument signage:</b> install temporary site monument sign.  <u>No inspections will be done until the final site plans have been approved and issued to department heads.</u></p>
<b>SECOND:</b>	Janvrin	Approved: Unanimous

**Case #2013-26 – Proposal by 11 New Zealand Road, LLC and Charles Mabardy to establish a convenience store and restaurant at 11 New Zealand Road, Tax Map 7, Lot 87, continued from** January 7, 2014, continued from January 7, 2014, March 4, 2014, April 1, 2014, April 15, 2014, May 20, 2014, June 3, 2014; June 17, 2014; July 15, 2014, August 5, 2014 continued from August 19, 2013.

**At the request of the Applicant Hawkins continued Case #2013-24 to October 7, 2014 at 6:30PM in Seabrook Town Hall.**

**Case 2014-13 – Proposal by M & K Complex and Timothy Johnson for a condominium conversion at 920 Lafayette Road, Tax Map 7, Lots 91-201 thru 91-205, continued from** May 20, 2014; July 15, 2014; August 19, 2013; September 16, 2014;

**Hawkins continued Case #2013-24 to October 7, 2014 at 6:30PM in Seabrook Town Hall.**

**Case #2014-16- Proposal by Istar LLC, Soraghan Realty Trust, Provident Holdings, and DDR Seabrook LLC for a lot line adjustment at 652 Lafayette Road, Tax Map 8, Lots 49, 50, 51-1, and 55-30; continued from** June 17, 2014, August 5, 2014 continued from August 19, 2013.

**Case #2014-17 – Proposal by Istar Seabrook LLC to construct a 5,640 square foot retail facility at 652 Lafayette Road, Tax Map 8, Lot 49; continued from** June 17, 2014, August 5, 2014 continued from August 19, 2013.



Town of Seabrook  
Planning Board Minutes  
Tuesday, September 16, 2014  
NOT OFFICIAL UNTIL APPROVED

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

Morrill recalled that they had previously addressed the TRC comments and the Town Planner's letter, and were looking for Morgan's comments. They were asking for a waiver from the Zone 6M roof line standards. He thought the Board liked having the flat roof in sync with the surrounding Mall buildings, and whether there were any additional comments to address. Morrill said the letter from RSG re the traffic. The Phase 1 exaction fee was approximately \$91,000 when the Phase 2 building was added in, the overall project came to \$68,000, which seemed strange and want clarification because it seemed they had overpaid by \$24,000.

Hawkins asked Friberg to speak to his review letter. Friberg said that almost all of the TRC comments had been addressed to TEC satisfaction, and the flat roof was acceptable. The notes on Sheet C4 needed to be renumbered. The underground infiltration system was critical for the drainage for this project, but also for the surrounding parcels. TEC recommends 1.7 feet of high ground separation; TEC recommends 2 feet – i.e. lifting the system by 4 inches which would require minor revisions to the drainage. This should be addressed prior to approving the final plan. After an approval the shop drawings from the manufacturer should be reviewed for providing adequate separation. Finally, the recommended site security amount is \$270,000 to assure that the town would be protected in the event of a collapse. The worst case scenario would be filling in the existing detention system or having the underground system built improperly. His review of the plans was complete. He did not think the remaining items were significant enough to hold up an approval.

Khan asked where this type of system had been installed. Friberg did a lot of land development work and said these systems were commonplace. Real estate was so valuable that room for parking on site was needed, and there often was not room for the large open space detention. The brand selected is the standard system. Khan asked how hard it would be to fix a system problem. Friberg said it would be difficult to fix because it would be underground, but there have protections. The Stormtek people come on site to inspect the sub-grade materials and the installation because they do not want to be known for systems failing or improperly constructed. They inspect the volume controls to assure that it drains properly. Khan asked if there were a failure would it affect other parcels e.g. DDR. Friberg said that DDR and all of Provident Way would be the most significantly affected. Also the systems come with a number of failsafe measures. The main reason these systems fail is they get clogged with sediment or were not constructed properly. There were a number of construction ports for inspections. The failure rate was very low.

Khan asked if it had to be maintained every year. Friberg said that would be on the O & M plan, and they had to provide the town with an as-built plan because it would be listed in the town's MS-4 report. Also Stormtek may make minor changes in the configuration during the installation, although the design will be the same. This would be more accurately reflected on the as-built plan. Morrill said this system was used on the fireworks store; it's used all the time. The system would have catch basins; all the flow is isolated by row. The system is built to take over the entire pond area. The maintenance outline was submitted to it could be recorded also. Scott Mitchell said they had made a couple of architectural changes; they did not like the solid brick wall and want to add windows. The Aspen Dental building looks great, but he would have added false windows. Chase asked if advertising would be put into the windows. Mitchell said he did not know what Seabrook would allow the tenant to do. Morrill said the windows would conform to any sign regulations in the town. Janvrin read the roof ordinance as to mansard, gabled roves style and said the only waiver they would need was that flat roofs were permitted only for



installation of greenery, and asked if thought had been given to that. Morrill said the walls matched the surrounding buildings; the flow off the white roofs is clean.

Hawkins ratioed the Phase 1 trips to Phase 2 using numbers from the RSG traffic engineer's report and came to a different figure which seemed logical to him as an accountant. His exaction recommendation came to 175 trips; less 50 allowed trips for the whole site. The donation equivalent would be \$189,000. The case could proceed ahead or take another meeting to review the difference between these figures and what RSG came up with. Morrill said if the exaction was another \$100,000 they would not ask for approval at this meeting. The Board's traffic engineer saw a reduction. Hawkins said that did not make sense. He reviewed the exaction calculation used for Phase 1 which used figures from the Applicant's report. He wanted to see how the methodology had changed.

Hawkins continued Cases #2014-16 and #2014-17 to October 7, 2014 at 6:30PM in Seabrook Town Hall.

**OTHER BUSINESS**

Morgan called attention to the approval vote for Case # 2014 -23 Ganz stating that his review after the approval vote showed that the roof sign was grandfathered.

<b>MOTION:</b>	<b>Chase</b>	<b>to remove the condition relating to the Case #2014-23 Austin, Ganz roof sign because the sign was grandfathered.</b>
<b>SECOND:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Hawkins adjourned the meeting at 10:14 PM

Respectfully Submitted

Barbara Kravitz, Secretary  
 Seabrook Planning Board