



Town of Seabrook Planning Board Minutes

Tuesday, April 3, 2012
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Members Present: Donald Hawkins, Chair; Jason Janvrin, Dennis Sweeney; Aboul Khan, Ex-Officio; Roger Frazee, Albert (Max) Abramson; Michael Lowry, Alternate: Francis Chase, Alternate; Paula Wood, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Paul Garand, Code Enforcement Officer;

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

Hawkins opened the meeting at 6:35 PM.

Because of the very heavy Agenda, Hawkins wanted to begin with the Informal Conversation, then do the cases, and end with the administrative items. He asked if members had a problem with this. By consensus, this was agreed.

Hawkins noted that six members were present. When a member was absent, he would rotate among the Alternates. Wood was appointed the voting Alternate for this meeting.

INFORMAL CONVERSATION

Demoulas, Seabrook Plaza (north) – Summary of Off-Site Access Alternatives and Various Development Scenarios

In Attendance: Jim Lamp, J & Co, Kevin Dandrade, Principal and senior traffic engineer, TEC; Attorney Ari Pollack, Gallagher, Callahan & Gartrell; Steven Ireland, Assistant District Engineer, New Hampshire Department of Transportation. District 6;

Lamp first thanked the Board and staff for working with them on the south plaza, noting that the work is well underway. The weather is warm and they are trying to get ahead of the season.

Lamp said they are working on the Northgate for about four years, noting that last year's application was withdrawn. Nothing has changed since the original submittal for demolishing the site and going to about 135,000 square feet, a net increase of about 25,000 square feet on the site. They have wetlands permits and Department of Environmental Services site specific stormwater management approvals, which will probably lapse within about two years. In the interim, they have been working with the NH Department of Transportation because one of the stumbling blocks has been not understanding what the off-site mitigation would be for the redevelopment of the Seabrook Plaza. They've tried to come up with a solution to (i) do a mitigation at their front door, and (ii) to fill in the gap between this project and the DDR project to the south on Route 1. During this time, they have spent about \$500,000 on design work. At this point they feel on life support and are trying to clarify what the town requirements would be. They fully understand that this is a discussion; they are not trying to nail the Board down to ultimate decisions. They want to give the Board an update on the discussions with the Department and see if the Board agrees that they are heading in the right direction. He said that Dandrade and Ireland could help explain the progress they have made.

Dandrade said that TEC is the traffic engineer of record, and they had worked on the Demoulas south project. They had consulted with Ireland, and felt it was important for the Board to understand the recent progress in identifying some reasonable solutions for the Route 1 Corridor north of Rocks Road. Subsequent to the original traffic study that was submitted in December 2010, they heard about dealing with the consistency and the long-range vision that the Rockingham Planning Commission had for the corridor. Dandrade said that the town had long



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desired a widened section to provide for traffic flow from north to south. They had to take into consideration what would be necessary to support the redevelopment of Seabrook Plaza. In the original study they had an increase of 25,000 square feet, but they were also asked not to assume any occupancy of the Ames space.

Dandrade said TEC was asked to look at a series of sensitivity studies assuming that the project would be all new square-footage, including the Ames space. They were asked to look at both a four lane and five lane cross-section of Route 1 i.e. a combination of one or two through lanes, north and south. They looked for consistency in connecting the Town's plans for connecting with the North Access Road to the power station. He noted that the Board had been provided with the original traffic study, as well as the January 10, 2012 memorandum provided to the Department and the town, as well as other follow-up documentation. He referred to recent correspondence from the Department's Chief of Preliminary Design who had reviewed the TEC March 19, 2012 response to the comments package and found that they accurately reflect conversations between NHDOT personnel and the Demoulas Design Team; NHDOT was looking forward to reviewing the construction plans for US 1; for certain detail comments, the balance of the responses seemed reasonable.

Dandrade said they had been working with Ireland and the Department's review personnel at the district and in concord to look at trying to resolve some of the items related to Route 1. The four-lane cross-section had the potential of tying in what DDR was doing in front of the gas station, coming across Rocks Road, across the North Access Road where there is an existing signal, and blending in at what would become the new front door [for the plaza]. Some things were eliminated since the original submittal, at the Department's request. They were asked to remove the original right-in/out at the relocation for the gas station, because two lanes would become one in that area; the modification is a right-out only. They also looked at potential easements along the corridor they held the west side of the road, because they can't get closer to the gas station canopy, telephone poles, or the pylon signs because of electrical code requirements. He pointed out where they had widened to the east, noting that the Board had secured easements for certain parcels. With a four-lane cross-section, they could take advantage of some of that space, but there are some private entities that they would have to approach for easements and/or temporary easements, unless the town wanted a sidewalk introduced. Dandrade said that a five-lane cross-section would have significant impact on some sites, even on the Dollar Tree existing easement which would not be enough.

Dandrade said at this point they are in discussions with the Department and the town beginning last fall, they wanted to identify and separate out the consistency with the long term vision for the corridor, vs what could be assumed as reasonable mitigation for the project. They would like to pursue the four-lane cross section because they believe it is attainable. There is a lot of work still to do in approaching the abutters for certain rights-of-way to build those improvements. He said that the Department had confirmed that the four-lane cross-section reasonably mitigates the traffic from the development and is a substantial improvement for Route 1 northbound. Coming off the Route 107 ramps, or going north from that southern intersection with Route 1, there would be two through lanes all throughout the corridor up to the project site, and then taper back to one lane. In the southerly direction, they have one through-lane with separate turn lanes all the way down to where it opens up closer to Route 107.

Dandrade said they would like feedback from the Board just to make sure they are on the right track, and hoped the Board would endorse their pursuit of the four-lane cross-section and the impacts associated with it. He noted there are some items that they cannot pursue because of impacts at the Dollar Store and others. He asked if Ireland would describe the project review



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process at the Department, and acknowledge some of the aspects, particularly in re the connection to the North Access Road about which the Board was very interested. At that location there are significant impacts that would be difficult to overcome, because of impacts to adjacent property in excess of \$250,000. Dandrade said they were looking at a cost of about \$2,000,000 to tie into DDR's work and head up towards the northerly end of their site.

Hawkins asked for Ireland's comments in terms of how many lanes they are recommending. He knew that 5 lanes was expensive, and that land-taking could be involved. Hawkins noted that the Route 1 Corridor study called for 5 lanes all the way through Seabrook did not necessarily like that configuration.

Ireland was attending at the request of the Planning Board as well as the Developer (Demoulas), to try to answer questions from the Department's point of view. He described the Route 1 Corridor Study as the ultimate planning guide. It does a lot in terms of cross-connections, but it is not a definitive engineering design for a physical build. They have to look at traffic impacts caused by a particular development, in this case Route 1. With those traffic impacts, the Department believes that a 4-lane section reasonable mitigates what the developer would create. Ireland said a 5-lane section would be wonderful, but it does not necessarily match the proposed traffic lines. There is already traffic congestion. The Department's standard is that a new development should basically do no harm re the existing traffic delays. He thought the 4-lane section would do that. It is acceptable to the Department, although there is a lot more design work to do for the details. There is some right-off-way that needs easements; this can cause problems for projects like this. It is his intent to go with the developer to the abutters to talk about the improvements and benefits in front of their business, as well as the negatives if this cannot be negotiated as a reasonable, acceptable cost.

Ireland pointed out a potential cross-connection for which the Developer had agreed to provide an easement for a future accommodation. This was part of the Corridor Study and the Department had accepted this from other developments on Route 1 e.g. the fireworks store on Route 1, but the abutter was not willing. The Department accepted the easement so that the cross-connect could be implemented in a redevelopment. They would try to do something like that with the Developer, but he did not see the power plant redeveloping in the near-term; if that changed, the details might be worked out. Janvrin said that the Developer currently had 5 driveway cuts that would go down to 3. Ireland said under the Department's policy, they could not have more than 3. Janvrin asked about the line-of-sight. Ireland said that should not be an issue, as they would far exceed 400 feet. The line-of-sight at the signal differed as they would have a right in/out at one driveway and a right out at another. Line-of-sight is a moot point at a in/out, but there should be more than 400 feet for both.

Janvrin asked about an issue referenced in an Ireland memo re the Dearborn light not being coordinated with other signals. Ireland confirmed that that had been identified. Dandrade said they had looked at that because of the traffic from the North Access Road, noting that when a signal is coordinated, it forces a delay on the side street. To maintain a green band on Route 1, that side street had to be forced to enter in a particular timeframe. Because of the low volume and that Tasty Subs is a small site with little traffic volume, they thought it best to make the signal uncoordinated. They did follow-up analysis with the Department's traffic bureau and that is easily attainable. Janvrin said every Route 1 developer had put in the signal boxes and hardware, but had not done the coordination. Ireland said this had come up recently with the project on Route 1 connecting the gap section from Route 107 to Railroad Avenue which now has one lane. That project is part of the memorandum among the Town, the State, and DDR.



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It is in the design stage, and will need to go through right-of way and other steps. He noted that the two lanes drop off, and had talked with the design team and traffic bureaus; they agree that the coordination should be done during the roadway construction or as a CMAC project immediately after. That is the intent although it is not specifically written in because the full design is not done.

Wood commented that the North Access Road now is quite different because it is no longer just for the power plant. It soon will be the entrance to the town's Transfer Station so there will be quite a bit more traffic soon. Coordinating the two lights needs to be looked into. The traffic will not be sporadic. Wood was all for widening the road and making it safer, but the widening drops off at the blinds and fence companies. Even without the addition of another can, Hampton Falls is backed up to that spot every day. She asked where the vehicles coming from Route 1 passed the power plant go. Dandrade said they would stay within the lanes. They've made sure that the capacity of their front door, Dearborn, and the North Access Road had been improved to match the new trips. Going further north, i.e. past the town line, is outside of the scope of their study. Wood was concerned about the short area in Seabrook, but there are a lot of businesses and homes. If it is blocked up now, how does widening the road help that block-up; wouldn't that add more cars to that situation. Dandrade said that the Developer had an active plaza already, so the counts taken two years ago give a wonderful reflection of who goes south and north. There is already traffic going to the north. The challenge is that the back-up [that Wood described] comes from an inadequate northern signal [in Hampton Falls]. It is a different capacity issue in another town that comes into Seabrook, but that the Developer cannot solve. It is another piece of the RPC Route 1 Corridor Study that needs to be addressed.

Wood noted that there had been quite a bit of development since the traffic study had been done two years ago, not only in Seabrook but into Hampton Falls. She asked if those cars had not been considered, because they were not there two years ago. Dandrade said that their traffic study preparation had considered all the projects that the Town or the Department asked them to do. Wood said the building was not there two years ago, and now generates a lot of traffic. Ireland asked if Wood was referring to the gaming, Wood confirmed this. Ireland said that facility, as it came in after the Developer's area was already scoped, would have had to consider everything else in the area. Even though it [the building] was built first and was a smaller site with less issues, their traffic study would have had to accommodate Market Basket's. Wood asked if that had been taken into consideration. Ireland said he had not reviewed the North Hampton gambling facility in terms of what their traffic study said, so he couldn't comment on that. The [Department's] process is that the first one in the door had to study what is there. The gaming facility came in afterwards, so they would have had to have taken into account any improvements that were already planned and scoped by Market Basket.

Wood asked if the gaming traffic had been included in the TEC study. Ireland said it did not, but that the Market Basket traffic in the TEC traffic study would have had to be included in the gaming traffic study. Market Basket isn't asked to look at the casino which came after the Market Basket scoping. Wood understood this, but said that is a lot of traffic if it's not being considered. Ireland agreed, but said it would be skewed off from the Market Basket retail peak hours. Keith Sanborn asked how much traffic off the light would be added to Dearborn Avenue. Dandrade said it would be whomever goes there today, as it is an active facility that they are looking to refurbish; it's only an expansion of 25,000 square feet. Sanborn thought traffic would go around to the side roads where kids play.

Lamp wanted to focus specifically on the "gap" and said they would have to return to the Board with a full submission, including a traffic report with a lot of additional information. In this informal



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session they wanted to discuss some of the things that were previously in contention. They also want to talk about sidewalks because the Board and Department were in attendance; they need a little bit of direction on that. The Developer is looking at this as a 25,000 square-foot expansion to an existing center even though there is vacant space now. That is \$80 per square-foot of offsite mitigation for that square-footage increase, not counting the onsite work. They are trying to get feedback to figure out whether it is a viable project, and go ahead with the Department to talk with abutters about temporary and possible easements needed even for the 4-lane gap section between their site and the DDR site. If they can get that right-of-way and the Board chooses to approve the project, then they have the ability to go forward provided the Board's consultant agree that they have mitigated their offsite impact. Lamp said there is the chance that they are not able to get all the easements from abutters. In that event, if everyone decided it would be a good thing to move forward, they'd like to talk to the Town about setting up a fund to improve that gap in the future, Right now there isn't any way to do that.

Hawkins said that the Board acknowledges that there will be more development and redevelopment ongoing along Route 1. The Board is working with its consultant to try to identify the future scope of the work that would have to be done in this area and what are the trigger points. Hawkins stated that the Developer had made a contribution toward that work as part of the Demoulas south project. The thrust is to envision what are the future projects that will have to be done and what are the trigger points when they have to be done. The Board wants to look at the whole area and identify all of the projects that would have to be done. The intention would be to get a future contribution from the developers, as it is the developers, not the taxpayers, who should be footing the bill along that roadway. The Town wouldn't do anything if people didn't continue to expand. The objective is to try and identify the needed projects and put up a reasonable and understandable formula, so that without a thick catalog a developer could quickly calculate a ballpark figure. The monies could be used anywhere along the Corridor, depending on the timing. Everyone had to acknowledge that there is a neck-down south to Route 107 that would have to be addressed at some point. If the Developer proposes expansion, and there is space that had been empty for more than a year, there will be an increase in traffic. If the empty space were 35,000 square feet, and the expansion is 25,000 square feet, that would mean an increase of 55,000 square feet.

Hawkins said the Board did not yet have the formula or the dollar amounts; the Developer gave a figure of \$2,500,000. The Board thinks that mitigation along this corridor is the responsibility of the people who are developing the area. A couple of large developers had kicked in some monies; and smaller projects kicked in smaller amounts. He noted that the State would not be jumping in with a lot of money, but they would do a project a lot faster if there are available funds. Hawkins said the strategy had been laid out years ago to try and have an exaction fee, and the Board will ask for a contribution; it would have to figure out what that figure would be. Additionally, they would have to figure out where the problem areas are; there is one just south of the project. He thought the intersection of Routes 1 and 107 would be another problem in the future, and they did not know what should be done about that. The resolution would not be free' these issues would have to be dealt with

Lamp said they assumed, perhaps wrongly, that if they could go to 4 lanes in this gap there would not be an [additional] exaction fee for works out of their site i.e. that would be their mitigation or exaction fee. [Alternatively], if the formula is not in place, they would work with the town to try to create that formula and they would pay whatever justifiable percentage belonged to them. However, they envisioned that the work between their site and the DDR site would be in lieu of the exaction fee. Hawkins said if they did it all, and asked if they meant to take the 4 lanes all the way down to DDR. Lamp said they are trying to propose to go all the way to DDR which



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they think they can afford. Lamp said they can't commit to that [now], but that's where they're coming from and want to see if they are heading in the right direction. He thought that if the Board said it would be this work plus an exaction fee, it would be dead in the water. Hawkins said, although he would not speak for the Board, the Developer is responsible for everything in front of his property, and then there is mitigation offsite that ought to be done. They did not have to pay for the whole thing, but had to make a contribution. If that contribution is used to develop that 4 lanes down to DDR that is one thing.

Hawkins asked Ireland to look into the future with the DDR site and another big site next to it, and asked if they are kidding themselves with four lanes. Ireland thought 4 lanes was appropriate mitigation for the traffic lines that the Developer is generating. That is all that the Department can do at any time; that is the standard they adopt for any development. He did not know what four lanes would do in ten years with other development. He thought the Board was on the right track. The small incremental development is the worst problem, i.e. the small pieces that add just a few trips at a time. It is easy to figure out adding 100 vehicles, and really hard to figure out only 2. Ireland added that TEC was instructed by the Department to recognize that only a small percentage of Rocks Road traffic would find taking a right onto Route 1 easier. Janvrin commented that 86 percent was directed toward the light. Ireland said there might be a person once in a while that would try to take a left instead of going out to the light. Wood explained that would happen because the [Transfer Station] road would only be open during the Transfer Station hours, so there would be people that have to take a left onto Route 1. Ireland thought the roadway would be open continuously, 24 hours, and they assumed that the Town would be granting that access. Wood said the Town did but it wasn't reciprocated [by the power station].

Hawkins asked for Morgan's comments. Morgan referenced Ireland's explanation of how the Department approaches its policy, and thought that when a big developer comes along they widen the road for that impact. He suggested that the Planning Board had a different mission that is to try to visualize what it would like Route 1 to look at to accommodate the traffic it foresees coming. At the same time, it would not want Route 1 to get too wide and out of control. He suggested the Board might want to take a hard look at Route 1 in a work session and use that as the guide, rather than respond to one project at a time when they come in the door. The advantages would be not to keep having to rebuild Route 1, and getting what is best for the community. Wood suggested describing Smithtown Village and how this concept could extend to the north. Hawkins said one item that the Master Plan Steering Committee addressed, was what should both ends of the Corridor look like. Not much could be done in the middle. Did it want 5 lanes all the way to Hampton Falls where it goes down to two lanes again. Where should the neck-down be at either end. He agreed that had to be discussed, but they had to agree whether they wanted 5 lanes for the whole distance; it might make moving around easy but it would not be nice to be on. Alternatively, will they just be sitting there with 4 lanes, and not moving at all. The Planning Board had work to do, and did not have all the answers. That is why the consultant is being hired to say what would happen if a parcel develops, what would the total traffic volume be, and what infrastructure would be needed to handle that volume. One proposal would provide the trigger.

Abramson wanted to confirm that what several constituents have repeatedly said that more than the narrowing down of traffic itself, the problem was sitting at the stop light intersections. The worst are the two stoplights bunched together in Hampton Falls. He explained that in Holland rather than continuing to widen the roads making them less safe for pedestrians, they replaced Intersections with Dutch type or other roundabouts. That way they did not have to keep widening the roads, and ended up saving a lot of money with that approach. They are much



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easier to drive through than a conventional round-about. Abramson wanted to look at a chain of Dutch round-abouts as an alternative to going to up to 6 lanes. If roads are widened and widened, it will look like roads in Salem or other towns with varied number of lanes that lose the character of the town, not to mention safety.

Khan noted that there are new Board members and thought it would be beneficial for the Developer to describe the project. He thought that north of Dearborn Avenue at the cemetery it apparently goes from 4 to 3 lanes, and asked if it would be 3 lanes up to the traffic light. Dandrade said because of the configuration, the right-of-way would be pulled to the east. Khan asked if the gas station would be moved. Dandrade pointed out where the gas station would be moving to the northerly end of the site and reconfigured; a right-in would be gone. A small outparcel building would be constructed, and the existing store space redeveloped; another right-in would also be eliminated. Janvrin asked about the full service driveways. Lamp said there would be only one signalized, one right-in/out, and one right-out only. Khan thought it would be the same thing as it is south of Route 107 i.e. from May to September all the traffic will just stand still, as Ireland knows well. In reality, it will be the same in front of the Development. Another consideration is that the toll is \$2 today, but he thought it would go to \$2.50 or \$3 before long. The problem is whenever the toll increases, that traffic exits to Route 1. He liked the Developer's plan, but wanted to see it go to the town line which is not far from their property.

Lamp said that would be a non-starter; the development cannot carry that cost. They are leading the site out for 10 years. Khan said they like to hear what pleases them, and thought that they did not want to hear what others say. He thought they were not giving [others] a chance. Hawkins said this session was to review some concepts. The Developer was there to listen to some of the things that might be bothering the Board, and want them to think about. If they get to be too expensive and are not required, that would be dealt with when the project is submitted to the Board. Right now, the topic to get an idea of what they would be proposing. The Board did not see Ireland that often, and want to express that there are other things down the road to be worried about that will impact the Corridor. Hawkins said there is no sense in planning for what is just around the corner for one area or one section of the road, when in 5 years it would have to be done again. Lamp said his challenge was to separate the town's desires vs mitigating the project's impact and leaving the years forward better than they would otherwise be. That is what they are required to do through the Department.

Hawkins said they were not addressing their mitigation requirements. Rather they were addressing to Ireland that there are things happening in the town that have to be dealt with. They were not going to all fall in the Developer's lap i.e. not on one project. The town had to think out into the future, because there is no sense doing them twice. He firmly believed that in looking at the intersection of Routes 1 and 107, and at the number of Ds already existing plus what was being proposed, it is not very far from F. He thought it was the Board's responsibility to think like that. They could not dump everything on one project or another, but they do have to consider it. Lamp wanted the Board to consider that they are putting \$2,000,000 to 2,000,500 as what this project can bear. They want to address the Town's and the Department's comments with that sum. They are willing to talk about this, but would not make an application if it expands beyond that amount; it will go away. Hawkins said they might just be at the meeting to hear what the Board had to say with an opportunity to address the Department. He did not think anyone was saying that their project had to carry it all, or that their project was even being discussed at that point.

Pollack said they would certainly respect that the Board would not ask this project to solve all of the world's problems, also recognize that this is a conceptual visit. They are there to get as



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much information, as well as provide it. One of the challenges for them is to work with what the town would ask them to do if they filed an application vs what they have been discussing with the State. It is a somewhat unique opportunity to have both “ends” of that process together in the room with them as the proponent of the project. He thought that to date it had been the State’s view that as much as could be built should be built; as much as they can bear should be put on line or preserved or obtained by way of easement for future roll-out. He thought the town was saying if the problems are bigger and everyone needs to contribute to a larger solution, the town is in some process to study how people are going to make fair share contributions to that end. Pollack asked how they, as the applicant, could try to square these two positions. What can the state and the town, being in the same room, provide them with some guidance. Are they really just wading in with all of the expense of an application and hope that there is some middle ground that can be reached. Or, are these perspectives really different.

Hawkins noted that the Developer was not asking for a commitment, and said they have done offsite mitigation. Whether it is actually done through an exaction and they ask the state to handle it, or they say that the Developer is already out there working so go ahead and finish it up. It is virtually the same thing. He thought the Developer had made an effort in that direction to solve one of the existing problems. If the state says that a 4-lane solution does in fact solve it, then the Board would have to go further and ask for 5 lanes, which he did not think was wanted in the project area. He thought 5 lanes would be creating a highway in an area that the Board wanted to calm down, so he was not sure that was the direction to go. But, they do have to think about it. If they were able to identify all the projects that might have to be done and ask for a contribution, they would have to acknowledge the offsite work that the Developer would be doing offsite already. Without giving an answer, Hawkins was satisfied they had made an effort to go in the right direction.

Pollack said that was very helpful. He thought that if the state’s preference is to have build-out, the challenge would be to have some amount of build-out that fits into a more global solution. Nobody wants to be left with just tearing it up again as a solution in some short time down the road. If they are going to put something on line and in the ground, make it part of what would be coming for the next project when the town’s fund reaches some tipping point and the project can actually roll out. He wanted to know if Ireland could add to that from the state’s perspective as to the town’s desire to have a growing concern for a global solution vs the state’s desire to have as much done now as possible.

Ireland said the Department always wanted the developer to build anything that they can reasonably build, primarily because everyone sees the cost of projects increase. A dollar handed to the state today will not be a dollar tomorrow. If they build a dollar in traffic mitigation, it is still there. With that in mind, the Department wants them to build a 4-lane section. It is his intent, and they have been instructed, that when they go to deal with abutters he will be there for part of that negotiation process. He wants the abutters to understand both sides, and that he is somewhat independently determining that this is what they are required to do. If they cannot come to something reasonable, e.g. they would not pay megabucks for one parking space, nor would they pay just two cents. There is something in between, and the Department has some of those figures in ballparks and will do that when going to negotiate with abutters. He did not want anyone to feel that they did not have choice – they do. The Department would not step in with eminent domain. If the Developer can’t negotiate right-of-way reasonably, and he agrees that they have reasonable tried to do that, at that point they will look towards other ways to secure funding sources for the future. But those other ways never end up dollar for dollar. Ireland said he wanted them to build and thought that would be in everyone’s best interests. Also, they will have to coordinate with the DDR plans. He has had DDR and their consultant go back and



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revisit the end of their project. He needs to put the DDR and Market Basket consultants in the same room to make sure the two ends match. Nothing would be worse than a 5-lane section from DDR change to a 3-lane section for 250 feet and back to a 4-lane section. They have to match and butt into each other, and they need to talk about schedules. He thought DDR construction would be ahead by about a year. So they need to be sure that it translates into what the Developer will do so that they are not leaving any little additional pieces; they do not want to rework anything if they can help it.

Chase believed that Ireland had the rest of things in his mind when thinking about this project. Hopefully something will happen in Hampton Falls that would eliminate the traffic [backup]; also there is a project in Hampton. He hoped all of this would come together. Chase referenced a presentation at the RPC on roundabouts, but did not see how that could fit into this project. Ireland said there are good places for round-about, and there are places where they don't make much sense. That would have to be analyzed. It can work well when the traffic lanes are similar on all sides. It would have to be some kind of hybrid as in Dover where there are two lanes on Route 4 and one lane from the side streets. This can function very well under certain types of volumes. Each individual situation and location would have to be looked at. He was not confident for a round-about going into signals. Abramson asked if Ireland knew about Dutch roundabouts. Ireland said he'd heard of them and would take a look at this. He thought they might have similarities with conventional roundabouts, but were not the same. Janvrin brought up the question of sidewalks, commenting that the Wal-mart maintains a sidewalk on its own property, and not on the state right-of-way. Lamp said the question would be where they might not have the frontage or it is not on their site, and noted what they did at Demoulas south plaza. Hawkins thought that would what the town would have to do.

Hawkins thanked the Demoulas representatives for their discussion, and asked them to please consider the town's landscaping and parking ordinance when they submit their project. The Board would like them to come pretty close to it. Hawkins asked if Ireland were remain at the meeting. Ireland said he had three assignments and stay until they were heard. Kravitz said that Ireland had also agreed to attend the Master Plan Steering Committee meeting on April 12, 2012 At 9AM in Town Hall.

PUBLIC HEARINGS

Hawkins opened the Public Hearing at 7:30PM.

NEW CASES

CASE #2012-05E - Proposal by Glenn Cooper, 112 Lafayette Road Ilc, and Loanmax, Ilc to establish a consumer finance office at 112 Lafayette road, tax map 10, lot 8.

Appearing for the Applicant: Bo Bonin, general contractor for Loanmax;

Bonin said that the Applicant proposed to change the use at 112 Lafayette Road from an auto dealer to a small finance company. The location had been empty for a long time. The Loanmax had occupied the [yellow building] toward the back of the Wal-mart. They did not do a lot of volume and would employ two people. There would be no structural changes to the building; there would be some small renovation to the inside of the dealer showroom. Hawkins asked for Morgan's comments. Morgan said to ask what color they would paint the building. Bonin understood the town was not happy with the former location painted yellow. Loanmax was now painting their buildings white with red trim and a yellow stripe. Hawkins asked for Garand's comments. Garand asked how wide the yellow stripe would be. Bonin said about 12 inches.



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Garand asked how that would fit in with the Smithtown Village district zoning. Bonin said if it did not fit in, they would do whatever the town wanted, and commented that the business development head had wanted to paint the building red during the winter. Garand wanted the board's direction for signage, the appearance, elevations etc at this site. Hawkins asked about the present sign. Bonin said it was a pole sign. Typically the company had been reusing the existing pole signs. If they decided on a change, they would come forward for the permits. They have also been putting a two-foot Loanmax signage on the building that is white, red and yellow. Garand noted that Smithtown Village zoning is restricted to small signs and might also have some specifics as to colors. They would need direction from the Board on this. The pylon sign would be grandfathered as long as only the face was changed, and not the location.

Hawkins asked for questions from the Board. Janvrin said a 1995 site plan showed 50 spaces, which he assumed was for the car dealership. Garand said that currently they would fall into the office category so there would be ample parking. Janvrin asked about a crushed stone area. Garand said the front parking lot had all been paved; he thought the site went all the way to the railroad ties. Janvrin asked if the request was for 10 parking spaces, and if they would restripe this. Bonin said they would. Janvrin asked if it would be seal coated. Bonin said it would, as they do for all their properties. Garand asked if there would be additional lighting. Bonin said there might be a reduction in lighting. Janvrin asked about the hours for lighting. Garand said there was no activity on the site, so previous lighting had been terminated and shut off for more than a year. Janvrin wanted to see the lighting reduced in some way after business hours. Garand said that the Board could say no lighting for sales in the parking lot, as that is not contemplated, and allow only safety lighting.

Wood said if there was more lighting than necessary, why would the Board want to change it; wouldn't the Board want as much lighting as possible. Garand said they would not want lighting spilling over onto the residential area; the existing lighting was actually more than would have been allowed. Janvrin asked if there was light trespass, noting there was a pole with a big lamplight; Garand said there was. Fixtures were not shielded etc, and are not compliant with today's regulations. Bonin said there were three telephone poles; the one near the sign had a light fixture. There was another pole on the other side. The poles were shown on the diagram. If the town wanted to reduce the lighting, he hoped that alternate lights might be allowed to light the building.

Wood asked how the landscaping would fall into this situation. Hawkins said that this is a change of use to existing property; they are not adding to the building. He thought lighting was the Board's responsibility so there is not a used car lot atmosphere at night. The Smithtown Village signage, and the colors, had to be dealt with – they did not want another yellow and red building. He thought asking them to redo the entire area to meet the current standards when nothing else on the property was changing, had not been the intent of the ordinance. The intent was that when developers come in, the result not be massive parking lots.

Less than one acre would be difficult to enforce. He asked Morgan if there was an acreage limit in the landscaping standard. Morgan did not recall that, commenting that the smaller the parcel, the more difficult to comply. Hawkins commented that it is a difficult standard if there is not a lot of land. Wood said they are going from 50 to 10 parking spots, which means that it is a very large paved area. Hawkins thought the board could discuss this, but did not think the intent was that they would have to dig up the parking area because not all of it would be used. Wood was looking for some compromise.

Garand noted this is an expedited application where they are not changing the building or the exterior. Changing parking and drainage would require a full application review. The Board was



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looking at lighting, signage, colors etc so it fits in with the Smithtown Village. Abramson asked if the total parcel was one acre or larger. Garand emphasized that this is an expedited application so drainage would not be looked at; the parcel was smaller than an acre. Abramson liked off-white, green, dark brown, and beige for colors in that area generally. Bonin said that Loanmax was opening stores in a lot of places where their color scheme was a white building, and noted that came about because an Alderman in another town did not like the yellow color. The company toned it down with a white façade, red trim, and a yellow border, to keep their Loanmax colors nationwide. Garand asked for photos. Bonin said would provide them. Janvrin asked if the roof was grey. Garand said it was a dark color. Janvrin noted that the parking stalls were 10 x 20 feet, and thought 4-inch stripes would be required for the handicap spaces, and wanted the Applicant to come close to the regulation standards. Bonin said a professional company would seal the area and stripe the parking spaces.

Janvrin said this was guidance for what the town wants. He asked how the lighting trespass should be dealt with. Hawkins agreed there should be safe access lighting. Janvrin said lighting was depicted at the rear and front doors. Garand asked if the fixtures should be limited to what is on the site, noting that the lighting there is more than what was allowed. Morgan said the Applicant had not submitted useful documents addressing the lighting. He suggested the Board could delegate this to Garand, or ask the Applicant to return to the Board, because it would be hard to make a decision without something to look at. Janvrin did not favor a photometric grid, but did want the CFO to be able to tell the Board that the lighting would be compliant with the current regulations. Garand would visit the site after hours to view the lighting and the location i.e. on the building and the poles. Janvrin asked if Garand could work with the Applicant and let the Board know what the lighting solution was. Hawkins asked for other questions; there being none.

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| MOTION: | Wood | to accept Case #2012-05E as substantially complete for jurisdiction and deliberation. |
| SECOND: | Sweeney | Approved: In favor: Hawkins, Sweeney, Wood, Frazee, Abramson; Opposed: Janvrin; Present: Khan |

Janvrin's objection was because there were no lighting details.

Hawkins said the Board could issue a conditional approval and have the Applicant return when they have something to show the Board, noting this had been done in the past. Alternatively, the Board could issue an approval with conditions, and have the CFO work with the Applicant to handle signage, colors, lighting, and parking. Garand said that colors should be determined by the Board. He could take care of the lighting with the Board saying that off hours the lighting would be diminished. They need to explain how they will load their rubbish. The Smithtown Village signage could be followed. Janvrin added, unless there is no change. Garand asked if the Board would allow the wall signage. Bonin said if it did not, they would not post it. Wood thought that Garand was comfortable handling all of the items except for the colors. Hawkins said the issue with colors was that the ordinance did not yet, and might not ever, address this. However, the Applicant was willing to work on this with the Board to make it look good and to fit into what is envisioned fore wanted the Applicant to work with Garand, keeping in mind the likely standards for Smithtown Village. The Board wanted something that fits into a colonial type feel, more modest than the red and yellow stripes.



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Wood thought the Board needed to provide some guidelines. It did not want the red and yellow, but did not have anything to back that up. Garand suggested the Board ask for a photograph that he could bring to the Board showing the white color and see if the trim would be acceptable. Wood thought it ok if Garand were comfortable with the color. Garand wanted the Board to decide on the color. Wood suggested the Applicant return to the Board with photographs. Bonin would do that, noting that they are currently painting stores. The big think was to get the zoning change so they can get the project started. It's not a lot of work, but they would work with the town to make sure they get the Occupancy Certificate and the business license. Wood noted that the Smithtown Village ordinance was just passed in March 2012, so the steps are new for everyone. Chase did not know how the Board would come up with the colors, but it did not matter what Loanmax was doing through the country. They want to be in this specific area, and need to conform to the town requirements. He thought they could just bring back something on the color; the progress should not be held up. Garand suggested the use be approved on the condition they return to the Board on the color, or wall signs.

Abramson said some smaller towns that can't afford to pay for the form based codes and all the architectural standards, have Planning Board members pick up a broad array of paint samples and number them so applicants can select something they like. Sue Foote said there are many different shades of red and yellow. Saying no red or yellow, leaves out a lot of options. She recommended Abramson's approach, but said the applicant should be asked to bring in paint swatches. She thought a country barn red would be beautiful, or a golden yellow trim. The town did not want to see that bright fire engine red or yellow, but it did not mean that red and yellow are no good – they could be toned down. Wood asked where the trash would go if there was not a dumpster. Hawkins said they would have to arrange for disposal off site. Bonin said they would either use the smallest dumpster, or plastic curbside containers. Janvrin said this is usually on wheels and can be brought inside. Bonin said that in some towns, including Salem, they use the plastic barrels supplied by the towns for curbside pick-up. They would probably use the same firm if it services Seabrook.

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| MOTION: | Hawkins | <p>to conditionally approve Case #2012-05E Glenn Cooper, 112 Lafayette Road llc, and Loanmax, llc to establish a consumer finance office at 112 Lafayette road, tax map 10, lot 8, with the following stipulations:</p> <p style="padding-left: 40px;">(i) the Applicant to return to the Planning Board to review their proposed signage, colors for the building, lighting and hours of operation prior to final approval; and</p> <p style="padding-left: 40px;">(ii) the Applicant to work with the Code Enforcement Officer on size and width of the parking spaces, and determining whether a dumpster is needed and, if so, the location.</p> |
| SECOND: | Abramson | <p>Approved: In favor: Hawkins, Janvrin, Sweeney, Wood, Frazee, Abramson;</p> <p style="text-align: center;">Present: Khan</p> |

Hawkins said the Applicant would be required to return to the Board for final approval of the items listed, but can move forward on the project. Hawkins **continued Case #2012-05E to April 17, 2012 at 6:30PM in Seabrook Town Hall**. In the meantime it would be a good idea for the Applicant to work with Garand on these items.



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CASE #2012-06E – Proposal by Mark Casper, Tim Johnson, and M & K Complex to establish a marketplace and flea market at 920 Lafayette Road, tax map 7, lot 91-204.

Attending: Mark Casper;

Wood recused herself from this case. Hawkins appointed Lowry to serve as the voting alternate for case #2012-06;

Casper said his family wanted to open a flea market at Unit 4, 920 Lafayette Road. There would be no exterior changes. Two new handicap accessible bathrooms will be the only changes to the interior. They will mulch the area as well as use pebbles to make the area look nice. They anticipate about 25 unique vendors inside, with hours from 8AM to 6 PM on Saturday and Sunday. They anticipate approximately 400 visitors and about 133 cars with 3 people in them per day – approximately 13-15 cars per hour. Casper said there were approximately 290 community parking spaces shared among 5 established businesses, of which 2 are restaurants and taverns that open at 4 PM. There will be 2 handicap parking spaces in front. There will be no heavy equipment or burners of any kind inside the building. One family member will be on the premises at all times. They intend to have photo IDs of all of the vendors and provide them to the local police so there is a record of who is selling inside. They will offer complementary space to the town for non-profits, churches, schools, police and fire departments if they want to have a raffle or sell off some stuff.

Hawkins asked for Morgan's comments. Morgan said there had been conflicts on this site about parking, and asked Casper to speak to how many parking spaces his store would generate. Casper figured that the 25 vendors could [park in the spaces along the back, and about 13 – 15 cars per hour. He thought there would not be an issue. Additionally the Tavern and the Bar do not open until 4 PM on the weekends so there would be plenty of space available during the afternoon. Morgan asked if this meant a maximum of 15 cars in the front and 25 in the rear. Casper agreed, on average. Morgan asked what would be the worst case; Casper said about 40 cars out front and 25 in back. He could not say exactly what the traffic flow would be; it could change hour-by-hour. His traffic estimates came from the owner of the flea market in Lawrence. It is a more heavily populated area; he thought the Seabrook numbers would be lower.

Morgan asked if Casper was familiar with the situation some years ago the building was a condominium where the parking was divided up. Casper said that Johnson told him that he owns all of the property on the Unit #4 side, and that the lot is community spaces. Morgan asked what would prevent Casper's customers from parking on the other side in spaces that Johnson did not own. Casper could not say, and asked what would prevent those customers from parking in front of his unit if this is community parking. He thought the flea market would benefit some of those businesses because it brings more traffic into the area. Morgan wanted to avoid a possible future conflict. Casper said in the event that parking becomes an issue he would find an offsite lot for the vendors to park. That would eliminate the 25 – 35 vendor cars on property available for rent. Janvrin said that would not be acceptable under the town regulations. Morgan said that people in the north building might see his parking as a benefit, and asked what he would do if his customers started parking there. Casper said if it becomes an issue that is brought to him, he would put someone in the parking lot to direct customers to his side of the lot. He commented that Johnson owns the Chop Shop and the building next to it on the north side. They do plan on having someone in the parking lot to assure that it doesn't become dirty or have other issues. They are just trying to open a small business, not create a parking lot.



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Morgan asked if there would be any sales outdoors. Casper said it would be all indoors. Janvrin said that the parking stalls are not compliant with the town regulations i.e. they are not 10 foot wide x 20 feet deep. Garand said the approved siteplan for the location would depict the parking as detailed in the condominium agreement. Janvrin asked if the approved siteplan had not been completed. Garand said this request would not be part of the gym review, which was actually part of an additional siteplan. This building was approved years ago; a similar use had previously been approved. Janvrin said the question is whether the parking on site is adequate. Garand said that is for the Board to determine as the Chop Shop and the gym do use a tremendous amount of parking. Also, the two units across from Unit #4 are currently vacant. Janvrin asked if Casper would close at 6 PM and only be open on Saturday and Sunday. Casper confirmed this. Janvrin explained that if an approval is for Saturday and Sunday, 8AM to 6PM, they would have to come back to the Board if they wanted to open on Friday. Casper understood this, and said they would do everything just as the Board lays it out. If he did want a change, he would come back because he did not want any problems. Janvrin explained he did not want to put Casper in a situation where in six months they were doing very well and want to open on Fridays, and then would have another application fee etc. The Board could give a little more leniency than is being asked, which might be a benefit. Casper said now his plan is for Saturdays and Sundays, and wanted to keep a narrow, weekend operation.

Khan noted that a couple of years ago there were requirements for this site, and asked if they were completed. Garand said there were issues from 2001. The Applicant [Johnson, M&K] Had come before the Board several times, and still plans to return to the Board for other issues. However, he did do some of the site work that was outlined. They have to look at the current lighting and the signage to see if it is compliant as well as the hours of operation. Garand noted that the formerly proposed gaming operation would have had a tremendous impact because of the parking requirement. This is basically retail, and to look for the square-footage to be compliant for that. Also, how many people would be working onsite so the site would not be overburdened. He believed that the condominium documents approved 11 parking areas for this unit, plus an overflow parking which is no longer there. This needs to be addressed with the owner. Janvrin asked if the 2 handicap spots to be installed in the front would be ADA compliant. Garand said they would have to be, as would the front entry and emergency exit doors and lighting. Janvrin asked if that would be addressed by Garand; Garand said it would.

Garand wanted the Board to review spot-lights on the top of the building, and certain signage which the Applicant had put in front of the building that is non-compliant. He wanted the Applicant to understand that signage could not be installed unless it is compliant. Lowry asked if the Applicant was allowed 11 parking spaces. Garand said that is according to the condominium documents. Janvrin asked if both the north and south condominiums were using the existing pylon sign. Garand confirmed this, and said that each unit can have a roof sign and there are currently wall signs on the building. Hawkins asked for other questions; there being none.

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| MOTION: | Khan | to accept Case #2012-06E as substantially complete for jurisdiction and deliberation. |
| SECOND: | Abramson | Approved: In favor: Hawkins, Sweeney, Lowry, Frazee, Abramson, Khan; Opposed: Janvrin |

Janvrin was opposed because there were no sign details, or lighting or landscaping specifications; these items had not been waived. Hawkins recommended addressing this as an



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expedited approval, similarly to that in Case #2012-05 where the Applicant would have to return to address signage, dumpster location, and to bring the lighting into compliance.

Wood commented that there are two restaurant-bars open at night. When these establishments are not open there is no lighting and it is very dark in the parking lot, for example on Sunday nights. She suggested that Casper ride by on a Sunday night and look at this to see if the outside lights should be left on. Hawkins asked if there were comments on the suggested approach. Chase asked if it was necessary for the Applicant to return to the Board, and grant an approval for unrestricted days. Hawkins felt that the Board was addressing what the Applicant requested, which speaks to some of the parking issues. He thought the requested hours fit pretty well with the restaurant-bars i.e. a morning up to 6PM operation. It is a way to get more out of a smaller parking area, so every tenant does not have to have the maximum parking spaces. If the gym is so full on Saturday, it might become an issue.

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| MOTION: | Hawkins | <p>to conditionally approve Case #2012-06E – Mark Casper, Tim Johnson, and M & K Complex to establish a marketplace and flea market at 920 Lafayette Road, tax map 7, lot 91-204 with the following stipulations:</p> <ul style="list-style-type: none"> (i) the Applicant to return to the Planning Board for final approval (ii) the hours of operation will be Saturday and Sunday 8AM to 6PM; (iii) the Applicant to show that the signage is in compliance; (iv) the Applicant to identify where the dumpster is to be located; and (v) the lighting to be brought into compliance. |
| SECOND: | Khan | <p>Approved: Unanimous: In favor- Hawkins, Khan, Janvrin, Sweeney, Frazee, Abramson, Lowry;</p> |

Hawkins continued Case #2012-06 to April 17, 2012 at 6:30PM in Seabrook Town Hall.

Wood resumed her seat as a voting alternate.

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;

Hawkins referenced an email from Steve Coes of NextEra explaining that he had summarized and forwarded the Acenture proposal to the corporate department in Florida. Coes requested a continuance. Hawkins **continued Case #2011-31.10-22 to April 17, 2012 at 6:30PM in Seabrook Town Hall.** Kravitz had talked with Eric Wood of Acenture who was keeping this on his desk.



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Case #2012-01 – Proposal by Verizon and Dawson Seabrook LLC to establish an electronics store at 332 Lafayette Road, Tax Map 9, Lot 61, continued from February 21, 2012; March 20, 2012;

Attending: Dean Holt, representing Robert Korff of Dawson Seabrook; Steven Ireland, District 6, New Hampshire Department of Transportation;

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

Morrill said that since the last meeting they had been to the Technical Review Committee. This application concerns an existing building on the corner of Lafayette Road and Boynton Lane. The landscaping is existing around the building, and trees along the southern portion of the lot. They have inspected the lights on the light poles [20 feet high], but were not able to get the illumination levels because the lights are shut off. They are requesting a waiver for the light and illumination levels. There are wall-pak lights along the building, and security lights – shoe box type. As indicated in a previous meeting, they intend to close the canopy area to use for storage. Two garage doors would face the east to allow access to the locked storage. Because of the snow and wind, a display area originally proposed for that area was discarded.

The back of the lot parking spots are revised because the existing handicap parking spot in the corner has too much of a pitch to be ADA compliant. The handicap spot would be moved to the front so the sidewalk can be used to get the customer into the front door and be ADA compliant. No utilities are being changed; existing sewer and water remain the same. Signage indicating no left turns has been added at the exit, and also directing customers already in the site to go to the back to exit to Route 1 south through the Boynton Lane intersection. Notes re the lighting and illumination levels as well as operational times have been added to the plans. A sign application is being reviewed by the Building Department. Morrill said that the only sidewalk matter is the small part covered by the agreement previously signed by the town and the NH Department of Transportation. Morrill said that Verizon Teller Sales will be signing an agreement with the NHDOT to maintain the portion of the sidewalk on the other side of the driveway. Morrill said Verizon had authorized him to get a document stating that it would maintain the sidewalks in front of the store to the State.

Ireland said that NHDOT would not officially sign an agreement with a business. In the event that as in this case the premises is vacant and it is not lit at night, NHDOT will not sign an agreement with a developer. If they do not touch the sidewalks with the drive process, they are not required to get an agreement from the town. NHDOT would sign an agreement with the Town, and would have no issue with the Town signing a maintenance agreement with a developer. This acknowledges the potential of a developer going out of business. Hawkins asked if the sidewalk is existing. Morrill said it was. Hawkins said this subject came up about two years ago, as to whether the Town could sign an agreement with the State, and then sign an agreement with the applicants or landowner. At that time, the answer from the State was no; the Town could only sign an agreement with the State, and could not pass on its liability to someone else. Hawkins felt that the State was more lenient now, and it is ok to have a back-up agreement with the property owner to do the maintenance. He thought that this meant that ultimately the Town will be responsible to the State, but the applicant would be responsible to the Town. He asked Ireland if that was correct. Ireland's understanding was that that would be permissible, and was confident that the District Engineer would sign an agreement with the Town to that effect through the drive process. The Town could sign an additional agreement under which the developer would maintain the sidewalks.



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Hawkins noted that Seabrook's ordinance requires sidewalks. It has been in the position where the State will not install them unless they're maintained. [by the Town], so sidewalks had to be set aside. Hawkins could see that in certain places, such as the Bridge, there is no fall-back position for the town. He noted that subject of the Route 1 sidewalks would come up later in the Agenda, but that tearing up sidewalks or telling people they must maintain the sidewalks probably wouldn't work either. The Selectmen have already said they will sign that agreement, if the Planning Board recommends it. Hawkins felt there was a path forward on some of these items.

Hawkins noted that the Case #2012-06 sidewalk existed, so it was not an issue. Morrill agreed, stating they were not making any modifications to the sidewalk. Ireland she sidewalks and crosswalks are already done. Here were easements granted across this property in re Boynton Lane with cross-circulation to Southgate Plaza. The drainage plan had been updated to include all the Board's operations and maintenance requirements, and they met with the TRC. If they go ahead with the cross-connect, they would have to pull a driveway permit from the town for touching Boynton Lane. The architectural plan shows the garage doors. Hawkins asked if Morgan had reviewed the revised plans. Morgan had not yet reviewed them. Hawkins said, therefore, Morgan could not be certain if the changes requested by the TRC had all been done. Morgan assumed that the recommendation would be reviewed at this meeting, and thought they would have been done. Morrill agreed.

Janvrin said that the parking lot regulations require the stalls and travel lane to be of a certain size. He had noticed that between the canopy area and the grass area the travel lane was 10.4 feet, and asked if that was a on e-way traffic flow. Janvrin's concern was the size of delivery trucks, and getting a 24-foot box truck through that small opening with side mirrors, the turn radius, etc. He asked the size of delivery vehicles would go on the site. Morrill understood this to be a UPS or FedEx size truck. Janvrin explained that during the Demoulas south discussions there was a stipulation that there would be no trucks larger than 26,000 pounds gross weight. He noted that anything above that weight required a commercial driver's license. His question was if there would be any signage that no trucks larger than that size could go on this site, envisioning a disaster that would happen if a tractor-trailer tried to maneuver onto the site. Morrill said there was no such signage on the plan, but thought it was a great idea. Janvrin's concern was for someone unfamiliar with the proposed access drive; he suggested there also might be a length restriction. He wanted to avoid a truck driver pulling onto the site for directions and then wondering how to exit the site. Morrill said they would add appropriate signage to that effect. Janvrin thanked Morrill for addressing his concern.

Wood asked if large trucks would be using the proposed back easement roadway. She commented that it was designed for the average person to go from the bank all the way to the Market Basket. Morgan thought that all the more reason for the signage. Wood asked if the signage should be at the end of the roadway, and not just for the Verizon site. Janvrin noted it would be a convenient way for delivery trucks to cut across. With a size restriction, larger trucks would have to use Route 1. Morrill said that Ganz would speak to the access road easement.

Hawkins asked Morrill to address the TRC comments. The entire easement roadway was depicted as far as the Wal-mart property; the Jersey barriers were added at the property line at the Board's direction. The leaching catch-basins are shown on both sides of the road, and on the detail sheets. The Operations and Maintenance plan now has all the charts and the place for the signature and the surveyor's stamp for the recording. Morrill said they had brought the plan to the registry for pre-approval before going to the mylar. All of the intended parking spaces including the relocation of the handicap spaces are shown on the plansheet. A waiver written



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request had been submitted on March 13, 2012 for the reduction of the number of parking spaces from 41 to 29, indicating that this was needed to allow room for the 50-foot easement roadway and one space for the dumpster. The maximum number allowed for a building of this size would be 15. Some pavement would be removed to allow for the roadway and the drainage to go along with the road, and the parking area would be seal-coated. They are asking the Board to allow retaining the rest of the existing pavement on the site.

Morrill said the existing light poles are shown on the plan with a notation that they may be relocated after inspection. The lighting is to be shoebox style with 400 watt bulb and mounted at 20-foot height. The only additional lights are the wall-mounted on the building; the lights need to be tipped down. Morgan commented that they did not submit a photometric survey so it is not known if there is [light] pollution. He was inclined to be flexible, but thought 400 watts to be a very big bulb. Janvrin asked for Garand's view of the potential trespass. Garand could not say because the sight had been dark for so long. Morrill said that all the lights now shine into the parking lot, and asked to be allowed to work with Garand to be sure they do not have any light trespass with the poles that they have. They complied with the height and were the right style. Frazee said that 400 watts would give light trespass. Morrill said that they might have to switch to smaller bulbs, but that the fixture was correct and the pole was the right height. Janvrin thought there would not be much problem with light trespass onto Route 1 or Boynton Lane; the concern would be for the abutters. Morrill thought there would not be concern from the West Marine site which was right up to the lot-line; it would be the abutter to the east. However, they would not propose to light the access roadway. Janvrin asked if Garand was comfortable consulting with them on the lighting. Garand said he was.

Wood asked about the front entrance and the location of the handicap spots; usually they are right in front. She asked if there would be signs indicating they were around the side, or if it would be feasible to have those spots in the front. Morrill said the problem was the degree of grade in the front or on the side. They would have to raise and alter the grade too much to meet ADA compliance guidelines. The only handicap spot is toward the rear so they redid that sidewalk to allow a safe way to get to the front door. Janvrin thought that one store had a door with a buzzer so that someone could come to open the door; this did not work well. Wood understood that the building had an odd configuration, but she expected the door to be out front. Morrill recalled that for the old Burger Chef, everyone parked on the side so that became the front door. Wood asked if they would have signage directing to handicap parking around the corner. Morrill said a sign could be added. Abramson asked if there could be a spot on the other side. Morrill said a wheelchair would roll down to the West Marine. The back is flat to the ramp. Morrill said the plan showed removed concrete light pole bases which are no longer used. The canopy area would be called out for storage with the doors in the back. From the front it would all look like a continuous structure. Janvrin asked if there would be an entrance into the storage area. Morrill would there would not; the architectural details were depicted.

Morrill asked what was meant by the request for a finished build-out for comparison purposes. Janvrin thought that was the existing conditions plansheet. Morrill said the existing signage that was compliant, as well as the pylon that needed work had been submitted to Garand for review. Janvrin asked if the details were shown. Morrill said they were. After meeting with the Fire Department, there will be no vehicles in the storage area, which would be a new use. Accordingly, this would not be a mixed use building. They pulled a driveway permit for the driveway. Morrill believed they had resolved the sidewalk issues with the NHDOT. They have submitted a waiver request to allow the existing landscaping. Janvrin asked if there would be vertical curbing, and asked about the snow storage. Morrill said any curbing on the site would be vertical including driveway entrances. There would be no curbing in the back; it would all be



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sheet flow into the drainage area. Janvrin asked what the town was doing currently about curbing. Morrill said the Department of Public Works Manager said that all curbing would be vertical granite. Janvrin pointed out that there was some slant curbing for the Demoulas south site to accommodate certain wildlife climbing over. Janvrin asked if the vertical granite was called out on the plan. Morrill said there was some to allow wildlife passage e.g. turtles.

Ganz explained that the Kohl's application [approval] had required the Applicant to install a cross-connect [behind the building] in 2013, subject to mutually agreed easements between the Applicant and the town counsel. That easement is on the Case #20112-02 plan. Ganz said that the draft easement was mutually acceptable to the Planning Board counsel. It has been sent to counsel for the Shopping Center, and Kravitz had provided a contact at Wal-mart with whom she had spoken. The problem is that it will take time to go through multi-levels of approval with the tenants in the shopping plaza, engineering departments, etc. It is not yet accomplished and might take a year. Ganz said that Hawkins had sent a wonderful letter to Wal-mart and the shopping center, but did not know if the town had received any response. Kravitz said the response came from the Wal-mart contact who wanted to look at the plans, and who's contact information was provided to Ganz. Ganz said these outfits are so big it will take a while, and that the Applicant should not be held up. The Applicant had done its part and was working to get this accomplished. She asked if the Board would like to keep informed, e.g. quarterly.

Ganz said the Applicant's preference would be to put the money with the town to finish the roadway build. They would build it when everything was in place. Janvrin said this was a problem, and referenced Ireland's comment that today's dollar is not the same later on. He noted that several cases had posted security which was still being held or had lapsed. He thought about eighty securities were being held in the town for projects that were never fully completed. The taxpayers cannot use that money. Janvrin thought the Applicant was saying it would build the part of the roadway on its property, and put the money to finish it with the town. Ganz' concern was that the shopping center might have changes and they did not want to build something that would have to be changed. Janvrin noted that they would have an access off Boynton Lane in any case. He did not want to approve the site and have to tear it up again when there is approval from other parties. He asked if Wal-mart concurred with the cross-connect. Ganz said they wanted it but it would take a while to go through all the corporate levels. If their intent was to go along with the roadway, Janvrin wanted to build it no matter what the outcome; the money and security would not be sufficient in six years. .

Holt said the developer was not looking to short-change the town in terms of delivering on its expectations, but building something on the way to nowhere is not a good outcome. He asked what a satisfactory security amount would be. Hawkins said it isn't the money; rather it is that the process didn't start for five years. The Board wants assurance that the process would go to completion; Hawkins asked how that could happen. There could be a dollar amount left with the town collecting minimal interest, but the Board wants some type of guarantee that the process would continue. Right now the Applicant wants an approval and is working hard on this issue. If an approval is given, does that mean they stop working to resolve this issue. Ganz said the board could keep this case open or put some other stipulations on it. They intend to keep moving which is why she suggested providing the Board with status reports or returning to the Board. Hawkins noted they are talking about a year; he understood that the Applicant wanted to start working on the outside of the building, and take the risk the Board might say no. Hawkins said the Board is worried that the process doesn't continue. Ultimately Wal-mart might say they won't do it, and there is no way to force them. Hawkins wanted to know that the process to try to get the needed approval would continue as actively as it is today.



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Chase asked if the Applicant was not going to build the road. Ganz said they want to give the town the money. Chase had understood that they would build the roadway, commenting on prior discussion about Jersey barriers etc and the pavement going to the edge of the property line. Hawkins asked if that had changed. Holt said if the town insists on building the road now, they can do that if it is the only acceptable solution. Janvrin said it may seem like a road to nowhere to Holt, but for his son the road may be finished in ten years. If the surety for the roadway would be \$40,000, it would be sitting in the town's account and might never be built. He wanted what was on the plan to be built, and the surety held just to finish the road in the future – then the roadway would be paid for. Holt said they had no problem following through – giving the easement and the land under it. They do not control how the abutter responds. Janvrin said they have control of the property now; they can construct that roadway up to the Wal-mart parking lot.

Khan understood that in the last discussion they were going to bring the roadway up to their property line. He would be satisfied if they build up to the property line, leave some monies to finish the part to Wal-mart whenever it happens, and have Ganz continue the conversation with the other parties to get this done. Holt asked if they were being asked to build the road and diligently pursue completing it, and the Board would assess the situation at some future date. Hawkins asked for Morgan's comments. Morgan remembered that the same conversation happened in 2007. Hawkins said the Board had security deposits that were intended to cover work that may be done in the future. He asked if the Board should consider an additional security to be held until the project comes to completion or Wal-mart refuses to go forward. Khan Agreed with that proposal. Hawkins said this would be a separate security that is related to finishing the roadway and getting the easement. This would be an effort to sustain their interest to completion. Janvrin thought it would be an inducement if Wal-mart knew that the funds were in hand. Wood thought Hawkins' suggestion for some type of security was a good start to holding their feet to the fire, noting that the discussion began five years ago but did not go anywhere. Now with a new tenant they want to move fast. The incentive approach was a good idea.

Ganz asked the purpose of the security. Hawkins wanted a recommended amount as security for extending the roadway from the Applicant's property to the Wal-mart property. He understood that the Applicant had agreed to build the whole roadway, therefore, they would want to get this amount back. Hawkins said the town would probably not pursue Wal-mart to finish the roadway. However, the Applicant should sustain the current effort until the matter is settled. If it takes a year, then the money sits there for a year. He surmised that a \$50,000 figure would be deemed too much; but \$5000 would be less than the lawyer fees and be ok. He asked Morgan if this was logical, legal. Morgan said it was logical. Ganz thought this was putting the burden on the developer who was doing the service to the town. Abramson was not on the Planning board five years ago, but thought they were making a good faith effort and there was only so much that could be expected from someone trying to address a compelling interest of the town. He walks and bicycles in this area and would like to see the path. He thought they were making a good faith effort and did not see a reason to penalize them.

Janvrin thought they could build the road, and also agree to pay for the small extension from their property to the parking lot. That cost should be the requested security amount. Hawkins wanted the security to be enough to cover the work that that would have to be done for the extension to the parking lot. Janvrin said the whole purpose of the security would be to ensure that the work gets done. It is not a penalty, and should be enough to cover any area that they cannot construct [now]. The security should be held until such time as the work can be finished. Khan recalled that he was a Planning Board member when this project was discussed in 2008. Not too many developers would have put down \$800,000 with such a project, and the town is



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doing a lot of things with that money. The 2012 economy was the consideration; he asked the Board to consider this. If they build the roadway up to the property line and there is some money to connect two properties, Khan thought that should satisfy the town. Chase said this was his understanding before, and was in total agreement.

Hawkins said the Planning Board engineer's construction security amount was \$28,800; that did not include the roadway extension. Morrill said that was for the road. Their calculation for the 30-foot extension was \$5,040 – from the property line to the Wal-mart parking area. Hawkins suggested that the roadway extension amount be added to the engineer's costing. He asked if the Board was comfortable adding an amount to the \$28,800. Wood wanted assurance that the rest of the roadway would be built now, and thought that a fair solution. Hawkins recommended adding \$6,000 to the engineer's calculation. Janvrin thought that a good number. Abramson wondered what it would cost if the town had to do the build. Janvrin said the funds would have to go back if it was not built in six years.

Morgan called attention to the waiver requests. Hawkins said the first waiver request was to allow 29 spaces to be used where 15 was allowed on the site. The rationale was not to make people tear up the pavement; there was no benefit to that. .

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| MOTION: | Janvrin | to grant the Case #2012-01 waiver request to allow a maximum of 29 parking spaces rather than the 15 spaces allowed by right. |
| SECOND: | Sweeney | Approved: Unanimous |

Hawkins said lighting was the second waiver request. Janvrin was not in favor of waiving the lighting requirement, and wanted the Applicant to work with the CEO on coming into compliance with the current regulation. Morrill said they would work with Garand. The waiver was because they did not show the illumination. Janvrin commented that Garand had agreed to work with the Applicant. Hawkins asked Garand was ok with this.

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| MOTION: | Janvrin | to grant the Case #2012-01 waiver request to eliminate the photometric grid, provided the Applicant meets with the Code Enforcement Officer's for compliance purposes. |
| SECOND: | Abramson | Approved: |

Hawkins asked for discussion on the request to allow the existing landscaping. As there were no exterior changes, and it was a very small is he thought this ok.

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| MOTION: | Hawkins | to grant the Case #2012-01 request to waive the landscaping requirements. |
| SECOND: | Janvrin | Approved: Unanimous |

Khan asked if the Applicant would bring the roadway up to the property line. Hawkins said that was clear in the minutes. Kravitz asked if Morrill would submit revised plans. Morrill said he would list the conditions on the revised planset. Khan wanted continuing the roadway negotiations to be a stipulation. Hawkins said quarterly updates would be scheduled for the Board. Janvrin said to ask the town for help if needed.



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| MOTION: | Janvrin | <p>to approve Case #2012-01 – Verizon and Dawson Seabrook LLC to establish an electronics store at 332 Lafayette Road, Tax Map 9, Lot 61 conditioned on:</p> <ul style="list-style-type: none"> (i) the lighting to meet the Code Enforcement Officer’s approval; (ii) the Applicant will provide security in the amount of \$34,800; (iii) the Applicant works with the Code Enforcement Officer to bring the signage into compliance; (iv) the Applicant will diligently work with the owners of the Wal-mart shopping area to obtain agreement to connect the cross-connect to their parking area, and will provide quarterly updates on the status of these negotiations; (v) the form of the cross-connect easement shall be entirely satisfactory to the Planning Board Attorney; (vi) the sidewalk abutting Route 1 will not be disturbed; and (vii) the Applicant to provide final revised plans that are entirely satisfactory to the Town Planner. |
| SECOND: | Wood | Approved: Unanimous |

Case #2012-03 – Proposal by Anthony Vorias, Arenco, Inc., and SustainX, and Jaycee, LLC to construct an 18,400 square foot addition to the industrial building at 72 Stard Road, Tax Map 4, Lot 19-1, continued from March 6, 2012;

Attending: Kent Worden and Jim Peters, Arenco; Jim Bosco, SustainX ;
 Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineers;

Morrill said this is an existing building with 96 parking spaces in front. The Board had asked that they look at the ponds to see that they were working correctly, and to bring the back pond into compliance with current regulations. They found that the catch basin network did not all have grease hoods, so the contractor will install them. The front pond is a correctly functioning habitat with no invasive species. They will be giving the Department of Public Works Manager permission to go on site to log in the outfalls and will install the blue GPS coordinate signs. They do have to modify the small back pond. Although it was sized for the 18,000 square-foot expansion, it did not meet today’s criteria. It has to be slightly enlarged with a micro-pool at the bottom to allow the sediment to filter out. Any future parking would be porous, although no new parking would be built at this time. The 18,000 square-foot expansion is shown on the plan, although only 3,750 square feet would be built at this point. Additionally there will be two new concrete pads and a dumpster on the side of the building. The architectural elevations are shown, including the area of higher height previously approved for the mechanical device equipment inside the building.

A waiver re buffers and screens was submitted. Because the dumpster is on a concrete pad in the back near the loading area, they do not want a fence around it. He pointed out shrubs,



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adjacent industrial area and a large swamp area. The propane tanks were moved into the grass area in the front; underground electric comes into a new pedestal for the addition. Documents were submitted to the DPW Manager and the Planning board engineer showing that the back pond will meet the new requirements. They have comments from the TRC. Hawkins asked if Morgan had reviewed the plan in re the TRC comments. Morgan said he had, and thought TRC had done a good job in working out the technical details. Hawkins asked if Morgan was satisfied. Morgan said after the TRC, it was a much better plan. Hawkins asked if there were questions related to the TRC comments. Janvrin asked if there were security for the detention pond in the back. Hawkins asked if there was a memo from the Planning Board engineer.

Kravitz said that at the TRC meeting Morgan provided Jim Kerivan of Altus engineers with the original Xaloy drainage report. Kerivan is reviewing it; his comments are not yet in. Morgan noted that Kerivan had only just begun reviewing this. They would work with Kerivan to see that they are compliant with his comments and the regulations. Khan asked if the company's process produces material that has to go to a separate dumpster for a special pick-up. Bosco said there was no other material other than the energy storage system, noting that this is an R & D facility doing testing and developing processes. Worden said the primary processing materials were air and water. Hawk9ins asked for other comments. Morgan thought it a great project and would condition approval on Kerivan's comments. Garand said the minimum security for projects in the town was \$5000; he thought that would be adequate.

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| MOTION: | Janvrin | to grant the Case #2012-03 waiver request for no screening around the dumpster. |
| SECOND: | Wood | Approved: Unanimous |

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| MOTION: | Janvrin | to approve Case #2012-03 - Anthony Vorias, Arenco, Inc., and Sustainx, and Jayce, LLC to construct an 18,400 square foot addition to the industrial building at 72 Stard Road, Tax Map 4, Lot 19-1 with the following stipulations: (i) the Applicant to provide security in the amount of \$5000; (ii) details of the detention pond meet the consulting engineer's requirements; (iii) incorporate the findings and recommendations of the consulting engineer; (iv) the provisions of the notice of Decision shall apply; and (v) the Applicant to provide revised plans that are entirely satisfactory to the Town Planner. |
| SECOND: | Sweeney | Approved: Unanimous |

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.

[Administrative work postponed to April 17, 2012.]



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OTHER BUSINESS

DDR Waiver Request

Attending: Jim Grafmeyer, Vice President, DDR; Steven Ireland, District 6, New Hampshire Department of Transportation; Scott Mitchell, representing an abutter;
Appearing for the Applicant: Attorney Malcolm McNeill Jr, McNeill, Taylor & Gallo;

McNeill had represented DDR in Seabrook for 7 years, and had the unusual request of asking the Board not to become involved, by delegating a matter to Morgan and Garand who are qualified administrative people. They want to involve this issue, as well as two others with the Town which don't involve the Planning Board, so they can proceed in April to pay to the State in excess of \$2,000,000 to go forward with the Bridge improvements that are necessary for [the shopping center] project. McNeill believed that the two town issues were positioned to be resolved. Appreciated that Ireland was present as he had no objection to the proposal [described below]. McNeill noted that Mitchell was representing an abutter who has concerns about the project. The matter had also been discussed with Morgan, Garand, and the Town Manager. DDR believes that all of the parties with whom the matter was discussed would find it reasonable for the Planning Board not to take jurisdiction in this matter.

McNeill explained that originally the Venture facility had two access points which DDR has eliminated. DDR now can move forward with centralized close to a signalized intersection. As part of the approval they agreed to close a full service entry point into the parcel that is now the McDonald's restaurant. An abutter has raised an issue related to a reciprocal easement agreement among McDonald's, Pizza Hut, CVS and Provident Bank which provides for access across and between all of their properties. The abutter alleges that the closure of the McDonald's access is in violation of the easement agreement. McNeill suggested that there is room for disagreement in re the interpretation of the agreement, but they want to resolve their issues with the abutter. He said that the abutter is fine with DDR's proposal, as well as the Planning Board delegate Morgan and Garand to follow through with this acceptable resolution of the issue.

McNeill said that the entire plan is almost a 50 acre parcel with 450,000 square feet of approved retail space. DDR proposes to make one small change. After consultation with Garand as to how to lay out the change, they propose a right in/out that is 80 feet back from Route 1 and 50 feet back from DDR's property line. As opposed to the previous access point into the McDonald's that was full service, this is just right in/out with an impediment to any other type of use. McNeill asked the Board to recall that ultimately DDR will acquire the current McDonald's property, and the McDonald's restaurant will be will be relocated to the north of the current site; that site for McDonald's had been fully approved. For a period of time the current McDonald's site will be vacant or unoccupied, but there would be a provision for a right in/out to take care of the abutter's concerns. McNeill said that the town would be further protected because, if that site is to be developed it would have to come before the Planning Board. At that time, the Board would be in control if the access point needed to be moved. Additionally, there is access from the rear of the site that was previously approved by the Board.

McNeill said DDR believes that in most communities this proposal would be characterized as a de minimis change. However, given the size and scope of this project, they wanted to get the Planning Board's consent that it be administratively delegated. McNeill noted that Ireland had reviewed this change on behalf of NHDOT, and had written his concurrence with the proposal. McNeill said that VHB had been the engineering firm from the beginning and their reports were



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reviewed by the Board's consultants. Their work is very reliable. VHB had indicated there would be no adverse effect. The proposed access point is restricted, as opposed to the full access point that previously existed. VHB believes this change and would satisfy the concerns of the abutter.

McNeill commented that Morgan and Garand are duly qualified to make any decisions. If the Board did not take jurisdiction, they would bring the plan to Garand and Morgan who have already seen it. McNeill supposed that they would say that what they are shown is acceptable, or make some changes, for example with landscaping or lighting, and that would conclude DDR's issue with the abutter. On a subsequent occasion, as part of the agreement with the town which had been discussed just prior to this meeting, if further action occurs on the current McDonald's site the Planning Board would have control and might move the entry way further up into the shopping center in a manner that would accommodate whatever goes in. McNeill said this is a short-term fix with long-term protection.

Khan asked who would own the site when the McDonald's is relocated. Grafmeyer said that McDonald's would take ownership of their new parcel and DDR would take ownership of their existing parcel. Hawkins asked what would happen to the existing McDonald's building, and whether it would sit until the parcel is redeveloped. Grafmeyer doubted that someone would want the building as is, so at some point it would probably be demolished. Hawkins asked how the through traffic work for the other locations. McNeill said that once the building was demolished the site would be available. Hawkins asked if they would pave it. Grafmeyer said they would pave it to keep the access open. Hawkins asked why they would not put the access further back at this time, rather than having to repave. McNeill said in discussions with VHB, NHDOT, and the abutter, this seemed to make sense for now. Janvrin thought it was safest as they would not take up storage or back-up space. McNeill added that there would not be left-hand traffic entering. Hawkins asked if the distance was about five car lengths. Grafmeyer said it is 80 feet. Hawkins asked if that would be enough to keep traffic from backing up onto Route 1. McNeill said it was. Ireland said if someone is pulling in and trying to get to e.g. CVS, they would continue. He could not imagine 15 vehicles backing up at the Pizza Hut with five more trying to make that turn. Hawkins asked if there would be a problem with the slow-down going in. Ireland said there would not. He did not see an issue no matter from which direction someone is pulling in.

Wood thought there would be no way to leave the existing building standing because the drive-through would stall cars coming in. Grafmeyer explained they would not install that right in/out until they come before the Board with a siteplan for that lot. Wood asked how that would satisfy the abutter. McNeill pointed out that the abutter was present. Hawkins said that is their problem going forward, and was not really a Planning Board issue other than the change to the siteplan. Wood. Grafmeyer said they would not install the right in/out until the Board had approved a plan for the parcel, or they had demolished the building. Garand said this would resolve the connection requirements for the easement. Janvrin thought the lot was approved for access through the back side, in addition to the right in/out. Grafmeyer said that was correct. Mitchell said the abutters' concern was the traffic coming from Hampton Falls. Forcing them to go down to the light and return was not convenient, and not a good plan. They told DDR that this solution was what it would take to their project work as they have it now. Hawkins was still concerned about why they were not opting for an easier location further up. Grafmeyer said they had checked with VHB and wanted to start with the minimum requirement.

Mitchell said his people would prefer the access to be closer, so it would be easier for their customers from Hampton or Hampton . Today they cut across the road to go to CVS or the



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Bank. He never goes to the light to make the turn. The traffic engineers felt the proposed location was an adequate distance. Wood said today she goes into the McDonald's lot and takes a right to CVS. Now there would be a jog. She suggested putting the access further to the back for a straight line behind the stores to the Bank. Janvrin said a queuing area is needed. Grafmeyer said all of this would be contingent on what the user of that parcel needed. McNeill said they needed the assurance for the abutter, through the Board, that an access at this general location would be acceptable, because that resolves the issue with the abutter. Khan asked for Ireland's view. Ireland had no issue with the right in/out; from a traffic standpoint it is fine.

Khan said everyone knew that there would be a traffic light at the intersection. Ireland said there would be concern the closer it gets to the light, because one individual might not slow down for a car turning into the access. He had no issue with 80 feet; he would question 50 feet. Two traffic engineering firms had looked at this and are comfortable at that distance, Ireland was comfortable there or further back, but not so comfortable closer to the signal. He was confident that the internal movement would not affect Route 1. Khan noted that they are not doing anything now. Ireland agreed they would have to return to the Board at some point; he could not see the existing McDonald's building staying where is. McNeill commented that there would be a new McDonald's right across the roadway. Ireland said they would have to return for a redevelopment, and they could move the access back. But if they wanted to be closer to Route 1, to ask the NHDOT first.

Hawkins asked Morgan for the proper procedure. Morgan recommended taking no jurisdiction. Hawkins explained that in the past the Board had determined that changes to major plans like this of this nature have been "minor". The Board also has a history of not taking jurisdiction on such items. In either event, it means that there is no need for public or abutter notices for a full review. He noted that people were in attendance representing all of the properties involved. If the Board took a different direction, the Bridge work that the State is trying to push forward would be delayed. He recommended following Morgan's approach and not take jurisdiction. Khan wanted to have the abutter's comments for the record. Mitchell said he is ok with the proposal. Janvrin asked if the change would be documented when DDR files the as-built for the project. Wood commented that she would have to go down to the light until there was a plan for the parcel. Mitchell said they just wanted to get the proposal to the Planning Board to be sure it was acceptable. Their preference would have been to get their own curb cut.

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| MOTION: | Janvrin | to waive jurisdiction in re the access point proposal in connection with Cases #2008-23 and #2009-01 as presented on April 3, 2012. |
| SECOND: | Wood | Approved: Unanimous |

NHDOT – ROUTE 1 SIDEWALK AND WORK ZONES AGREEMENT

Hawkins said the Board needed to take action on the sidewalk agreement with the New Hampshire Department of Transportation for the widening of Route 1 south of Route 107. Janvrin said in this agreement the town would assume the maintenance. Hawkins said NHDOT had restated the liability clause which was more satisfactory to the Selectmen and the town Manager. The liability in one of the original agreements signed by the Town was pretty aggressive. This one does not seem to be the same. Hawkins asked Ireland to address the language change. Ireland said there was very little change from the agreement signed in 2008, in that the NHDOT would not be responsible for any costs incurred by the Town under this



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agreement. Neither the NHDOT nor the Federal Highway Administration would be responsible for any expenses for costs incurred by the town under the agreement. There is no federal funding in this project; it made sense that that boiler plate language would come out. Ireland thought that the federal reference should have been scratched in 2008.

Hawkins' reading was that the town was to provide or cause to provide for maintenance. He thought that the town ought to be able to write a supplemental agreement with abutting property owners for the maintenance of the sidewalks in front of their properties. He thought that Ireland had indicated that this would not be restricted. Ireland said there was nothing that restricts the town from doing that. The State would have a legal binding agreement with the town that the sidewalks would be maintained according to the town's policy. If the town also has an agreement with someone else for that maintenance, that's like a sub-contractor. In a default, he did not see a problem for NHDOT because it would look to the town. If there were a default because a landowner went out of business, he imagined that the town would take over, and hope to get a subsequent agreement. Ireland saw no issue with this.

Hawkins said the agreement before the Board was for the west side of Route 1, south of Route 107. The project is to try to get rid of the bottleneck; some sidewalks would be ripped up. In order for the state to replace them, the town would have to sign the agreement. Hawkins said that the Board of Selectmen had signed one for the Bridge. The Selectmen had acted on the agreement for Route 1 south of Route 107, but the Planning board also had to act. Khan explained that about eight weeks ago the town received a letter from NHDOT indicating that the project on route 1 from Route 107 to the Lowe's would happen soon i.e. within a couple of years. In order to go ahead with this project the town would have to decide now if they wanted sidewalks. If the decided "yes" the existing sidewalks would be torn down, If the town wanted new sidewalks, it would have to agree for the maintenance. Khan said the Selectmen had discussed this and voted to go along with then agreement. The Planning Board would have to approve the same thing.

Hawkins said that the town had been hesitant to accept any level of liability in re the Bridge sidewalks. At that time the question was raised as to what happens if someone gets hurt, and the town had refused the sidewalks over the Bridge, i.e. people would cross the bridge without the protection of a raised sidewalk. The question was if the town would be relieved of its liability. The answer was it was not; the town had turned down a safety item that had been offered to it. Hawkins said that the current situation was similar. The state had offered to build sidewalks if the town signs the agreement. If the town doesn't sign, the state would not build the sidewalks. The decision is up to the Board which should consider if there is any less liability if it turns down the offer of sidewalks when it knows that the liability was there. Janvrin said the this is not the town's right-of-way, and at this time it does not have the liability on that property. As soon as the town signs the agreement it becomes a town liability. Keith Sanborn commented that the town doesn't even have the equipment to take care of the sidewalk. Janvrin said the DPW had asked for equipment for sidewalk plowing and had been turned down for eight years. The State of New Hampshire cannot tell the town that it had to maintain sidewalks on the State Right of Way. He considered this an unfunded mandate which is unconstitutional under the state constitution; he would vote "no" on this issue.

Hawkins asked for other comments; there being none at this time. Hawkins agreed with Janvrin about the initial discussions. Janvrin said that the State of New Hampshire had accepted that responsibility when the sidewalks were built, and it is owned by the NH Department of Transportation. As a voter in the Town of Seabrook, he did not want to accept liability on somebody else's property. If he were to build a sidewalk on someone else's yard, he thought it



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crazy to say the town would have to maintain it. Wood commented that the Board had done this recently. Janvrin said he had voted "no" in that instance. Wood said this was done in other areas. Sanborn said if somebody got hurt on the sidewalk, or got hit by a snowplow, the town would be sued. He did not want that responsibility. Wood asked what would happen if sidewalks were turned down. Sanborn said bridges have a walkway on them. Hawkins said the Bridge had already been decided. The current matter is in re Route 1 south.

Wood asked what would happen if sidewalks are not built. Sanborn said they were not needed. Janvrin said the Board had talked about sidewalks and Smithtown Village zoning, and asked how many sidewalks there were i.e. none. That's the way it was supposed to be i.e. without sidewalks. Hawkins disagreed that that was what the Board wanted. Chase said that through the Safe Routes for Schools program, he was trying to create more sidewalks so children can have a safer place to walk. If there were to be no sidewalks, that would be a problem. Janvrin said that referenced town roads, not a state highway. The town does not own that property; it is not a town right-of-way. Abramson agreed with Janvrin and Sanborn, and did not want to take on someone else's liability. However, there is a safety issue. A couple of years ago, he ran on a platform of safety for pedestrians, and had talked with the DPW Manager and done lots of reading. Holland is way ahead on pedestrian safety. Their solution is a separated mixed use lane that can be on private or town land. He thought that a safer way, and would vote no. He had seen a lot of young persons who are walking, on bicycles, or skateboards, avoid the sidewalks in favor of the shoulders which are closer to the cars. Spending money on something that might reduce safety was bad.

Hawkins did not see how sidewalks reduced safety. Abramson said teen agers did not use them and walk on the road. Wood thought that might occur on side streets, but did not see that on Route 1. Khan said the town would not agree, the NHDOT would not build the sidewalk and people would walk on the shoulders. If one accident happened, NHDOT would say they requested the town to take care of this. Janvrin said it is not the town's liability because it did not own the property; it is their problem. Khan said that either way the Town of Seabrook would be a party if a lawsuit. Hawkins said that either way the Planning board had a responsibility to provide safety for the townspeople. He thought that having a commercial area without sidewalks would be an abdication of the Board's responsibility to think about safety in these matters. He thought that building along Route 1 and not provide sidewalks in a commercial shopping area, made no sense. Chase said if the present sidewalks are to be moved, it would be mandated (by town rules) to have sidewalks in a commercial area. Hawkins agreed, Chase asked how sidewalks could not be replaced.

Abramson said he walks and bicycles on Folly Mill Road. He sees other people walking and did not want sidewalks around in Smithtown Village because of safety and cost. Hawkins said the current question relates to south of Route 107 on Route 1, not Smithtown Village. Abramson was 100 percent against this style of sidewalk. Since it is life and death, for public safety the best design possible should be studied. Wood did not think an in-depth study for sidewalk was needed. Abramson said pedestrian safety is another reason he ran for the Board. Sanborn said the Route 1 sidewalks had never been taken care of by the town; it is all the state. Wood did not see sidewalks [going south] until Rocks Road. Sanborn said there were sidewalks at least on one side – right by Provident way. Wood asked if there was no sidewalk, and someone fell and was hurt, did that create liability for the town because as of right now it is the State property and their liability. The State is asking the town to take the responsibility. She asked if the town did not take the responsibility, would it somehow be liable, and would like an attorney's opinion. Janvrin asked he fell down in her driveway, could he sue. If he fell down in a neighbor's driveway, could



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he sue her; he did not think so. Wood commented that with working with the State it is not always clear.

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| MOTION: | Hawkins | to approve the Sidewalk and Work Zones Agreement with the State of New Hampshire as requested, and signed by the Board of Selectmen. |
| SECOND: | Khan | Approved: In favor: Hawkins, Khan, Sweeney, Frazee, Wood; Opposed: Janvrin, Abramson; |

MINUTES OF FEBRUARY 21, 2012, AND MARCH 6, 2012, AND MARCH 20, 2012;

Hawkins said that about half the Agenda had been covered. Garand said that the electric company had notified his office that NHDOT would be shutting off some streetlights. The Town Manager had not been aware of this. Garand asked if the town would be notified, and asked if Ireland could address this. Ireland said the street lights that are being turned off had been paid for by NHDOT. This is not being handled by his office. If the town wanted to assume the cost, he was sure that could be worked out. Garand said 15 lights along Ocean Boulevard (Route 1A) would be shut off. Ireland said NHDOT had done a memo detailing what street lights were necessary from a safety standpoint. He thought that most of the safety lights are at ramps, at Route 101, or where there are concrete islands. The safety standard is two lights, and sometimes one depending on the intersection. He thought the Department had evaluated every street light that it pays for in Seabrook. Hawkins thought there were four to shut off on Route 1, and 15 on Route 1A. Hawkins asked Ireland if that meant all of them or every other one. Ireland supposed it would be most of the ones that NHDOT pays for, but did not mean all of the lights. Garand said it appeared to be along the state corridor. Ireland said NHDOT did not pay for all the lights. Many were installed by development, and he thought that the town might pay for some of them.

Hawkins asked how the town could identify which lights would be involved before they were shut off. Ireland said their poles all have GPS identification. Garand commented that many lights would be shut off along Hampton Beach as well. Garand said it would have been good if NHDOT notified the town in advance of the electric company notice; there should have been some communication. Ireland thought that it might have been assumed that if NHDOT was shutting off lights because of the cost. This involved budgetary items and they had closed down some buildings as well. Additionally, the Governor wants to reduce energy consumption and had mandated a 25 percent reduction. So far, NHDOT had not met its goal. They are keeping the street lights that are required by engineering safety codes, and trying to eliminate the others. Wood said addressing street crime was just as important. there were not a lot of residents at the Beach in the winter, and they are making it darker.

Garand called attention to the telecommunication tower near the Bridge, and said the town was never consulted about it. The RSAs state that they should come to the Planning Board first. Ireland commented that he found out about that pole about two weeks ago.

Hawkins adjourned the meeting at 10:30PM.

Respectfully submitted,

Barbara Kravitz, Secretary Planning Board