



Town of Seabrook
Planning Board Minutes
 Tuesday, November 19, 2013
 NOT OFFICIAL UNTIL APPROVED

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

Members Absent; Sue Foote, Alternate;

Hawkins opened the meeting at 6:40 PM.

MINUTES OF OCTOBER 15, 2013

MOTION:	Chase	to accept the Minutes of October 15, 2013 as written.
SECOND:	Lowry	Approved: Unanimous

SECURITY REDUCTIONS, EXTENSIONS

02-37 Irene’s Way

Attending: Paul Lepere

Hawkins asked Lepere for the status. Lepere said that the Department of Public Works final outstanding issue re Irene’s Way had been resolved and read an email to that effect received on the morning of November 9. Later that day, the DPW Manager sent an email to the Planning Board stating that unfortunately Garand spoke to him about the impact of a retaining wall that a homeowner was currently constructing, which may be too close to water and electric easements and the town right-of-way. Lepere thought Garand’s question could only be answered by Unitil, the Water Department, and perhaps a licensed land surveyor. Lepere said the property owner maintained that the wall was being built outside the utility easement on private property with instructions from Lepere and Garand.

Lepere said he was being dragged into a very nice retaining wall matter that was outside of the easement area. The easement for the town was 50 feet wide, with 24 feet of hot top and shoulders on each side. The property owner told him that Garand had informed him that no building permit was needed. Lepere said this had nothing to do with the town if the wall is off the town’s right-of-way; it did not interfere with the town’s right-of-way at all. If it did interfere with anything it would be with the house utilities. Garand said the wall was one-foot off the right-of-way, not 13 feet, and 9 feet within the utility easement. He had called Unitil who will send a crew to look at this. The surveyor’s drawing’s show that the electric was installed without approval and was on the wrong side. This needed to be resolved before going forward. No matter whether a building permit was required, the property owner still had to respect the easement with Unitil i.e. 10 feet off the right-of-way. Hawkins wanted to hear from Unitil before making a recommendation to the Selectmen. Chase agreed but was concerned that this would go into another department and not be expedited.

Hawkins thought it could be made to work. The Selectmen could choose to plow the road for the residents; it would probably take more than 30 days to find out what Unitil wanted to do.

Everyone could be accommodated while figuring out what ultimately had to be done. He would not recommend that the town adopt the road until all this is settled. Khan asked if there should be temporary plowing for this winter. Hawkins thought that was a request already made by the



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residents, noting that trash was already being picked up. It was a matter of a homeowner putting a wall on private property but inside the utility easement. There should be some resolution before recommending that the town take over the road. Chase asked if other services were needed. Hawkins said just plowing and trash pickup. Chase asked about school buses. Khan asked how many properties were affected. Lepere said 10, and noted that easement encroachment by homeowners was not unusual in the town and showed several photographs of fences, walls, shrubs and the like in easement areas. Khan asked how the BOS would be notified. Hawkins said typically the minutes and the vote are provided to the Treasurer.

MOTION:	Hawkins	to approve retaining \$17,000 as maintenance security for Case #2002-37 Irene's Way for the period of one year, and to return of the balance of security held in connection with Case #2002-37. The Selectmen to decide whether the road will be plowed. The Planning Board will hold off recommending the roadway as a town road until the utility easement issue was resolved.
SECOND:	Chase	Approved: Unanimous

Kravitz noted that Tim Noonis of Unitil was attending for another matter. Noonis said this issue would have to be referred to someone in Unitil who would be familiar with the situation. David Deschenes was concerned about certain flowers.

CORRESPONDENCE/ANNOUNCEMENTS

Case #2003- 23 Hersey Rocks Road Subdivision

Hawkins referenced an email from the Board's Attorney and asked Morgan if there was action needed by the Board. Morgan said there was, but it did not have to be taken at this meeting. Subsequently he learned that the town did hold security which put it in a better position, but the owner could sell either lot at any time. Hawkins wanted to follow the attorney's recommendation. He wanted a letter to go out making them aware that the Board was considering revoking the subdivision approval of Case #2003-23. This would at least get the ball rolling toward a resolution. Janvrin remarked that most of the remedial action already took place. Morgan said an alternative would be to merge the lots. He wanted to avoid the sale of the property leaving the Town of Seabrook in the road building business. Chase asked if a resolution was expected within 30 days. Hawkins said they needed to respond in 30 days.

MOTION:	Janvrin	to have the Town Planner notify the landowner in re the Case #2003-23 Rocks Road subdivision that if there were no response within 30 days, the Planning Board will vote on revocation of the subdivision approval.
SECOND:	Hawkins	Unanimous



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PUBLIC HEARINGS

ONGOING CASES

Hawkins informed those present that the Board would not again stay in session to 11PM. Greene would have the option of being heard first because there had not been time for Cases #2013-14 & # 2013-15 to be heard at the last meeting due to the lateness of the hour. Greene chose this option.

Case #2013-14 – Proposal by Arleigh Greene, GRA Real Estate Holdings, LLC, 492 Lafayette Road, LLC, ARG Real Estate Holdings, LLC, West River Road, LLC, and Waterstone Retail Development, Inc. to consolidate six lots in the vicinity of Lafayette Road, Chevy Chase Road, Provident Way, and the South Access Road, namely Tax Map 8, Lots 54-2, 54-4, 54-5, 54-7, 54-8 and 90, and to discontinue most of Chevy Chase Road, continued from July 2, 2013, July 16, 2013, September 3, 2013; September 17, 2013; October 1, 2013, November 5, 2013; November 19, 2013, December 3, 2013;

Case #2013-15 – Proposal by Arleigh Greene, GRA Real Estate Holdings, LLC and Waterstone Retail Development, Inc. to demolish existing buildings on Tax Map 8, Lots 54-2, 54-4, 54-5, 54-7, 54-8 and 90, and to construct a 168,642 square foot shopping complex with associated parking and access drives, continued from July 2, 2013, July 16, 2013, September 3, 2013; September 17, 2013, October 1, 2013, November 5, 2013; November 19, 2013, December 3, 2013;

Request for application fee reduction, continued from August 6, 2013

Chevy Chase Road Relocation Request

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

Appearing for the Applicant: Wayne Morrill, Jones & Beach; Jeffrey Dirk, traffic engineer, Vanesse Associates; Howard Snyder, landscape architect, Amory Land Design Inc;

Hawkins reminded that this meeting was for landscaping; the next meeting would hear traffic issues. Snyder used a drawing to show the proposed full landscaping, indicating that plantings tolerant of the zone, and salt tolerant in the parking areas were added as the Board wanted. . Shrubs would be located along Provident Way with ornamental trees at the round-about. The pattern would set the precedent for of plantings, and would differ from the other side of Provident Way. It would be comprised of trees with different foliage, color and plantings that would converge at the round-about with ornamental and accent trees, as well as at the entrances. The next elevation would be further down and be site specific. The parking area would develop with different materials and ornamental trees. The plant material would be selected from Section 13 of the Site Plan Landscaping requirements and New Hampshire guidelines. They would be low maintenance, have varied blossoms and heights, and be non-invasive, with patterns in the parking areas, and landscaping under the trees. He commented that it was difficult to do this treatment for a linear design but they would bring this forward.

Janvrin asked about placement for liberty elm(s). Snyder pointed to two locations, including at the corner of the access road. Morgan asked if the design would be in compliance with Section 13. Snyder believed it did. Board comments would be included in the next design iteration. Morgan thought the design was very favorable, commenting that he'd wished the neighboring



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shopping center had taken a similar tack. Snyder commented that the images he was showing the Board were to give the idea of color and massing. The next design would have the details and specific patterning, as well as plant counts. This would be a great improvement to the area. He wanted to be sure that this meets the Board's notion for the informal setting.

Chase asked about the hot-top area. Janvrin asked if there would be concrete because of the turning axis. Morrill said once the right in-out was in place that area would be concrete and modified for truck turning. Mostly there would be pavement, noting the proposed relocation at Chevy Chase Road. Snyder pointed out evergreen screening that the Board had requested, and called attention to the sensitivity towards the small cemetery. Khan wanted to see that location. Snyder pointed it out, saying that area would have no landscaping. Janvrin commented on the hemlocks, red cedar, arborvitaes and balsams in the southeast corner, and that quite a lot of trees would remain. Morrill said these had previously been put in with the ponds; there would be no development outside of edge of the gravel. Janvrin asked if the gravel area would be paved or grass. Morrill confirmed this. Chase asked if the town maintained the cemetery. Khan said the town maintained the Pine Street cemetery. Greene said he had taken care of this for 23 years and will continue to do so. Morgan asked if this would be transferred to Waterstone. Greene said the agreement was a lease deal. Chase asked if the public would have access. Snyder pointed out the nearby parking.

Khan asked if there were existing trees; if so what would be done with them. Snyder noted that only one tree along Provident Way could remain. Morrill said they would try to retain trees where feasible. Janvrin recalled that the problem with the pines at the Kohl's which were old growth and fell over. Morrill said such trees and some stumps along Provident Way would have to come down for safety purposes, Janvrin commented that during the Kohl's project a lot of old growth trees near the Rec Center fell over in high winds and were removed. Morrill said when pines don't have surrounding trees for support, they fall down. The next siteplan iteration would show this. Greene thought only one pine tree was on his land; others were in the right-of-way. Janvrin asked if this was east of the proposed round-about. Greene concurred, and called attention to several stumps to the west. He had talked with the DPW Manager and they would confer again.

Hawkins said his primary concern with landscaping plans was the neighbors, in this case to the east and southeast. During the expansion it seemed that heavy growth got cut down so that the excavation seemed to come right up to their property lines. He wanted to know what would protect the homeowners' privacy and from noise, trash blowing, cars, and light trespass. When commercial development comes up to residential areas, the homeowners get hammered. A 10-foot buffer was required around the outside; other developments e.g. along Rocks Road have gone as far as putting up barrier fencing. Morrill pointed out the location for neighbors on Dwight Avenue. Previously there had been a small connection, but there was a large wetlands along the back of Staples. All of the trees along the south side remain. This tree area would be enhanced to improve light blocking for the neighbors, and a fence would be at the property line. He thought the pond area had been in place for 3 years and was stabilized. Greene said there was fencing at the end of the gravel parking lot, and at the ponds. They had cleaned up one woman's property. They had planted trees along Dwight Avenue, but stopped because the neighbors were happy.

Janvrin asked if the fencing was chain-link. Greene said it was 5 feet chain-link at the detention ponds; it catches the trash. Janvrin commented about the trash along the rail trail. Greene said it needed a good spring cleaning. Janvrin commented that at the Market Basket expansion they put up an 8-foot stockade fence along the northeasterly back corner mostly for truck headlights



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during the turning motion. This affected Dow's Lane. Morrill noted the trees along Dwight Avenue. Greene said technically there were 2 abutters to the east; only one would be impacted. There was a line of shrubbery. Janvrin asked if they planned low lying shrubbery. Janvrin recalled that Market Basket did a fence at the back corner to shield truck headlights going around the building. Morrill pointed out the buffer. Greene said two neighbors were 150 feet from the pond; some buffer already existed. Morrill said they could add trees in one corner. Janvrin cautioned about interfering with the drainage to the pond from the back corner. Morrill said it would not. Chase asked if there would be a tree in the round-about. Richardson said there would not. Janvrin asked if there might be a wild-flower mix, understanding that it could not block visibility. Morrill suggested low arborvitae.

Hawkins referred to letters from 2 abutters. Hawkins suggested solid fencing for Mr King at 32 Dwight Avenue and landscaping for Mr Cox. He asked Morrill to take copies of the letters to try to address this issue and report back to the Board. He commented that things go much better when the developer tries to respond to abutters. Janvrin suggested some directional signage could help. Hawkins said this looked like a pretty nice plan; the parking area had been broken up. He noted that the Board wanted avoid a sea of hot top, and thought the Applicant had tried to address that. He asked for further questions in re the landscaping; there being none.

Richardson showed several drawings. Khan asked for the tallest building height. Richardson said the buildings were all under 50 feet. Janvrin thought that the 50-foot height limit was for properties along Route 1. Janvrin thought they were claiming frontage along Chevy Chase. Morrill pointed out that the main entrance was on Lafayette Road, Janvrin did not see a problem, as long as they were claiming frontage along Lafayette Road. Morrill said they had a significant investment in the work in re the Lafayette Road signalized lights. Richardson said only two buildings had high facades just under 50 feet. The other buildings ranged from 24 to 38 feet. Richardson explained the drawings, commenting that Waterstone did the West Marine project. They respected the streetscape; shoppers would be visible walking throughout the shopping center. There would be a variety of building materials and color. This would include brick, colored block face, hardy planks, and bonding of masonry. This would be a varied pallet of materials and color. The buildings store fronts would be structured with varying sized pilings for architectural purposes, so there would be no large blank walls. Lighting would be downward light sconces, there would be full cutoff fixtures for dark sky compliance, as well as no light trespass. Richardson said there were no waiver requests.

Chase asked if Provident Way would be well-lit. Richardson said they would have lighting at the round-about, but no lighting from the buildings. Morgan asked if signs would be fully illuminated. Richardson said they would be LED visible, and the wall packs would also be LED which would be efficient, long lasting and compliant. Janvrin asked if the buildings would be LEED certified. Richardson said they would not be LEED certified, but they would use green elements, and rain gardens, and the like. Janvrin noted that the proposed colors were earth tones. Richardson said the variety would be in the variety of the stores and the articulation of the façade. Janvrin asked if heating and cooling equipment would be on the roof. Richardson said this would be behind the façade and screened. This is a relatively flat sight; the lines of sight were favorable. Hawkins asked about the noise expectations with equipment sounds bouncing off the façade. The air conditioning would be standard gas fired and electrical for cooling, without noisy condensers for refrigeration for night deliveries. The noise level would be about the same as for a residential development. These are not 24 hour stores.

Morgan said they had put a lot of thought into the architectural design, and asked for assurance that the tenants would go along with the architectural design. Richardson said they were 50



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percent committed and all of the tenants want this type of shopping center with a village feel, and accept the architectural style without changes. Morrill commented that this process was the same for the Epping plaza with Market Basket, Marshall's, and smaller stores. This type of design was presented, and that is what was built. How they put up the store signs differed. Richardson said they would be using canvas awnings which would give identity, shed light and break up the facade over the storefront; nothing vinyl, no flagpole. Janvrin asked if there would be lighting under the awnings. Richardson said the lighting is for the storefront.

Richardson said they would return to the Board with any changes or update for the restaurant pad at the street, which could be a condition. Janvrin asked if the tenants were national or local, noting that in Smithtown there were issues with colors; if McDonald's had wanted to be in Smithtown Village, it would have had to change colors. Richardson said they were providing a color theme, but would acknowledge that any changes to that pad or the overall center would have to come back to the Board. Janvrin appreciated that commitment, as ordinarily the Board's jurisdiction would be for use changes. Morgan asked for the name of the retail center. Richardson said "Seabrook Crossing". Hawkins asked for further comments at this time; there being none.

Hawkins said that traffic would be the focus for December 3, 2013. Other open items were: (i) discussion in re the Fowler and Kerivan memoranda, (ii) discussion in re the TRC recommendations, (iii) parking and lighting, (iv) letters from neighbors, (v) addressing letters from the DES and in re ALT, (vi) ZBA decisions, (vii) conditional use permit, (viii) NHDOT comments, and (ix) discussion in re RSG comments due on Friday. Khan wanted to hear from NextEra, because Sarah Gebo, the public relations person, had expressed concern to him about the round-about. He told her about this meeting, and that he would ask the developer to speak with her. Greene said he had talked with Alan Smith of NextEra. The concern was about their heavy trucks or equipment navigating the round-about. They had had the new plan for about a week; he expected a response.

Janvrin reported that during the NHDOT public hearing the previous week re the widening of Route 1, it was stated that construction of this project would be delayed to 2017. This was not acceptable to him or other members of the Board. He suggested that private citizens and property owners, could send comments, and suggested that Greene consider this. As there were three days to submit further public comments, he thought the Board would be sending a letter to the NHDOT and members should sign it. Khan would recommend such a letter from the BOS as well. Greene thought every person should write letters to NHDOT.

MOTION:	Janvrin	to authorize the Chair to write a to be letter signed by Planning Board Members to the New Hampshire Department of Transportation emphasizing the need to accelerate the Route 1 widening in Seabrook, rather than wait for construction in 2017.
SECOND:	Chase	Unanimous

Chase asked if there could be outreach on Channel 22 or by other means for this important issue. Khan asked that reporters covering the meeting write about this issue. He was concerned that not too many people were present for the NHDOT public hearing. Chase asked if Waterstone would use 3-foot doors. Richardson said for the larger buildings, but deliveries would be in the rear. Greene said they were disappointed not to have comments yet from the NHDOT, and asked if Cases #2014 and #2013-15 could be heard on December 17 as well as December



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3. Hawkins said since the other shopping areas would open first, there needed to be a conversation about the timing for this project, or how can the widening of Route 1 be moved up. He commented that if the state did not move more quickly, there could be a 5 year mess. This would affect everyone in the town as well as visitors. Chase was concerned about the business owners. Kravitz reported that engineers on behalf of NextEra had requested to review plans for a sensitivity study in re Provident Way, and the DDR and Waterstone shopping developments. The meeting would be on Friday. Greene asked to attend.

Hawkins continued Cases #2013-14 and #2013-15 to December 3, 2013

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

Attending for the Planning Board: William Manzi, town Manager; Curtis Slayton, superintendent, Water Department; Everett Strangman, Fire Chief; Philippe Maltais, Interim Sewer Superintendent.

Attending for the Applicant: Jeffrey Barnes, Senior Director, Corporate Real Estate; John Glynn, President, Boston Market, Kevin Connors, Vice President of Environmental Management, Health Safety and Security, US Foods; Bill Brooks, Nestle Waters;

Appearing for the Applicant: Tim Gibbons, Architect, Dan Frigge, Director of Civil Engineering, ESI Design Services; Glen Dougherty, TetraTech;

Hawkins explained that this case was not yet plan specific. The purpose at this meeting would be to decide whether to go ahead. The Company had worked with department heads, and the Technical Review Committee. The Board's comments were needed, as well as to specify the stipulations. The process had been reversed; the Board would stay with this project, as well as for code enforcement. US Foods would submit a fully engineered planset which the Planning Board would review as in the normal course. The TRC input would be part of the conditions. The process would be made clear, include peer review, and compliance, even though out of order. Morgan asked how much time was needed for the engineered planset for the fueling station and the truck wash facility. Gibbons said 30 to 45 days to complete. Hawkins said that should be ready for the peer review in January or February 2014. Gibbons said that would not be a problem. Hawkins commented that this was not a 168,000 square foot shopping center, but the aquifer was more important.

Barnes asked for conceptual approval subject to the final details. Hawkins wanted to confirm the department heads' comfort. A draft motion would govern going forward along with the usual boiler plate; the entire process would comply.

Janvrin said this would be a conditional approval – not final. Gibbons said they understood this. Slayton said the TRC discussion was satisfactory; his concerns had been addressed in a letter. Strangman asked about the elevators. Barnes said the existing elevator would remain. Frigge said a 12-inch fire line would run to the hydrants outside and run through the fuel pump. Strangman said this was good. Janvrin asked about sprinklers. Frigge said it would be sprinklered. Maltais said that the Industrial Pre-treatment Manager said there was room within the ordinance to work out the details in the design; nothing was needed in advance. Hawkins



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asked if the Applicant had any questions. Barnes was concerned that they could not put a sign on Batchelder Road. Hawkins said that could be worked out during site review. Janvrin said there could be offsite directional signs.

Khan said that the Town Manager and the Company had received a letter from Salisbury, Massachusetts. Hawkins said Salisbury had many of the same concerns; they were invited to attend this meeting and have input. They had not seen the extent of the protections for the aquifer. Manzi said the town managers would cooperate on the information flow. There would be no connection to the Massachusetts DEP. Janvrin suggested making the same presentation on the aquifer. There would be no jurisdiction, only abutter standing. Hawkins said that the Applicant had a problem with the paragraph in the proposed motion relating to Salisbury. Barnes said that Salisbury had no jurisdiction, the Company would not be comfortable saying it would comply with Salisbury; what else would they want. Barnes said they could not serve two masters; no money was involved. Janvrin suggested that the Applicant work with the Town Manager. Barnes thought that a good suggestion.

Morgan said there was nothing in re compliance, but to address issues. Barnes said [[there would be no way to accommodate all requests. Hawkins said the intent during the process would be to get all good ideas, but not solicit them. Everything would be handled in Seabrook to be a good neighbor, if logical; not opening a floodgate. This would be a component of the process, showing good intent to listen. Khan said if a condition, there would have to be compliance. Barnes said they would confer. Morgan noted that Salisbury was 1700 feet from the building, not the fueling facility. Barnes noted that water flows to the east. Chase thought the Town Manager should handle this, and not put the burden on US Foods. Manzi said that the Salisbury Town Manager agreed to send a technician to the TRC meeting for an overview; Manzi would communicate and take input. Baxter thought that “address” (in a condition) meant to mandate; “consider” would be more appropriate.

Barnes asked if the Security had to come from a New Hampshire Bank. Kravitz said the Treasurer’s policy was to accept cash drawn on any qualified bank, but letters of credit must be from a New Hampshire Bank. Barnes said that the application fee had been too much, and should only be for the impacted area. Hawkins said the Board could discuss if a reduction were appropriate. The town pays the bills. US Foods would be invoiced for the reimbursements. Condition #10 (re Salisbury) would be removed.

Attorney Mary Ganz raised a problem for her abutter client. Hawkins said the site plan review would be in public session where problems could be addressed. Janvrin understood the US foods would close on the property on November 30, and wanted to walk the property line before then. Barnes agreed. Chase asked if anything could get in the way of the sale. Barnes said that the transaction still needed to be brought to the US Foods Board of Directors for approval. Jeffrey Brown said to be very cautious about giving Massachusetts a chance in the door; they would have an interest in keeping US Foods in that state. He also stated that the property was a pre-approved industrial site for food warehousing; the fuel and maintenance facility was an accessory use – about 10 x 24 feet. Hawkins said the Planning Board had the obligation to go through the process, but there was not yet documentation. Brown said the Board could have waived jurisdiction.

Angeljean [[Chiramida]] of the Newburyport News understood the review of the outside facility, but had not seen going over square-foot by square-foot. She asked why there would be a \$40,000 fee when this was only a fueling station and a truck wash. They were moving two approved maintenance bays outside. She did not think the Planning Board normally reviewed



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renovation of an already reviewed warehouse. Hawkins said this application involved office space plus the outdoor maintenance bays. Chiramida said that Poland Springs had the drains, office space and the elevator, etc. Hawkins said the Board had abided by the ordinance and had been asked to revisit the fee as part of the process for an adjustment. Janvrin explained that the ordinance had changed in the last 14 months because the fee paid by the Market Basket south had been too low.

Glynn said if they were granted a conditional approval, they would have the architect do the siteplans and return in January to meet the conditions. He asked how long the process would be. Hawkins said time would be needed for outside peer review; and a second TRC meeting as there might be changes. He thought this needed about a two month window. The design-build would come later. Khan said the Department of Environmental Services permit review could be a long process. Frigge said they met with the DES and was told that an above ground installation would go easier. Janvrin thought that interior renovation could go on during that period. Garand said there was no problem for the building permit. Khan asked if there were too many conditions for their Board of Directors. Barnes said this was a big project with substantial return on the capital. They were hopeful of approval.

MOTION:	Hawkins	<p>to grant site plan approval to allow US Foods to renovate the Poland Springs warehouse at 100 Ledge Road (Tax Map 6, Lot 1), to construct an office module on the building's west side, and to construct a truck maintenance and fueling facility for the maintenance, washing and fueling of the company's truck fleet, subject to the following stipulations:</p> <ol style="list-style-type: none"> <li style="margin-bottom: 10px;">1. <u>Site Plans:</u> US Foods will submit a complete set of plans that conform to Seabrook site plan review requirements. <li style="margin-bottom: 10px;">2. <u>Planning Board Review:</u> The Planning Board will conduct a complete site plan review of the plans submitted which will include the normal tech review and engineering peer review with particular attention to aquifer protection. Final plans will be subject to the normal PB conditions for final approval. 3. <u>Adherence to TRC Recommendations:</u> On November 8, 2013, Seabrook's Technical Review Committee issued the fifteen recommendations that follow. The implementation of these recommendations, to the satisfaction of the Town Planner, is hereby made a stipulation of the Planning
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		<p>Board's November 19 site plan approval. The stipulations are as follows:</p> <ul style="list-style-type: none">(i) submit the fully engineered plan set approved by department heads in writing prior to the Planning Board in advance of the preconstruction meeting;(ii) assure that the protection redundancy systems are properly installed as described above and in the documentation provided, and operate as intended;(iii) provide outside verification of the effectiveness of SPI in catching and blocking leakage;(iv) assure that the fire suppression systems inside the building, and within the fueling and truck washing area and canopy, meet Fire Department requirements, and are satisfactory to the Fire Chief in accordance with the applicable fire code;(v) meet the town stormwater requirements set forth in the Subdivision Regulations; provide the Stormwater Operations and Maintenance Plan in a recordable plan document with provision for the signature of the authorized US Foods officer;(vi) show evidence of compliance with the required federal, state, and town permits;(vii) address the written comments from the water, sewer, and public works departments, and the town planner;(viii) consult with the Sewer Department Industrial Pretreatment Manager on building and fueling station sanitary system design and connection, floor drains, and/or any waiver requests; consider a blank holding tank; consider tying the floor drainage for the repair facility to the truck wash tank;(ix) consider a separate water meter in the truck washing facility;(x) assure adequate oil and water separator systems;(xi) describe the testing and release mechanisms; show sludge would be regulated and transferred for release to the sanitary system, and the schedule for removing excess sludge;
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		<p>(xii) avoid runoff from cleaning platforms with surrounding berms or diversions;</p> <p>(xiii) consult with Fire Department on fire suppression and alarms systems in all areas;</p> <p>(xiv) establish a training, testing, and sampling calendar;</p> <p>(xv) provide the written AECOM installation approval, and all requisite permits to department heads and the Planning Board.</p> <p>4. <u>Compliance with Departmental Recommendations:</u> The Seabrook Water Department and the Department of Public Works issued recommendations via memoranda dated November 7, 2013. The Sewer Department did likewise shortly thereafter. The applicant shall comply with the recommendations enumerated therein, to the satisfaction of the respective department heads.</p> <p>5. <u>Landscaping, Signs and Lighting:</u> The Planning Board finds these components of the site plan application to be in need of additional detail. Accordingly, the applicant shall return for Planning Board for approval of these items prior to the issuance of an Occupancy Permit.</p> <p>6. <u>Financial Security:</u> In order to ensure the timely and proper completion of utilities, landscaping, drainage, lighting and other infrastructure improvements, US Foods shall provide cash or an irrevocable letter of credit issued by a New Hampshire bank in an amount to be determined by the Planning Board's consulting engineer. The above referenced letters of credit and other financial guarantees shall be subject to approval, as to form and content, by the Planning Board's legal counsel.</p> <p>7. <u>Other Permits:</u> US Foods shall obtain all applicable state and federal permits.</p> <p>8. <u>Engineering Oversight:</u> The Town's consulting engineer will monitor the installation of on-site utilities and other infrastructure improvements. Improvements to the interior of the warehouse are exempt from this requirement. US Foods shall reimburse the Town for the cost of this oversight.</p>
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		<p>9. <u>Reimbursement:</u> US Foods shall fully reimburse the Town for expenses incurred from the review of the US Foods application by all of the Planning Board's professional consultants</p> <p>10. <u>Diesel Fuel Only:</u> The fuel tanks are to be used only for diesel fuel. If change is ever required US Foods or its successors will return to the Planning Board for approval.</p>
SECOND:	Khan	Unanimous

Case #2013-13 – Proposal by Scott Mitchell, Sea City Crossing, and IStar Seabrook LLC to demolish the McDonalds restaurant at 652 Lafayette Road and replace it with a 3,500 square-foot medical office building and a 4,452 square-foot retail building, continued from June 4, 2013, July 16, 2013, August 20, 2013, September 3, 2013; September 17, 2013; October 1, 2013; November 5, 2013

Attending: Jim Mitchell, IStar Seabrook;
 Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineers; Jeff Dirk, Vanesse & Associates;

Hawkins said this case is nearing the end of the process. The open issues were (i) the driveway location and the letter from DDR; (ii) the exaction calculation, (iii) waivers for lighting, (iv) waivers for sidewalks.

Hawkins reported that on November 13, 2-13 representatives of DDR, NHDOT, and the town attempting to resolve the sidewalk issues. Attending the meeting were James Grafmeyer and Attorney Malcolm McNeill for DDR; Chris Waszczuk, turnpike administration, Kevin Russell, District 6, and [[[]]] from the NH Department of Transportation, and Tom Morgan, Town Planner, Chair Don Hawkins, Planning Board, William Manzi, Town Manager, and Attorney Walter Mitchell for the Town of Seabrook. Although not yet authorized, Waszczuk proposed to offer to eliminate the town from doing sidewalk maintenance for the DDR properties, as long as NHDOT did not have to maintain them He was willing to speak with Commissioner Clements about this proposal. Hawkins thought this would be a win-win for everyone. There would not need to be cross-maintenance agreements and took into account that the DDR Route 1 sidewalks were torn-up for construction. NHDOT was very happy that they would not be putting back the sidewalks; this was part of the DDR project. There is not yet documentation of this resolution, but Waszczuk, was confident this could be accomplished.

Hawkins said that for the Case #2013-13 project, this would mean that sidewalks could remain as depicted on the Case #2013-13 siteplan, and would not have to be moved. He was not sure how other projects would be treated. The Selectmen would be involved in that decision. Janvrin commented that that would take the NHDOT off the hook; for pedestrians in the winter this would be a lose-lose. Hawkins said the state had never plowed the sidewalks. They made clear that if the town wanted to plow the sidewalks it could. It would be no different than now. The town would have to decide whether it wanted to spend the money to buy the equipment; last year the ordinance was voted down. Janvrin assumed that the DPW would be asking the town to purchase the plow this year; he encouraged that this get done, because the equipment could be

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used for Route 286, Walton Road, etc. This would encourage pedestrian and bike use of sidewalks. He commented that sidewalks were always being added. Chase agreed, noting his involvement in the Safe Routes for School program and wanted people to vote for purchasing the equipment.

Hawkins recalled the long discussion at the last meeting as to whether it was appropriate for the driveway location to empty out into the DDR entrance drive. The traffic consultants had discussed this, and Hawkins had talked with the Board's traffic consultant earlier in the day to be clear about his view. The traffic consultant's position was that while it was not optimal, the Applicant's traffic consultant had indicated that they could locate the box and stripe the area appropriately. The Applicant was asked to get a consent letter indicating that it was ok to have the driveway at that location. Hawkins had also again asked the Board's consultant about exiting to the east. The response was that this position was better than going out to the east, because there would be no space for stacking without blocking the roadway; going to the north was preferable. Khan asked who would have the right of way in re the north and south lanes. Morrill said both would be entering at the same time. Khan asked about making a right turn south. Morrill said they would have to merge to cross lanes. Hawkins said someone crossing lanes would have to yield.

Janvrin asked if the signs he had requested had been incorporated. Morrill said they would be acceptable to the traffic engineer and on the final plan; he described each sign. Janvrin said the sign symbols could be found on the NHDOT website.

Hawkins asked for other questions or comments. Lowry asked if the language with the box could be the same as was used for Provident Way near the CVS. Morrill will ask if that would be acceptable to the traffic engineer. Dirk ok said if that was the Board's preference.

Janvrin asked if in the future there could be a mechanism to tie Pizza Hut across into DDR for another exit. Morrill said the Conservation Commission and DES had given the right to fill the pond. They had concept plans to make that driveway cut connection. Janvrin asked if that could possibly tie into the Bank which might give the driver another exit option. Mitchell said that would not be easy at this time, but they would look at this. Morrill commented they were having a better relationship with DDR. They wanted other exit options. Janvrin noted this would be consistent with the Board's desire for cross-connects. Chase asked if the letter from DDR satisfied the requirement to have 2 driveway cuts on the DDR entrance road. Hawkins said that Garand's references were to the Memorandum of Understanding with the State. The NHDOT had reviewed the traffic and did not have an issue. The Board asked for the DDR letter so as not to assume this was ok with them. The Planning Board would make the final approval. He asked for other comments re the driveway; there being none.

Hawkins then turned to the exactions, stating he did not agree to the figure the Applicant presented. The components for the calculation would be: Medical Office Building – 13,000 peak hour trips; general retail – 84,000 peak hour trips; and restaurant- 35,000 peak hour trips for a total of 132 peak hour trips. With the allowable reduction of 50, the formula would be $82 \times \$1200 = \$98,400$. The Applicant's traffic engineer had been subtracting internal trips. Hawkins said if the calculation included internal trips or pass-by trips, the \$1200 rate would have to be recalculated. For example, if the internal/pass-by trips were subtracted by 30 percent, the \$1200 rate would be increased by 30 percent. The Board wanted to keep this simple. The ordinance called for cars in plus cars out less 50. There had been discussions about having the traffic consultants agree with this methodology, which is the same for everybody. Any number of assumptions could be made for internal or pass-by trips. He had recently reviewed the DDR traffic study for the public hearing on the widening of Route 1. Going from a no-build to a build



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out south of Route 107 had risen by 25, which did not make sense when the in and out called for 2200 cars per peak hour. The guess work had been taken out by using the number of cars going in and going out. Morgan thought Hawkins was skeptical of 25.

Janvrin pointed out that an applicant could reduce the exaction amount by choosing to donate 90 percent of the calculation figure, in which case nothing would ever go back to the applicant. Hawkins said the Board feels that would give the Town more flexibility in deciding how, when, and where the money would be used. However, that might not be true because the state usually said how much would be used where. The reduced exaction figure if funds are donated would be \$88,560. Mitchell asked if this money would be allocated for Route 1 road improvements, or could it be used for maintenance. Morgan said the flexibility would be geographic for road improvements, i.e. location could vary even up to the Hampton Falls town line. Janvrin wondered if it could be used for sidewalks or to buy the equipment. Hawkins did not think it could be used for maintenance, equipment, or personnel. Khan asked if the money could be used for Hampton Falls. Morgan said it could not, but could end up being spent a distance from this project. Hampton said the ordinance defines the corridor of Route 1.

Morrill thought the calculation methodology was great because it was simple. He thought their traffic consultant would argue that other applicants had used an ITE shopping center designation for a drive-through and got to move forward, even though there was more square-footage. Mitchell said that for their one acre parcel the exaction amount seemed high. If the assessment was \$500,000 the exaction would be approximately 20 percent, which seemed an awful lot of money. He asked if there were any exceptions to an exaction fee, like for a church. Hawkins said the Board would allow the value of any land contributed as part of a project e.g. for right-of-way to be deducted. Mitchell said they were not getting credit for any of the ten projects that Scott Mitchell previously built. Mitchell commented that the formula was based on peak hour trips, and asked whether a church could have an exemption from e.g. a \$150,000 exaction due because that might have 400 people leaving at once. Hawkins said an applicant might ask the Board to reconsider, stating in that instance it did not work.

Hawkins explained that Morgan had been asked to identify all of the parcels on the corridor and what kind of traffic they would generate if they were built-out. This data was turned over to the Board's traffic engineering consultant to identify what road improvements would be needed in a built out situation. The amount of traffic and was looked at in terms of the number of trips it would generate and the cost of the roadway improvements; the \$1200 figure was then selected. The other methodology had given a range from \$700 up to \$1800. The Board thought it needed about 1400 per trip, but chose \$1200 believing that the state at some point would pay some of the cost for natural growth. He pointed out that the State contributed \$4,000,000 for the Bridge, and will be the Route 1 widening south of Route 107. He did not know how the state was financing this. The town would pay for portions of the work that had to be done from exactions. Morrill asked if some of that money would be used to pay for right-of-ways. Hawkins said that was what it would be used for.

Mitchell asked if it was appropriate to elect the reduced exaction figure for this project. Hawkins thought that would be less costly for the Applicant, as well as give the Town some flexibility. Some people might think the town could not spend that money in 6 years, but with the projects coming up he thought the funds would be spent. Janvrin said when the Hotel and Dollar Store were built at Rocks Road put money for a traffic light that was held for 6 years, and had to go back. If the amount had been contributed at 90 percent, it could have been used for other improvements on the corridor. Hawkins commented that that exaction was very specific for a traffic light on Rocks Road and could not be spent anywhere else. The ordinance was originally



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rewritten for the Bridge – specifically for along the Route 1 corridor, although it wasn't known when the state would actually make improvements. The 90 percent is best for the Town. The developer would have to decide what risk they would take – pay the 100 percent which could come back in 6 years, or pay 90 percent.

Mitchell asked if they had to make that decision at this time. Hawkins said they did not. The conditions would state an either/or choice. Mitchell said they would elect the 90 percent option. Hawkins said that would give the town more flexibility, and should be paid prior to the Certificate of Occupancy. Janvrin mentioned the Route 1 widening issue, and suggested a letter to the NHDOT would be nice. Mitchell said they would do that.

Hawkins moved to waivers. Janvrin said there were requests re the landscaping and lighting. Chase said both had been voted. Janvrin asked if the DDR letter were in. Khan asked for the statement in the DDR letter. Hawkins read from the letter: "...In re proposed curb cuts on the DDR Roadway and changes to pavement striping, DDR has no issues with respect to the modification shown on an attached drawing, subject to DDR receiving written documentation from the Planning Board and NHDOT..." Hawkins asked for other comments; there being none.

Hawkins submitted the following conditions:

- (i) security deposit of \$46,500 (Michael Fowler memorandum of June 24, 2013;
- (ii) items missing from Town Planner's checklist;
- (iii) state driveway and DES permits on file on Planning Board office;
- (iv) parking easement for Pizza Hut and CVS on file in the Planning Board Office and on the site plan;
- (v) standard access easement shown on the siteplan for utilities and stormwater management (Morgan to provide form);
- (vi) all ZBA findings listed on the site plan;
- (vii) Stormwater Maintenance Manual noted on the siteplan;
- (viii) outstanding invoices are paid;
- (ix) a letter is delivered to the Planning Board including appropriate evidence that that all conditions had been met (10 days before the Planning board final approval);
- (x) the approval expires 180 days from the approval date if conditions of approval are not met;
- (xi) exaction fee of \$98,400; if the applicant chooses the donation alternative the exaction fee will be \$88,560.

Morrill asked if the exaction fee would be paid to the NHDOT or the town. For the driveway permit, he has to state that the exaction would be given to the town. He asked that the condition be clarified to say the exaction is to be paid to the Town of Seabrook. Chase asked if the sidewalk issue had been finalized. Chase wanted the conditions include that the sidewalks will be placed on the Applicant's property if the resolution with the state was not finalized. Morgan thought that the NHDOT Commissioner would go along with the resolution, but this was not yet finalized. Morgan said making that stipulation would not disadvantage the Applicant. Morrill was concerned that they could have the project built and then be told to put sidewalks on their land. Morgan thought they would hear from the Commissioner before then. Charles Mabardy asked if there would be a time requirement. Hawkins said no

Hawkins asked about the build schedule. Morrill said if they had a Certificate of Occupancy and everything was done, the sidewalks could not go on the site. Chase said they could get a partial C of O. Hawkins said if the state did not approve the sidewalk in the state right-of-way, the Applicant agrees to move the sidewalk on to their private property. this would have to be done



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before the C of O would be issued. Chase asked for the timeframe. Morrill said the McDonald's building was already being demolished. Mitchell said about 6 months. Janvrin noted that pavement would not be coming in until April. Mitchell commented that if the pavement was not in by October 31, 2013 they would have to sign a waiver. Morrill said they would like to pour a foundation and build during the winter. Chase said the only thing that would be affected would be the landscaping which would have to be in a different fashion. Hawkins asked for other discussion. Khan wanted the vote re the curb-cut. Hawkins said that was part of the siteplan. Mitchell asked about certain language for the planset. Janvrin pointed out that the Town Planner would have to be satisfied with the Siteplan.

MOTION:	Janvrin	<p>Case #2013-13 – Proposal by Scott Mitchell, Sea City Crossing, and IStar Seabrook LLC to demolish the McDonalds restaurant at 652 Lafayette Road and replace it with a 3,500 square-foot medical office building and a 4,452 square-foot retail building conditioned on:</p> <ul style="list-style-type: none"> (i) the Applicant providing a security deposit of \$46,500; (ii) items missing from Town Planner's checklist are provided ; (iii) state driveway and DES permits on file on Planning Board office; (iv) the parking easement for Pizza Hut and CVS on file in the Planning Board Office and shown on the site plan; (v) standard access easement shown on the siteplan for utilities and stormwater management; (vi) all ZBA findings listed on the site plan; (vii) Stormwater Operation and Maintenance Manual stated on the siteplan; (viii) the revised siteplan is entirely satisfactory to the Town Planner; (ix) all outstanding invoices to date are paid; (x) the exaction fee of \$98,400 is paid to the Town; if the applicant chooses the donation alternative the exaction fee amount will be \$88,560. (xi) if the state did not approve the sidewalk in the state right-of-way, the Applicant agrees to move the sidewalk on to their private property. this would have to be done before the C of O would be issued (xii) a letter is delivered to the Planning Board including appropriate evidence that that all conditions had been met (10 days before the Planning Board final approval); (xii) the approval expires 180 days from the approval date if conditions of approval are not met;
SECOND:	Chase	Unanimous



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Hawkins adjourned the meeting at 11 PM.
Respectfully submitted,

Barbara Kravitz, Secretary,
Seabrook Planning Board