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5 **Stratham Planning Board**  
6 **Meeting Minutes**  
7 **January 15, 2014**  
8 **Municipal Center, Selectmen's Meeting Room**  
9 **10 Bunker Hill Avenue**  
10 **Time: 7:00 PM**  
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13 **Members Present:** Mike Houghton, Chairman  
14 Bob Baskerville, Vice Chairman  
15 Bruno Federico, Selectmen's Representative  
16 Jameson Paine, Member  
17 Christopher Merrick, Alternate  
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19 **Members Absent:** Tom House, Member  
20 Mary Jane Werner, Alternate  
21 Steve Doyle, Alternate  
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23 **Staff Present:** Lincoln Daley, Town Planner  
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26 **1. Call to Order/Roll Call.**

27 The Chairman took roll call.  
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29 **2. Review/Approval of Meeting Minutes.**

30 a. January 8, 2014

31 Mr. Daley suggested the Board review the minutes and to email him if there any  
32 amendments.

33 **3. Public Hearing(s).**

34 a. **AutoFair Realty II, LLC, 1477 South Willow Street, Manchester, NH 03103 for**  
35 **the property located at 41 Portsmouth Avenue, Stratham, NH Tax Map 9, Lot 4.**  
36 Site Plan Review Application to construct a 25,600 square foot auto dealership and  
37 related lighting, landscaping, drainage, and parking/access improvements.  
38 *(Continuance from 12/18/13)*

39 The Chairman explained that he had received a letter from AutoFair Realty asking for a  
40 continuance of their site plan review application to February 19, 2014.

41 Mr. Baskerville made a motion to continue the AutoFair LLC meeting until February  
42 19, 2014. Motion seconded by Mr. Paine. Motion carried unanimously.

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b. **Lindt & Sprungli (USA), Inc., One Fine Chocolate Place, Stratham, NH 03885, Tax Map 3 Lot 1** Site Plan Review Application to construct a 108,261 square foot building addition, 110 space parking lot, and associated site improvements including the relocation of driveways and utilities, and grading work. (*Continuance from 12/18/13*)

Brad Mezquita, from Tighe and Bond, introduced himself, and said since the last meeting, they had resubmitted some plans that address the Town Planner’s and Civilworks’ comments. A formal letter was submitted also listing the various permits Lindt has requested.

Mr. Mezquita addressed the 4 issues of odor, noise, wetland mitigation and the roadway raised at the previous meeting. He started discussing the wetland issue first.

He said the question was raised why Lindt didn’t have to do any mitigation for the wetland they were going to fill. Lindt submitted a letter from Luke Hurley dated January 2, 2007 which basically said that when Lindt built the liquor plant expansion, over 10,000 feet of wetland was impacted. This is the threshold at which the State requires mitigation. At that time Lindt decided to use the Aquatic Resource Mitigation fund (“ARM”) of which the State calculated a fee of \$124,000 for the impact to that wetland. For this project, only 5900 square feet of wetland will be affected which is why Lindt received a permit. The State keeps tally so if Lindt fill another 4100 plus square feet, they will have to do mitigation on site or pay into the ARM fund again.

Mr. Daley requested documentation from the Department of Environmental Sciences (“D.E.S.”) substantiating the comments made by Mr. Gove in his letter in connection to the wetlands.

Mr. Mezquita addressed the issue of noise next. One was a high pitched noise coming from the easterly side of Building A which Lindt discovered to be a compressor. That compressor is scheduled to be removed when the new addition is built. The other noise issue related to tractor trailers on the upper plateau of the warehouse. The refrigeration units are switched on while the trucks are waiting to be unloaded. Mr. Mezquita said they are obviously more prevalent in summer, and unfortunately they will need to stay. He added, however, that there is a planned expansion of the warehouse which will help alleviate the need for the outdoors refrigeration units. Lindt is also investigating other methods that could be used instead.

Mr. Houghton asked if this latest addition to Building A will mean more tractor trailers with refrigeration units. Mr. Mezquita said there wouldn’t be an increase. Mr. Daley reminded Mr. Mezquita that abutters had complained also about a noise from the cocoa plant. Mr. Mezquita said Lindt were currently investigating that noise.

The issue of odor was discussed next. Mr. Mezquita explained that Lindt is heavily regulated by the Federal’s emission standards and they are in full compliance with that. Scrubbers are installed in the stacks which help burn all the pollutants off. Lindt are currently exceeding what the Federal guidelines dictate so they are not sure what else they can do to help eliminate odor completely. Mr. Paine asked if additional stacks would be added to the new addition. Mr. Mezquita said there wouldn’t be any

1 additional ones as they are not required. Mr. Robert Michalski, Vice President -  
2 Operations from Lindt stressed that the systems go through extensive cleaning also and  
3 are very well maintained. Mr. Merrick asked if there was any documentation available.  
4 Mr. Michalski said he would provide the latest emissions report. Mr. Jim Laboe,  
5 attorney for Lindt added that they have the latest copy of the State's emission permit.  
6 Mr. Merrick suggested screening for the chiller units. Mr. Mezquita said the new  
7 chillers will be on the roof and they are enclosed which is shown on the plan. Mr.  
8 Houghton asked if there were just chillers on the roof. Mr. Mezquita said that was  
9 correct.

10 Mr. Daley said that the Board seemed amenable to the idea of waiving the requirements  
11 for interior landscaping in the proposed parking area. Looking at the regulations, 14  
12 trees would have been required for the parking lot. Mr. Daley asked the Board to put a  
13 condition in the approval that Lindt provide a minimum of 14 trees to be planted  
14 elsewhere in the community. Lindt agreed they would not have a problem with  
15 donating 14 trees.

16 Mr. Daley said the stormwater and drainage report would be reviewed by Civilworks in  
17 time for the next meeting. He then referred to the snow storage and appreciated Lindt's  
18 effort to keep it on the property itself; however, he requested that a small berm be  
19 added to the snow storage area just north of the proposing parking lot area to help  
20 redirect the snow melt back onto the parking lot rather than the wetlands. Mr. Mezquita  
21 said they could do that.

22 Mr. Daley turned the topic to fire protection. He stated that Lindt will continue to use  
23 the existing pond on the property for storm water and fire protection. He requested that  
24 as final part of the approval, engineered plans of the fire suppression system be  
25 submitted to the Town and Fire Chief for their review.

26 Roadway connectivity was discussed. Mr. Mezquita reminded everybody that at the  
27 time the existing building was approved there was a condition attached to that approval  
28 for Lindt to connect their roadway to Marin Way via the back of the warehouse. There  
29 is a side road also which could potentially be connected to the end of Rollins Farm  
30 Drive. He said a meeting was held with the Town Planner, Fire Chief, Police Chief,  
31 and the Highway agent to discuss the road layout. At the time of the approval, Lindt  
32 was required to post a bond of about \$100,000 for the construction of that road. At the  
33 meeting the discussion was had does Lindt really want to build a full 2 lane road as it  
34 would acerbate the traffic problems that already exist at the end of Marin Way. It could  
35 be used as a cut through and the wondered if it will really help emergency vehicles cut  
36 their response times? The Fire Chief said they would probably still take the Route 101,  
37 but the police thought there was some merit as they would be patrolling in the area  
38 anyway. Everybody favored a connecting gated road to Rollins Farm Drive, for  
39 emergency vehicle access only. Lindt is aware that there is talk of a subdivision being  
40 built which would impact the road, but they are happy to build as much of the road as  
41 possible, and continue it once more is known about the possible subdivision. Lindt has  
42 no problem if that is listed as a condition. Mr. Daley expanded on the reasons behind  
43 choosing a gated emergency access road. One of the affected property owners was  
44 present so Mr. Daley invited him to give his view.

1 Mr. Rob Graham, Rollins Hill Development LLC introduced himself and reiterated that  
2 a productive meeting was had and he and other residents from Rollins Farm Drive were  
3 happy with the progression to date.

4 Mark Devine, abutter from the Vineyards talked about the noise from the Lindt plant.  
5 He stressed the importance of Lindt doing their utmost to mitigate the noise.

6 Robert Michalski reminded Mr. Devine that the noisy compressor was going to go  
7 away and as for the other noise, Lindt are still investigating, however Mr. Michalski  
8 said that they would be willing to put up a barrier to try and get rid of that noise. He  
9 hoped that this wouldn't delay the project. Mr. Daley asked if it was possible to meet  
10 with Mr. Michalski to discuss this noise. It was agreed they would meet later on in the  
11 week including Mr. Devine.

12 Mr. Mezquita suggested a condition being added that Lindt won't be granted a CO  
13 unless they construct the road as part of this project. Mr. Daley and Houghton thought  
14 it was a reasonable suggestion

15 Mr. Paine asked if the road could impede future development. Mr. Mezquita said they  
16 would try to locate it so that wouldn't happen.

17 Mr. Mezquita addressed Lindt's requested waivers. He started with Section 4.3.1.f;  
18 surveys are supposed to show buildings including heights that are located 200' outside  
19 the project's property lines. Lindt don't have all the necessary information for adjacent  
20 properties so would like a waiver from that.

21 Mr. Baskerville made a motion that the Board grant the requested waiver from Section  
22 4.3.1.f on the data required for abutting structures. Motion seconded by Mr. Federico.  
23 Motion carried unanimously.

24 The second requested waiver was from Section 5.2.h Landscape Design Standards.  
25 This is regarding trees being planted in the parking lot. Mr. Mezquita said as the  
26 parking lot is in the back, they would prefer not to create tree islands.

27 Mr. Paine made a motion to approve the waiver from Section 5.2.h Landscape Design  
28 Standards Parking Areas with the added condition that 14 trees of 3" caliber will be  
29 donated for the benefit of the community at a date yet to be decided by the Planning  
30 Board. Motion seconded by Mr. Baskerville. Motion carried unanimously.

31 Mr. Mezquita talked about a waiver from Section 5.9.10 Parking Areas and said the  
32 same reasons apply as for the last waiver. They don't feel there is a need for islands in  
33 the parking lot.

34 Mr. Federico made a motion to waive Section 5.9.10 Parking Requirements Mitigating  
35 Impacts of Parking Lots, for the applicant. Motion seconded by Mr. Merrick. Motion  
36 carried unanimously.

37 The final waiver requested by Mr. Mezquita was from Section 5.9 Parking  
38 Requirements. He explained that these particular criteria had been changed since 2011  
39 when Lindt were last before the Board. They have approvals from 2011, but they are  
40 now out of compliance with today's regulations. He continued that they require 990 car  
41 parking spaces in accordance with today's regulations, but they are requesting that be  
42 reduced to 649 spaces. He added that this site is always running in shifts so they really

1 don't need 990 spaces, as parking requirements are staggered. Mr. Houghton asked  
2 how many employees would be there at peak period. Mr. Houghton was told up to 600  
3 at the busiest time of year. Mr. Baskerville asked if there has ever been a problem with  
4 there not being enough spaces available. Mr. Michalski said it had happened a few  
5 times in the past, but due to a color coded systems they devised, it has no longer been  
6 an issue. Mr. Houghton said his concern is for future parking requirements when the  
7 head count starts to grow. Mr. Mezquita said they know that future site expansion is  
8 somewhat limited, and at some point he can see a parking garage being built.

9 Mr. Baskerville made a motion to grant the waiver from Section 5.9 Parking  
10 Requirements to allow them 649 total parking spaces for this proposed extension for the  
11 whole site. Motion seconded by Mr. Baskerville. Motion carried unanimously.

12 Mr. Baskerville mentioned that the bottom part of the parcel on the plan is cut off so  
13 requested that be shown. In addition Mr. Daley requested the 2006 survey of the  
14 property be included as part of the submittal.

15 Mr. Federico made a motion that this hearing be continued to February 5, 2014.  
16 Motion seconded by Mr. Baskerville. Motion carried unanimously.

- 17 c. **Town Warrant Article – Building Ordinance.** To see if the Town will amend the  
18 Stratham Town Ordinance, Chapter 7-01 Building Ordinance by replacing said chapter  
19 in its entirety with revised language to further clarify and provide additional guidance  
20 on the regulatory authority and requirements of the Town and the use of third party  
21 consultants.

22 Mr. Daley explained that occasionally the Code Enforcement Officer will require the  
23 services of a third party consultant, but currently the Building Ordinance is silent about  
24 the use of such consultants. He would like to add language under Section 4.2 which  
25 provides clarification on this issue. Mr. Daley read out the proposed language.

26 Other changes involve updating code references; there is a change in the height  
27 required for fences that go around swimming pools, and under Section 8.3. the Code  
28 Enforcement Officer suggested replacing the word, “fences” with “barriers” to provide  
29 a broader term.

30 Mr. David Canada referred to Section 1.2 and said that the wording could be  
31 misunderstood and interpreted as the Building Inspector helping to design a project  
32 rather than just reviewing it. He then talked about Section 2.1; he feels the word  
33 “annually” should be deleted in reference to the appointment of the building inspector.  
34 He said also that words should be added explaining that the Building Inspector  
35 performs his duties under the direction of the Selectmen which would make it  
36 consistent with Section 5.1. He moved to Section 6.4 which addresses the authority of  
37 a building inspector to enter premises. Mr. Canada said he feels this equates to  
38 trespassing and the language needs to be stronger so no trespassing occurs; the  
39 Inspector needs to be free from personal liability, however if an Inspector goes ahead  
40 and trespasses he or she shouldn't be immune from the law.

41 Mr. Canada referred to Section 3.10 about establishing property lines. He feels there  
42 should be some threshold before the Inspector can order a boundary survey as it's  
43 expensive and sometimes unnecessary. Mr. Canada moved to Section 3.13; which

1 deals with time limits set for projects. He feels the Town should be more flexible and  
2 would prefer it if work had to be started within 12 months rather than 6 and be  
3 completed within 18 months rather than 12. Section 3.14.1 concerns Fire inspections.  
4 Mr. Canada feels there should be a time limit in which the Fire Chief or designee  
5 should carry out inspections and if they are unable to, the responsibility should pass to  
6 the Building Inspector to act. Similar criteria should be applied to Section 3.14.2  
7 concerning Highway permits. Section 3.15; Temporary Structures; Mr. Canada feels  
8 there should be a longer time period for what constitutes temporary. Section 4.2 needs  
9 to be revised to reflect upcoming changes in the fee structure.

10 Mr. Canada moved to Sections 5. 3 and 5.4 which pertain to legal proceedings. He said  
11 the Building Inspector does not have a legal budget and therefore, cannot engage the  
12 services of Town legal counsel therefore the Ordinance should state that it is at the  
13 authority of the Board of Selectmen.

14 Mr. Canada finished by saying he hoped the Board would consider his requests. Mr.  
15 Daley said that he had no qualms about any of the suggestions. Mr. Paine asked for  
16 clarification of the comments made about Section 1.2. Mr. Daley explained that current  
17 wording could suggest the Inspector helps with design which is incorrect. If life and  
18 safety is an issue and something needs to be designed a certain way to meet code, then  
19 the Inspector would be involved as part of his job in a review capacity. Mr. Baskerville  
20 suggested changing the wording from design to design plans.

21 Mr. Merrick talked about third party consultants. He felt that the applicant should be  
22 responsible for third party review. Mr. Daley explained that when that has been done in  
23 the past, the plans ended up being inaccurate. Mr. Merrick said the Town should reject  
24 them and tell applicants what the Town requires. Mr. Daley stated that the Town does  
25 need third party reviews right now, but that they are usually only used for larger  
26 commercial projects.

27 Mr. Merrick asked how the Building Inspector deals with the situation of a person  
28 building without a permit. Mr. Daley said there is a process in place for that situation.

29 Mr. Baskerville asked for further clarification on Section 3.10. Mr. Canada explained  
30 his concern is that asking for a survey will become standard practice when a new  
31 Building Inspector is employed. He doesn't feel that it is always necessary.

32 Mr. Houghton referred to Section 2.4 and said he felt that the wording covered what  
33 Mr. Canada was requesting it said. Mr. Canada disagreed as he has known building  
34 inspectors to go into a house because the door wasn't locked.

35 Mr. Daley referred to Mr. Canada's comments about a 5 day turn around period for  
36 Sections 3.14.1 and 2. Mr. Canada said the City of Portsmouth typically does it in a day  
37 or two but 5 days would offer a bit more leeway. Mr. Baskerville observed that there  
38 is a big difference between residential projects versus commercial projects. Mr.  
39 Canada said he understood that, but that most industrial fire inspections can be done in  
40 a timely fashion and it doesn't necessarily have to always be the Fire Chief who does it,  
41 it can be a designee. Mr. Merrick said he felt the most efficient way to do this for  
42 commercial projects is to have a concurrent review involving both fire and building  
43 departments. Mr. Baskerville said he has no problems with a 5 day turnaround for

1 every day situations, but if something comes in that is out of the ordinary, then it should  
2 be stated that within 5 days the applicant will be notified that a third party review will  
3 be required. Mr. Merrick said he felt the wording should be “the Fire Chief or designee  
4 will take action on said permit within 10 days.” That action could be approval or the  
5 applicant could call up the Building Inspector and say “you can start your review; I am  
6 going to keep building, call me before you issue the permit”. Mr. Daley asked the  
7 Board if they supported Mr. Merrick’s suggestion. Mr. Canada clarified that he was  
8 suggesting it should read that action would be taken within 5 days. He didn’t mean that  
9 requirements should be changed.

10 Mr. Federico made a motion to approve the Building Ordinance for the Town of  
11 Stratham as amended this evening January 15, 2014 and send it to the warrant for voter  
12 approval. Motion seconded by Mr. Baskerville. Motion approved unanimously.

13 **4. Miscellaneous.**

14 a. Report of Officers/Committees.

15 There were no updates to report

16 b. Member Comments.

17 Mr. Baskerville asked for clarification on conflict of interests. He has been asked to  
18 work for Autofair, and as they are in Stratham also he wanted to be sure he was OK to  
19 be on the Board for any Autofair applications. The Board felt that it probably wasn’t a  
20 conflict of interest, but said it was entirely his decision.

21 c. Other.

22 Mr. Daley explained that Mr. Lavery, Highway Agent was present to discuss a signage  
23 proposal to support a change in color between Town maintained roads and State  
24 maintained roads.

25 Mr. Lavery explained that the Town is not up to date with Federal regulations  
26 concerning retro reflectivity and the quality of sheeting for the street signs. He  
27 suggested 2 options; currently street signs in Stratham are green with white letters, but  
28 he feels blue with white lettering on Town maintained roads would be a better choice.  
29 The second option would be to have the Town seal on signs. He added that one of the  
30 issues the Highway Department has to contend with is the theft of street signs.  
31 Currently they punch each sign with the zip code so if the Police do find them, they  
32 know which Town they belong to. However, it doesn’t seem to have made a huge  
33 difference. In Mr. Lavery’s opinion a Town seal would be better. Cost wise it would  
34 be \$3.50 a sign to add the seal. For budgeting purposes, he suggested a 2 year cycle.  
35 Mr. Merrick asked what the total cost would be. Mr. Lavery said he was hoping to  
36 have that figure by the end of the week. Mr. Baskerville said they would need a  
37 detailed description of signs so when developers put in new roads, they will know what  
38 signs to use. Mr. Paine asked if old signs would be recycled. Mr. Lavery said he  
39 would hold onto them for approximately a year as a back up.

40 Mr. Federico asked if Mr. Lavery would require these signs for private roads also. Mr.  
41 Lavery said he would for new subdivisions going forward. Mr. Federico asked if he  
42 would require current subdivisions to upgrade. Mr. Lavery said he wasn’t sure how

1 that could be enforced. Mr. Daley said it would have to be voluntary. Mr. Daley asked  
2 whether sign posts would need upgrading. Mr. Lavery said they are part of his sign  
3 inventory also. Mr. Daley asked if there was evidence of theft being reduced in those  
4 Towns that used a Town seal. Mr. Lavery said that an obvious difference hadn't been  
5 noticed, but that there will always be signs that are susceptible to theft such as  
6 "Patriots' Way". Mr. Baskerville commented that he likes the use of the color blue on  
7 signs, but wondered if people in Town would notice one way or another. Mr.  
8 Houghton likes the sound of the seal, but thinks that residents may be confused by the  
9 use of 2 different colored signs. Mr. Baskerville wondered also if the seal might make  
10 signs even more attractive to people.

11 **5. Adjournment.**

12 Mr. Baskerville made a motion to adjourn the meeting at 9:30 PM. Motion seconded by  
13 Mr. Paine. Motion carried unanimously.