



TOWN OF HOPEDALE
Planning Board
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Stephen Chaplin Chairman
Kaplan Hasanoglu, Member
Jimmy Kohkar, Member
Michael Costanza, Member

**Hopedale Planning Board
Meeting Minutes
Via Zoom Video Conference
May 11, 2022**

Recorded meeting can be found on the Town of Hopedale website under meeting videos.
The continuation hearing was opened at 7:00 pm.

Members that were present:	Stephen Chaplin, Chair Kaplan Hasanoglu Jimmy Kohkar Michael Costanza Christopher Chase
Interim Secretary:	Mary Arcudi
Applicants and Representatives:	Joe Antonellis, Doug Hartnett, William Buckley, Marc Wallace, Ken Cram, Hilde Karpawich
Legal Counsel:	Jonathan Silverstein
Guests:	Christine Guido, Cathy O'Connell, Colleen and Bryan Stone, PF Butcher, Michelle Bird, Brian Poitras, Ann DeMattis, Lewis Family, Jacqueline Bart, Carole Mullen, Amanda Mitchell, Kenny Mitchell, Brian Pinch, Len Guertin, Tim Watson

Kaplan Hasanoglu made a motion to skip over approving the minutes of May 4, 2022, to the next meeting, seconded by Jimmy Kohkar. All were in favor.

Continuation of the Public Hearing for 75 Plain Street – Application from GFI for Site Plan Review

Stephen Chaplin opened the continuation hearing noting that this hearing will allow the board to continue deliberating the details of a final decision before closing the hearing. He asked Jonathan Silverstein to confirm whether a member that was absent at the last hearing on May 4th could participate and vote. This was confirmed by legal counsel since a certified letter was delivered by the board member to the Town Clerk that they had viewed the meeting video of May 4, 2022 and were up to speed on the hearing.

All newly elected and reelected Planning Board members were sworn in today as well. Since Christopher Chase is a new member, he will not be able to vote on this decision for 75 Plain St.

Continued Review of Draft Decision

Project Name:	Proposed warehouse distribution facility – 616,875 sf. 75 Plain Street, Hopedale, MA
Owner:	Rosenfeld Concrete Corp., f/k/a DMJ Concrete Corp. P.O. Box 9187 100 North Washington Street Boston, MA 02114
Applicant:	75-131 Plain Street, LLC c/o GFI Partners, LLC 133 Pearl Street, Suite 300 Boston, MA 02110
Zoning District:	LI – Light Industry District Ground Water Protection District

The chairman opened the discussion regarding the concerns Kaplan Hasanoglu had at the last meeting regarding truck traffic noise during the quietest hours of the evening. There were certain reports and documents omitted from the Planning Board website which were uploaded and pertained to this topic. One such peer review report was from Harris, Miller, Miller & Hanson, Inc. (HMMH) who performed a noise analysis, requested by the town to review the applicant's noise analysis. Stephen Chaplin cited the last line of the report as follows:

Total sound levels with transient truck-pass-by events are not expected to exceed 37 dBA at any of the homes and are not expected to be intrusive or even audible much of the time.

Kaplan Hasanoglu still felt strongly that this does not address section 18.5 of the zoning bylaws which states there should be protections against excessive disturbances. He asked for truck trips to be limited. He also stated that this peer review from HMMH did not dissuade his concerns and questioned its relevance. It is unclear to him whether 4 trips per hour was the cap or the average.

Stephen Chaplin stated that HMMH has the town's interest in mind in reviewing the applicant's technical review. He cited the following from their report:

HMMH has found the noise study to be comprehensively and conservatively prepared, addressing all pertinent state noise regulations. The background ambient noise monitoring program was conducted properly, including one week of continuous monitoring at one site and several short-term noise measurements late at night to confirm the representativeness of the long-term data. The noise prediction model and the modeling approach were sufficiently detailed, and they appear to account for all significant noise sources and sound propagation paths to all the nearest homes. The report appropriately documents the noise levels produced by the various continuous sources.

Stephen Chaplin also cited the report from Highpoint from November 2021, regarding sound pressure levels are subjective. It referenced common outdoor sounds and indoor sounds and the 37 dBA is comparable to an empty conference room or a dishwasher in the next room.

The board members discussed opposing issues surrounding the night time truck noise at great length. They also discussed total daily truck trips and other vehicle traffic generated by the facility shall not substantially deviate from the numbers presented in the draft decision. Stephen polled the board members regarding imposing a cap on the hours of operations and cap the number of trucks. Jimmy, Mike Costanza and Stephen all responded no, Kaplan responded yes.

The board members proceeded to review the draft decision.

Background – All members agreed with the language as they did at the last hearing.

General Findings – No changes were made to this section and all members agreed with the language in the draft.

Administrative Conditions, Earth Removal Conditions, and Stormwater & Sediment Control Conditions – No changes were made to this section as well and all members agreed with the language.

General Conditions Mike Costanza asked about the bond amount of \$20,000 and it was agreed that was acceptable. All other sections were agreeable by the board. This section was tabled at the last meeting and the board reviewed the following conditions.

All building signs shall be installed in conformance with the requirements of Section 7 of the Zoning By-Law.

All Landscaping, berms, walls and fencing shown on the approved plans shall be permanently maintained by the owner, and landscaping shall be replaced as needed to maintain the buffer to neighboring parcels and compliance with the requirements of the zoning bylaws and approved plans. At a minimum, all excavated disturbed areas shall be loamed (4" minimum) and seeded with a hardy grass mix.

All outdoor refuse collection dumpsters shall be screened from public view from the street and

shall have covers. Trash shall be controlled and picked up daily if not contained in the dumpster.

Parking lot lighting shall be turned off or dimmed during the hours the facility is closed for operation, unless otherwise deemed necessary by the Hopedale Police Department for safety reasons. All sign illumination shall also be turned off during these hours except for the illumination of signs regarding hours of operation, truck idling, and wayfinding for the purpose of directing truck access and egress in accordance with the conditions in this decision. Lighting and illumination levels shall be in compliance with the submitted lighting plan. All fixtures shall have LED bulbs and adjustable shields so that none of the site lighting extends beyond all property lines adjacent to the residential neighborhood. The shields shall prevent direct viewing of all lighting bulbs from adjacent parcels. Increased lighting is permitted at the driveway entrance to provide adequate public safety.

Hours of Construction shall be as follows:

Interior Building Fit Out: Monday through Friday 7:00am to 7:30pm; Saturdays 8:00am to 5:00pm; Sundays – no work allowed

Exterior Building Construction and Site Work: Monday through Friday 7:00am to 6:30pm; Saturdays 8:00am to 5:00pm; Sundays – no exterior work allowed.

Holidays: No work is allowed on the following legal holidays: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas.

Exceptions: These hours of operation may be expanded, by approval of the Building Commissioner, after a review of neighborhood impacts.

Contractors: No contractors are allowed on site more than 15 minutes prior to the permitted start of construction.

Prior to the issuance of the Building Permit (BP) or Certificate of Occupancy (CO) for the Project, as indicated below, the Applicant shall satisfy the following requirements of the Hopedale Fire Department:

Submit to the Fire Department for review and approval a fire protection/detection plan and sprinkler plan. The plan shall include detailed information for the water distribution system and anticipated water flow data, building sprinkler details and hydrant locations. (*before BP*)

The Applicant shall confirm with the Department that the proposed driveway configuration provides adequate 360-degree access for fire apparatus around the building. (*before BP*)

The Applicant shall install a fire alarm radio box providing a direct connection to the Fire Department. It should be compatible with the current Fire Department receiving equipment. The Applicant may choose its own equipment, provided it is approved in advance by the Fire Department, and the receiving equipment and programming software are provided by the Applicant to the Fire Department in an acceptable manner. (*before CO*)

A fire department connection shall be installed at a location approved by the fire department, if required. (*before CO*)

Bidirectional radio amplifiers shall be installed unless an alternate method is agreed to by the Department. This will include two Fire Department radio channels and one Police Department channel, as specified by each department. (*before CO*)

The Applicant shall submit to the Fire Department for review and administrative approval the proposed use of, and methods for, blasting at the Site, if any such blasting is proposed. Any conditions imposed on the Project as part of the Fire Department Blasting Permit, if any, shall be strictly followed and enforced. The use of blasting materials containing perchlorate shall be prohibited.

The Applicant shall coordinate with Hopedale Police and Fire to provide adequate access for public safety personnel to the site.

The Applicant shall be responsible for litter control both during and after construction.

During construction, the Applicant shall install construction fencing adequate to ensure public safety.

No fuel oil or potentially hazardous or flammable materials shall be stored on-site in excess of that allowed under the Groundwater Protection District of the By-Laws.

All concrete washouts shall occur at a washout pit constructed in conformance with the design plans.

All infrastructure (utilities, driveways, sidewalks, drainage, etc.) to service the building shall be constructed as shown on the Final Site Plan prior to occupancy of the building. If all work is not completed, the Building Commissioner may issue a temporary Certificate of Occupancy, after consultation with the Planning Board. In such instance, surety acceptable to the Board may be required to ensure completion.

A Performance Bond, or other suitable surety in a form acceptable to the Town Treasurer, in the amount of \$20,000.00 shall be required prior to the start of construction. Because work is being performed in an environmentally sensitive area (Zone II), the specific purpose of this bond is to ensure that adequate funding is available to restore the site to an environmentally safe condition if all stormwater management related work is not completed. The bond shall be released upon completion of such stormwater management work and certification by the Board's peer reviewer that such work was in compliance with the approved plans.

Special Conditions – this section of the draft was previously tabled and the language is as follows: (All members agreed to the special conditions except noted in the vehicle limitation section listed below)

Hours of Operation:

- a) Activities inside the building and on the lot are not restricted as to hours of operation.
- b) Operation and emptying of the trash containers shall be between the hours of 7:00am and 9:00pm.
- c) The loading bay doors shall be closed when the bays are not operational (active loading/unloading of cargo) to prevent noise leaving the building from interior operations.

Vehicle Limitations: - A lengthy discussion continued regarding the total daily truck trips (section b listed below) and Stephen Chaplin, Mike Costanza and Jimmy agreed with the draft decision language. Kaplan did not agree and felt the board should be guarding excessive traffic at night. Board members agreed with all other items discussed in this limitation section.

- a. The impact of vehicles on the surrounding neighborhood, Hartford Avenue, and Route 140 was of major concern to the Board and residents, although the Board understands that Hartford Avenue and Rt. 140 provide transportation access to the interstate highway system. Predicted typical traffic flows based on the proposed use were provided by Bayside Engineering, and are as follows:

TABLE 4
TRIP GENERATION SUMMARY

	Automobile Trips ^a	Truck Trips ^a	Total Warehouse Trips
Average Weekday Daily Traffic	704	370	1,074
<i>Weekday Morning Peak Hour:</i>			
Entering	75	6	81
Exiting	18	6	24
Total	93	12	105
<i>Weekday Evening Peak Hour:</i>			
Entering	22	10	32
Exiting	76	9	85
Total	98	19	117

^aBased on ITE LUC 150 – Warehousing, 616,875 sf.

- b. Total daily truck and other vehicle traffic generated by the facility shall not substantially deviated from these numbers on a regular or sustained basis.
- c. The facility shall not produce traffic consistent with a Fulfillment Center (ITE Land Use Code 155) or Parcel Hub (ITE Land Use Code 156). Any commercial delivery vans utilizing the facility shall be included in the truck count when calculating the daily cap, with the exception of delivery vans for building supplies or operations, which shall count toward the total vehicle cap only. To the extent the Applicant or any tenant wishes to change the use of this property to something other than ITE Land Use Code 150 (Warehousing) and the proposed use will, in the opinion of the Planning Board's peer review consultant (the reasonable cost of which shall be borne by the applicant), have a greater projected traffic impact, including but not limited to a so-called "last mile distribution center," the Applicant must apply to this Board for a Site Plan Modification and must obtain approval of this Board prior to commencing any use other than said ITE Land Use Code 150, which approval may be denied or granted subject to additional conditions and/or mitigation measures by the Applicant. In addition to the foregoing, to the extent the Applicant has agreed in a prior written submission to the Board or to a peer review consultant to greater restrictions than those set forth in this Decision, such additional restrictions shall be deemed incorporated into this Decision by reference, and such restrictions shall be binding upon the Applicant, as if set forth fully herein.
- d. Monitoring: Enforcement of these vehicle caps is of vital importance to ensure the protection of the health, safety and welfare of the neighboring residences. The Applicant shall develop a Traffic Monitoring Program (TMP) to begin six months after initial occupancy and be completed once full (85% or higher) occupancy of the site is achieved and include the following:
 - e. Monitoring will include turning movement counts at the TIAS study area intersections and site driveway between the hours of 5:00 AM and 9:00 AM, and between 4:00 PM and 7:00 PM to capture warehouse peak generating periods.
 - f. Initiation of monitoring will allow for early identification of operational deficiencies that may require immediate action/countermeasures by the Applicant.
 - g. Automatic traffic recorder counts with classification, utilizing video-based equipment, on the site driveway to include a continuous 48-hour period over two (2) weekdays.
 - h. Evaluating motor vehicle crash data at the Project site driveway and TIAS study area intersections.

The results of the monitoring program will be summarized in a report to be provided to the Town of Hopedale upon completion of the data collection. The report will document the traffic volumes associated with the project and any delays, queuing and crash rates at the TIAS study intersections.

If any of the following conditions are documented as part of the monitoring program: 1) traffic volumes of the project exceed the predicted traffic volumes by more than 10% on a regular and sustained basis; 2) there is a material increase in the number of motor vehicle crashes at the project study intersections that are attributable to the Project; or, 3) delays and queuing at the study intersections materially exceed predicted levels due to the impact of the Project, the Applicant will identify and undertake corrective measures to offset the additional project traffic impacts, subject to the reasonable approval of the Planning Board's peer review consultant (the reasonable cost of which shall be borne by the Applicant). Such corrective measures may include, for example:

- i. Installation of additional signage and pavement markings.
- ii. Implementation of signal timing improvements to account for new traffic impacts.
- iii. On-site operations and management strategies to include:
 - 1. Expansion of TDM elements.
 - 2. Scheduling of employee and truck operations to minimize impacts.
 - 3. Other measures designed to reduce traffic impacts generated by the Project.

In addition to the foregoing, to the extent the Applicant has agreed in a prior written submission to the Board or to a peer review consultant to greater monitoring than that which is set forth in this Decision, such additional monitoring shall be deemed incorporated into this Decision by reference, and such monitoring protocols shall be binding upon the Applicant, as if set forth fully herein.

Traffic Mitigation:

- a. Vehicle patterns shall be as follows:
 - i. Trucks travelling to the site shall access the site by taking a right-hand turn onto Plain Street from Harford Avenue and then a left turn into the site from Plain Street.
 - ii. Trucks may only take a right-hand turn out of the site and may not utilize Mellen Street, Newton Street, or Warfield Street. "Right turn only" shall be visibly and conspicuously posted at the site.
 - iii. The Applicant will consult with the Planning Board to determine the need for further review/analysis if the Monitoring Program indicates that the site generates project traffic that exceeds the predicted traffic volumes identified in the submitted TIAS by more than 10% on a regular and sustained basis for mitigation as provided in the TMP.
 - iv. The Applicant shall, at its own expense, improve the intersection at Hartford Avenue and Plain Street as described in these proceedings and as shown on the proposed intersection improvement plan submitted by Bayside. Such construction shall be designed to accommodate WB-67 tractor trailer trucks, shall be completed with oversight by the Town's peer review consultants, the reasonable expense of which shall be paid by the Applicant, and shall be constructed in a manner that does not preclude future sidewalks and "complete streets" design elements.
 - v. The Applicant shall apply to Mass DOT on behalf of the Towns of Hopedale and Mendon for Heavy Commercial Vehicle Exclusions for Newton Street, Mellen Street, Warfield Street, and Neck Hill Road. (The respective Towns will be the applicant for these exclusions. If the Select Board or appropriate authority of either Town does not approve the application and/or directs the Applicant in writing not to undertake these applications, then failure to do so will not constitute a violation of this Decision. It will be the responsibility of the Town(s) to secure the approval from the Select Board or appropriate authority for the application.)
 - vi. The Applicant shall work with the Town of Mendon to modify the location of the STOP bar for the exclusive left-turn on the Cape Road northbound approach to the Route 140/Hartford Avenue intersection. If monitoring shows a more than 5% change in total volume at this intersection, the Applicant shall work with the Towns of Hopedale and Mendon to provide a more detailed evaluation and identify potential mitigative actions consistent with the traffic monitoring program.

In addition to the foregoing, to the extent the Applicant has agreed in writing, either via written submission to the Board or to a peer review consultant, to undertake additional mitigation measures not specified herein, including without limitation all commitments contained in the Memorandum to the Board submitted by the Applicant on April 25, 2022, such additional mitigation measures shall be deemed incorporated herein by reference and shall be binding upon the Applicant, as if set forth fully herein.

Signage shall be posted at the exit directing traffic in the direction described above. It shall be the Applicant's responsibility to notify all users of these site restrictions to the extent such notice reasonably can be provided.

Applicant shall remove the existing signage on South Main Street directing traffic to the Rosenfeld Concrete facility.

Vehicles exiting the Project site shall be placed under STOP-sign control with a marked STOP-line provided.

All traffic signs and pavement markings shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) standards.

All recommendations in the submitted Transportation Demand Management plan by Bayside Engineering and the peer review of same by MDM Transportation are hereby incorporated by reference as conditions of this permit.

Noise Impacts: Stephen Chaplin cited that the applicant has agreed to more stringent standards in excess of the Massachusetts Law. Board members agreed with the following language:

- a. No-idling signs shall be placed around the building so as to be clearly visible to all trucks. No vehicles shall be allowed to idle for more than 5 minutes. For purposes of clarity, the provisions of G.L. c. 90, § 16A (the “Anti-idling Law”) shall be enforceable on the site, and to the extent such statute may be deemed to only apply to public ways in the Commonwealth of Massachusetts, the Applicant agrees that its tenants, licensees, and invitees shall be bound by the terms set forth within the statute when on the site. Furthermore, the exemptions listed under the Anti-idling Law relative to delivery of goods and the need for alternative power sources shall not apply to vehicles at the Facility. It shall be the responsibility of the Applicant to ensure that adequate infrastructure is available at the Facility to allow trucks to utilize the Facility without the need to idle.
- b. Implementation of and observance of the Applicant’s self-imposed “Good Neighbor” mitigation shall be a condition of this approval, including:
 - a. Requiring tenants to designate a person responsible for the on-site compliance of the conditions of this Decision, as well as state, local and federal environmental laws and regulations;
 - b. Posting signage and requiring tenants to enforce the Anti-idling Law to reduce idling vehicles, noise, and air emissions whenever possible;
 - c. Requiring all rooftop equipment to comply with MassDEP Noise Regulations;
 - d. Actively promoting and encouraging the use of “white noise” backup alarms to the fullest extent permitted by law;
 - e. Providing an on-site break room to minimize vehicle trips and provide a lounge area for drivers;
 - f. Prohibiting refrigerated storage or refrigerated trucks unless they can meet the sound requirements of this Decision and of the HMMH’s peer review analysis;
 - g. Requiring that dock doors and exterior doors be closed when not in use to minimize any interior noise from exiting the building;
 - h. Requiring facility tenants to train managers and employees on efficient scheduling and load management to eliminate queuing and idling of trucks;
 - i. Requiring the use of electric powered yard trucks during established “quiet hours” and provide charging stations for their use;
 - j. Posting signs and educating drivers on approved truck delivery routes to the nearest highway system and clearly designating site entrance and exit points to prevent any truck traffic through residential streets;
 - k. Prohibiting any parking of vehicles on Plain Street and overnighting on-site;
 - l. Prohibiting any tenant installed speed bumps on site;
 - m. Prohibiting the use of so-called “jake breaks” or “jake breaking” on Plain Street or anywhere in the facility, except when required for safety purposes;
 - n. Prohibiting any alterations of buildings that would locate any additional dock doors on the Plain Street or Mill River sides of the building;
 - o. Maintaining site paved areas to reduce truck noise from uneven pavement;
 - p. Performing preventative maintenance of all rooftop equipment to minimize sound from mechanical equipment; and

- q. Prohibiting the use of any exterior public address systems that are audible at the property line.
- c. Idling reduction technologies, including electric parking spaces (anti-idling plugs) shall be available at all operational loading bays throughout the building as needed.
- d. The site plans have been revised to include: (a) a sound berm/barrier to mitigate impacts to Bens Way and Richard Road which will be 715 long with a top elevation of 248 feet; (b) maintaining an existing precast concrete block wall to the east of the property which is 446 feet long with top elevation of 266 feet; and (c) berms to the north and south of the site driveway with top elevations of 268 and 270 feet, respectively. Design of the berms/barriers shall be approved by the Building Commissioner prior to installation and may be subject to peer review at the Building Commissioner's discretion and the Applicant's expense, in accordance G.L. c. 44, § 53G.
- e. Plans also reflect the stated intent of the Applicant that, during the overnight hours, terminal tractors (i.e., yard truck or hostler) used to transport trailers to and from the warehouse building and the trailer storage areas will be electrically powered (i.e., substantially quieter than diesel-powered tractors).
- f. The Board may require post-occupancy sound monitoring, at the Applicant's expense, within six months of building occupancy, but not sooner than two months after building occupancy to allow time to establish routine procedures within the facility. Upon completion of the post-occupancy sound monitoring, the Applicant's sound engineer shall submit a report to the Planning Board summarizing the results of the monitoring. The report shall provide a description of the methodology, the data collected, the results of the monitoring, and a comparison between pre-construction ambient sound levels and post-occupancy ambient sound levels. Additional information may be requested by the Board or its consultant if needed to ensure compliance with these conditions. Post-occupancy sound monitoring will be performed for those continuous sound sources regulated under the Massachusetts DEP Noise Policy.
- g. The sound barrier shall be installed as early as possible during construction in order to reduce construction impacts to the abutters.
- h. If the ZEO deems there may be good reason to believe that these acoustical conditions are not being met, the Applicant shall be required to monitor and report on actual noise levels after facility operation commences, at reasonable intervals using reasonably customary methodology, to ensure that the facility operation is consistent with the sound conditions listed above. Should sound levels exceed the conditioned levels, the Applicant shall cease or reduce operations until such time that adequate sound mitigation is provided to meet these standards.

Use Limitations: - The board reviewed this section and find it agreeable.

The use of this building is limited to warehouse, with ancillary business offices. These uses are permitted "by right" under the local zoning bylaws. The warehouse traffic patterns correspond to ITE (Institute of Transportation Engineers) Land Use Code 150, which anticipates an average daily traffic generation rate of 1,092 total vehicle trips per day for a building of this size. Traffic volumes that correlate to ITE Land Use Codes 155 (Fulfillment Center) and LUC 156 (Parcel Hub) are not permitted for this site. The vehicle cap numbers listed above are provided to allow appropriate daily fluctuations from the average vehicular volumes expected for the permitted warehouse and business office uses, but, as a whole, traffic trips are expected to closely mimic the anticipated trip numbers provided by the Applicant. The use of aerial drones for building operational purposes is not permitted on the site. No refrigerated storage is allowed in the facility unless it meets the noise restrictions contained in this decision.

Water impacts: The board reviewed this section and find it agreeable.

- a. The existing municipal water service is sufficient to service the property. In addition, the Applicant has agreed to, at the Applicant's expense, construct an extension of an existing water line on Plain Street approximately 500' from an existing fire hydrant to the Town line with Mendon at the intersection of Plain Street and Hartford Avenue, which shall be completed in conjunction with the above-stated intersection improvements. All such work shall be reviewed and approved in advance with the Water & Sewer, Highway, Roads and

Building Departments, and the Applicant shall provide such departments and their consultants reasonable plans and shall conform with all applicable, federal, state, and local laws, rules, and regulations. All such work shall be completed prior to the issuance of a Building Permit.

- b. Hydrants are proposed around the building, and fire flows will be augmented by a storage tank and a pumped system to facilitate the building sprinklers. Specific details of this system have not been provided to the Board. The higher flows created by this pumped emergency system may impact the municipal water network. If requested by the Hopedale DPW, the Applicant shall pay, under the provisions of MCL Ch. 44, Sec. 53G, for the services of a peer reviewer to perform hydraulic modeling to study the impacts on the overall system. System upgrades, if determined necessary by the Board's peer review consultant, shall be at the expense of the Applicant.
- c. The Applicant shall provide access easements to the Town in areas agreed upon between the Applicant and the Water & Sewer Department for accessing potential off-site well locations, provided that said easements shall not unreasonably interfere with construction or operations of the site.
- d. The Applicant also agrees to be bound by four (4) to one (1) removal of inflow and infiltration, even if the Town's current standards are lesser.

Visual impacts: Board members agree with the visual impact section of the draft decision.

Berms, plantings, fencing and other landscape features designed to screen the site from neighboring parcels shall be maintained in good condition for the life of the facility.

Financial impacts/Mitigation: Board members agree with this section of the draft decision.

The Applicant has submitted a proposed mitigation package, which in addition to the intersection improvements, sound barriers, water line extension, and water-sewer easements referenced above, consists of payment to the Town the sum of \$625,000, which monies are intended (subject to municipal finance laws) to be applied as follows:

- i. \$200,000 intended to be used for upgrades, improvements or repairs to the Town's existing parks and recreation areas;
- j. \$200,000 intended to be used for improvements or expansion of existing Town services;
- k. \$200,000 intended to be applied towards expenses associated with the construction of a new water tank for the Town; and
- l. \$25,000 for the DPW to use for engineering and construction costs necessary to mitigate pre-existing drainage concerns on Plain Street.

The above sum of \$625,000 shall be payable to the Town prior to the issuance of a Certificate of Occupancy.

Enforcement -Board members agree with this section of the draft.

The Board may work in coordination with the Zoning Enforcement Officer ("ZEO") to ensure compliance with these conditions. As an alternative, or in addition, to the authority of the ZEO under G.L. c.40A, §7 and the Zoning Bylaw, the Board may reopen this decision if, in its discretion, it determines such action appropriate to address any alleged violations:

- a. The ZEO shall provide the Board with copies of all violation orders and notices issued to the Applicant.
- b. The Board may determine to hold a public meeting to review such violations; in such event, the Board shall provide written notice to the Applicant and/or its authorized representatives, who shall appear before the Board at such public meeting to respond to and address said allegations.
- c. The Board shall review the applicable information and make findings with respect to the alleged violations.
- d. The Board shall require the Applicant to take any reasonable corrective and preventative action measures to mitigate impact from the violations and to prevent reoccurrence of similar violations in the future. The Board may impose reasonable additional conditions upon this Decision to ensure compliance and mitigate impacts of the project.

- e. The Board's administrative process is not intended to preclude any enforcement action that may be taken by the ZEO, or to discourage the Applicant from taking self-corrective action prior to Board review. It is expected that if the ZEO raises areas of potential non-compliance, the Applicant will work expeditiously with the ZEO to resolve the issues raised, without requiring Board action.
- f. The Board or ZEO may require the Applicant to pay any reasonable costs associated with addressing any violation, such as police detail, peer review, legal or administrative costs.
- g. In addition to the above, the ZEO may also issue fines to enforce compliance. Each violation of these conditions shall constitute a separate offense. For example:
 - i. Each daily vehicle trip that exceeds the conditioned cap shall constitute a separate violation.
 - ii. Each day where noise exceeds the conditioned threshold shall constitute a separate violation.
 - iii. Each day where the hours of operation exceed the conditioned threshold shall constitute a separate violation.
- h. This decision is binding on the building in its entirety and all tenants therein. If the building is utilized by multiple tenants, it is not the responsibility of the Board to determine which tenant is in violation. Rather, all tenants shall be deemed in non-compliance until such time as the issues for the building as a whole are resolved.
- i. The ZEO may additionally seek enforcement of the conditions through judicial means in any Massachusetts court of competent jurisdiction, and the Applicant shall reimburse the Town for its reasonable attorney fees and litigation incurred in any such enforcement action.

After completing the review of the draft decision, Mike Costanza made a motion to close the public hearing for the warehouse at 75 Plain Street at 9:32 pm, seconded by Jimmy Kohkar. The vote was as follows:

Kaplan Hasanoglu	No as he is requesting additional study on the night time truck trip and noise analysis
Mike Costanza	yes
Jimmy Kohkar	yes
Stephen Chaplin	yes

Motion passes 3-1 in favor of closing the public hearing.

Mike Costanza made a motion to adopt the drafted decision for a warehouse at 75 Plain Street subject to revising the eligible members to vote listed on the last page. Motion seconded by Jimmy Kohkar. The vote was as follows:

Kaplan Hasanoglu	No as he wanted limited number of trucks during the quietest hours
Mike Costanza	Yes
Jimmy Kohkar	Yes
Stephen Chaplin	yes
Chris Chase	ineligible to vote

Motion passes 3-1 in favor.

Board members gave their closing statements and Mike Costanza made a motion to adjourn at 9:51 pm, seconded by Kaplan Hasanoglu. All were in favor.

Respectfully submitted,

Mary Arcudi
Planning Board Secretary