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REAL ESTATE INVESTMENT ADVISORS

Formerly David G. White & Associates

MEMORANDUM

To: Peter Erb, Planning and Zoning, and
The Town of Hinesburg Development Review Board

From: David G. White

Date: July 26, 2011

Re: Conditional Use Approval for Overnight Staff

Section 4.3.6 of Hinesburg's zoning ordinance states, in part, "No commercial or industrial use shall operate outside the hours of 6:00 a.m to 10:00 p.m. without conditional use approval of the Development Review Board". Hannaford's original application included a request for Conditional Use Approval for three activities that would have extended beyond these hours: 1) we requested approval to be open to customers for one extra hour, between 10 pm and 11 pm, 2) we sought approval to have deliveries occur outside the hours of 6 am to 10 pm and, 3) we sought approval to have employees inside the store overnight doing internal operations such as cleaning, stocking shelves and similar activities after the store is closed to the public. We heard objections to the late customer hours and overnight truck deliveries, so we hereby withdraw those requests.

We are uncertain as to whether the third element requires conditional use approval. That is, does having employees in the store to stock shelves, do cleaning and similar internal activities constitute "operating" as intended by Section 4.3.6? We hereby ask the DRB to determine whether these functions constitute "operating" as intended by Section 4.3.6 and if the DRB determines that they do, we request Conditional Use approval for these functions. This memo provides responses to the Conditional Use criteria as they apply to these functions, should Conditional Use approval be necessary.

After closing to the public at 10 pm, there may be up to 10 customer service employees who will depart shortly thereafter. In addition, a night crew of not more than 10 people

will remain overnight consisting of a floor maintenance crew every night and a stocking crew to stock shelves.

Regarding staff vehicles on site after 10 pm, because, as stated, there may be up to 10 customer service employees in the store until shortly after closing to the public at 10 pm, this presumably could represent as many as 10 staff vehicles on site until soon after the store closes. With up to 10 night staff there could be up to 10 vehicles on site overnight until shortly before 6 am when day-shift customer service employees begin to arrive.

This request to allow store employees to undertake internal functions outside the hours of 6 am to 10 pm conforms to the Conditional Use standards set forth in Sec. 4.2.2 as follows.

4.2.2 (1) The proposed conditional use shall not adversely affect the capacity of existing or planned community facilities.

Proposal: No aspect of having up to 10 employees working inside the store overnight will adversely affect the capacity of existing or planned community facilities. There is ample water and sewer capacity and no other community facilities are known to be directly affected in any manner by a small overnight shift.

4.2.2 (2) The proposed conditional use shall not adversely affect the character of the area affected, and the essential character of the neighborhood or district in which the property is located.

Proposal: This project is a commercial use located within a Commercial District. The immediate area or neighborhood is mixed use, dominated by commercial uses. In the event the Hannaford project is approved and constructed, nothing about having a small number of employees in the store overnight will adversely affect the character of the neighborhood or district.

Activities between 10 pm and 6 am will be very limited. After closing for business, a night crew of not more than 10 people will remain consisting of a floor maintenance crew every night and a stocking crew to stock shelves. Hannaford's wall sign and free-standing sign will be lit until the store closes to customers. They will be turned off thereafter.

4.2.2 (3) The proposed conditional use shall not adversely affect traffic on the roads and highways in the vicinity.

Proposal: The modest numbers of vehicles associated with the small number of employees between 10 pm and 6 am will have a negligible impact on traffic during these hours when comparatively little traffic is on the roads.

4.2.2 (4) The proposed conditional use shall not adversely affect the town plan and regulations in effect.

Proposal: In the event the Hannaford store is approved and constructed, nothing about having a few employees inside the store overnight will adversely affect the town plan or regulations.

4.2.2 (5) The proposed conditional use shall not adversely affect utilization of renewable energy resources.

Proposal: The proposal to have up to 10 employees inside the store will have no adverse impact on utilization of renewable energy resources. The facility is being designed to be LEED certified. Accordingly it will meet very high standards of energy efficiency.

4.2.2 (6) The proposed conditional use shall not adversely affect the appropriate use or development of adjacent property.

Proposal: The proposal to have up to 10 employees inside the store overnight will not adversely affect appropriate use or development of adjacent properties. These will be internal functions with very little traffic and no material impact on adjacent properties.

4.2.2 (7) The proposed conditional use shall not adversely affect the public welfare in any other manner.

Proposal: The proposal to have up to 10 employees inside the store overnight will not adversely affect the public welfare in any manner whatsoever. Exterior lights and signs will be turned off after the store closes each night, except for minimal security lighting. There will be negligible traffic from the small number of employees. Because the activities will be interior to the store there will be no material noise impacts from their activities.