

EXPANDED DRAFT MEETING SUMMARY
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NASHUA CITY PLANNING BOARD
March 9, 2023

The regularly scheduled meeting of the Nashua City Planning Board was held on March 9, 2023 at 7:00PM in the 3rd floor auditorium in City Hall AND via Zoom virtual meeting.

Members Present: Scott LeClair, Chair
 Adam Varley, Vice Chair
 Maggie Harper, Secretary
 Ald. Patricia Klee
 Dan Hudson, City Engineer
 Bob Bollinger
 Larry Hirsch

Also Present: Matt Sullivan, Comm. Dev. Dir.
 Sam Durfee, Planning Manager

APPROVAL OF MINUTES

February 2, 2023

MOTION by Ald. Klee to approve the minutes, as written

SECONDED by Mr. Hudson

MOTION CARRIED 5-0-2 [ABSTENTIONS NOT NAMED]

COMMUNICATIONS

None

REPORT OF CHAIR, COMMITTEE, & LIAISON

Capital Improvements Committee: Mr. LeClair gave a brief overview of the March 6th meeting.

PROCEDURES OF THE MEETING

After the legal notice of each conditional, special use permit, site plan or subdivision plan is read by the Chair, the Board will determine if that the application is complete and ready for the Board to take jurisdiction. The public hearing will begin at which

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time the applicant or representative will be given time to present an overview and description of their project. The applicant shall speak to whether or not they agree with recommended staff stipulations. The Board will then have an opportunity to ask questions of the applicant or staff.

The Chair will then ask for testimony from the audience. First anyone wishing to speak in opposition or with concern to the plan may speak. Please come forward to the microphone, state their name and address for the record. This would be the time to ask questions they may have regarding the plan. Next public testimony will come from anyone wishing to speak in favor of the plan. The applicant will then be allowed a rebuttal period at which time they shall speak to any issues or concerns raised by prior public testimony.

One public member will then be granted an opportunity to speak to those issues brought by the applicant during their rebuttal period. The Board will then ask any relevant follow-up questions of the applicant if need be.

After this is completed the public hearing will end and the Board will resume the public meeting at which time the Board will deliberate and vote on the application before us. The Board asks that both sides keep their remarks to the subject at hand and try not to repeat what has already been said.

Above all, the Board wants to be fair to everyone and make the best possible decision based on the testimony presented and all applicable approval criteria established in the Nashua Revised Ordinances for conditional, special use permits, site plans and subdivisions. Thank you for your interest and courteous attention. Please turn off your cell phones and pagers at this time.

OLD BUSINESS - CONDITIONAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

A21-0299 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - Proposed three lot subdivision. Property is located at 145-149 Temple Street. Sheet 38 - Lot 93. Zoned "GI" General Industrial/"TOD" Transit Oriented Development. Ward 7. **[TABLED TO THE MARCH 23, 2023 MEETING]**

OLD BUSINESS - SITE PLANS

A21-0300 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - Proposed site plan to show a 4-bay garage, office and storage. Property is located at 145-149 Temple Street. Sheet 38 - Lot 93. Zoned "GI" General Industrial/"TOD" Transit Oriented Development. Ward 7. **[TABLED TO THE MARCH 23, 2023 MEETING]**

A21-0301 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - Proposed site plan to add asphalt manufacturing. Property is located at 145-149 Temple Street. Sheet 38 - Lot 93. Zoned "GI" General Industrial/"TOD"-Transit Oriented Development. Ward 7. **[TABLED TO THE MARCH 23, 2023 MEETING]**

A21-0302 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - Proposed site plan to add proposed office use. Property is located at 145-149 Temple Street. Sheet 38 - Lot 93. Zoned "GI" General Industrial/"TOD" Transit Oriented Development. Ward 7. **[TABLED TO THE MARCH 23, 2023 MEETING]**

NEW BUSINESS - CONDITIONAL USE PERMITS

None

NEW BUSINESS - SUBDIVISION PLANS

None

NEW BUSINESS - SITE PLANS

None

OTHER BUSINESS

1. Review of tentative agenda to determine proposals of regional impact.

MOTION by Mr. Varley that there are no items of regional impact

SECONDED by Mr. Hirsch

MOTION CARRIED 7-0

Mr. LeClair said he would hear Other Business #2-4 together.

2. Referral from Board of Aldermen on proposed O-23-043, amending the Zoning Map by rezoning portions of the Veterans Memorial Parkway, Intervale Street, and Hughey Street and land situated west of the Veterans Memorial Parkway to C-Urban Residence (RC) District
3. Referral from Board of Aldermen on proposed O-23-044, establishing the Veterans Memorial Parkway Redevelopment Overlay District
4. Referral from Board of Aldermen on proposed O-23-045, amending the Zoning Map by adding the Veterans Memorial Parkway Redevelopment Overlay District

Matt Sullivan, Community Development Director

Mr. Sullivan said this is a collaborative effort between the city and private entities. He introduced Atty. Brad Westgate from Prunier & Prolman PA, Lloyd Geisinger, David Eastridge, and Michael Devin from Thorndike Development, and Tom Zajac from Hayner Swanson.

Mr. Sullivan said this is the first forum to hear what will be a complex and multifaceted project. This is a unique and collaborative public-private partnership that would only be possible through some of the legislative changes contemplated this evening. The city has been working closely with the development team for over a year and has arrived at the need for these pieces of legislation to support the redevelopment of the Mohawk Tannery.

Mr. Sullivan said the city has three broad objectives. The first is the remediation of the tannery site and the associated waste. The second is the reuse of the property in a way that is reflective of the larger city priorities and objectives and in alignment with the Master Plan. The third is the creation of some public amenities, which will benefit the residents of Nashua at large and visitors to the community. They are the first Board to see this and will have the most involvement with this redevelopment proposal. This is the first of many steps.

Atty. Brad Westgate, Winer & Bennett, 402 Amherst St, Nashua NH

Atty. Westgate introduced himself to the Board as representative for the owner, Blaylock Holdings LLC. He thanked city staff for their time and effort to pull together this legislation and the concept for the project ideas and scope.

Atty. Westgate said approximately 41-acres of land are a part of this proposal, including the Mohawk Tannery, the Fimbel Door landfill, and some adjacent parcels near Fairmount Street, plus 4.42-acres of the Veterans Memorial Parkway right-of-way. This is a two-part project; remediation and redevelopment.

Atty. Westgate said there are three items of legislation before them tonight. One rezones some of the land to RC district, mostly the Fimbel Door land and parkway, to be consistent with the RC zoning on the tannery. The tannery was zoned RC in 1984 in anticipation of residential development. The second is the zoning ordinance overlay district, and the third the creation of the overlay district to complement the text of the overlay district.

Lloyd Geisinger, Thorndike Development

Mr. Geisinger introduced himself as the president of Thorndike Development. He said this development is possible because of Bernie Plant, who has worked tirelessly on this project. He thanked city staff for their efforts.

Mr. Geisinger provided an overview of the project proposal. He showed a historic aerial from the 1970s of Mohawk Tannery and Fimbel Door Factory. He said the tannery lagoons are still there, and are within the 100-year flood plain. The efforts behind the EPA and the Superfund site is to get them to a point where they are not a contamination threat during storm events. The EPA has signed an agreement with Blaylock Holdings LLC where they agreed to make a 6 million dollar grant, which is a critical part of the financing of the project. The NH Business Finance Authority has made a 3 million dollar loan, and the city is making a 2 million dollar loan. Thorndike and Blaylock are putting in just under 4 million dollars of private equity. This is all for the cleanup, which is separate from the development efforts.

Mr. Geisinger said the images in this presentation are based on a 3D model they built of the site, accurate to 1/16th of an inch. They are trying to create a streetscape that is pedestrian friendly. The architecture has a series of direct entry flats which should enliven the streetscape. Behind that is a parking garage, which you cannot see and reduces the amount of impervious cover.

Mr. Geisinger showed the Board a plan of the remediated development area. The environmentally challenged soils onsite will be consolidated in a permanent containment area in the relative

location of the current lagoons, with a secant wall designed to withstand a 500-year storm event. The plan also shows remediated development area and permanent open space.

Mr. Geisinger showed a plan of the current zoning, and described each of the parcels to be rezoned. This will allow them to create contiguous and continuously zoned parcel for the overlay district.

Mr. Geisinger said once the remediation is complete they propose a series of residential buildings. The front four along the parkway will be residential apartments, the rear five will be condominiums. The containment area will be landscaped into a recreational space. The property to the far south, about 13-acres, will remain as open space and will be deeded to the city. The proposed amenities include a riverwalk, a playground, a dog park, a kayak launch, and a pedestrian bridge which will connect this area of Nashua to Mine Falls Park. Part of the plan is to make pedestrian connections from the surrounding properties through to property to connect to the bridge, as well as across Veterans Parkway, where there will now be a stoplight.

Mr. Geisinger said the notion behind the architecture is to build a streetscape that is pedestrian friendly, with direct-entry flats and terraces.

****Technical issues with presentation****

Mr. Geisinger said he will stop there, as the Board has a copy of the presentation, which should give a good sense of what is envisioned. They will be back before the Board to get into the plan in detail, which is not the main item tonight.

Atty. Westgate, Winer & Bennett

Atty. Westgate said the first item is the rezoning of Fimbel Door, the parkway, and some small parcels off of Intervale Street and Fairmount Street. If you drive down the parkway heading into town, there is a sculpture on the right; this is about where the entrance road will be. That's all ordinance O-23-043 does. Ordinance O-23-045 takes the land and imposes on it the redevelopment district, so that piece of land can be governed by the overlay district ordinance. Ordinance O-23-44 is the overlay district ordinance itself the text of the ordinance which will become part of the Land Use Code.

Atty. Westgate highlighted core pieces of the text of the overlay district ordinance. The purpose of the ordinance is two-fold; to facilitate remediation of environmentally challenged property, and to allow development of one of the largest remaining undeveloped parcels in the city for an array of housing opportunities. Another core item is permitted uses, which are all uses allowed by the RC district plus some businesses, professions, active and passive recreation, and service uses. They are proposing a 20,000-sqft maximum of nonresidential type uses, and of a flavor typical of this sort of development.

Atty. Westgate said there is a master concept plan and a master development agreement, which are both Board of Aldermen level concepts. The master concept plan is to lay out what the project is to be, have core items understood, have the Board of Aldermen approve that plan, enter into a master development agreement with the developer, and then come to the Planning Board to deal with subdivision and site plan applications and approvals. Neither of those replace the typical Board process.

Atty. Westgate said the dimensional requirements in the overlay district would be the same as the RC district, but with some flexibility given to the Planning Board to deal with the requirements other than density. Density is not changeable, and is governed by the RC district. Otherwise, there is flexibility given to the Board so that the master concept plan and the project layout can fit within what design the Board sees appropriate.

Atty. Westgate said there are a couple of specific legislative pieces. One is a greenspace requirement of 50% of the full project site. That does include the 13-acres of parkland that would be deeded to the city once they hit a threshold of development. There are some special conditions noted as well. One is to get rid of some archaic conditions imposed in 1984 when the tannery site and Tamposi site were zoned to RC, which dealt with the nature of the tannery.

Atty. Westgate said the concept of the development fits in nicely within the idea of these three pieces of legislation and the legislation worked well with this concept. But the concept doesn't work without the three pieces of legislation being passed. The zoning and district are critical to allow the Planning Board flexibility in the ultimate approval and vote of the concept. They also think that this package of zoning changes fit well with the Master Plan adopted in 2021, which includes environmental

remediation, meeting housing needs, enhancing river access, and enhancing recreation access. All of these are elements of the proposed project.

Mr. LeClair said in regards the permitted uses, where did that 20,000-sqft cap come from? If that number wants to change, who changes this? They just dealt with some special overlay districts in the past and the modifications to the quantity of uses other than the original. That can be problematic down the road.

Atty. Westgate said it was a discussion concept between the team and city staff. The idea was not to overwhelm the project with other potential uses. To increase it would require a variance.

Mr. LeClair asked what the process would be for that variance. Is that Aldermanic, or Planning?

Atty. Westgate said it would be the Zoning Board.

Mr. Sullivan said he understands the sensitivity based on recent projects. There are two options for exceeding the square footage allowance proposed. One would be a traditional variance through the Zoning Board of Adjustment, and the other would be a modification of the code by the Board of Aldermen. If the Board feels there is an alternative process which is more flexible would be more appropriate that is acceptable, but they don't think it is as onerous as some other zoning language in place that has some alternative procedures associated with it.

Mr. LeClair said he would call it the normal process of going to zoning. If approved as a variance, it would still go to Planning Board after. Would the aldermanic board be involved?

Mr. Sullivan said one of the deliberate pieces of this proposal is because this project is being held to a master concept pla, there are specific thresholds with administrative and other that the ordinance defines. If the plan is changing, whether it is an administrative change, Planning Board amendment, or Aldermanic change depends on the numbers and size of the change. A 20,000-sqft to 30,000-sqft change would most likely be a Planning Board amendment.

Mr. Varley said given that the underlying district would be residential, this permitted use contemplated wouldn't normally be permitted in the underlying district.

Mr. Sullivan said there are some nonresidential uses contemplated by the underlying zoning. One of the challenges is that the Board is about to embark on a land use code amendment process, and they want this to live beyond the update. Although the current zoning allows for some nonresidential uses, they wanted to make sure those nonresidential uses were protected into the future beyond the current Land Use Code.

Mr. LeClair asked about accessory uses as a permitted use, and whether that is clear enough.

Mr. Sullivan said it is customary and common. It's a term used frequently in the Land Use Code, and it's intentionally vague. Accessory uses as applied here would be to the primary use. For example, the playground is an accessory use to the residential use. There would have to be a reasonable nexus between the accessory use and the permitted uses in the ordinance for it to be an acceptable permitted use. It's a "know it when you see it" standard. There would be an individual analysis.

Atty. Westgate said even though the term is vague, it is the exact term used in the Land Use Code currently. There's a lot of case law that has been developed over the years that defines accessory uses. It's accessory to the principle use.

Mr. LeClair asked if ten years down the road someone wants a different use in there, such as a restaurant, how does that work?

Atty. Westgate said if the project develops as contemplated, it will be as listed. If not, the owner would have to go back to city staff and figure out how to work through it. The project as laid out doesn't set aside a significant amount of land for the nonresidential uses.

Mr. LeClair said he is trying to understand the change processes, because inevitably they come.

Mr. Sullivan said it could either be through a variance request, or an amendment to zoning. One of the core concepts that differentiates this overlay zone from other overlays or innovative land use controls they have seen is that the intent is to build out this site fully with one shared developer. That is different from some of the overlay zones they have dealt with recently that laid out a long term 30-year build out and made some very deliberate assumptions about what that would look like but then lost currency and were difficult to apply decades later. The intent

is that this does get built out. In the event that it doesn't, certainly an aldermanic action to rezone the property or a request for zoning relief would be appropriate. The developer does not lose the ability to request a variance if this overlay is installed.

Mr. LeClair asked if this makes any changes to any parking counts that would normally be in the Code.

Mr. Sullivan said it doesn't contemplate a different amount of parking, but it does contemplate alternative parking space dimensions and aisle widths.

Ald. Klee said in regards to the 20,000-sqft and requesting a variance, they have an actual ordinance limiting it to 20,000-sqft. How does that apply?

Mr. Sullivan said this ordinance is no different than the current ordinances that govern land use across the city. An applicant, owner, or developer has the legal right to request a variance from that ordinance. What is slightly unique here is that while they have that right, there are other controlling provisions of the master concept plan that may mean that not only is a variance needed, but an amendment to the master concept plan and master development agreement through the Board of Aldermen. It won't be as simple as a variance, there may be other action through the Aldermen depending on the level of differentiation from the approval plans.

Ald. Klee asked if the frontal residences were converted to commercial, would that have to go before the Board of Aldermen?

Mr. Sullivan said he is hesitant to answer specific questions of that nature, because they would need to know more information. The master concept plan with the master development agreement and the overlay lay out a very specific set of thresholds to trigger alternative processes. In the event that a 30,000-sqft restaurant is proposed, he believes that would be a modification to the master concept plan, which requires aldermanic action and additional actions by this Board. But he doesn't want to be bound to that because they are dealing in hypotheticals. The bottom line is that there are alternative thresholds.

Ald. Klee said she trusts that the plan being put forward is what they will see.

Mr. Varley asked for clarification on how the overlay district facilitates the project.

Atty. Westgate said relative to the uses, core uses through the RC district are independent of the overlay need, but the notion of active and passive recreation uses were put in stone in anticipation of the land use code changing to make sure it was permitted irrespective of what happens to the RC district. They don't expect the RC district to change density or scope of residential uses, which would cause issues.

Atty. Westgate said the master concept plan doesn't exist without the overlay district and ordinance. The Board of Aldermen feels more comfortable with the zoning changes and setting the project in motion with a master concept plan in place. No other project that comes before them mandates a master concept plan. It's a plus in the sense that it creates the framework to design this project and get the Aldermen's acquiescence on changing the zoning, hopefully leading to financing for remediation. It constrains them in changes, because for example a 30,000-sqft restaurant would require going all the way up to the Board of Aldermen to get it approved.

Atty. Westgate said the Board has touched on the hardest things they have had in drafting; how they govern the master concept plan, who makes judgments on what changes, and the detail on processing those changes. The other side of it is the inclusionary zoning side of the ordinance. There is flexibility given to the payment in lieu process, affordable housing alternative, which is modified somewhat by way of this ordinance, which is critical to the project. This is critical because of the remediation process. These are a few examples of interplay between city needs and developer needs implemented through the overlay.

Mr. Varley asked if this ordinance allows payment in lieu of affordable housing entirely, rather than designating a portion of the units within the inclusionary zoning.

Atty. Westgate said not exactly. There is a requirement of affordable housing percentage on the rental side. The basic idea is that the payment in lieu of affordable housing will only apply to the condominium side of the development, as opposed to the rental side. That isn't finalized yet because all you're seeing in the ordinance is the ability to be flexible in how they implement it. They will nail it down by way of the master development

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agreement, which they hope to get to the Aldermen shortly. They're not quite done yet.

Mr. LeClair asked if the ordinance or master development agreement specify whether the roadways are public or private.

Atty. Westgate said they plan that the roadway in from the parkway will be public. The idea is to then create lots off of that public road, which would be privately maintained. Board of Public Works would have to agree to that. The rest of the road system is planned to be private, which would be the continuation of the main spine road and the road that goes toward the Tamposi parcel 62-100 to give access to that property. The 1984 ordinance that rezoned the Tamposi and tannery site contemplated that when this was accessed it would provide access to the Tamposi piece; that idea is carried through to today.

Mr. LeClair asked if there has been any thought about solar onsite. Would a variance be required?

Atty. Westgate said if solar arrays were on buildings, he doesn't think it rises to the level of Aldermanic approval. It may need an amended site plan or administratively amended. He doesn't see it as hard work. If they are on the ground, perhaps it would be different. City staff would have to decide what level it would rise to.

Mr. Durfee said building mounted arrays would be accessory to the principle use. Same would go for ones on the car parking. Ground mounted ones would be a site plan amendment.

Mr. Bollinger said it looks like the parkway acquisition is not insignificant and there is some serious history with NHDOT and federal funds and return of funds. Has there been any consultation with NHDOT on whether they would allow that break in a limited access right of way?

Mr. Durfee said access was always contemplated in this location for a development of this sort. In terms of return of funds and number of lanes, he doesn't have an answer.

Mr. Bollinger asked if NHDOT has been consulted for feasibility. Atty. Westgate said they have had a lot of talks with DOT, and there is a return of funds to the federal government before a sale. The idea here is that there is already been process led by Bernie

Plant, a so-called categorical exclusion granted by DOT to effectively say that this land qualifies to come out of the right of way and can be sold to a private party. They are now in the process of finalizing the appraisal step necessary with the DOT to allow that to happen. It would then go to a purchase and sale agreement which the Board of Aldermen would have to approve to allow that sale to occur. One of the plans that will come before the Planning Board someday is a subdivision to take that 4.4-acres out of the parkway and create it as a viable parcel. The purchase and sale agreement contemplates that as a prerequisite to be able to close. They worked pretty extensively on it.

Mr. Hudson said they have had those discussions. The parcel to be transferred has asbestos disposal that occurred as part of the parkway, which would be incorporated as part of the containment area of the site. There are also some drainage features to be replicated onsite. There has been a robust discussion with DOT and Tim Cummings and they have not indicated that there is any issue. There are two locations on the parkway called out as future access points; this is one of them. The other was on Franklin Street. Discussions are ongoing.

Mr. Bollinger asked who would be responsible for writing the check for the payback.

Atty. Westgate said the purchase agreement lists Blaylock Holdings as the buyer and the city as the seller of the land. Whatever that purchase price is, Blaylock will pay it. The city and DOT will determine the flow of funds out to federal highway.

Mr. Bollinger said based on the preliminary layout, it looks like there is a connection to the intersection of Fairmount and Warsaw. Will that be gated? If there is general access, has there been any engagement with the neighborhood in that area?

Atty. Westgate said that is an emergency access, to be gated.

Ald. Klee said Ald. Lopez has had thorough conversations with many of the neighbors within Little Florida, and one of their concerns was that traffic would not flow into their neighborhood. To have a fire access road is also safety for them, so they can be accessed from a variety of directions.

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Mr. LeClair asked if these ordinances go through and site plans are developed, there would be subdivisions and then site plans? Is there any interplay with zoning?

Atty. Westgate said he would defer to Tom Zajac, the project engineer. There are no variances contemplated.

Tom Zajac, Civil Engineer, Hayner Swanson Inc, 3 Congress St, Nashua NH

Mr. Zajac introduced himself to the Board. He said hopefully he will be presenting a plan to them in two months. They would start with two subdivision plans. One would be for the main body of the site, which would be consolidation and subdivision with a public road. They are also carving off a 1-into-2 of the Tamposi lot, which will come into the parcel. Then they will have the site plan for the full redevelopment of the site, where he assumes they will spend the focus of their time. These three applications would come concurrently before the Board. They haven't identified any sort of zoning relief required. They will proceed with the Commission for some impacts, but would proceed to Planning after the Board of Aldermen process is complete.

Mr. LeClair said it would be counterproductive to get through the ordinances and then need a variance.

Atty. Westgate said he would be the most disappointed person here by far.

Mr. Hudson said there is a partial discontinuance of the right of way and the subdivision. Is that the proper procedure?

Mr. Durfee said the discontinuance has to happen before the underlying land is merged and further subdivided.

Mr. LeClair asked about the process of the bridge. Is that part of the master development agreement? How does it work?

Atty. Westgate said it is part of the master concept plan first. It's also a part of the development agreement as drafted, meaning that it is a contemplated element of public improvement. The agreement contemplates timing and development threshold by which permitting and construction can occur. The development outlines it in fair detail.

Mr. LeClair asked if it becomes public.

Atty. Westgate said yes.

Mr. Sullivan said as would become the kayak launch a parcel dedicated to the city. What they will see in the development agreement is timing associated with them, and when they are permitted to be constructed associated with the development and its progression.

Mr. Sullivan said the Planning Dept. received a lightly amended iteration of O-23-43 this afternoon, which may not have been distributed.

Mr. Sullivan summarized the changes, which were in regards to metes and bounds. He asked the Board to recommend as amended.

Mr. LeClair said this seems like a pretty interesting development. He appreciates the attention to process for modification; they routinely have to deal with that from older ordinances.

Mr. Bollinger said there was some additional language that made some distinction between major and minor modifications. That can't foretell everything, but it appears there is an outline of a process. He has some level of comfort that it can be adjudicated. He thinks the basic framework is there.

Ald. Klee asked if this overlay is different because it's one developer doing it all at once, instead of piecemeal over years.

Mr. Sullivan said there are no clear phases, but as with any large scale development it will be done incrementally. There is the conveyance of the condos as they are built. While all of these documents assume full build-out, it is not out of the realm of possibility that fewer units could be built. They are proceeding as if it will be entirely built out. Many of the improvements critical to the success of the site are required earlier in the development process in the event that market conditions change and the full build-out doesn't occur.

Ald. Klee asked if they will run into issues they have had in the past.

Mr. Sullivan said by nature this development is a unified one. In other overlays in the city, that has not always been the case. This is inherently different.

MOTION by Mr. Varley to favorably recommend Other Business #2, regarding O-23-043, to the Board of Aldermen, as amended

SECONDED by Mr. Hirsch

MOTION CARRIED 7-0

MOTION by Mr. Varley to favorably recommend Other Business #3, regarding O-23-044, to the Board of Aldermen

SECONDED by Mr. Hirsch

MOTION CARRIED 7-0

MOTION by Mr. Varley to favorably recommend Other Business #4, regarding O-23-045, to the Board of Aldermen

SECONDED by Mr. Hirsch

MOTION CARRIED 7-0

5. Referral from the Board of Aldermen on proposed O-23-047, amending the Land Use Code regarding minor site plan amendments to permit seasonal outdoor dining approvals

Matt Sullivan, Community Development Director

Mr. Sullivan said this change codifies a process created through the Covid-19 pandemic that created additional outdoor dining in parking lots and other areas on private site plans for seasonal outdoor dining when appropriate. This was instituted when indoor dining was unsafe, and city staff through an administrative process issued seasonal approvals to add tables and the like. What they are trying to do is provide that ability to restaurant uses and outdoor dining uses moving forward. The prior authority has expired, so this would allow staff to continue to do this on a seasonal basis. One of the items is a waiver of the fee traditionally associated with an administrative review, because annual certification is required. In addition, this is a minor amendment and they didn't feel a fee is appropriate. He feels this is a positive step for businesses and an enhanced experience for diners. This is on private property and does not include dining on sidewalks.

Ald. Klee asked if they get approval for outdoor dining, if that plan changes do they have to resubmit?

Mr. Sullivan said yes, that's why it's an annual process. Restaurant needs do change over time and they learn from year to year. Nearly every approval changed over time. That's one of the reasons they do it annually rather than issuing a permit that could change. They don't want the city to be in the position where they have to send code enforcement, they want to have an open conversation on what the expectations are.

Mr. Bollinger said he imagines a lot of restaurants rent their spaces. Does the actual owner have to file the application?

Mr. Sullivan said the owner is required to consent via signature, the business can be the applicant.

Mr. Bollinger said there is a provision in here for temporary structures, has there been a discussion of what is temporary or not? He is trying to avoid a situation of a massive expansion.

Mr. Sullivan said that is an existing section of the code. What it has been traditionally used for is a modular storage unit, restroom facilities, things that have a finite period of time to be in place. It hasn't been used in a way that is detrimental, and does not relate to the outdoor dining contemplated this evening.

Mr. Hudson asked what season they are talking about.

Mr. Sullivan said the season is an annual season. Traditionally they assign it to the summer season. The language is flexible enough that if a restaurant came in to install heated igloos they could issue a winter seasonal permit. It will be tied to the core summer or winter season.

Mr. Hudson asked if Planning has a role and there are corresponding health approvals.

Mr. Sullivan said yes, there is an inter-jurisdictional process. Fire, Health, and Building Depts. are all related. Public Works can be installed with installing barriers. There are multiple approvals required.

Ms. Harper asked if businesses can leave a temporary structure up year round, what steps are taken to make sure the temporary structure is safe?

Mr. Sullivan said the core of a temporary structure is that it's there for a limited amount of time. If it is past that period of

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time, Community Development has the authority to begin the code enforcement process. It would more likely be an ongoing conversation with the applicant, but temporary structures have a period of time agreed to by the city and applicant. The temporary structure ordinance doesn't let them just go and do what they wish.

MOTION by Mr. Bollinger to favorably recommend Other Business #5, regarding O-23-47, to the Board of Aldermen

SECONDED by Ms. Harper

MOTION CARRIED 7-0

6. Nomination of a Planning Board member to the Nashua Regional Planning Commission

Mr. Durfee provided a brief description of the role.

Mr. Bollinger volunteered to serve as a member.

MOTION by Ald. Klee to nominate Mr. Bollinger to the NRCP

SECONDED by Mr. Hirsch

MOTION CARRIED 7-0

DISCUSSION ITEMS

Inclusionary Zoning: Postponed

MOTION to adjourn by Ald. Klee at 8:33 PM

MOTION CARRIED 7-0

APPROVED:

Mr. LeClair, Chair, Nashua Planning Board

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Prepared by: Kate Poirier

Taped Meeting