

NASHUA CITY PLANNING BOARD
September 12, 2019

The regularly scheduled meeting of the Nashua City Planning Board was held on September 12, 2019 at 7:00 PM in the 3rd floor auditorium in City Hall.

Members Present: Scott LeClair, Chair
 Mike Pedersen, Mayor's Rep.
 Edward Weber, Secretary
 Steve Dookran, City Engineer
 Maggie Harper
 Bob Bollinger

Also Present: Linda McGhee, Deputy Planning Manager
 Scott McPhie, Planner I

Approval of Minutes

August 8, 2019

MOTION by Ms. Harper to approve the minutes of the August 8, 2019 meeting.

SECONDED by Mr. Weber

MOTION CARRIED 4-0-2 (Bollinger, Pedersen abstained)

COMMUNICATIONS

Ms. McGhee went over the following items that were received after the case packets were mailed:

- Email from Engineering Dept. re: Case #7
- Color elevations re: Case #7
- Email from Economic Dev. Dir. Tim Cummings re: Other Business #2

REPORT OF CHAIR, COMMITTEE & LIAISON

Mr. Weber said the Historic District Commission held a meeting, but he did not attend.

PROCEDURES OF THE MEETING

Mr. LeClair went into the procedure of the meeting as follows: 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 the application is complete and ready for the Board to take jurisdiction. The public hearing will begin at which 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/SPECIAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

None

OLD BUSINESS - SITE PLANS

None

Mr. LeClair said that Other Business Case #2 will be heard first, after which the Board will continue with the remainder of the Agenda.

2. Referral from the Committee on Infrastructure - Petition to Release Façade Easement **(Postponed from the August 8, 2019 meeting)**

Atty. Andy Prolman, Prunier & Prolman P.A., 20 Trafalgar Sq, Nashua NH

Atty. Prolman introduced himself to the Board as representative for the owner, Alla Mark Properties LLC. He also introduced owner Camille Lebos, Preservation Consultant Lisa Mausolf, and Economic Development Director Tim Cummings.

Atty. Prolman gave an introduction to their request. The property is located at 452 Amherst St, which houses the Country Tavern Restaurant. In 1982 the past owners were granted a variance from the Zoning Board to convert the residential home to a restaurant, on the condition of a façade easement. The current owners are looking to sell the property, and the easement restricts its marketability. He said the property has little to no historic value, and is not eligible for the Federal Historic Registry. They propose an alternative, which includes a \$50,000.00 contribution, exclusive salvage rights, and an effort to preserve the trees onsite. They are here to request a positive recommendation to the Board of Aldermen.

Mr. LeClair asked when the easement was initiated.

Atty. Prolman said there were Zoning Board hearings in late 1981, and the easement itself was recorded in 1982.

Mr. Weber said this area has a lot of history. Would there be a way to have a plaque that could direct people to learn more?

Atty. Prolman said they could look into that.

Economic Development Director Tim Cummings

Mr. Cummings said his office would be more than happy to work on the behalf of the city to create some signage. He would want to talk with Dept. of Public Works to find an appropriate location.

Mr. Weber asked if he could forward that to the Historic District Commission.

Mr. Cummings said sure.

MOTION by Mr. Weber to make a favorable recommendation for Other Business - #2 to the Board of Aldermen.

SECONDED by Mr. Pedersen

MOTION CARRIED 6-0

NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

1. Wilmar, LLC (Owner) Weston Associates (Applicant) - Application and acceptance of proposed Conditional Use Permit to allow for a proposed 5-story climate controlled self-storage building. Property is located at 4 Blackstone Drive. Sheet H - Lot 520. Zoned "GB" General Business. Ward 2. **(Postponed from the August 8, 2019 meeting)**

MOTION by Mr. Pedersen that the application is complete and the Planning Board is ready to take jurisdiction.

SECONDED by Ms. Harper

MOTION CARRIED 6-0

For the purposes of discussion, Cases #1 & #6 were considered together.

NEW BUSINESS - SITE PLANS

6. Wilmar, LLC (Owner) Weston Associates (Applicant) - Application and acceptance of proposed 5-story climate controlled self-storage building. Property is located at 4 Blackstone Drive. Sheet H - Lot 520. Zoned "GB" General Business. Ward 2. **(Postponed from the August 8, 2019 meeting)**

MOTION by Mr. Pedersen that the application is complete and the Planning Board is ready to take jurisdiction.

SECONDED by Ms. Harper

MOTION CARRIED 6-0

Chris Rice, Project Manager, TF Moran, 48 Constitution Dr, Bedford, NH 03110

Mr. Rice introduced himself to the Board as representative for the owner. He also introduced Atty. Gerry Prunier from Prunier & Prolman PA, David Mackay of Weston Associates, and Brian Rodonets from Coastal Architects.

Mr. Rice gave an overview of the conditional use permit. Self-storage facilities require a conditional use permit in this zone under the recently passed ordinance, O-18-033. He read through the nine criteria for approval.

Mr. Rice gave an overview of the proposed site plan. He described the site conditions and surrounding properties. He described their proposal. He said they anticipate developing the southern portion of the lot at a later date, at which time they will return to the Board. He described the stormwater management systems onsite, and they meet both the city's drainage criteria and the NHDES Alteration of Terrain permit criteria.

Mr. Rice described the lighting and landscaping onsite. He said based on the city's trip generation worksheet, this development does not trigger a full traffic study.

Mr. Rice said that they are requesting six waivers as part of this application. The first waiver is from NRO §190-198, which requires minimum parking standards for the site. The second waiver is from NRO § 190-15(d)(5) Interpretation of Table 15-1, which requires self-storage facilities have a 40' buffer from residential properties. Currently there is existing pavement in the area, and they are not expanding it much farther. The reason that the facility was pushed back is to accommodate future takings for the expansion of Route 101A. They plan to provide additional landscaping along the residential side. The third waiver is from NRO § 190-15(d)(5) Interpretation of Table 15-1, which requires self-storage facilities designated with the superscript "2" (2) must be at least 200 feet from the City right-of way; and all storage bay doors to be screened. The

fourth waiver is from NRO § 190-215(B), which requires redevelopment of previously developed sites must meet the stormwater management standards to the maximum extent possible to be determined by the Planning Board. The fifth waiver is from NRO § 190-215(G), which requires post development peak discharge rates. The sixth waiver is from NRO § 190-209(A)(1), for maximum curb cut allowance. They are happy to work with city Staff and Engineering Dept. to resolve any outstanding issues.

Mr. Rice thanked Planning Dept. staff members Linda McGhee and Carter Falk for helping them through the process, and said they were always a pleasure to work with.

Brian Rodonets, Project Architect, Coastal Architects, 42
Pepperrell Rd, Kittery Point, ME 03905

Mr. Rodonets said they are requesting two waivers in regards to the building design. The first is from NRO § 190-172, which specifies non-residential building design standards. The second is from NRO § 190-172(B)(1), (C), and (F), which requires specific elements for non-residential buildings. He described each of the waivers and the proposed architectural elements in detail.

Mr. Weber asked if after the underground utilities and stormwater systems are installed, if they will check to make sure it was done properly.

Mr. Rice said yes. It will be inspected during installation, and there is a maintenance plan.

Mr. Weber asked if the building lighting will splash onto the neighborhood.

Mr. Rice said that the light dwindles down to .1 foot-candles at the northern property line.

Mr. Weber said he wants to make sure that the neighbors won't see a light.

Mr. Rice said that's why they didn't propose any pole mounted lights, and the building lights will be mounted fairly low, at 12-ft high.

Mr. Weber asked if they will have a dumpster onsite.

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Mr. Rice said they may add one, and if they do it will be within the areas they currently have for impervious area. The owner is still looking into whether or not it will be on the tenants to remove their own waste. He is sure that if they do it will have an enclosure and be fully screened.

Mr. Bollinger asked if he knew when the Route 101A widening project would occur.

Mr. Rice said he believes it was in the 2023-2025 timeline.

Mr. Bollinger asked if they have started the Right of Way acquisition process.

Mr. Rice said he's not sure.

Mr. Dookran said they have looked at the widening project for a long time. They would be asking for 30-ft of the property. If you look at pushing back 30-ft and work towards the east, do you think they can transition a road widening of such width to the abutting building?

Mr. Rice said he hasn't seen anything drawn up on paper yet. They had originally set up their site plan so that everything was closer to 101A, but once they heard of the road widening project they wanted to plan for the eventual taking. He's not sure where the road will start to transition, but he indicated on the plan where he believes they will taper the road.

Mr. Dookran said it will be quite drastic, like a bend on the road.

Mr. Rice said they might not need the full 30-ft of pavement, they just wanted to accommodate whatever slope changes or drainage they may need.

Mr. Dookran said he hopes it's an unnecessary impact on the property. He asked if the owner is committed to granting that right of way.

Atty. Gerald Prunier, Prunier & Prolman P.A., 20 Trafalgar Sq,
Nashua NH

Atty. Prolman said that the US Supreme Court has ruled that if you try to take land without payment, the city is liable. What they've tried to do here is make their development onsite

farther back. They've tried to stay away from the 30-ft they've provided in the front part, which they will accommodate in the second phase of their development. He reiterated that the US Supreme Court said you can't ask a developer to give up land for nothing for the development of the city.

Mr. Dookran said all he is asking is if there is a commitment that there is going to be willingness from the owner to grant the land.

Atty. Prunier said he wants it clearly on the record and in the minutes of this meeting that the City Engineer asked about a donation by the developer in this, which the US Supreme Court clearly says you can't do that. They've tried to avoid doing that; they've tried to push everything in that site back so that they wouldn't make the state have to take some buildings or other developments in the front part of the site.

Mr. Dookran said he didn't understand his question.

Atty. Prunier said he did understand the question, he wants a donation.

Mr. Dookran said he hasn't even mentioned that. He talked about willingness.

Atty. Prunier said they're trying to cooperate with the city and the state.

Mr. Dookran said that what he's saying is that when it comes time to obtain the land through the eminent domain process- which you'll be compensated for your land- will there be any objection? Because what they have seen before is that they approve a plan, and later the developer decides they want to do something with the front portion, which will be a problem in the future widening project.

Atty. Prunier said there can be no objection on eminent domain. They just take it. Now they have to make just compensation, but they take it. What they've tried to do is make it easier by not putting any development in there.

Mr. LeClair said this site plan doesn't address any development on that front part anyway.

Atty. Prunier agreed.

Mr. Dookran said the reason that he brought up the other property is because they are moving forward and having discussions with the other property, they wanted full taking of that property. It was the whole thing or nothing, and he doesn't want to go through approving the waivers and this plan unless they intend to work with the state on the right of way taking.

Mr. LeClair agreed. He said he doesn't think they've given any waivers anyway.

Atty. Prunier said some of the requests they've made are to try and cooperate with the state and the city on the front part of the property. He also said that in the Staff report there is a question about an abutter and an access easement. That has been resolved.

Mr. LeClair asked if that was access to the collision center next door.

Atty. Prunier said yes.

Mr. LeClair asked them to explain the 40-ft buffer waiver request.

Mr. Rice said his understanding is that there would need to be a 40-ft buffer from the property line to the closest amount of impervious surface or development on the property.

Mr. LeClair asked him to explain how much buffer space he had.

Mr. Rice described their proposal for buffering. He thinks the intent of the ordinance is to provide for a vegetative buffer between the two properties, and the distance between edge of pavement now and the first residential building is 40-ft. Much of that will remain.

Mr. LeClair said that's on their property.

Mr. Rice said yes.

Mr. LeClair asked about the parking lot to the southern side.

Mr. Rice indicated the parking area and access easement.

Mr. LeClair asked if they could remove the parking spaces and move the building forward to get 40-ft.

Mr. Rice said he doesn't think they could pull the building all the way down. That would start impacting the movement to get around the corner, and they're restricted there because of the existing tie-in. They could shift it down a little bit, and to the right.

Mr. LeClair asked what the impact of doing that is.

Mr. Rice said they've provided 25 parking spaces, and that would be removing about 16 of them.

Mr. LeClair asked if they have parking spaces along the northern edge.

Mr. Rice said they have 9 spaces, a loading space, and a striped out turnaround area for the Fire Dept. They've tried to keep everything as far away from the residents as they can.

Mr. LeClair asked what is on the property line right now.

Mr. Rice showed a photo of the current fence, which they are going to remove.

Mr. LeClair asked about the redevelopment waiver, and where they increasing impervious surfaces.

Mr. Rice indicated the connection aisle between the two parking lots, and the widened fire access way from Amherst St.

Mr. LeClair asked if he saw any other opportunities onsite to decrease impervious surfaces.

Mr. Rice said they can take a closer look, but he believes they have reduced it to the minimum extent possible. Their edges of pavement are not really changing from what currently exists.

Mr. LeClair asked how many square feet would be a 20% reduction.

Mr. Rice said roughly 2,400sq-ft, or roughly 10 parking spaces.

Mr. LeClair asked if they would get there if the building was 4-ft shorter. How much shorter would it have to be?

Mr. Rice said probably 25-ft shorter.

Mr. Weber asked what the hours of operation would be.

Mr. Rice said 7AM-8PM.

Mr. Weber asked if there would be a time restriction for trailer trucks.

Mr. Rice said he is not aware of one, beyond the main hours of operation.

Mr. Weber said his neighbors aren't going to want a trailer truck idling there.

Mr. Rice agreed. They've accommodated for a trailer truck and emergency vehicles, but they don't anticipate many of them.

Mr. Weber asked about the number of parking spaces.

Mr. Rice said the regulation they most closely resemble for parking is cold storage, which is like general warehousing.

Mr. LeClair asked him to explain how the building functions.

Mr. Rice explained how the building would be accessed.

Mr. LeClair asked if customers would drive in.

Mr. Rice said no. There is a ground level entrance they can wheel stuff in, but no loading dock.

Mr. LeClair asked about outside storage.

Mr. Rice said he doesn't believe any is being proposed.

Mr. LeClair asked if he was willing to accept a stipulation that there would be no outside storage.

Mr. Rice said yes.

Mr. Dookran asked about the conditional use permit. The architectural design sounds like it will be a well presented building when done, but what led them to believe that the buildings are compatible and there would be no substantial devaluation of the abutting buildings?

Mr. Rice said it is an existing parking lot in a commercial zone, so there are a lot of things that could be proposed on this site adjacent to the residential development. If you had to

pick a use to abut a residential facility, he doesn't know how they could get a more benign use than this one. There's almost no traffic, almost no light or noise, and not a lot of frequent activity. He hasn't received any negative feedback during the Staff review process either, so it's his understanding that they've met all the criteria.

Mr. LeClair asked they would be willing to screen the roof on the back side for acoustic purposes.

Mr. Rice said yes, they could add screening for noise and visual impacts for the rear.

Mr. Rodonets said he doesn't think it's going to be a problem. He proposed that they put the mechanical equipment behind the parapets.

Mr. LeClair said that is from the Amherst Street side. He wants screening from the residential side if there is equipment visible.

Mr. Rodonets said that works well.

SPEAKING IN OPPOSITION OR CONCERN

Tiera Algrove, 7 Blackstone Dr, Apt 41, Nashua NH

Ms. Algrove is concerned about the safety of the children nearby and the school buses. She is also concerned about the height of the building, and said she believes one of the nearby buildings, 5 Blackstone Dr, would catch lights from the roof of the self-storage facility. She said the nature of the neighborhood will change. She is also concerned for the geese that sun in the parking lot, and where they would go. She is unhappy at the prospect of trailer trucks, and thinks the Board needs to take responsibility for the people who live there.

Eugene Thomas, 7 Blackstone Dr, Apt 41, Nashua NH

Mr. Thomas said the residential nature of the complex leads to some of the issues that were just raised. He said some of the residents are veterans in wheelchairs, and use Blackstone Drive to get in and out. Additional traffic and trucks could be hazardous. He also said that 5 Blackstone Drive will see additional exposure and light. He said that should be considered.

SPEAKING IN FAVOR

None

SPEAKING IN FAVOR - REBUTTAL

Chris Rice, Project Manager, TF Moran, 48 Constitution Dr,
Bedford, NH 03110

Mr. Rice said he is not aware of the school bus schedule, but based on the traffic support they submitted this is almost the lowest traffic generating use possible.

Mr. LeClair asked how many tractor trailers they could expect to see per day.

Mr. Rice said it's not intended to be a daily occurrence. It would most likely be 1-2 per month.

Mr. LeClair asked what the typical traffic would be.

Mr. Rice said mostly passenger vehicles.

Mr. LeClair asked how many visits they could expect per day.

Mr. Rice said it ranges wildly. It could be 0-5 visits per day, or up to 10-20 maximum. He said he doesn't believe they will see any lights. The building is 60-ft tall, and the lights are 12-ft tall. They will be full cut-off fixtures, and they are looking into revising the lighting plan to either put the back lights on timers or motion sensors. There should be no light trespass beyond the property line.

Mr. LeClair asked if he would be amenable to motion sensors.

Mr. Rice said yes.

Ms. Harper asked which building is 5 Blackstone Dr.

Marylyn Todd, 4 Greeley St, Nashua NH

Ms. Todd said she lived there ten years ago, and indicated the location of 5 Blackstone Dr for the Board.

Mr. Rice said there is a healthy buffer there from the roadway.

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Mr. LeClair asked if they would have issue with lowering the lights. The plan shows 16-ft light heights.

Mr. Rice said they can lower it to 12-ft. He said they are not really proposing to take down a lot of the greenery, and they're not encouraging kids to walk off of Blackstone Dr and into the facility but they think it will be a safe site. It's a low generator for use and traffic, so he thinks it will be pretty safe for residents.

Mr. LeClair asked why there will be no fence.

Mr. Rice said most self-storage has a fence for security purposes. This facility has only one entrance, so there are no side entrances people can break into. There is an internal security system, but the owners don't feel the need to keep people off of the property.

Mr. LeClair asked if they would be amenable to one.

Mr. Rice said yes. He thinks this will be an improvement to the degrading parking lot.

SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL

None

Mr. Dookran asked if someone could address the need for storage facilities in this area.

Jay Lee, Realtor, Berkshire Hathaway Home Services

Mr. Lee said he represents Weston Associates Development Co., owner of abutting property 546 Amherst St. He said that now everybody is downsizing and accumulating valuable goods at the same time. Climate controlled self-storage lets people preserve their valuables to hand down to their family, which is why it is in such demand.

Ms. Harper asked about the signage, and whether there would be any "No Parking" signs in the rear of the building. She is concerned about large trailers idling in the parking lot early in the morning. Will that be allowed?

Mr. Rice said he doesn't believe so. They can put something in the rental agreement to prohibit that.

Mr. LeClair asked Staff what the height restriction is for this zone.

Ms. McGhee said in the General Business zone you can have a maximum height of 60-ft.

Mr. LeClair closed the public hearing and moved into the public meeting.

Mr. LeClair said that they have seen several self-storage facilities in the past, and doesn't think the parking guidelines in the ordinance are necessarily caught up to the needs of self-storage. He doesn't see why they would want hundreds of parking spaces out there. He is having issues with the lack of buffer on the applicant's site. He can see that the building is maximizing, but it seems to be doing so to the detriment of the buffer. The fact that they are redeveloping and increasing impermeability is a concern.

Mr. Weber said he doesn't have a problem with impermeability if the stormwater stays onsite.

Mr. LeClair said the stormwater reports say they're not increasing offsite runoff. Wherever it's going now, it's staying.

Mr. Weber said he thinks this facility does need a fence. He thinks it should be gated to keep the neighborhood safe and avoid attracting outside activity to the back of the building.

The Board discussed the possible extent, location, and composition of a fence.

Mr. LeClair said he thinks that lowering the building light height would be a good idea.

Mr. Dookran said the applicant would have to reexamine their photometric plan to show they have adequate lighting. They may need to add lights at a lower level.

Mr. LeClair said he thinks there should be rear screening for rooftop units.

Mr. Weber agreed, and said that nearby residents will see and hear the units, especially in the wintertime.

Ms. Harper said she is concerned about the noise.

Mr. Dookran said that the waivers need to meet the spirit and intent of the ordinance. If they waive the buffer requirement, they may not meet that intent.

Mr. LeClair said the only way they'll meet the buffer is to move the building or shrink it. He doesn't think that they could accept the plan and deny the waiver.

The Board discussed various solutions to the buffer waiver.

Ms. McGhee suggested that the applicant could work with Staff to increase the amount of plantings and coverage within the buffer. They could also work with Staff on the lighting and submit a new photometric plan for review.

Mr. Weber said it's important that the tree density covers the units on the top floor.

Mr. LeClair said they could plant something that would reach that height.

Mr. Pedersen suggested tall trees, mid-level evergreens, and a fence. He also wants lighting to be downward facing.

Mr. Dookran asked Staff if they had a certified arborist on staff.

Ms. McGhee said no.

Mr. Dookran said they could have the applicant provide an arborist's opinion to achieve the density they need.

MOTION by Mr. Weber to approve New Business - Conditional Use Permit #1. It conforms to § 190-133(F) with no stipulations or waivers.

SECONDED by Mr. Pedersen

MOTION CARRIED 6-0

MOTION by Mr. Weber to approve New Business - Site Plan #6. It conforms to § 190-146(D) with the following stipulations or waivers:

1. The request for a waiver of NRO § 190-198, which requires minimum parking standards for the site, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of NRO § 190-15(d)(5) Interpretation of Table 15-1, which requires self-storage facilities have a 40' buffer to provide a buffer from residential properties, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. The request for a waiver of NRO § 190-15(d)(5) Interpretation of Table 15-1, which requires self-storage facilities designated with the superscript "2" (2) must be at least 200 feet from the City right-of way; and all storage bay doors to be screened, is granted, that the waiver will not be contrary to the spirit and intent of the regulation.
4. The request for a waiver of NRO § 190-215(B), which requires redevelopment of previously developed sites must meet the stormwater management standards to the maximum extent possible to be determined by the Planning Board, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
5. The request for a waiver of NRO § 190-215(G), which requires post development peak discharge rates, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
6. The request for a waiver of NRO § 190-209(A)(1), for maximum curb cut allowance, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
7. The request for a waiver of NRO § 190-172, which specifies non-residential building design standards, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
8. The request for a waiver of NRO § 190-172(B)(1), (C), and (F), which requires specific elements for non-residential buildings, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
9. Prior to the Chair signing the plan, minor drafting corrections will be made.
10. Prior to the Chair signing the plan, all comments in a letter Joe Mendola, Street Construction Engineer, dated August 21, 2019 shall be addressed to the satisfaction of the Engineering Department.

11. Prior to the issuance of a building permit, all comments in an e-mail from Mark Rapaglia dated July 3, 2019 shall be addressed to the satisfaction of the Fire Marshal.
12. Prior to the issuance of a building permit, all easements and stormwater documents will be submitted to City staff for review and approval and recorded at the Registry of Deeds at the applicant's expense.
13. Prior to the issuance of a certificate of occupancy, all site improvements shall be completed.
14. Any work within the right-of-way shall require a financial guarantee.
15. Applicant will work with staff on the wall lighting.
16. Applicant will work with staff to increase in density of the north and east buffer with evergreen trees and provide a certified arborist support.
17. Applicant will work with staff to install a 6' high chain link fence on north and east.
18. Applicant will work with staff on rooftop screening on all sides for visual and sound barrier.
19. No outdoor storage on premises.

SECONDED by Mr. Pedersen

MOTION CARRIED 6-0

NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS (cont.)

2. Albert and Marylyn Todd (Owners) - Application and acceptance of proposed Conditional use permit to allow for the addition of two units to a single-family home. Property is located at 4 Greeley Street. Sheet 67 - Lot 60. Zoned "RB" Urban Residence. Ward 3.

MOTION by Mr. Pedersen that the application is complete and the Planning Board is ready to take jurisdiction.

SECONDED by Mr. Weber

MOTION CARRIED 6-0

Marylyn Todd, 4 Greeley St, Nashua NH

Mrs. Todd introduced herself to the Board as the property owner. She also introduced co-owner Albert Todd.

She gave a brief introduction to the conditional use permit criteria, and how they applied to her request.

Mr. LeClair asked the applicant to give an overview of her request.

Mrs. Todd presented a slideshow detailing her request, and a brief history of the property. She proposes to renovate a large 200-year old barn onsite, and convert it into a two-family residential structure. The request was approved by the Historic District Commission (HDC) on July 22, 2019, and by the Zoning Board of Adjustment (ZBA) on July 23, 2019.

Mr. Weber said he attended the HDC meeting. He asked where the potential tenants would park.

Mrs. Todd showed an aerial of her property. She proposes to remove some of the onsite paving and cement, and pave the southeast corner of her property for angled parking. She says there will be less paving onsite afterwards, and the section she proposes to pave is gravel anyways.

Mr. Weber said that parking is difficult in that area, but he hopes that the application is approved because the barn should be preserved.

Mr. Pedersen asked if a snow plow would fit through the driveway opening.

Mrs. Todd said that a snow plow would never fit. She described her neighborhood, and said the only way they ever fit a plow through was by using the driveway of 14 Abbott St.

Mr. Pedersen asked who will be responsible for snow removal.

Mrs. Todd said she lives at the property, and they use a large snow blower.

Mr. Todd said he would be taking care of it.

Mr. Dookran said that the plan from the registry of deeds shows a common way from Merrimack Street.

Mrs. Todd said that doesn't exist anymore. Part of his barn is on her property. According to Nashua's GIS mapping software, somewhere in between the survey in 1952 and today he acquired the common space.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

Mr. LeClair closed the public hearing and moved into the public meeting.

MOTION by Mr. Weber to approve New Business - Conditional Use Permit #2. It conforms to § 190-133(F) with the following stipulations or waivers:

1. The property owner shall cooperate with the Department of Building Safety to provide all information needed to resolve the lot line concerns.

SECONDED by Ms. Harper

Mr. Bollinger asked Staff if in order to resolve lot line concerns, is this effectively stating that they need a survey.

Ms. McGhee said they are going to work out any lot line issues with the Building Dept. because it has to do with how close the building is to the property line. It's more about the building code and what would be required.

MOTION CARRIED 6-0

3. GSR Ventures, LLC (Owner) Penny Gagne (Applicant) - Application and acceptance of proposed Conditional Use Permit to allow for an adult day care. Property is located at 12 Murphy Drive. Sheet 140 - Lot 60. Zoned "PI" Park Industrial. Ward 6.

MOTION by Mr. Pedersen that the application is complete and the Planning Board is ready to take jurisdiction.

SECONDED by Ms. Harper

MOTION CARRIED 6-0

Penny Gagne, Adult Day Care of Nashua, 188 Conant Rd, Nashua NH

Ms. Gagne introduced herself to the Board as the applicant. They propose to convert a preexisting office space end unit to an adult day care. The space fits the rules and regulations she is governed by with the state. She gave a brief overview of the conditional permit requirements. She said her clients are dropped off and picked up, and the only cars that would be there during the day are the staff. Their hours of operation are 9AM-5PM, Monday through Friday.

Mr. Weber asked if they are taking over the whole building.

Ms. Gagne said no. Just Unit 2A, one small section.

Mr. Weber said the current dumpsters are not enclosed completely. If she was taking over the whole building, that would be an issue.

Ms. Gagne said the owner is not present. She did ask him about the dumpsters, and does not need an additional dumpster.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

Mr. LeClair closed the public hearing and moved into the public meeting.

Mr. Dookran asked Staff if there were any comments from the Fire Marshal.

Ms. McGhee said no. She did speak with the Fire Marshals, and they toured the building with the Building Dept., who said there were no issues with them moving in with that particular use.

MOTION by Mr. Weber to approve New Business - Conditional Use Permit #3. It conforms to § 190-133(F) with no stipulations or waivers.

SECONDED by Mr. Bollinger

MOTION CARRIED 6-0

NEW BUSINESS - SUBDIVISIONS

4. Gerald A. Reppucci (Owner) - Application and acceptance of proposed two lot subdivision. Property is located at 7 Gaffney Street. Sheet 122 - Lot 433. Zoned "RA" Urban Residence. Ward 6.

MOTION by Mr. Weber that Case #4 is complete and the Planning Board is ready to take jurisdiction.

SECONDED by Ms. Harper

MOTION CARRIED 6-0

Richard Maynard, Project Engineer, Maynard & Paquette Engineering Associates, 31 Quincy St, Nashua NH

Mr. Maynard introduced himself to the Board as representative for the owner. He also introduced owner Gerry Reppucci.

Mr. Maynard gave an overview of the current site conditions. The proposal is to subdivide it into two lots- one 6,614-sqft lot containing the pre-existing house, and a new 7,500-sqft lot for a future single family home. He described the minimum zone requirements, and said the property gained dimensional variances for the house lot from the ZBA on August 14, 2018. The new lot fully conforms to all dimensional regulations. The existing porch will be removed as part of the ZBA approval. Stormwater runoff will be handled by a leaching catch basin to the rear of the property, connected to the new house's roof gutters. The property will be served by city water, sewer, and gas.

Mr. Maynard said there are a few remaining engineering issues, which are primarily part of the building permit process and will be taken care of at that time. They are requesting three waivers as part of this application. The first waiver is from NRO § 190-282(B)(9), which requires physical features on site and within 1,000 feet. The second waiver is from NRO § 190-221(C), which requires underground utilities for new subdivisions. The third waiver is from § 190-212(A)(1), which requires that a sidewalk be located on at least one side of the street. They are asking for a sidewalk waiver in lieu of a contribution.

Mr. Maynard said he would now yield to property owner Gerry Reppucci, who will discuss his proposal for the property and especially with regard to the sidewalk situation.

Gerry Reppucci, 7 Gaffney St, Nashua NH

Mr. Reppucci handed a letter to each of the Board members. He said they should have on file an updated letter from Mr. Maynard's office that changes the request from a sidewalk waiver to a request to waive the requirement for sidewalks without a contribution. He asked if the change he requested was submitted. Mr. Maynard said the standard waiver request was submitted, but Mr. Reppucci had a different position to take tonight.

Mr. Reppucci said he will amend it then by withdrawing the request for the sidewalk contribution. His intention is to ask the Board to waive the requirement for sidewalk construction, but to not ask for him to make the contribution.

Mr. Reppucci said that if he has to appeal the Board's decision on this matter, it would go to the Superior Court at which time they would not consider additional information during the appeal. Therefore he has to get his argument into the record here, so that the Superior Court would have all of the information needed to review.

Mr. Reppucci read his letter into the record. He said this is the change he is asking them to consider on his application.

Mr. LeClair asked if he is asking for his request for a waiver from NRO § 190-212(A) (1) be rescinded.

Mr. Reppucci said he is asking that the contribution in lieu of payment be rescinded.

Mr. LeClair asked if he is still asking for a sidewalk waiver.

Mr. Reppucci said absolutely. To his knowledge Planning Staff has not recommended a sidewalk be put in at this location. What he is asking is that if the Board decides sidewalks should be put on this street, order him to do it and explain why they are ordering him to do so. If not, waive it like they would utilities.

Mr. LeClair asked what his frontage is in relation to the length of the street.

Mr. Reppucci said probably about a fifth of the street, maybe a sixth or seventh.

Mr. Dookran said in terms of length it's probably closer to a quarter.

Mr. Pedersen asked if he is requesting they either require him to install a sidewalk where there are no other sidewalks, or waive the payment in lieu of construction and waive installing a sidewalk, or waive installing a sidewalk and require a payment in lieu of construction and have him take it to Superior Court?

Mr. Reppucci said he thinks the contribution in lieu of a sidewalk is improper and would not sustain a review from the court. He is asking them to either require that he install sidewalks or waive the requirement for them. The Board requesting a payment in lieu of construction would be preferable to denying the plan, but he is requesting they don't do that because if he appeals the decision to the Superior Court, he doesn't want them to say he asked for this.

Mr. Weber asked if he was asking for them to add anything to the record.

Mr. Reppucci said not from the Board specifically.

SPEAKING IN OPPOSITION OR CONCERN

Maria Bergas, 7 Donna St, Nashua NH

Mrs. Bergas said she is the abutter to the rear of 7 Gaffney St. She said her property will be negatively impacted if the proposal is granted without stipulations to mitigate those impacts. While the proposal would grant the applicant a great fiscal gain, there appears to be nothing offered to the neighbors besides more neighbors, noise, and further loss of what is already a small amount of privacy. She is concerned about the large trees near the property line, and asked that they be entirely removed. She also requested a 6-8ft solid wood or vinyl fence be installed, or a landscaped buffer screening to preserve privacy. She would also like more information regarding construction timeframe and noise.

Mrs. Bergas said they have owned their home for 17-years without anyone on that lot, and with the understanding that under the existing zoning nothing was to be built on top of them. The

current house onsite has been deteriorating for years and is an eyesore. She said Mr. Reppucci has not even lived there since he bought the home. The animals nesting in his roof are starting to come onto their property, causing significant damage that they had to replace. She requested a landscaping plan including the removal of nuisance trees and a fence, to be installed prior to any other onsite activities. She said they had tried to discuss these issues with Mr. Reppucci in the past on several occasions. He has already made note that he is unwilling to work with them, and has been rude and disrespectful at the point. She described their relations with Mr. Reppucci. She is willing to work with him and not object to the housing if he is willing to cooperate in some manner to help the people who are affected.

Michael Bergas, 7 Donna St, Nashua NH

Mr. Bergas described his attempts to speak with Mr. Reppucci regarding the trees and a fence. He described the damage the trees have caused to his property.

Mrs. Bergas said that Mr. Reppucci bought the property 3-years ago, and joined the Planning Board at that time. She is concerned that they may not get a fair shot because he is associated with the Board members.

Mr. Pedersen asked if when they bought their property 17-years ago, they were told that nothing would be built on the empty lot behind them.

Mrs. Bergas said correct.

Mr. Pedersen said they were not present at the ZBA meeting, when it was approved for another house.

Mrs. Bergas said they showed up to the first meeting, and the case was rescheduled. They were not able to attend the second meeting because they had a death in the family. One of her neighbors presented photos of the trees and a letter of concerns on her behalf. She gave a copy of her documents to Staff.

SPEAKING IN FAVOR

None

SPEAKING IN FAVOR - REBUTTAL

Gerry Reppucci, 7 Gaffney St, Nashua NH

Mr. Reppucci said he had a professional tree service assess the trees onsite a couple of years ago, and they cut down some trees and trimmed dead pieces off. One of the trees in back needs to come down, but the others are healthy. He thinks the trees add value to the lot aesthetically. He recognizes that they are nuisance trees to his neighbors, and said he is willing to work with them on solving the issue.

Mr. Reppucci said as far as the fencing goes, they requested a 6-8ft fence at the ZBA meeting by letter. You can't build an 8-ft fence without zoning relief, and he is opposed to that. A 6-ft fence won't be a problem. He said that any blocking that his neighbor would like to see there, they have the ability to put in on their property as well.

Mr. Reppucci said that his request was approved by the Zoning Board unanimously. While he has a great relationship with people on both boards, he wouldn't say that the members of the Zoning Board would show any partiality.

Mr. LeClair said the plan indicated stockade fences on the two sides and only a portion of the rear.

Mr. Reppucci indicated the locations of current fences. He has spoken to the neighbors on either side, and they plan to install new fencing between those properties. The section that abuts 7 Donna St is chain link, and he is perfectly happy to install a 6-ft fence in that location. He thinks the bigger problem is the branches and the trees, and he feels confident that can be worked out.

Mr. LeClair asked when he had an arborist look at the trees.

Mr. Reppucci said probably two years ago. He indicated the locations of the trees removed and pruned at that time, and the condition of the current trees.

Mr. LeClair asked if he would be amenable to a stipulation that prior to development an arborist inspect the trees.

Mr. Reppucci said he may end up just taking the trees down. His only issue is that he doesn't think that he should be the only one paying for it. He said whatever the Board decides to order him to do besides contribute to the sidewalk fund, he will do.

SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL

Michael Bergas, 7 Donna St, Nashua NH

Mr. Bergas described the poor condition of the trees. He said for them to share the expense of the trees is a surprise, as he is not sharing the expense of the damage the trees have inflicted. They are concerned about the trees and the fence.

Mr. LeClair asked if the chain link fence was on their property.

Mr. Bergas said yes. He added that he is concerned about large branches falling on someone in the back yard. He said in the past 17-years he has never seen these trees trimmed. They would like privacy, but the trees are their main concern.

Mr. Dookran asked Mr. Maynard to address outstanding Engineering issues.

Mr. Maynard said the outstanding issues have to do with the building permit. He cited the sewer and driveway connections, and said that until they have a building he doesn't know what those are going to be. He provided them on page 3 of the plan a suggested layout, but he can't give them a specific design yet.

Mr. Dookran said it is difficult for him to assess the impacts of this plan. He said the Engineering Dept. has evidence that when Mr. Maynard's plans go forward without a thorough engineering review, there are a lot of impacts that the neighbors and the public right of way can't deal with. A plan with a little extra effort of engineering that can be reviewed properly is in everyone's interests. He asked Mr. Maynard if, going forward, he can do a little more.

Mr. Maynard said the Board is only approving a building lot, not a house. At the time of building permit, all of these issues are reviewed by city engineers. He takes umbrage to Mr. Dookran's implication that the city has problems because of his plans. There is no reason a city engineer can't review a building permit plan with sewer and driveway profiles, and the matter is not taken care of. He said the person Mr. Dookran has reviewing these plans is not even an engineer. The time to take care of issues is when you know exactly what's going there. It's up to whoever buys this lot to decide what to do there. His implication that they have problems is more to do with Mr. Dookran's people than his plan.

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Mr. Dookran said he doesn't have implications; he has evidence that there are problems. He said that Mr. Mendola is a licensed professional engineer, as were the reviewers before that.

Mr. LeClair asked in Mr. Maynard's professional opinion, is this lot going to be difficult to make connections to water and sewer lines.

Mr. Maynard said this is a straightforward, simple lot.

Mr. LeClair asked him to explain what the dark circles on the plan are supposed to be.

Mr. Maynard said it's supposed to show locations of existing trees.

Mr. LeClair asked if it is not an intent to create new trees.

Mr. Maynard said it is not. The trees of concern are along the back line, and the issue seems to be the branches not the trunks. He said screening between single family homes is not a requirement nor allowed in the ordinance, so it's not the purview of the Board.

Ms. McGhee said that if they decide to approve this plan, they should add a stipulation incorporating from city engineer Joe Mendola's comments, dated August 22, 2019.

Mr. Reppucci said that the stipulation should also have language that if something can't be worked out with the Engineering Dept. the plan would come back to the Planning Board. He asked that it be included in this application.

Mr. LeClair closed the public hearing and moved into the public meeting.

Mr. LeClair summarized the hearing discussion. He said that in regard to the trees he doesn't have any issues with stipulating that the applicant hires a professional. He said he could go either way on a fence. With regard to the sidewalk situation, he thinks that part of the city could use sidewalks.

Mr. Pedersen said that would be the only section of sidewalks on the street.

Mr. LeClair said as far as applying contributions, they have certainly applied it across the whole frontage on a lot of cases. In some situations they have only applied it to the frontage of the new lot.

Mr. Weber asked if the proposed fee was for both lots, minus the driveways.

Mr. LeClair said correct.

Mr. Pedersen said they have an ongoing policy of applying an in lieu of cost instead of building a sidewalk. This question has gone around the Board many times, and they've had Nashua legal counsel tell them the way they should handle it. He thinks they should stick with whatever policies advised by the city's legal counsel until they hear otherwise from the court.

Mr. LeClair asked Staff to comment on that.

Ms. McGhee gave the Board a copy of Atty. Bolton's letter.

Mr. LeClair described their options. They could deny the waiver from sidewalk construction for both lots. They have the option of granting the waiver from sidewalk construction, and as part of a stipulation requiring a contribution in lieu of payment. It has been calculated in the staff report for the whole frontage, but they have the option to assess only the new lot. They have done that in the past.

Mr. Dookran said they need to go with what policy has been established. He doesn't think it's appropriate to do that.

Mr. LeClair said they also have the option to approve the waiver and not request a contribution.

Mr. Pedersen said that if they approve the waiver and charge nothing that would avoid a future court case.

Mr. Dookran said that's not part of their decision. He asked Mr. LeClair what criteria they would use to apply that option.

Mr. LeClair said it's inconsistent with what they have done before, but they do have that option.

Mr. Dookran said that's a slippery slope.

Mr. Pedersen said it would also appear that they are making an exception to a current member of the Board, and that doesn't look good.

Mr. LeClair said whether it's a member of the Planning Board or not doesn't matter to him.

Mr. Dookran said Mr. Reppucci asked them specifically not to make an exception.

Ms. Harper said she sees two options. They could grant the waiver and request a payment in lieu of sidewalks, or require the sidewalk based their current policies.

Mr. Weber said they need to be in compliance with that they normally do. He said in regards to the trees, he doesn't think they can tell the applicant what he can or can't do with his trees. The trees are a huge liability with his neighbors, and the prudent thing would be to take actions during renovations.

Mr. LeClair said they routinely stipulate something be done with the trees.

Mr. Bollinger asked if the sidewalk waiver was a typical request.

Mr. LeClair briefly explained the waiver.

Mr. Dookran said they should stay the course and apply the rules that were established in that last discussion with Corporation Counsel. If this turns out to be a court case that the city has problems defending, they will have to make adjustments.

Mr. LeClair said they have the option to table this motion and have Corporation Counsel read Mr. Reppucci's request and provide further guidance.

The Board discussed whether to move forward with the case.

Mr. Dookran said if Atty. Bolton gives an opinion that differs from what they've always done, he hopes it was not just for this applicant. They have to be fair to everybody.

Mr. LeClair asked Staff the proper procedure for tabling this case.

Ms. McGhee said they would make a motion to table to get an opinion from Corporation Counsel, to discuss Mr. Reppucci's letter, dated September 12, 2019. She recommended they table the case to a date certain.

MOTION by Mr. Weber to approve New Business - Subdivision #4.

MOTION withdrawn by Mr. Weber.

MOTION by Mr. Pedersen to table New Business - Subdivision #4 to obtain a legal opinion from Corporation Counsel regarding Mr. Reppucci's letter, dated September 12, 2019, with respect to the applicant's concerns regarding in lieu of sidewalk fee, to be continued at the October 3, 2019 meeting.

SECONDED by Mr. Dookran

MOTION CARRIED 6-0

The Board took a five minute recess

5. Flexwit LLC and ZJBV Properties, LLC (Owners) - Application and acceptance of proposed lot line relocation. Property is located at 159 Temple Street and 159-161 Temple Street. Sheet 38 - Lot 47 and Sheet 39 - Lot 31. Zoned "GI" General Industrial and "TOD" Transit Oriented Development. Ward 7.

MOTION by Mr. Pedersen that the application is complete and the Planning Board is ready to take jurisdiction.

SECONDED by Mr. Weber

MOTION CARRIED 6-0

Michael Malynowski, Project Engineer, Allen & Major Associates, Inc., 400 Harvey Rd, Manchester NH 03103

Mr. Malynowski introduced himself to the Board as representative for both owners.

Mr. Malynowski gave an introduction to the proposal. He said the intent was to relocate a portion of 159 Temple Street to 159-161 Temple St. The purpose is to provide future access and unencumbered connection between the adjacent parcels.

Mr. LeClair asked if there would be a driveway.

Mr. Malynowski said there could be something in the future. It also provides access for utility connections.

Mr. Dookran asked Staff if this becomes a driveway for Flexwit properties, what kind of permit process they would go through.

Ms. McGhee said they would have to get a curb cut approval from Division of Public Works (DPW) to put an entrance in there.

Mr. LeClair asked if they would need to do a site plan to put in a driveway.

Ms. McGhee said probably not for just a driveway, but the curb cut opening would have to be approved by DPW.

Mr. Malynowski said at this point they're just looking for approval for the lot line.

Ms. McGhee said if they are going to redevelop the site at some time, they would have to come back to the Board.

Mr. Dookran said it would be difficult to put an access there, especially in light of their previously approved plan at 159 Temple St and the traffic that would be generated by that development. In approving that curb cut, DPW and Engineering Dept. would have to look at traffic impacts.

Mr. Malynowski said if it's something they deem necessary in the future, they will have to go through the process with DPW and whatever stipulations Engineering Dept. requires. That will be dealt with under the curb cut application process. Here they are simply asking to approve lot line relocation.

Mr. Malynowski said they are requesting a waiver from NRO § 190-282(B)(9), which requires an existing conditions plan.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

Mr. LeClair closed the public hearing and moved into the public meeting.

MOTION by Mr. Weber to approve New Business - Subdivision #5. It conforms to § 190-138(G) with the following stipulations or waivers:

1. The request for a waiver of § 190-282(B)(9), which requires an existing conditions plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. Prior to the chair signing the plan, all minor drafting corrections will be made.
3. Prior to recording the plan, the owner of Lot 31 shall amend the site plan for 159 Temple Street to show the lot line relocation.
4. Prior to recording of the plan, all conditions from the Planning Board approval letter will be added to the cover page of the final mylar and paper copies submitted to the City.

SECONDED by Mr. Bollinger

MOTION CARRIED 6-0

NEW BUSINESS - SITE PLANS

7. CHOP Acquisition LLC, c/o WS Asset Management Inc. (Owner) Floor & Decor (Applicant) - Application and acceptance of proposed amendment to NR1483 to renovate existing building and add a 7,507-sqft building addition. Property is located at 255-269 Amherst Street. Sheet G - Lot 8. Zoned "GB" General Business & "RC" Urban Residence. Ward 2. **(Postponed from the August 8, 2019 meeting)**

MOTION by Mr. Weber that the application is complete and the Planning Board is ready to take jurisdiction.

SECONDED by Mr. Pedersen

MOTION CARRIED 6-0

Park Lange, Project Manager, CenterPoint Integrated Solutions,
355 Union Blvd #301, Lakewood, CO 80226

Mr. Lange introduced himself to the Board as representative for the applicant. He also introduced their civil engineer and a representative from their property management company.

Mr. Lange gave an overview of the proposal. He described the new tenant, Floor & Décor, and the extent of the addition. He presented the architectural elements and façade modifications. They will be raising the parapet to screen rooftop units. There is a residential apartment complex behind the building, so they added additional screening to the units for sight and noise.

Mr. Lange said they provided a traffic study in their submittals, and briefly described their expectations for trip generation. He described site improvements, including parking.

Mr. Lange said that they are requesting six waivers as part of this application. The first waiver is from NRO § 190-184,274,279(P) which requires a landscaping plan and to include landscape islands for every 10- parking spaces. The second waiver is from NRO § 190-275 & 279(N), which requires a lighting plan. The third waiver is from NRO § 190-279 (EE),(I),(J),&(O), which requires showing existing & proposed utilities. The fourth waiver is from NRO § 190-279(E)&(EE), which requires showing existing easements and conditions on and off site. The fifth waiver is from NRO § 190-172 (B1)&(C1), which requires facades over 150-feet in length show wall plane projections and other features for 20% of the façade. The sixth waiver is from § 190-172(C 2,3,4), which requires various additional architectural treatments along the façade. They support all findings and conditions in the Staff report.

Mr. LeClair asked if the covered walkway continues across the whole frontage of the store.

Mr. Lange said no, they are taking all that back in front of their store.

Mr. LeClair asked why.

Mr. Lange said this is their branded storefront.

Ms. Harper asked if this was the type of store that contractors and developers would be going to.

Mr. Lange said yes. A lot of their business is contractors.

Mr. Weber asked Staff to explain Stipulate #10.

Mr. McPhie read correspondence regarding ownership of the property.

Mr. Weber asked if W.S. Assessment Management Inc. the owner of the entire property.

Amelia Aboff, W.S. Assessment Management Inc.

Ms. Aboff said she represents the property manager on the behalf of the property owner, CHOP Acquisition LLC. She explained the involvement of Ruby Tuesdays. She has been assured by the tax appraiser's office that it is clear to them what the ownership situation is, but it might appear differently online.

Mr. Weber said that since they own the whole place, Whole Foods has a dumpster that isn't enclosed, and needs to be enclosed.

Ms. Aboff said she will relay that to their operations team.

Mr. LeClair asked Staff what the ordinance states in regards to compactors.

Mr. McPhie asked the applicant if there is an interior dumpster.

Mr. Lange said it's a compactor, but it loads from the interior.

Mr. LeClair said the ordinance requires screening of dumpsters.

Mr. Weber suggested that Staff work with the applicant to address the ordinance.

Mr. Bollinger asked how frequently they expect deliveries, and by what means.

Mr. Lange said large delivery trucks, and once they get established it should be 4-8 times per week.

Mr. Bollinger said the intersection was reconstructed fairly recently. He asked if their engineer had made some templates to make sure that large tractor trailers can maneuver the intersection without destroying the new curbing and pavement.

Matt Bombaci, Project Engineer, Bohler Engineering, 352 Turnpike Rd, Southborough MA 01772

Mr. Bombaci said they have a program they use for truck simulations. He said he assumes Whole Foods has similar deliveries.

Mr. Weber asked if page 4 of the plan showed current or proposed trees on the parking islands.

Mr. Lange said those would be new trees. He indicated the locations of the new landscaping.

Mr. Bombaci said their waiver request from a landscape plan was for the entire site. For their specific section they are providing a few trees and some landscaped islands.

Mr. LeClair asked about the impact of continuing the building canopy down to their entrance. It might help with cross traffic in poor weather.

Mr. Lange said the decision was to try and achieve visual effects. There is a canopy over the customer loading area, and they are on the end of the building.

Mr. LeClair led a brief discussion in regards to canopies.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

Mr. LeClair closed the public hearing and moved into the public meeting.

Mr. LeClair outlined the waivers, and said they are pretty typical to this kind of redevelopment.

MOTION by Mr. Weber to approve New Business - Site Plan #7. It conforms to § 190-146(D) with the following stipulations or waivers:

1. The request for a waiver of § 190-184,274,279 P: which requires a landscaping plan and to include landscape islands for every 10- parking spaces, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.

2. The request for a waiver of § 190-275 & 279 N which requires a lighting plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. The request for a waiver of § 190-279 EE, I, J, & O, which requires showing existing & proposed utilities, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
4. The request for a waiver of § 190-279 E & EE, which requires showing existing easements and conditions on and off site, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
5. The request for a waiver of § 190-172 B 1 & C1, which requires facades over 150-feet in length show wall plane projections and other features for 20% of the facade, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
6. The request for a waiver of § 190-172 C 2,3,4, which requires various additional architectural treatments along the façade (see waiver request letter for additional details), is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
7. Any additional traffic control recommendations from Wayne Husband, PE to increase safety and control traffic flows encountered during and after construction are incorporated herein.
8. Prior to the Chair signing the plan, all conditions on the Planning Board approval letter will be added to the cover page of the final Mylar and paper copies submitted to the City.
9. Prior to the Chair signing the plan, an electronic copy of the plan will be submitted in proper CAD format to the City Assessing Department.
10. Prior to the Chair signing the plan, any notification and ownership questions concerning the Former Ruby Tuesday Restaurant will be resolved to the satisfaction of the City.
11. Prior to the Chair signing the plan, all minor drafting corrections will be made.
12. Prior to the Chair Signing the plan, all easements and stormwater documents will be submitted to City staff for review and recorded at the applicant's expense.

13. Prior to the issuance of a building permit, all outstanding issues identified in an e-mail from Joe Mendola, PE, dated 9/12/2019 will be resolved to the satisfaction of the Engineering Department.
14. Prior to the issuance of a building permit, all outstanding issues identified in an e-mail from Mark Rapaglia, dated 7/3/2019 will be resolved to the satisfaction of the Fire Department.
15. Prior to the issuance of a building permit, a financial guarantee shall be submitted by the applicant for all off-site improvements in accordance with § 190-143.
16. Prior to the issuance of a certificate of occupancy, all off-site and on-site improvements will be completed.
17. Applicant will work with staff regarding dumpsters.

SECONDED by Mr. Pedersen

MOTION CARRIED 6-0

8. John J. Flatley Company (Owner) - Application and acceptance of proposed site plan to construct a 255,272 square foot Research & Development facility. Property is located at 100-300 Innovative Way. Sheet A - Lot 798. Zoned "PI" Park Industrial and "RC" Urban Residence. Ward 8. **(Postponed to the December 5, 2019 Meeting)**

OTHER BUSINESS

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

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

SECONDED by Mr. Bollinger

MOTION CARRIED 6-0

3. Planning Board reappointment to the Capital Improvement Committee for a 2 year term to expire, August 1, 2021.

MOTION by Mr. Weber to reappoint Charles Budris and Scott LeClair to the Capital Improvements Committee.

SECONDED by Ms. Harper

MOTION CARRIED 6-0

DISCUSSION ITEMS

Mr. Dookran will be retiring from the position of City Engineer after 20 years. He described his experiences with the city, and thanked Planning staff for their support over the years. He thanked the Board as well.

The Board thanked Mr. Dookran for his years of service.

MOTION to adjourn by Mr. Dookran at 11:21 PM.

MOTION CARRIED 6-0

APPROVED:

Mr. LeClair, Chair, Nashua Planning Board

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DIGITAL COPY OF AUDIO OF THE MEETING MAY BE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.

Prepared by: Kate Poirier

Taped Meeting