

NASHUA CITY PLANNING BOARD  
November 3, 2016

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, November 3, 2016 at 7:00 PM in the 3<sup>rd</sup> floor auditorium in City Hall.

Members Present: Adam Varley, Chair  
Mike Pedersen, Mayor's Rep.  
Scott LeClair, Vice Chair  
Steve Dookran  
Dave Robbins  
Ed Weber

Also Present: Roger Houston, Planning Director  
Linda Panny, Deputy Planning Manager  
Scott McPhie, Planner I

**Approval of Minutes**

October 20, 2016

**MOTION** by Mr. Robbins to approve the minutes of October 20, 2016.

**SECONDED** by Mr. Pedersen

**MOTION CARRIED** 5-0-1

**COMMUNICATIONS**

Mr. Houston went over the following items that were received after the mailing went out:

- ) Amended agenda
- ) Communication from Jeanne Walker re: Case #2
- ) Communication from Jeanne Walker re: Case #3
- ) Communication from Fire Dept. re: Case #4
- ) Communication from Jeanne Walker re: Case #4
- ) Communication from Jim Petropulos requesting postponement of Cases #5 and #6
- ) Communication from Roger Houston re: Other Business #2

**REPORT OF CHAIR, COMMITTEE & LIASON**

None

**PROCEDURES OF THE MEETING**

Mr. Varley 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 that 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

**NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS**

1. 1987 Tamposi Limited Partnership (Owner) Boston Billiards Club (Applicant) Application and acceptance of proposed conditional use permit to allow charitable games of chance. Property is located at 55 Northeastern Blvd. Sheet 140 - Lot 61. Zoned "PI" Park Industrial. Ward 6.

**MOTION** by Mr. Robbins that the application is complete and the planning board is ready to take jurisdiction.

**SECONDED** by Mr. LeClair

**MOTION CARRIED 6-0**

Attorney Andy Prolman, Prunier & Prolman, P.A.

Attorney Prolman introduced himself as representing the applicant. He said Boston Billiards is looking to use a portion of the building for charitable gaming. There will be no exterior changes to the building apart from the sign on Northeastern Blvd. There is ample parking and hours of operation will primarily be in the evening. The goal is to work with a number of local charities.

Mr. Varley asked if Boston Billiards is outsourcing the operation of the gaming or if they are licensed.

Atty. Prolman said Boston Billiards is licensed and in compliance with the Lottery Commission.

Mr. Weber asked if the current hours of operation will be changed, and if there will be a Police presence.

Attorney Prolman said there will be no changes to the current hours of operation. There are currently no plans to have a Police presence.

**SPEAKING IN OPPOSITION OR CONCERN**

None

**SPEAKING IN FAVOR**

None

**MOTION** by Mr. LeClair to approve New Business - Conditional/Special Use Permits #1. It conforms to § 190-133(F) with the following no stipulations or waivers.

**SECONDED** by Mr. Robbins

**MOTION CARRIED 6-0**

**NEW BUSINESS - SUBDIVISION PLANS**

2. Etchstone Properties, Inc. and Pitarys Homes, Inc. (Owners) Etchstone Properties, Inc. (Applicant) - Application and acceptance of proposed consolidation of Lots 62 & 64 and then subdivide into 34 conservation lots and two open space lots. Property is located at 667 & 673 West Hollis Street. Sheet F - Lots 62 & 64. Zoned "R9" Suburban Residence. Ward 5.

**MOTION** by Mr. Robbins that the application is complete and the planning board is ready to take jurisdiction.

**SECONDED** by Mr. LeClair

**MOTION CARRIED 6-0**

Jim Petropulos, Hayner/Swanson, Inc.

Mr. Petropulos introduced himself as representing the applicant. He gave an overview of the proposed subdivision. The Nashua Land Use Code allows 49 lots to be built; they are proposing 34 single family lots. They are proposing an entry off West Hollis Street and a road that connects back into Shore Drive. There will be a cul-de-sac off Shore Drive called Minta Way that has 5 houses. Sidewalks will be constructed entirely on Shore Drive. The open space lots will be managed by a homeowner's association. Stormwater basins located at the north and south of the site will capture and recharge up to the 50-year storm

event. The traffic generation report for the project did not meet the threshold requirement for a full traffic study. The project is expected to create about 34 new trips in the AM peak, and 40 new trips in the PM peak. They are seeking one waiver to not build sidewalks on Minta Way.

Mr. LeClair asked if the sidewalk system connects in to Shore Drive.

Mr. Petropulos said that is the intention.

Mr. LeClair asked what type of buffering would be provided to the abutters adjacent to the proposed stormwater basins.

Mr. Petropulos said Mr. Slattery pledged in writing to those abutters that he will work with them and try to maintain as many trees as possible, and possibly supplement with additional plantings and/or fencing.

Mr. Dookran asked if the lots located at the northwest corner be required to maintain the trees on their lots.

Mr. Petropulos said he will check with Mr. Slattery.

Mr. Varley asked if there will be covenants regarding open space.

Mr. Petropulos said yes.

#### **SPEAKING IN OPPOSITION OR CONCERN**

Cosmos Marandos, 102 Peele Rd

Mr. Marandos said he is a member of the Board of Trustees for AHEPA 35 and has concerns with the project. The AHEPA lot is about 10-12ft. lower than the subdivision lot. They are concerned that the contour of the land will enable drainage from the new development to come into their property.

Dr. Samuel Kouchalacos, Board of Trustees, AHEPA 35

Mr. Kouchalacos said he has concerns with use and regulation of the open space between the two properties. When tree cutting occurs, this may have a dangerous effect on the existing tall pines that borders the AHEPA property. There should be no adverse effects with drainage into their property, and the project should remain in character to what the residents are experiencing now.

Pete Maccini, 1080 West Hollis St

Mr. Maccini said he has concerns with the stormwater management basins and the visual effect on the abutters. He said he would like the Board to stipulate that the open space and retention ponds be maintained by the new residents. He also asked that there be restrictions on noise created by motorcycles or vehicles by the new residents. He said he also has concerns about the use of fertilizer within the Shoreland Protection areas.

Matthew Morse, 9 Heidi Ln

Mr. Morse asked for clarification on the open space buffer.

Mr. Varley said the wooded area will be left as is to greatest extent possible, apart from where the retention basins are. The applicant indicated their intent to use plantings to create a buffer in those areas. He said the applicant can address this further.

Mr. Morse asked why there will not be a sidewalk on the proposed cul-de-sac.

Michael & Joan Morse, 677 West Hollis St

Mr. Morse voiced concerns with the lack of buffer between some of the proposed lots and his property. He said he also shared concerns with some of the tall pines adjacent to the property and how this will be addressed during tree cutting. He asked how abutters will be able to determine the delineation of the open space areas.

**SPEAKING IN FAVOR**

None

**SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL**

Mr. Petropulos said they have a very favorable drainage system on site. They can establish a slight swale along where they are cutting to try and cut off some of the water drainage. Mr. Slattery committed to working with the abutters throughout construction. When tree-cutters are on site, if there are trees that appear dangerous, Mr. Slattery will work with abutters to address this. He reiterated that the lots on Heidi Lane will be protected from the stormwater areas. Regarding Shoreland

Protection, they are adhering to the laws and have applied for their permit through DES. The reason they do not want to install a sidewalk in the cul-de-sac is because there will be no through-traffic here; there are only 5 homes. There will be no public access to river. He said Mr. Morse's house sits very close to the property line; there will be a buffer between the properties.

Mr. Robbins asked who owns the pond in the upper portion of the lot.

Mr. Petropoulos said it is a freestanding pond. It is somewhat overgrown.

Mr. Pedersen asked if the sidewalk along West Hollis St is going to be restored to its original condition.

Mr. Petropulos said yes.

Attorney Brad Westgate, Winer & Bennett, LLP

Atty. Westgate introduced himself. He said the purpose of the open space is for it to remain as it is apart from where work will need to be done for the retention basins. It will be governed by a homeowner's association, of which all residents will automatically be members. The association will be coupled with a set of covenants imposed upon the development. The covenants obligate the HA to maintain the open space in accordance with the Land Use Code. If the HA does not maintain the space as they are supposed to, the Board of Alderman can perform the maintenance themselves with a reimbursement right against the HA, according to the Land Use Code.

Mr. LeClair asked if there will be any conservation markers to delineate the open space.

Mr. Petropulos said he believes there will be marker on every other lot corner.

Mr. Pedersen asked who would be responsible for falling trees.

Atty. Westgate said the responsibility for maintenance would be on the HA if the trees are located in the open space area.

Mr. Kouchalakos asked for clarification on maintenance of the open space.

Mr. Varley said the open space lot has restrictions on the use of the land. As Attorney Westgate indicated, the idea behind the open space lot is that it is required to be maintained in its natural state.

Mr. Dookran said the proximity of the driveway on the first lot is close to West Hollis Street. He asked if there was some way to move the driveway closer to the neighboring lot on the north side.

Mr. Petropulos said yes, they will move the driveway as far to the north as feasible for the property.

Mr. Dookran asked if it would be possible, regarding the three lots in front of the steep grade, to direct roof water to the street side of the property.

Mr. Petropulos said yes, they could do that.

Mr. Pedersen asked if it would be possible to plant lower evergreen trees as a buffer between the first lot of the subdivision and the lots on West Hollis Street.

Mr. Petropulos said they can take this under advisement.

**MOTION** by Mr. LeClair to approve New Business - Subdivision Plan #2. It conforms to § 190-138(G) with the following stipulations and waivers:

1. The request for a waiver of § 190-212(E)(2), which requires that sidewalks be located along a cul-de-sac, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation. A contribution of \$6,100.00 has been offered by the applicant in lieu of sidewalk construction; payment to be made prior to recording the plan.
2. Prior to the Chair signing the plan, the applicant shall provide documents establishing a homeowners association which will be responsible for maintaining all property in common ownership. The homeowner's association documents shall be submitted to the Planning Department and Corporation Counsel for review and approval.
3. Prior to the Chair signing the plan, minor drafting corrections will be made.
4. Prior to recording the plan, the applicant shall provide a guarantee for the subdivision improvements. The applicant's professional engineer shall provide an estimate of the costs

of the improvements for review by the City Engineer who shall determine the guarantee amount. The guarantee shall be in a form acceptable to the City's Corporation Counsel. Reductions in the guarantee (bond, letter of credit or other form of guarantee) shall be processed, from time to time, in the customary manner.

5. Prior to recording the plan, the NHDES Shoreland Permit must be approved by the New Hampshire Department of Environmental Services.
6. All easements shall be submitted to the Planning Department and Corporation Counsel for review and approval and recorded with the plan.
7. All areas to remain wooded and undisturbed shall be flagged prior to any site work or tree cutting.
8. Prior to the issuance of the first certificate of occupancy, the applicant shall complete the road improvements to the base course of pavement.
9. Prior to 75 % occupancy, all subdivision improvements shall be substantially completed; provided, that paving may be completed to base course and landscaping may be completed as seasonally permitted.
10. Prior to issuance of the final certificate of occupancy for the development, an as-built plan locating all roads, driveways, units, other buildings, utilities and site landscaping shall be completed by a professional engineer and submitted to the Planning Department. The as-built plan shall include a statement that all construction was generally completed in accordance with the approved subdivision plan and applicable local regulations. Road and sidewalk construction shall be to base course, with final course pavement remaining bonded until completion.

**SECONDED** by Mr. Robbins

**MOTION CARRIED 6-0**

3. Thomas and Michelle Marenghi-Arpin and Crimson Properties, LLC (Owners) - Application and acceptance of proposed lot line relocation plan. Property is located at 1093 & 1095 West Hollis Street. Sheet D - Lots 69 & 70. Zoned "R30" Suburban Residence. Ward 5.

**MOTION** by Mr. Robbins that the application is complete and the planning board is ready to take jurisdiction.

**SECONDED** by Mr. Pedersen

**MOTION CARRIED 6-0**

Nathan Chamberlain, Fieldstone Land Consultants

Mr. Chamberlain introduced himself as representing the applicant. He gave an overview of the project. He said there is one waiver request regarding the requirement to provide an existing conditions plan.

Mr. LeClair said he has some concerns making a decision on the lot line relocation without an understanding of the future development of the lot.

Attorney Brad Westgate, Winer & Bennett, LLP

Atty. Westgate said Mr. Turmel had an agreement with the prior owner of the lot and kept his agreement in place with the new owner. Even if the Board finds it appropriate to approve the lot line relocation this evening, the applicant still needs to process a closing with the new owner, which involves getting a partial release from the bank. This needs to occur before there is the ability to fully plan development of this lot.

Mr. LeClair said he has additional concerns about regional impact.

Ms. Panny said the proposal will go to the Hollis Planning Board as well as Nashua Planning Board.

Mr. LeClair said that if Hollis Planning Board does not approve development of the lot, Nashua will be left with an odd-shaped lot.

**SPEAKING IN OPPOSITION OR CONCERN**

Pete Maccini, 1080 West Hollis St

Mr. Maccini said he has concerns regarding what options for development the owner is considering.

Mr. Varley clarified that the Board is not giving approval for development of the lot, only the lot line relocation.

**SPEAKING IN FAVOR**

None

**MOTION** by Mr. LeClair to approve New Business - Subdivision Plan #3. It conforms to § 190-138(G) with the following stipulations and 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.

**SECONDED** by Mr. Robbins

**MOTION CARRIED 6-0**

4. Fitorm, Inc. and Flexwit, LLC (Owners) - Application and acceptance of proposed lot line relocation plan. Property is located at 9 Union Street, "L" Bridge Street, and 6 Eckler Avenue. Sheet 39 - Lot 38 and Sheet 38 - Lots 66 & 91. Zoned "GI" General Industrial. Ward 7.

**MOTION** by Mr. Robbins that the application is complete and the planning board is ready to take jurisdiction.

**SECONDED** by Mr. LeClair

**MOTION CARRIED 6-0**

Richard Maynard, Maynard & Paquette Engineering

Mr. Maynard introduced himself and gave an overview of the proposal. The purpose of the plan is to apportion the lots better and provide more land for the building at 9 Union St.

Mr. Weber asked if there is a need for a dumpster on the site.

Mr. Maynard said there is not a new need. Current use of the site is for storage. It is not a use that generates dumpster materials. There are a couple dumpsters currently on site.

Mr. Weber said existing dumpsters need to be enclosed.

Mr. Maynard said he will accept this stipulation.

**SPEAKING IN OPPOSITION OR CONCERN**

None

**SPEAKING IN FAVOR**

None

Mr. McPhie said the Board can delete stipulation #4 as Jeanne Walker's concerns have been addressed.

**MOTION** by Mr. Weber to approve New Business - Subdivision Plan #4. It conforms to § 190-138(G) with the following stipulations and 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. The request for a waiver of NRO § 190-197 & 198, which establishes minimum parking standards, 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 § 190-279 (P), which requires submittal of a landscaping plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
4. Any dumpster will be enclosed per City ordinance.
5. Show all easements existing and proposed.
6. Prior to the Chair signing the plan, minor drafting corrections will be made.

**SECONDED** by Mr. Robbins

**MOTION CARRIED 6-0**

5. Walter W. Anderson (Owner) Holland Hampshire, LLC (Applicant) - Application and acceptance of proposed two lot subdivision. Property is located at 539 Amherst Street. Sheet H - Lot 88. Zoned "HB" Highway Business. Ward 2. **(Postponed to the November 17, 2016 Meeting)**

**NEW BUSINESS - SITE PLANS**

6. Walter W. Anderson (Owner) Holland Hampshire, LLC (Applicant) - Application and acceptance of proposed site plan to demolish the existing building and construct a proposed 6,750 sf vehicle repair/service building along with associated site improvements. 4 Property is located at 539 Amherst Street. Sheet H - Lot 88. Zoned "HB" Highway Business. Ward 2. **(Postponed to the November 17, 2016 Meeting)**

7. 190 Broad Street Realty Co (Owner) Noury Investments, LLC (Applicant) - Application and acceptance of proposed one year extension for a site plan to construct a 2-story, 10,388 sf multi-tenant office building and associated site improvements. Property is located at 190 Broad Street. Sheet E - Lot 744. Zoned "GB" General Business. Ward 1.

**MOTION** by Mr. Robbins that the application is complete and the planning board is ready to take jurisdiction.

**SECONDED** by Mr. LeClair

**MOTION CARRIED 6-0**

Jim Petropulos, Hayner/Swanson, Inc.

Mr. Petropulos said the property was sold to a new owner who would like to keep the permit valid. They are not making any changes to the plan and nothing has been built.

Mr. LeClair asked if any development along Coliseum Ave has affected what the owner wants to do with the site.

Mr. Petropulos said no, he hasn't seen any. He is unsure at this time what his client wants to do with the site.

**SPEAKING IN OPPOSITION OR CONCERN**

None

**SPEAKING IN FAVOR**

None

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

1. All prior conditions of approval are incorporated herein and made a part of this plan, unless otherwise determined by the Planning Board.

**SECONDED** by Mr. Pedersen

**MOTION CARRIED 6-0**

8. Raisanen Homes, Elite, LLC (Applicant) Henry P. and Mary E. Castonguay Rev Trust (Owner) - Application and acceptance of proposed 10 lot condominium site plan. Property is located at 738 West Hollis Street. Sheet D - Lot 75. Zoned "R9" Suburban Residence. Ward 5. **(Postponed to the November 17, 2016 Meeting)**
9. Diane E. Gimber and Bishop Real Estate Management, Inc. (Owners) Granite Green Investment Partners (Applicant) Application and acceptance of proposed 18-Unit Age Restricted Housing Condominium Site Plan development. Property is located at 122 Manchester Street. Sheet 59 - Lot 135. Zoned "RA" Urban Residence. Ward 2. **(Postponed to the November 17, 2016 Meeting)**

#### **OTHER BUSINESS**

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

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

**SECONDED** by Mr. Weber

**MOTION CARRIED 6-0**

2. Referral from the Board of Aldermen on proposed, 0-16-020, clarifying and updating the elderly housing supplemental use regulations.

Mr. Houston said this ordinance went to a public hearing conducted by the Planning and Economic Development Committee for testimony from people in the community. He said a memorandum was provided to the Board which included excerpts from the Master Plan regarding elderly housing, the existing ordinance and the proposed ordinance. He said the proposed ordinance only applies to managed, independent living care facilities. Most of these facilities are regulated by the State; however, age-restricted housing is not directly regulated by the State.

Mr. Varley said if the ordinance is adopted, the supplementary use ordinance would no longer apply to age-restricted housing. What would this mean from a zoning perspective? Would it eliminate the possibility for age-restricted housing?

Mr. Houston said it would not eliminate age-restricted housing; but there would no longer be the benefit of increased density. He said the proposed ordinance appears to provide balance between two recommendations of the Master Plan: protect the character of existing neighborhoods through zoning regulation and enforcement, and recognize and address the housing needs for an aging population. Staff recommends that table 15-1 in the Land Use Code be modified through the elimination of uses #12 and #13, and modification of use #14. Section 190-42, B. (4) also needs to be amended. An additional paragraph should be added to Section 190-42, C. regarding maintenance of a buffer between buildings and perimeter of the property.

Mr. Varley asked the date of the public hearing of the Board of Aldermen, and if the BOA needs the Planning Board's recommendation at that time.

Mr. Houston said November 15<sup>th</sup>. He said the BOA usually prefers to have the Planning Board's recommendation.

Atty. Westgate said he represents Mr. Turmel, who has a potential elderly housing project. He said he appeared at the PEDC meeting a few nights ago and encouraged members of the Committee not to recommend passage of the ordinance. In effect, it takes away the possibility to have an age-restricted housing community. The City has several of these already, and they are very popular. The reason these developments occur is because of the density bonus. If this is taken away, there will be no incentive; why would a developer restrict his market? When this ordinance was at its first amendment, there was a restriction on living space as a trade-off for the density. The drafting of the changes contradict the findings of the ordinance, which looks to foster independent living tied to the state statutes for age-restricted housing, which do not regulate the type of housing. If you are going to keep with the ordinance, but then restrict to institutionalized development, the result is contrary to the purpose and the enabling statute. He would urge this Board not to recommend passage of the ordinance, and defer making a decision tonight in order to read Mr. Houston's memorandum.

**MOTION** by Mr. Robbins to table Other Business #2 to the November 17<sup>th</sup> meeting.

**SECONDED** by Mr. LeClair

**MOTION CARRIED 6-0**

**DISCUSSION ITEMS**

None

**MOTION** to adjourn by Mr. Weber. Meeting adjourned at 10:13pm.

APPROVED:

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Adam Varley, Chair, Nashua Planning Board

DIGITAL RECORDING OF THIS MEETING IS AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS OR CAN BE ACCESSED ON THE CITY'S WEBSITE.

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

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Prepared by: Mindy Lloyd

Taped Meeting