

PUBLIC HEARING

A Public Hearing was conducted by the Planning & Economic Development Committee on Tuesday, November 15, 2016, at 6:36 p.m. in the Aldermanic Chamber.

Alderwoman Mary Ann Melizzi-Golja, Chair, presided.

Members of Committee present: Alderman-at-Large Daniel T. Moriarty, Vice Chair
Alderman-at-Large Brian S. McCarthy (Arrived after roll call at 6:52 p.m.)
Alderman Tom Lopez
Alderman Benjamin M. Clemons (Arrived after roll call at 6:48 p.m.)

Members not in Attendance: Alderman Richard A. Dowd
Alderman-at-Large Lori Wilshire (Arrived after roll call at 6:50 p.m.)

Also in Attendance: Steven Bolton, Corporation Counsel

O-16-020

CLARIFYING AND UPDATING THE ELDERLY HOUSING SUPPLEMENTAL USE REGULATIONS

Attorney Bolton

We have a zoning ordinance in the City of Nashua and within that zoning ordinance at section 190-42 are provisions relating to bonus densities for elderly housing projects. That is you get to build more residential units on the same area of land if you can fall under the provisions of 190-42. In looking at the existing provisions of 190-42 there appeared to be an ambiguity. When you get through the purpose section at the beginning which is printed all in italics you come to sub-section A which talks about applicability and prior to this proposed amendment sub-section A had a section 1 or a further sub-section and section 2 and in section 1 it basically said that elderly housing means any of the housing categories and supportive service facilities described in sub-section A2. Then A2 read examples of principle uses or structures that constitute elderly housing include...and then there was a list of six categories. Reading sub-section A it said elderly housing means any of these six things. Section 2 said examples of these six things. The question became and the ambiguity is one way of reading it is it's these six things and only these six things. Reading section 2 and giving that primary it said these are examples. There might be other examples. One of the primary purposes of this legislation is to clarify that. Clarifying it in the opinion of the zoning administrator it should have read all along that elderly housing means these six categories. The first thing this does is change it to say it means these six categories. Next there is reference to state and federal law within the legislation. The purpose there is, at least under New Hampshire law and arguably under the Fair Housing Act in federal law, there are certain conditions that have to be met to allow for excluding people on the basis of age, that is either they are too old or too young and if you don't meet certain requirements it would be illegal to do that kind of exclusion. As originally and currently in the code book there are references to the New Hampshire Commission Against Discrimination or the Human Rights Commission and administrative rules adopted by the Human Rights Commission at sections HUM 300 and beyond. At some time between the time that the ordinance was originally adopted as part of the Nashua Zoning Ordinances and now, those sections have expired, what they call "sun setted" under state law. They are no longer in effect so we've deleted the reference to those state regulations and what was in the state regulations that we have been most concerned about has been inserted in C2 of the ordinances where it lists the various types of facilities and services that are designed to meet the needs of older persons. Those have been taken from what used to be in the state regulations and put into this ordinance because they were obsolete references. What we really cared about was the types of services and facilities they described, that is what the reference was too and now we have taken that language and put it expressly into the ordinance. That was the purpose of doing this amendment. It's entitled clarifying and updating because of the fact that it was meant to clarify what the categories were and they were the exclusive

categories that had to be met under this definition and updating to delete the obscure references to the state regulation. As I say this is only to get those extra density bonuses for providing these types of housing with facilities and services meeting the needs of older persons. It does not prohibit other projects in areas of the city where the density permits clustered housing, condominiums or other forms of ownership when these types of facilities are not provided but you have to meet the underlying zoning densities. I hope that clarifies things.

TESTIMONY IN FAVOR – There was none.

TESTIMONY IN OPPOSITION

Mr. Tom Prieto, 41 Raymond Street

I am here representing my son James who is proposing an elderly housing project at 122 Manchester Street. Ordinances like the one proposed would have an adverse effect on elderly housing and I think its bad policy for the city. Since the Planning Board tabled their hearing on this matter are they not going to be able to give a recommendation tonight? Are you going to table your decision until you get it?

Chairwoman Melizzi-Golja

I think that's for the committee to decide once we go through the meeting. We can always make a decision and then table the ordinance at the full Board meeting and wait for them to come back and have more discussion.

Mr. Prieto

Am I able to ask questions of Attorney Steve Bolton or do I ask them through you?

Chairwoman Melizzi-Golja

You can state them in your testimony and then we will discuss them and address them as part of our committee meeting following this.

Mr. Prieto

So in the context that I have some questions that would relate to my testimony and I wouldn't be able to respond, how does that work?

Chairwoman Melizzi-Golja

The hearing is just to get testimony but please feel free to provide your questions.

Mr. Prieto

My first question was for you, Madame Chair, is Attorney Bolton here representing this committee or the sponsor of the ordinance?

Chairwoman Melizzi-Golja

Attorney Bolton's role is that he is here as the City Attorney representing the city. His office drafted this piece of legislation.

Mr. Prieto

I had some questions that I had asked Sarah Marchant who is the Division Head of Planning, Zoning and Building Code and she in turn sent them to Attorney Steve Bolton and Attorney Bolton was kind enough to give me a response directly after about 10 days. When I asked the question who is the individual that determined

there was no fiscal impact if the ordinance is adopted the answer I received was typically personnel from the Legal Department consults with the Finance Department and other employees knowledgeable in the impacted area. Well, that doesn't answer the question as to who specifically was the individual that determined there would be no fiscal impact. Typically I am not here on a Tuesday night and I think this answer begs the question who, if anyone, actually made a determination after a study if there was any fiscal impact. The next question I asked was what data, if there was a person that did a fiscal study, what data supported the conclusion that there was no fiscal impact and the answer is an act in the ordinance provides no immediate revenue to or expenditure by the city. Again, he didn't answer the question of what data supported the conclusion and I would like an answer to those questions.

Attorney Bolton

You could have written me back and I would have been happy to explain it further.

Mr. Prieto

I could have written you back but since I was unsure as to the proper procedure I thought it was best that I present it in an open hearing.

My understanding in my research is that all ordinances have to be consistent with the Master Plan so I read the 400+ pages of the Master Plan particularly focusing on elderly housing and one immediate observation is that none of the 400 pages have a page number. That made it difficult for me to present references as to what page I received the information from. I do have copies of those pages that I will give to your members. It started off that the Master Plan says the fair and equitable treatment for all citizens. As I told you, I have been here over 55 years and I appreciate the fact that in the Master Plan they call for a quality of all citizens. If I continue further, particularly in light of elderly housing, I think you will hear testimony here from others that this elderly housing ordinance diminishes the availability of market rate elderly housing. In the Master Plan it says that the most important finding of their model, which was referring to the population growth, was the projected increase in the number of senior citizens. It goes on to say that it recognizes and we should address the housing needs for the aging population. Then it goes on to say that residential zoning recommendations in the Master Plan. Due to the likely increase in demand for elderly housing both for independent living and managed care facilities is recommended that the zoning ordinance be examined and revised if necessary to ensure that adequate opportunities to develop elderly housing are available. This is especially important given the projected increase in the senior population over the next 10 to 20 years. Let's go on to some of the specifics. As you are undoubtedly aware the ordinance rather than clarify also adds some significant changes to the ordinance. For example, this new proposed ordinance indicates that you have to have a minimum of 30 units for elderly housing. In the Master Plan it indicated in 2001 in the RA district that there was only 10 acres of developable land. I asked experts in the field in Nashua about residential developable land and they indicated that there is only about 5 or 6 acres in the RA zone for developable land which means whoever wrote this ordinance obviously tailored it so that you couldn't do any elderly housing under this ordinance because 30 units of elderly housing, you would need at least 5 or 6 acres but you are not going to find 5 or 6 acres in the RA zone that is contiguous. I find the ordinance on its face is skewed to eliminate elderly housing in the RA zone. The RA zone is a zone which has particular accessibility issues that are important to the elderly. It has accessibilities to the doctor's offices, hospitals, transportation, churches, parks and to take this situation and say you need a minimum of 30 units when you don't have enough developable land in the RA zone, again this is in your Master Plan; I think this is inconsistent with the intent. In addition to which, the closing statement in the Master Plan says in a decade or so most development in Nashua will be development of infill sites. I looked into the Comprehensive Annual Financial Report dated June 30, 2015, and it went on to say that under local economy, there is little land available in the city for new development therefore re-development and rehabilitation of existing sites has become and is the focus of keeping Nashua on the forefront of economic and technological and social change. That's the latest report I could get. Clearly, there are indications here that the Master Plan wants to have more elderly housing and serve people that need accessibility to shopping and doctors and to their community. What's curious is that in this ordinance, beyond the fact that they require a

minimum; the first ordinance was O-6-XXX which is obviously the first draft. That was stated to be a clarification of the elderly housing supplemental use regulations and in that first XXX draft there were no limitations, for example, it said you could do 10 units in a re-development opportunity and that would be a house that was on 2.5 acres, like in my son's case and it's zoned RA and by the ordinance for elderly housing it allows 18 units on that 2.5 acres. It's across the street from the Baptist church. It has excellent accessibility to St. Christopher's church, there's another church down the street and it has access to Rite Aid pharmacy and a number of other facilities within a mile or two that make this an ideal elderly housing opportunity for the city. In addition to which it has a bus stop. This would be ideal for the 55+ community. I told my son, James, if you are going to propose anything in Nashua make certain it doesn't require a variance. I asked the Planning Department, Carter Falk, Linda Panny and Roger Houston and we asked if it required a variance. The question was asked and answered. There was no need for a variance for use but Roger Houston did say to me the Alderman for that district who is now the Mayor opposed the previous project on this site and you should talk to him because he is very protective of the north end neighborhood. With that James did speak with the Mayor and the Mayor was very gracious but he was clear that he would not support the project and that's his prerogative. But, when I see an ordinance and I look at it through the context of that type of situation where the Mayor doesn't support the project and then I see an ordinance that appears to be tailored against it by eliminating any elderly housing under 30 units I am suspect. While I am suspect, I think the Mayor is an honorable man and I think he is a fair man so I really question why this ordinance came about because it appears that we need elderly housing and market rate housing that's conveniently located for the elderly citizens. My son's intention is to make certain that he abides by the ordinances and gives the City of Nashua that he can be proud of and there are a number of senior citizens that need market rate housing because the housing that is available is either subsidized housing or low income housing or low income housing with a two or three year waiting list. If you want to downsize and you are 55 or older and you want to stay in the community you grew up in where do you go? While this would be open to anybody in market rate I think this is a particular valuable site for elderly housing for the reasons that I gave. One thing that I question is we have to work out the situation about the variance and I don't know how that is going to end up but Carter Falk, the Deputy Planning & Zoning Administrator wrote on November 1st to the Zoning Board of Adjustment that there had been recent discussions with this elderly housing proposal with other city officials. General questions have been raised about the ordinance itself and why it may appear that staff is asking this applicant, my son, for information about meeting one of the categories listed in table 42-1 that may not have been asked of other applicants. This to me is pretty incredible that this memo would go to the ZBA and say recent discussions with this elderly housing proposal with other city officials. It's like the question that I asked originally, who determined there was no fiscal impact? We don't have an answer to that. Let's talk about the fiscal impact for a moment. The project that my son is contemplating currently generates \$6,900 in property taxes. After a full buildout of the project if it's passed, it should generate between \$100,000 and \$120,000. This ordinance states there is no fiscal impact and I don't understand that. There's another elderly housing project that is proposing 34 units of elderly housing and he thinks the taxes are going to be \$180,000 and presently they are paying \$8,000 or \$9,000. That's \$300,000 in addition property tax revenue and in an elderly housing there is little, if any demand on the school system. These are privately paved roads and privately maintained roads. There is no public trash pick-up. I think it is imperative that this sub-committee of the Board of Aldermen look and determine what the fiscal impact is. I understand that when you want to put up a stop sign in the city somebody gives you a fiscal impact, like each sign costs \$600.00. The City of Nashua could have \$300,000 in property taxes while the city is considering lay-offs; 42 teachers I read in the paper, a couple of firefighter positions and a couple of police positions. I think this is unconscionable I would urge you to get the name of the individual who determined that there was no fiscal impact and look at the data and judge it for yourself before you make a decision. At the end of the day I am here as a citizen of Nashua for only one purpose and that's to see that my son's project is debated on its merits and goes through the proper processes and is on a level playing field.

Mr. Steve Mayo, 22 Craig Drive, Merrimack, NH

I have worked in Nashua my whole life in the real estate field. I've owned property in Nashua since I was 24 years old. About 1/3 of my real estate business is from folks that are downsizing. Some want to stay and

some are moving to other parts of the country. About one month ago I sold a house to someone at Crown Point in Merrimack because there was nothing available in Nashua. There is a significant shortage of housing and stand-alone units. Not everyone that wants to sell their big house wants to go to a medically assisted living place. As I understand it this ordinance, although on face value it looks like some things are being clarified, the way I understand it is that it significantly diminishes the opportunity to build more of these stand-alone 1,000 square foot units and that's the focus of my attention. I think that's really bad. I am very familiar with many of the communities that have been built and I don't know of any kids. The road maintenance is taken care of by the community and the residents are not an undesirable group of people but people who go to restaurants and churches. A lot of them are trying to sell their homes and buy a place with no mortgage and have a few bucks leftover to either leave to the kids or to live comfortably. The higher density in these projects allows the prices to be down where it's reasonable in the \$200's instead of something like the \$400's and that price range just isn't reachable for a lot of people. A lot of them want to stay where their kids and church are and a proposal like this would just drive up the cost or real estate I think needlessly for these people who are trying to downsize. I have no problem with the portion of the ordinance that clarifies sun set provisions in the state law. I was also just a little disturbed that it just says clarification of an existing ordinance. That seems a little sneaky to me.

Attorney Brad Westgate, Winer and Bennett, LLP

I represent Crimson Properties, LLC and its principal, Randy Turmel. Randy is pursuing a project on West Hollis Street which he would like to development as a 55 plus community. He also is the developer of the Stinson Park Condominium which is a 17-unit 55 and older condo. I had suggested at the last meeting that the committee take a look at the proposed ordinance and its amendment in its entirety and get the full concept of the proposal to have a better perspective on its impact. The clarification or modification to the section that leads into the list seven examples of the type of elderly housing facilities that would be permitted has the absolute and direct effect of eliminating independently or self-manage 55 and over and 62 and over communities. It forces the possibility of development to be institutional only. If you look at the list of what are now examples but by way of this amendment be an exclusive set of possibilities, you can see that they are all of an institutional type and not just merely assisted living but all levels of congregate care, continuing care, retirement, full nursing, skilled nursing and the Huntington type of facilities and they would be the only ones that would be permitted. The testimony that you have heard tonight is that the demographic of 55 and 62 plus that wanted to stay in the community is not serviced by merely permitting institutional facilities such as those set forth in the list. I think that's a shame and also is contradictory to the purposes of the ordinance when it was adopted ten years ago and contradicts the purposes of the enabling statute RSA:354A, section 15 which set up the possibility of 55 and 62 year old communities. Obviously we've had nursing homes, assisted living facilities and skilled nursing for a long time. They pre-exist this philosophy and opening up a self-managed 55 and 62 plus communities. The ordinance really couldn't have been designated and set up ten years ago to reiterate the idea of having institutional elderly communities but was opening up to a broader scope meaning self-managed 55 and 62 plus facilities. What has happened in the market place is that those turned into developments like Stinson Park or Hayden Green both in Nashua and I am the lawyer for them both as well. Neither of those developments required a variance from this provision to be permitted because the ordinance was interpreted to allow that given the notion that the list of the seven examples were examples only and not an exclusive list. Neither of those projects could be built without variances today if the amendment proceeds. These communities are favorable received in the market place and similar ones in nearby towns have been received as well very favorably. There is clearly a demand for it. I don't think it really serves our communities purpose to legislate them out of existence which is what would happen. That's especially true in Nashua because of the limited land resources that we have. Institutions aren't going to come in and build 1,000-foot single family units or duplex units. It doesn't work that way. They are going to want to have multi-unit type buildings. If you take a look at the original ordinance from 2006 but some of the fundamental purposes were to allow older persons the opportunity for private ownership and private maintenance of private property and the community goal is to development this kind of housing. There was a significant increase in this demographic and it was going to continue to increase and the housing needs were therefore prevalent. In an institutional setting you don't have private ownership and private maintenance. If you go into assisted living you don't own

your unit or your room and if this ordinance has as one of its purposes to foster private ownership and private maintenance, how can you legislate out of existence the very product that provides private ownership and private maintenance and merely permit the institutional properties to exist? The result of having only the institutional seven examples contradicts the very purposes for which the ordinance was found ten years ago for encouraging development for private ownership and private maintenance. There are other subtleties to the amendment that don't meet the eye initially. For example, the density provision, the ordinance presently permits increased density over and above what is permitted in the underlying zoning density table for various districts. Density is defined in terms of dwelling units. The obvious tradeoff was that for a developer to have higher density the tradeoff would be smaller units but if you had a greater number of smaller units but a higher density you might be induced to build something other than the standard single-family non-age restricted home and therefore meet the goal that the ordinance has which is to foster development for elderly housing. If density is defined in terms of the number of dwelling units but the only types of facilities that are allowed are institutional facilities; institutional facilities don't have in every case dwelling units. Nursing homes don't have dwelling units, they have rooms. Assisted living have rooms or very small apartments but they don't have what reaches the definition of a dwelling unit which means the place you can live in terms of sleeping, living, bathroom and kitchen. If you are going to have this ordinance only apply to institutional settings but you still keep in the density provisions that are defined by dwelling units you have a complete contradiction. There's more than meets the eye than effectively eliminating the concept of examples to merely an exclusive use. There is a lot of fallout from the details of any type of change like this because you have to reflect back on the original purposes and the underlying provisions throughout the whole ordinance. There is a push in society to have people maintain independent living as long as they can. It's beneficial for the mind and soul and it's also beneficial for society in terms of cost factors. It would seem to me that we would want to encourage independent ownership and private maintenance rather than discourage it but the change in the ordinance would discourage it because it would again throw the options into simply an institutional setting. It's always true that any piece of land that can handle it can be developed under the standard dimensional requirements and use provisions but in the market place why would anybody restrict his market to a certain age group in otherwise he still must meet all of the other regular requirements that the development demands. You wouldn't. There are references in the present ordinance to what were regulations that at one time existed under the State Human Rights Commission, Attorney Bolton referenced them tonight. Those regulations listed twelve types of significant facilities and services that a 55 and older community had to have to meet the statutory definition of being permitted housing for older persons or elderly housing. That ordinance was sun setted and therefore this amendment has adopted those word for word and listed a set of twelve possibilities of facilities and services. However, that list only applies statutorily to the 55 and older product. It doesn't apply to the 62 and older so under the state law I can build a 62 plus community and not have to deliver the facilities and services package. If I build a 55 plus community I have to deliver that package. Frankly I think it's on its head because why would the younger ones need the facilities and the older ones not? The proposed ordinance would mandate the facilities and services package to both 55 and 62 plus. It makes it more stringent than the state law even requires. There's also a provision in the state law that says that the facilities and services package is not required in circumstances when it's not practicable. That option would not exist under your amendment. Therefore, state law would say you only have to have facilities and services when practicable for 55 plus and you don't need them at all for 62 plus but your ordinance would mandate it in both settings and not have the "not practicable" exception remain. The very last sentence in the proposed ordinance talks about any ordinances to the contrary are "all ordinance and parts, the ordinance is inconsistent herewith are hereby repealed." I feel that it's an impossible standard to figure out. If something is going to be repealed that contradicts this ordinance then it should be analyzed by going through the land/use code, identified and expressly repealed. It would seem to me that the way to proceed would be as follows: If in fact, there are concerns that the ordinance that is presently in place has had some kind of adverse impact in certain circumstances then maybe there should be a little bit of digging and ground work and data gathering as to what the concerns are and learn from those details and take a look at those concerns in the context of the ordinance in its entirety and figure out whether the city's desire is really to make a policy determination to go against what it found ten years ago in terms of encouraging 55 plus and 62 plus self-managed privately owned communities. Decide whether the problems are so important that they outweigh that original set of goals and then figure out how to deal with them. Perhaps engage people in the field as well as the population that it is intended to

serve. To me that is the process as opposed to taking an amendment and not really gauging all of the different impacts that it has without the kind of insight of those who have had to deal with it and those who were affected. When a proposed zoning ordinance is posted for public hearing it applies against all property in the community that is not pending before the Planning Board for development purposes for which the Planning Board has already given notice of public hearing. When an ordinance is proposed it's like it is already in effect for all property owners. In Mr. Turmel's case, he is already bound by the provisions of this ordinance and he only becomes unbound by them if the ordinance doesn't pass. Right now if he submitted an application to the Planning Board for his project he would be subject to the ordinance and wouldn't be able to submit it without obtaining the necessary variances. Posting an ordinance has a big impact and I think should be thought through carefully when enactment starts to come close. I would be happy to clarify anything.

Mr. Alfred Porier, 9 Stinson Drive

I came here in 2014 from Massachusetts. We have 17 units and I am president of the association. I have friends in Massachusetts that live in complex with 300 units and I wanted a small community. If you pass this ordinance then it has to be 30 houses and I don't think that's fair for someone who is looking for a smaller community. There was a couple in our complex who moved into assisted living and they are upset because she is now in a cubicle.

Mr. Randy Turmel

I am the operating partner of Keller-Williams Realty and the principle of Crimson Properties and I recently developed Stinson Park. I have lived in Nashua all of my life and have a vested interest in this community and I respect our leaders. I am very much in opposition against the amendments that are proposed. I want to make sure that as decision makers you have an understanding of the impact that this could do. I've had 31 years of experience in the real estate industry and half of that has been focused in the 55 and older arena. In the State of New Hampshire the population is 1,276,000 people. There are currently 330,000 people that are 55 and over. In Hillsborough County 31% of the states' population resides, 400,000 people. In Nashua 86,500 people reside in our community. 25.8% of our population in the state is 55 and over. In our municipality, just Nashua on its own has about 22,300 people that are 55 and older. As a community we have not come close to addressing the housing needs. I know that there is a tremendous amount of housing needs from 55 until death. This amendment as I understand it says okay we are going to throw out the opportunity for parents and grandparents to downsize into a small independent home that they own. If we look back at the profile of that person who is 55 and older, as they age what they want to do is to stay in their home and then some sort of life event happens, a medical issue or a family issue and they decide they are going to move. Their second goal is to move into a house that they own and control and have pride in and that's where I think we, as a community, have to provide that opportunity. If we take that away I think that's a total injustice to our residents. The 22,300 people in Nashua that are 55 and older are not all ready for institutional housing. Next year I'm going to be 55 and I'm not ready. 30% to 40% of our buyers come from Massachusetts because they want to come back to their kids and grandchildren. There are an incredible amount of people in our market place that is looking for that housing and I strongly urge you to please do not take that opportunity away from that buying group. I would not want to be known as the city who said sorry, we don't want you but you are welcome to go somewhere else. There are other municipalities like Hudson, they are loving life. They have got more communities. Pelham, Litchfield and Amherst have had some great communities.

Ms. Cheryl Kisiday, 3 Beverly Drive

I am a real estate agent and this book is full of people looking for housing for 55 plus and none of them want to be in an institutional type of setting. The lack of housing for this age group is also restricted by the size that was imposed ten years ago. These are people actively looking to sell their home and buy something in the same community. You will have new families coming in who will not just own the house but they will go to Nashua Wallpaper and using all of our local businesses and eating at the restaurants. I am going to be 60 and I don't want to go to an institution but I brought Gloria Campbell with me and she's 90 and she doesn't want to be in an institution. Some people are fiercely independent and want their own homes.

TESTIMONY IN FAVOR

Mr. Mark Littlefield, 120 Manchester Street

I abut 122 Manchester Street where Mr. Prieto's proposed development is. What I am hearing is this is not legislation to outlaw 55 or 62 plus; it's to more clearly define the rules and regulations that these developers have to abide by. I think they are a great idea and there are certain places where they fit. There is a reason why there are only a handful of developable lots let in the north end and that's because Nashua is congested, it's a city and it is near built out. Referencing these other communities like Amherst, Pelham and Hudson; there is a lot more open space in those communities. There has been a single-family home on the 122 lot for 90 or close to 100 years and there is a like community already in existence abutting it and its primarily single-family homes in that neighborhood. I think this proposed development and if the regulations aren't tightened more then you are going to see more like this where a house will be torn down and replaced with, this has five residential buildings I think they might need a variance for that because I don't believe that fits in the zoning for that RA neighborhood. There has been a single-family home there for ages and it's surrounded by single-family homes. If we don't keep a close eye on this and follow the existing regulations and perhaps enact more regulations concerning this type of development. There is more than just fiscal impact, the city has a responsibility to people that are already property owners and residents and tax payers. I think the city has a responsibility to protect us and not just cater to potential residents. I think there is a large population of baby boomers so in the next 10 to 15 years perhaps there will be more need for elderly housing for them but in 30 years when that generation is passing on there are going to be all kinds of half empty 55 plus communities like this one that is shoehorned. If this 122 passes, it is literally 18 units shoehorned in between nine single-family homes. I believe that we all have an ability to improve our property but within certain regulations that we have to follow. I can understand why variances aren't just rubber stamped. There are rules that have to be followed. We all bought our homes in that neighborhood for a reason and they are the same reasons that are catering to the 55 plus community. I think the 55 plus community here is a marketing ploy by developers. They are not in it for community service, they are in it for profit and they are looking to shoehorn the maximum number of units into this lot which I think is 2.35 acres and I believe according to the rules that would be the absolute number that they could put on this sized property. It's not a square, it's not even a rectangle, it's oddly shaped, it's long and it's narrow. I think this developer is looking to exploit the zoning regulations as far as the building envelope goes. There are certain setbacks that are required, 25 feet front and rear and a ten feet side setback between buildings. If you look at this plan, I think most of you have probably taking a look at the plan already, they are saying the 25-foot setback because they are saying it's one property, they are not subdividing into lots, the 25-foot front setback is from Manchester Street into the lot. The 25-foot rear setback is from the rear property line towards Manchester Street. The 10-foot side setbacks, you would assume the sides of the buildings, are along the lengthwise of the lot. That is actually where the rear of the buildings are. The front of the buildings are on what will be this private street. The rear of the building will be 10 feet from my property line. The rear of several buildings will be 10 feet from my neighbors' property lines. Ten feet is supposed to be a side setback, not a rear setback. I think these developers, particularly in this case, are trying to find loopholes in the zoning laws and exploit them. I'm sorry, I have been longwinded. I'm certainly in favor of this legislation and perhaps going a few steps further. For the present and the future, I honestly think there are going to be, 30 years down the line, it will be great for me. I'm 46. When I'm 65, I think half of these 55 and over developments are going to be half empty. They are in great demand now, but I am thinking about the future and I am also thinking about my property value, which will be greatly impacted, and the property values of my neighbors. As we sell or as new people buy, they use comps. They use comparables in appraising and assessing property values. When you shoe-horn an 18-unit condo development, whether it's 55 and over or no age restriction, it impacts everybody property value. I'm sorry if I'm longwinded. I think there are safety issues here. It goes on and on and on. I'm sure there are many other people that would like to speak and will have very valid points. I thank you for your time.

Mr. Gary Wingate, 15 Sherman Street

I also like a lot of the people in opposition to this have a lot of heritage in the city. I'm in favor of the ordinance.

Our family has been here for 117 years. I hear a lot of people saying they are really Nashua natives and all that, and I am too. We've been here for 117 years. As a business, our family has been raised here. I think there are a couple key things. The question was why is this ordinance written. I think the ordinance is written because if you didn't have this ordinance, there's a real possibility, almost an incentive, if you are a developer to take advantage of the elderly housing provisions and get a lot of density. I think there has to be something more specific as why you can't do that. They are supposed to have elderly services. The elderly services are very vague. I look at my dad, he's 89 years old. He lives down in Walden Pond, as do a lot of the people that he had as friends. The Cardigans you might know, and the Lesieus, and the Millers and the Farris'. There's an old expression: You live in the North End and you kind of roll down the hill and you end up at Walden Pond, the old riverside golf course. These people are like all in their 80s. If they need services for Meals-on-Wheels, Meals-on-Wheels comes to them. If they need to have visiting nurses, Hunt at Home has services. People will go right to their homes for physical therapy or whatever. These people live a nice, independent lifestyle. They don't have to be elderly housing. They are on their own, independent with the services that are out there. You talk about the Manchester Street project of putting in 18 houses under the guise of elderly housing, all those services are available. In my business, I've dealt with a lot. When I first started, Greenbrier and Hunt Community were the two places that you went to. Now there's Nashua Crossing. Now there's Langdon Place. There are a lot of places where they have a lot of these services for people who need it at that scale. I think under the guise of 55 and over and really gaming the system with what the services are, I look at this ordinance as a turning point. A lot of people keep saying there's not a lot of developable land in Nashua. That's true. So why take the rest of the developable land and shoe-horn these projects which affect the character of a lot of these neighborhoods? This particular project is in an area where there has been single family homes since the early 1900s. To shoe-horn an 18-unit condo project, having the density possibilities and privileges doesn't make a lot of sense to me. I think that's why the ordinance has to be written. I think there's a turning point where we just need to draw a line in the sand and say if you are going to be elderly housing, you are going to have to provide elderly housing services distinctly different than what you already have. I'll use my dad as sort of a symbol of that where you can bring services in. In our neighborhood, and there are people behind me that are here, one block, you go Sherman, Edith, Hooker, Charlotte, there's actually five elderly people that live on their own in one-story buildings. They are all under 80 years old. They happen to be the parents of people in that neighborhood. My mother-in-law moved here from Maine. She's 88 years old. Holly Cyr is behind me. Her mother is like 80 years old, the Bickfords, and they are there. There's like five examples where people are living on their own and they have the services there. They don't have this elderly housing thing. They are living with all the services that we are fortunate to have in the City of Nashua. That's why I think the ordinance has to be written. I think there's a turning point where we just have to draw a line in the sand and be more specific of what we mean by 55 and over and what are the services that are so much different than what's already available in the community that can come to your home. People talk about fiscal impact. The fiscal impact of all these greater amount of taxes and this and that. There's a physical impact. This 122 Manchester Street symbolizes physical impact. It's not all the extra taxes we're going to get; it's the possibility of lower housing values for the 10 abutters that are around that area. By having this elderly housing approved and this ordinance not being passed, there's a 10-foot buffer between where the building ends and the people on Danbury Street are. I think that's going to adversely affect a lot of people who want to buy their homes. I think we need to look the other side of this physical impact. You could say there's more tax revenue, but you could also build two or three houses there and make them high end homes, like the pig farm out and the Tamposi's where you have \$600,000 homes. They are beautiful. They are 2, 3 or 4 acres. Put those in and you still have a lot of taxes if that is the issue. I think the fiscal impact has to be looked upon by the current people that live in an area that have a certain character that single family homes and how that will change as Mark would say shoe-horning 18 units in there. The opposition says that creates a lot of uncertainty. I say it actually creates a lot of clarity. I think people using this 55 and over for their own purposes of density, I think just draws a line in the sand. There have been a lot of references to in Massachusetts this is the way it is or in Pelham this is the way it is or in Hudson this is the way it is. Those neighborhoods are different than Nashua. They are different in the sense that they have more available developable land. I encourage people to do projects in those communities. But Nashua doesn't have a lot of developable land. I just think that we need to define in a better way what we mean by that. In summary, I just feel like I'm sort of for the ordinance because I just find it to be very, very vague. I think Steve might have mentioned that there

were six categories. I think there are actually seven. I look around having been in the health care field for myself, personally, for the last 35 years, I've seen all the Nashua housing. If you're the Mayor, you get a place named after you. Arel Manor, Sullivan Place, Davidson Landing. A lot of those have really nice homes and nice units. There are a lot other, like the gentleman was saying, Langdon, Hunt, Huntington. I'm amazed since I've been here since 1984, when I moved here from Seattle, how many housing developments are here for all the needs of the people. I just think you need to look at the general community. You need to look at all the housing that's available for the seniors. I just think that we have such great services in our town, and I'm a part of that healthcare in my own business, there's a possibility and there's actually a living lifestyle for people that are living longer have a lot of these services and they can live a happy lifestyle. Those are the reasons why I am actually for this. I think we need clarity in what we call elderly housing.

Mr. Chris County, 1 Edith Avenue

I am one of the abutters to 122 Manchester Street. While listening to the folks who are opposed to this legislation, in particular that would restrict those developments below 30 units, I see a valid point there. I actually support their argument against that. I think that is overly restrictive. As far as proposed legislation before you, in its entirety, I guess I'm not fully supportive of it, but I would suggest that maybe taking a look at the density in those zoning areas and maybe taking a look at whether or not in RA, for instance, 8 units per acre is too dense. Maybe a suggestion might be where in an 8 area now you can develop a lot, I believe it's a ¼ acre. Maybe four would be more appropriate per acre in the R8 zone. Maybe that might be a compromised solution that would allow the property owner to develop to the benefit of their property while protecting the abutters' property values as well. That's my suggestion, and I thank you for listening.

Ms. Tracy Johnson, 3 Edith Avenue.

I wanted to bring up one point. As one of the gentleman said, they were speaking about the minimal impact on the community from the 55 and older housing that there wouldn't be using the schools, that they would have private plowing and all of that. However, there is a significant traffic impact. I am an abutter to the Manchester Street project, when I look at 18 units going in, each with a garage and each with a parking space, that's a potential for 36 vehicles entering and exiting Manchester Street in that very curvy section where it is already extremely dangerous. While the impact may not be on our schools or trash pickup, it is absolutely going to impact the traffic patterns on that road and potential dangers especially because that is a walking zone for anybody going to Pennichuck Middle School.

Ms. Stephanie McMann, 29 Danbury Road

I would like to state that I am also in favor of the ordinance, or at least I am in favor of having rules and regulations protecting taking areas that are single family, residential areas and trying to some of the folks have said shoe-horn in larger complexes. Also as the last person spoke, I have kids who are walkers to Pennichuck. They go up and down Manchester Street not only to go to school but to get to a lot of their friends. Putting 18 units into a very small spot would cause, in my opinion, major danger to my children and a lot of the children that are out there all the time. I think that the ordinance is there to protect our kids and that needs to be looked at as well.

TESTIMONY IN OPPOSITION

Mr. Randy Turmel

I just want to point out there was a statement made that it would be likely in 35 years, I think the gentleman said, that there would be a lot of vacancies. I don't think that is going to be accurate. I'm going to share with you why. Right now the baby boomers represent 76.4 million people. The very next generation following behind, the eco-boomers, is 80 million strong. I'm pretty confident that they are going to replace each other. I don't think you are going to see vacancies as represented. That's it. Thanks.

Ms. Cheryl Kisiday, 3 Beverly Drive.

I'm opposed to the changes. From the people who are supporting the changes, I think some of the meaning of this meeting has been lost. What I'm hearing a lot from them are zoning regulations, but the focus of what you guys are looking at are changes to a heightened need of assisted care in the facilities for 55 plus communities. As Mr. Wingate, himself, said, the people who are 55 and older are fiercely independent, living in homes where they don't need the care of a nursing home or an assisted care facility. Fifty-five plus is quite young these days and they don't require those things. I think by adding those restraints, it really takes away from what the people are looking for and the quality of life that they are accustomed to living. That's all. Just keep that in mind. All the other side things just are added that aren't what the focus of this meeting is for. Thank you.

Attorney Westgate

As I mentioned earlier, in 2006 there were various purposes and findings established when this ordinance was originally enacted. Those purposes and findings still exist. They haven't been contradicted. However, if the amendment passes, it will defeat the impact of those purposes and findings because it will effectively make the only alternative, the institutional alternative when the purposes and findings talked in terms of private ownership, private maintenance, fostering 55 plus and 62 plus development I would respectively submit that you would have to repudiate those purposes and findings before you determine that this ordinance should pass, that this amendment should pass. If you pass it without making new findings and determining new purposes then you will have an ordinance that is contradictory to its very foundation. That certainly isn't the way a zoning ordinance should be changed. Despite what people may say in favor of the amendment, and whether or not those goals are aleatory, they aren't findings based on fact that repudiate what was found in 2006. There aren't purposes that are different today than they were in 2006. The ordinance won't implement those purposes if it is passed. Thank you.

Mr. Tom Prieto

I respect all the comments that were voiced here tonight. These are people that are my friends and neighbors as well. I live in this community, and I have interacted with them. I respect everything that they said. I just wanted to point out from a materially state of fact that while the word "shoe-horn" has been used often here, the open space is going to be 50 space. That is consistent with housing the RA zone. Fifty percent open space. As far as a diminution in value, this total investment is probably going to be in the range of 4-5 million dollars. If you took it by a square foot price, any 2,000 square foot house in the area, that would put it well over \$450,000 to \$500,000. When we look at the cost to build these, the infrastructure, what's contemplated there, I think anyone would be proud to have that as a neighbor. Of course that's a bias statement, but I just want to put that on the record. Thank you.

The Public Hearing was declared closed at 8:04 p.m.

Alderman-at-Large Daniel T. Moriarty
Committee Clerk

PLANNING & ECONOMIC DEVELOPMENT COMMITTEE

NOVEMBER 15, 2016

A meeting of the Planning and Economic Development Committee was held on Tuesday, November 15, 2016, at 8:16 p.m. in the Aldermanic Chamber.

Alderwoman Mary Ann Melizzi-Golja, Chair, presided.

Members of Committee present: Alderman-at-Large Daniel T. Moriarty, Vice Chair
Alderman-at-Large Brian S. McCarthy
Alderman Tom Lopez
Alderman Benjamin M. Clemons

Members not in Attendance: Alderman Richard A. Dowd
Alderman-at-Large Lori Wilshire

Also in Attendance: Steven Bolton, Corporation Counsel
Ms. Sarah Marchant, Director, Community Development

PUBLIC COMMENT – None

COMMUNICATIONS

**MOTION BY ALDERMAN LOPEZ TO SUSPEND THE RULES TO ACCEPT THREE COMMUNICATIONS THAT WAS RECEIVED AFTER THE AGENDA WAS PREPARED
MOTION CARRIED**

From: Sam Tamposi
Re: Proposed Ordinance 0-16-020 Changes in Elderly Housing Regulations

From: Gene Porter
Re: Elderly Housing Rules – Request to Reject to Proposed Change

From: Monique Maynard
Re: Additional 55+ Housing in Nashua

**MOTION BY ALDERMAN LOPEZ TO ACCEPT AND PLACE ON FILE
MOTION CARRIED**

UNFINISHED BUSINESS - None

NEW BUSINESS – None

TABLED IN COMMITTEE

**MOTION BY ALDERMAN CLEMONS TO TAKE FROM THE TABLE O-16-020
MOTION CARRIED**

O-16-020

Endorser: Mayor Jim Donchess

CLARIFYING AND UPDATING THE ELDERLY HOUSING SUPPLEMENTAL USE REGULATION

- Also assigned to the Planning Board. Tabled 11/3/16; to appear on its 11/17/16 agenda

MOTION BY ALDERMAN TO RECOMMEND CLEMONS TO INDEFINATELY POSTPONE O-16-020

ON THE QUESTION

Chairwoman Melizzi-Golja

This was also assigned to the Planning Board and they tabled it and it will appear on their agenda on the 17th.

Alderman Clemons

So we have not yet received a recommendation from the Planning Board?

Chairwoman Melizzi-Golja

We have not. Also, Director Marchant is here if there are any questions.

Alderman Wilshire

I think this legislation is overly restricted. Ms. Marchant, how did this come about with the 30 units?

Alderman McCarthy

I wanted to respond to Alderman Wilshire's question. The 30 unit language came from an ordinance I wrote back in 2006 and the 10 unit. If you recall back then we were looking at some re-development sites in the downtown of vacant industrial sites that were potential going to be re-developed as 55 and over communities. I think the B.B. Rubber site may have been one of those and we wanted to allow for things that were less than 30 units are re-development. I am not sure the language that is in there having discussed it with Attorney Bolton at some length and I'm not sure it accomplished exactly what we wanted to do. I am not in favor of striking the 10 unit language for the smaller sites, I am in favor of figuring out what we actually wanted to try to do there and something that doesn't have side effects.

Alderman Wilshire

Have we applied this anywhere in any developments, the 30 units?

Alderman McCarthy

Palm Square I think would qualify as the 30 or greater. Stinson Park qualifies as a 10 unit as a re-development.

Alderman Wilshire

I still find it overly restricted and I won't be supporting this at the full Board with a favorable recommendation. I recently sold my house in full disclosure, right off of Manchester Street and moved into Hayden Green. I am temporarily living in a 55 plus community and I love it. I think there is a need for it here in this city and I know that the public housing waiting list for low income seniors is way too long. Most people that get on that list, I hate to say it, but they will be dead before they see a unit over there. I think it's too restrictive and I can't support it.

Alderman Dowd

First, I take offense to the fact that 55 is elderly, especially since I bypassed that mark a long time ago. I agree with some of the testimony that people much older are living independently and doing just fine but I can tell you that there are a lot of people looking to downsize to stay near their families and it's extremely difficult to do right now in Nashua. The development on Manchester Street should be separated from this ordinance. There are a number of zoning and planning issues that have to be resolved on that property besides this one. This should not be a catalyst to prevent that development. This has a bigger effect all over the City of Nashua. I think there is a lot of re-writing that has to be done to this ordinance. I agree with Alderman McCarthy, I don't

want to see the exemption in paragraph B3 on the density. I don't think that is any clarification from the state law, I think that is a direct change that I opposed and would not vote for this change with that in it. There are a couple of other places that need more clarification. In its current state I would not support this.

Alderman McCarthy

I don't like the long-term effect that the ordinance has on elderly housing. I think we need to re-think that. With regard to the Manchester Street development problem, I think one of our speakers hit the nail on the head that the real issue with it is not that it's elderly housing and not even the density but more the form. The fact that they are long buildings that will be 10 feet from the property line. I think this is the second one of these that we've seen where that issue came up. If the buildings are arranged such that they front on a street that is internal to the development and I don't know that legally our ordinances say this but I believe the rear-yard setback should be applied to the back of the building and I think that's the crux of where the problem occurs with this particular development. The third thing is that I hate it when we do things reactively. We get caught flat footed occasionally on our ordinances but frankly, it just does not look good for the community if we solve that by retroactively passing ordinances that impact a project that is already in place. It reflects terribly on the community in terms of the perception of business friendliness or not. I understand that the abutters have significant concerns about it and I think we ought to find a way to address those while trying to preserve the rights of the land owner to develop the land. I want to look for a way to try to work through some of those things without passing the ordinance as is because I think that it does do harm to what we have tried to do with allowing elderly housing in the city.

Alderman Lopez

I am not in favor of indefinite postponement. I think it needs some revision. I am opposed to the 30 unit part because Nashua is a city and we need to acknowledge that and start planning proactively. We need to make sure that we are not only dealing with the current elderly population but the generation after as well. We can't keep building as if we are not a city. We need to increase the density of the units. The people who are planning housing developments need to have a plan and be considering the needs of larger populations because in Ward 4 particularly, we are the ones who have the most people looking for subsidized housing. There is not enough room for us all to live as it is. I am not sure this is the solution and it seems that much more discussion needs to be had but I'm not necessarily opposed to encouraging developments to be more forward thinking.

Alderman Wilshire

The reason I would support indefinite postponement of this is that it has an effect of a development that is already in the planning phases and he is stuck adhering to what this proposed legislation is and I don't think that's right and I would support indefinite postponement.

Alderman Dowd

Director Marchant and I have had other meetings on other zoning issues in the city and it has become my realization that our zoning ordinances are woefully out-of-date and they all need to be looked at and I'm not sure of the method for doing that.

Director Marchant

My answer to that is the Master Plan is 20 years old and I've submitted applications the past several years to CIP to look at funding a new Master Plan. This ordinance was built off of the last Master Plan and what our needs were at that time and what the community asked for and I think that there are many places where our zoning works and many places where our zoning map is just not reflective of what is on the ground anymore. I think starting with a Master Plan revision is absolutely essential but I think that there are a lot of people who have seen what is needed on the ground already and there are places we can start to make some of these changes.

Alderman Dowd

The current Master Plan doesn't have page numbers so that would be the first thing that I suggest we do.

Alderman McCarthy

The Master Plan might be 20 years old but the ordinances are not. The land/use code was revamped and re-codified about 10 years ago.

Alderman Wilshire

For a lot of reasons I think that this should be indefinitely postponed, the least of which is the reactionary premise it seems to have been built on.

Alderman Dowd

Ten years is a long time considering 55 is old and the other thing is that I am not a member of this community but I would support indefinite postpone.

Alderman Clemons

For a lot of the reasons that have been said was the reason that I made the motion to indefinitely postpone. We have a larger issue that we are sort of dancing around and that is that we have to balance the need for elderly housing versus the need for creating housing for individuals who are graduating college and moving on and starting a family. I think both populations are underserved in this city. One of my greatest concerns is the aging population of New Hampshire and I don't think that we have a balance right now in the state and I think we need to come up with other incentives to create housing that millennials could move into as well. One of the issues here is that while some folks might want to downsize to an elderly housing unit there is not necessarily the market place to buy that new house, at least for some people. You know a \$400,000 or \$500,000 house is probably out of reach of a lot of people that might move to Nashua if that market place existed. I think we need to do both and by reading this legislation in the way that it is written is that this would effectively eliminate the elderly housing option in this city by making it overly restrictive and impossible to implement. There is a way to legislate things out without just deleting them from the code book and I think this is one of the ways of doing it and I'm not going to support it.

Alderman McCarthy

I actually think in the long-term what we need is less restrictive zoning in our urban core. If you look at what we did, what we have done in the past is a lot of density bonuses for elderly housing because it was small footprint housing and because it didn't put kids in the school system. That is pretty much identical to the product that millennials who are just out of college are currently looking for so if we simply encouraged higher density market rate housing closer to the center of the city I think we would have a much simpler way to deal with both populations. I agree that I might be just a little over 55 at this point but I don't think I need any of those facilities right now. The facilities that I need are pretty much located right out here on Main Street for the most part. I know from a lot of the people I know that are in the same age class that that's true and that what we really need is more housing and more housing that is suitable to small families living close to the things that downtown provides.

Alderman Moriarty

I have a question for Attorney Bolton. Given the apparent lack of support for this as it is, do you see any corrections that are necessary that should be done short of killing this entirely but yet don't become overly restrictive?

Attorney Bolton

Yes, I think the committee and the Board of Aldermen as a whole ought to decide what it wants and we ought to write the ordinance to provide that. As I indicated earlier, there is a very definite ambiguity. There are two provisions that say different things. If you decide which one you want we can leave that one in and take the other one out. There are obsolete references to state regulations that no longer exist and we ought to take those references out. We put the language in that those regulations used to say. We can say that they only apply to the 55 plus but they don't apply to the 62 and over which is also what the regulations used to say or we can apply it to all of them or we can apply them to none of them but as it is the ordinance is very difficult to apply because we don't know what to do with these references to state regulations that no longer exist. We don't know whether to go with section A-1 for a definition which it purports to give or section A-2 which standing alone would lead you to believe that those lists of categories are non-exclusive examples. Section 1 says this is what it means; it means one on the list. I think this need improvement one way or the other.

Alderman McCarthy

Are the lists in A-1 and A-2 substantially different?

Attorney Bolton

It's the same list but one says elderly housing means this list and the other one says these are examples of elderly housing leading one to believe it may be a non-exclusive example.

Alderman McCarthy

If we went with list A-1 which is the current and definitive list does that eliminate things that we think we've seen or will see but not limited to an A-2 or...

Attorney Bolton

It's the same list. The list, if it's regarded as being the exclusive list, Attorney Westgate at least would have us believe that it is impossible to do single-family types of development. I'm not sure that's true but at least that's what you have heard this evening. If you regard it as just it's these seven things but there might be another ten different things which frankly I don't think that is a proper interpretation, but if you believe that maybe we ought to figure out what the list is and maybe if what is desired is a detached condominium type of development providing no services maybe you ought to add that to the list. You can get anything you think you want that's good for the city but we have to know what it is.

Alderman Dowd

Attorney Bolton, if this were indefinitely postponed tonight, if it were re-written yet again with clarifications from meetings from selected parties, when could it be brought up again?

Attorney Bolton

Well, you have a rule about the same subject matter being addressed with two pieces of legislation in the same term so it would be a year from January. What could make an argument would be that you could suspend your own rules and make an argument that it is doing a different thing, it's addressing the same subject matter but it's doing a different thing with the subject matter, it might be doing almost the opposite thing with the subject matter. Certainly the deletion of the obsolete references could be exactly the same. A better approach is to use this as the vehicle for solving the existing problems and any others that are perceived.

Alderman McCarthy

I was going to suggest that because we haven't heard from the Planning Board on it either that what we should do is hold this until our next meeting and ask the City Attorney's office to...I think you have the flavor of what we were looking for in terms of eliminating the ambiguities and the references that are no longer appropriate but don't make it more restrictive than the current language is. I would like to see the language about the detached small footprint condominium developments which are the kinds that we have actually had some success with that are apparently are not allowed.

Attorney Bolton

It's not a question of not being allowed, it's that currently they don't get the density bonus. It's approximately double what would otherwise be allowed in an R-A zone.

Alderman McCarthy

I want to point out another issue that we need to take action on but it's not in this ordinance. There is a state law that passed that next July allows for accessory dwelling units by right.

Attorney Bolton

We are working on that as well.

Alderman McCarthy

The effect that will have is absent any of the elderly housing density bonuses you could probably put 8 units with 8 accessory dwelling units on that property if we haven't done something by then.

Director Marchant

Just to clarify the state law, we are currently working on an ADU ordinance to bring to you. The ADU's by state law will only be allowed to apply to a single-family residences.

Alderman McCarthy

That's my point, in the R-A, R-B and R-C zones where we have a fair amount of density. You can essentially build duplexes out of all of the units that you can get on the property if we haven't taken action.

Director Marchant

But most of our ordinances say only one primary use building on a lot. You would need a variance to put more than one.

Alderman Moriarty

If we were to table this to clean it up it by no means should be interpreted as an act of something nefarious. We definitely want to do the right thing and clean up some problems but proceed without haste.

Alderman Lopez

What would the long-term impact be of encouraging less than 30 units because that seems to another sticking point is how many units we are encouraging. To Alderman Clemons point, how would that effect the availability of different types of housing?

Director Marchant

I think allowing it you need to remain with the 10 units as it is.

Alderman Lopez

Allowing the development of 10 units, etc.?

Director Marchant

What this ordinance does, whether it is requiring the supportive services to allow for the density bonuses or not, which I kind of think is the debate here with this change, is that if you are allowing elderly housing at twice the density of whatever the underlying zoning district is, it is going to have a significant impact on that neighborhood. I think regardless of whether you have to have a minimum of 10 units or 30 units to do it, either way you are doubling the density that would normally be allowed in that zoning district. That's what this ordinance does as a whole. I think form is clearly a piece of it, as Alderman McCarthy said, but looking at doubling the density only for elderly housing or over 55 housing is something that Nashua chose to do a while ago. I think there have been a lot of communities around the state that enacted elderly housing ordinances that allowed for doubling of density or significantly increased density and have gone back in the past couple of years and retracted that because they found that it isn't the best thing for the neighborhoods. I think this is a larger discussion about what is important to us of allowing density bonuses, incentivizing small housing units and where, but I think it should be looked at in a larger context.

Alderman McCarthy

What, if any advice, would you give us on the development that caused us to be here this evening.

Director Marchant

I don't know that I believe that it was any one particular development that caused us to be here this evening. I don't believe that that development would be necessarily subject to this because it has already been before the planning board.

Alderman McCarthy

Do they actually have an approval for a site plan?

Director Marchant

They don't have to have an approval. They have to be noticed, a public hearing.

Alderman McCarthy

That development is not subject to the terms of this?

Director Marchant

To the best of my knowledge, that is true based on state zoning law. I think this is a reaction to clarify a bunch of applications and many conversations that have been had about developing these in all different areas of the city and the density bonuses and those neighborhoods and the reaction that instantly comes to staff from the residents, the abutters, in all of these instances. I do think it is very much a priority of this administration that they were very interested in making sure that this was clear. That's what brought us here.

Alderman McCarthy

If we're going to take some time to think about it, I'd like to see some guidance on the form issue because every time I've seen one of these blown up it's because we have 200-foot long buildings that are ten feet behind single-family residences. I don't know whether we should change the interpretation of the setback requirements or require that the buildings be broken up or at least segmented. Some of them I've seen there is a 200-foot long flat wall on the back of the building that faces the abutters. I can understand entirely the concern about abutting property values when that is done. If there is some common or best practice in the industry that we can find, it would be good to put that in.

Alderman Wilshire

Did I understand from that conversation that there isn't anyone out there that would be affected by this sitting on the table?

Director Marchant

I don't think that is true. I do think very much that the application that Mr. Westgate was talking about, and others that have not been publicly noticed by the Planning Board, are in limbo waiting for some decision on this. I think the 122 Manchester Street, in my knowledge, in limbo because of this. Everything else is.

Alderman Dowd

Having been chair of the ZBA, one of the criteria that you have to pass on any project is whether it is out of character with the neighborhood which carries a really large interpretation by the zoning board. There are other legal points when something goes before zoning that has to be taken into account: traffic and other things, besides the density issue and the type of setbacks.

Alderman Moriarty

I'm a new homeowner and I live up near Rivier College. I moved into that neighborhood knowing the college was there. But if I had moved into that neighborhood and the college wasn't there, then installing the college might very well easily be described as changing the neighborhood significantly even though it is easy to make an argument for the benefits of the college. In this case, we're at a bit of a conundrum where obviously we have great support on this committee and the audience for senior housing, but nevertheless the north end, especially that area, is a residential, single-family area. If it is done properly and looks within the style of the neighborhood, it would be fantastic. We definitely want to be sure that we don't put in a big rectangular building that looks hideous in a nice neighborhood. I'm waiting for someone to table, but I wasn't going to table this after that long discussion.

Alderman Wilshire

I don't disagree with what you said, Alderman Moriarty. What I don't like is people being in limbo with projects. If we put this on the table, and it sounds like we have a lot of work to do, how long do we keep this on the table and people in limbo?

Alderman McCarthy

My thought was just to hold it until the next meeting so we get the planning board's response and see what comes back from the city attorney's office.

Alderman Wilshire

I can't vote tonight, but if I could it would be indefinite postponement.

**MOTION BY ALDERMAN MCCARTHY TO HOLD UNTIL THE NEXT PLANNING & ECONOMIC
DEVELOPMENT COMMITTEE
MOTION CARRIED**

Chairwoman Melizzi-Golja

The next meeting will be December 6.

GENERAL DISCUSSION - None

PUBLIC COMMENT - None

REMARKS BY THE ALDERMEN

Alderman Lopez

Tomorrow night at 6:00 p.m. on Main Street over by Wine-Not is the lighting ceremony for the new mural they have been working on all month. It is free to the public. Come see the mural; come see it get light up.

Chairwoman Melizzi-Golja

And Thursday night, I believe, is the lighting of the Broad Street Parkway Bridge.

Alderman Moriarty

That's Positive Street Arts mural. Fantastic. This is the most people that we have had a PEDC meeting probably in decades. Very impressive.

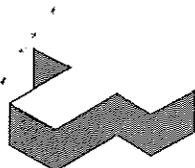
POSSIBLE NON-PUBLIC SESSION

ADJOURNMENT

**MOTION BY ALDERMAN LOPEZ TO ADJOURN
MOTION CARRIED**

The meeting was declared adjourned at 8:55 p.m.

Alderman-at-Large Daniel T. Moriarty
Committee Clerk



November 15, 2016

City of Nashua
Planning & Economic Development
Committee Members
Mary Ann Melizzi-Golja
Daniel Moriarty
Brian McCarthy
Thomas Lopez
Benjamin Clemons
City Hall
229 Main Street
Nashua, NH 03060

Re: Proposed Ordinance 0-16-020 Changes in Elderly Housing Regulations

Dear Committee Members:

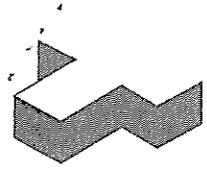
I just learned of the proposed changes to the elderly housing regulations, and unfortunately I cannot attend the meeting tonight in person, but I would like to go on the record to voice my opposition to the proposed ordinance 0-16-020 as the changes will have a detrimental impact on affording our elderly citizens fifty five years and older from housing choices. The City has a large population of older citizens, many of whom would desire the opportunity to downsize their single family homes and move closer to their children or grandchildren in smaller, detached single family units (under a condominium form of ownership).

There is a tremendous demand for over fifty five (55) housing projects in the City, such as the recently completed Stinson Park and Hayden Green developments. The proposed changes to the Elderly Housing Regulations would prevent these type of desirous developments.

Instead of enacting regulations which would make it tougher to develop elderly housing, our City leaders should be devising ways to encourage more development of such housing.

The
Tamposi
Company,
INC.

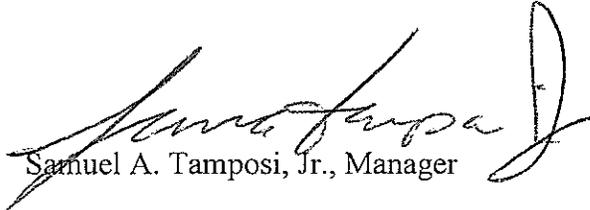
Industrial and Commercial Real Estate
20 Trafalgar Square, Suite 602/Nashua, NH 03063/(603) 883-2000 FAX: (603) 889-6811



Planning and Economic Development
Committee Members
November 15, 2016
Page 2

I respectfully request your due consideration of the above.

Sincerely,



Samuel A. Tamposi, Jr., Manager

SAT:kjm

Cc Honorable James Donchess, Mayor, City of Nashua

November 14, 2016

Nashua Planning Board

Regarding: Additional 55+ housing in Nashua

Dear Sirs,

I am writing this letter to **encourage** the consideration for additional 55+ communities in Nashua.

As a third generation Nashua native and a Realtor since 1984, I see the need for more condos that are designed to allow seniors to keep their independence for as long as possible in their lives. With all the wisdom that people age 55 and over bring to our world, I believe we owe them choices to make their senior years social and independent to as long as possible.

I'm going to take you inside my family's story. It's the same as many, many other Nashua families. My parents were hard-working people, who built their first home just before starting their family. Over the years, no matter how tough life got, they fought back, worked hard and had pride in the home and family they had raised.

As my parents grew into their 60's, the modest Cape they had built and made their home, became a burden. My father was wheelchair bound and the steps into the home made it very difficult for us to take him out and emergency care to get to him when needed.

When my father passed, my Mom, then in her 60's made the decision to leave the home that she and my father had built—for the same reasons as most people her age. Their home was too difficult to maintain, clean, heat, pay taxes on. The floor plan proved not so practical for an elderly person.

My mom was saddened to leave the home they had built, but she knew she needed to do it. She moved to a 55+ condo complex and made friends quickly. She was PROUD of her new home, and felt liberated to be there.

Let's give the older citizens of Nashua the choice of housing that can give them better quality of life and keep them living in the community that they hold dear.

Sincerely,

Monique Maynard

From: "gene porter" <gporter77@gmail.com>
Date: Nov 15, 2016 10:49 AM
Subject: "Elderly" Housing rules issue
To: "Mary Ann Melizzi-Golja" <melizzigolja@gmail.com>, "Dan Moriarty" <aldermanmoriarty@gmail.com>, <MCCARTHYB@nashuanh.gov>
Cc: "David Schoneman" <David.Schoneman@gmail.com>

Good morning,

As you may recall, I recently briefed the Committee on the potential benefits of increased attention to riverfront development. At that meeting I was interested to hear the presentations that preceded mine that objected to a proposed change to the rules regarding housing developments for the "elderly".

As it happens I am one of the original owners of a detached single family condo in the Hayden Green "over 55" development in the North End. Nashua residents are well served by this type of development. The city environment provides ample access to the needs of the residents and I see only increased costs and minimal benefits from the institution of new demanding infrastructure requirements - requirements that put Nashua at a distinct disadvantage in attracting such needed housing compared to the less costly requirements in adjacent communities. Nashua should