

NASHUA CITY PLANNING BOARD
January 6, 2022

A regularly scheduled meeting of the Nashua City Planning Board was held on January 6, 2022 at 7:00PM in the 3rd floor auditorium in City Hall AND via Zoom virtual meeting.

Members Present: Scott LeClair, Chair
 Adam Varley, Vice Chair
 Maggie Harper
 Bob Bollinger
 Larry Hirsch
 Mark Meehan

Also Present: Matthew Sullivan, Planning Manager
 Linda McGhee, Deputy Planning Manager (Zoom)
 Scott, McPhie, Planner I
 Christine Webber, Department Coordinator

ALL VOTES ARE TAKEN BY ROLL CALL

APPROVAL OF MINUTES

December 2, 2021

MOTION by Mr. Meehan to approve the minutes, as written

SECONDED by Mr. Hirsch

MOTION CARRIED 6-0

December 16, 2021

MOTION by Mr. Hirsch to approve the minutes, as written

SECONDED by Mr. Meehan

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

COMMUNICATIONS

Mr. McPhie went over the following items that were received after the case packets were mailed:

- A21-0256, 303 Main St
 - NH Code Administrative Health Topic Letter
 - Greater Nashua Smart Start coalition Letter
 - E-mail from Mike Apfellberg, President, United Way of Greater Nashua
 - E-mail from Carol Baldwin, Executive Director, Nashua Adult Learning Center
 - E-mail from Heather Raymond, President, Nashua Board of Education
 - E-mail from Sandra Pratt, Bilingual Service Director, Gateway Community Services

- A21-0267, 131 West Glenwood St
 - Paul Chisholm, Keach Nordstrom Associates, waiver letter existing conditions
 - E-mail from Sean Azarowski
 - Paul Chisholm, Keach Nordstrom Associates, waiver letter architectural materials
 - E-mail from Wayne Husband, Senior Traffic Engineer, contribution D.W. Highway corridor account
 - Paul Chisholm, Keach Nordstrom Associates, improved architectural features letter

- A21-0286, 11 Northwest Blvd
 - Joe Mendola, Street Construction Engineer, Engineering Comments letter
 - E-mail from Wayne Husband, Senior Traffic Engineer, contribution East Hollis Street corridor account
 - E-mail from Mark Rapaglia, Nashua Fire Marshall

REPORT OF CHAIR, COMMITTEE & LIAISON

Historic District Commission: Ms. Harper provided a summary of the December 27, 2021 meeting

PROCEDURES OF THE MEETING

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

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

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

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

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

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

OLD BUSINESS - CONDITIONAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

A21-0177 Jigna & Sachin Patel (Owners). Proposed subdivision amendment to move an existing utility easement. Property is located at 69 Cherrywood Drive. Sheet C. Lot 2755. Zoned R-40-Rural Residence (FUOD overlay). Ward 9.
(Tabled to the March 10, 2022 Meeting)

OLD BUSINESS - SITE PLANS

A21-0256 SD Realty LLC (Owner) - Zafar Chaudhary (Applicant) - Proposed change of use to smoke shop and associated site improvements. Property is located at 303 Main Street. Sheet 100 - Lot 5. Zoned "D3/MU" Downtown 3/Mixed Use. Ward 6. **(Tabled from the December 2, 2021 Meeting)**

Mr. LeClair said it looks like they have someone from the applicant in attendance to answer some questions. The Board previously tabled this case because they had concerns about visibility to abutters and the intent of the use.

MOTION by Mr. Varley to remove the case from the table

SECONDED by Mr. Meehan

MOTION CARRIED 6-0

Katherine Weiss, Landscape Architect/Project Manager, Bedford Design Consultants, 592 Harvey Rd, Manchester, NH

Ms. Weiss introduced herself as the project manager, representing the applicant. With her via Zoom is the owner, Daniel Chitari.

Ms. Weiss said they were here on December 2nd for a change of use proposal. The existing use is a restaurant, and the new use is a smoke shop. They were asked to come back and discuss what exactly will be happening at the smoke shop, and to meet with the abutters to talk about mitigating or screening the use.

Ms. Weiss said she met with the abutters on Monday, Carol Baldwin and Jane Marquis of the Adult Learning Center. She showed photos of the view from the site towards the ALC. They discussed various ways to create a visual barrier, and adding "No Smoking on Premises" signs, as well as replacing the chain link fence with a privacy fence. Vegetative screening would be difficult with the parking where it is situated. During the meeting the abutters expressed their feeling that none of these would mitigate their concerns, so she spoke with the owner and came up with a few ideas on their own.

Ms. Weiss said they are proposing to install six "No Loitering or Smoking on Premises" signs onsite. She said the abutters are also concerned about the gas station across the street where there are large groups of people being loud, so they will add loitering to the sign. They are also proposing a 3-ft retaining wall along a portion of the western property line to screen a good portion of the parking area, and putting some evergreen yews on top of that. At time of planting, that will provide an 8-ft buffer.

NCPB

January 6, 2022

Page 5

Daniel Chitari, Owner, [Address Unknown]

Mr. Chitari said the store would be mostly vapes and cigarettes, with convenience items being snacks, candy, and drinks. There will be no smoking on premises; they want people to buy things and leave. He said it's basically like a convenience store.

Mr. LeClair asked for hours of operation.

Mr. Chitari said they already have a few stores in Salem and Seabrook, and they would be doing the same hours. Their proposed hours are 7AM-10PM.

Mr. Meehan asked if this is a convenience store.

Mr. Chitari said yes.

Mr. LeClair asked for clarification on what he is intending to sell.

Mr. Chitari said cigarettes, vapes, candy, and drinks. It's more like a convenience store, with emphasis on the vape portion.

Mr. Hirsch asked if smoking will be permitted on the property.

Mr. Chitari said no, smoking will not be allowed inside or outside of the building.

Mr. LeClair asked what they propose to do where the fences are.

Ms. Weiss said they are not proposing anything in between right now. It is currently a grassed area.

Mr. LeClair said asked where the retaining wall will be.

Ms. Weiss said between the two properties. She showed the landscaping plan to the Board.

Mr. LeClair asked to see the proposed signage.

Ms. Weiss showed an image of the proposed signage on the building.

Mr. Meehan asked about the other improvements to the site. From the previous proposal he recalls that they will be removing pavement and installing vegetation.

NCPB

January 6, 2022

Page 6

Ms. Weiss said right now the site is pretty much entirely paved. They are planning to add grass and landscaping throughout the site, and indicated it on the plan.

Ms. Harper asked if customers have to be 21 to enter the shop, or to purchase tobacco products.

Mr. Chitari said you have to be over 21 to buy tobacco.

Ms. Harper asked about entering the store itself.

Mr. Chitari said they need to be 21 to enter the smoke shop.

Mr. Meehan said he is confused. This is called The Smoke Shop that is the designated name they want to use. But this is a convenience store where they want to sell candy, soft drinks, vaping products, and cigarettes, but you have to be 21 years old to enter? Is that all correct?

Mr. Chitari said yes. The requirement for all other stores is that you have to be 21 to enter. They don't have a crazy amount of candy. In order to buy stuff or check out at the counter, you have to be 21.

SPEAKING IN FAVOR

None

SPEAKING IN OPPOSITION

Mike Apfelburg, United Way, 20 Broad St, Nashua NH

Mr. Apfelburg introduced himself as the President of United Way. His organization is concerned with the proposal to site a smoke shop at the former Poor Pierre's, directly adjacent to the ALC. This is an agency which provides educational programs to people of all ages, including preschoolers, as well as adolescents working to achieve their degree or improve their English proficiency. There is a large number of under aged youth on a regular basis. He believes it is unwise to allow a smoke shop to be placed in this environment. There is no shortage of data to prove that easy access to tobacco products is a primary contributor to higher rates of use. The products today are targeted, with their appealing flavors, specifically to youth. These highly addictive products are extremely unhealthy for the consumer.

Mr. Apfelburg asked if they really want to approve this business in that location. He said that they may have no choice. But if they did have the choice, they would say it is a bad idea. There doesn't appear to be any current legal basis for declining this business and expansion into selling marijuana products when the time arrives in New Hampshire that cannabis is available in retail stores are allowed. He thinks they should act now to prevent this business from collocating with youth organizations or schools because of the inherent risk to health and safety. To that end, they have begun working with city leadership to amend the zoning ordinances in a way that in the future give them more firm footing for denying such a business in such a location. United Way is committed to creating a healthy community. It is critical to ensure that the youth are protected and safe to the extent possible.

Carol Baldwin, Adult Learning Center, 42 Diamondback Rd, Nashua NH

Ms. Baldwin said when she spoke in December, she focused on how the play yard abuts the property where the smoke house will be. This meeting, she wants to talk about another group they serve, teenagers. They run the largest HiSET prep and testing program in NH. HiSET is the new GED. Teenagers who have dropped out of high school come to their program to assess their ability to pass the HiSET exam. Most of these teens need to take classes, and will be with the program for months or years. Annually, they serve 200 teenagers.

Ms. Baldwin said the teenagers who come to them are coping with other challenges such as poverty or homelessness. They often lack a strong parent and are more susceptible to the lure of advertising, particularly for tobacco products. According to the CDC, youth use of tobacco products in any form is unsafe. Use of tobacco is usually established in adolescence. Nine out of ten cigarette users first smoked before 19 years old. According to the Preventing Tobacco Addiction Association, New Hampshire's use of electronic vape among youth remains among the highest in the nation. Teenage vaping continues to be a large concern among public health officials in the state. Factors associated with youth tobacco use include advertising, accessibility, and smoke house locations in lower socioeconomic areas.

Ms. Baldwin said she is work with Mr. Apfelburg and other concerned citizens to draft an ordinance to prevent this. Unfortunately, she has come to understand that she will likely be the poster child for "don't let this happen to you".

Christina Cruz, Nashua Prevention Coalition

Ms. Cruz said 480,000 people die from smoking or secondhand smoke each year. She said 4,800 youth per day smoke their first cigarette. She said nine out of ten smokers start by the age of 18. She said cigarette smoking remains the leading cause of preventable death in the US. She said 1,300 people die each day in the US due to smoking related diseases, with 158 in NH. She agrees with statements made by Ms. Baldwin and Mr. Apfelburg, and asked if they really need another smoke shop.

Ms. Cruz said the Nashua Prevention Coalition's mission is healthy children grow healthy communities. She asks the Board to consider denying this proposal.

Janet Veluk, 41 Roy St, Nashua NH

Ms. Veluk said she is a retired health education teacher. With all of the Elm St students walking by this facility, they will see the signage in the window. If anyone has ever gone by any convenience store or smoke shop, they are highly influenced by those images. They spent years to reduce the number of signage with little luck. They already have a tobacco store near Allds Street and near Walgreens. Within less than a half a mile are two other shops where people can get their addiction fixed. Nicotine is the most addictive substance, and is more addictive than heroin.

Ms. Veluk said in prevention they have something called an assessment of risk. The lower the perceived risk, the higher the usage. The applicant claims that they will card everyone that will walk in. However, just walking by reduces the perception of risk. Here they have another facility selling something that is dangerous to young people and their developing brains. She said a young person's brain does not fully develop until they are 25, including their ability to make decisions appropriately. As a resident and former teacher, she has used her entire career to have kids grow up healthy and productive, and not have to deal with illnesses from using cigarettes or vape products.

Ms. Veluk said one of the things they are now seeing is that vapes are being used for marijuana. She is concerned about 21 year olds buying vape products and selling them at the nearby school for a higher price to younger kids.

SPEAKING IN FAVOR - REBUTTAL

Daniel Chitari, Owner

Mr. Chitari said he understands the concerns raised. He said here are some statistics from their other stores. The majority of their sales are vapes, and most of them are over the age of 50, trying to get off of cigarettes. He admits that cigarettes are very dangerous. But the vapes are saving lives because there is less tar and fewer chemicals. 85% of sales are 50 or older, and the vapes are helping them off cigarettes. There are new vapes that have no nicotine. Their main goal is to get people more into vapes portion. He is not trying to get the younger generation into smoking. They don't like young people in the stores. Less than 10% of their sales are cigarettes.

Mr. Meehan said he understands that to sell tobacco in this state, they have to have a license. He asked if the applicant has a license, or if this plan is the first step towards getting a license.

Mr. Chitari said this is supposed to be the first step. Everything needs to be done before they get a license.

PUBLIC MEETING

Mr. LeClair closed the public hearing and moved into the public meeting. He said they received feedback from the applicant. There have been a few plan changes and attempts at buffering.

Ms. Harper said when she looks at what the site plan approval criteria are for this plan, she doesn't feel it meets all of them. Criteria number five is that the proposed use shall not have significant health and safety impacts on surrounding properties or on the general population of the City. Being right next to a preschool, she doesn't feel it meets that requirement. She said criteria number four is that the proposed use shall be able coexist with the surrounding uses, and the proposed use shall not have significant impact on the surrounding uses. She asked if this coexists with a preschool next door. She referred to criteria number one, and asked if this plan is consistent with the goals, objectives and strategies adopted as part of the City's Master Plan.

Mr. Varley said this would not be the use he would choose for this location. But as the Board, they have to operate within the limits of the zoning ordinances and the criteria they use to determine whether a site plan meets the requirements. A couple of the

commenters noted that there are several other locations in close proximity to this location selling tobacco products, including two smoke shops. He is sympathetic to the concerns and would not choose this as a use, but he doesn't feel there is a basis in the approval criteria for denying the application in light of the other similar uses in close proximity. He referred to number five on the approval criteria, but it seems to speak to the health and safety impacts of the use itself. He believes this is distinguished from what they discussed, which is a secondary impact. The products that people are buying are harmful, but he doesn't know if the use itself poses a health risk. He believes that this is aimed toward the actual activity onsite. He doesn't see a basis for them to make the choice to say that they will not approve this here when it is expressly permitted under the zoning ordinances. He doesn't see them having the discretion to do that.

Mr. Meehan referred to criteria number four, that the proposed use shall coexist and not have significant impact. They have had abutters who are very clear in their belief that this does. How do they weigh that?

Mr. Varley said the Board of Aldermen have adopted these zoning ordinances and established the parameters of what they think are uses consistent with one another in a zone. In this case, they have not limited the uses of this zone. It's a use that is permitted by right. When he looks at criteria 4, he believes that is a high bar to say they cannot coexist. Like an industrial use in a residential neighborhood. Given that there are other similar uses in the area, he doesn't see that. There is a gas station equidistant from the school that also sells tobacco. He recognizes that there may be other equally valid interpretations, but that is his take.

Mr. Hirsch said he abhors smoking, but cannot possibly see how they can deny this. It is permitted by the zoning regulations.

Mr. LeClair said the Board has limitations on what they can do, but they have significant latitude on how the building looks, how the site is laid out, and how the traffic and pedestrian flow of the site works. He thinks things like signage are purely in their jurisdiction. There is the land, and the building, and the use. If people are concerned about the visibility of the building, they can limit the hours, the visibility, the aesthetics, they can limit the site. They can require more buffering. That is within their jurisdiction. If the Board is not happy with those things, they can comment on that and demand more of the applicant. They can

disapprove of the plan because they don't have those things. It's tough to disapprove based on a use that is permitted, but they can disapprove something based on the layout of the site, the signage, or the flow. That is within the purview of the Board. They have denied plans based on buffering in the past. They are discussing voting on this plan.

Mr. Meehan said they have a document in their member folders, and criteria number four strikes him. He said the proposal has to be able to coexist with the surrounding uses. They have abutters saying it does not coexist with their use. What he is hearing is that they defer back to the zoning. If that is true, then what role do the abutters have?

Mr. Varley said there is a lot that they can do in terms of the features of the plan. He doesn't think they have the discretion to deny the use where the use is expressly permitted by the zoning ordinance. But they could certainly say they have concerns about traffic and flow onsite. They have had concerns about left turns onto Lake Street. Largely the conversation with abutters is to ask what their concerns are and how they can address them through the discretion the Board has with the land use elements of the site.

Mr. Varley said to answer his question when the abutters say that the uses can't coexist, he thinks there has to be something more objective than that. There are plenty of instances where abutters object because they don't the neighbor to remove the trees, and could frame it as not coexisting with their use. He is not suggesting that there are not legitimate concerns, but he needs something objective to say that there is a conflict between these uses.

Mr. LeClair said buffering does interplay with criteria four. They wouldn't allow an airport near a residential neighborhood without buffering. However, it is not incumbent upon the Board to come up with solutions. The Board does not have to be the solver. The plan is laid out. If they don't believe it has the land use components that make it acceptable, they don't have to solve them. The plan in front of them is the plan they are looking at.

Mr. Varley said they have to consider the particular plan in front of them. None of the abutters expressed concern about the site layout issues, with the exception of the buffering. Even with the buffering, it sounds like it's not about the buffer. It's about having a smoke shop abutting the property, period. They can require additional buffering, impose signage requirements, but they can't solve that fundamental issue.

Mr. Meehan said it would seem that the work done by the applicant is quite thorough in their attempt to work with abutters to address physical plan issues. There's quite an effort being made to make it viable for the neighborhood. There is an intention to make it work. The plan seems to follow the guidelines they have.

Mr. LeClair said unless there are further comments he would be looking for a motion. In regards to tabling the case, he thinks it is very comprehensive.

Mr. Varley said he doesn't think there is a basis to table. He doesn't think there is more work to be done or information to be gathered that will change the fundamental issue. He is willing to make a motion to approve, but also willing to refrain so that someone could make a motion to disapprove.

Mr. LeClair said a motion to disapprove would have to come first.

Ms. Harper said another high traffic business had come before the Board in the past for this address, and she did not approve of it because she did not like the traffic pattern. She feels the same about this plan. She does not like the left turn onto Lake Street or the general traffic in the area.

MOTION by Ms. Harper to deny A21-0256, on the basis that the site plan does not provide adequate means of handling on-site vehicular ingress and egress movements in relation to traffic movements along the abutting streets

SECONDED by Mr. Meehan

MOTION FAILS 2-4 (Harper, Meehan in favor)

MOTION by Mr. Varley to approve New Business - Site Plan A21-0256. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of §190-172, which requires building elevations for non-residential buildings, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of §190-275, which requires a lighting plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.

3. The request for a waiver of §190-279(CC) and §190-214-218, which requires a stormwater report and management plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
4. The request for a waiver of §190-283, which requires a Traffic Impact Analysis, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
5. Prior to the Chair signing the plan, all comments in a letter from Joe Mendola, Street Construction Engineer, dated, 12/1/2021 shall be addressed to the satisfaction of the Engineering Department.
6. Prior to the chair signing the plan, minor drafting corrections will be made.
7. Prior to the Chair signing the plan, all conditions from the Planning Board approval letter will be added to the cover page of the final mylar and paper copies submitted to the City.
8. Prior to the issuance of a building permit, the electronic copy of the plan will be submitted to the City of Nashua.
9. Prior to any work on site, a pre-construction meeting shall be held and a financial guarantee shall be approved.
10. Prior to the issuance of a certificate of occupancy, all site improvements will be completed.

Mr. LeClair asked to add a stipulation to remove the large sign on top of the building.

Mr. Sullivan said if the sign is in compliance with the zoning ordinance, they have permission to install the sign as proposed. The Board has some signage jurisdiction, but if the sign is in compliance with the zoning ordinance it can be approved. He would caution the Board against limiting signage unless it poses a risk to health, safety, and welfare.

Mr. Varley said they are reusing the existing sign.

Mr. LeClair said yes, he was thinking in terms of aesthetics. Does the Board have grounds for aesthetics?

Mr. Sullivan said not for signage.

Mr. LeClair asked if the buffering could be reviewed by staff to limit the visibility to the adjacent property.

Mr. Sullivan said that is an appropriate condition.

Mr. LeClair asked if they have jurisdiction on opening hours.

Mr. Sullivan said they do.

Mr. LeClair said he would like to see it open at school hours, no earlier than 9AM.

Mr. Meehan asked if there were any state requirements during the licensing process.

Mr. LeClair said they have regulated the hours of operation on many occasions.

Mr. Varley agreed to amend his motion as follows:

1. The request for a waiver of §190-172, which requires building elevations for non-residential buildings, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of §190-275, which requires a lighting plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. The request for a waiver of §190-279(CC) and §190-214-218, which requires a stormwater report and management plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
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8. Prior to the issuance of a building permit, the electronic copy of the plan will be submitted to the City of Nashua.

9. Prior to any work on site, a pre-construction meeting shall be held and a financial guarantee shall be approved.
10. Prior to the issuance of a certificate of occupancy, all site improvements will be completed.
11. Work with Staff to achieve buffer compliance and limit visibility of the site from adjacent properties.
12. Limit the hours of operation to open no earlier than 9 AM.

SECONDED by Mr. Hirsch

Mr. Meehan asked what the stipulations do for the business plan itself.

Mr. LeClair said hours of operation and buffering are things within their jurisdiction.

Mr. Varley said ordinarily they might have had a discussion with the applicant as part of the public hearing. They can reopen the public hearing to get his input. Or if the Board feel it does not materially impact, they can move forward. If the applicant objects to the hour change, that doesn't mean the Board can't impose that as a requirement.

Mr. LeClair said they can vote on it.

MOTION CARRIED 4-2 (Harper, Meehan opposed)

NEW BUSINESS - CONDITIONAL USE PERMITS

None

NEW BUSINESS - SUBDIVISION PLANS

None

NEW BUSINESS - SITE PLANS

A21-0267 Roscommon Investments, LLC (Owner) - Proposed site plan amendment to previous auto storage lot by adding a 4,980-sf auto auction building with a 1,615-sf mezzanine storage area and a vehicle storage lot. Property is located at 131 West Glenwood Street. Sheet 132 - Lot 38. Zoned "RA" Urban Residence and "HB" Highway Business. Ward 7.

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

SECONDED by Mr. Meehan

MOTION CARRIED 6-0

Paul Chisholm, Project Manager, Keach Nordstrom Associates

Mr. Chisholm introduced himself as the representative for the applicant. He is joined by Jay Van Sciver of Tulley Automotive and architect Scott Blazek.

Mr. Chisholm said the purpose of the plan is to amend the previously approved site plan to include an addition of a 5,000-sf auto auction facility. He described the site and surrounding uses.

Mr. Chisholm said the biggest change is to the southern end of the site. The auction use itself will not be open to the public, and would be licensed wholesalers only. They will be limited to no more than 50 wholesalers at one time, 1-4 per month on the weekends. The hours would be Monday-Saturday, 8AM-5PM, and on Sunday 11AM-4PM. Another change is that employees will also need to come up to wash and prep the vehicles.

Mr. Chisholm said this change brings reduction in the total number of cars that can be stored onsite, as well as parking around it. The storage will be reduced from 406 spaces to 337, with 13 parking spaces assigned to the auto auction facility, two of them being handicap accessible.

Mr. Chisholm said the changes result in a slight decrease in impervious area onsite. Stormwater infrastructure will function the same way as proposed in the previous plan. They have received comments and got an updated AOT permit for the project.

Mr. Chisholm said they have received comments from Division of Public Works and Fire, and they are ready to resubmit to both. Part of the delay was a request that they reach out to Liberty Gas to locate the gas services. West Glenwood St is under moratorium, and they are using water service from West Glenwood St. DPW was requesting confirmation that no new utilities would be coming up from West Glenwood St, and the gas will be coming from Sexton Ave through Stetson St.

Mr. Chisholm said that Fire Dept. had a few comments regarding pressure and volume in the water system. The last time they went through this process they weren't allowed to do any hydric flow tests due to the drought, and that has changed over the last year. Pennichuck was able to get out there and do the test, and they are working with Fire Dept. to determine if this is adequate or needs anything additional.

Mr. Chisholm said they received correspondence from an abutter, and addressed the five points contained in the letter. Access is only from West Glenwood St because there were easements required for a new road on Sexton Ave that they could not obtain. He said offloading will not occur in the Right of Way, and will happen onsite. The auto auctions will be mostly 2 times a month, mostly on Saturdays between 8-5. West Glenwood will be repaired to a like new road after construction. These will be dealer only auctions. They are no longer proposing the mezzanine as well for reasons of life safety.

Mr. Chisholm said this application includes two waivers, as outlined in the staff report.

Scott Vlasak, Project Architect, Bruce Hamilton Architects

Mr. Vlasak introduced himself to the Board. He gave a brief presentation of the proposed building elevations and architectural features.

Mr. LeClair asked if there were any mechanical units on the roof, and if they would be screened.

Mr. Vlasak said he doesn't know, because the HVAC design has not been completed. The general intent would be to minimize view of rooftop units to the maximum extent possible.

Mr. LeClair asked if he would be amenable to a stipulation.

Mr. Vlasak said he thinks that is already included.

Mr. LeClair said it is, but they don't always have the greatest adherence to that requirement. They will see this roof a lot.

Mr. Vlasak said understood. Where the building sits on the site and West Glenwood St, visibility by the public will be somewhat minimal.

NCPB

January 6, 2022

Page 18

Mr. LeClair said he was thinking of the visibility from the highway.

Ms. Harper asked how many vehicles they anticipate coming through the auction each week.

Mr. Vlasak said he doesn't know.

Ms. Harper asked if these are cars being auctioned from their own inventory, or open to any dealer.

Mr. Chisholm said it's about 100 vehicles for auction.

Mr. Meehan said access is through West Glenwood Street. He saw a note that if the usage shifted they would have to have a second point of access. Where would that be, or are they not worried about it?

Mr. Chisholm said the Fire Dept. was ok from a life safety perspective due to the fact that it's a private site. It's not open to the public. Their concern is if that ever changed to public, they would want a secondary access. The obvious way would be through Stetson Ave and Sexton Ave. There is a driveway there, in poor shape, but they would improve it. Back when the auto body shop was proposed, it was intended to become a full road. But that is not needed at this point, and if any change in use or expansion were to happen they would be back in front of the Board with an amended site plan. It would be dealt with at that time.

SPEAKING IN FAVOR

None

SPEAKING IN OPPOSITION

None

PUBLIC MEETING

Mr. LeClair closed the public hearing and moved into the public meeting. They have seen this application a couple of times, and the most of the site is as originally planned. He doesn't have any concerns. The building is not open to the public, and the material changes look reasonable and consistent with other buildings close by.

Mr. McPhie asked the applicant if he was aware of the requested traffic contribution.

Mr. Chisholm said yes, that is fine.

Mr. Sullivan said they would need to add a stipulation.

Mr. McPhie provided further clarification on the proposed stipulations.

MOTION by Mr. Varley to approve New Business - Site Plan A21-0267. It conforms to §190-146(D) with the following stipulations or waivers:

1. All prior conditions of approval are incorporated herein and made part of this plan, unless otherwise determined by the Planning Board.
2. The request for a waiver of §190-279(EE), which requires existing conditions to be shown on adjacent properties is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. The request for a waiver of §190-172(D)(4)(c), which requires better quality façade materials as stated in the ordinance is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
4. Prior to the Chair signing the plan, all minor drafting corrections will be made.
5. Prior to the Chair signing the plan, all comments in a letter from Joseph Mendola, Street Construction Engineer dated December 20, 2021 shall be addressed to the satisfaction of the Engineering Department.
6. Prior to the Chair signing the plan, all comments in an e-mail from Mark Rapaglia, Nashua Fire dated November 3, 2021 shall be addressed to the satisfaction of the Fire Department.
7. Cars cannot be unloaded to the lot from Daniel Webster Highway and West Glenwood Drive.
8. Prior to recording of the plan, all conditions from the Planning Board approval letter will be added to the final Mylar and paper copies submitted to the City.
9. Prior to recording the plan, the electronic file of the plan shall be submitted to the City of Nashua.
10. Any new easements will be submitted to Planning staff ahead of the Nashua Planning Board meeting for review by City Staff.

11. Update Alteration of Terrain Permit -1889 so the project reflects an auto auction site not Auto Body Shop.
12. Prior to any work, a pre-construction meeting shall be held and a financial guarantee shall be approved.
13. Prior to the issuance of the Certificate of Occupancy, an updated as-built plan locating any new driveways, utilities, and landscaping shall be completed by a professional New Hampshire licensed engineer or surveyor and submitted to Planning and Engineering Departments. The as-built plan shall include a certification by a NH licensed professional engineer that all construction was generally completed in accordance with the approved site plan and applicable regulations.
14. Prior to the issuance of the Certificate of Occupancy, all on-site improvements shall be substantially completed, provided that paving may be completed to base course and landscaping may be completed as seasonally permitted; and further provided that a financial guarantee will be required for any work remaining.
15. Prior to the Chair signing the plan a contribution of \$4,200 will be made to the Daniel Webster Highway corridor account as indicated in an e-mail from Wayne Husband, Senior traffic engineer, dated January 6, 2022.

SECONDED by Mr. Hirsch

MOTION CARRIED 6-0

A21-0286 Amerco Real Estate Company (Owner) - U-Haul Company of Eastern Massachusetts (Applicant) - Application and acceptance of proposed site plan amendment to expand existing U-Haul facility by adding 6,000 square feet of storage units. Property is located at 11 Northwest Boulevard. Sheet 1 - Lot 38. Zoned "PI" Park Industrial. Ward 2.

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

SECONDED by Mr. Hirsch

MOTION CARRIED 6-0

Earl Blatchford, Project Manager, Hayner Swanson Inc.

Mr. Blatchford introduced himself as the representative for the applicant. With him is Scott Chase of U-Haul via Zoom. He provided clarification to the case description and said the proposed expansion would be 7,000-sqft, not 6,000.

Mr. Blatchford said the purpose of the application is to amend the site plan to change the use from truck and trailer leasing as the primary use, to self-storage as the primary use with a minor use of truck and trailer leasing.

Mr. Blatchford described the existing conditions onsite and the surrounding properties. He said this property borders Pennichuck Brook, which has a 75-ft Prime Buffer and 150-ft Conservation Zone, plus a 250-ft Shoreland Protection buffer. There is also a drainage swale to the southern end of the site that has become a jurisdiction wetland over time, and now has a 20-ft buffer. Everything they are proposing does not touch those buffers. He described lot dimensions, onsite features, and utilities.

Mr. Blatchford described the proposed changes. They propose to add 2,500-sqft of paving, and bring in factory built storage unit buildings. They are proposing 7,000-sqft of new storage buildings, mostly 100-sqft in size. The two existing 420-sqft storage trailers will remain onsite. He described the supplemental lighting and landscaping proposed.

Mr. Blatchford said the existing drainage swale to the west is fairly silted and hasn't been maintained. They are proposing to reexcavate and direct it to a proposed rain garden. They have a minor increase in stormwater flow, and this will go towards mitigating and treating that flow. This will be a self-service facility, open 24/7, 7 days/week. It's a low impact use.

Mr. Blatchford showed the Board proposed architectural elevations. He described the units in detail.

Mr. Blatchford said there are no zoning or conservation issues associated with this proposal, and they have addressed all Planning comments submitted. They received Engineering comments and have responded to them today. There are a couple of minor notes to add, which they will do after the meeting. Fire Dept. had no comments. Traffic Dept. requested an Amherst St corridor contribution, which they are amenable to. Because this is within the Water Supply Protection District, Don Ware from Pennichuck Water Works reviewed the plan and approved it.

Mr. Blatchford said they are requesting three waivers, as detailed in the staff report. He explained them to the Board at great length.

Mr. LeClair asked if no hazardous materials were allowed to be stored in these units.

Mr. Blatchford said correct.

Mr. LeClair asked if this is a policy, or would need to be included on the plan.

Mr. Sullivan said the Board could request that a note reflecting the Water Supply Protection District standards be added to the plan. It is inherent with the zoning district as it exists. He doesn't believe that they need to.

Mr. LeClair asked if this is a policy for U-Haul.

Scott Chase, U-Haul Company of Eastern Massachusetts

Mr. Chase said it's in their rental contract that no hazardous materials can be stored in these units.

SPEAKING IN FAVOR

None

SPEAKING IN OPPOSITION

None

PUBLIC MEETING

Mr. LeClair closed the public hearing and moved into the public meeting. He said it is low impact, and pretty consistent with the parcels around it. It seems to be a good use.

Ms. McGhee provided clarification on the dates contained in the staff report.

MOTION by Mr. Meehan to approve New Business - Site Plan A21-0286. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of § 190-172, which requires certain building elevations for slightly sloped shed roofs and specific color scheme, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.

2. The request for a waiver of § 190-198, which requires a minimum, number of parking spaces, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. The request for a waiver of § 190-279 EE, which requires showing existing conditions off site, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
4. Prior to the Chair signing the plan, any minor drafting corrections will be made to the plan.
5. Prior to the Chair signing the plan, all conditions from the Planning Board approval letter will be added to the cover page of the final mylar and paper copies submitted to the City.
6. Prior to the Chair signing the plan, all comments in a letter from Joe Mendola, Street Construction Engineer dated January 3, 2022 shall be addressed to the satisfaction of the Division of Public Works.
7. Prior to the pre-construction meeting, the applicant shall make a \$2,600 contribution to the Amherst Street Traffic corridor account.
8. Prior to the issuance of a building permit, the electronic copy of the plan will be submitted to the City of Nashua.
9. Prior to the issuance of a building permit, stormwater documents will be submitted to City staff for review and recorded at the applicant's expense.
10. Prior to the issuance of a certificate of occupancy, all site improvements shall be completed.
11. Prior to any work and a pre-construction meeting, a financial guarantee shall be approved.

SECONDED by Mr. Bollinger

MOTION CARRIED 6-0

A21-0287 Cash Max Properties, LLC (Owner) - Application and acceptance of proposed site plan amendment to change the use from 358 square foot of residential to retail convenience store use and to formally classify the 1,518 SF existing residential unit as legally non-conforming. Property is located at 136 East Hollis Street. Sheet 40 - Lot 15. Zoned "GI" General Industrial & "TOD" Transit Oriented Development Overlay District. Ward 7.

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

SECONDED by Mr. Varley

MOTION CARRIED 6-0

Steve Auger, Project Manager, Hayner Swanson Inc.

Mr. Auger introduced himself as the representative for the owner. Joining him is the owner Kendraj Krishnakumar, and Atty. Andrew Prolman from Prunier & Prolman.

Mr. Auger said they are seeking site approval to amend the site plan. They want to change the use of 358-sqft of residential to a convenience store use, and classify the existing 1,518-sqft residential unit as residential use.

Mr. Auger described the lot and surrounding properties. This property is within the General Industrial zone, the Transit Overlay. The abutting lots are a mix of commercial and residential uses.

Mr. Auger described the site history. On September 20, 1999, under a different site plan this property received a variance for three parking spaces where eleven are required. Those three spaces are in the back portion of the lot, onto C Street. At that meeting, a special exception was granted to expand a nonconforming use, a scuba diving shop. The site plan, approved in 2000, included a one-story addition that was to house an indoor diving pool. When the dive shop vacated the site the building addition was converted to a residential unit, most likely not legally. They would like to formally classify it as residential to bring it into compliance.

Mr. Auger said there are three residential units, and each unit gets one parking space. The building is totally vacant right now, and the lease will allow for only one parking space. He indicated the proposed floor plan changes on the plan. They are reshuffling some things, but will still have a convenience store and three residential units.

Mr. Auger said they are proposing no physical changes to the site except for 70-sqft of pavement to make the parking spaces conform to modern standards. There is a small increase of impervious area, but will be insignificant and have no effect on the site.

Mr. Auger said this property is within the Transit Overlay District, which requires a site plan suitability report. He provided an overview of the seven criteria, as contained in the submitted report.

Mr. Auger said they have received comments from Fire Dept., and they have no issue with the plan. They have responded to Engineering comments, and will resubmit a plan with the revised comments. They received comments from Traffic Dept. requesting a contribution to the East Hollis St Corridor fund, which they are amenable to.

Mr. Auger said they are requesting one waiver, as detailed in the staff report. The site is being developed in accordance with the Land Use Code. The recommended conditions are acceptable to his client, and they respectfully seek approval.

Mr. Varley asked if the retail use will be consistent with what was there previously.

Mr. Auger said yes. The space was a convenience retail use in the past.

Mr. Meehan said this is an eyesore in the neighborhood. Are there proposed improvements intended for the exterior?

Mr. Auger said landscaping is something his client can do. He can consult with his client further.

Brief Pause

Mr. Auger said yes, exterior improvements are in his client's plans. He is currently doing interior renovations to improve the units, but cleaning up the outside is on his to-do list.

Ms. Harper asked if there are any other approvals they need to seek.

Mr. McPhie said they may need to apply for building permits to make sure everything is hooked up properly. The Fire Dept. has inspected it for access.

SPEAKING IN FAVOR

None

SPEAKING IN OPPOSITION

None

PUBLIC MEETING

Mr. LeClair closed the public hearing and moved into the public meeting. He said this plan seems like a good idea and an improvement to the site would be a positive impact. He is in favor of it.

Mr. McPhie provided clarification of the proposed stipulations.

MOTION by Mr. Bollinger to approve New Business - Site Plan A21-0287. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of NRO § 190-279 (EE) which requires existing conditions to be shown on adjacent parcels, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. Prior to the Chair signing the plan, all conditions from the Planning Board approval letter will be added to the cover page of the final mylar and paper copies submitted to the City.
3. Prior to the Chair signing the plan all minor drafting corrections will be made.
4. Prior to the Chair signing the plan, all comments in a letter from Joe Mendola, Street Construction Engineering, dated January 4, 2022 will be addressed to the satisfaction of the Division of Public Works.
5. Prior to the Chair signing the plan a contribution of \$5,600 will be made to the East Hollis Street Corridor Account as indicated in an e-mail from Wayne Husband, Senior traffic engineer, dated January 4, 2022.
6. Prior to the Chair signing the plan Stormwater documents will be submitted to Planning staff for review and recorded with the plan at the applicant's expense.
7. Prior to any work, a pre-construction meeting shall be held and a financial guarantee shall be approved.
8. Prior to the issuance of a certificate of occupancy, all off-site and on-site improvements will be completed.

SECONDED by Mr. Meehan

MOTION CARRIED 6-0

OTHER BUSINESS

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

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

SECONDED by Mr. Bollinger

MOTION CARRIED 6-0

DISCUSSION ITEMS

NOMINATION OF OFFICERS

Mr. Bollinger presented the following nomination of officers:

Chairman - Scott LeClair
Vice Chair - Adam Varley
Secretary - Maggie Harper

SECONDED by Mr. Hirsch

MOTION CARRIED 6-0

MOTION to adjourn by Mr. Hirsch at 9:26 PM

MOTION CARRIED 6-0

APPROVED:

Mr. LeClair, Chair, Nashua Planning Board

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Prepared by: Kate Poirier

Taped Meeting