

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

APRIL 10, 2023

A meeting of the Planning and Economic Development Committee was held Monday, April 10, 2023, at 7:03 p.m. in the Aldermanic Chamber.

The roll call was taken with 3 members of the Planning and Economic Development Committee present:

Alderman-at-Large Melbourne Moran, Jr.
Alderman-at-Large Michael B. O'Brien, Sr., Vice-Chair
Alderman-at-Large Ben Clemons

Members not in Attendance: Alderman June M. Caron
Alderman Derek Thibeault

Also in Attendance: Alderman Thomas Lopez
Tim Cummings, Administrative Services and Economic Development Director
Matt Sullivan, Community Development Director
Brad Westgate, Esquire

PUBLIC HEARING

O-23-043

**AMENDING THE ZONING MAP BY REZONING PORTIONS OF THE VETERANS MEMORIAL PARKWAY,
INTERVALE STREET AND HUGHEY STREET AND LAND SITUATED WEST OF THE VETERANS MEMORIAL
PARKWAY TO C URBAN RESIDENCE (R-C) DISTRICT**

Matt Sullivan, Community Development Director

Good evening members of the Committee. I'm happy to provide a brief overview and I know we've had some significant discussions. These two pieces of legislation before you this evening for public hearing are related to the Mohawk Tannery redevelopment and specifically the land use portions of that redevelopment effort.

The first O-23-043 is simply an amendment to the zoning map to actually rezone portions of the Mohawk Tanner redevelopment site to urban residence RC District. So simply a zoning map change taking it from the existing zoning and putting it in to that RC District allowing the dimensional controls and other constraints of that zone to be applied to the redevelopment.

The second and perhaps the more substantial is the installation of a new overlay district over the tannery area. So this will go over the RC zoning that's actually in place and will be expanded. This overlay district includes several dimensional use and other requirements and constraints that will guide the redevelopment of the development plan in earnest. That includes some detailed text about what the overlay is intended to achieve and all the controls intended to drive towards that outcome. I do believe that Attorney Brad Westgate is here to provide a brief overview of the amendments that are before you this evening specifically but happy to answer any questions that the Committee might have as the proceedings go forward this evening. Thank you.

Chairman Moran

All right now I'll open up testimony in favor.

TESTIMONY IN FAVOR

Brad Westgate, Esquire

Thank you Mr. Chairman, members of the Committee. My name is Brad Westgate. I'm a lawyer with Winer and Bennett at 403 in Nashua. I'm representing Blaylock Holdings, LLC, which the prospective developer of the tannery site is the – I'll just get up one time Mr. Chairman if I may both addressing Ordinance O-23-043 which has to do with the rezoning legal description and Ordinance O-23-044 which involves the overlay district as Mr. Sullivan described.

So just very briefly, there are the amendments that pertain to O-23-043 the legal description of the land being rezoned. Our corrective amendments meaning correcting legal description areas in the first batch of data that we gave the city to

prepare the initial draft of these ordinances. The land being rezoned as the Committee will recall at the March 21st meeting when we presented this in detail and Committee had a quite a number of questions and good discussion was held. Essentially is to rezone part of the parkway right of way, the so called Fimbel property map 71, Lot 1, and a few little pieces of land at the ends of Hughey and Intervale Street to RC district as Mr. Sullivan said.

The amendments to O-23-044 amend text in the overlay district language itself. What happened there was the Committee will recall we had some discussion and some detail on March 21 regarding that. There were three amendments to text. Two of which generated from Alderman Jette’s comments that evening. One of those - the first of those two pertains to the 20,000 square feet of non-residential use that would may be permitted under the overlay district for the total totality of the development area. The clarification basically is to make it certain that the 20,000 square foot’s cumulative cap on the entire non-residential use is for the entire overlay district of roughly 41 acres.

The second amendment through Alderman Jette is discussion pertaining to accessory uses. The idea was to do a better tie into the accessory use reference in the Table of Uses, and the Land Use Code, as well as make clear that accessory uses are incidental and subordinate to principal uses but they can be accessory to a particular principle use on the whole tannery site not just one on a particular lot. The basic idea of an accessory use is its incidental to a principle use on the specific law because there's going to be different lots in the tannery development. The idea is to let the accessory uses conceivably pertain to a principle use on a different lot.

The last amendment was simply one that we proposed which was to enable our Planning Board applications to be submitted prior to the master development agreement and master concept plan being approved by the Board of Aldermen but rather so long as those have been submitted to the Board of Aldermen for consideration, we could then go to the Planning Board.

So in sum, we would just respectfully submit Mr. Chairman that these proposed Ordinances are in order, the amendments make sense, they're a good outcropping of what was discussed before this Committee a couple of weeks ago. So you'll be remember, there's actually a third ordinance before you which was tabled two weeks ago that pertained to the actual creation of the overlay district in terms of making it a zone itself - the overlay zone. So you have three things before you tonight. The two Ordinances being amended, the third to create the landmass that constitutes the overlay district, and then the Resolution to favorably approve, we would hope, the master concept plan. We're hoping that the Committee could give the Board of Aldermen an oral recommendation favorably approving the three proposed Ordinances and the Resolution approving the master concept plan. Thank you, Mr. Chairman.

Chairman Moran

Thank you.

TESTIMONY IN OPPOSITION - None

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

Chairman Moran

The public hearing on O-23-043 was declared closed at 7:10 p.m. I believe we got an overview of that by Director Sullivan as well and we heard testimony in favor of both of these earlier.

The public hearing on O-23-044 was opened at 7:10 p.m.

O-23-044

ESTABLISHING THE VETERANS MEMORIAL PARKWAY REDEVELOPMENT OVERLAY DISTRICT

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

TESTIMONY IN FAVOR- None

TESTIMONY IN OPPOSITION- None

The public hearing on O-23-044 closed at 7:11 p.m.

The regular meeting opened at 7:11 p.m.

Regular Meeting

ROLL CALL

The roll call was taken with 3 members of the Planning and Economic Development Committee present:

Alderman-at-Large Melbourne Moran, Jr.
Alderman-at-Large Michael B. O'Brien, Sr., Vice-Chair
Alderman-at-Large Ben Clemons

Members not in Attendance: Alderman June M. Caron
Alderman Derek Thibeault

Also in Attendance: Alderman Thomas Lopez
Tim Cummings, Administrative Services and Economic Development Director
Matt Sullivan, Community Development Director
Brad Westgate, Esquire

PUBLIC COMMENT - None

DISCUSSION - None

COMMUNICATIONS

From: Sam Durfee, Planning Director
Re: Referral from the Board of Aldermen on proposed O-23-043, amending the Zoning Map by Rezoning Portions of the Veterans Memorial Parkway, Intervale Street and Hughey Street and Land Situated West of the Veterans Memorial Parkway to C Urban Residence (R-C) District

From: Sam Durfee, Planning Director
Re: Referral from the Board of Aldermen on proposed O-23-044, establishing the Veterans Memorial Parkway Redevelopment Overlay District

There being no objection, Chairman Moran accepted the communications and placed them on file.

UNFINISHED BUSINESS

O-23-043, Amended

Endorsers: Mayor Jim Donchess
Alderman Thomas Lopez
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman Patricia Klee
Alderman-at-Large Ben Clemons
Alderman Alex Comeau
Alderman Richard A. Dowd
Alderman Derek Thibeault
Alderman-at-Large Lori Wilshire

AMENDING THE ZONING MAP BY REZONING PORTIONS OF THE VETERANS MEMORIAL PARKWAY, INTERVALE STREET AND HUGHEY STREET AND LAND SITUATED WEST OF THE VETERANS MEMORIAL PARKWAY TO C URBAN RESIDENCE (R-C) DISTRICT

**MOTION BY ALDERMAN O'BRIEN TO RECOMMEND FINAL PASSAGE AS AMENDED
MOTION CARRIED**

O-23-044, Amended

Endorsers: Mayor Jim Donchess
 Alderman Thomas Lopez
 Alderman-at-Large Michael B. O'Brien, Sr.
 Alderman Patricia Klee
 Alderman-at-Large Ben Clemons
 Alderman Alex Comeau
 Alderman Richard A. Dowd
 Alderwoman-at-Large Shoshanna Kelly
 Alderman-at-Large Lori Wilshire

ESTABLISHING THE VETERANS MEMORIAL PARKWAY REDEVELOPMENT OVERLAY DISTRICT

**MOTION BY ALDERMAN O'BRIEN TO RECOMMEND FINAL PASSAGE AS AMENDED
 MOTION CARRIED**

O-23-047

Endorsers: Mayor Jim Donchess
 Alderman Patricia Klee
 Alderman-at-Large Michael B. O'Brien, Sr.
 Alderman Richard A. Dowd
 Alderwoman Derek Thibeault

**AMENDING THE LAND USE CODE REGARDING MINOR SITE PLAN AMENDMENTS TO PERMIT SEASONAL
 OUTDOOR DINING APPROVALS**

MOTION BY ALDERMAN O'BRIEN TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Chairman Moran

I miss understood the Directors that presented at the previous PEDC. I thought we were just eliminating the annual renewal fee. I was okay with that. I thought we were keeping in place the \$300 fee for initial assessments. I have come down to know that that had been suspended during the pandemic to assist restaurants that are not downtown in stabilizing during the pandemic. I misrepresented that to a couple Aldermen prior to last week's vote at the last full Board meeting. That discussion ended up with it being referred back here because there were quite a few aldermen who weren't okay with the initial fee being permanently removed.

Did I get that right, Director Sullivan?
Matt Sullivan, Community Development Director

Yes.

Chairman Moran

Do you mind just coming back up? So we had a brief conversation that if we were to pass this as presented, it would just eliminate all fees essentially and no renewal fees, no anything, no initial fees. We did have a brief conversation before the meeting that maybe a \$25 fee just in general for renewal would be okay with your department and that actually might make more revenue for the city over time than one initial fee based on the limited amount of restaurants that utilize that. Does that sound correct?

Matt Sullivan, Community Development Director

Thank you, Mr. Chair. It does indeed and I do want to apologize for me being unclear about what the intent of this legislation was as part of our prior discussions. You're absolutely correct that we are comfortable recommending a nominal fee as a replacement for the initial \$300 application fee. One fee that's been discussed is perhaps \$25 on an annual basis and that would actually be codified within this ordinance. Happy to answer any questions on that or discuss that number. I'll be frank, it's a bit arbitrary but I do recognize that anything greater than \$50 will be a substantial fee over a short period of time. So that's why the recommendation to consider the \$25 instead.

MOTION BY ALDERMAN MORAN TO AMEND TO CHANGE THE FEE FOR ANNUAL RENEWAL TO \$25

ON THE QUESTION

Alderman Clemons

Yeah so is your motion is it an annual renewal or is it include the initial renewal to in your motion?

Chairman Moran

So my understanding is that the initial is no longer there. So this would just be an annual \$25 fee for application process – re-approving the application.

Alderman Clemons

So you're motioning to have an annual fee of \$25 for this?

Chairman Moran

Right.

Alderman Clemons

Okay. Can I speak to that?

Chairman Moran

Of course.

Alderman Clemons

Thank you. So I won't be supporting that. I understood the legislation perfectly last time that there was not going to be a fee. I don't think that there should be a fee for this particular application. I just don't see the need for it. It's not a revenue. It's not as significant revenue source \$25 over 20 restaurants that may be due this is not a significant revenue source for the city. The Department's already represented the fact that previously at the previous meeting that it's not an overly burdensome process and I just think that we're doing a disservice to our restaurants when we're asking them to do this. So for me, I think I'm going to stick with the original vote that that I made.

Chairman Moran

Thank you. Director Sullivan the \$300 initial fee was that temporarily waived or permanently waived during the pandemic?

Matt Sullivan, Community Development Director

It was temporarily waived during the pandemic.

Chairman Moran

And does any action that we're taking - when would it restart or just this will permanently remove that \$300 fee?

Matt Sullivan, Community Development Director

This will permanently remove that \$300 fee. What I would suggest for an amendment to maybe provide some clarity to your question Mr. Chair is that the existing language would still read that the outdoor dining minor site plan would be exempt from the fees required under 192:67 A,3. That's the \$300 fee. The one-time \$300 fee but I would then insert a comment there saying, "with the exception of a \$25 annual permitting fee". So they would be exempt still from the \$300. It would simply be a recurring \$25 fee that will be applied that will be applied upon the first request this year and in subsequent years until the code is amended if it is.

Chairman Moran

So I'm gonna withdraw my motion and then ask you to restate that.

Chairman Moran withdrew his motion.

Matt Sullivan, Community Development Director

Sure. So the recommendation should the Committee choose to move forward with this would be to maintain the language as presented here. The exception that it would read following 190-267(A)(3), there will be a comma and it would read, “with an annual \$25 permitting fee” and I would leave it at that.

**MOTION BY ALDERMAN MORAN TO AMEND BY ADDING THE FOLLOWING LANGUAGE AFTER 190-267(A)(3)
“WITH AN ANNUAL \$25 PERMITTING FEE”**

ON THE QUESTION

Alderman Lopez

Through the Chair to Director Sullivan. Do you have any idea how many restaurants apply for this?

Matt Sullivan, Community Development Director

I do and I'm happy to answer you Alderman Lopez. So during sort of prime COVID years, we were seeing about 25 applicants. We've seen that diminish a bit down to 16 and now 12 in our last year. So we're seeing diminishing numbers but we've already had four inquiries this year from restaurants that are seeking to establish an outdoor dining on the private property. So there's a small but consistent group of applicants to this program.

Alderman Lopez

Just as a follow up, do you happen to know how many paid the original fee before COVID?

Matt Sullivan, Community Development Director

None. In fact, this program was not offered prior to COVID. This was an adjustment and response to COVID. So these applicants have not paid a \$300 fee. They've, in fact, not paid any fees for these outdoor dining approvals.

Alderman Lopez

They're getting better and better.

Chairman Moran

I understand that the argument from other Aldermen. I think it was Alderman Jette, for example, last meeting. I can't get my plumbing installation fees waived and all the various basic, you know, the basic arguments on stuff like this. So I can understand that perception. I'm always okay with an initial fee. I don't particularly like fees in general. I think consider them another tax. I think I'm okay with voting yes on my motion I just made just out of compromise for other members of the Board who have spoken to me about it and how they had felt about it at that full Board meeting.

Matt Sullivan, Community Development Director

Mr. Chair, if I may. I do want to maybe clarify with the language. I'm sorry, you made a motion. I may have to ask you to clarify that motion but I'm sort of making this up on the fly to some extent. What I believe it should say is in fact “with the exception of a \$25 annual permitting fee”. That will be the language that will be proposed after 190-267 (A)(3) “with the exception of a \$25 annual permitting fee”.

Chairman Moran

I'm gonna withdraw my motion and if you could restate it again.

Chairman Moran withdrew his motion

MOTION BY ALDERMAN MORAN TO AMEND BY ADDING THE FOLLOWING LANGUAGE AFTER 190-267(A)(3),

“WITH THE EXCEPTION OF A \$25 ANNUAL PERMITTING FEE”

ON THE QUESTION

Chairman Moran

Anything Alderman O'Brien? A bite at the apple.

Alderman O'Brien

No. I would just ask a favor of the Clerk to Mr. Sullivan if I see you afterwards to write that down verbatim to make it legal. Thank you.

Matt Sullivan, Community Development Director

Of course.

MOTION CARRIED

**MOTION BY ALDERMAN O'BRIEN TO RECOMMEND FINAL PASSAGE OF O-23-047 AS AMENDED
MOTION CARRIED**

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS - None

TABLED IN COMMITTEE

**MOTION BY ALDERMAN O'BRIEN TO REMOVE FROM THE TABLE R-23-088
MOTION CARRIED**

R-23-088

Endorsers: Mayor Jim Donchess
Alderman Thomas Lopez
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman Patricia Klee
Alderman-at-Large Ben Clemons
Alderman Alex Comeau
Alderman Richard A. Dowd
Alderman Tyler Gouveia
Alderwoman-at-Large Gloria Timmons
Alderman-at-Large Lori Wilshire

APPROVING MASTER CONCEPT PLAN FOR MOHAWK TANNERY REDEVELOPMENT

MOTION BY ALDERMAN O'BRIEN TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Lopez

I have questions for probably Director Sullivan. So two questions. The first is my understanding was that this had to go before the Planning Board for approval of this before the Aldermen were going to vote on it and I thought that was what was represented at the Committee meeting. So I just want to clarify that. But then additionally, it's my understanding if this is the document I think it is that if the master planning document is submitted to the Planning Board, at that point we cannot make legislation perfecting it?

Chairman Moran

So I think this went back in front of the Planning Board last - the same meeting as the asphalt plant but I'll let you answer the second part.

Matt Sullivan, Community Development Director

So that is correct. This was on referral was considered by the Planning Board at the meeting last week. Alderman Lopez could you just clarify that second question? I'm not sure if I totally understood that.

Alderman Lopez

My understanding is that as once something is presented to the Planning Board, we're not supposed to make legislation that would affect that until the Planning Board has completed either approval or rejection.

Matt Sullivan, Community Development Director

Yes. So the specifically the trigger there is the submission of a site plan or a subdivision application to the Planning Board. Those actions actually haven't taken place just yet. These fundamental land use pieces of legislation need to be in place before that application is actually made to the Planning Board. It's anticipated that those applications might be made as early as late April but these pieces of legislation, most likely and hopefully, will be in place at that point in time. So that conflict that you're talking about is a real one but it shouldn't be impacted if these are approved by the Board of Aldermen.

Alderman Lopez

Okay. If I may follow up? I just want to make 100% sure we're being crystal clear to the neighbors because this is their home and very, very diligent about looking into this. I want to make sure that there isn't any miscommunications about when meetings are or that type of things. I do believe most of the neighborhood is supportive of this but I also want to respect the ones who have reservations, it's not what they're looking for, and I want to make sure they have the chance to voice those especially if they're planning to do it at the Planning Board.

Matt Sullivan, Community Development Director

Yes Alderman Lopez. It's a great point and that's exactly right. These conversations that we're having as part of these pieces of legislation are just about creating the regulatory framework. There will be several subsequent meetings at the Planning Board where abutters and initiative parties will have an opportunity to comment directly on the design. These are really just setting the basic parameters for what that plan will look like and what the redevelopment will look like. Many more opportunities for folks in the community to weigh in.

Alderman Lopez

As one last follow up?

Chairman Moran

Of course. Go ahead.

Alderman Lopez

Would it be possible to update either Community Development or economic development to put like any kind of a heads up that these are the remaining steps ahead and this will go to planning so that we could direct residents to that and say, alright this is where we are and this is what's going on.

Matt Sullivan, Community Development Director

Yeah, that's a great question. I think what maybe in order, and I'll have to have to have a further discussion with Director Cummings, but we've actually had some contemplation of a sort of a project website talking about this. It's a little bit strange just based on the status of legislation that's before us right now and the fact that a Planning Board application is pending but it's not unheard of. We've done something like that for the asphalt plant that's currently pending as well. So perhaps through a project website, that type we could at least put up basic information about when community meetings are taking place. I think that's a great comment.

Alderman Lopez

Okay. Definitely would appreciate that. Thank you for the Board's indulgence as well.

Chairman Moran

Thank you Alderman Lopez and Director Sullivan. Any further discussion on the motion?

MOTION CARRIED

MOTION BY ALDERMAN O'BRIEN TO REMOVE FROM THE TABLE O-23-045

MOTION CARRIED

O-23-045

Endorsers: Mayor Jim Donchess
Alderman Thomas Lopez
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman Patricia Klee
Alderman-at-Large Ben Clemons
Alderman Alex Comeau
Alderman Richard A. Dowd
Alderwoman-at-Large Shoshanna Kelly
Alderman-at-Large Lori Wilshire

AMENDING THE ZONING MAP BY ADDING THE VETERANS MEMORIAL PARKWAY REDEVELOPMENT OVERLAY DISTRICT

MOTION BY ALDERMAN O'BRIEN TO RECOMMEND FINAL PASSAGE

MOTION CARRIED

GENERAL DISCUSSION - None

PUBLIC COMMENT - None

REMARKS BY THE ALDERMEN

Alderman O'Brien

Yeah, I just want to briefly say that I'm very excited about this Mohawk. Since my involvement with the Fire Department, I did 35 years of service, and it always had been an eyesore to that particular neighborhood. I think this is a good deal. I welcome Mr. Westgate and his other principals being partners with this. I think it will go a long way into enhancing an area that I wouldn't really say that was blighted but it's time to move on from the tannery into something more positive for the city. So I think this is fantastic.

Chairman Moran

I concur with Alderman O'Brien.

Also, I attended the opening the Performing Arts Center with my daughter Violet and then later on my wife swapped off but it was a great - everyone else was here as well. It was a great event. The performances were fantastic and the place looks great. Good job to Director Cummings for leading that effort for the city. I'm sure Director Sullivan had his hand in that at some point. He's shaking his head to take credit. No. Director Cummings is too humble, you know.

Any other comment before we go?

Alderman O'Brien

I want to echo your thoughts with the Performing Arts Center. Another great enhancement to the downtown and if anybody happens to find a hearing aid, please let me know.

Alderman Lopez

Just a plug for any one from Ward 4 who's watching because of the tannery thing, we have an election on May 16th to elect our State Representatives. So go to Ledge Street and vote please.

Chairman Moran

The last thing I'll say about the Performing Arts Center, my wife and I left to go get like an early lunch - late lunch, early dinner and all of downtown was just packed. We went all the way down to the across from Peddlers the new barbecue place. It's the pig something and it was just packed. You could only get seating at the bar. So that's the distance of the impact that the opening had on the restaurants downtown. So it was great. Couldn't get in anywhere else really so we had to work a little bit further but we really get some spots at the bar. Other than that, it was a great, great day for the City of Nashua.

ADJOURNMENT

**MOTION BY ALDERMAN O'BRIEN TO ADJOURN
MOTION CARRIED**

The meeting was declared closed at 7:31 p.m.

Alderman-at-Large Michael B. O'Brien, Sr.
Committee Clerk, Pro Tem