

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

APRIL 19, 2022

A meeting of the Planning and Economic Development Committee was held Tuesday, April 19, 2022, at 7:00 p.m. in the Aldermanic Chamber and via Zoom which meeting link can be found on the agenda and on the city's website.

The roll call was taken with 5 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 John Cathey  
Alderman-at-Large Ben Clemons  
Alderman Derek Thibeault

Also in Attendance: Alderman Patricia Klee  
Alderman Alex Comeau (via Zoom)  
Matt Sullivan, Community Development Director

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ROLL CALL

PUBLIC HEARING

**O-22-010**

**AMENDING THE LAND USE CODE BY ADDING PROVISIONS REGARDING SYNTHETIC NICOTINE AND ELECTRONIC SMOKING DEVICE SALES AND LOUNGES**

Chairman Moran

Before we open it up to testimony from the public, I would like to have Alderwoman Klee speak to this because this is her Bill.

Alderman Klee

Thank you and if I may, if I could invite Director Sullivan up.

This Bill came about for a number of reasons. I was approached by a few of our nonprofit organizations that had some concerns. So let me kind of back up a little bit. One of the things that we went to the Planning Board was they asked is this a reactionary piece of legislation? My answer was just about every piece of legislation is reactionary because we find that there are some issues along the way and we try to rectify it. What happened was that a vape shop type of company opened up right next to a youth service organization. The vape shop did everything they could to try to mitigate any kind of smoke that could go over to the children in the play area that the children would be in. As much as they've tried, they just can't do it. So we want to try to avoid something like that from happening. The particular organization didn't feel that they had enough kind of - I should say legislative backing to help them to stop something from that happening. Our Planning Board does a phenomenal job of following our rules, and precedent, and so on. So that's kind of how this came to be.

I'm going to allow Director Sullivan to kind of give all the nuances of it. The bottom line is it's to help protect children through youth service organization camps, schools, and so on. I want it to be known that while this is in place, it's not saying that these organizations can't come to the city. It's not doing - it's just kind of setting up parameters much like we do with gas stations and other things like that. So I'll let Director Sullivan give all the exact information on it. So thank you

Chairman Moran

Director Sullivan do you have anything else to add?

Matt Sullivan, Community Development Director

Just a few comments if I may, Mr. Chair. Thank you Alderman Klee for the introduction. Speaking to the technical components of the ordinance and certainly I'll be available for questions during the public hearing by the Committee and also during your consideration of this if necessary, but functionally this is an adjustment to the Nashua City Land Use

Code within 190-15, which is known as our “Permitted Uses Component” of the ordinance. There are several objectives not to speak for the original drafters of the legislation but there are several objectives of this legislation and they're fairly well defined in the draft language. The first is to amend the classification of use number 137 within the city's Land Use Code Table. That's one of about 400 uses contained in that Land Use Code. Particularly it modifies the current use number 137 to broaden it from tobacco and tobacconist to tobacco synthetic nicotine or other electronic smoking device sales and lounges. So an amendment that functionally broadens that terminology to reflect, I think, more current trends and uses of this type of smoking device.

It also changes use number 137 to be what we refer to as a “conditional use” within three zoning districts where currently the tobacco or tobacconist use was permitted and that's within the general business - the D1 downtown, D3 downtown, and also the highway business zone. So again within those four zones. This use will be modified to be a conditional use requiring not only review by the Planning Board and approval but also abutter notification that comes along with that process giving the public access and the ability to speak to these applications.

The third - it also establishes a buffer of between like uses contemplated under that new use code or modified use code number 137. That buffer is a 1,000 foot as the crow flies buffer if you will intended to be measured property line to property line for like classified uses and specifically those being those were the primary use is the tobacco synthetic nicotine device or sales or lounges. That 1,000 foot requirement will remain in place between those uses. I would note in a conversation prior to the meeting, this is not applied retroactively. Obviously, existing separations that do not meet this new standard would, of course, be grandfathered and would not be affected by this proposed change. Only those future site developments, redevelopments, or changes of use would be impacted.

Fourth, it also establishes a buffer and this speaks to Alderwoman Klee's initial comments. It establishes a buffer of 1,000 feet between uses under 137 and youth or youth serving organizations or schools as defined within the legislation. And you can see that at the end of that paragraph number 6. It's a 1,000 foot requirement, a second 1,000 foot requirement established there. In the interest of those two linear requirements, it also - the proposed amendment provides a relief process for applicants, or owners, or operators interested in establishing a 137 use. That will leave processes a waiver process through the Planning Board as part of the conditional use permitting process. They would be able to request a waiver for the 1,000 foot separation provided that as you see in the legislation, the applicant demonstrates that there are no negative impacts on the director abutters, neighborhood, or the city and that it meets the criteria that the Board's customary criteria for waivers under Section 191- 48D.

And lastly, I would just note that - and one of the critical elements of this is that although there is a waiver mechanism, the Planning Board may not grant a waiver for any use number 137 that directly abuts a school or youth serving organization. So although they have the authority to waive other measurements within that 1,000 foot separation, they cannot grant a waiver for the use if it's directly abutting a school or youth serving organization. That again creates a separation naturally. Happy to answer any questions that the Committee may have.

I will also just address a few questions I received prior to the hearing this evening. Questions related to what a primary use is. A primary use is a fairly subjective term that's used frequently within our zoning ordinance. In this case, we would likely use an area of square footage measurement of a business to determine what its primary use is. Specifically, I would apply that in the context of questions I received related to whether a gas station selling other goods including gas or a grocery store. Both of which may happen to sell some vaping or smoke products would classify under this. They would not. They would remain classified as gas stations with a convenience store use or grocery stores provided that the primary use of the property does not fall within 137.

And lastly, I would just note that there is precedent for separation of uses within the Land Use Code. There is a current 750 foot separation between gas stations required. While this is certainly a different use, there is precedent for linear separation measurement within the Code as it stands today. Thank you, Mr. Chair.

#### Chairman Moran

Thank you, Director Sullivan. Maybe if you can stick around and if the Committee has questions after we have a public hearing.

So one, I just want to acknowledge that Alderman Alex Comeau has joined us on Zoom. If there's anyone in favor on Zoom, you can raise your hand or here in the chamber you can come up to the microphone. We just need your name and address for the record. Anyone in favor? All right. I see on Mike Apfelberg on Zoom. Before he speaks, I would just like to acknowledge that this gentleman is a gift to the greater Nashua community and he just returned from a humanitarian mission to Ukraine. This guy is a - there's no words to describe this guy.

Alderman Klee

I agree.

TESTIMONY IN FAVOR

Mike Apfelberg

Well talk about the most interesting introduction I've received in quite some time Alderman Moran. Thank you so much.

Good evening. My name is Mike Apfelberg. I'm the President of the United Way of Greater Nashua located at 20 Broad Street in Nashua. I do come to you this evening on support of O-22-010. This provision as you are aware came about because of the proposal to place a smoke shop directly adjacent to the childcare location of the Adult Learning Center at the corner of Lake Street and Main Street. As a result of that proposal, it became clear that there is no provision or resource within the current City of Nashua zoning ordinances to discourage or prohibit the placement of smoke shops or vape shops in close proximity to schools or youth organizations. As a community which values the health and well-being of its children, a coalition of community partners - including United Way, Southern New Hampshire Health, the Adult Learning Center, the Nashua Prevention Coalition, and others came together to craft the proposed ordinance in conjunction with Matt Sullivan and Alderman Klee.

While none of us is anti-business and all of us respect the value and worth of a vibrant business community, it is also self-evident to this group that a smoke shop or vape shop in close proximity or even adjacent to a school or other youth organization is not in the public interest. In fact in a study titled "Density of Tobacco Retailers Near Schools Effects of Tobacco Use Among Students", which was juried and published in the American Journal of Public Health in 2009, it was found that evidence exists that it is plausible to reduce the rates of youth experimental smoking by reducing the density of smoke shops near schools. There are plenty of places to have these businesses in our community. Many such businesses already exist and thrive. So we feel that it is but a small concession to the health of our youth to put in place this buffer restriction. I will note there is a provision in the ordinance which would allow for a waiver to this rule if the proposed business can demonstrate the lack of a negative effect or harm. I should also note that pre-existing businesses are grandfathered in. We are hopeful that you will see fit to pass this ordinance on to the full Board of Aldermen with a recommendation of support. Thank you for your time and your consideration.

Chairman Moran

Thank you. Is there anyone on Zoom or in the chamber who is in opposition?

TESTIMONY IN OPPOSITION - None

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

Chairman Moran declared closed the public hearing at 7:12 p.m.

The regular meeting of Planning and Economic Development Committee was opened at 7:13 p.m.

Regular Meeting

ROLL CALL

The roll call was taken with 5 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 John Cathey
- Alderman-at-Large Ben Clemons
- Alderman Derek Thibeault

Also in Attendance:

- Alderman Patricia Klee
- Alderman Alex Comeau (via Zoom)
- Matt Sullivan, Community Development Director

PUBLIC COMMENTBrad Westgate

Good evening, Mr. Chairman and members of the Committee. My name is Brad Westgate. I'm a lawyer with Winer and Bennett, 111 Concord Street in Nashua. I represent Etchstone Properties, Inc. With me is Dave Petropoulos of Etchstone Properties as well. I come to speak in favor of the two Petitions we filed for Etchstone Properties relative to waiver of the school impact fee for two of Etchstone's residential 55 and older developments - Thompson's Preserve Condominium on Gilson Road and The Alcove at Walden Woods Condominium which is on Henry David Drive off Exit 5. I'd like to speak to both briefly if I may Mr. Chairman. Thank you.

Thompson's Preserve as a single family detached style condominium community 39 units. Alcove at Walden Woods Condominium is 63 units and a multifamily structure. The Land Use Code imposes school impact fees. Fees for school capital improvements on new residential construction in Nashua. These are one-time fees that typically paid by the builder or developer prior to the issuance of a Certificate of Occupancy for each residential unit. In these two cases, these both projects being built out, Etchstone Property has paid approximately \$50,770 in the school impact fees. They are one-time fees as I mentioned and they go into a capital account in anticipation of school capital improvements that may come up from time to time. But as the Committee knows in Nashua and every other property in Nashua, all residential units even those in 55 and older communities pay the full regular real estate tax – school, city, and county portions. So these one-time fees are in addition to the regular tax. They're not a component of the regular tax.

Because certain types of residential developments in the city will not have a material impact on school system requiring capital improvements, 190-85 of the Land Use Code sets a standard by which these impact fees can be waived. That's what our petition was set out to do to request waiver of these school impact fees in these cases as we believe that they fit the standard for the granting of the waiver. In essence, Section 190 of the Land Use Code states that an applicant can petition the Board of Aldermen, the full Board, for a full or partial waiver of the school impact fee when the proposed development consists of low or moderate income housing or elderly housing that can reasonably be expected not to require additional educational facilities. So, again, these two petitions pertain to elderly housing community so-called housing for older persons. With the petitions, we submitted a study by Fougere Planning and Development. That study indicated that of the 55 and older communities that Mr. Fougere surveyed in Southern New Hampshire...

Alderman Thibeault

30 seconds

Brad Westgate

...there were only five school aged children in 1,036 units. So I think it's quite clear that these kinds of facilities do not impose the need for school capital improvements.

Mr. Sullivan has indicated in his memos to you that the Planning Board granted a favorable recommendation for the two petitions. We would respectfully request that the Committee similarly grant to the full Board a favorable recommendation. Thank you, Mr. Chairman.

Chairman Moran

Thank you. Any more public comment on line, via Zoom, or in the chamber? Seeing none. Discussion? Anyone have any comments on the public hearing or any questions for Director Sullivan or Alderman Klee?

DISCUSSIONAlderman Cathey

Thank you, Mr. Chair. I'd like to direct my questions to Mr. Sullivan if I may. The definition of youth serving organizations had you or anyone that has talked about this had any confusion about that or any questions about if that really does just narrowed down to schools, or United Way, or something like that or could it include I don't know Sub Zero Ice Cream because they serve under 18 that sort of thing. How does this Ordinance then cordoned off just those places that you're looking at?

Alderman Clemons

Just a point, I'm not sure and I appreciate the question. Maybe we should get it answered since it's been asked but maybe we after that, we should wait till just the suggestion. We should wait till we get to the ordinance maybe?

Chairman Moran

Yeah so I'm thrown off by this agenda today.

Alderman Cathey

I'm perfectly fine with waiting until we get to the ordinance to talk if you just want to get down to it that's fine.

Chairman Moran

We can get the answer and then we can move on. It's also 2021 and you're a junior.

Alderman Cathey

I have more questions anyway.

Chairman Moran

I think, you know, they're pulling the new Aldermen's legs here I think.

Matt Sullivan, Community Development Director

Would you like me to answer Mr. Chair? Happy to answer. There hasn't been confusion but I believe that part of that is that we have not been in a position of implementing the ordinance. So there's always a level of subjectivity but I would, again, point to the fact that this youth serving organization definition relies on entities whose primary purpose is serving persons under the age of 18. So I believe I have received a question on the record of the Planning Board about whether McDonald's with a playpen would in fact be a use under this proposed use serving organizations and the answer will be no. I would argue as I did at the Planning Board that it is very much a we will know it when we see it kind of interpretation and there's intended subjectivity in that definition. I do not believe that the use that you just referenced would qualify under this. I really think it's clearly laid out by the schools, child cares, camps, and organizations that are referenced therein. I would note that there was discussion about whether or not a larger nonprofit with a component of childcare service will be eligible under this.

Alderman Cathey

Sorry, such as what?

Matt Sullivan, Community Development Director

Maybe not a hard example that I would use but if only 5% of the service offerings are for childcare, if there were to be a new organization formed, or one to come to the city, it would not qualify in many my opinion under this definition. It would have to be greater than 50% of the programming or 50% of the space within the use of the building or the area that would be needed in order to qualify under this definition. But it is subjective.

Chairman Cathey

Thank you.

Chairman Moran

So we'll hold the questions until...

Alderman Klee

Can I just add something?

Chairman Moran

I don't want to get down a rabbit hole. So let's hold our questions.

Alderman O'Brien

Good job.

Alderman Klee

I just want to clarify it.

Chairman Moran

Definitely you will have the chance Alderwoman.

COMMUNICATIONS

From: Matt Sullivan, Community Development Director  
Re: Referral from the Board of Aldermen on proposed O-22-010 amending the Land Use Code by adding provisions regarding synthetic nicotine and electronic smoking device sales and lounges

From: Matt Sullivan, Community Development Director  
Re: Referral from the Board of Aldermen on proposed Petition by Etchstone Properties, Inc. for full Waiver of Impact Fees (for public school facilities) as Authorized Under Section 190-85 of the Land Use Code (Thompson's Preserve Condominium)

From: Matt Sullivan, Community Development Director  
Re: Referral from the Board of Aldermen on proposed Petition by Etchstone Properties, Inc. for full Waiver of Impact Fees (for public school facilities) as Authorized Under Section 190-85 of the Land Use Code (The Alcove at Walden Woods Condominium)

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

**Without objection, Chairman Moran suspended the rules to allow for a communication that was received after the agenda was prepared.**

From: Kevin Walker, Vice President of Construction and Engineering, John Flatley Company  
Re: Withdraw Request for a Zoning Change - Gateway Hills off Research Drive

***There being no objection, Chairman Moran accepted the communication and placed it on file.***

PETITIONS

Petition by Etchstone Properties, Inc. for full Waiver of Impact Fees (for public school facilities) as Authorized Under Section 190-85 of the Land Use Code (Thompson's Preserve Condominium)

**MOTION BY ALDERMAN CLEMONS TO RECOMMEND ACCEPTING AND GRANTING THE PETITION FOR FULL WAIVER OF IMPACT FEES (FOR PUBLIC SCHOOL FACILITIES) AS AUTHORIZED UNDER SECTION 190-85 OF THE LAND USE CODE (THOMPSON'S PRESERVE CONDOMINIUM)**

ON THE QUESTION

Alderman Cathey

Thank you, Mr. Chair. I don't have anything necessarily against I just wanted to note since I am on the Planning Board. There was what I would consider some robust dialogue about the Land Use Code in this particular instance especially 190-77, which is the computation table that they use for the impact fees. It does not specifically state "low income" or 55 plus. So there was quite a bit of back and forth about the Planning Board possibly recommending that the Board of Aldermen in the future look at that Land Use Code and think about maybe changing it or amending it in some way. There was a lot of back and forth because it doesn't say exactly that wording and so it was not as clear as they probably wanted it to be. They requested that I make that notation to the Board of Aldermen. So I'm just making it now that in the future, we should

look at the impact fee table and think about maybe making it a little bit more clear for situations such as this in the future. Thank you.

Alderman O'Brien

Thank you, Mr. Chairman. Mr. Chairman with your permission through the Chair can I ask Mr. Sullivan a question?

Chairman Moran

Absolutely.

Alderman O'Brien

Mr. Sullivan I have no problem in granting these. I understand the flavor that this has got to be an older or more seasoned type of resident. I'm very careful with my words here and they've got to have a very low impact on the schools and everything. But that being said, what happens if the development gets so what do we do in those cases? Is there any type of lien or anything else like that such as like it cannot, you know, be resold for a period like a moratorium of a couple of years or something like that protection to the city so somebody doesn't fast track something inadvertently that could get by. It's not saying that it would occur but just in case.

Matt Sullivan, Community Development Director

If I may, Mr. Chair. A great question. Admittedly, I don't think it came up at the Planning Board as part of their deliberations. It's important to keep in mind that both of these projects were proposed and approved under the housing for older person's provisions of the city's Land Use Code. As a result, the land use approvals that are associated with both buying to the projects to comply with those standards as they were when they were approved. As a result, any modifications to the age restriction and therefore the potential granting of the impact fee waivers this evening would require a formal amendment to that plan, in my opinion, through the Planning Board. Essentially to remove those restrictions, a formal amendment would be necessary. As a result, although these impact fee waivers would run with the land, the Planning Board would ultimately have the both power and authority to grant or not grant an amendment to the site plan in the future to remove the restrictions.

Alderman O'Brien

Thank you, Mr. Solomon. Thank you, Chair.

Alderman Cathey

Just a clarifying question for Alderman O'Brien so I understood his question. You were saying what if they tried to bypass the impact fees and then sell it off, and then they don't have to do a 55 plus, and they don't have impact fees. Is that what you're asking?

Alderman O'Brien

Basically in a nutshell, yeah. In such a case, ten years goes by and then they decide that they want to get out and they liquidate the property. From what Mr. Sullivan has explained and correct me if I'm wrong, oh well, Mr. Sullivan you have your hand up. You could better explain.

Matt Sullivan, Community Development Director

I should just briefly state that this is a deed restricted property. So from the potential conveyance of the property, there is a deed restriction that limits these units to elderly housing. So that will be protected as a result of the Planning Board and land use approval for future conveyances until such time that a potential owner came back to the city, and either there are no such ordinances in place, or the Planning Board entertained an amendment to that plan.

Alderman Cathey

Thank you.

Alderman Klee

Thank you. Director Sullivan you brought up the deed restriction. I had a conversation with your predecessor relative to putting in this type of housing. In order for that to actually happen, every property owner within that community would have to have their deed changed. Is that not correct?

Matt Sullivan, Community Development Director

It would begin with an amendment process with the Planning Board but my understanding, and certainly I know Attorney Westgate is here but the public portion of the meeting is closed, but my understanding is that amendments to the deed would be necessary if in fact that approval were amended to remove the 55 plus restriction. Obviously, the owners within the development will be interested in seeking an amendment to the deed to allow them to convey to another owner that doesn't meet the requirements.

Chairman Moran

Any other questions? Further discussion? As that one statement maybe Alderman Cathey and Director Sullivan can work on fixing that loophole with some legislation?

Alderman Cathey

Yeah, we can work on it.

Chairman Moran

All right. With no more further discussion, I believe the motion from Alderman Clemons is to recommend granting the petition for full waiver of impact fees as authorized under Section 190-85 the Land Use Code Thompson's Preserve condominium. We're all here.

**MOTION CARRIED**

Petition by Etchstone Properties, Inc. for full Waiver of Impact Fees (for public school facilities) as Authorized Under Section 190-85 of the Land Use Code (The Alcove at Walden Woods Condominium)

**MOTION BY ALDERMAN CLEMONS TO RECOMMEND ACCEPTING AND GRANTING THE PETITION FOR FULL WAIVER OF IMPACT FEES (FOR PUBLIC SCHOOL FACILITIES) AS AUTHORIZED UNDER SECTION 190-85 OF THE LAND USE CODE (THE ALCOVE AT WALDEN WOODS CONDOMINIUM)**

**MOTION CARRIED**

UNFINISHED BUSINESS – None

**MOTION BY ALDERMAN CATHEY TO SUSPEND THE RULES AND TAKE THE ORDINANCE OUT OF ORDER  
MOTION CARRIED**

NEW BUSINESS – ORDINANCES

**O-22-010**

- Endorsers: Mayor Jim Donchess
- Alderman Patricia Klee
- Alderman-at-Large Melbourne Moran, Jr.
- Alderman Thomas Lopez
- Alderman-at-Large Ben Clemons
- Alderman Derek Thibeault

**AMENDING THE LAND USE CODE BY ADDING PROVISIONS REGARDING SYNTHETIC NICOTINE AND ELECTRONIC SMOKING DEVICE SALES AND LOUNGES**

**MOTION BY ALDERMAN CLEMONS TO RECOMMEND FINAL PASSAGE**

ON THE QUESTION

Alderman Klee

It's not so much a question. It was just kind of to add to what Director Sullivan had said to Alderman Cathey and that was one of the things to keep in mind is that we did spell it out. But something like PAL would be considered a youth service organization and you wouldn't open something like that up. I do believe that that was actually kind of brought up somewhat at the Planning Board is I think Director Sullivan said that McDonald's play area would not be. I just want the general public to know is that we're being very specific on it. I don't want anybody to suddenly think that we're going to start saying who can go next to these areas and and push out like a Burger King or something to that nature.

So it's meant for primary use of both primary use of a youth service organization or at least a high percentage of a youth service organization as well as the primary use of the tobacco, vaping, and so on. It's not to nitpick and to give anybody that leeway. Some people had actually said well, you know, you're not saying all these really, really tough words of this. We left it a little bit kind of, I don't want to say subjective as much, but subjective is the correct word to give the Planning Board that leeway. When you start getting so prescriptive and writing down everything, things fall through the cracks because there's something you can't possibly think of. We also gave the Planning Board the ability if as it was very specifically stated, it was shown that there was no harm was being done or something like that. They had that flexibility as long as it didn't physically abut. I really want people to understand this.

The organizations that came through that weren't able to come here today because they have conflicts. You know we had Reverend (inaudible) from downtown, and Carol Baldwin from the Adult Learning Center who is impacted by the current one there. These are all organizations that deal with use and so on. The one thing I want to say and I want to ask Director Sullivan this very specific question is when we're talking about youth service organizations – and you can when the churches have these youth service and for instance, like First Church up on Library Hill up at that area there where they actually have school in there and so on. They would be one of these youth service organizations because they actually have a school in there, but not necessarily a church that may have some kind of youth program. I'd like you to clarify that so we understand that better.

Matt Sullivan, Community Development Director

Excellent, excellent question and we have several religious institutions that are operating dedicated schooling programs out of their locations. In my opinion in that case as an established use on the property, assuming that the use is permitted by the Land Use Code, those would be classified as schools. I would just as you did differentiate it from the fact that if a religious institution is providing an infrequent but regular youth service, that likely would not qualify it as a school or youth serving organization. I would just while I have the mic, I would just say that to Alderman Klee's point although we would love specificity as land use regulators and administrators, specificity can be extremely dangerous and it often results in us not being contemplative enough about what uses might arise in the future. So we did write this subjectively for just that purpose just to emphasize the point.

Chairman Moran

Thank you.

Alderman Comeau

Thank you, Mr. Chairman. I just had a quick question for Director Sullivan if I could ask through you. Director Sullivan you mentioned earlier that what you would define a youth serving organization as far as their primary purpose would be something about the percentage of programs they offer. So an institution that has a lot of different programs but only some of them are youth serving in your opinion to that qualify under this ordinance?

Matt Sullivan, Community Development Director

The initial opinion I would provide to Alderman Comeau would be that an organization would need to provide between, you know, over 50% of its services towards youth or have a dedicated school within its organization in order to qualify. We often use the 50% threshold whether it be using that first square footage interpretation or using it for a programming interpretation. That tends to be what gets uses over that sort of hub, if you will, of being a primary use. If an entity were to provide only 30% of its programming or 30% of its use area for youth programs, I would not qualify that or classify that rather as a youth serving organization. That 50% standard is relatively common within the land use administration process nationally and so that will be the threshold that I would use interpreting this ordinance today.

Alderman Comeau

If I could follow up, Mr. Chair?

Chairman Moran

Go ahead.

Alderman Comeau

Under that definition, do you consider the Adult Learning Center a youth serving organization? Most of their programs are geared towards the adult community.

Matt Sullivan, Community Development Director

Chair if I may? My intent this evening, and I do not intend to dodge that question, but I did not intend to comment on specific entities as part of this discussion. So I'm hesitant to do that. What I would say is that certainly when this ordinance was drafted initially and contemplated, the Adult Learning Center was part of that conversation but whether or not they would be included in their current format of programming, I can't answer that question. Part of that is that I simply don't know what they offer for services at this point in time.

Alderman Comeau

I didn't mean to put you on the spot. It just seemed like in the discussions for this ordinance it was very geared towards the location currently known as "Poor Pierre's" and, you know, I certainly don't want access to these things for children. I don't think anybody does. It goes without saying, but it seems like this, just to me, it seems like a solution in search of a problem. If you stand on that intersection, you can see Smokers Haven is two blocks away. There's a cigarette outlet three blocks in the other direction. You're across the street from a gas station that sells all the same products. I don't think any of these places are currently selling these products to children. So I'm just not sure that this was going to do what we think it will. Thank you.

Chairman Moran

I just have a - I believe this wouldn't impact that particular facility. This is those facilities after this goes into effect.

Matt Sullivan, Community Development Director

That is correct and I would also just note, and perhaps I should have done this earlier, when this was initially drafted, we like with any ordinance started with two very extreme perspectives on this. One being that a large buffer should be applied up to a mile in size for these types of entities. The other being that there should be no restriction and that it should be defaulted to the zoning and the code that that applies to it. And so I'm surprised I didn't get questions about the 1,000 feet, because it may seem a bit arbitrary, quite frankly but that 1,000 feet is a microcosm in representing the fact that this is very much a compromise that was arrived at after deliberation - deliberation between my team and the folks that worked on this ordinance. So to Alderman Comeau's points, it would not address approvals that have already been granted and are properly vested. This is intended to be a compromise that looks forward towards future applications.

Alderman Thibeault

Thank you, Mr. Chairman. I think this ordinance is extremely reasonable. It's small. It's not punishing that place for going in there since this is taking place after that. We've already gone through the Zoning Board. So I don't think this is an attack on that particular place. I think it's looking to the future of any type of vape or smoke shop that wants to go near something that's school related. If I could just through you Mr. Chairman go asked Director Sullivan a question.

So you're talking schools, you're talking nonprofit type organizations. I assume, and maybe I shouldn't assume, but I assume that that a lot of these things they're just gonna go through the Zoning Board and the Zoning Board will try to apply this ordinance to whatever that is and make a determination based on that. So, for instance, I don't think we have any of these anymore but one of those big bounce house places, or an arcade, or Chucky Cheese where all there really is kids in there with the exception of the parents that bring them there, except maybe some nerds like us here may go to one of those places, but outside of that right, it's kids but it's a business. It's not a school, it's not a nonprofit. So will the Zoning Board look at that or is this stuff not included? Is that why it's not specific to certain things?

Matt Sullivan, Community Development Director

A few questions to unpack there but good ones. First, I would clarify that the administration of this ordinance will be done by Planning Department staff and folks in the Community Development Department. So I should also emphasize that although I am providing my concept of a primary use and the 50% threshold this evening, it is ultimately the charge of the city's administrative official who's the Planning Director for the city, or me in their absence, to make the determination as to what a primary use is. So that subjectivity does exist. I'm offering the 50% this evening. The interpretation could change in time. So ultimately planning staff will make determinations based on the applications they receive whether or not they comply with this ordinance, whether they'll need to head to the Planning Board for review. They will need to have their fair conditional use.

There may be variance applications if it's outside of the zones that are identified in the use matrix. Those would go to the Zoning Board for their review, approval, abutter notification, and then head to the Planning Board subsequent to that.

Relative to your question about recreational uses I'll refer to them and whether it's a trampoline park, a Chucky Cheese, or the like, those would not qualify as youth serving organizations. Yes, their primary clientele are those below the age of 18 but our use table already provides an alternative use treatment for those and that is a recreational use. So they would not qualify nor would these tobacco uses or synthetic product uses need to maintain 1,000 foot buffer from any such entity that you referenced.

#### Alderman Thibeault

Great, thank you.

#### Chairman Moran

I know we have Alderman Cathey and Alderman Klee but Alderman O'Brien raised his hand and he hasn't had a chance to speak on this. Do you mind if he takes...you go ahead Alderman O'Brien.

#### Alderman O'Brien

Thank you. Just basically, I'm gonna support this because I think it hits the flavor. I like what Mr. Sullivan what you said. We would know it when we see it and I think this fits the flavor. I'm surprised you didn't mention the drug free zones that are encumbered already by codified by law within the State of New Hampshire would basically say, you know, and I think that's within 1,000 feet. So I don't think you really made up the 1,000 feet 100%. I'm not too sure to say, but I think there is a drug free zone and some would believe that by federal regulation that some of these vaping, smoking, everything else - we're not talking about the guy walking the dog with a cigarette in his mouth walking by the school but I think the purchasing and everything. And lo and behold if somebody were to sell drugs within the school zone, I think there's additional fines that gets charged with this. So I think it's well versed in law and I agree with you.

I compliment the authors of this. It's very well stated. It fits within the parameters of we would know it if we saw it and what this is, is the flavor of it is the protection of the children. I think this, you know, definitely does that so therefore, I'm going to support it. Thank you, Mr. Chairman.

#### Chairman Moran

And just bouncing off that when we talk about drug use. I can't help but chime in on being a clinician that actually tobacco use disorder is actually the largest substance use disorder in the entire United States. It's actually the deadliest. It actually kills more people than alcohol use disorder and opiate use disorder. I'm glad that we have laws in place to keep drugs out of our kids' schools.

#### Alderman Cathey

Thank you, Mr. Chair. I appreciate it. I just had some other questions, but I just wanted to quickly thank Alderwoman Klee for her definition on this subjectivity because as I've learned, and some of the Aldermen who've been here longer time might know this, the Planning Board is really subjective to the law. There's not a whole lot we can do once something has been codified, which I tried to explain to people. So if something meets regulations, we essentially have to say yes. So if you are that subjective and a business comes up and the Planning Board goes, I don't know about this. We're kind of stuck in granting different things. So having a little bit of ambiguity so we can talk about the type of city we want, I think I don't I love it because I love facts, and logic, and all that good stuff but in this case, I think it's going to serve a better purpose.

But I just had some questions mainly for the benefit of the public because I feel like they would have similar questions. One is, is there - you set a precedent for buffers in other industries. Is there a precedent like this in other cities, or in New England, or in the country for tobacco use?

Matt Sullivan, Community Development Director

If I may, Mr. Chair. I did a little brushing up on this just before the meeting this evening because I assume this question would come up. I'm not aware of any tobacco specific restrictions in the State of New Hampshire but I was able to find a few examples around the country. There are actually specific permitting processes called "separation permits". I found some in New York, California, and Florida. They applied to several uses, including oddly pawn shops, smoke shops, and others. I'm happy to provide some more information on that if the committee is interested, but it's not without precedent in other states. Alderman Cathey I'm not aware of any specific setbacks for this use within the State of New Hampshire but I didn't complete a comprehensive review but I did not see anything that was immediately obvious.

Alderman Cathey

I have a couple of follow ups if that's okay. No I appreciate that. I wasn't expecting New Hampshire. I didn't think we were the only city in the country that was doing this.

In the ordinance it says, "negative impacts". Could you clarify, or is that too subjective, and that would be up to the Planning Board as far as proving their "no negative impacts of the surrounding community"?

Matt Sullivan, Community Development Director

To answer that Mr. Chair, the burden of proof will be on the applicant to demonstrate that there are no negative impacts. But ultimately and perhaps this is what you were driving at, the nice or nimble thing about the waiver process and the conditional use permit processes are that they provide the Planning Board its sole opportunity to be subjective in its review. So in that subjective review authority, they would have the ability based on the testimony not only of the applicant but of the abutters as well to determine whether or not there are, in fact, negative impacts to the property. I'll say one thing as an example, negative impacts can't be mitigated by planting of Arborvitae. They can be mitigated by site obstruction through the construction of a fence. There could be dedicated smoking areas if there are exterior smoking areas at all approved by the Planning Board. So some of that negative impact can be mitigated, but it's ultimately the Planning Board in that subjective review capacity that will make the decision.

Alderman Cathey

Okay, thank you. Just for - and this is also from my clarification – direct abutment is what properties?

Matt Sullivan, Community Development Director

It depends on the context of a given property, but it would apply to properties across the street. It applies to those that directly abut the side property lines and the rear property line. But anything that touches with the added exception of those across the street, those will qualify as well directly across the street.

Alderman Cathey

Great. And last one, which is probably the harder one, we covered this a little bit at the Planning Board meeting. I just wanted to see if you could either clarify or speak to future conversations or thoughts about if this would apply, or if we would be willing to move in a direction towards dispensary type businesses, or anything like that, or has - I'm assuming there has been some discussion and I'm sure people are going to ask if this what next? What are we going to do?

Matt Sullivan, Community Development Director

This is to answer the question as directly as I can. This is not intended to address that use. I do not believe based on the language that's been drafted that dispensaries in the retail form or any other recreational usage would fall within this category. I don't believe it falls into the category of synthetic nicotine or electronic smoking devices. If there's actually that product being dispensed on site, I know where you're headed there. I do believe that we should be proactive in that regard at such time that we believe that legalization is likely, but I'll also rely very heavily on what the State develops as model ordinances and the like once we get to that point. This is not intended to be a precursor to that and get ahead of that potential issue that may arise.

Alderman Cathey

Thank you. I'm good, thank you.

Chairman Moran

No matter how many Bills I co-sponsor at the State House, Sununu is not going to sign legalization of marijuana.

Alderman Klee

Thank you very much. I mostly want to make some clarifications and it's funny that an often overly used phrase was used previously "solution in search of a problem" and it kind of made me smile because when I explained this to my constituents of going through that and I said, we often hear those who are against it that their favorite line is "a solution in search of a problem". This is not a solution in search of a problem. This is a problem that arise and we have a now have a solution for it. So I want to make that very, very clear.

As far as the Adult Learning Center is concerned, they have a child daycare area that abuts that particular piece of property which is why this kind of came about. So whether or not they had a 50% usage, which they do have a high child learning center and so on within that, I don't know what their percentage is any more than then Director Sullivan has but the truth is their daycare and play area was directly abutted it. Now having said that, please note that the organization that's going in there did try to do everything they could to mitigate it including much of what Director Sullivan said about putting up some kind of Arborvitaes or type of thing. But the way that the building is so close to the property line, it was really impossible. So it should be noted that this organization did try to do everything they possibly could to mitigate this. So nothing against them. We're just looking as this is a solution to a problem and I think my colleague who's on Zoom right now kind of made the point for us. You can stand on the corner and look and see this one, and this one, and this one and that's kind of what we're trying to stop so we don't have this. So we don't have the auto mile vaping or vaping auto mile kind of type thing. We are a mixed use downtown and in various areas. We don't want to have them side, by side, by side of really kind of anything - no gas stations, none of this.

I also wanted to talk about the dispensary and as was talked about at the Planning Board, the dispensary is more of a medical type of use and no different than when we would we would look at that. This does not address any kind of marijuana use, or cannabis, or anything else like that. Do we need to think of something in the future as Director Sullivan said? Yes. I think we need to be proactive. Personally, I am not for the legalization. I'm kind of on the opposite end of that you are for recreational use.

Chairman Moran

We can still be friends.

Alderman Klee

Yes, I appreciate that. Thank you. I have no problems with it as long as we can start to get a testing of it and so on like we do with alcohol. But the bottom line is that we have to put cannabis off to the side. Do we need to address it eventually? Yes but not in this particular type of thing. So as far as the solution in search of a problem, this is a solution to a problem that existed that came about at the Planning Board. A very, very astute member of the Planning Board asked that question about is this reactionary? And our first answer was no and then I kind of said but yes. It's reaction to something that happened. Is it just a knee jerk oh, let's do something? No. It was very thought out. It was months and months of deliberating and compromising. If the group that actually brought this forward had their way as Director Sullivan said, they'd probably only be on the borders of Nashua and they would never be permitted in the city. We know that that's not realistic. We are an open market kind of city and I think this is the best of all worlds to mitigate any kind of negative impact on our youth.

I believe that Mr. Apfelberg brought up, cited some studies that very specifically showed that not having these type of things close to that actually lessons. As you pointed out Mr. Chairman, the tobacco use disorder is one of the number ones. I put vaping in with tobacco use and that's kind of why we did this. It's the alternative to tobacco use. In my opinion, it's just as dangerous from what I can hear from that. I am not a medical person. But you know as I stated before, PAL is a service youth thing. I want to reiterate again, not the McDonald's, not the funlands, not any of those things. They're recreational use of type of things. So I think that I got all the statements that I want to make and I appreciate the time.

Chairman Moran

Thank you. Mike I do see your hand raised on Zoom but I can't call on you because it's for Aldermen unless someone makes a motion to suspend the rules.

Alderman Clemons

Thank you, Mr. Chairman. So I was happy to support this for a number of reasons. One is that it grandfather's an existing businesses, which I think is important because, you know, in the interest of fairness, we can't go back and retroactively kick people out essentially. So that was a catalyst for me to support this.

And secondly, you know, in the past I've said multiple times that I'm against mandates and I am. I voted against raising the tobacco age here in Nashua to 21, although that happened federally anyway, mask mandate, things like that. You won't see me go for things of that nature. This on the other hand is a regulation. I do believe that regulations are important and I believe that they are an important part of our community standards. I don't think that having something on the books that says in the future you can't have a place that primarily promotes smoking tobacco or vaping 1,000 feet within a school, or a daycare center, or something like that. I just don't think that that's unreasonable. What I like about this legislation is that in the instance where there's something that's safe - we go property line to property line, 900 feet from a school but the entrance is on the other side of the building, and the parking lot is on the other side of the building, and everybody's going to be on the other side of that building. Then that applicant can go to the Planning Board and they can apply for an exception. Chances are they're probably going to get it because they can have a pretty big good case to be able to open up that business.

So the other thing is too I don't see these businesses proliferating. I think that tobacco use in this country is going down, and down, and down. I think we're taking care of a problem yes but I don't think it's going to be something that's going to impact all of these people who are going to open up, you know, vaping stores or whatever in the city. I just don't see that happening. So I think for all those reasons, this is something that I 100% can get behind. I think it was good legislation. I think it's drafted very well and I congratulate all the folks who worked hard on this because it's these types of things are not easy to come to a compromise or an agreement on. So my hat's off to everyone. Like I said, I'm happy to support it.

Alderman Thibeault

Thank you, Mr. Chairman. I'm gonna support this legislation as well. I think it is good and legislation. Like you said, it doesn't go back and take away anything from anyone. I think the whole vaping industry came on the city quick few years ago and these places have started popping up everywhere. It's free business. So it is what it is, but I think putting this in will prevent future vape stores going close to places where children are, nonprofit places are, schools, and stuff like that. This place that's going up on Lake and Main, it's still right down the street from Elm Street. I wish I could get rid of that just because, you know, it's still near a school.

So I think this is the minimal thing you can do and I think if this was really an outrage in the city, we'd have people here speaking out against that. That's a big testament to this legislation because the tobacco industry is huge. If Matt went anything even close to a smoker, we'd have people in here. So I think it's a testament to the legislation and I'm proud to support it.

Chairman Moran

I just have one question. Would this preclude people from opening within 1,000 feet of a pediatrician's office?

Matt Sullivan, Community Development Director

No. The answer being similar to recreational uses. A pediatrician's office is classified first and above all else as a medical facility. That would be the governing use category and so my answer would be no. It would be treated as medical office and therefore it could be located within 1,000 feet.

Alderman Klee

Yeah, I did want to add that one of the original people speaking to this was one of the hospitals. So we did kind of put that one to bed.

I did want to add one thing. I did have a constituent who contacted me relative to this and it was something that I had brought up to Director Sullivan as well and that was what if a school found the perfect building and wanted to open up there's a vape shop next to it. Could that school do it and the answer would be yes because that school would be then

knowing all of the issues that were behind it because this business was first, and you will not affect that business. So if they were to open right next door abutting a vape shop, they would be able to do it. It would be a reverse engineer. They would be going in wide eyed, bushy tailed, and knowing exactly what's going on. I don't think it's going to happen but just if the perfect place opened up and that was the question that had been asked to me this past week relative to this. So I just want to make that clear. They would be able to and nothing negative would happen to that business that was already in place there just so that we have that out on the table.

## **MOTION CARRIED**

### NEW BUSINESS – RESOLUTIONS

#### **R-22-023**

Endorsers: Alderman Patricia Klee  
 Alderman-at-Large Michael B. O'Brien, Sr.  
 Alderman-at-Large Ben Clemons  
 Alderwoman-at-Large Shoshanna Kelly  
 Alderman Richard A. Dowd  
 Alderman Derek Thibeault  
 Alderwoman-at-Large Gloria Timmons  
 Alderman-at-Large Lori Wilshire

#### **RELATIVE TO THE ADOPTION OF THE NASHUA ARTS AND CULTURAL PLAN**

### **MOTION BY ALDERMAN CLEMONS TO RECOMMEND FINAL PASSAGE**

#### ON THE QUESTION

Alderman Klee

Can I speak first before?

Chairman Moran

Oh, yeah, go ahead.

Alderman Klee

Thank you. I would like to have Ms. Rinaldi to come up and speak to this. But I just want to make a statement. I am the liaison to the Nashua Arts Commission and they worked very hard on this. They worked very hard to incorporate it into like the Master Plan and kind of do it that way. I think they've done a phenomenal job. I'm not gonna speak to any of the details to it because I'm not smart enough. It's above my paygrade but I do think that they would be able to speak to it and so on, but it's a great plan.

Alderman Clemons

You as Chair, Mr. Chairman, have the latitude to allow a non-alderman to come up and speak if it is relevant to the topic at hand.

Chairman Moran

That's great. I was trying to play the book as black and white as possible. Would you like to come up and have a seat, answer some questions, or speak to this? Why don't you introduce yourself, address, and then give an overview of what you're asking here.

Lindsay Rinaldi

Sure. My name is Lindsay Rinaldi. I am the Chair of the Nashua Arts Commission. I'm also the Executive Director of the Nashua Community Music School. I'm super excited to be here today to share with you folks the next iteration of the arts and culture plan for the City of Nashua. Part of the charter for the Nashua Arts Commission each year, which is a mayoral appointed charter, is to make sure that we are continuing to allow our arts and culture in Nashua to flourish, and to grow, and to come to new heights. Arts and culture plan is kind of the pinnacle for finding the direction for that to happen.

So the arts and culture plan that is presented to you tonight for your approval is essentially the next iteration or the continuation of the arts and culture plan that was established in 2014. So it does get revised every so many years. It was scheduled to be revised in 2019 and that's when that plan started and then COVID kind of derailed it for a little bit. The good news is it actually gave us more time to be able to not only hold more public input sessions, but also to be able to really take a closer look at not just what are we doing well now but what are some of the problems that we can solve in our community by using arts as a vehicle for success. That's what I hope that you will find in our arts and culture plan.

I know that this group has had the opportunity to maybe see it beforehand. How much would you like me to walk you through it because I'm happy to do whatever you think would be helpful?

Chairman Moran

Let's start off with are there any questions?

Alderman Thibeault

Thank you, Mr. Chairman. Thank you for being here by the way. I did read through it this afternoon and I thought was fantastic. I'm a big supporter of the arts, at least in theory, and I had a question this may be a little off but I was just curious. Do you get critics of the art plan in Nashua and what are some of the things that people have wrong with, I guess, or don't want us to do arts wise?

Lindsay Rinaldi

I would say that in our last public input session before the plan finalized, one of the things that came up that was a critic was that the arts and culture plan was actually too focused on the economic portions and the economic benefits. I needed to focus more on heart and creating an eye vital artistic landscape for our citizens and for our families to thrive, which I honestly was very surprised at because usually everyone is so excited to talk about the dramatic improvement and upgrades that it can do to our economy which I do firmly believe in. So I was surprised and quite honestly refreshed to hear that the citizens that are involved in the arts or care about the arts really saw that economic benefit as an awesome positive but a second to the vitality that arts create on a daily basis.

Alderman Thibeault

Thank you. That was great. I just wanted to add so I saw in the plan that the plan to update or to fix sort of finish, I guess, the Greeley Park bandstand. So I hope that's in the plans for the future because that would be great.

Lindsay Rinaldi

It's one of the recommendations. Yes.

Alderman Thibeault

Okay. Also I saw, you know, making sure Court Street stays there, and making sure we get upgrades to that, and to make sure that, you know, the Keefe arena stays there. Those are the things that are really important to me to keep here because I think those buildings are different. They don't do the same types of things and I think we need them separately. So I'm hoping that that stays. I'm hoping that this plan helps to push those things along as well. So I just want to say that and thank you for coming out.

Lindsay Rinaldi

Thank you.

Alderman Clemons

Thank you. Just a follow up on what Alderman Thibeault had said. Those three things are really, really important long term goals for the city. I can remember being on the Board of Aldermen in 2010 and you would have thought that the Greeley Park bandshell was the only thing happening in the city at one point because what it was is we used to rent out the bandshell and allow people to bring in their own PA systems. The neighborhood behind it, you know, got upset so we had to make an ordinance that basically said you can only use the PA system that was there at the time. I think it's still in effect now. The problem is, is that PA system is not very good and the bandshell is kind of incomplete. So there's two problems

- the noise gets behind the bandshell and then in addition to that and because of that, it doesn't project forward. So you have two problems – 1) if you're sitting in front of there, you can't really hear what's going on, on the stage, and 2) everybody behind you can hear perfectly well into that neighborhood. So it definitely is something that's been a problem for a while and I was happy to see that it's in here as a priority because it's something that I agree that, you know, has been an issue for a while.

And the other two things, again, I think we're going to do something with it very timely. We're going to do something with Elm Street School. We're building a new middle school. So what do you do with the Keefe Auditorium? I agree 100% it needs to be kept as a community resource and what we can do to maintain and make sure that that's there for the future generations I think is important. The same thing with Court Street. We had a big meeting about that the other night with starting a fund for them. Basically taking their money and keeping it in that building. So I think those three things are things that I'm most excited about. I'm happy to support the Commission and its mission on making sure that those three things happen. I just wanted to point those things out and say that I'm very excited and happy to support it. The whole plan looks great. Those are my three highlights but thank you for bringing this forward. Thanks for all the hard work. Thank you to Alderman Klee for bringing this up and I look forward to supporting it.

Alderman O'Brien

Thank you. Through the Chair to Miss Rinaldi, good to see you again.

Lindsay Rinaldi

Always good to see you.

Alderman O'Brien

I gotta say, kudos to the Nashua Arts Commission and particularly to the Nashua Arts and Cultural Plan working group. This is pretty comprehensive. You guys did a yeoman's job with this and I think it's very well written. But it may not been seen by the whole complete public and I think it should. You put a lot of hard work into this. So could they look at the Nashua Arts Commission at NashuaNH.gov and get a copy of this?

Lindsay Rinaldi

Yes.

Alderman O'Brien

Would that be the correct e-mail address for that?

Lindsay Rinaldi

It's on the Nashua Arts Commission website currently. It's listed as a draft because we felt as the Arts Commission that it was so important to get not only Mayoral approval but the approval of the Board of Aldermen before it became an official arts and culture plan.

Alderman O'Brien

Yeah, I think the public should see this because like I say, pretty comprehensive. Like what Alderman Clemons said, he answered some of the questions. Some of them are hot topics right about now being discussed so nice job. Thank you.

Lindsay Rinaldi

And our hope so you know is, you know, once we get the approval by the city and all of its entities, our goal is to actually as the Arts Commission run certain workshops, run certain presentations, meet with the individual nonprofit leaders in the area, or arts leaders in the area to give presentations on the plan and to kind of jumpstart that second top goal which is cultivate collaboration to get multiple people involved right away. So there's going to be a rollout of the plan to the public in addition to it just being readily available as a part of the city's website.

Alderman Cathey

Thank you, Mr. Chair. I actually have more of a PI than a question. What happens if we don't adopt it? And what happens if we do - like what is approving this do?

Chairman Moran

This will end up at Board of Aldermen level.

Alderman Cathey

Like for instance if we said all the Board of Aldermen said no, we don't like this. What will happen?

Chairman Moran

It would probably go back to Miss Rinaldi for changes and then be resubmitted.

Alderman Cathey

Would we say what changes we wanted or we just say no?

Chairman Moran

My guess is we said no our list of objections would be noted. I'm sure Miss Rinaldi would take those objections to be changed. Anyone can correct me if I'm wrong.

Alderman Cathey

Just because I'm new and I don't know what that actually does as far as like formality. So I'm just curious.

Chairman Moran

That's my off the cuff answer.

Alderman O'Brien

Point of order. To direct answer, all committees make recommendations to the Board of Aldermen. This is not a mandate. It basically by all committees it's just a motion will be made and it should say that. If you read the motion, it says the motion is from Alderman Clemons to recommend final passage and that's all this does is a recommendation. So if you don't like part and parcel, it depends on that recommendation to the full Board of Aldermen where we go next.

Chairman Moran

And correct me, I'm sure we could amend it as the Board of Aldermen.

Alderman Cathey

I was more asking on the Board of Aldermen. I know we're recommending but I'd rather just handle all these questions now than asking full boards.

Chairman Moran

I appreciate that.

Alderman Klee

Thank you. This much like the Master Plan, it's not coming in and saying we want money. It's not coming in and - I want to point out that this group of people are engaging. They took a page from the Master Plan. They invited and did public comment. They invited criticism. They invited, you know, how can we make it better? I sat in the meeting where they took all that, including painstakingly put the physical plan together, what was the best way of capturing someone's attention, and so on. They were very, very meticulous and very thoughtful in every little aspect of what they did. This is something that that hasn't happened as was pointed out since 2014. It is pretty typical of what I think this is probably better than what's

been put out there in the past. I think it's typical of them coming and saying this is kind of our goal. This is kind of where we hope to go. It's not stating that the bandshell has to be done by a particular time. It's not saying that the Aldermen if they pass this have no right to close Court Street. It's just saying this is our goals, this is our wish, this is how we can make the art community better.

Under, you know, Miss Rinaldi's direction, I really am enthusiastic as to how we're going to bring all of our entities together. I mean we see things like Positive Street Art, and we see music organizations, and we see Peacock Players, and so on, all of our arts. I think through this Commission, we're gonna get them all to talk and how can we better. Maybe it's because of COVID and so on, but there are now large art grants that are going to be handed out more than ever before. This Commission has supported with small little scholarships, and grants, and so on all of the different arts organizations that applied for it. They're working on it right now. So I think beyond ever before, I was very excited to be put onto this Commission and I want to be a behind the scenes active member of this but I sit back and watch this group of people. They're amazing.

The thoughtfulness that went into it and I'm glad that Alderman O'Brien pointed out that people should go to - I believe that you can just go from the front page and look at the community and so on. Its [NashuaArtsCommission@Nashuanh.gov](mailto:NashuaArtsCommission@Nashuanh.gov) is the contact of it to send an e-mail and so on. You can just go on to the city's website and its right there. This plan is there as well as many other things. I don't want to use the word "rubber stamp" because I hate that term for anything that we do. I think what we do on this Board is very thoughtful but it would be a shame for anybody to take in this much work and to be put off when this is a goal, and a plan, and they very thoughtfully broke it out into different, you know, topics and so on. I mean when you just look at the plan, you see collaboration, and their action plan for that, and what are the different recommendations about short term, long term. They broke it down to how they could get things done. Just because they said something was a near term or a midterm doesn't mean that it wouldn't be swapped around as the need comes along. It's I think a fluid plan but, again, I have to keep saying the same word and I say it with a heart, it was thoughtful. I wouldn't say that they argued but they debated. That's exactly how things should be done and shouldn't be done and I think that a positive recommendation is the only plan of action for this. So thank you.

#### Chairman Moran

Thank you Alderman Klee. I would for one, do you mind if I just (inaudible) I for one am enthusiastic about this. I've probably worked in the city for about two decades now and I've lived here for over a decade. It always baffles me when I hear so much resistance the arts and culture community and especially when comes to public private partnerships. You don't get that when a public private partnership with science, with retail, with any other industry. It seems to be only arts and culture in this town. For one, it's a huge piece of the economy and a huge piece of human history. What's wrong with going to catch up play downtown? Listen to Romeo and Juliet or going down to Greeley Park and listening to a band. I don't see anything wrong with that. It brings the community together. I think that's what you did in your team creating those and bring it to the Board.

#### Alderman Cathey

I did actually have questions but that was just more of a clarification. And to clarify, I understand what Alderwoman Klee was saying. So that was more just for my own edification. After this plan is approved, because that's where it sounds like it's heading, is there going to be like a more of a breakdown? So for instance when you say you want to fix some things in Court Street, there will then be a plan in the budget for how those things will get done from like here till when everything is long term so that'd be 2027. There'll be more bite sized plans after this demonstrating how that process would then go?

#### Lindsay Rinaldi

Exactly.

#### Alderman Cathey

Okay. Just wanted for clarification. Thank you.

#### Lindsay Rinaldi

Yes.

#### Chairman Moran

Any other questions?

Alderman Thibeault

Just one last thing Mr. Chairman. One last thing. I just, you know, probably from what I was saying before you probably assume I would support it and I well. I think in a City like Nashua I think if you look at a city like ours and the size of ours if it's a pie chart, you know, culture and arts are definitely a slice of that pie. For cities but don't have the opportunity to do that, it takes away something that allows people to go and de-stress from what is often stressful days at work or whatever else is going on. I think COVID took a big bite out of that pie and hopefully we can get back to where it was before. I appreciate, again, all the work that everybody that's on and Alderman Klee for supporting it from behind the scene. So thank you.

Chairman Moran

Any other questions? All right. With that, I believe the motion by Alderman Clemons is to recommend final passage of R-22-023.

**MOTION CARRIED**

TABLED IN COMMITTEE

**MOTION BY ALDERMAN O'BRIEN TO REMOVE FROM THE TABLE THE PETITION FOR REZONING – GATEWAY HILLS OFF RESEARCH DRIVE (A-798, A-1010, A-1011, A-1008, A-1021)**

ON THE QUESTION

Alderman Cathey

Just a clarification. We got this communication from Director Sullivan today. Is this in regards to the thing that we just rezoned?

Chairman Moran

Yes it is.

Alderman Cathey

In that same area? Same building?

Chairman Moran

No. I'm sorry. No. This is from the last public hearing that we had a month ago.

**MOTION CARRIED**

- Petition for Rezoning - Gateway Hills off Research Drive (A-798, A-1010, A-1011, A-1008, A-1021)
  - Tabled at 3/15/22 meeting

**MOTION BY ALDERMAN O'BRIEN TO RECOMMEND INDEFINITE POSTPONEMENT**

ON THE QUESTION

Alderman O'Brien

We'll refer to that communication but I think Director Sullivan is here to answer that and I'll yield to his expertise.

Alderman Cathey

Are indefinite suspension debatable?

Chairman Moran

Yes.

Alderman Cathey

Okay. Thank you.

Matt Sullivan, Community Development Director

The requested withdrawal of the rezoning what is a petition rezoning is the petition that this Committee heard just a month ago as represented by Gerry Prunier and certainly I spoke to that as well. I can't speak to the reasoning for the withdrawal at this point in time. We have not had an opportunity to discuss with the Flatley Company, but our understanding is that they do wish to withdraw. I'm not sure which direction they're moving with the project that was proposed but that's really all the information I have relative to this. There are several other Flatley projects that are currently in queue with the city. This relates only to the rezoning of the area to residential that would contemplate up to 300 multifamily units. That's the only one being withdrawn this evening.

Alderman O'Brien

The reason I made the motion to recommend indefinitely postponement as we sit here, plans can change and then it will take refiling. This aldermanic body or Zoning Board may make future changes in the interim. So to codify it at that particular time and have it then come back and say, well no don't I have this pending? Indefinite postponement clears it basically so it allows the refiling process. It's a lot cleaner to do it this way. Thank you.

Alderman Clemons

Yeah the only thing that I would caution us doing this is because if they do want to come back and I don't know if us indefinitely postponing this will kill it for the rest of the term. So in other words if they wanted to rethink about what they wanted to do and then a few months from now come forward with a plan that did require us to rezone those back to residential, the exact same residential that they're asking for now, we might have unless we, you know, vote as a body to allow it to come in under suspension of our own rules, I don't think that we could do that. I don't think it's a good precedent.

What I would recommend us doing is to be honest with you is just leaving it on the table and letting it sit here. That way it effectively stays in queue. If we never hear from them again at the end of the term, it'll just die. If they come forward with a new plan that's different, then we can take this off the table and do that. So I won't support indefinitely postponement for those reasons because I think it's better to just leave it on the table.

Chairman Moran

You know sometimes I come in here knowing how I think I'm gonna vote and then I hear persuasive arguments.

Alderman O'Brien

Yeah, Mr. Chairman I think this was a wonderful opportunity. If he so wishes for Director Sullivan to take this and offer his - we have two contrary, you know, motions or thoughts on this. I wonder if he wants to discuss and weigh the balance to assist us in making the decision.

Matt Sullivan, Community Development Director

May I decline that? I believe that both are in fact viable options. Certainly our objective is to ultimately - first of all, I've stated publicly we have no position on the rezoning from a substantive zoning perspective but we obviously have other interests in developing this contemplate on the Flatley properties. I view neither action is prohibiting that conversation continued in the future and so I truly do not have an opinion on this. I'm happy to support it remaining on the table to facilitate future discussion but I certainly do recognize that indefinite postponement certainly it's a statement in a way about the current status of this petition in front of this group. I believe that that indefinite postponement could be combined with a reiteration of the concerns that were expressed at the last meeting if the committee so wishes that the developer work with the city to resolve some of those outstanding concerns that staff had. But again, I really don't have a clear objection to either proposal and I'm happy to work with either to hopefully bring this rezoning back in a form that's more acceptable to

the committee and to the city.

Chairman Moran

Thank you, Director Sullivan and stick around because I'm sure there's more questions.

Alderman Thibeault

Thank you Mr. Chairman. This is my Ward so I just wanted to weigh in. Question through the Chairman to anyone that wants to answer this. So if we if we keep it tabled, at the end of the year is that when it disappears?

Alderman Clemons

At the end of the term.

Alderman Thibeault

Oh at the end of the term. So what does the term end?

Alderman Clemons

In 2023.

Alderman Thibeault

Okay. So, you know, I'm not opposed to either one. I mean I think either one gets us to not talk about it anymore unless it comes up again I guess. I don't know. They withdrew it. I think they're going to do something else. I just don't know what it is. They haven't told me. They obviously haven't told Director Sullivan. You don't just pull it from your own land. They're going to do something with it at some point. You know but either one works for me.

Alderman Cathey

Thank you, Mr. Chair. I would have to agree with Alderman Clemons. I want to take a wait and see approach. I would love for Director Sullivan if he can or if Mr. Prunier reached out to him first hear what they have to say before making any action because I don't think that the indefinite postponement is necessary if we can just leave it on the table and then just continue from there. I think that we still have – I don't want to say upper hand - but the authority at least to have that robust dialogue about what the city would require with continuing to build. This is a good faith estimate. They're pulling. I don't want to be reactive and then say okay if you're pulling your petition, then we're putting it way over here. I'd rather just okay let us know when you're ready, come back, and we'll have a conversation at that point. So I think its better just to leave it there and then, you know, we'll see what they have to say. I want to hear what Mr. Prunier says if he reaches out to Director Sullivan at some point.

Matt Sullivan, Community Development Director

Just a brief response. As you're aware, Alderman Moran, we were in active conversations with the Flatley Company and we're ultimately looking to bring this to Committee this evening, if not a future meeting, a potential development agreement and concept master plan. There were very positive steps towards doing so as part of our discussions with the Flatley Company. So I do believe there's good faith there on their part.

Perhaps what would be the best action is to table this for this evening's meeting. I can consult with the applicant or their agents and perhaps get more reasoning or justification for the request to withdraw. Perhaps at the next meeting of this Committee, there will be a final action to indefinitely postpone but I can completely understand that that further clarification may be necessary before the Committee chooses to do so.

**ALDERMAN O'BRIEN WITHDRAW HIS MOTION OF INDEFINITE POSTPONEMENT**

**MOTION BY ALDERMAN O'BRIEN TO TABLE**

ON THE QUESTION

Chairman Moran

Like I said earlier, I was planning to vote indefinite postponed but again after hearing Alderman Clemons, it sounds like a very reasonable thing to do. One, you know, we have no more further information from the Flatley Company. Two, I don't know if it's a negotiation tactic but I think still showing the city has goodwill in this manner is, I think, the best route to take in any route we should take. But my opinion is, you know, I just wish they would share and have open communication. I know there have been with you at some point. I did request that master plan that was waived. I never received it and I did speak to Attorney Bolton with you Director Sullivan and the main question that Alderman Cathey asked last month was can we amend these rezoning? And the answer from Corporation Counsel was yes we can with some specifiers.

Alderman O'Brien

Well I would like to say before, if I may, I could have gone either way with this. To me, indefinite postponement is almost equal or par to. One is non debatable. One is you've made debate. But basically, let's remember I mean I'm open to all future conversations from the Flatley group but it's their ball to move forward. I think we clearly brought our points home. Our job as the city fathers is not to give the store away nor did I think we were giving the store away and not accusing as such. What I'm saying is we're trying to look as we get developed and land is getting sparse at this particular time. I think we're trying to look what would be the best deal such as probably enhancing traffic or other things that at one time weren't looked at completely by this municipality. In the past where there was a great building and everything else that went on and some of those problems today, as you know, constituents go out throughout their business come to suffer because not that foresight. So I think this is a slow, methodical process that we need to address. We do have the time so I would just leave it at that. It could have gone either way but I do hope that the Flatley group would come back to Mr. Sullivan. I do hope that they will bring in their intentions and everything and work with this board. This board encourages - I do in particularly encourage development and would like to hear from them. This was not (inaudible) the door to the project. This is us to keep an open discussion. They have their needs. We have our needs and our needs are the citizens of Nashua and we need to have those questions addressed. I think I speak for everybody here obviously. So if I may with the Chair, wink and a nod, I'll make a motion if that's okay. Thank you Mr. Chairman. I'll yield to Mr. Clemons if he wants to make that motion.

**MOTION BY ALDERMAN CLEMONS TO TABLE  
MOTION CARRIED**GENERAL DISCUSSIONAlderman Thibeault

Thank you. With the table, I wasn't able to really speak but I just want to say we got this e-mail. I mean it's from Flatley. It's not from some citizen wanting us to, you know, kill this zoning or whatever. It's directly from them. Whether it's from Attorney Prunier or Mr. Walker, it's still from them. So I take it at their word and tell us something. So that's why I ended up at the end of the day voting that way. I just wanted to explain it because I was the neighbor out there and it is my Ward. My constituents would prefer never to see them there again. I know that's not the way it goes. They own the land so at some point we do have to work with them and I'm fine with that. But when we asked them for a master plan, they pretended they had one or at least Attorney Prunier did and they didn't. So that's kind of what we were waiting for on that. I hope they bring something back to us and maybe tabling this will allow them to do that. I just wanted to get my point out there about why I voted the way I did and how I support my constituents with regard to Flatley building on this property. Thank you.

Alderman Clemons

Thank you, Mr. Chair. Through you either to Director Sullivan or through you if you could to Corporation Counsel, could we just find out if we do indefinitely postponement if they were to bring a new petition forward that's identical would we be able to do that having indefinitely postponed it in the same term is my question through you to Director Sullivan to ask Corporation Counsel or...

Matt Sullivan, Community Development Director

I did have a conversation about this with a representative of Corporation Counsel today but I will confirm it. My understanding is that they would have the right to return with an identical petition should it be indefinitely postponed. I will confirm that.

Also as part of that confirmation, I do have a plan that was received by the city several years ago that I've located relative to the Flatley development. I will share that with members of the committee as well.

Chairman Moran

Okay. And if you would just ask Corporation Counsel whatever their opinion is maybe a couple sentences e-mailed to the Committee.

Matt Sullivan, Corporation Counsel

Sure. Absolutely.

Alderman Clemons

And to just further that, I would appreciate that and that's the reason that I recommend it. It's not that I think that one is better than the other or whatever but I guess my point was I don't want us to close the door on something that we don't necessarily have to close the door. So if Corporation Counsel says that yup they can come back with an identical petition and we can take that up same term, couple months down the road, whatever. If they so choose to do that, then the next time this comes up I will support Alderman O'Brien's motion to indefinitely postpone and go forward. My only intention was let's not close that door tonight without knowing the answer. So that was my only.

Chairman Moran

Thank you Alderman Clemons.

Alderman Cathey

Thank you, Mr. Chair. If they came back with an identical petition, does that have to go back to the Planning Board since the Planning Board has already approved the rezoning? It would, okay. So they would just go back through the whole process again and ask for the same thing. Okay. I just wanted the clarification.

Chairman Moran

It seems easier for them just to...

Alderman Cathey

Come straight back to us because the Planning Board is gonna say yes anyway. That's fine. I just wanted that clarification because sometimes it's a little cloudy.

Alderman O'Brien

That's why Alderman Cathey not to be schematic in the terminology, but they would have to refile yes.

Alderman Cathey

So then we would indefinitely postpone the current petition, and then receive a new petition, and act on that? Okay.

Alderman O'Brien

We probably would have to do a little leg work. Yeah. If we have this on the table, we may want to indefinitely postpone this and then look at the newer petition perhaps.

Alderman Cathey

Okay.

Alderman O'Brien

We'll have to wait to see what comes back.

Chairman Moran

Any further general discussion? Seeing none.

PUBLIC COMMENT- NoneREMARKS BY THE ALDERMENAlderman Klee

Thank you so much. First, I want to thank this body for giving a favorable recommendation to both R-22-010 and R-22-023. I also want to make it a point to say how hard the Arts Commission really worked. I want to give kudos to Director Sullivan for R-22-010. He is the one who created the language working with a Counsel and so on. He painstakingly created the language as such so that we didn't have too many questions and we didn't have too many pitfalls and so on. So all the kudos go to him, and his hard work, and that was even before he was the Director when he was just Mr. Sullivan. But he did and he had to listen to me at nauseam and that's not an easy thing to do. So I truly appreciated all the work that he did.

And on a different note, I don't know if this is just for Ward 3. I think it's actually throughout the entire city but the sewer project because of the way the water pipes are very close to, and most of the time on top of the sewer, when the sewer lines have to be replaced, Pennichuck is coming in and moving the water pipes so that they're no longer on top. They're kind of maybe in the same trench but they're not on top so that one can work with the other without having to disturb that. In doing so part of the thing that the sewage program is doing is that they're relining many miles of our sewer lines. They're also disrupting the water pipes and water pipes throughout the entire city because of age and just because the way they are have, for lack of a better word, I'll call it a film. But it's basically manganese along the inner of the pipe to regulation. Well it is actually manganese as well. So you use the technical term I just used. I call it the mascara stuff.

Alderman O'Brien

I dealt with a lot of water.

Alderman Klee

And oftentimes up and to this point, people would see this brown water. Sometimes extremely chocolate brown is what it was referred to today by one of my constituents and it truly was. It's very disturbing to see it in your toilet, or you see it in your bathtub, or god forbid you've done white laundry and now you have red clothes. This is directly because of all the work that's being done. It's not the water is polluted. It's nothing to do with that. If you do and by the way anybody does white laundry and gets red clothes, contact Pennichuck. They have this great red out and it works but it only works for white clothes.

The other thing is if you do see this brown water for 15 minutes, flush your cold water taps. Open up your faucets and just run your water till it's clear. If it's in your toilet, you're gonna have to flush it a few times or clean out your tank. If you've run the tub like I often see it a brown tub that I'll have, and I have beautiful pictures of it, that means it's in my hot water tank and usually that means you have to drain your hot water tank. So for those who know how to do it safely, please do that because the remnants inside this. Often times you'll see - you might see your water seems clear but you see little specks in your sink, or your tub, and my husband I think at one point was accusing me of wearing too much mascara and I'm like nobody wears that much mascara at least in my house because we would have smudges on the tub and so on. That's what looks like a mascaras. That is just the manganese. People will tell you that it's safe to drink and so on. I'm not about to drink it. I have had a couple of people who have said to me that their water is tasting differently. This is the number one thing. First off, you contact Pennichuck before and after whether it's been cleared out or not. Let them know that it's happened. That is important to call Pennichuck.

The other thing is to run your cold water for 15 minutes until it comes clear. It could take 20 minutes. If it's a consistent happening over the next month or something, contact Pennichuck. Pennichuck will pull your water meter and they will flush your home out. They've done it to me and they've done it a number of people in Ward 3. This is a big problem in Ward 3 and it used to only happen when there was a large call for water. So right now Pennichuck is flushing many of the hydrants. They do this every spring. When that happens, you'll notice that it fluffs out all this stuff and it ends up in our homes. Or if like Alderman O'Brien when he was a firefighter, fought a fire connected to a fire hydrant, that's called "a large call for water". When a large call for Water happens, a large call of water can also happen when they're paving our

streets because they call the streets through the hydrants. They attach to the hydrants and they cool off the streets and oftentimes that will happen as well.

Sometimes it's just a disruption. It could be a sinkhole. It could be anything that happens. The vibrations to the pipes can create this. Do not panic. Contact Pennichuck and let them know even if it's cleared up because as often as been told to me by Mr. Goodhue and Mr. Ware is they can't fix and they can't track what they don't know. If we just stay silent and get on Facebook and complain about it, it's not helping them any. So I'm just going to ask the citizens that if they have this issue, contact Pennichuck. Run your water, cold water preferably. If you have to clear your hot water tank and flush your toilet million times like I had to do. I talked to one person who thought their child was just not flushing the toilet properly but these are kind of some of the things that you see and it is very important. Our water is not contaminated. It's very clean. It meets the highest standard and it's tested and pure when it leaves. Our pipes are old. They're working to get it. If they had to fix all the pipes, we could not afford our water bill. So having said that, I just wanted to make that very clear. Thank you.

#### Alderman O'Brien

Yeah, I have to agree with Alderman Klee. The citizens I think they do know but never really looked at the technicalities. What you're dealing with is what's called "a normal operating pressure" of your water distribution system. You take a shower, flush the toilet, you take a shower. No way do you have the velocity that's inside the pipes that you have during the normal operating pressure. But you put a fire truck on it, or if you have a rupture, or perhaps a large volume of flow, then what happens the water picks up the velocity. It knocks off the manganese because all pipes tuberculate. That's the crusting inside and that's what gets in it. As a firefighter for 35 years, I have drank that water. I'm doing okay. I don't have two heads. It does not look pleasant and understandable. So I think you gave good advice. As Pennichuck is going to get out this spring to prevent it from the buildup on the interior of these pipes, they've gotta flush them. So when the citizens see the hydrants open and everything else, they're testing. Plus, they're also doing checking for fire flow to make sure that the pipes haven't gotten too caked up that does adequate amount of water pressure available to fight fires and everything. So it's a good thing. I know it's inconvenient, but it's part of maintaining a well operating system that we do have. So thank you. Thank you for bringing it to the public's attention.

#### Chairman Moran

Thank you, Alderman O'Brien. Also folks who are looking at whole home filtration systems and if you don't want to be inconvenienced but it's a little bit expensive. I think in the next 20 or 30 years, you'll probably see more of those in homes.

#### Alderman Comeau

Thank you, Mr. Chair. I just wanted to – Alderman Klee stole my thunder a little bit - but I wanted to thank Director Sullivan. I feel like half the time when I ask him a question, I'm really putting him on the spot and his answers are always very well thought out and very knowledgeable. I appreciate his insight on a wide range of topics. He's absolutely the best. So thank you Director Sullivan.

And just a general point about our discussion earlier. I'm going to ask questions a lot over the course of the next almost two years remaining. I hope that the fact that I ask questions is not always going to be construed as opposition. I'm going to end up probably supporting the ordinance that we talked about earlier but I'm never going to go in and just blindly support something. I hope that that doesn't become a problem. I like to be well informed. I'm going to ask my questions and then I'm going to vote accordingly. We're not always going to agree on everything but it would be nice if we could debate the topics and not the speakers. Thank you.

#### Chairman Moran

Thank you Alderman Comeau. I would agree with that. I've had that experience myself. Anyone else?

#### Alderman Cathey

Thank you, Mr. Chair. Luckily, I have not had that water issue that you guys were talking about. I've only had the white like where it's like not super clear. So kind of a whitish color and then it dissipates after a while. But I heard black smudges and I was like, whoa.

#### Chairman Moran

No fires in Ward 7.

Alderman Cathey

Yeah, no, thanks. I just wanted to state for the record that when the ordinance for the smoke shops, for lack of a better term, came forward, I was almost immediately a no just because I just don't like government getting involved in business at all really. I pride myself on looking at facts, and data, and all that other good stuff. But I have kids in the school system. I have friends who have younger kids that are in school system. I would hate the fact that they're walking by places like this all the time because there is some sort of age influence with advertisements these days. If you're around a certain environment all the time, there's a stronger likelihood that you're going to be more intrigued or engage in that sort of activity and so to me it's kind of just is more of a common sense. I don't want that around where my kids would maybe be walking home from school, or hanging out their friends, or whatever. If I had younger kids, I don't but for other families that do if there was a school like Elm Street if it still existed and was that close to a place like that, I wouldn't feel great about that.

So for me, it was more of a what kind of city do we want to build? What kind of business do we want? We don't want to say no to all businesses, but we want to also be wise about the type of environment that we're creating especially if we're going to be emphasizing the downtown area as sort of like a place to go. We would then want to build that environment up to be more. I don't wanna say enjoyable but like more conducive to a better quality of life I guess I'll say. So that's why I ultimately supported the ordinance. Thank you.

Chairman Moran

Anyone else? All right before I go to Alderman O'Brien, I would just like to express my heartfelt condolences to former Alderwoman Lu's family. She lost her son recently and it's very (inaudible) it's very sad. She served our city last term and I think - I want to express - I reached out to her via e-mail today and offered her both my professional support and support. It's just (inaudible) parent and I just want her to know and the city to know my family is praying for her family and I ask President Wilshire to make an acknowledgement of this at the next full Board meeting.

ADJOURNMENT

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

The meeting was declared closed at 8:52 p.m.

Alderman Derek Thibeault  
Committee Clerk

## Graham, Donna

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**From:** Sullivan, Matthew  
**Sent:** Monday, April 18, 2022 9:11 AM  
**To:** Moran, Melbourne; Graham, Donna  
**Cc:** Cummings, Tim; Legal Dept; Thibeault, Derek  
**Subject:** FW: Zoning Change

**Importance:** High

Good morning:

Please see below.

Thank you,  
-Matt



**MATT SULLIVAN**  
**COMMUNITY DEVELOPMENT DIVISION DIRECTOR, CITY OF NASHUA**  
603.589.3095 | [SULLIVANM@NASHUANH.GOV](mailto:SULLIVANM@NASHUANH.GOV)  
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THE RIGHT-TO-KNOW LAW (RSA 91-A) PROVIDES THAT MOST E-MAIL COMMUNICATIONS, TO OR FROM CITY EMPLOYEES AND CITY VOLUNTEERS REGARDING THE BUSINESS OF THE CITY OF NASHUA, ARE GOVERNMENT RECORDS AVAILABLE TO THE PUBLIC UPON REQUEST. THEREFORE, THIS EMAIL COMMUNICATION MAY BE SUBJECT TO PUBLIC DISCLOSURE.

**From:** Kevin Walker <[REDACTED]>  
**Sent:** Monday, April 18, 2022 9:04 AM  
**To:** Sullivan, Matthew <[sullivanm@nashuanh.gov](mailto:sullivanm@nashuanh.gov)>  
**Cc:** Chad Branon <[REDACTED]>; gprunier <[REDACTED]>  
**Subject:** Zoning Change

**CAUTION:** This email came from outside of the organization. Do not click links/open attachments if source is unknown.

Matt, please accept this email as a request to withdraw our request for a zoning change.

Kevin Walker, P.E. | John Flatley Company  
Vice President of Construction and Engineering

**JOHNFLATLEY**  
Company

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