

NASHUA CITY PLANNING BOARD  
May 19, 2022

The regularly scheduled meeting of the Nashua City Planning Board was held on May 19, 2022 at 7:00PM in the 3<sup>rd</sup> floor auditorium in City Hall AND via Zoom virtual meeting.

Members Present:     Scott LeClair, Chair  
                          Adam Varley, Vice Chair  
                          Dan Hudson, City Engineer  
                          Bob Bollinger  
                          Larry Hirsch

Also Present:         Matt Sullivan, Community Dev. Director  
                          Linda McGhee, Deputy Planning Manager  
                          Scott McPhie, Planner I  
                          Chris Webber, Department Coordinator

**APPROVAL OF MINUTES**

May 5, 2022

**MOTION** by Mr. Bollinger to approve the minutes, as amended

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 5-0**

**COMMUNICATIONS**

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

- A21-0177, 69 Cherrywood Drive
  - o Letter from Sachin Patel, 69 Cherrywood Drive
  - o Letter from Aravind Balakrishnan, 65 Cherrywood Drive
  - o Letter from Ludwig Heil, 4 Chokeberry Lane
  - o Letter from Bharat Rathi, 67 Cherrywood Drive
  
- A22-0064, 5 & 7 Westbrook Drive
  - o Letter from Rob Mason, 6 Westbrook Drive
  - o Letter from Glenn & Elisabeth Daly, 10 Westbrook Drive

- A22-0038, L Dozer Road
  - Updated staff report
  - Updated subdivision plan
  - Revised waiver request letter
  - Updated Fire Marshall comments
  - Updated traffic comments
  - Letter from Jeanne Deacon, 20 Clearview Drive
  - Letter from David Deacon, 20 Clearview Drive
  - Letter from Chitra Krishnaswamy, Address Unknown
  - Letter from Joe Gardiner, 3 Spindlewick Drive
  - Letter from Kathy Serra, 9 Spindlewick Drive
  
- Other Business #2, 591 West Hollis Street
  - Updated engineering comments
  - Updated traffic impact memo
  - Updated traffic comments

**REPORT OF CHAIR, COMMITTEE, & LIAISON**

None

**PROCEDURES OF THE MEETING**

After the legal notice of each conditional, special use permit, site plan or subdivision plan is read by the Chair, the Board will determine if that the application is complete and ready for the Board to take jurisdiction. The public hearing will begin at which time the applicant or representative will be given time to present an overview and description of their project. The applicant shall speak to whether or not they agree with recommended staff stipulations. The Board will then have an opportunity to ask questions of the applicant or staff.

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

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

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

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

**OLD BUSINESS - CONDITIONAL USE PERMITS**

None

**OLD BUSINESS - SUBDIVISION PLANS**

**A21-0177** Jigna & Sachin Patel (Owners). Proposed subdivision amendment to move an existing utility easement. Property is located at 69 Cherrywood Drive. Sheet C. Lot 2755. Zoned R-40-Rural Residence (FUOD overlay). Ward 9.  
**(Tabled from the October 7, 2021 meeting)**

Mr. Varley said this case was originally tabled to allow the applicant time to work with his abutters.

Mr. Bollinger asked staff if this case has reached a point where it is appropriate to reopen the hearing. They have tabled this for 7 months.

Mr. McPhie said it isn't a question whether or not they have enough information. They have an engineer that will present tonight, and they have a letter indicating that the drainage swale will have no impact. If the Board feels it is not sufficient, they can deny it. He doesn't think they are going to get too much more.

Mr. Bollinger said in last October, the city was considering a possible fine. Are there still other proceedings ongoing?

Mr. McPhie said this is the end of it being on the Planning Board agenda. They have had it for a year, and given everyone sufficient time to get it together. Whatever results tonight, it will go into enforcement after that.

**MOTION** by Mr. Varley to reopen the hearing

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 5-0**

Sachin Patel, 69 Cherrywood Drive, Nashua NH

Mr. Patel introduced himself as the property owner. They move into this property in 2006, and since then there was a public drainage easement in the middle of his backyard, half of his lot. They are asking to move that easement to the back where the water actually collects. The easement is close to his home, where the water doesn't go. By relocating this easement, they would move it to the proper location and it wouldn't be detrimental to any drainage issue. His engineer studied the site and gave a letter that the relocation would not be detrimental to any drainage issue.

Ben Osgood, Ranger Engineering Group, 13 Red Roof Ln, Salem NH

Mr. Osgood said he went out to the site and looked at the area and two adjacent downhill homes. The water is flowing on Mr. Patel's property where he proposes to put the easement. It is not flowing where the easement was designed. In his opinion, he doesn't think the easement should have been put down the middle of the lot. The contractor who developed the lot graded towards the rear, which makes sense. He doesn't think moving this easement is detrimental to anybody and will be where the water is flowing. It will serve the purpose it was meant to serve, convey water from the adjacent uphill property onto the adjacent property.

Mr. Patel said the whole Maplewood area is on a hill, from Hydrangea to Chokeberry. Water is going to flow according to the slope. All of the neighbors have a wet area at the back of their property, but it is never wet by his house. It's not affecting anyone's drainage, he wants to put the easement where the water is going.

Mr. Varley asked if moving the easement wouldn't have a negative impact on the flow. As it exists right now there is a gazebo and hardscape features within the easement. Has that impacted the

drainage flow, or would the drainage already be flowing in the area of the relocated easement?

Mr. Osgood said when he looked at the site, it looks like when they built the home they graded the property away from the house, and the low spot is where the easement is. That's how they graded the property, and he doesn't think the gazebo or patio affects the flow across the property. It's flowing where the proposed easement would be.

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

Bharat Rathi, 67 Cherrywood Drive, Nashua NH

Mr. Rathi said he sent in a list of concerns for this meeting. The original surveyor was from Greg Jeffrey, who has withdrawn from this case. He suggested a hydrologist because there is subsurface water flow. There are underdrains everywhere. He has provided photos of underdrains for the property and the road.

Mr. Rathi said since surveyor Jeffrey has withdrawn, they don't have a survey anymore to base this on. It would have been good if Mr. Osgood had done a survey or engineering plan. That is what came out of the October 7<sup>th</sup> meeting. They were all going to work together to get a drainage plan. They were not going to revisit this easement change and would get a drainage solution, perhaps a drainage pipe that went across all of the properties to a catch basin. In order to connect to a catch basin, they would need permission from Public Works and Engineering. Mr. Jeffrey said for \$9,000 plus \$30,000 in implementation, that there could be a solution for this. He asked a lot of questions about where the easement would go, who would do the maintenance, whether he got pre-approval, he never got a response. Then Mr. Jeffrey withdrew from the case. They never heard anything more.

Mr. Rathi said that Mr. Osgood hasn't done a survey here. He just stated that where the proposed easement would be is the low point. That is correct. That's where the swale is. The problem is that if you move it back uphill, the swale is not there. The water is coming from 71 Cherrywood Drive, which would make them part of the easement and they would get a say from where you move the start of the easement. If you move that easement where the swale isn't, you have to move the swale. Mr. Osgood said they would have to make the hill steeper in order to do that. There is nothing in this letter about making the hill steeper, and nothing about getting permission from 71 Cherrywood to make changes.

**SPEAKING IN FAVOR**

None

Mr. Varley asked if within the existing easement, are there any subsurface structures that could be potentially impacted?

Mr. Osgood said he doesn't know. He doesn't believe so. Mr. Patel has a subdrain at the back of his property that he collects in a sump and pumps out to the front of the property. There are two different issues here. This drainage easement is for surface water. There is a groundwater bleed out problem there. This is a drumlin, till soil. The lots were cut into the existing soil, so they have a lot of weeping of groundwater in the backyards. They would have to cut the hill back to make it steeper to change the swale. He thinks it is not a good design to put a drainage easement in the middle of someone's backyard. What he would have done was move the swale back to the back property line and that would have been the low point of the lot. There is a big hill here, 20-30 feet. Where Mr. Patel wants to relocate the easement, that is where the surface water is going.

Mr. Osgood said there is a whole other problem of bleed-out. It bleeds out and runs down this easement. To dry up your yard, you would have to put in a subsurface drain to capture bleed-out coming down the hill. That is a separate issue from the surface water coming down the easement.

**PUBLIC MEETING**

Mr. LeClair closed the public hearing and moved into the public meeting. He summarized the discussion.

Mr. Varley said having heard the case originally in October and read all the materials, his assessment is that there is an overarching drainage issue. It doesn't seem to have anything to do with the location of this drainage easement. Where the surface water is actually flowing is where they propose to relocate the drainage easement. It seems an odd location for a drainage easement, right in the middle of someone's yard. It seems reasonable to propose to relocate this drainage easement. He appreciates that there are still residual drainage issues that the neighbors have not been able to come to an agreement on. It doesn't seem to him that Mr. Patel should be prohibited from making this change if it's not going to have any substantive impact on the drainage.

Mr. Hirsch asked if it would be a continuous swale, or vary depending on the yards involved.

Mr. McPhie said it would be relocated on Mr. Patel's property.

Mr. Hirsch asked underground piping. Is there any evidence of an effect?

Mr. McPhie said there is none shown.

Mr. Hudson said agreed with Mr. Osgood's assessment of the easement location in the middle of the lot. There is not a deep swale, and there is a distinction between the surface runoff and any underground issues. His hope is that the neighbors could get together and come up with a swale solution to address the wet yards and solve the easement issue. That hasn't come to pass. He feels that relocating the easement doesn't fundamentally change the surface runoff and makes it more consistent with the current condition. He supports the easement approval, but that is separate from any issues with violations. He finds the testimony compelling and agrees with Mr. Osgood.

Mr. Bollinger said overall he has issues with the timing. The easement was already violated, and now there is an application to relocate the easement. Even if the testimony was compelling, they are still put in the situation of righting a wrong. They are trying to adjudicate another matter through the Planning Board process that didn't have Planning Board jurisdiction initially. The proper course of action would have been to relocate the easement prior to the construction of structures that violated the easement.

Mr. Varley said he doesn't think they see it a lot on the Planning Board, but he suspects the Zoning Board sees it quite frequently. He doesn't believe the property owner constructed the gazebo with the intent to violate the easement. Rather, whoever did the construction didn't do their diligence. People should be proactive and ask for the relief before it's needed. As a practical matter, he thinks it's appropriate to resolve it after the fact.

Mr. Hudson agreed. He doesn't want to reward doing things inconsistent with the approved plans. He believes this change doesn't create a situation that can't be mitigated. The grading is such that it drains through the proposed easement area. It's unfortunate that it came to be, but had this come in before the gazebo was placed he doesn't feel he would come to a different opinion. The location provides the passage that was the original intent of the easement.

Mr. LeClair said the purpose of the easement is to keep from having structures built where the surface water drainage is. If they don't move the easement, the property owner can put the gazebo where the water is. They don't want structures in the path of the current water flow. As a practical matter, what is best for the property? They don't want future construction there. It doesn't make sense to put a second easement on the lot.

Mr. Bollinger said the applicant is asking for a waiver from a drainage study. Without that, he doesn't know if it will function as intended. Due to the lack of study and the fact that they are handling this out of order, he has reservations about approving the request.

Mr. Hudson said he would like to see topography. It is not appropriate to have it on the plan that will be recorded, as typically you want to keep those plans clean, but they should not relieve the applicant of the need to provide a topographic plan that shows the flow line so they can confirm it is in the easement area. He would like that to be a stipulation.

Mr. LeClair asked staff if denying the waiver request would require them to provide that.

Mr. McPhie said yes.

Mr. Hudson said he's not seeking a drainage study. They don't want structures placed in the water flow line, and he wants to make sure this easement encompasses the flow line. If it isn't, that flow line should be regraded to be within the easement. They should be given some assurance that the easement is in the right location.

Mr. Varley said they can grant the waiver from the drainage study, subject to a topographic detailed plan.

Mr. Hudson agreed.

**MOTION** by Mr. Varley to approve Old Business - Subdivision Plan A21-0177. It conforms to §190-138(G) with the following stipulations or waivers:

1. The request for a waiver of § 190-282(B)(9), which requires physical features on site and within 1,000 feet, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.

2. The request for a waiver § 190-282(A), which requires plan submittal to be a certain scale and size, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. The request for a waiver of § 190-283, which requires a traffic letter or report, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
4. The request for a waiver of § 190-282(B) 25, which requires a drainage letter or study, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
5. Prior to the Chair signing the plan, all minor drafting corrections will be made.
6. Prior to the Chair signing the plan, the owner's surveyor will prepare an application to the Nashua Zoning Board to seek relief for driveway width and for a shed located in two setbacks.
7. Prior to the Chair signing the plan, the electronic plan file of the subdivision shall be submitted to the City of Nashua.
8. Prior to the Chair signing the plan, all remaining building permit issues should be being addressed.
9. Prior to recording the plan, the applicants legal representative will prepare an updated drainage easement document reflecting the new metes and bounds description and any other required details to be reviewed by City Staff and recorded with the plan t the applicant's expense.
10. Prior to recording the plan, stormwater documents will be submitted to planning staff for review and recorded with the plan at the applicant's expense.
11. Prior to recording of the plan, all conditions from the Planning Board approval letter will be added to the cover page of the final Mylar and paper copies submitted to the City.
12. Prior to the Chair signing the plan, the applicant shall submit a topographic plan to staff for review and approval which will demonstrate that the flow line of drainage will run through the proposed easement.

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 5-1 (Bollinger opposed)**

**OLD BUSINESS - SITE PLANS**

None

**NEW BUSINESS - CONDITIONAL USE PERMITS**

None

**NEW BUSINESS - SUBDIVISION PLANS**

**A22-0064** ColinBrooke Investment (Owner) - Application and acceptance on proposed lot line relocation. Property is located at 5 & 7 Westbrook Drive. Sheet A - Lot 355 & 356. Zoned "R9" Suburban Residence. Ward 7.

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

**SECONDED** by Mr. Varley

**MOTION CARRIED 6-0**

Sam Ingram, Civil Engineer, Meridian Land Services

Mr. Ingram introduced himself as representative for the owner.

Mr. Ingram said they are proposing a lot line relocation of two previously existing lots. There is an existing house on Lot 356. Lot 355 is currently vacant. They are looking to relocate the line to a more realistic and reasonable location.

Mr. Ingram said they are looking to increase the size of lot 356 and decrease the size of lot 355. Both will maintain the required frontage and area.

Mr. LeClair referred to questions submitted by abutters, and asked whether or not the roadway has a moratorium on street cutting. Does that impact the usability of the lot?

Mr. Ingram said there is a moratorium in place. He would like to reduce the purpose of this application to a simple lot line relocation, but if and when construction happens, the developer would take the necessary steps to get approval.

Mr. LeClair asked if any zoning relief is required for this adjustment.

Mr. Ingram said no.

Mr. Varley said there was reference to a path that exists on the parcel now that allows students to cross through the lot to get to Sunset Heights school. He doesn't see anything on the plan, nor anything on the ground that indicated a specific path. Is there a designated path now, and would that be preserved?

Mr. Ingram said at the time they did the survey there was a small amount of snow on the ground. There was no evidence of a path, and from what he understands there is some level of a path along the property line that people use. Even if it exists, no construction of a house would prohibit that. That path is on private property, and there is no public right or easement to use it.

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

Thomas Royal, 3 Westbrook Drive, Nashua NH

Mr. Royal said he and his wife have four main concerns. The first is water runoff to their property from the proposed building site. There is no grading plan, and the contour map shows water going into their property. They have already had instances where water gets into their basement. The adjacent property is 10-ft higher. If they put in another building with more impervious surfaces, the water will runoff and cause more surface flow onto their property.

Mr. Royal said their main concern is the request for a waiver. No one is looking at what does happen to the water that this will produce, and they're asking for a waiver to not address those issues. There are a lot of trees along the trail, and they haven't addressed that. Those trees are important to keep the hillside from eroding into their property and keep drainage better than if there was a driveway. The trail serves as a conduit between the properties out to the street. Any changes will flow onto their property. The trail is kinda used as a public access for the neighborhood to go up to the park and it's important to everybody.

Mr. Royal said there are a few errors in the plan. There is no overhead line across the street, so putting another pole is an additional hazard. The lot width is not 20-ft. He would urge the Board to require them to provide the information necessary to make a good judgement on the effect of the abutters.

Lori Royal, 3 Westbrook Drive, Nashua NH

Ms. Royal said they believe this waiver should not be granted because of the natural characteristics of the land that has been established. The Sunset Park meets these properties in the back. The Sunset Elementary is at 171-ft in elevation. Their property is at 140-ft. The back of lot 355 is at 150-ft and 160-ft in elevation. It's such a steep hill that behind lot 356 they have built a retaining wall. Lot 355 is 14-ft above our property. They feel that more of a contour map should be done. It's not just a simple line change. They are giving 6,700-sqft from lot 355 to lot 356. This isn't a simple lot line when you take into play everything that's going on. They bought the house six years ago, and one of things that was asked of them was not to change the trail. It's very wide and has always been there. They monumented their property, and the marker is right in the middle of the path right before it drops off the hill. They were asked not to enclose it by the neighbors because it has been existence for the children to go to the elementary school, and every day they see people pass by. They have allowed it and left it open because it is mostly open access to the school. It's a safe neighborhood. There are younger kids coming in to the neighborhood. She doesn't think the waiver should be arbitrarily tossed out with everything that is within that property. It's a steep area and the trail has created natural runoff. The previous neighbor built up on his side by the trees that they don't want removed.

Ms. Royal said the existing storm inlets and manhole covers are on the plan. What is not on the plan is right at the end of their driveway is a grate. When the stormwater runs, it starts heading towards them from lot 355. It floods their mailbox, driveway, and heads toward the grate on the opposite side of the road. That isn't shown on the plan. It is such a low spot that it collects everything.

Roger Lockhead, 4 Westbrook Drive, Nashua NH

Mr. Lockhead agreed with Mr. & Mrs. Royal. He lived at 3 Westbrook Drive for 32 years and then moved across the street. During heavy rains in the winter, that path turns into a brook. They have two sewers to take care of the flow at his end. He has found himself out there many nights raking leaves out of the storm drains so the water wouldn't go down his walkway. There's too much volume for the lack of sewers.

Mr. Lockhead said that park starts in the morning with dog walkers and kids going to school. It's been that way since the late 60s when the houses were built. The property boundary for lot 355 is directly in the middle of the path.

Erin O'Malley, 8 Westbrook Drive, Nashua NH

Ms. O'Malley said this isn't a simple lot line adjustment. There's a lot in play. The front yard setback is a concern because all of the homes are in parallel with each other. A home slammed into an established neighborhood is a concern. The existing overhead electrical service indicates an install of a utility pole with appropriate connections. If you come into Farmington Acres today with the big metal poles that connect to the grid; that is a terrible eyesore. She wants to understand that because it would be directly in front of her home.

Ms. O'Malley said the home will be serviced by existing municipal water and sewer supply. What impact does that have on her and this neighborhood? No underground utility investigation was performed, so what impact does it have? She is concerned about slamming in a home in a neighborhood that has been here since the sixties.

**SPEAKING IN FAVOR**

None

**APPLICANT REBUTTAL**

Sam Ingram, Civil Engineer

Mr. Ingram they are not trying to do anything that would cause negative impacts on surrounding properties. The intention of the application is to discuss the relocation of the lot line. A lot development plan will be provided to the Building Department prior to the issuance of a building permit to ensure that they are being consistent with the development regulations. That is a different issue than the application for relocation.

Mr. Ingram said they are not saying they will obstruct or close the path. He wants to make it clear that the path is on private property, and those private property owners have a right to that ownership.

Mr. Ingram said when they perform a survey of this nature, it's standard that no underground investigation is done at that time. That would be done at time of construction. At this time they are not proposing structures.

Mr. Varley said he understands that this plan is a lot line relocation plan. But it is specifically in contemplating of the construction of a house on the newly created lot. It's reasonable for them to expect the applicant to address the drainage a bit more specifically than that. He is not comfortable with just a building permit. He would like to hear the applicant address the drainage specifically.

Mr. Ingram asked if this was for the path or roadway.

Mr. Varley said regarding the construction of a residence on the newly created lot in general.

Mr. Ingram said any proposed construction will be consistent with the development regulations. They are not going to go through with that effort without the understanding that they can have the lot line adjustment approved. They don't even know if they are going to build or not. It's putting the cart before the horse. They want to have the lot approved before they propose improvements and not creating an adverse effect.

Mr. Hudson asked staff if the applicant did not get this lot line adjustment, they could not apply for a building permit. Currently the lot line splits the existing dwelling.

Ms. McGhee said no. Because the property line goes right through the existing house, they are using both lots. They couldn't just go get a permit.

Mr. Hudson said this is not just a simple lot line relocation, it is an attempt to create a buildable lot. He is unsatisfied that they are creating a buildable lot. They need to be satisfied that this will not exacerbate existing drainage issues. Mr. Mendola's engineering memo mentioned certain NRO's that speak to drainage in his list of concerns. He asked if lot line adjustments are treated like subdivisions.

Ms. McGhee said yes.

Mr. Hudson said it's the same process as a subdivision, where they ask for that information. He thinks it's reasonable to get

that additional information before they approve this. Based upon the concerns noted, he can't support this without additional information.

Mr. Hirsch asked staff if that path has been used for 50-60 years, could someone close off the path?

Ms. McGhee said she is not an attorney, so perhaps Mr. Varley could answer it better. There is no easement on the property to allow for that.

Mr. Varley said it sounds pretty informal. There are very specific requirements you would have to meet to qualify for adverse possession. It seems clear that it is on private property and there is no easement. In theory, they could close it off.

Mr. Hudson said there is testimony that the property line is in the middle of the path. He doesn't know what the applicant would be willing to do, but it would be nice if there was an easement through there. But that's something that would need to be considered by both property owners.

Mr. Hudson said this street is under a paving moratorium, which is another reason he does not feel compelled to act on this quickly. It is under moratorium until 2025. This would need a sewer permit and cutting into the street, which would mean Board of Public Works approval. One of Mr. Mendola's comments is that this should not be approved until the moratorium ends. He doesn't want this to get to the point where the Board of Works is put in the position where they are last in the chain of review. It's not fair to them. A continuance of the case may be appropriate.

Mr. LeClair said with respect to underground utilities, that is the ordinance in Nashua. It's not an option to have overhead utilities without a waiver. Generally speaking, they are going towards underground utilities, and he is not in favor of making people go above ground. That is inconsistent with the Master Plan.

Mr. LeClair said the drainage is an issue. It is not uncommon to require additional conceptual design for drainage and what features might be contemplated. Any time they have a lot with a significant gradient, it's not uncommon with any subdivisions. There is no site planning process, one and done.

Mr. Ingram said the note he added to the plan, Note 9, said "prior issuance of a building permit, a lot development plan shall be

provided to the building inspector, showing all the post site improvements. If an acceptable plan cannot be agreed upon, further Planning Board approval and review may be required." They are by no means unwilling to provide that information. He said that is not the purpose of this application and it will be done at the time they file for a building permit.

Mr. LeClair said that's not typically how the Planning Board works. For this type of residential subdivision, the Board does not want notes that require something to come back. He is looking for some semblance of a design ahead of his signing off on a plan. That's how the Board works.

Mr. Varley said he would suggest tabling the case two meetings out for the purpose of allowing the applicant to develop and submit a conceptual plan for what the drainage would look like and for them to consider the easement issue in terms of what they would be willing to do.

Mr. Ingram requested that they table it for one meeting, not two. It will not take much time to put together a plan, but it didn't feel it was appropriate or required given that they don't know what is proposed for this lot. It's a contemplated conceptual design, so he feels at the next meeting they would have appropriate enough time.

Mr. Hudson said the next meeting is in two weeks' time. If it was submitted tomorrow he can't guarantee it will have a complete review by then. They have a lot of cases. He would prefer two meetings out, June 16<sup>th</sup>.

Mr. Ingram said in reference to easements, what level of expectation that the Board has that they will come to an understanding?

Mr. Varley said there is no expectation for documentation, but an indication of whether the owner would be willing to consider it, so the abutters would know if the access will be maintained.

Mr. Ingram asked who would be the holder of that easement.

Mr. Hudson said it could be an easement to the public benefit, for passage.

Mr. Varley said he doesn't know who the party would be.

Mr. LeClair said he can work that out with city staff.

Jay Lansing, Owner, Colinbrook Investments

Mr. Lansing said he has no problem with an easement, but who is going to be liable? If a kid falls and gets hurt, would he be liable for that?

Mr. LeClair said he would not be able to comment, but they can ask Planning staff.

Ms. McGhee said they can ask Corporation Counsel.

Mr. Lansing asked if the easement would take away from setbacks.

Mr. Ingram said yes.

Mr. LeClair recommended that they contact city staff.

#### **PUBLIC MEETING**

Mr. LeClair closed the public hearing and moved into the public meeting. He said it's pretty clear that there is a desire to get additional information on conceptual level drainage.

Mr. Bollinger said the most recent example he can think of is Morningside Drive, where there is a significant grade separation and they asked for supplemental information. He doesn't think it is unreasonable to ask for. In regards to an easement, understanding that the public has used it for years, he would be uncomfortable imposing that condition forcing someone to give up their private property with other entanglements involved when there's no definitive proof of usage. The owner has agreed to consider it, but he is uncomfortable mandating that an easement be in place. That should be voluntary except under extraordinary circumstances, such as drainage or utilities.

Mr. LeClair said that is consistent with how the Board has operated in the past. They ask for consideration, they are not in the business of requiring easements on personal property. He would concur with the owner.

**MOTION** by Mr. Varley to table A22-0064 to the June 16, 2022 meeting, for the purpose of allowing the applicant to develop a conceptual drainage plan and consider whether they would be amenable to a pedestrian easement

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 5-0**

*The Board held a five minute recess*

**A22-0038** John J. Flatley Company (Owner) - Application and acceptance on proposed 58- unit conservation subdivision with a community club house along with associated site improvements. Property is located at "L" Dozer Road. Sheet A - Lots 58, 67, 68, 768, 990. Sheet 132 - Lots 1 & 85. Sheet 114 - Lot 231. Zoned "R18" Suburban Residence & "R-40" Rural Residence. Ward 8.

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

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 5-0**

Chad Branon, Civil Engineer, Fieldstone Land Consultants, 206 Elm St, Milford NH

Mr. Branon introduced himself as representative for the owner. With him is Kevin Walker of the John J. Flatley Company and traffic consultant Jason Plourde from VHB.

Mr. Branon said they are seeking a subdivision approval for a 58 lot subdivision on the northern portion of the Gateway Hills property. He described the Gateway Hills development, which encompasses 400 acres. The proposed development does not connect to the existing roadway infrastructure on the southern half of Gateway Hills. This subdivision will connect to Spindlewick Drive through an existing right of way which will tie into an existing established residential neighborhood. This proposal will consist of merging nine existing lots and extinguishing a portion of Dozer Road. These properties total 50-acres of land. The northern portion is in the R18 zone, and the southern portion is in the R40 zone. The subject properties are vacant, and slope towards the turnpike. It is primarily wooded with a few wetland areas toward the north, central, and southeast.

Mr. Branon said the layout of the proposed subdivision has taken shape over the past few years and has incorporated meetings with city staff and the surrounding neighborhood. Those revisions have

consisted of increasing buffering and preparing a traffic study. This property did not reach the threshold where a traffic study was required by the traffic impact report worksheet. This project proposes 58 lots with separation between the homes and substantial buffering to the neighborhood.

Mr. Branon said that without applying any density bonuses, this project and the subject properties could have been developed by right into 85 residential units. If they took into consideration the city's new inclusionary zoning ordinance for affordable housing, that could have approached 110 units. They believe this is a reasonable proposal, given the nature of this proposal.

Mr. Branon said the development will be serviced by four roads, which create an internal loop traffic pattern. They terminate in three dead end cul-de-sacs that meet city standards. The roadways and all associated infrastructure will be private in nature, and the roads in total consist of about 4,600 linear feet and will be 28-ft in width curbed, with closed drainage. This will handle daily traffic and emergency response vehicles. They have reviewed this with the Fire Dept and Engineering. There will be an internal sidewalk system on one side of the road.

Mr. Branon said this development will include the construction of a 1,700-sqft clubhouse with associated parking. They comply with parking requirements for the clubhouse. Other site amenities include a pool and barbecue areas, as well as recreational trails. This project will place 25.15 acres of land under conservation, which will be protected. This meets the city's requirements for open space calculations.

Mr. Branon said this embraces the city's inclusionary zoning for affordable housing and will provide for six affordable housing units. The development will be serviced by Pennichuck water, municipal sewer, natural gas, and underground electric. The sewer connection will consist of a network of gravity sewer piping that will be routed to a pump station, and up to Spindlewick to an existing manhole. Other site improvements include, landscaping, lighting, drainage, and utilities.

Mr. Branon said there will be pole mounted lights at internal intersections, four total, and will be LED and designed to meet city standards. The lighting will be residential grade. There will be lighting around the clubhouse, and meets city criteria.

Mr. Branon said the drainage design consists of collecting stormwater from all improved areas and directing it to four stormwater management areas, using closed drainage and a series of conveyance swales. Those areas are two wet ponds and two infiltration basins. They have submitted a detailed report which shows there will be no increases in the peak rate of runoff due to the mitigation proposed. It complies with city requirements and also the NH Dept of Environmental Services Alteration of Terrain standards.

Mr. Branon said there are wetland buffers and two wetland crossings proposed for this project. They total 6,700-sqft in size, and are associated with the roadway network. They have been before the Conservation Commission obtained approval, as well as secured a special exception from the Zoning Board. The plan before you complies with the conditions of approval from the Zoning Board and Conservation Commission.

Mr. Branon said they have reviewed the staff report and are working to address the comments received. They have no issues with any of the staff comments, recommendations, or conditions. With this application they are requesting multiple waivers, as detailed in the staff report.

Jason Plourde, Traffic Engineer, VHB, 2 Bedford Farm Rd, Bedford NH

Mr. Plourde said they got involved in January, with they submitted a traffic impact threshold worksheet to city traffic engineer Wayne Husband with associated information. Based on the information, they had to generate traffic for this development and compare that to the city's thresholds. They do not trigger this, however they held a neighborhood meeting to hear concerns in regards to traffic calming. In March they collected traffic counts at four locations and received traffic volume information from the signalized intersection at East Dunstable Road.

Mr. Plourde said they compiled all the information, adjusted them for the peak monthly conditions, and increased them to account for the pandemic. Traffic volumes are increasing, but aren't the way they were in 2019. They collected speed data and hourly traffic volumes to determine whether 4-way stop intersections would be effective. They followed the Manual on Uniform Traffic Control Devices (MUTCD), and those warrants are based on traffic volumes, speeds, sight distances, and crashes. They coordinated with the city police department and obtained crash information

for the five intersections identified in the public neighborhood meeting. Using this, they came up with potential measures to improve traffic flow, circulation, and speed.

Mr. Plourde said there is the potential of striping a double yellow centerline down Timberline Drive. However, there is already a white line shoulder on the side of the road. You don't want to have a travel lane less than 10-ft wide. If you put in a centerline you have to shrink that shoulder, and that would eliminate on-street parking. They don't want to do that, so they coordinated with Mr. Husband and issued an email that the city has gone away from striping double yellow centerlines on neighborhood streets. He said you also don't want to do yellow striping periodically through the neighborhood, you want an overall holistic approach for continuity and familiarity.

Mr. Plourde said in regards to 4-way stop control, that's another measure that traffic engineers need to follow. There's a liability associated with them changing traffic controls arbitrarily, they have to follow certain standards, guidelines, and regulations. Based on the MUTCD they looked at these intersections, and the traffic volumes do not trigger all-way stops. The crash reports don't indicate the need for them. If they put in an all-way stop it will be a liability, as it is not supported by the national guidelines.

Mr. Plourde said another thing they looked at is the traffic signal timing at East Dunstable and Harris Rd. That signal is tied in with four other intersections, and is a coordinated system. Some of them are under DOT jurisdiction. Any traffic signal timing adjustments will change the traffic patterns at the other intersections. If it's an existing issue they support making adjustments so that people can get out of side streets.

Mr. Plourde said they don't meet the warrants criteria for putting together a traffic study, based on the Institute of Transportation Engineers trip generation manual methodologies. However, they understand that there were some safety concerns identified.

Mr. Plourde said they performed speed studies in the neighborhood at both ends of Brackenwood Drive and along Timberline. They found that traffic speeds on Spindlewick were consistent with the posted limit, 25mph. Because of the onstreet parking, people drive slower. There were fewer cars parked on Timberline Drive, so people drive faster. Those speeds exceeded the posted limit, which is why they came up with options for Public Works to consider

installing. It's really their decision on what type of improvements to put on the road system.

Mr. Branon said they are in receipt of Mr. Husband's May 18<sup>th</sup> email where he touched on the city recommendations relative to traffic and calculated a voluntary contribution. They do not oppose that fee, which is a contribution to some efforts down the road.

Mr. LeClair asked why the Conservation subdivision concept is being proposed. Why that type of subdivision?

Mr. Branon said the conservation subdivision came into play when they looked at how to provide additional buffering to the abutters and highway system. They took into consideration that there is an existing city park and land preservation north of the site. When they started contemplating the density they wanted to accomplish, they felt a conservation subdivision was best for all parties. It allowed them to consolidate the development internally, provide additional buffering, and allow for passive recreation that Mr. Flatley tries to have on his project. They previously had a conventional subdivision plan that backed right up to the Spindewick properties to show the abutters that it was an option, and received strong feedback that they wanted some buffering. The lot sizes are nearly the same as the lot sizes of the adjacent developments. In the interest of working with the existing neighborhood and abutters, they chose to go in this direction.

Mr. LeClair asked if they did not take the additional density allowances granted under the conservation subdivision.

Mr. Branon said correct. If they looked at a conventional grid subdivision, this site could support about 85 lots. That's your base density when you go into a conservation subdivision, and there are additional bonuses you can get depending on the requirements you meet. They meet these requirements. They are not even exceeding the base density, they are at 58. They are not taking advantage of any bonuses.

Mr. LeClair asked if any architectural plans were submitted to show the scale of the homes.

Mr. Branon said they would be typical homes, 3-4 options from 1,500-2,000 square feet in size. Each will have a two care garage, and they graded all the lots. They have proven out this entire development. These will be conventional homes with typical

architecture, 1-2 stories.

Mr. LeClair asked if these would not be 3,500-sqft plus homes.

Mr. Branon said correct, the largest planned is 3,000-sqft.

Mr. LeClair asked for details on the clubhouse.

Mr. Branon said they took a floor plan from Tara Heights, Phase 2. It's a 1,700-sf clubhouse with a pool and barbecue. It's an amenity for the residents of the development, a private facility.

Mr. LeClair asked if the walking paths would be limited in use to the subdivision residents, or open to the neighborhood.

Kevin Walker, John J Flatley Company

Mr. Walker said the trails they will have are similar to the ones in the lower half of Gateway Hills. Technically they are private, but they have people outside of the development walking them every day. As long as they aren't abused, they have no issue. They are fine with other residents so long as they are respectful and pick up after themselves.

Mr. LeClair asked if the intent is not a closed subdivision with a gate.

Mr. Walker said no, they are not gating it. He indicated a fire access-way on the plan, and said they are including that in part of their walking trails.

Mr. LeClair asked why this doesn't connect to the Gateway Hills development.

Mr. Walker said it's about 3,000-ft away. They discussed everything with the neighbors, and the general feeling of the folks to the north side is that they didn't want traffic from the industrial district come through there.

Mr. LeClair asked if the intent was to limit traffic volumes from the south.

Mr. Walker said yes. It's not really designed for industrial use.

Mr. Varley said they are technically under the traffic thresholds, and he appreciates the information they have provided. Do they have a sense of what the relative comparison for what traffic

this will generate, versus the existing neighborhood?

Mr. Plourde said they counted traffic at five intersections, added them to the proposed site trips, and projected them to design conditions. They found that everything met D levels and is negligible. He listed examples of expected traffic volumes at different times of day. It doesn't meet the city, DOT, or ITE criteria for anything that would be a noticeable impact.

Mr. Varley asked if the counts described are at the intersection of Shadowbrook.

Mr. Plourde said when they held their meeting, they wanted to provide a worst case scenario, sending everyone down Timberline Drive to East Dunstable. Even at that, they were not triggering a noticeable impact.

Mr. Varley asked if when they add the worst case scenario to Timberline, what is the percentage increase as a result of those trips?

Mr. Plourde said he doesn't have a percent, but they have 180 cars exiting in the morning and they would be adding 34. In the evening they have 65 cars, and they would be adding 22 cars.

Mr. LeClair asked if that was per hour.

Mr. Plourde said correct.

Mr. Bollinger asked if the discontinuance of Dozer Road needs to be dealt with formally, and does it affect the decisions of this Board tonight?

Mr. McPhie said that one of the provisions of the staff report indicates that they will need to go to the Board of Aldermen to discontinue the road.

Mr. Branon said with the improvements of Gateway Hills, they have been discontinuing Dozer Road along its path. When Innovative Way was extended and the hotel constructed, they discontinued Dozer Road through that area as a condition of approval. It's been a common practice on this site. That road was constructed when the Everett Turnpike cut off all these properties, as an access road. They have been taking the appropriate steps as development happened.

Mr. LeClair asked if it would connect to the interchange. Is this

development limiting the ability of that?

Mr. Branon said that is further south. They did a concept for that a few years back to the south, by a few thousand feet, and it was not to Dozer Road. It was an extension of Innovative Way, and they were trying to prevent traffic from going to the north and the residential area. That is a concern that has always been raised. This subdivision will not compromise the ability to do that in the future.

Mr. LeClair asked if it doesn't compromise supporting the south end.

Mr. Branon said correct.

Mr. Bollinger asked if they will be sold off as individual building lots or community ownership.

Mr. Walker said they haven't decided yet.

Mr. Bollinger said houses are selling like hot cakes. Is he going to sell the lots or retain the ownership and rent?

Mr. Walker said they don't know yet. They will retain ownership of the clubhouse. The rest of it they are still hashing through.

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

Ald. Derek Thibeault, Ward 8, 9 Emerson Road, Nashua NH

Ald. Thibeault said he is disappointed that they do not have a full board and that his peer on the Board is not present. This is an important decision, and it's important to Ward 8 and the residents.

Ald. Thibeault asked the Board to listen to the abutters, as they are the people who are affected the most. He still hasn't heard anyone talk about a Master Plan for the Gateway Hills development. They have asked for that, and staff has asked for it.

Ald. Thibeault said the applicant is right in saying that there were two community meetings. The first was the Saturday before Christmas, so you can imagine how many people attended. The next meeting was specifically about traffic. The people there brought up tons on concerns that they had, and they were promised a traffic study. He expected that he would receive it so he could share it with the residents of his ward. He asked a month ago and they said they were still putting it together. Last week he got a couple of sheet pages and it was from December, before the

February meeting with Mr. Plourde. He comes in today finding that one was done in April and given to staff. He never saw it. It's disappointing to see that they failed to make the commitment they previously made.

Ald. Thibeault said he did a speed study with the Nashua police, and there is speeding on that road. He doesn't know how this one was done, but the police set up speed boxes. They promised things that they could do to mitigate issues, and everything they talked about today they said they can't do. When you come down Timberline Road taking a left onto East Dunstable Road, you are taking your life into your hands. It is dangerous. Taking the right is hard, but the left turn is dangerous. Adding any more cars is adding to something already dangerous.

Ald. Thibeault said they talked about how they didn't want traffic cutting through that neighborhood. Why can't they not have Shadowbrook go into there? Why can't they use Dozer Road and not come in there at all? They don't want to mix houses with the apartments with industrial, but they can use Dozer Road if they wanted to.

Ald. Thibeault asked if Fire Dept. has signed off on this plan. They have been asking whether this will be rental or sale for a long time, and they always get a cagey response. Please listen to the residents, as they care very much about this.

Mr. LeClair asked those wishing to speak to listen carefully to what the person in front of you is saying. They are fine with "ditto" responses. Don't repeat it again because it doesn't help people's cases and things get confused. The applicant will be listening. They want to get new things that people talk about, and add on as necessary. That is the most effective way to provide input. Try to keep your comments to under two minutes.

Phillip Howard, 8 Aspen Court, Nashua NH

Mr. Howard said he is also here on behalf of his mother, who lives at the same location. They have lived in the same location for 40 years. He referred to the speed study and said that out of 9,100 cars, over 50% were exceeding the 25mph speed limit. The max speed uphill was 55mph, and downhill of 64mph. As a walker in this neighborhood, this is incredibly dangerous. He said the road is falling apart. It was recently repaved at the bottom of the hill, and you already see a seam that needs to be repaired. Every six months they are out there repairing the road and fixing the potholes. It's an ongoing thing over the past three years. This

will only magnify those issues.

Mr. Howard asked the Board to visit the neighborhood and see how dangerous these roads are. It is unsafe to walk on the streets, and he hears vehicles doing burnouts regularly. It's excessive. Take that into account when adding traffic to the neighborhood.

David Deacon, 4 Spindlewick Drive, Nashua NH

Mr. Deacon provided a petition opposing the development and the connection to Spindlewick Drive. There are 160 signatures on it.

Mr. LeClair said it can be submitted into the record.

Mr. Deacon said where he lives is the epicenter of everyone coming and going into the neighborhood. He has a vested interest in the traffic in his area. There is no Master Plan, there never has been. Everyone keeps asking for one, and they are concerned that if they allow this connection to the existing neighborhood, that is the tip of the iceberg. What happens if they decide to tack on another neighborhood and another? A lot of people have more than two cars. You go from 116 cars minimum per household to possibly several hundred coming in and out of the neighborhood. They are going to be the only ingress and egress for that new neighborhood.

Mr. Deacon said they have white lines on the sides of their roads. That is not for on-street parking; that is there for people walking. They have no sidewalks, those white lines are for people to walk. They don't feel safe walking in that neighborhood. Unless there are sidewalks, it's not safe. People speed terribly down Timberline Drive. He has had a car on his front lawn. He has witnessed people hit telephone poles down Timberline. It's not safe as it is right now. This will compound the problem.

Mr. Deacon said he knows that Flatley will most likely build this neighborhood. He is proposing a compromise. He asks the Board not to allow a primary connection from Spindlewick to this new neighborhood. If you want to put an emergency access only road there with a gate, he thinks that would be acceptable. But allow the traffic to come in from a different route. Flatley is concerned with traffic on Spit Brook Road, but this will increase traffic in our neighborhood and apparently is not a concern. You put a gate there, and EMS, Fire, and Police are the only ones going through there. He understands the magnitude of having emergency access, and he doesn't think anyone is opposed to that, but not as the primary route of ingress and egress into the neighborhood. He thanked the Board for their time.

Kristie Hart, 9 Dustin Drive, Nashua NH

Ms. Hart said her hopes is that the Board will reject the proposal or table it until the concerns are addressed. They bought this home because it was on a quiet street. She believes that Shadowbrook Drive will become unsafe and unpredictable. A lot of people talk about Timberline, but Shadowbrook is an entry and tees off of her house. She previously lived at a home that was one of two entry points into another neighborhood, and it was a dragway. Neither posted signs nor a radar signs had a noticeable change in behavior. If this development is approved, she sympathizes with the residents of Shadowbrook. They went to the traffic meeting and they were promised a full traffic study. One of the things they said is that they want to be part of this community, however the pool, clubhouse, and parking lot are for the new development residents only. This development is not an extension of an existing community. Their neighborhood is being used as an entry point because it is cheaper than building a different access point and doesn't interfere with their development on exit 1.

Ms. Hart said in March there was a request to rezone part of the property from Park Industrial to Residential. That application was tabled because John Flatley was not able to produce a Master Plan for all the property he owns on this hill. She would ask the same here. Ward 8 residents are not blind to the fact that Flatley reserves the right to build on the land they purchase. However, a lot has changed in Nashua since Flatley has bought this property, and all Nashua residents deserve a Master Plan for the undeveloped property because this will affect all traffic on exits 1 and 4. She said they should provide the residents with their own access point instead of using this neighborhood as a cheaper solution end goal. It's unlikely that Flatley won't try to build off of this development. He asks that they reject this proposal, keep the Long Hill roads quiet, and hold Flatley responsible for being more forthcoming about undeveloped lands on their property.

Nicholas Zota, 6 Dustin Drive, Nashua NH

Mr. Zota said his road intersects with Shadowbrook. He is opposed to this development as proposed. Flatley owns the land and will develop it. He is concerned about the single egress and ingress. Shadowbrook ends at Byron, which has a hill that gets icy in the winter and has a school bus stop. That would be adding another 58 units of traffic, and 100 cars. The speed study averages about

1,300 a day and serves about 600 houses. It's about 2 trips a day. The bottom of Timberline has been falling apart, and is not wide enough. There's a small turning lane, and it backs up traffic all the way up the hill.

Mr. Zota said his bigger concern is with the plan itself. Flatley owns nine parcels, six zoned R18, three zoned R40. The minimum lot sizes are 18,000-sqft and 40,000-sqft. None of these lots are more than 13,000-sqft, which is a third of an acre. This neighborhood is R18, and it would change the character of the neighborhood and the houses. These houses are small. The city also specifies minimum frontage. R40 frontage is 120-ft, R18 frontage is 100-ft. These are 80-90 feet in frontage, some as small as 60-ft. This should be rejected outright. This is not meeting the minimum requirements for density for the zoning. Flatley is treating this as one parcel, and it's not. They haven't combined it or rezoned it at R18.

Mr. Zota said there are other issues with water and sewer. They had a serious pressure problem on the hill. In 2018 Pennichuck finally solved it. Now they are going to add 58 more houses at this pump station and have issues that will take 25 more years to solve. He thinks there are serious issues that need to be resolved.

Mr. LeClair said those who wish to speak should understand that this is a conservation subdivision. A lot of the zoning setbacks and requirements are not specific to conservation subdivisions. What is being proposed isn't consistent with single lot arrangements.

Mark Hutchins, 6 Spindlewick Drive, Nashua NH

Mr. Hutchins said he and his wife have been residents since 1996. He is concerned with the traffic. This is a 20% increase to a neighborhood that is full of young families. If this goes forward, it is a modification to the Long Hill neighborhood. It's not attached to Gateway Hills to the south.

Mr. Hutchins said if Flatley wishes to continue, he thinks they should go south. He is amenable to an emergency access drive with a gate in this neighborhood. Keeping it part of the Gateway Hills would keep ingress and egress towards the rest of the Flatley properties. He asked if they have assessed impact to the schools. They are in the Bicentennial school district. What impacts are there and how will they be addressed?

Ben Lyons, 37 Spindlewick Drive, Nashua NH

Mr. Lyons said what a night, he can't believe he shaved before he got here. He said he was born here in 1977 and is a townie. Speeding through Long Hill is nothing new. It shouldn't come as a surprise to anyone here. There is one stop sign at 17 Spindlewick Drive. Between 17 and 92 there is nothing. There is no way people are going 25mph down Spindlewick. If you look at East Dunstable and all the streets that access our neighborhood, there are 11 streets that use Timberline. If you think they will go out of the way to Shelley or Browning, you are out of your mind, especially if it's winter. He doesn't understand how fire trucks can go up Spindlewick already. He is worried about his kids. There are far too many cars up and down Spindlewick. Adding another 60 houses to their neighborhood on the 11 streets they already use with that one street sign, his street will become a drag strip. It will be very dangerous.

Adam Galonski, 17 Shadowbrook Drive, Nashua NH

Mr. Galonski said he is two houses away from the proposed intersection. Much of what he wanted to say has already been said. He is a relatively new resident from Concord, and he wants to retire here on a quiet street. Now it is going to be a throughway. Everyone is going to come out, down Shadowbrook, to Byron, to Timberline. That's the shortest distance between two points. He is not thrilled about that. Walking is dangerous on these streets. He doesn't know how they can look at this and agree that these homes are the same as the ones in the neighborhood. The houses are smaller, the lots are smaller, and they are building a clubhouse. To assume that this isn't going to be a rental or condo association is absurd. They know what they're doing and don't want to say it out loud yet. That's what this is. That is a totally different character from what they already have. He requested that they access this neighborhood from the south and use Shadowbrook as an emergency access. The representatives from Flatley said they want it open as a cut-through, and that's not what they want. They want access from the south, and north end emergency access only.

Peter Silva, 18 Masefield Road, Nashua NH

Mr. Silva said he didn't realize until tonight that these will be 1,500-sqft houses. The people living in Long Hill have garages that size. This will diminish property values. He said these are

going to be rental properties, like condos. That is nothing like the character of Long Hill estates. He isn't sure how the traffic study was done, but the whole thing was shaved from the start. When does it end, and how does it end? They're going to use this neighborhood to access their properties with "affordable housing". He doesn't think they are being up front, and he would hope that the people they pay taxes to would look out for their best interests.

Cindy Dellacamera, 23 Brackenwood Drive, Nashua NH

Ms. Dellacamera said her street is in the middle of the neighborhood. She asked if it is necessary to have a Master Plan before action is taken on a community of that nature.

Mr. LeClair said they will address that with the applicant and staff.

Ms. Dellacamera asked, in general, is a Master Plan required when an organization brings forward a project to the Board.

Mr. LeClair said he has been on the Board about ten years. In his experience they have had many subdivisions of this size, particularly conservation subdivisions, and they don't have a Master Plan.

Peter Provencher, 52 Spindlewick Drive, Nashua NH

Mr. Provencher said he put his thoughts and concerns into chat on Zoom. He agrees that this is a slick way of getting access into their neighborhood so that they don't have to construct a southern entrance. This development has nothing to do with an established neighborhood that has been here for 35 years. It's a private condo association where they can't access it. It doesn't add up. There needs to be a lot more research.

Steve Dookran, 42 Spindlewick Drive, Nashua NH

Mr. Dookran said he went to both neighborhood meetings. At the second meeting Mr. Plourde suggested that even though the development won't be generating a lot of traffic, that they were interested in solving some neighborhood issues. They haven't seen a traffic report, and it should have been shared with the neighborhood. The site distance at that intersection is not adequate. It may be if cars were driving at the speed limit, but no one does. People on East Dunstable will always trying to beat

the traffic signal, which makes it very dangerous. Left turns are dangerous. They brought up all these issues and asked for a narrow right turn lane. The radius is very tight, and people have to swing out to make that. They can't have two lanes, which makes for a significant backup at rush hour. That should have been addressed.

Mr. Dookran said there are no sidewalks. It would have been good to make a connection between Carrie Road. He is interested to see what the traffic engineer comments. What is the traffic contribution fee, and how will it be used to mitigate any impacts. He asked for clarification on the counts, and asked what the daily traffic would be from this development.

Mr. Dookran asked why Flatley is so interested in owning the clubhouse. That worries him about a future connection to the commercial area to the south. Questions on the Master Plan are very relevant. What is the future of this subdivision?

#### **SPEAKING IN FAVOR**

None

#### **APPLICANT REBUTTAL**

Chad Branon, Civil Engineer

Mr. Branon said a lot of the concerns raised are existing conditions that are offsite. Policing speeds is not something his client has control over offsite; that is an enforcement issue. It seems that has been going on for a long time and attention should be put in a different direction to solve those problems.

Mr. Branon said the development before them is a conservation subdivision, and it is one so they can provide buffering to a neighborhood that has asked for buffering. If they want to see lot sizes of 40,000-sqft and 18,000-sqft, they will see them right up against the back of their lots. That was the first concept. This plan has been made and revised over the course of a few years to balance many of the comments received. The property supports a much higher density, but that is not being sought. It could be by right. They are being sensitive. This is a reasonable development that provides significant buffering that doesn't by regulation need to be provided.

Mr. Branon said this is being set up as a private development.

This means that it's not going to be burdensome to the city like other conservation developments with public roads that are maintained by the city. It could be, but that is not what Flatley has done. He likes to provide the amenities for the people in communities he builds. Is it going to be rental or for sale? Who knows? No one knows what the market is going to be. It could be blend, which is no different than any other development. It doesn't mean that you can't have a private development with site amenities and provide an environment different than surrounding communities.

Mr. Branon said all of the concerns raised tonight don't trigger a violation of any city ordinance. They meet every design requirement. They meet every setback requirement. They exceed them in part because they have heard from the community and incorporate them into the plan. They have addressed other items that may not technically be required, but they knew it would be of great interest to the community. They could easily have presented without a traffic report or traffic engineer present. Based on the regulations, they could have started that way. His client took the extra steps to make sure they are here with answers.

Mr. Branon said they can provide lot sizes and frontages, but you lose the buffer. Many people wanted separation and the feeling of a backyard. The entry point is in an area with an existing right of way. If you do the research it's pretty obvious that this northern section was intended to continue to this development. That's why there is a right of way to this property. They are utilizing that right of way. To connect down to Dozer Road and Tara Heights, which is a few thousand feet away, isn't reasonable.

Mr. Branon said all the Master Plan references are a function of that property down there. There are no requirements for Master Plans. He does not like Master Plans, because he has done them for developments like this and they end up spending most of their time changing them. What they are not good at doing is guessing what someone wants over time. Things change over time. Everything is a function of the market and what someone is looking. They have spent years changing a Master Plan for Flatley in a community where it was required. It's not productive. They have discussed it with staff, and have tried to address concerns, but they are related to a different part of the site that is commercial and industrial in nature. That connection belongs to Spit Brook Road. This belongs with the residential development, and is consistent. There are homes on Spindlewick that are the same size as what they are proposing. This is a consistent development. It shouldn't

matter if this is a rental or for sale. There is an acute housing shortage, and that is clearly something the city is trying to address.

Mr. Branon said they submitted a traffic study. The city engineer reviewed it. There are no offsite improvements being requested other than a donation into a fund that is probably intended to make improvements offsite, similar to any project in recent years, so it can be allocated by professionals hired by the city. Engineering raised comments, but no issues, and they have no issues with their comments. All stormwater flows to the west, and doesn't go near the development. It falls to the highway, and there is a topographic advantage to that buffer. The traffic will go through that area, but that's why they did the traffic report. Nothing from the professionals suggested that they needed to make modifications to anything offsite.

Mr. Branon said that Fire hasn't signed off on the project, but they are working on street names. They wanted an emergency access road from one cul-de-sac to the entrance to be 20-ft wide instead of 16-ft, and they have no issues. Fire did not want there to be gates, which they have no issues with. They plan on utilizing that as part of a pedestrian walk. They wanted two hydrants, which they can provide. Fire wanted an apparatus overlay, which they have no issues with. The cul-de-sacs are designed to meet city specs, the rads are designed to meet city standards of 28-ft. He is willing to walk through the engineering review. They meet all the requirements. They are asking for two waivers as it pertains to plan preparation, and that's it.

Mr. Branon said people are adverse to change, but there is a need for housing that needs to be addressed. This is a fair proposal, almost half of what the density could be. He's not suggesting that his client wants it, but they are trying to be reasonable. This is going to be compatible with the neighborhood, single family detached homes. They will be part of the community. There will be some amenities onsite that will be open to them. They can choose to move in here or next door. Flatley has never stopped nearby neighbors from using the trails and amenities onsite, and he suspects that won't change as long as they are used responsibly.

Jason Plourde, Traffic Engineer, VHB

Mr. Plourde said there was another speed study done by the police department and they do not have the data, but it does not

contradict what they said. Cars are going faster than the posted speed limit on Timberline, and not on Spindlewick. That's because there was more onstreet parking on Spindlewick. On Timberline, there was also a downward grade. He doesn't contradict at all what Ald. Thibeault said, and agrees that people are going faster on Timberline.

Mr. Plourde referred to commitments to improvements along this corridor, they tried. They tried with the double yellow centerline and the all-way stop sign, but they can't just arbitrarily put up a traffic control wherever they want. They have to come up with something, and based on standard traffic engineering this level of traffic volumes and the limitations, the next option is enforcement. They can't put in double yellow lines, and DPW was opposed to speed bumps.

Mr. Plourde said they didn't look at sidewalks at all. That wasn't part of the evaluation. They don't know if there is enough width to the right of way. That's one of the reasons that this contribution fund is put together, to consider different types of improvements.

Mr. Plourde said they submitted their traffic report in April. Yesterday they received an email from Mr. Husband. It's not like this was sitting around collecting dust. The city was reviewing it. They wanted to share the report with the public, but they had to make sure the city was okay with it before it hit the light of day. That's the process. You prepare a traffic study, submit it to the city, and go through the proper channels. Once submitted it is public information, but they did not want to share it until they got feedback from the city. He has no problem sharing it now that they got feedback from Mr. Husband. If people don't like the process, it's not up to him to change. It's all documented, and has been reviewed by the city.

Mr. Plourde listed the comments received by Mr. Husband. There are no major changes to level of service at any of the study intersections. An all-way stop warrant was performed at four intersections, and none of the warrants for the MUTCD were met. A double yellow centerline was suggested, but based on the city's history with painting double yellow lines in residential neighborhoods it is not supported by Public Works. Speed bumps were suggested by some residents; Public Works discontinued installing speed bumps several years ago. There is an equation contribution based on the peak hour and a rate. Mr. Husband concluded that they have no further comments at this time.

Mr. Plourde said as far as coming up with different types of improvements, they tried. They just can't put in an all-way stop wherever they feel like it. He thought striping was a good idea, but Public Works does not support centerlines. As far as the edgeline and shoulder goes, if it's being used for sidewalks, putting in a double yellow will shrink that width. They don't want to cause unsafe conditions for people. That's not the purpose of this development or existing neighbors. He doesn't know if sidewalks could be constructed in the area. He doesn't know about the right of way or drainage because that was not a request made of them at the neighborhood meeting in February. It was all about the vehicular traffic and the safety of the vehicles.

Mr. LeClair asked about the potential for a right-hand turn pocket on East Dunstable Road.

Mr. Plourde said they have no problem with extending that back to Kelly Street. Based on the intersection analyses, it was not shown to be warranted. If that is what the city wants, they have no problem restriping that approach. You want to make sure it tapers back before Kelly, but they have no issue with that.

Mr. LeClair asked if it was possible.

Mr. Plourde said what may have to happen is that the centerline might have to shift south, but it's just striping. It's not changing pavement width.

Mr. Hudson said there were a few issues raised that he wanted addressed. He said the study included crash information, can they address safety at that intersection? He also wants to know about sewer and water capacity and whether there was coordination with Pennichuck. Is there sufficient capacity for the sewer pump?

Kevin Walker, John J Flatley Company

Mr. Walker said he spoke with Pennichuck at the beginning of this and they ran some pressure and flow numbers. They didn't see any issues. It was a different layout, but the site will have water pressure. They want to run a calculation now that everything is fully designed to see if some houses may need a booster. They didn't seem to have any issues.

Chad Branon, Civil Engineer, Fieldstone Land Consultants

Mr. Branon said back in February they submitted a complete plan

to Pennichuck for review, and they didn't appear to have any issues. Worst case, there may need to be a booster for one of the last homes on the cul-de-sac. He said they submitted a sewer flow capacity calculation and there were no issues with the analysis.

Jason Plourde, Traffic Engineer, VHB

Mr. Plourde said they did request crash data at five intersections: East Dunstable-Timberline, Timberline-Spindlewick, Byron-Shadowbrook, Spindlewick-Shadowbrook, and East Dunstable-Harris. Based on the data provided by the police department, between 2019 and 2021 there were 29 calls and 6 crash reports at those five intersections. Four occurred at the intersection of East Dunstable Road and Harris Road. Two occurred within the neighborhood to the east. Zero occurred at Timberline. He's not saying that it's not a safety concern, but based on the police data there is not a reported crash history at that intersection within the last three years.

Mr. LeClair asked what it would mean to the development if it was accessed from the south. Is it practical? Is it functional?

Mr. Walker said it's not practical. It's 2,500-ft to the south. Despite what they heard tonight, their goal is to separate this from the industrial stuff to the south. Is there going to be an impact on traffic? There are 1,300 homes in this area, and they are adding 58. Numbers wise, they aren't adding a lot. Traffic was a big concern at the meetings. They were asked to have these neighborhood meetings, but they are not required. This could be 85 lots. They don't want to cut the trees down, they are trying to do this the best they can. That's their approach. The fact that he has to sit here and listen to the neighbors say that they aren't listening, it's nonsense. The main reason for coming out this way is because they want to separate the two types of development.

Mr. Branon said as a professional engineer designing something for safety, he doesn't think a 2,500-ft extension down to Innovative Way would be a great way for 58 people to travel home. That's a dead end road with an emergency connection. This is a much safer layout, typing into an adjacent neighborhood. That is what the right of way was intended for access to a compatible development. They believe they are, and don't think there is any reason not to think that. The layout of the streets was done with city departments to make that loop system. They have done developments in the city where the Fire Department doesn't like dead end roads and has made them do boulevard designs. They

couldn't possibly do it for 2,500-ft. This is something the Fire Department asked them to consider, and they worked closely to achieve that access. If they were going to come from the south 3,000-ft away, they would ask for two roads. It's not feasible, not reasonable, and not warranted by the regulations.

Mr. LeClair asked about the parcel zoning, and potential development to the south. Would that end up connecting to the same street network?

Mr. Branon said there are restrictions to the southern portion of this property, and there's a section not owned by Flatley. There are old lots and paper streets, Dewey Ave and Ashwan St. There is a disconnect, and those lots are not owned by Flatley. Further south there is a large piece of undeveloped property that is not zoned R40. He believes that is zoned industrial, and that property has restrictions on it that extend from the residential site.

Mr. LeClair asked as the property is owned and zoned right now, are there any further possible residential development to the south.

Mr. Branon said there are no plans for it. Where Tara Heights ends, everything to the north is zoned Park Industrial. There are no plans for residential that he aware of. That is the area they discussed a Master Plan for. They were before the Zoning Board and going forward with a zoning change to do residential on the area just south of Tara Heights, and that was the last residential proposal. It's an area that's tucked between Digital Drive and Tara Heights, so it's an undeveloped portion of land they thought would be reasonable for residential development. There is a housing shortage, and there is a vacancy in the 100-300 Innovative Way area because of the pandemic, so it doesn't make sense to consider large research and development buildings.

Mr. Branon said the area they are referring to zoned completely different. They have always shown this site on the northern portion as being residential single family detached for a long time. It's not the plan to extend this. That's not what they are proposing. If it was, they would land back before this Board. This is the plan they are proposing, and they are not suggesting a connection to more residential lots. He believes he just presented the contrary.

Mr. Varley asked if given that the land between Tara Heights and this development is zoned Park Industrial, would that require a zoning change from the Board of Aldermen to even consider

residential?

Ms. McGhee said yes, if they were to have the property rezoned it would have to go through the Board of Aldermen. The other option would be a variance through the Zoning Board.

#### **PUBLIC MEETING**

Mr. LeClair closed the public hearing and moved into the public meeting. There are quite a few things to consider.

Mr. LeClair said with regards to the development itself, he will go to the Master Plan. The type and size are consistent with the Master Plan, and he was specific in his questions about size because the Master Plan is specific about affordability of single family homes in the city. They have a good inventory of larger homes, and lacking inventory in starter homes. The type of development is consistent with the Master Plan, as is the concept of the conservation subdivision with buffers and additional amenities.

Mr. Varley spoke briefly to the role of the Planning Board. This is not a political body. They don't review issues the way that the Board of Aldermen would. The Planning Board is constrained by the city zoning ordinances. Their task is to ensure that the application before them meets all the requirements of the zoning ordinances, and to the extent where abutters are raising issues that they think are reasonable concerns, to work with the applicant to address those. Appreciating the concerns raised tonight, opposition to a plan itself is not a basis for denial. They take into consideration the issues raised about safety, traffic impacts, potential future development, and fit with the existing neighborhood, but the Board has to consider the merits of the plan. Is there something about the plan that does not justify approval under the zoning ordinance? That is the standard they are governed by. He doesn't want abutters to leave thinking that the Board didn't listen to their concerns and isn't taking those into account. That's not the case. He wants them to appreciate that this Board serves a particular role that is different than a political body.

Mr. Varley said in terms of the purpose that this serves in relation to the Master Plan, he agrees with Mr. LeClair. In regards to rental versus ownership, he doesn't consider that to be inconsistent with abutting residential uses. There is a need for both rental and single family houses, which is specifically called out in the Master Plan. If it ends up being a mixture,

that is consistent with the needs of the city and Master Plan. Inclusionary zoning was an independent additional furtherance of the Master Plan, recognizing that there is a shortage of affordable housing. This is the first opportunity they have had to see that in practice. That will benefit the residents of the city and furthers the goals expressed by the Board of Aldermen and Master Plan. Conceptually, this development is consistent with those goals.

Mr. Hirsch agreed with Mr. Varley.

Mr. LeClair said there are several other pieces to think about. Proper set-up for stormwater and utilities has been addressed, and there doesn't appear to be stormwater related issues. The piece that seems to be the most impactful and concerning is the traffic component. It seems to not be a volume argument, so much as an exacerbation of an existing condition. That is a legitimate concern, and could be a perceived negative impact. He asked the Board for their opinion on a potential failed condition.

Mr. Hudson said he doesn't feel it is. The applicant did a comprehensive study and an analysis of speeds. Unfortunately, the residents haven't had an opportunity to review that, but it was reviewed by Senior Traffic Engineer Wayne Husband. The speeding issue is recognized and is not uncommon elsewhere in the city. Whatever condition is occurring there is not because of these 58 homes. It's the people that live there now or pass by there now. Will the new residents exacerbate that? There will be more of them. That issue exists independent of this development and they should continue to find measure to address that condition. It's typical to see 85<sup>th</sup> percentile speeds, five miles over the limit, and typical to see outlying examples of excessive speed. He doesn't feel it is that much different from other areas. That issue already exists and is not created by this development.

Mr. Hudson said he sympathizes with the neighborhood. They bought a house in a neighborhood with a big chunk of land behind it, and 58 new homes is a big change. That's not really what they can weigh or not weigh. They have to look at whether it satisfies the regulations. The design is extensive and Mr. Mendola reviewed it. Drainage is properly dealt with, as is sewer. Whether it's private ownership or an association, his only concern is that the infrastructure is maintained and upheld for the benefit of all residents in perpetuity. Assuming that is done and all pieces are in place, he doesn't see any fatal flaws in terms of design.

Mr. Varley said traffic is one of the most common concerns in residential developments and something they have addressed with other proposals. What the applicant has presented is an incremental increase in traffic. They recognize that East Dunstable is a busy intersection. Based on the traffic study and the data presented, they are not changing the level of service at this intersection. If Mr. Husband had said he had concerns, he would feel differently about this. That's not what he expressed. He did not have any concerns with the analysis presented. As the applicant noted, the calculations wouldn't have triggered a traffic study. They wouldn't have that data if the applicant hadn't gone to that effort. This is an incremental increase. If there is a problem with speeding, it's possible that there may be more people speeding. But this is an existing condition and not within the control of the applicant. The volume is incremental and it's not a problem being created by the applicant. He thinks the applicant has done their diligence, and has satisfied the standards of the plan.

Mr. Hudson said early in discussions they were aware of the trip generation estimates. They knew traffic would be a concern in this neighborhood and requested a full study be done. The results are what they thought it would be, but they wanted that full documentation provided. He would ask staff to make it easily available to the neighborhood for review.

Mr. Hudson said there was some discussion about the double yellow line. Where they have tried to implement that as a traffic calming measure in the past, the feedback was negative. The neighborhoods didn't want the street to feel like a main artery. If that was something that the neighborhood really did want, it's something they would consider. Providing all that paint and high level signs changes the character of the area. Sometimes they get feedback that is not desired.

Mr. Hudson said extending the turn lane at East Dunstable wouldn't hurt. There are some significant utilities that would be difficult to relocate, so he is not sure if it could be widened, but perhaps it could be extended a little bit with some paint.

Mr. LeClair asked if there are any offsite improvements that he is aware of that could mitigate what appears to be a speeding issue. He feels that is a legitimate concern. They are not traffic cops, but if they are overlooking a potential improvement to help that situation, he wouldn't want that to be the case. Is further

study going to be able to develop that, or is it a position of straight roads going downhill and the only way they could fix it is parking a police car there 24/7. That's not the role of the Board.

Mr. Hudson said it's a difficult issue and one they see all over the city. They get requests to add stop signs all the time. The MUTCD specifically states they don't use stop signs for speeding issues. That's not the appropriate use of them, they are to meter and reinforce the proper traffic yielding condition. A lot times they can't support stop signs for the reasons Mr. Plourde stated. Narrowing widths would help. They would have to study that because the tradeoff, if people are walking in the shoulder, they would have to sacrifice some of that. Beyond that it's hard to do. New designs would add curves, but it would be hard to do with the currently built conditions.

Mr. LeClair asked about speed tables.

Mr. Hudson said they are difficult because of snow plowing. It doesn't work well in New England. They have them in a few places, but they generally prefer not to have them for maintenance reasons.

Mr. LeClair asked staff about the impact to schools.

Ms. McGhee said they would have to pay a school impact fee.

Mr. Hudson said if these are going to be private roads, there will not be municipal trash pickup. They don't pick up trash on private streets.

Mr. LeClair said they would have to have their own service.

**MOTION** by Mr. Varley to approve New Business - Subdivision Plan A22-0038. It conforms to §190-138(G) with the following stipulations or waivers:

1. The request for a waiver of § 190-282(B)(9), which requires an existing conditions plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of § 190-279-B, which requires certain drafting standards, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. Conservation Marker placement and regulations listed under

Article XXV section 190-173-175 shall apply.

4. Prior to the Chair signing the plan, all comments in an e-mail dated May 17, 2022 from Mark Rapaglia, Inspector/Investigator shall be addressed to the satisfaction of the Fire Marshal's Office.
5. Prior to the Chair signing the plan, all comments in an e-mail dated May 18, 2022 from Wayne Husband, Senior Traffic Engineer shall be addressed to the satisfaction of the Public Works Department.
6. Prior to the Chair signing the plan, all comments in a letter from Joe Mendola, Street Construction Engineer dated May 12, 2022 shall be addressed to the satisfaction of the Division of Public Works.
7. Note #9 shall be corrected on page three of the site plan to indicate under Ordinance 190-40-G that "A conservation subdivision is subject to the maximum parking requirements of the parking standards of this chapter."
8. Prior to the Chair signing the plan, all minor drafting corrections will be made.
9. Prior to the Chair signing the plan, all conditions from the Planning Board approval letter will be added to the cover page of the final Mylar and paper copies submitted to the City.
10. Prior to the Chair signing the plan, a lot merger form will be completed and placed on file.
11. Prior to the Chair signing the plan, necessary portions of Dozer Road and other necessary road rights-of-way shall be discontinued through the Board of Aldermen. Subsequent to the discontinuance, all final subdivision plans shall show the ROW as discontinued.
12. Prior to recording of the plan, all addresses and street names shall be shown on the plan as assigned by the Fire Marshal. Documentation shall be provided pursuant to 190-205-D-H indicating how the open space shall be managed and placed in permanent protection.
13. All easements, open space restrictions, and Association documents shall be submitted.
14. Prior to the commencement of any site work, the State Alteration of Terrain (AOT) permit will be approved.
15. Prior to any work, a pre-construction meeting shall be held and a financial guarantee shall be approved.
16. An As-built prepared by a certified professional shall be provided for all infrastructure prior to the final Certificate

of Occupancy issuance.  
**SECONDED** by Mr. Hirsch

**MOTION CARRIED 5-0**

**NEW BUSINESS - SITE PLANS**

**A22-0083** Reno Investments, LLC (Owner) - Application and acceptance on proposed one year extension for previously approved site plan NR2231 for the construction of four single family homes along with one existing one. Property is located at 711 West Hollis Street. Sheet F - Lot 54. Zoned "R9" Suburban Residence. Ward 5.

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

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 5-0**

Bill Reno, Owner

Mr. Reno said he is asking for a one year extension. They are currently working with the Building Department to get permits. Their site contractor is in front of the DPW Board to obtain a drain layers license. If the Board grants an extension, they hope to get started within a few weeks.

**SPEAKING IN OPPOSITION OR CONCERN**

None

**SPEAKING IN FAVOR**

None

Mr. Hudson asked if this will be a private road.

Mr. Reno said correct.

Mr. Hudson said there will be no municipal trash pickup on this road.

**PUBLIC MEETING**

Mr. LeClair closed the public hearing and moved into the public meeting. He said this seems to be a simple extension and pretty reasonable to him. The applicant is getting ready to go. Staff

findings incorporates all previous conditions.

**MOTION** by Mr. Varley to approve New Business - Site Plan A22-0083. It conforms to §190-146(D) with the following stipulations or waivers:

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

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 5-0**

**A22-0055** Delta MB LLC "Citizens Bank" (Owner) - Hellyer Lewis & Smith (Applicant) - Application and acceptance on proposed façade changes to add EIFS where existing approved materials are now in place. Property is located at 277 Daniel Webster Highway. Sheet A - Lot 254. Zoned "GI" - General Industrial/"TOD" Transit Oriented Development. Ward 7.

**MOTION NOT TAKEN** that the application is complete and the Planning Board is ready to take jurisdiction

Olivia Cervasio, Hellyer Lewis & Smith

Ms. Cervasio showed the Board a photo of the existing conditions. This is a high profile location, so the client wants to bring it up to the next branding standards. As part of the new branding, they are proposing a wood portal for the entry and EIFS to cover the existing tile for a more neutral and modern color palette. It was suggested by staff to bring in more natural elements for aesthetic and practical reasons, so they have added a 2-ft base of stone veneer.

Ms. Cervasio outlined the materials and color placement for the design. This bank is also located in a shopping center, and they are proposing something of a similar design. She showed photos of similar designs nearby and other buildings.

**SPEAKING IN OPPOSITION OR CONCERN**

None

**SPEAKING IN FAVOR**

None

**PUBLIC MEETING**

Mr. LeClair closed the public hearing and moved into the public meeting. He summarized the discussion.

**MOTION** by Mr. Bollinger to approve New Business - Site Plan A22-0055. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of § 190-172(D) (2,3,&4), which specifies exterior building material requirements, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of NRO § 190-279 (EE), which shows existing conditions, particularly offsite utilities, under Article XXXII, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. Prior to the Chair signing the plan, all comments in a letter dated May 12, 2022 from Joe Mendola, Street Construction Engineer shall be addressed to the satisfaction of the Division of Public Works.
4. Work with staff to achieve building façade compliance under remaining sections of 190-172.
5. Prior to the issuance of a Building Permit, minor drafting corrections will be made to the plan.

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 5-0**

**OTHER BUSINESS**

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

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

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 5-0**

2. MicroSociety Academy Charter School non-binding Public hearing under RSA 674:54 to construct a 1-story, 2 classroom modular

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building. The property is located at 591 West Hollis Street.  
Sheet E - Lot 6. Zoned "R9" Suburban Residence. Ward 5.  
Matt Sullivan, Community Development Director

Mr. Sullivan said the applicant requested table this to the June 2<sup>nd</sup> agenda based on some legal guidance received late in the day from the city. He asked that they table the request so that they do not have to renotify.

**MOTION** by Mr. Bollinger to continue Other Business #2 to the June 2, 2022 meeting

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 5-0**

**DISCUSSION ITEMS**

None

**MOTION** to adjourn by Mr. Hudson at 11:21 PM

**MOTION CARRIED 5-0**

**APPROVED:**

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Mr. LeClair, Chair, Nashua Planning Board

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Prepared by: Kate Poirier

Taped Meeting