

NASHUA CITY PLANNING BOARD
June 2, 2022

The regularly scheduled meeting of the Nashua City Planning Board was held on June 2, 2022 at 7:00PM in the 3rd floor auditorium in City Hall AND via Zoom virtual meeting.

Members Present: Mike Pedersen, Mayor's Rep
Scott LeClair, Chair
Adam Varley, Vice Chair
Maggie Harper, Secretary
Dan Hudson, City Engineer
Larry Hirsch
Mark Meehan

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

APPROVAL OF MINUTES

May 19, 2022

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

SECONDED by Mr. Varley

MOTION CARRIED 5-0-2 (Pedersen & Harper abstained)

COMMUNICATIONS

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

- Amended Agenda
- A22-0013, 77 Caldwell Road
 - Update staff report
- A21-0299, 145 Temple Street
 - Email from Traffic Engineer Wayne Husband
- A22-0086, L Atherton Ave
 - Email from Ann Andon, 36 Berkeley Street

- A22-0015, A22-0014, 591 West Hollis Street
 - Emails from Community Development Director Matt Sullivan
 - Email from Commissioner Frank Edelblut, NH Dept. of Education
 - Updated staff reports

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

NCPB

June 2, 2022

Page 3

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

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. **[POSTPONED TO THE JUNE 19, 2022 MEETING]**

OLD BUSINESS - SITE PLANS

None

NEW BUSINESS - CONDITIONAL USE PERMITS

A22-0015 Microsociety Academy Charter School (Owner) - Application and acceptance of proposed Conditional Use Permit to show a 2 classroom modular building along with associated site improvements. Property is located at 591 West Hollis Street. Sheet E - Lot 6. Zoned "R9" Suburban Residence. Ward 5.

Mr. LeClair said he would hear this case with A22-0014

NEW BUSINESS - SITE PLANS

A22-0014 Microsociety Academy Charter School (Owner) - Application and acceptance of proposed site plan amendment to show a 2 classroom modular building along with associated site improvements. Property is located at 591 West Hollis Street. Sheet E - Lot 6. Zoned "R9" Suburban Residence. Ward 5.

Matt Sullivan, Community Development Division Director

Mr. Sullivan thanked the Board for their patience in providing materials, specifically in how the Board should be treating this application. For the sake of the record, he will read the statement he provided the Board out loud.

Mr. Sullivan said at the Board meeting of May 19th, 2022, staff recommended a continuing of the non-binding public hearing for this application under RSA 674:54, which specifically exempts government uses from compliance with local land use codes and regulations while providing an alternative process that allows for public comment but does not produce a binding set of comments or conditions. This question revolved around whether charter schools, which receive public funding and are contemplated as public schools in several statutes, are included in the definition of a governmental use.

Mr. Sullivan said that because of their role as a non-profit organization this performs the functions of administering public schools. This project was notified both for the 674:54 consideration and two traditional applications in order to protect the rights of both city and school and provide the belt and suspenders approach. In the time since that continuance they received a legal opinion from Commissioner Frank Edelblut which supports the exemption. Nashua Corporation Counsel issued an opinion today that they are not in agreement. As a result, staff recommends that the Board proceed with the consideration of the formal applications only, and that they are ready for consideration. Subsequent to that consideration, they may consider to table Other Business #3.

Mr. LeClair asked if they hear these two cases, any stipulations get added to it. The question is whether they are binding or not.

Mr. Sullivan said correct. There have been alternative treatments by the Board of applications like this and of this location in the past. They reserve the right to provide a new opinion. There is also a potential need for a variance at this location for open space. Typically they would not recommend the Board taking action under this circumstance, but they are comfortable with the Board entertaining conditional approval if the variance is needed.

Mr. Varley said the crux of the issue is not so much whether the city disagrees with the determination, but that the city has opted in its own municipal government uses to the Land Use Code. If there is a site plan at one of the city public schools, those are subject to review by the Planning Board. That's traditionally how the city has approached municipal uses. In order to treat the charter school in the same manner as other facilities in the city, the appropriate approach is to subject them to Land Use requirements.

Mr. Varley said he thinks the Board should take this into jurisdiction of application review under the Land Use Code, and not take it as a non-binding public hearing, given the precedent and the position the city has taken for municipal uses.

Mr. LeClair said he has been here for ten years and heard very many city school cases. He can't think of a time where they didn't. He thinks they should hear it as a case and review it.

MOTION by Mr. Varley that application A22-0015 is complete and the Planning Board is ready to take jurisdiction.

SECONDED by Mr. Meehan

Mr. Pedersen said he didn't receive this paperwork tonight. Are they making a decision tonight?

Mr. LeClair said the material they received tonight is information about the view of the NH Dept. of Education and Legal Counsel on whether it is exempt or not. The case material was already received.

Mr. Pedersen asked if it was reviewed at the May 19th meeting.

Mr. LeClair said not reviewed, but it was submitted.

Ms. McGhee said in their packets is a staff report for the conditional use permit and site plan. That was prepared today. Staff is comfortable with this proceeding.

Mr. Pedersen said this is news to him. He'll think on his feet.

MOTION CARRIED 7-0

MOTION by Mr. Varley that application A22-0014 is complete and the Planning Board is ready to take jurisdiction

SECONDED by Mr. Meehan

MOTION CARRIED 7-0

Atty. Gerald Prunier, Prunier & Prolman, 20 Trafalgar Square,
Nashua NH

Atty. Prunier introduced himself as representative for the applicant. With him is civil engineer Tom Zajac. He thanked Planning staff for their assistance in this process. The planning has to be done now, before the next school year begins.

Atty. Prunier said they are talking about a classroom module 66ft by 28ft in size. It's not a new school, not a new building. Two classrooms they need for September, and they need to get started by July 1st.

Tom Zajac, Civil Engineer, Hayner Swanson Inc., 3 Congress St, Nashua NH

Mr. Zajac said with him via Zoom is Amy Bottomly and Barbara Halevi from the Microsociety Charter School. His job is to present the facts of the case, regardless of the approach.

Mr. Zajac described the site and surrounding neighborhood. The site dates back to the 1970s, where it has been used as an office and medical facility. The charter school moved onsite in 2014. The school has about 250 students enrolled and uses 13 classrooms. It operates 8:30AM-4:30PM, and rarely has events. The site is accessed via two curb cuts, one being a shared driveway with 589 West Hollis Street. There are a number of cross access easements between the two properties. The westerly access is roped off with the exception of bus traffic, near Wellesly Drive. The site contains 58 parking spaces and 37% open space. He briefly described topography and utilities.

Mr. Zajac said this is a relatively straightforward project. They are proposing a modular building with two classrooms and associated site improvements. The classroom will be located to the west in an existing playground area, one story tall. The school will be able to grow to about 300 students, with 20 students per classroom. Site improvements include relocating drive aisles, eliminating parking, and relocating the playground. It will result in 2% decrease in impervious surface and an improvement to stormwater. They are not proposing any changes to lighting or landscaping, and will be extending new utilities to the modular classroom onsite.

Mr. Zajac addressed traffic and onsite circulation. When this site came to the Board in 2014 in a non-binding manner, there were some questions regarding traffic and the westerly driveway. The main drop-off and pick-up times occur within a 15-20 minute window, 8:45-9:00 and 3:40-4:05. Both vehicles and buses follow a clockwise circulation around the existing building. Cars enter and exit through the easterly side; buses enter from the westerly side and exit from the easterly side. A traffic memo was prepared by their traffic consultant, Steve Pernaw. He described the key findings of the report, and based on the ITE trip generation shows

that the project will generate about 49 extra trips in the AM peak hour, and 7 trips in the PM peak hour. These proposed increases are well below the minimum threshold set by the city that would require further study. He said this will not cause any significant adverse impact within West Hollis Street. They received correspondence from the Engineering and the city Traffic Engineer concurring with this opinion.

Mr. Zajac said they also wanted to share the school's data on who gets picked up by the bus. Roughly 1/3 of the students are picked up by parents. If 2/3 of the additional 46 students take the bus home, 15 will be picked up by parents. That's one car per minute. Even that assumption doesn't include the possibility that some will have siblings in the school.

Mr. Zajac said there are two letters he would like incorporated into the record. The first is a request for two waivers, as stated in the staff report. The second is the criteria for a Conditional Use Permit, and they believe this project meets all nine criteria.

Mr. Zajac said they recognize that this project has followed a unique process so far. However, they believe they have an application that is relatively straightforward and complies with both the site plan and CUP requirements. The additional classroom space will allow for the school to accommodate the growing students and families they seek to serve, many of whom are counting on the completion by September. He thanked staff for their hard work.

Mr. LeClair asked if a new playground is being built.

Mr. Zajac said correct.

Mr. LeClair referred to the busing calculations, and asked if the current number of buses can handle the extra students.

Mr. Zajac said yes, that is what he has been told.

SPEAKING IN OPPOSITION OR CONCERN

Ald. Ernest Jette, Ward 5, 15 Foxglove Court, Nashua NH

Ald. Jette said he is only here expressing concerns made by his constituents over the years. People have complained about the traffic on West Hollis St, which has worsened as development increased. In this area, West Hollis St has three lanes, one in

the middle for turning. He went there this afternoon during the pickup time, and counted 80 cars leaving the site. 70 of those cars turned left, and to make a left turn you're going across the westbound lane and the turning lane to reach the eastbound lane. People making that left turn have to negotiate three lanes.

Ald. Jette said they seem to have evolved into a smooth operation, but there remains the problem of the through traffic. A lot of the drivers notice people trying to exit the Microsociety, and being courteous, would stop and motion for the car to proceed. They have had accidents in the past where cars proceeding in the turning lane can't see the car exiting the Microsociety because they can't see the car motioning them to go ahead. Today he noticed five instances where the traffic in the left turning lane had to come to an abrupt stop to avoid a collision. He is not aware of any recent accidents, but there are instances where one could occur. Is this an opportunity for them to review the site plan and ask the Microsociety to look at a better way to allow the parents to exit the property?

Ald. Jette said his solution would be to remove the ability to make left turns. Everybody thinks the shortest way home is the most direct route, but if you consider the time they have to wait to make an opening, would it be less time to take a right turn? Would it be a safer way to negotiate the intersection? He has advocated for the city to do a West Hollis St corridor study and understands there is a possibility that money might be available to look at the street as a whole. Is there an immediate way they can solve this problem without waiting for that study? Is there a short term solution that would make exiting during those peak periods safer?

SPEAKING IN FAVOR

Paula Johnson, 15 Westborn Drive, Nashua NH

Ms. Johnson said she is on the Board of Education, but she is speaking as a resident in the neighborhood. She lives on the other side of Wellesley Drive. She was an alderman at the time it opened, and they tried to block anyone being able to make a left turn out. There was always accidents.

Ms. Johnson said she is in favor of the Microsociety. She has lived her for 38 years. She was one of the residents who asked for a traffic light at Ledgewood Hills because she knew traffic would be crazy. She spoke with Mr. Husband, who said they will

eventually be doing a study on the corridor, but they don't have the money. How do you not have the money to do a traffic study? After all this time, they are putting more and more foundations in the ground and West Hollis Street is becoming a nightmare. She is one of the drivers who allows people to exit the Microsociety, but she doesn't know if the eastbound traffic will do so as well.

Ms. Johnson said they have to be creative to make this work. The street is a nightmare. If there is an accident or it's busy, traffic backs up all the way to the highway. Everyone merges left and there are people flying down the left lane. It's an accident waiting to happen.

Ms. Johnson asked if they could put up temporary lights, like at Pennichuck elementary school, so that parents and buses can have a safe exit. It's a Russian roulette right now. She was in a bad accident over 30 years ago, and that was the biggest nightmare of her life. They could keep it the way it is and hope that no one gets injured. She said they could open up the causeway to Stadium Drive and allow parents to exit from the rear. They need to be creative here. She asked if the bus entrance was going to stay, and no exit. There have been no traffic studies over the past several years, and traffic has been getting worse as people move in and we put houses wherever we can find a spot to put a foundation in. West Hollis Street is not made for all this traffic. There is no room to put another lane in each direction. They need to work with what they have and make this road safe for children when they enter and exit. She has seen that area grow, and they need to be aware of these schools.

APPLICANT REBUTTAL

Mr. Meehan said it looks like a temporary solution, trying to make the best they can of a situation.

Atty. Prunier, Prunier & Prolman

Atty. Prunier said they are open to all suggestions, but they are talking about 7 and 9 cars at two times. What he read in a report is that the City Engineer is planning to study all of West Hollis Street. Something has to be done in the whole area. There are many more homes than the small effect of a modular classroom going up. It would take a whole study to make sure everything works. What sometimes happens is patchwork. In this instance, it has to be the whole street. What the modular classroom is adding is very few cars. It's become a point where it's the whole street. They

have a few cars, but where they have all the other cars down the street, you'll see all the new homes that have come up. It has to be done, and Engineering has it on the list.

Mr. Meehan said there's a lot of other issues happening, but this is a small thing and he doesn't believe it's a permanent solution. It doesn't seem there is a pressing need to create a new pathway because they might not be there in a few years.

Atty. Prunier said he understands what Mr. Meehan is saying. Unfortunately he went to law school, not to be a traffic consultant. He thinks there's more money in that these days.

Mr. Varley said understanding that they didn't meet the threshold for a traffic study, do they have any history of accidents as a result of traffic entering and exiting the site?

Mr. Zajac said that was not part of their review. He would be happy to follow up with Mr. Pernaw.

Mr. Zajac said Ald. Jette's car count is close to what they were representing in the study. It is important to note that they are linked to the office at 589 West Hollis street, so it's not just their traffic. They are coinciding at the same peak. He agrees with the corridor study, and that traffic is a concern. It's not just one site or one project, it's the whole corridor in general.

Mr. Zajac said the school is proactively taking measures for the circulation pattern. They are only using buses for the west approach and not letting cars turn so close to the intersection at Wellesley. They are already limit turns to the shared driveway to the east. If they halt left turns entirely they will have folks taking U-turns where they shouldn't, turning onto private property, and using driveways. They are doing the best they can to tamper down that peak traffic.

PUBLIC MEETING

Mr. LeClair closed the public hearing and moved into the public meeting. He said this seems like a reasonably well laid out concept with small impact. They definitely have traffic issues on this corridor, but he's not sure if this applicant can really do anything about it. The in and out area onsite is an easement. This one applicant can't make the choice. They would have to involve both parties to make that happen. Any changes leading to Stellos and Stadium Drive would involve another property. He

doesn't think that is feasible. A lot of the school traffic is most likely from the area. The bus count doesn't seem to be increasing. He has no issues with this.

Mr. Varley said he agrees. He views the traffic here as incremental. He appreciates the concerns they have heard. The school appears to be operating here successfully for a number of years, and people seem to be navigating the area. He would agree that traffic is a larger corridor issue. If they required right turns only out of the site, easement aside, he would be worried about doing that without much forethought. This is modest and the site has been operating successfully. They should leave this to the larger traffic study.

Mr. Meehan said he has two neighbors whose children go to this school and are excited about the addition. They have no issue with traffic. They had their kids at other schools prior to this, and don't feel it was any better or worse getting in and out of those schools. They are trying to make the best of a not great space for the program, and it seems like a good thing.

Mr. Hudson said Senior Traffic Engineer Wayne Husband's assessment of this was that it was an incremental increase. There are existing issues that they are aware of. They intend to perform a corridor wide study, and have had it in the Capital Improvement requests for the past few years. They do think they have identified some ARPA funding this year, so they intend to start that process soon to identify areas for improvement. There was a traffic study done for the new DPW facility, available online. If there was any quick fix to be made, they would have done it already. It's a challenging area.

Mr. Pedersen said he lives in that part of town and drives past regularly. Westbound drivers will let people out of the parking lot, but those cars can't see the eastbound traffic coming because a lot of times their view is blocked. This will be an incremental increase in the traffic problem. He would like to get an opinion from the traffic engineer on whether a traffic cop in the morning and afternoon would help direct the traffic.

Mr. Hudson said the driveway location is within 500-ft of an existing light signal, which makes adding a light problematic. They would have to coordinate them together, which would be a project for another day. A traffic cop would be difficult given the multiple lanes. He wouldn't want to stand in the middle of the lane. It would have to be a couple of officers. Public Works Division has had a hard time getting details for construction

projects, so he can see that being problematic even if it would improve safety.

Mr. Pedersen said that Mr. Hudson offers good insight into complications. A light might not be feasible to consider at this time. He would like to hear from the traffic engineer on a person.

Mr. Hudson said the applicant's traffic engineer is not here.

MOTION by Mr. Varley to approve New Business - Conditional Use Permit A22-0115. It conforms to §190-133(F) with no stipulations or waivers

SECONDED by Mr. Meehan

MOTION CARRIED 7-0

MOTION by Mr. Varley to approve New Business - Site Plan A22-0114. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of § 190-172, which requires certain building elevations, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of § 190-198, which requires a maximum number of parking spaces, 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, minor drafting corrections and standard notes will be added to the plan.
4. 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.
5. Prior to the Chair signing the plan, all comment in a letter dated May 18, 2022 from Joe Mendola, Street Construction Engineering shall be addressed to the satisfaction of the Division of Public Works.
6. Prior to the issuance of a building permit, the applicant shall receive a variance from the Zoning Board of Adjustment for open space.
7. Prior to the issuance of a Certificate of Occupancy, all comments in an e-mail dated May 23, 2022 from Mark Rapaglia, Inspector/Investigator shall be addressed to the satisfaction of the Fire Marshal's Office.

8. Prior to the issuance of a Certificate of Occupancy, all off-site and on-site improvements will be completed.
9. Prior to any work and a pre-construction meeting, a financial guarantee shall be approved.

SECONDED by Mr. Pedersen

MOTION CARRIED 7-0

Mr. LeClair said they will not be hearing Other Business #3.

NEW BUSINESS - SUBDIVISION PLANS

A22-0013 Rita A. Constant Revocable Trust (Owner) - Application and acceptance of proposed four lot subdivision. Property is located at 77 Caldwell Road. Sheet 105 - Lot 35. Zoned "RB" Urban Residence and "R9" Suburban Residence. Ward 6.

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

SECONDED by Mr. Hirsch

MOTION CARRIED 7-0

Richard Maynard, Civil Engineer, Maynard & Paquette, 31 Quincy St, Nashua NH

Mr. Maynard introduced himself as representative for the owner.

Mr. Maynard described the subject lot and surrounding properties. Each of the streets nearby are under a 5-year paving moratorium, so construction on some of these lots cannot occur for a few years. Sidewalks exist except for a portion of Caldwell Road, which will be installed as part of this project. Drainage will be handled by leaching catch basins, one per lot. Two waivers are requested, as per the staff report. He agrees with the staff report except for items 4 and 5, as they have responded to Engineering and Fire comments.

Mr. LeClair asked if they have the Fire response.

Mr. McPhie said they do.

Mr. LeClair asked for Engineering response.

Mr. Hudson said he will check.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

Mr. Hudson asked where the sidewalks will be constructed.

Mr. McPhie said there is no sidewalk on Caldwell. There is a sidewalk on Lund, and a small one on Amory.

Mr. LeClair asked if the applicant is proposing to install that.

Mr. Maynard said yes.

Mr. Hudson said Lund Road is in a moratorium and no utility work can occur there without a Board of Public Works waiver. He asked if these are single family homes or duplexes.

Mr. McPhie said the amended staff report said the two lots in the R9 are single family homes. There are two lots partially in the RB zone. Lot 35 meets the criteria for a duplex, whereas 167 does not.

Mr. Maynard said all of the new lots will be single family. The existing house has the option of being converted to a duplex.

Mr. Hudson said currently the existing house is remaining, but that conversion would be through a building permit.

Mr. LeClair asked if they have an Engineering response.

Mr. Hudson said he sees a submittal from the applicant but does not see a response. Mr. Mendola may not have been able to review it prior to the meeting. They should leave the stipulation in.

PUBLIC MEETING

Mr. LeClair closed the public hearing and moved into the public meeting. This seems pretty straightforward. They do not need stipulation #5. It sounds like Fire has no further comments.

A brief discussion of item #5 ensued.

Mr. Meehan said he drove to the site and it's fitting to the neighborhood.

Mr. Hudson said all roads abutting this are in moratorium.

MOTION by Mr. Varley to approve New Business - Subdivision Plan A22-0013. 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 be shown, 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 § 190-190-221(C), which establishes all utilities be located underground, 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 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.
4. Prior to the Chair signing the plan, all comments in a letter from Joe Mendola, Street Construction Engineer, dated April 28, 2022 shall be addressed to the satisfaction of the Division of Public Works.
5. Prior to any work, a pre-construction meeting shall be held and a financial guarantee shall be approved.
6. Prior to the issuance of a building permit, the electronic file of the subdivision plan shall be submitted to the City of Nashua.
7. Prior to the issuance of the third certificate of occupancy all infrastructure will be predominately completed including sidewalk construction along required frontage as approved by the Planning Board.

SECONDED by Mr. Pedersen

MOTION CARRIED 7-0

Mr. LeClair asked staff if they should hear the next cases all at the same time.

Ms. McGhee said yes. There is a subdivision, and three site plans are all contiguous.

A21-0299 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - Application and acceptance of proposed three lot subdivision. Property is located at 145-149 Temple Street. Sheet 38 - Lot 93. Zoned "GI" General Industrial/"TOD" Transit Oriented Development. Ward 7.

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

SECONDED by Mr. Pedersen

MOTION CARRIED 7-0

NEW BUSINESS - SITE PLANS (continued)

A21-0300 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - Application and acceptance of proposed site plan to show a 4-bay garage, office and storage. Property is located at 145-149 Temple Street. Sheet 38 - Lot 93. Zoned "GI" General Industrial/"TOD" Transit Oriented Development. Ward 7.

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

SECONDED by Mr. Meehan

MOTION CARRIED 7-0

A21-0301 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - Application and acceptance of proposed site plan to add asphalt manufacturing. Property is located at 145-149 Temple Street. Sheet 38 - Lot 93. Zoned "GI" General Industrial/"TOD"-Transit Oriented Development. Ward 7.

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

SECONDED by Mr. Meehan

MOTION CARRIED 7-0

A21-0302 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - Application and acceptance of proposed site plan to add proposed office use. Property is located at 145-149 Temple Street. Sheet 38 - Lot 93. Zoned "GI" General Industrial/"TOD" Transit Oriented Development. Ward 7.

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

SECONDED by Mr. Meehan

MOTION CARRIED 7-0

Atty. Gerald Prunier, Prunier & Prolman

Atty. Prunier introduced himself as representative for the applicant. With him is project engineer Richard Maynard, traffic consultant Jason Plourde, and owner Richard Defelice.

Atty. Prunier said he will start with the subdivision. This piece of property was the Chagnon Lumber Yard for many years. These evening they propose to subdivide the property into three pieces, and they have three site plans for the new parcels. They have met with city departments, who have reviewed the plan. The traffic engineer has requested a contribution of \$7,400.00 for traffic improvements, which they agree to make. Engineering has requested improvements on the plan, which they have done. All utilities are available onsite. They are in agreement with the conditions of the staff report.

Atty. Prunier continued to 145 Temple Street. Two buildings will be razed, and an asphalt plant will be built. Traffic will be one-way from Temple Street through an easement to Commercial Street. There will be a fence along the railroad, and landscaping installed in cooperation with city staff. There is an access easement over all three properties which will be recorded at the Registry of Deeds. All buildings have the required parking.

Richard Maynard, Civil Engineer, Maynard & Paquette

Mr. Maynard said they are requesting a few waivers. One is for overhead utilities, and the other to show existing conditions within 1,000-ft.

Mr. Varley asked for a description of the operations.

Mr. Maynard said there should be a letter in their packets. This is a full odor control facility. There should be no odors. The asphalt facility is enclosed and has treatment. They provided pictures of facilities in Westford and Watertown. They need an emissions permit from the state, and the applicant had discussions with Fire Dept. and Health Dept., and both were satisfied by what is proposed.

Ms. Harper said she visited Watertown. How does this plant compare in size?

Mr. Maynard said it is slightly smaller.

Atty. Prunier said he would like to bring up the applicant to answer this.

Richard Defelice, 14 Crestwood Lane, Nashua NH

Mr. Defelice said he is the owner of the property.

Ms. Harper asked if it would be exclusively used for Newport, or other businesses.

Mr. Defelice said it would be open for general business.

Ms. Harper asked if there are any other plants within a 25 mile radius proposed.

Mr. Defelice said there is one plant in Amherst near Fredericks Pastries. There is another one in Hudson on Route 111. He also owns one in Westford, MA. This plant would be state of the art, and it has to meet state of NH clean air qualifications to obtain the permit. In Westford they have what is known as the cleanest air permit in the state of Massachusetts, and they have passed all DEP testing and local board of health testing.

Mr. Defelice explained the asphalt odor control measures. *[Audio distorted.]*

Mr. Meehan said when they do the assessment of the emissions, are the trucks part of that study? Or is it the plant?

Mr. Defelice said it's not a test, but he walks around the facility they have had for three years. It's not odorless, but he doesn't smell anything. The trucks have tarps over the top when they leave the facility. It's not offensive, and they have done well at the

Westford facility. They use a product called Ecosorb in the asphalt to reduce odor. *[Audio distorted.]*

Mr. Meehan asked what the relationship is between subdividing the lot and this facility.

Mr. Defelice said people will get loaded on lot one and leave on lot three. They have been onsite for a while and renovated the buildings. Part of the reason they bought the site was because an asphalt plant is permitted.

Mr. Pedersen asked how many trucks will be coming through.

Mr. Defelice said the first load would go out 6AM, between 10AM. They will come back sporadically. Then they will have the freight onboard customers throughout the day.

Mr. Pedersen asked if they are dump trucks.

Mr. Defelice said yes.

Mr. Pedersen asked how many per day.

Mr. Defelice said they will probably see 100-150 trucks over an 8-10 hour period.

Mr. Pedersen said that would change the character on Temple St.

Mr. Defelice said he respectfully disagrees. Currently he is running his maintenance facility there, and they have dump trucks coming on and off the property on a daily basis. Next to him is a recycling, gravel, and loom business next door. That's the site of the old Bissonette sand and gravel, and they used to do about 1,000-yards of concrete per day. That would have been 200-300 trucks a day on Commercial Street.

Mr. Pedersen asked if he is saying there used to be a history of a large amount of trucks.

Mr. Defelice said yes.

Mr. Hudson asked if the batch plant has a control facility, and if it would have bathrooms.

Mr. Defelice said no.

Mr. Hudson asked if the building to be razed has bathroom facilities in it.

Mr. Defelice said yes. One does, and one doesn't. First building on the left is coming down, and that has facilities. You go around and the old lumber storage is coming down, that did not.

Mr. Hudson said there is engineering testimony that there is no sewer service shown on the plan and that they don't know where it is. There was discussion about what water use would be needed. The staff report and GIS significant encroachments in the railroad right of way. He would request as a stipulation of approval that all encroachments be removed from the former right of way.

Ms. McGhee said that is in the staff report.

Mr. Hudson said he wants the Board to know that it is much more significant than the plan shows. This is not a minor thing. He asked who will maintain the landscaping plantings, and where the maintenance responsibilities will be.

Ms. McGhee said the applicant would be willing to do that.

Mr. Defelice said staff has not yet told him what they want, but he would be willing.

Mr. Meehan asked if there has been conversation with the abutters on Murray Court.

Mr. Defelice said he has not, and does not know who they are.

Mr. Meehan said there is a lot of residential in the area.

Mr. Defelice said he doesn't know what Mr. Meehan is talking about.

Mr. Meehan said to the west side of the property there are apartment style residential buildings.

Mr. Defelice said he has not spoken to them.

Ms. Harper asked how the equipment they will be using onsite compares to the equipment used in Watertown? It was quite loud.

Mr. Defelice said the plant they are putting in will be state of the art. The noise is a non-issue. The Watertown plant has been there at least 50 years. [Audio inaudible] There is a lot of development that has come around that plant, even hotels, and that has not been a deterrent.

SPEAKING IN OPPOSITION OR CONCERN

Michael Lefavor, 10 East Pearl St, Nashua NH

Mr. Lefavor said he is the owner of 110 East Hollis St, also known as the Henry Hanger building. He is in opposition of the plan. He has many objections to this proposal.

Mr. Lefavor said he is in objection to the odor. The applicant has described the odor control measures, and he does not think they will be sufficient. There is an odor present with manufacturing asphalt. Based on his research, none of them claim to offer 100% odor mitigation. His building is 30-yards from where this plant would be. There would be 100-residential tenants living right next to that plant. While living there they would be subject to a range of hazardous chemicals, such as from arsenic, benzene, formaldehyde, and cadmium, all of which can cause cancer, central nervous system problems, liver problems, and skin irritation. If this eliminates 90%, the residents would still be hit with a cocktail vapor daily. He wouldn't want to be exposed to even 1% of that. The plant is too close to residential housing to be safe.

Mr. Lefavor said his second concern is the operational impact to the area. The product will flood the already congested streets with large commercial grade dump trucks, not only picking up asphalt but dropping off the aggregate. Handling of the aggregate will create a large amount of dust, which with the slightest wind will go to the residents. It also seems the lot is constrained to handle an aggregate storage. Noise is another operational impact, with the operation of heavy equipment and trucks from 6AM-6PM. The residents would lose their right to quiet.

Mr. Lefavor said this will change the character of the neighborhood. The area is predominantly residential and light industrial. There is no heavy industrial located in the city. This is a heavy industrial use, which would not be appropriate in this neighborhood and would change it for the worse. It would have a major impact on surrounding issues and quality of life.

Mr. Lefavor said based on his research of other asphalt plants, these are all set on very large lots and more capable of handling a heavy industrial application. None of these are placed as close to residential livings as this one. This is 30-yards away. Upon research of the Watertown plant, it is not surrounded by residential housing and would not be comparable to the hundreds of residents that will be living in the area and currently do. He

asked the Board to take another look at asphalt plants currently operating. He visited the Watertown plant and said it is a great plant. But it's not smack dab or 30-yards away from a housing structure.

Mr. Lefavor said the Transit Oriented Development overlay was created to give the Planning Board more flexibility on approving or denying projects that are either consistent with the Master Plan or outside the scope. They are clearly heading in the direction of revitalizing the TOD districts, and that is predicated around providing more housing. This would be a clear violation of the city's Master Plan. It would also hinder other projects from being developed in the area, as there is a large stigma against residential projects near a toxic asphalt plant. The city has approved his site for 88 residential units and another 160-unit across the street on Temple St. These were approved with great enthusiasm, and he is doing his part to solve the housing crisis in Nashua. He has invested time and money to bring housing to the area. The city has invested in a railway walking path which would be right next to the asphalt plant, which would impact all that use it. He feels that all of the progress the city has made would regress if this is approved.

Mr. Lefavor said the idea of this is completely against Nashua's Master Plan and everything the city has been trying to accomplish through the TOD. This will be detrimental to surrounding property values, residents' quality of life, and the future development of the area. The TOD gives the Board the power to deny this ordinance, and he asks the Board to do that. Nashua does not need an asphalt in the middle of a high density residential zone. He hopes the Board will consider the impact of this proposal. He thinks the landscape will be changed for the worse.

SPEAKING IN FAVOR

None

APPLICANT REBUTTAL

Atty. Gerald Prunier, Pruner & Prolman

Atty. Prunier said this area is properly zoned. The owner bought this property because he intended to do this in the future, and checked to see if he had the right to use it for an asphalt plant. He has the right to use his property for what it is zoned for. This wild thing about the Master Plan has no effect on the

property. The Master Plan is not zoning. He doesn't think the new plan has even been accepted by the Board of Aldermen. This area is properly zoned.

Atty. Prunier said they knew that questions about odor would come up. So they made sure that they went to the proper people to make sure they were satisfied. They spoke to the Board of Health, and they were satisfied that they were taking care of odor problems. If the opposition had any evidence, he should have submitted it to the Board. Some of the statements he is making are not true and may subject him to a lawsuit.

Atty. Prunier reiterated that this property is properly zoned. They have met all of the departments of the city and they have been satisfied. The opposition is not an abutter, and his property is over 400-ft away from the site.

Mr. Meehan said he noticed on the company website the legal and permitting process for the Massachusetts plant took over ten years. What issues might there have been?

Richard Defelice, 14 Crestwood Lane, Nashua NH

Mr. Defelice said the issue was that they were not a permitted use on the property until they obtained the permit. The land at 145 Temple is zoned and the use is permitted by right. That's the major difference. It was a one year battle, and then they went to land court in Massachusetts. Every possible test they were asked to do was passed with flying colors and was peer reviewed by the town of Westford. He said the allegations he is hearing tonight are totally untrue and unfounded. He takes exception to them because it is not true. You could not put this plant in New Hampshire if you didn't have the right permit. He walked away from Massachusetts with the cleanest permit in the history of the state. He knows what it is to be a good neighbor. They have not had any problems in Watertown.

Mr. Meehan said he goes by this site every day, and it is very discreet. You wouldn't even know it is a construction company. Why would they put an asphalt site where there is no access to highways? The new dining expansion on Main Street has shifted all the traffic to Temple Street. The bridge to Hudson is a nightmare.

Mr. Defelice said why not? It's a permitted use. Bissonette Sand and Gravel had concrete for 50 years. It's an inner city plant, it's different than the one in Westford. The facility that they

are putting in Nashua is much smaller than Watertown. It will be state of the art, and serves a different purpose.

Mr. Varley said the owner of 110 East Hollis St indicated that the proposed use would be closer in proximity to residential uses than the Watertown site. What is the proximity there?

Mr. Defelice said they have an office building that is 800,000 feet away. There are residential units all around and a lot of businesses nearby.

Mr. Varley asked if there are residential units in proximity.

Mr. Defelice said yes, there are units on 140.

Mr. Hirsch asked how many trucks would be delivering aggregate per day.

Mr. Defelice said that would happen over a 6 day period, and depends on what they can sell. An average could be 30-50 trucks a day, which would be part of the 100-150 average.

Mr. Hirsch asked how many trucks are there today.

Mr. Defelice said his traffic consultant is here. There is constant activity. What goes on next to him is not light industry either.

Mr. Meehan asked about the Master Plan. It is very clear about what the city intends to do in that area. Was that part of their discussions as they looked to develop this space?

Mr. Defelice asked with who and when.

Mr. Meehan asked if he is as unfamiliar with the Master Plan as Atty. Prunier.

Mr. Defelice said he understands that the gentleman bought the Henry Hanger building and wants to put houses there. Fine. He appreciates that and hopes he does well. He knows what surrounds him, and has been there for a number of years. Other than the Henry Hanger, which has not been developed yet, nothing has changed. It doesn't look like there is going to be any major new housing beyond what the gentleman is proposing.

Mr. Meehan said there is Murray Court. There are apartments there.

Mr. Defelice said he doesn't know what Mr. Meehan is talking about. He sees what he sees. He asked what Mr. Meehan is asking. Should he change his development because of a Master Plan he doesn't see developing around him?

Mr. Meehan said typically when developers bring a project in, one of the ways they interact with that is what interactions they have with abutting properties. He was ready for the applicant to say that he talked with his abutters. It is interesting that he didn't.

Mr. Defelice said he didn't do that when he bought the land. He didn't do it when he put his maintenance facility there, or his office. He doesn't know why he would. He bought the land for the zoning it was approved for.

Mr. Varley said he described the permit process in Massachusetts. Does he understand that the NH permit will require similar standards?

Mr. Defelice said yes. They have every intention to meet it.

Mr. LeClair asked staff for an understanding of how the TOD applies to this.

Matt Sullivan, Community Development Director

Mr. Sullivan said he would like to respond to some of the comments made by the Board. The city did have conversations with the applicant about the alignment of this proposal with the adopted Master Plan, and their concerns about how this commercial use would align with what they anticipate to be a new influx of residential units adjacent to the site. Staff may not be comfortable with some aspects of this use, and they have been clear about this. The applicant is correct that under the TOD and even as a permitted use in this district, that this use is permitted. As a result, their conversations quickly turned to how best to mitigate the impacts of the use, whether it was permitted.

Mr. Sullivan said staff did have conversations with the applicant, there was discomfort with the applicant, but ultimately this is an example of a misalignment between some of the ambitious goals of the Master Plan and the existing zoning. They have very ambitious goals along the East Hollis Street corridor for mixed use development and transit oriented development. Those concerns are reasonable, however the applicant is correct that this is a permitted use. That ultimately ruled the conversation.

Mr. Sullivan said in regards to the Transit Oriented Development zone, this is an innovative land use control that essentially takes the powers awarded traditionally awarded to the Zoning Board to grant relief from zoning and returns it to the Planning Board to give them more flexibility to approve site plans within the zoning district. Ultimately, it gives the Board authority to approve or deny plans in this area. It is however, an overlay zone. This use is permitted in the underlying zone. Ultimately their hands are tied to approve the use, but they can discuss in context of the site suitability, whether the applicant has taken appropriate measures to mitigate the impact to surrounding properties.

Mr. Sullivan said he is very concerned about how this will interface with those surrounding residential uses, but he is not sure if the Planning Board has the legal authority to deny it on that basis alone. He would recommend that the Board use what tools it has in the site plan review regulations to mandate any specific conditions that might mitigate its impact. There is concern, but it is clear within the zoning that this is permitted despite their concerns otherwise.

Mr. Varley said his understanding is that in terms of the TOD is that it gives them flexibility to permit a use that would not otherwise be permitted in the underlying zone. Does it enable the Board to impose different conditions than they would otherwise be able to impose, or can they simply do that within the existing authority the Board has?

Mr. Sullivan said the authority of the TOD gives the Board more abilities beyond a traditional site plan review authority to require additional things in the context of the site plan suitability analysis. Whether or not it's a clear site plan review regulation, he believes the Board can ask for additional things beyond what those regulations stipulate, in the interest of creating a site plan that is compatible with the uses within the TOD.

Mr. Sullivan said the interesting question he raises is that the TOD overlies an underlying zone that permits a use. Does the TOD also give the Board authority to prohibit a use allowed in the underlying zone? He is not comfortable with answering that, as it's a bit complex. He believes the use is permitted in this zone.

Mr. Hudson said he understands it to be an enabling legislature to allow additional uses in zones where they don't exist. Those

residential uses are in alignment with the Master Plan goals, but he doesn't see where it prohibits underlying zones.

Mr. Meehan asked how he would assess traffic usage. They are limiting the traffic impact to the site, but they know that the trucks would have to get through an urban space that is rapid developing into a commuter rail and residential area. They are talking 100-150 trucks. How do they assess the traffic?

Mr. Sullivan said this is something that arose as part of their consideration of 591 West Hollis St and the Nashua Landing. When they recognize that there are systemic issues with a given corridor, it is not on an individual applicant to be responsible for the whole remedy to a failure. They are responsible for their share of the traffic impact. That responsibility does fall to the city and a comprehensive traffic study. However, they do have corridor funds and they request contributions so they can build up a fund that can support a study of that magnitude down the road. Having the funding available is part of the Board's review process.

Mr. Hudson said he doesn't think Mr. Sullivan intended to imply that Temple Street or Commercial Street were in failure. They are not. The traffic volumes proposed on those streets are fairly low. It's the major corridors in proximity that are congested and might suffer from additional traffic. The issue proximate to the site is the makeup of the traffic. It's a heavy trucking type nexus. The volumes are not heavy. From a capacity standpoint on Commercial St and Temple St, it's not a concern.

Mr. LeClair said this application probably requires a site visit by the Board. He doesn't know that he would be more comfortable if the Board visited the site, walked the locations proposed. He asked the applicant if they would be willing to let the Board visit the site in Westford so they can ask questions there. Then they would not make their own assumptions while driving by. There are applications of this size that they have done this for, some much less complex. He asked the applicant if they would be willing to consider it.

Mr. Varley said it would be useful to see the Westford site and see it in operation. It would be valuable to the extent that they could see a facility in operation at Westford since it would be representative of what will be on this site.

Mr. LeClair said if they go to Temple Street they can stand there and say, this is where it is going to be. They know the other

developments that have come before the Board. He would ask that those documents be available at the site so they can see that. There is a lot of ambiguity. It's a big decision and warrants that activity by the Board.

Atty. Prunier said they have no problem. They would be glad to show the Board the site. He asked if that the meeting would be closed and that the Board would go between themselves to the site.

Mr. LeClair said they would close the hearing and table the case do perform the site visits, then reopen the hearing at another meeting.

Atty. Prunier said he has no issue. He just wants to know when his job stops. Normally this would stop tonight. He doesn't mind them coming out before they take the vote.

Mr. LeClair said if they table the case, they wouldn't be voting on it. They can pick the date.

Atty. Prunier asked if they would do it before the next meeting.

Mr. LeClair said they would try to do it fairly soon.

Ms. McGhee said if they go as a group, it would be a public site walk.

Mr. LeClair said it's beneficial to talk onsite. They can't talk onsite unless they call it a public meeting.

Mr. Hudson said the public would be afforded an opportunity to attend as well.

Mr. LeClair said they wouldn't have a public discussion, but the public can walk around with them and listen.

Mr. Hudson said he would welcome that opportunity.

Mr. LeClair said he would be way more comfortable if he could see it and understand it.

Atty. Prunier asked which site.

Mr. LeClair said both. They're not that far apart. In the interest of moving things forward, they could visit the existing site and then go to Temple St.

Atty. Prunier said he would caution the Board that the operations in Westford are very different than what is proposed here.

Mr. LeClair said while they are there the applicant can explain how it's different.

PUBLIC MEETING

Mr. LeClair closed the public hearing and moved into the public meeting.

Mr. Hirsch said a site walk is a great idea.

Mr. Varley said it's important to see the site in operation and ask questions. They do have additional authority under the overlay district, but he doesn't feel like he would be in a position right now to determine what those conditions could be. That additional diligence is a good idea.

Mr. Meehan agreed. He asked staff if they could provide additional clarity on the overlay.

Mr. LeClair asked for the approved plans for the Henry Hanger and Temple Street residential projects. There are several developments that have already been before them. It would be good to understand those in the context of this.

Mr. Meehan said there are three apartments abutting this site on Murray Court. He understands that they are low income. Has there been any outreach? It seems like they would want to engage them.

Ms. McGhee said they always encourage the applicant to reach out to their abutters.

Mr. Meehan said and they have pointedly not.

Ms. McGhee said no. But they also send out abutter notices and the owners of those properties would have been notified. Only one person spoke out against this project.

Mr. Varley said the city has an obligation to provide notice, which they have done. They do encourage applicants to make outreach. There was only one abutter here testifying. He doesn't know if that means the residents didn't receive the notice or didn't have concerns.

Mr. Pedersen said they should visit the Westford site during business hours.

Mr. LeClair said himself and staff could coordinate a date and time to visit with the applicant. They should pick a table date for when they want the applicant to return.

Mr. Meehan asked if they could table to September.

Mr. LeClair said he was thinking July. They are obligated to move quickly in getting their due diligence done.

MOTION by Mr. Meehan to table A21-0300, A21-0301, A21-0302, and A21-0299 to the July 14, 2022 meeting, for the purpose of scheduling a site walk at the Westford plant and the site as proposed

SECONDED by Mr. Varley

MOTION CARRIED 7-0

Mr. LeClair said he would work with staff and the applicant to get a site walk date.

A22-0086 City of Nashua (Owner) - Application and acceptance of proposed construction of on-site 30 space parking lot with access road, construction of relocated basketball court, and 9 parallel parking spaces on west side of Atherton Avenue. Property is located at "L" Atherton Avenue. Sheet 46 - Lot 31. Zoned "RA" Urban Residence & "RC" Urban Residence. Ward 3.

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

SECONDED by Mr. Meehan

MOTION CARRIED 7-0

Matthew Franz, Senior Staff Engineer, 9 Riverside Dr, Nashua NH

Mr. Franz said he is here on behalf of Public Works Director Lisa Fateaux and Economic Development Director Tim Cummings.

Mr. Franz said they have an existing recreation facility for baseball and softball, a basketball court, and a small playground.

What it does not have is parking. He briefly described topography and said runoff is self-contained.

Mr. Franz said they are proposing to turn the baseball fields into two soccer fields, relocate the basketball court and playground, and provide a parking lot plus on-street parking. They will be updating the plan to show handicap spaces. They are requesting five waivers as part of this application, as listed in the staff report. These waivers include additional lighting, configuration of parking spaces, offsite parking, offsite conditions, and establishing permanent monuments.

Mr. Meehan asked for clarification on waiver 4.

Mr. McPhie said if they are going to include handicap spaces on the plan, they can cross out that part of the waiver request.

Mr. LeClair asked if the minimum parking waiver would still be required.

Mr. McPhie said yes.

Mr. Hudson said Mr. Franz is a senior staff engineer, and this is a project they are trying to do efficiently. This is all in-house survey, and construction will primarily be in-house. Adding of the parking stems from complaints they received from the neighborhood. These parks have significant use, and there isn't sufficient parking right now. That is the intent of this application to the Board.

Mr. Meehan said he lives in this neighborhood, and people are excited to have parking. Is this funded? Could it happen soon?

Mr. Hudson said there is some funding. The bulk of the work is to be done in house. They intend to do the construction this year, so once they start it probably won't be playable. It would be open next year.

SPEAKING IN OPPOSITION OR CONCERN

Donna Kafopolis, 4 Atherton Ave, Nashua NH

Ms. Kafopolis said she is right next door. She asked where the road access is going to be for the parking and what lighting there would be.

Mr. LeClair said he can have the engineer explain it.

Ryan L'Italien, 7 Atherton Ave, Nashua NH

Mr. L'Italien said he recently moved into the area. Within the past year there have been two condos within 200-ft of the park. He has two small kids, and is worried about the traffic. He is worried about the grading. They are filling in 6-ft of loam. He doesn't believe the catch basin will be sufficient when it is clogged with ice. He is concerned about the drainage. He would like lighting and landscaping be proposed as part of this plan, as they are taking away landscaping for this. There are 30 parking spots going in and he would like to make sure it is lit. He doesn't want to encourage people to hang out there. They are removing a big tree, and there will be no shade. He asked that they add in shade trees. The playground equipment location is at the far end of the parking lot. Right now they are used every day. Nowadays the parents watch them from under the tree, now there is nowhere for parents to watch them play. There are quite a few people coming in for the basketball court that come in from both sides. He is concerned with traffic, as it is getting quite busy in the area. He said there are hundreds of parking spaces at BAE and they only use about half their lot. They are two hundred feet away. He doesn't think they need this parking here.

Mr. LeClair asked if he is supportive of the park.

Mr. L'Italien said he is for the park, not for the parking. People use his driveway to turn around in. There is parking nearby they can use.

Alisha Zebeau, 7 Atherton Ave Unit 4, Nashua NH

Ms. Zebeau said she is also for the park. There is a ton of parking already available on Lock Street, and she can't imagine that some deal can't be worked out in a short distance. The street is very narrow and there is a sidewalk on only one side. Kids are up and down there all day long. It's asking for an accident. She said the tree they intend to remove has to be at least 300 years old, and 18-ft in circumference. It's going to have a root system that extends three meters beyond the canopy. She doesn't see anything in here about an arborist making sure that they are preserving the trees and that none of the planning will affect them. These trees have been around longer than Nashua itself. The basketball court floods and fills in. If they level it off there will be significant drainage issues. Her driveway flooded this

year because the drains were clogged with debris. She said this is also an asbestos fill site, and she doesn't know how it would be possible to redo the park without disturbing it. She is right across the street and it's one of the reasons she moved in, but there are some significant issues that need to be looked at.

Kathleen McClinden, 2 David Dr, Nashua NH

Ms. McClinden said she is at the north end of the park. She is in support of more parking, but doesn't understand why they are remaking the park. It's nice the way it is. There's open space between those two older trees; if they grade it they can have dirt parking and leave the rest of the park like it is. Save the taxpayers a lot of money and keep the park as open space.

SPEAKING IN FAVOR

None

Mr. LeClair asked Engineering to address lighting, grading, and the basketball court.

APPLICANT REBUTTAL

Matthew Franz, Senior Staff Engineer

Mr. Franz said in regards to lighting, they can enhance the lighting for security purposes. They have one area light which sticks with the current security system. That is something the city can work in, if it's agreeable with the budget.

Mr. Franz said they do separate some of the flow to the basketball court by keeping the soccer field drainage contained to those fields. There is a drainage pipe coming in from Perham Street, which will be contained to the northwest side of the property. They try to provide ponding onto the basketball court to contain runoff up to the 100-year storm. Any maintenance of the street catch basins isn't something they will be dealing with. They will contain it onsite with a leaching catch basin. They can expand that a little to infiltrate faster.

Mr. Franz said the proposed changes are all contained to an area that is not within the asbestos fill site. That is being monitored by the city. The asbestos fill is in the upper hillside and they stay away from that completely. Solid Waste manages it.

Mr. Hudson said the city did not create the asbestos site. It was fill placed by others throughout the years to fill the area that the properties were built on. They monitor that slope and remove whatever is exposed.

[Muffled audio from audience member]

Mr. Hudson said the design was specifically done to avoid the slope. They are aware of the historic asbestos fill. Their intent was to light the parking lot, not lighted fields. It's just a security measure, and they will replace in kind.

Mr. LeClair asked about the tree.

Mr. Franz said there are several trees lining the street. They tried to position the parking lot so it went through the newer planted trees. The big tree they plan to remove is an invasive species, a Norway Maple. They designed around that tree until they found out it was an invasive species. They tried to keep them all under consideration. They hope to keep the trees by the basketball court and along the road. They don't show any replanting, but it is something they can take into consideration.

Mr. LeClair said they have abutters that don't want parking, and generally they get the opposite of that. What was the genesis of why they are doing this? Are there other abutters that came forward?

Mr. Hudson said primarily it was a field project. They were going to put in soccer fields given the demand for them in the city. They have had historic complaints about the traffic and lack of parking. The parking spaces nearby are private property and they don't have any existing arrangements with them. This would allow handicap parking within proximity to the features. They tried to size it for what the space would accommodate. It seems to be fairly suitable for the use. They are still in the process of identifying what the playground will be. They are still speaking with vendors. He can't commit to shading at this time. This will not be a million dollar project. It's a fairly low budget exercise. The big tree by the road, they are comfortable removing something if necessary to avoid damaging the tree.

Mr. LeClair said it is a city plan, so they have the ability for flexibility. He understands that some abutters will want some things and some want others, but none of the people who support it came tonight.

Mr. Meehan said he lives around the corner at Thoreau's Landing. You can't drive down that street when there is an event happening, it's impassible. His question is if there is enough parking, since they are increasing the usage with the soccer fields. It's a great step forward from what they have. It's a well-used park. The biggest issue is a lack of parking. He keeps waiting for BAE to rezone the 120 space parking lot. It's fenced and gated and they are particular about not allowing it to be used or trespassed on.

Alisha Zebeau, 7 Atherton Ave Unit 4, Nashua NH

Ms. Zebeau asked if any attempts were made with the parking to approach the Baptist church across the street. She is concerned they are inviting more parking on the street. It's the entirety of Atherton Ave. She thinks the best move is to keep parking off of Atherton altogether. There's tons of parking around and it's no further a walk than if they parked down the street.

Mr. Meehan said the church is consistently gating their parking lots. Is it possible to work with them?

Mr. Hudson said he can reach out. His preference is to approve the plan as is so that they can move forward if they can't come to an agreement.

PUBLIC MEETING

Mr. LeClair closed the public hearing and moved into the public meeting. He said there are competing interests but everyone is in interest in improving the park. The Board can approve the plan as-is, or with stipulations. The city can also work with staff for reasonable accommodations.

Mr. Varley said he thinks based on the discussions they have largely addressed the concerns related to whether there is parking or not. The city is willing and able to not remove shade trees, avoid the asbestos, and provide lighting. It seems to come down to whether some of them want parking or not. It sounds like at least having some parking there would mitigate the issue of on-street parking on the narrow street. It doesn't eliminate the desire for the consideration for other parking elements. If the city can agree with the church, that's fantastic, but they should have the option to improve the current situation on Atherton.

Ms. Harper said it does add ADA accessible spaces, which makes the park more accessible.

Mr. LeClair said they wouldn't build a park today without that. It makes good sense to add that. He asked the Board if they feel they need to stipulate.

Mr. Pedersen said they have two new soccer fields. Will the soccer families exacerbate the current parking problem?

Mr. LeClair said it's always a balance with the parks. Everyone uses them differently.

Mr. Varley said it didn't sound like the abutters didn't want soccer fields, they didn't want parking. They would want at least some parking onsite if they are increasing usage of the park, especially accessible spaces.

Mr. Meehan said he feels comfortable with the plan and staff's willingness to work with the abutters to address their concerns.

Mr. LeClair said they have agreed to lighting and preserving trees.

Mr. Varley said having the conversation with the church would be good. Maybe they would only need a handful of spaces onsite.

Mr. Meehan said he wouldn't want to put city staff in the position of navigating something that would not be likely. The plan as it stands is great. If something can be worked out, terrific, but he can't expect success.

Mr. Pedersen said they should stipulate not to disturb the asbestos.

Mr. Varley said the city is doing the construction and also doing the monitoring. It's not a private developer.

Mr. Hudson said they are aware of it, and have no desire to go digging.

The Board held a discussion on whether they should add stipulations. Mr. Hudson said he is amenable to adding lighting and landscaping stipulations.

Mr. Hirsch said his concern is the parking. If they make an arrangement with BAE or the church it won't be around long term. He doesn't think there is any benefit. He can't imagine there being a long term relationship.

Mr. Varley said that Mr. Hudson is asking them to approve the plan as contemplated and then attempt to have a discussion. The city would still have the ability to approve that as presented.

MOTION by Mr. Varley to approve New Business - Site Plan A22-0086. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of § 190-279 (EE), which requires existing conditions to be shown on site and on adjacent parcels, 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 § 190-184(0)(I), which establishes minimum parking standards including parking islands, 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 NRO § 190-190-221 (C), which establishes all utilities be located underground, 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 NRO § 190-198 which requires minimum parking space standards is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
5. The request for a waiver of NRO § 190-279(E), which establishes permanent monuments and property lines etc., is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
6. Prior to the Chair signing the plan, City Engineering staff shall communicate with the Heritage Baptist Church to confirm whether the church would be willing to provide parking for use of the park.
7. A fire hydrant will be moved as noted on the plan.
8. Prior to the Chair signing the plan, minor drafting corrections will be made.
9. City staff and Engineering shall ensure that impact on shade trees is minimized and provide additional shading as appropriate to the extent that shade trees are removed.
10. The City shall ensure that there is appropriate lighting to illuminate the parking area.

Mr. McPhie clarified that the plan now includes handicap spaces.

SECONDED by Mr. Meehan

MOTION CARRIED 7-0

OTHER BUSINESS

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

None

2. Amendment to the FY 2023 Capital Improvement Program, proposed new items.

Matt Sullivan, Community Development Director

Mr. Sullivan said they commonly come back to the Planning Board for amendments to the plan. This year they had a project come in for a corridor improvement adjacent to the West Pearl Street area for lighting streetscaping, changes to parking, ADA access improvements, and enhance the public realm. This is intended to align with a subsequent amendment to the Walnut Street oval, which will return the normal street grid and remove the oval. That will come potentially in 2028. This is intended to connect to that at a later time. This would be done in Fall 2023. It's also an important gateway to the peripheral streets. It's compatible with the objectives of the Master Plan. It's an amenity, but received a high score by the committee. He requested that they include this.

Mr. Pedersen said the Mayor stated at one of his coffee meetings that they will have to reverse the direction of West Pearl Street. Will they have to redo it after it's reversed?

Mr. Sullivan said the improvements are being designed so that the street could be reversed. Although that reversal is contemplated, there will be further traffic study needed before changing the circulation. That will potentially involve East Pearl Street.

Mr. Pedersen asked if they will have to redo it.

Mr. Sullivan said no. It's a long term improvement and they would not have to redo it.

Mr. LeClair said the Walnut Street improvement doesn't have to happen for this to be functional.

NCPB

June 2, 2022

Page 39

Mr. Sullivan said correct. They are related but not dependent on each other to function.

MOTION by Mr. Meehan to favorably recommend Other Business #1 to the Board of Aldermen

SECONDED by Mr. Varley

MOTION CARRIED 7-0

3. Microsociety Academy Charter School non-binding public hearing under RSA 674:54 to construct a 1-story, 2 classroom modular building. The property is located at 591 West Hollis Street. Sheet E, Lot 6. Zoned "R" Suburban Residence. Ward 5. **[NOT HEARD]**

DISCUSSION ITEMS

None

MOTION to adjourn by Mr. Meehan at 10:37 PM

MOTION CARRIED 7-0

APPROVED:

Mr. LeClair, Chair, Nashua Planning Board

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Prepared by: Kate Poirier

Taped Meeting