

NASHUA CITY PLANNING BOARD  
June 3, 2021

The regularly scheduled meeting of the Nashua City Planning Board was held on June 3, 2021 at 7:00PM via Zoom virtual meeting.

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

Also Present: Matt Sullivan, Planning Manager  
Linda McGhee, Deputy Planning Manager  
Scott McPhie, Planner I  
Christine Webber, Department Coordinator

**ALL VOTES ARE TAKEN BY ROLL CALL**

**Approval of Minutes**

May 20, 2021

**MOTION** by Mr. Weber to approve the minutes of the May 20, 2021 meeting

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 6-0-2 (Varley, Harper abstained)**

**COMMUNICATIONS**

Ms. McGhee went over the following items that were received after the case packets were mailed:

- 2 East Spit Brook Rd: correspondence regarding proposed fueling station
- 78 Amherst St & L Putnam St: waiver letter
- Other Business #4 & #5: letter from Atty. Westgate requesting postponement to the June 17<sup>th</sup> agenda

**REPORT OF CHAIR, COMMITTEE & LIAISON**

None

### **COVID-19 Address**

Mr. Varley addressed the COVID-19 pandemic as follows: Due to the State of Emergency declared by Governor Sununu as a result of COVID-19 pandemic and in accordance with the Governor's Emergency Order #12, pursuant to Executive Order 2020-04, this public body is authorized to meet electronically until further notice.

Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized to meet electronically pursuant to the Governor's order. However, in accordance with the Emergency Order, this is to confirm that we are:

#### **1. Access**

The Board is providing public access to the meeting by telephone, with additional access possibilities by video or other electronic access means.

The Board is video conferencing utilizing Zoom for this electronic meeting. Public access to this meeting is provided via Zoom. The link to this meeting is contained in the meeting agenda, available on the city website. The meeting can be streamed through the city's website on Nashua Community Link and also on Channel 16 on Comcast.

#### **2. Public Notice and Access**

If anybody has a problem accessing the meeting via phone, please call (603)589-3115, and they will help you connect.

#### **3. Adjourning the Meeting**

In the event that the public is unable to access the meeting via the methods above, the meeting will be adjourned and rescheduled.

#### **4. Procedures**

The Chair is in control of the meeting, and to the extent practicable and advisable the Board will follow the procedures outlined in the Bylaws. The applicant will present the

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applicant's case, followed by questions by the Board. The Chair will then allow for a rebuttal period for persons wishing to speak in favor, or with questions or opposition, before the Board deliberates and determines an outcome.

Applicants and their representatives, and individuals required to appear before the Board are appearing remotely, and are not required to be physically present. These individuals may contact the Planning Department to arrange an alternative means of real time participation if they are unable to use Zoom. Please note that all votes taken during this meeting will be done by roll call.

Planning Board meetings will be held electronically until further notice, when it is deemed safe to conduct meetings at City Hall.

The Planning Department and Board thank you for your understanding and patience during this difficult time.

Mr. LeClair asked staff for the intent of hearing cases A21-0028, A21-0029, A21-0062 tonight.

Mr. Sullivan said they have been in the process of reviewing the stormwater and traffic reports for the Nashua Landing project. They have worked with the applicant to discuss the architectural waivers involved in this project tonight. He recommends that they open the hearing tonight for architectural discussion only, and continue the application to the June 3<sup>rd</sup> meeting.

*Mr. LeClair said he would hear Other Business #2 & #3 first, then all other cases before the Nashua Landing cases.*

Mr. Sullivan said the purpose to hear the Nashua Landing cases would be to hear the third-party engineer's review and offer preliminary commentary. The Board should request the applicant to table the applications to the June 17<sup>th</sup> meeting, at which time a full detailed discussion of stormwater and traffic will be held.

#### **OTHER BUSINESS**

2. Referral from Board of Aldermen on proposed, Petition for Street Layout - 44 Buckmeadow Road.

Ald. Dowd, Ward 2

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Ald. Dowd said this is part of the continuance of the road to the new school. They had earlier purchased a large piece of property, and this little piece of property connects the school property with the property previously purchased. They have a dual path acquisition because of the time frames involved, and have negotiations going on with the property owner. They are also pursuing a taking of the property if necessary, and one of the first steps is to petition for the road so that if it goes to court there is a reason for the taking. This is part of the legal process.

Mr. Bollinger asked if the parcel that will site the school is landlocked and has no access.

Ald. Dowd said it connects to Cherrywood and Medallion Ct, but that has been earmarked for emergency access. That's why they spent the money to acquire property by Buckmeadow Rd.

Mr. Bollinger asked if they still have a landlocked parcel and negotiations continue for non-emergency access.

Ald. Dowd said you could state that.

Mr. Bollinger said it is a yes or no question.

Mr. Sullivan said the parcel is currently landlocked.

Mr. Bollinger asked for a plan showing the street layout, or whether they are expected to make a decision.

Ald. Dowd said a road diagram was provided, as well as the road going across the small piece of property.

Mr. Bollinger apologized for not seeing it in his packet. He asked if negotiations are ongoing to make this accessible for non-emergency access.

Mr. Sullivan said correct. The road layout was not provided because the location has not been finalized.

Mr. Bollinger said it would be helpful, even it is preliminary. The metes and bounds are hard to conceptualize from a spatial perspective, especially if the city may undergo a taking. He asked for an explanation of the process.

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Ald. Dowd said the plan was developed, and is in the hands of Atty. Leonard. The plan was presented when they bought the previous piece of property. They are only allowed to take the land they need for the road.

Mr. Bollinger asked if Atty. Leonard represents the city or property owner.

Ald. Dowd said the City. The layout hasn't changed, and presumably is what's going to exist. All of the required measurements have been reviewed, and is available.

Mr. Sullivan said what is before them is the layout of road on the portion to be acquired by the city. The full layout is not being contemplated this evening, it is only the layout within the portion of the little piece of land.

Mr. Hudson said that is correct. There have been drafts and concepts of the full layout, but they have worked enough with the group on a fairly final agreement of what it could be.

Mr. Bollinger asked if it is common to approve a petition for layout prior to a taking.

Ald. Dowd said the petition for the road assists the city in its case if this goes to court for a taking. It doesn't look like one will be necessary, but they are doing it just in case negotiations don't go through. Because of the timing for the build of the school they are doing a parallel path.

Mr. Bollinger asks if they are petitioning for a public street layout on land the city doesn't own.

Ald. Dowd said it is to have a reason to go to court for a taking. When you do an acquisition, there is a petition to say that the city is contemplating a road for a reason.

Mr. Sullivan said these petitions should have been reordered on the agenda. Other Business #3 is related to the land acquisition itself. It clarified that the land has frontage on Medallion Court, but that is not the preferred access.

Ms. Harper asked if the city has had similar instances of takings like this in recent years.

Mr. Sullivan said he can't speak to any comparable taking for a road and access.

Ald. Dowd said Atty. Leonard and Atty. Bolton are well versed on the procedures, which is what they are following.

Mr. Varley asked if they should discuss both referrals at once rather than voting on them individually.

Mr. LeClair agreed.

3. Referral from Board of Aldermen on proposed R-21-148, authorizing the acquisition of a portion of property at 44 Buckmeadow Road, Tax Map C, Lot 25.

Ald. Dowd said they have introduced this to the Board of Alderman and have ten people sponsoring the legislation. They have acquired a larger piece of property to access the school; this is the small piece that allows them to connect the properties. If they come to an agreement with the others the taking won't happen, but they need to take a parallel course to satisfy all processes for a taking so that the attorneys can take it to court if they have to.

Mr. LeClair asked if they should take the motion for #3 first.

Mr. Sullivan said if the layout is dependent on the acquisition, it should take precedence.

**MOTION** by Mr. Varley to favorably recommend Other Business #3 to the Board of Aldermen

**SECONDED** by Mr. Weber

Mr. Bollinger said the acquisition of private property should be a last resort. He is not an expert, but he thinks making a presumptive motion before going through the negotiation process is premature.

Mr. Varley said the taking would be a last resort, and the intention would be to acquire the property first by purchase.

Mr. Bollinger said he would still be hesitant unless all other options have been exhausted. It seems they are moving that step ahead in the process.

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Mr. Sullivan said this is not an eminent domain taking as proposed. This is presented as a traditional acquisition, which could become a taking if negotiations fail.

Mr. Varley said his understanding is they are not making a recommendation for taking by eminent domain.

**MOTION CARRIED 7-1 (Bollinger opposed)**

**MOTION** by Mr. Varley to favorably recommend Other Business #2 to the Board of Aldermen

**SECONDED** by Mr. Weber

**MOTION CARRIED 7-1 (Bollinger opposed)**

**OLD BUSINESS - CONDITIONAL USE PERMITS**

None

**OLD BUSINESS - SITE PLANS**

**A21-0071** E. Hollis Street Acquisitions, LLC (Owner) Michael LeFavor Property Possible, Inc. (Applicant) - Application and acceptance of proposed site plan amendment to NR2241 add eight additional living units and added parking. Property is located at 110 East Hollis Street. Sheet 39 - Lots 1 & 35 & Sheet 38 - Lots 64. Zoned "GB" General Business. Ward 7.

**MOTION** by Mr. Weber to remove the case from the table

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 8-0**

Mr. LeClair said the reason for tabling was to discuss concerns regarding the 8 additional parking spaces and access. He asked the applicant to not repeat what has been said, and to describe what has changed since the last meeting.

Michael Malynowski, Project Engineer, Allen & Major Associates, 400 Harvey Rd, Manchester NH

Mr. Malynowski introduced himself to the Board as representative for the applicant.

Mr. Malynowski said there was a request for clarity on the proposed access via 94 East Hollis St. There was concern about providing more demarcation for an access lane. They were able to locate the non-exclusive passageway and have noted that on the plan. They are also providing better demarcation for the drive lane, which he described in detail.

Mr. LeClair asked if the parking spaces denoted for the middle building is not parking for 110 East Hollis St.

Mr. Malynowski said they can speak with the owner of 102 East Hollis St to provide signage.

Mr. Bollinger asked if they clarified the access passageway with the abutter.

Mr. Malynowski said yes. He has 14-ft non-exclusive access from the property line. Others can use it, but no one can block it.

Mr. Bollinger referred to the painted islands, and asked who is responsible for maintenance.

Mr. Malynowski said the access and maintenance is part of the parking agreement with Budget Rentals.

**SPEAKING IN OPPOSITION OR CONCERN**

Bob Dion, 102 West Hollis St

Mr. Dion thanked the applicant for addressing their concerns and access. He said a Board member previously mentioned bollards at the corner of their property and near the mailbox. He asked if this was still being considered.

Mr. LeClair said he wants them to address whether bollards would be in conflict with the unencumbered access easement.

Mr. Dion said if it could be placed right at the property line, he would be in favor of it.

**SPEAKING IN SUPPORT**

Mr. Malynowski said at the previous meeting Mr. Hudson said the bollards could be a distraction. They currently have 8-ft between the building and edge of travel way. They also have 2.5-ft of painted island, which would give a visual cue. The issue is that the whole area is open now, and plowed clear across.

Bollards would impede snow removal. There is quite a bit of separation between the access way.

Mr. Hudson said he doesn't think bollards are necessary. The methods proposed to demarcate a travel way are sufficient. If the neighbor objects, he has the right to place a bollard on his property. This use is not a high enough nature to warrant a bollard at this location.

Mr. LeClair asked staff for clarification on the clear access easement and whether a bollard could be installed there.

Mr. Sullivan said in the event that a bollard is agreed to, it could obstruct the access way. If the abutter agrees to it, a modification of the agreement would be in order.

Mr. LeClair asked if they stipulated a bollard, it would require further investigation on how it would work.

Mr. Sullivan said correct. It creates a challenge because the Board would be imposing a site plan condition that may not agree with the existing restrictions in place. It could be resolved after the fact, but he recommends proceeding with caution.

Mr. LeClair asked if installation within the abutter's property is an offsite improvement the Board can require.

Mr. Sullivan said they can't require it without the owner's signature on the application.

Mr. Pedersen said the bollard has been described as a physical barrier, but if it's near the exit of the building it is a little bit of protection for pedestrians.

Mr. Hudson said he thinks it's not necessary, but he doesn't object to it if the applicant and abutter agree. He wouldn't want one right next to the travel way.

Mr. Hirsch asked if they considered a speed bump.

Mr. Malynowski said speed bumps in parking lots becomes a maintenance nightmare for plows. They won't have people flying in and out of there. There are 13 parking spaces. He thinks a speed bump will just cause drainage and plowing issues. They can speak with the applicant regarding bollards on the abutter's property. They would need some sort of written agreement from

Mr. Dion consenting to the installation. He is concerned that they don't have the necessary signatures on the application.

Mr. LeClair said there are essentially concrete cylinder bollards. He thinks the intent is more visibility than stopping a car.

Mr. Malynowski said pre-cast companies make concrete footings.

Mr. LeClair asked if that would be a physical issue with the easement, since it's easy to move.

Ms. Harper said she has used bollard style posts before. In the winter pavement markings are difficult to see.

Mr. Malynowski said a movable bollard could easily be purchased by the applicant and gifted to Mr. Dion for placement.

Mr. LeClair asked if they could work with Engineering on this.

Mr. Hudson said yes. The only person who could object is the same person who is asking for this. This is reasonable.

#### **PUBLIC MEETING**

Mr. LeClair closed the public hearing and moved into the public meeting. He said the abutter has some good points and there are some legitimate concerns. He is in favor of some sort of moveable, non-permanent bollard.

Mr. Bollinger said they should be as generic as possible with the language, because bollards have a very specific definition. Some sort of upright obstruction.

Mr. LeClair agreed.

Ms. McGhee provided clarification on the dates contained in the recommended stipulations.

**MOTION** by Mr. Bollinger to approve Old Business - Site Plan A21-0071. 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 approval, unless superseded by a new condition.

2. The request for a waiver of § 190-89(A), which requires lighting levels not exceed 0.2 footcandles along the property line, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. Prior to the issuance of the first Certificate of Occupancy, the pedestrian easement to and from the parking located on Sheet 38, Lot 64 shall be submitted to the City for review and approval and recorded at the Registry of Deeds at the applicant's expense.
4. Prior to the issuance of the first building permit, all easements and stormwater documents will be submitted to City for review and approval and recorded at the Registry of Deeds at the applicant's expense.
5. Prior to the issuance of the first Certificate of Occupancy, all parking areas shall be constructed as shown on the approved plan, including those on separately owned-parcels.
6. Prior to the start of construction on City property and prior to the issuance of the first Certificate of Occupancy, the applicant shall work with the City through the legislative process to obtain a license and/or easement for the bituminous walkway, underground electric, and any landscaped improvements on City property that provides for exclusive maintenance responsibility by the applicant, in perpetuity, of the walkway and associated improvements.
7. The applicant shall provide a landscaped area on City property adjacent to the proposed walkway, to be reviewed and approved by the Planning Department.
8. For construction on City property, the applicant shall provide a financial guarantee and other required documents for all proposed construction work. The financial guarantee shall be approved by the Planning Department and Corporation Counsel.
9. Prior to the Chair signing the plan, all comments in an e-mail from Joe Mendola, Street Construction Engineer dated May 20, 2021 shall be addressed to the satisfaction of the Division of Public Works.
10. The applicant shall install a vertical obstruction within the 14' wide passage way to be reviewed and approved by Engineering.
11. Prior to the first Certificate of Occupancy, the applicant shall provide a public sidewalk easement along East Hollis Street.

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Mr. Hudson requested Stipulation #11, regarding a public sidewalk easement.

Mr. Bollinger amended his motion to include it.

**SECONDED** by Ms. Harper

**MOTION CARRIED 8-0**

**NEW BUSINESS - CONDITIONAL USE PERMIT**

**A21-0113** Larry Kittle (Owner) - Application and acceptance of proposed Conditional Use Permit for a 6 unit housing development along with associated site improvements. Property is located at "L" Putnam Street and 78 Amherst Street. Sheet 62 - Lots 83 & 85. Zoned "RB" Urban Residence. Ward 4.

**MOTION** by Mr. Weber that A21-0113 is complete and the Planning Board is ready to take jurisdiction

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 8-0**

**NEW BUSINESS - SUBDIVISION PLANS**

**A20-0197** Larry Kittle (Owner) - Application and acceptance of proposed lot line relocation plan. Property is located at "L" Putnam Street and 78 Amherst Street. Sheet 62 - Lots 83 & 85. Zoned "RB" Urban Residence. Ward 4.

**MOTION** by Mr. Weber that A20-0197 is complete and the Planning Board is ready to take jurisdiction

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 8-0**

**NEW BUSINESS - SITE PLANS**

**A20-0193** Larry Kittle (Owner) - Application and acceptance of proposed site plan to show a 6 unit housing development along with associated site improvements. Property is located at "L" Putnam Street and 78 Amherst Street. Sheet 62 - Lots 83 & 85. Zoned "RB" Urban Residence. Ward 4.

**MOTION** by Mr. Varley that A20-0197 is complete and the Planning Board is ready to take jurisdiction

**SECONDED** by Mr. Weber

**MOTION CARRIED 8-0**

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

Mr. Branon introduced himself as the representative for the applicant.

Mr. Branon said they are asking for a lot line adjustment between the two subject lots, a conditional use permit for multifamily residential in the RB zone, and a site plan approval for the development of "L" Putnam St into three duplex units.

Mr. Branon displayed the existing conditions plan. He described both lots and the surrounding neighborhood. They are proposing to adjust the property lines between the two lots to make developed lot 62-83 more conforming and allow for the relocation of the driveway from Amherst St to Putnam St.

Mr. Branon addressed vacant lot 62-83, and said they propose to develop the lot into three duplexes. Site improvements will include parking, walkways, lighting, stormwater management, and landscaping. Site access is off Putnam St, which directly leads to a parking area for all units. The site would be graded so that stormwater runoff will be collected into a closed drainage system and directed to an underground infiltration system. The system has been designed to meet and exceed all city standards. Trash removal will be provided by a private service. The site will be serviced by municipal sewer, Pennichuck water, natural gas, and they are requesting overhead electric lines.

Mr. Branon said they are proposing 14 parking spaces. Because this is a multifamily housing development, the maximum parking permitted is 1.9 spaces per unit. They are exceeding this limit, so they are requesting a waiver. He briefly addressed lighting, which complies with city standards.

Mr. Branon said they are requesting four waivers in this proposal, as detailed in the staff report. This project has been approved by the Board twice in the past, 2015 and 2018. They have gone through a thorough review with the city departments, and have no issues with the staff report stipulations.

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Mr. LeClair asked if one of the waiver requests came through as additional communications.

Ms. McGhee said correct, it was the waiver for parking.

Mr. LeClair said there is a big interest in the Master Planning process to get away from overhead utilities. How feasible is underground electric?

Mr. Branon said it is feasible, but they feel it is a reasonable request considering the two poles are essentially on the property already. It is consistent with the neighborhood.

Mr. Weber asked who would be responsible for maintaining the stormwater infrastructure.

Mr. Branon said the owner. A stormwater maintenance and operations plan was submitted and reviewed by city staff.

Ms. Harper asked for the final size of 78 Amherst St.

Mr. Branon said it would be .081 acres, or 3,514-sqft.

Ms. Harper asked if it will meet zoning code.

Mr. Branon said they are making the property larger, so it will be more conforming. A new lot would have to be 6,000-sqft.

Ms. Harper asked how trash removal will work.

Mr. Branon said it will be handled by a private pickup service. It would be difficult to get a trash truck into the property.

Mr. Bollinger said Google streetview shows "no Trespassing" and "City property" signs. Does the city have a vested interest in this property?

Mr. Branon said the city did in the past. His client purchased it from the city, so it's likely old. It is no longer city property.

Mr. Bollinger said the plan shows an old curb cut near the northwest. Was that a paper street? Is there any consideration for a connection there?

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Mr. Branon said it is on an adjacent lot, and one of the ways the abutter accesses their parking lot. It is not a paper street, and there are no restrictions or rights extending onto their site. One of the primary goals in this application is to remove the existing curb cut on Amherst St and relocate to Putnam St, where it is easier to back out.

Mr. Bollinger said he appreciates the relocation of the driveway. He asked if there would be no access points proposed onto Amherst St in the future.

Mr. Branon said correct.

**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.

Ms. McGhee provided clarification on the order they should make motions on.

**MOTION** by Mr. Varley to approve New Business - Conditional Use Permit A21-0113. It conforms to §190-133(F) with no stipulations or waivers

**SECONDED** by Mr. Weber

**MOTION CARRIED 8-0**

**MOTION** by Mr. Varley to approve New Business - Subdivision Plan A20-0197. 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. Prior to the Chair signing the plan, all comments in an e-mail from Joe Mendola, Street Construction Engineer dated June 3, 2021 shall be addressed to the satisfaction of the Division of Public Works.
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 recording the plan, all minor drafting corrections will be made.
5. Prior to recording the plan, the electronic file of the subdivision plan shall be submitted to the City of Nashua.
6. As this is an identified inactive asbestos disposal site, all work must be in compliance with Chapter Env-Sw 2100 and Env-A 1800 of the New Hampshire Code of Administrative Rules.
7. Prior to any work, a pre-construction meeting shall be held and a financial guarantee shall be approved.

**SECONDED** by Mr. Weber

Mr. Pedersen asked for confirmation on the case number.

**MOTION CARRIED 8-0**

Ms. Harper led a discussion regarding overhead electrical lines. After discussion, the Board found cause not to support the waiver for overhead electrical lines.

**MOTION** by Mr. Varley to approve New Business - Site Plan A20-0193. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of NRO § 190-279 (EE), which requires an existing conditions on site and 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 § 190-221(C), which requires underground utilities for new site plan, is not granted, finding that the waiver will be contrary to the spirit and intent of the regulation.
3. 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.

4. Prior to the Chair signing the plan, minor drafting corrections will be made.
5. Prior to the Chair signing the plan, all conditions from the Planning Board approval letter will be added to the cover page of the final mylar and paper copies submitted to the City.
6. Prior to the Chair signing the plan, addresses shall be shown on the plan as assigned by the Fire Marshal.
7. Prior to the Chair signing the plan, all comments in an e-mail from Tom Lacroix, Staff Engineer dated April 6, 2021 shall be addressed to the satisfaction of the Division of Public Works.
8. Prior to the issuance of a building permit, the lot line relocation plan shall be recorded.
9. Prior to the issuance of a building permit, stormwater documents will be submitted to City staff for review and recorded at the applicant's expense.
10. Prior to the issuance of a building permit, the electronic file of the plan will be submitted to the City of Nashua.
11. Prior to any work on site, a pre-construction meeting shall be held and a financial guarantee shall be approved.
12. As this is an identified inactive asbestos disposal site, all work must be in compliance with Chapter Env-Sw 2100 and Env-A 1800 of the New Hampshire Code of Administrative Rules.
13. Prior to issuance of the final certificate of occupancy for the development, an as-built plan locating all driveways, units, other buildings, utilities and site landscaping shall be completed by a professional engineer and submitted to the Planning Department. The as-built plan shall include a statement that all construction was generally completed in accordance with the approved site plan and applicable local regulations.
14. Prior to the issuance of the last Certificate of Occupancy, all site improvements will be completed.

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 8-0**

**NEW BUSINESS - SUBDIVISION PLANS**

**A20-0187** GIMAK Properties LLC (Owner) - Application and acceptance of proposed two lot subdivision. Property is located at 23 Dodge Street. Sheet 135 - Lot 84. Zoned "RA" Urban Residence. Ward 3.

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

**SECONDED** by Mr. Weber

**MOTION CARRIED 8-0**

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

Mr. Branon introduced himself as the representative for the applicant.

Mr. Branon described the subject lot and surrounding parcels. They are proposing to raze the existing structures and subdivide the parcel into two lots. Both lots will meet minimum dimensional requirements. Stormwater runoff will be address by leaching basins in the property lines.

Mr. Branon said that they are requesting one waiver for overhead electrical lines. The existing home has an existing overhead utility line, which they would propose to connect into. They are also requesting two other waivers, as detailed in the staff report.

Mr. Branon said they have reviewed the staff report and have no objections to the recommended stipulations.

Mr. LeClair asked if underground utilities would require digging up Dodge St.

Mr. Branon said the transformer pad materials are very difficult to get right now. It would be a significant financial burden for a small project.

Ms. Harper asked for the square footage calculation for the sidewalk contribution.

Mr. Branon explained the contribution amount.

Mr. Pedersen asked if there would be natural gas connections.

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Mr. Branon said correct.

Mr. Pedersen asked if they will need to cut into the street for water, gas, and sewer.

Mr. Branon said they are not cutting into the street. They are using the existing utility connections along Dodge and May St. The majority favor the May St side, so they are hoping to minimize any cutting into the road.

Mr. Weber asked what the proposed propane at the back of the house is for.

Mr. Branon said that is an error, as they are tying into natural gas. They will fix it.

Mr. Hudson said May St and Dodge St are both under a five year moratorium. They will need to seek approval from the Board of Public Works.

Mr. Branon said they are aware of that. They would be utilizing the existing connections for the home along Dodge St for the home closest to that street.

**SPEAKING IN OPPOSITION OR CONCERN**

Bob Descoteau, 22 Bell St, Nashua NH

Mr. Descoteau expressed concern regarding a number of topics. A neighbor nearby was not allowed to connect to natural gas due to the moratorium. He believes that since the properties were once owned by Pennichuck Water that the applicant doesn't know where his property lines are. One of the neighbors claims a shed was a foot on their property and was rebuffed. He said his relatives have lived on Dodge St (names and addresses unknown) for over 60 years and do not want a 2-lot subdivision. He thinks this will be a cluster style development. He cited a woman nearby who was denied for a two-car garage, but the applicant is allowed to propose this development. He said this has to stop.

Mr. Descoteau said this is a residential neighborhood. He said no one on Dodge St or Bell St want these two houses. He claims there is not enough land. He asked to know where they will be putting the houses.

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Mr. Descoteau asked if the developer is so good, why hasn't he cut the grass yet? The place looks like a dump. He said he knows Mayor Donchess personally. He said the city has no issues with raising his property taxes, yet he lives next to a dump.

Mr. LeClair said the applicant will have time to address it.

Mr. Descoteau interrupted, and said this is not going to fly. He said he was going to talk to his alderman. He said they need a new alderman, because he hasn't seen the Ward 3 alderman. He doesn't even know who she is.

Mr. LeClair said this is Planning Board, not the Board of Aldermen.

Mr. Descoteau said he knows, but he has to vent somewhere. He said there is not going to be a duplex there, and the applicant can get that out of his head. He said he would fight the applicant in court. He repeated his belief that not one person on Dodge St or Bell St that will allow two new homes on a tiny lot. The applicants have done nothing since they bought the property. It is disgusting.

Mr. LeClair said the Board understands Mr. Descoteau's point.

Mr. Descoteau said he would be happy to discuss this with anybody. He said this is not going to happen.

Vicky Scotese, 27 Dodge St, Nashua NH

Ms. Scotese said they are right next to 27 Dodge St. They purchased their home in November, and don't even know where the property line is. They have no idea where the markings are, and would like to know how it will affect their property line. They have a shed that is partially on 23 Dodge St, and do not want to move the shed so that it is entirely on their property.

#### **SPEAKING IN FAVOR**

Chad Branon, Project Engineer

Mr. Branon said as part of their submission they completed a land survey of this property and depicted the property lines on the plan. There are some encroachments onto the property that they are not addressing as part of this proposal because they don't have to for the subdivision. He confirmed that the shed

encroaches onto their property, and they are certifying to the boundary. Additional monumentation will be completed. There is no question in their mind where the property lines are. The plan they have before the Board meets all dimensional standards, and is a conforming subdivision.

Mr. Branon addressed the grading plan. The elevations onsite run southeast to northwest, and there are some existing retaining walls. They are tying all of their grading off onsite, which has been reviewed by city engineering. They provided a stormwater management plan and analysis to prove that the project will not have a detrimental impact on surrounding properties and roads.

Mr. Branon said he understands neighbor concerns but they are meeting City regulation, and those outline what land owners rights are. They believe this is a good plan and good development for the neighborhood. His client plans to invest a significant amount of money on these properties. Any concerns with the existing conditions will be remedied.

Mr. LeClair asked for more detail regarding gas.

Mr. Branon said they have communicated with the utilities. They may be installing a propane tank on one of the properties because Dodge St is in a moratorium. This home might be old enough that there isn't an existing connection.

*-Outburst by Mr. Descoteau-*

Mr. LeClair said they are not in public comment at the moment and asked all other participants to be muted at this time.

Mr. Branon said they are showing a gas connection on May St. As part of the process they communicate with all utility companies, and he can't think of any issues they have had. It's a straightforward subdivision and they haven't needed zoning relief for this project.

Mr. LeClair asked if these two lots would be larger or smaller than lots in the neighborhood, and specifically the abutters.

Mr. Branon said the lots are larger than some in the neighborhood and larger than Mr. Descoteau's property. The lots on the north side of Dodge St are larger, but what they are proposing is a conforming lot. These lots are just shy of 8,100-sqft, where the minimum is 7,500-sqft.

Mr. Varley referred to the encroaching shed, and asked if they are not asking the abutter to move it as part of this proposal.

Mr. Branon said that is not a directive they have been given by their client. In developments like this, stuff like that happens over time. Generally people try to be neighborly as long as the encroachments are not too extensive. This is a fairly minor encroachment.

Mr. Weber asked Engineering if they have required a construction affidavit for any of the site improvements.

Mr. Hudson said no. These are fairly small properties, but he would not be opposed to stipulating it.

#### **PUBLIC MEETING**

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

Mr. Pedersen asked what was decided on for the natural gas question.

Mr. LeClair said one lot would have gas service, the other would have a tank due to the street moratorium.

Mr. Pedersen asked if the new owner will not take any action on structures encroaching on the property.

Mr. LeClair said the Board doesn't have any jurisdiction on that kind of dispute.

Mr. Sullivan it could potentially be in their purview if it directly interfered with the function of the proposed plan. He doesn't believe the applicant has committed to a perpetuity agreement that they will not pursue action against the abutter. He doesn't think that should be decided this evening, and is ultimately between the two property owners. He doesn't believe the encroachment functionally impacts the proposed plan.

Mr. Varley said he was trying to confirm if the applicant was doing anything as a part of this project. That is not into perpetuity, and the property owner may decide to at a later date.

Ms. Harper asked Engineering if the moratorium is only on Dodge St.

Mr. Hudson said it is on both streets. Any cutting or shared service would require permission from the Board of Public Works.

**MOTION** by Mr. Bollinger to approve New Business - Subdivision Plan A20-0187. 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 of § 190-221(C) , which requires underground utilities for new subdivision plans, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. The request for a waiver § 190-212(A)(1), which requires that a sidewalk be located on at least one side of the street, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation. The applicant has agreed to make a contribution in the amount of \$5,700 in lieu of sidewalk construction pursuant to §190-212(D)(2), payment to be made prior to recording the plan.
4. Prior to the Chair signing the plan, all minor drafting corrections will be made.
5. Prior to the Chair signing the plan, all comments in an e-mail from Joe Mendola, Street Construction Engineer, dated March 4, 2021 shall be addressed to the satisfaction of the Division of Public Works.
6. Prior to recording the plan, the existing house shall be removed.
7. 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.
8. Prior to recording of the plan, addresses shall be shown on the plan as assigned by the Fire Marshal.
9. Stormwater documents will be submitted to Planning staff for review and recorded with the plan at the applicant's expense.

10. Prior to the issuance of a building permit, the plan electronic file of the subdivision plan shall be submitted to the City of Nashua.
11. Prior to any work, a pre-construction meeting shall be held and a financial guarantee shall be approved.

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 8-0**

Mr. Sullivan provided an overview on the purpose of this discussion. They are providing an opportunity for the third-party engineer to present their results to the Board, and for the Board to discuss the narrative response letter provided. Additionally, the applicant has requested an opportunity to verbally address the substantial comments in the stormwater and traffic report. All three applications should be continued, and he recommends that they take public comment.

Mr. Sullivan said it is anticipated the governor's order permitting the Board to meet remotely will expire on June 12<sup>th</sup>, and as a result they will have a discussion regarding a hybrid meeting at City Hall. Any motions to continue should be done with this in mind.

**OLD BUSINESS - SUBDIVISION PLANS**

**A21-0028** The Landing at Nashua, LLC, C/o. Dick Anagnost (Owner) - Proposal to subdivide a 41.31 acre lot, the product of the merger of three (3) existing lots of record, Sheet A - Lots 218, 1019, and 1020, into (4) four lots. Property is located at 2 East Spit Brook Road. Sheet A - Lots 218, 1019, and 1020. Zoned "GB" General Business & "MU" - Mixed Use Overlay. Ward 7. **(Tabled to the June 8, 2021 Meeting)**

**MOTION** by Mr. Bollinger to remove the case from the table

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 8-0**

**OLD BUSINESS - SITE PLANS**

**A21-0029** The Landing at Nashua, LLC, C/o. Dick Anagnost (Owner) - Proposal to construct a Self- Storage facility. Property is located at 2 East Spit Brook Road. Sheet A - Lot 218. Zoned "GB" General Business & "MU" Mixed Use Overlay. Ward 7. **(Tabled to the May 20, 2021 Meeting)**

**MOTION** by Mr. Bollinger to remove the case from the table

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 8-0**

**A21-0062** The Landing at Nashua, LLC, C/o. Dick Anagnost (Owner) - Proposal to construct a Costco Retail Store with Fuel Station. Property is located at 2 East Spit Brook Road. Sheet A - Lot 218 & 1019. Zoned "GB" General Business & "MU" Mixed Use Overlay. Ward 7. **(Tabled to the May 20, 2021 Meeting)**

**MOTION** by Mr. Bollinger to remove the case from the table

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 8-0**

Mr. Sullivan provided a brief introduction to the Hoyle Tanner third-party review team, which is led by Senior Manager Heidi Marshall.

Steven Haas, Senior Transportation Engineer, Hoyle Tanner & Associates

Mr. Haas said he was responsible for reviewing the traffic and offsite improvements in this project. He briefly described the review process.

Audrey Beaulac, Senior Transportation Engineer, Hoyle Tanner & Associates

Ms. Beaulac introduced herself as engineer in charge of drainage for this project. She briefly described their scope of review.

Mr. Weber asked if NTS has been brought in for impact to public transportation.

Mr. Sullivan said NTS is included in the technical team. They are aware of the application, but the city has not followed up with them regarding specifically transit provisions to the site. Specific comments have not been offered so far.

Mr. Bollinger said Engineering provided twelve pages of comments for this. What is the extent that the applicant will be replying to those tonight?

Mr. Sullivan said the objective is incremental. The applicant will generate an item-by-item response to the comments. Tonight the goal was for a generalized response for some of the more substantial comments. Additionally, the applicant has a few items to update the Board.

Mr. LeClair asked how far back the timing analysis goes, and whether it includes the Exit 1 interchange. There has been a lot of discussion on how this will affect the off ramps.

Mr. Haas said per the city regulations, the traffic guidelines advised when an intersection has a 5% increase in traffic it should be included in the study. Based on those guidelines the intersection is on the periphery. They don't believe the intersections past that point are affected.

Mr. LeClair asked if the boundaries of the plan exceed 5%.

Mr. Haas said down to the south they are not, and up to the north they are close. It's the west end of Spit Brook Road where they are seeing the greatest increase of traffic.

Mr. LeClair asked if the data they are reviewing truncates at an intersection which is still above the 5%.

Mr. Haas said yes, that was the initially agreed upon scope.

Mr. Bollinger said study area was an early comment. They could potentially see a large redistribution of traffic from Exit 36 in Massachusetts to Exits 1 & 2. He thinks study area is still of concern. He asked if the existing site was over-performing, underperforming, or where expected for ITE. It boils down to how many, and where are they coming from.

Mr. Sullivan said it may be valuable to let the applicant respond to these questions.

Mr. Hudson said the traffic study didn't deduct for the existing site's traffic, which is conservative. The city met with the applicant for what they felt an agreeable study area would be prior to the initial study. There may be a need to adjust the parameters based on what the analysis has shown.

Mr. Pedersen said it's important to note the abutter correspondence they received, who expressed his concerns over the gas station and urged electric charging stations instead.

Mr. LeClair asked if they did any review of construction traffic, or if their analysis is post construction.

Mr. Haas said it is post construction, so they will review construction traffic.

Mr. LeClair said they previously had concern on the impact to the development if the DOT drainage connection can't be finalized. Did they assume the connection could be made?

Ms. Beaulac said correct. They are looking for confirmation that NHDOT would accept it, and confirmation that the pipe would handle the additional flow.

Brian Pratt, Project Engineer, Fuss & O'Neil, 50 Commercial St, Manchester NH

Mr. Pratt presented an aerial of the culvert area. Previously they planned to use the wetland by Worthen as a storage area and tie into the DOT pipe. Preliminary comments had concern regarding the capacity for treatment, so they expanded it to the south. He described the infrastructure changes they are proposing to address that. They have already met with the Conservation Commission regarding these changes, and anticipate going to the Zoning Board on the 22<sup>nd</sup>. They believe this is the plan DOT will be happy with. This will only receive water during a 10-year storm. He is confident they will get approval.

Matt Bruton, Project Engineer, BL Companies, 355 Research Pkwy, Meridan Ct

Mr. Bruton provided a detailed description of the existing conditions, proposed, and new changes.

Mr. Bruton said they are having ongoing discussion with NHDES and NHDOT for wetland restoration and pipe connections. There is

a lot commercial development along DW Hwy, which dumps a lot of water on this parcel. There was extensive research on the existing systems on those parcels so they could account appropriately. They are requesting waiver for increase in peak flows, as they are proposing to capture and treat only the 2-year storm. This had to do with the capacity of the DOT pipe. They are also modifying some of the pretreatment processes and providing more hydraulic analysis. There was a request for the owners to attest to their commitment to comply with inspections and maintenance plans that the systems will operate as proposed and will be maintained; they can commit to that.

Mr. Pedersen asked if DOT has confirmed that the 42-inch pipe will be able to handle the stormwater from this development and everything to the west.

Mr. Pratt said they provided them with a revised drainage report, and did take into account all offsite flows. The last he recalled, it could handle it.

Mr. Pedersen asked if they are waiting to see if DOT's numbers agree with theirs.

Mr. Pratt said yes.

Mr. Bollinger asked if the state would issue a permit, or are they looking for a letter of concurrence.

Mr. Pratt said he isn't sure what form it would take. Most likely a joint usage agreement. The city system now outlets to the wetlands first. They can a camera up the pipe, and it is in very good condition.

Mr. Bollinger said often a condition of approval is that all state approvals must be in hand.

Mr. Pratt said they will receive something from the DOT.

Ms. Harper said she is looking forward to being provided more detail on the wetland improvements and the maintenance.

Linda Greer, Traffic Engineer, Fuss & O'Neil

Ms. Greer said Costco provided a traffic count in 2013 of the site, and was found it was slightly underperforming. To stay on the conservative side, they did not make any accommodations for

a slight percentage less. In regards to highway on/off ramps, she showed a map for the percentage distribution over the surrounding area. She described the trip generation from various approaches to the site. She described how the Adventure Way intersection would function.

Ms. Greer provided a detailed response to Hoyle Tanner's traffic specific comments. She outlined the proposed improvements. She notes that their report states there are no real substantial improvements they can make at the Adventure Way intersection based on its approaches, whether Costco is there or not.

Ms. Harper asked if the left turn lane for Adventure Way will allow more vehicles.

Ms. Greer said it will be longer.

Mr. Bollinger said one of the issues with the Exit 1 & 2 interchange is that the city has invested in coordination with signal timing along Daniel Webster Highway. It wasn't clear from the report whether this would necessitate adjustments to the timing. He asked if the proposed improvements would be made fully within the Right of Way.

Ms. Greer said before they started their project they reached out to the city for the light timing signals. It was through coordination with the city and Ocean State Signals to coordinate the intersections. This will be the start of a comprehensive zone coordination system which can be built upon.

Mr. Pratt said they added the right of way lines, and all improvements will fall within them.

**SPEAKING IN OPPOSITION OR CONCERN**

Atty. Leah Rubega, Hinkley & Allen, 650 Elm St, Manchester NH

Atty. Rubega said she is speaking on behalf of 210 Daniel Webster Hwy, the BJ's gas station site. They have a number of concerns regarding the significant negative traffic implications for their site. They have submitted two letters to the Board, one of which from their traffic engineer. Given the timeline, they will defer their comments to a later hearing.

Mr. LeClair agreed. If they just submitted the letter, the Board would appreciate time to review it.

Mr. Sullivan said it will be provided to the Board first thing in the morning.

**SPEAKING IN FAVOR**

Brian Pratt, Project Engineer

Mr. Pratt said they received it just before the meeting, and will be reviewing it. They will be providing a comprehensive written response to Hoyle Tanner, the Board, and the abutter.

Mr. Sullivan provided an explanation of the process to table the cases to a physical and Zoom meeting. They are encouraging applicants and abutters to attend virtually due to the size of the meeting room, but anyone who shows up will have the right to attend the hearing and speak.

Mr. Bollinger asked if the applicant needs to assent to a time extension at this point.

Mr. Sullivan said they should get the applicant's consent to extend the 65-day clock in order to allow for further consideration.

Mr. Pratt said the Board has their consent.

**MOTION** by Ms. Harper to table A21-0028 to the June 17, 2021 meeting

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 8-0**

**MOTION** by Ms. Harper to table A21-0029 to the June 17, 2021 meeting

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 8-0**

**MOTION** by Ms. Harper to table A21-0062 to the June 17, 2021 meeting

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 8-0**

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Mr. LeClair thanked the applicant, Hoyle Tanner, and city staff for their efforts.

**OTHER BUSINESS (cont)**

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

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

**SECONDED** by Mr. Varley

**MOTION CARRIED 8-0**

**DISCUSSION ITEMS**

Mr. Sullivan provided an explanation of the hybrid meeting.

Mr. Bollinger led a brief discussion regarding waiver criteria and the controlled access right-of-way.

**MOTION** to adjourn by Mr. Weber at 10:53 PM

**MOTION CARRIED 8-0**

**APPROVED:**

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Mr. LeClair, Chair, Nashua Planning Board

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Prepared by: Kate Poirier

Taped Meeting