

NASHUA CITY PLANNING BOARD
September 1, 2022

The regularly scheduled meeting of the Nashua City Planning Board was held on September 1, 2022 at 7:00PM in the 3rd floor auditorium in City Hall AND via Zoom virtual meeting.

Members Present: Mike Pedersen, Mayor's Rep
Adam Varley, Acting Chair
Ald. Derek Thibeault (Alt.)
Bob Bollinger
Larry Hirsch
Mark Meehan

Also Present: Sam Durfee, Planning Manager
Linda McGhee, Deputy Planning Manager
Scott McPhie, Planner I
Chris Webber, Department Coordinator

APPROVAL OF MINUTES

August 4, 2022

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

SECONDED by Mr. Pedersen

MOTION CARRIED 4-0-2 (Meehan, Bollinger abstained)

COMMUNICATIONS

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

- Amended agenda
- A21-0106, 300, 301, 302, & 147-149 Temple St
 - Request to continue case to October 6th
- A22-0169, 2-6 Bridge St & 1-4 Robinson Ct
 - Updated staff report
 - Waiver letter from applicant
 - Updated engineering comments

REPORT OF CHAIR, COMMITTEE, & LIAISON

None

PROCEDURES OF THE MEETING

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

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

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

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

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

OLD BUSINESS - CONDITIONAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

A21-0299 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - 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. **[TABLED TO THE SEPTEMBER 1, 2022 MEETING]**

OLD BUSINESS - SITE PLANS

A21-0300 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - 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. **[TABLED TO THE SEPTEMBER 1, 2022 MEETING]**

A21-0301 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - 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. **[TABLED TO THE SEPTEMBER 1, 2022 MEETING]**

A21-0302 145 Temple Street, LLC (Owner) - Greenridge LLC (Applicant) - 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. **[TABLED TO THE SEPTEMBER 1, 2022 MEETING]**

Mr. Varley said the applicant has requested a continuance of these four cases in order to let the city perform a study and to let the applicant perform a study of their own.

MOTION by Mr. Pedersen to table A21-0299, A21-0300, A21-0301, and A21-0302 to the October 6, 2022 meeting

SECONDED by Mr. Bollinger

Mr. Meehan asked if the study will include the environmental impact of truck traffic, or is it focused on the plant.

Mr. Varley said his understanding is that it would be generally more limited to the operations of the plant itself.

Ms. McGhee said correct.

Mr. Meehan said he appreciates the extent to which the applicant proposed to limit the impact, but part of the discussion was that the environmental impact includes an estimated 150 dump trucks pulling in and exiting the space near housing.

Mr. Varley said they are also getting a traffic report. There is not necessarily an environmental component, but they are getting a report of the traffic impact independent of the environmental report. It would be unusual even in a high traffic site plan that they would request an independent environmental assessment. With the assessment they are requesting and the traffic report, he thinks they will be confident enough. That's not to say they can't discuss the issue once they get to the point of evaluating the issue.

Mr. Bollinger said in his experience it would be rare to see a traffic study address environmental issues. If Mr. Meehan has concerns about truck circulation, designated truck routes, and keeping them off main connectors, that would be germane to a traffic study. The process itself would not typically address CO2 emissions or NOx emissions.

Mr. Meehan said it is a rare instance where you have 150 trucks driving through high density housing. That should warrant some kind of additional inquiry.

Mr. Varley said the point is well taken, and he thinks they will have an opportunity to raise and discuss those issues.

MOTION CARRIED 5-0-1 (Pedersen abstained)

NEW BUSINESS - CONDITIONAL USE PERMITS

None

NEW BUSINESS - SITE PLANS

A22-0169 Crimson Properties (Owner) - Application and acceptance on proposed 24-unit apartment development along with associated site improvements. Property is located at 2-6 Bridge Street and 1-4 Robinson Court. Sheet 38 - Lot 29, 30, & 31. Zoned "GI" General Industrial & "TOD" Transit Oriented District. Ward 3.

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

SECONDED by Mr. Meehan

MOTION CARRIED 6-0

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

Mr. Zajac introduced himself as the representative for the applicant. With him is Randy Turmel from Crimson Properties and Atty. Brad Westgate from Winer & Bennett.

Mr. Zajac provided a brief presentation on the proposal. He described the three subject lots and surrounding neighborhood. The property is located in the East Hollis Street gateway neighborhood, which extends from the downtown to the Merrimack River. This area contains many old industrial properties which are being redeveloped into residential.

Mr. Zajac said the existing site has two curb cut accesses on Bridge Street as well as access off of Robinson Court. Robinson Court is a public way about 11-ft wide, and the paved way is about 10-ft. This provides access topography and utilities.

Mr. Zajac said it's worth noting a couple of unique surveying matters that came up during their deed and plan research. Their surveyor identified two small areas, Common Parcel A and B which are not subject to the site plan. Common Parcel A was excluded from the conveyances and chain of title to the subject properties, and is not included in the land to be developed even though it has been used and occupied for many years. Common Parcel B was established for common use in the 1800s for which no buildings or fences are to be erected. Their research found that there were no subsequent deeds for over 100 years, therefore they are representing that they are of unknown ownership. Atty. Westgate has prepared a letter on this matter and submitted as part of the application documents.

Mr. Zajac said they are proposing 24 residential units, to be known as Jackson Square. This will include two 3-story twelve unit buildings along Bridge St with parking to the rear. Access will be via Robinson Court, which will be widened to provide two way access. The curb cuts will be eliminated along Bridge Street, with

new curbing and sidewalk. The project seeks to utilize a combination of standard and compact parking spaces. Compact spaces are 8'x18', in comparison to the standard 9'x20', and are a great way to maximize parking efficiency and green space. That is one of the three waivers they are requested. Other improvements include curbing, sidewalks, lighting, signage landscaping, utilities, and stormwater management. They are proposing twelve 1-bedroom units and twelve 2-bedroom units, with the average size 550-sqft, which will help make these units affordable.

Mr. Zajac said they have provided some 3D renderings of the buildings. They will be finished similar to residential homes with a hint to industrial buildings as a nod to the history of the neighborhood. He briefly described the architecture.

Mr. Zajac addressed stormwater management. After the project is completed the site will contain more open space and a formal stormwater management system that will significantly improve treatment and attenuation onsite.

Mr. Zajac said they have submitted a traffic memo and sight distancing, and they are below the thresholds which would require further study. They are requesting three waivers, as detailed in the staff report.

Mr. Zajac said believes the application is complete and conforms with the applicable standards of the site plan regulations. They believe the site is being developed in accordance with the TOD overlay district goals and the overarching goals of the Master Plan. They believe the site is being developed in a responsible manner and will increase the city's housing stock. They have reviewed the amended staff report and are amenable to the comments. They have reviewed Engineering comments, and while there are a few comments that may require further coordination he believes they can be addressed.

Mr. Varley said understanding this project is under the threshold for the new inclusionary zoning ordinance, is there any input in terms of market versus affordable?

Mr. Zajac said he believes this would fall under the new requirements, given that they are between 10-49 units. They would be subject to it and would comply.

Mr. McPhie said correct.

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Mr. Meehan asked if there is additional fencing or barriers proposed with the abutting properties.

Mr. Zajac said they are proposing a new stockade fence along the westerly property line with Eversource. They will coordinate with Eversource for screening and buffering.

Mr. Meehan said it looks like they are using Robinson Court, which is mostly dirt. He loves this project, he sees it every day coming home from work. He thinks it fits the Master Plan goals well. Are they using Robinson Court?

Mr. Zajac said it is a unique situation. You have Robinson Court, which is an 11-ft wide right of way, with a 10-ft wide driveway in the middle. They are utilizing the existing right of way and a proposed public access and utility easement on their side, and coupled with Common Parcel B. These will function as and allow them to construct a typical 24-ft wide two-way access driveway. There will need to be formal agreements worked out. He understands that the city plows and maintains Robinson Court, and the intent is that the city would continue to do so. When you drive in there after it's all done, it will look and feel like a typical roadway section.

Mr. Meehan asked about Common Parcel A and B. How is that dealt with?

Mr. Varley said if he understands correctly Common Parcel B doesn't have a question of ownership, it is a question of a restriction, whereas Parcel A has a unique gap in the ownership chain.

Mr. Bollinger asked if this would be a clear title, or if it will be a question mark into perpetuity.

Atty. J Bradford Westgate, Winer & Bennett, 111 Concord St, Nashua NH

Atty. Westgate said he wrote a letter summarizing Hayner Swanson's deed research relative to Common Parcel A and B. In both cases, the conclusion was that the owner is unknown. Crimson Properties does not own either. Parcel A's deed in the 1800s included it in the bigger pieces, but the next deed out excluded it. These deeds were precisely drawn. They could not conclude that Crimson Properties up the chain wound up owning Parcel A. They just don't

by the terms of that deed. That's excluded totally from the application and is not part of the project.

Atty. Westgate said Common Parcel B had a similar dynamic where there were deeds in the 1800s and then no more deeds, but one of them had language relative to common use. It was forever to be maintained as common and unoccupied, and no building or fence is to be placed, to be open for the convenience of the Underwood Estate. Their research tried to identify the parcels benefitted by this and came to the conclusion that for a tight site like this "common usage" meant access and utilities. It's not a small gathering place or garden. They made the judgment that if this parcel was made into an access area but still open to those parcels benefitted, they would be staying within the spirit of the common usage concept.

Atty. Westgate said they don't own either parcel. Crimson Properties has common usage on Parcel B and no rights to Parcel A unless someday it is proven by a petition to quiet title or adverse possession. That is not in the cards at this moment.

Mr. Varley asked if in the unlikely event that someone challenges Parcel A, the development is not relying on it.

Mr. Westgate said correct. In density analysis and open space, it doesn't count towards the acreage.

Mr. Bollinger asked if the property will need to grant an access easement to the apartment complex in the northeast corner. It looks like they have access from Robinson Court right now.

Atty. Westgate said that is one of the lots Hayner Swanson identified as having rights to Common Parcel B. It is a benefitted parcel. They didn't contemplate a specific further easement.

Mr. Bollinger referred to the widening of Robinson Court for easement, and asked if there was an access or egress requirement. Parcel B is common, but he asked if any amenity had to be made regarding their ability to use the expanded road.

Atty. Westgate said if he was to drive out of that site he would go down Parcel B to the new access easement. Unless an easement is granted, he would do it without the benefit of that. He believes one of the conditions of approval is all necessary easements for

the project shall be obtained. It's conceivable that staff may think something like that should be generated.

Mr. Bollinger said he doesn't think those residents would want to relegate themselves to driving down the wrong side of the road to egress the property. It's something to consider.

Atty. Westgate said it is noted on the plan as proposed public access and utility. The way they draft that easement will most likely be broad enough to contemplate any parcel abutting Robinson Court to have rights of usage. That makes sense.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

PUBLIC MEETING

Mr. Varley closed the public hearing and moved into the public meeting. Besides the two parcels, it seems fairly straightforward. It's a good development and great redevelopment of the site. It is consistent with the Master Plan, and excellent that it complies with inclusionary zoning. It's a good project and good use for the lot.

Ald. Thibeault asked if there is no title for the two parcels and nobody owns it, doesn't it revert back to the state or city?

Mr. Varley said he is not a real estate attorney, but you could petition to quiet title. Absent that, he doesn't know where the chain of title ends. It's not like unclaimed property that goes to the state.

Mr. Hirsch said it looks like a good project. It's consistent with the Master Plan.

Mr. Varley addressed the three waiver requests. They seem reasonable given the nature of the project.

Mr. McPhie confirmed that the dates contained in the staff report were correct.

MOTION by Mr. Bollinger to approve New Business - Site Plan A22-0169. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of §190- 279(EF), which requires an existing conditions plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of §190- 193(A), which requires certain parking space dimensions, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. The request for a waiver of §190- 184(D) 1, which requires a landscaped island after every ten continuous 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 comments in an e-mail from Joe Mendola, Senior Staff Engineer, and dated, August 29, 2022 shall be addressed to the satisfaction of the Engineering Department.
6. Prior to the Chair signing the plan, a contribution of \$4,750 shall be paid to the nearest traffic corridor account per Wayne Husband e-mail dated August 22, 2022.
7. Prior to the Chair signing the plan, the applicant will work with staff to better achieve compatible architectural standards as required under ordinance 190-23 (2).
8. Prior to the Chair signing the plan, all comments in an e-mail from Mark Rapaglia, Nashua Fire Inspector, and dated, August 8, 2022 shall be addressed to the satisfaction of the Fire Department.
9. All easements will be submitted to City Staff for review and recorded with the plan.
10. Prior to any work, a pre-construction meeting shall be held and a financial guarantee shall be approved.
11. 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.
12. Prior to the issuance of a building permit/CO of the first building, all lots will be merged.

13. Road and driveway construction shall be to base course, with final course pavement remaining bonded until the Certificate of occupancy for the first building is issued. Upon completion of construction, the applicant shall provide the City Engineer with written certification signed by a licensed professional engineer certifying the improved driveways sections and portions of the driveways located in the ROW were designed and installed as shown on the plan. Inspection reports shall be filed with the City Engineer's Office and the Planning Department.
14. Prior to the issuance of the first Certificate of Occupancy, all safety and directional signs shall be posted as per the Fire Marshals.
15. 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.

SECONDED by Mr. Hirsch

MOTION CARRIED 6-0

OTHER BUSINESS

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. Meehan

MOTION CARRIED 6-0

DISCUSSION ITEMS

The Board held a discussion regarding training opportunities.

MOTION to adjourn by Mr. Meehan at 7:49 PM

MOTION CARRIED 6-0

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APPROVED:

Mr. Varley, Acting Chair, Nashua Planning Board

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Prepared by: Kate Poirier

Taped Meeting