

NASHUA CITY PLANNING BOARD  
September 10, 2020

The regularly scheduled meeting of the Nashua City Planning Board was held on September 10, 2020 at 7:00 PM via Zoom virtual meeting.

Members Present:     Scott LeClair, Chair  
                          Adam Varley, Vice Chair  
                          Mike Pederson, Mayor's Rep.  
                          Ed Weber, Secretary  
                          Ald. David Tencza (*Arrived at 7:08*)  
                          Dan Hudson, City Engineer  
                          Maggie Harper  
                          Bob Bollinger  
                          Larry Hirsch

Also Present:         Linda McGhee, Deputy Planning Manager  
                          Christine Webber, Department Coordinator

**ALL VOTES ARE TAKEN BY ROLL CALL**

**Approval of Minutes**

August 6, 2020

**MOTION** by Mr. Varley to approve the minutes of the August 6, 2020 meeting, as written

**SECONDED** by Ms. Hirsch

**MOTION CARRIED 7-0-1 (Bollinger abstained, Tencza did not vote)**

**COMMUNICATIONS**

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

- Amended agenda
- E-mail from Paul Chisholm re: Cases #3 & 7, requesting to be postponed until the Sept 24 meeting
- E-mail re: Case #8, requesting to be postponed until the Oct 22 meeting

- E-mail from abutter re: Case #4
- Communication from abutters re: Case #5
- Updated engineering comments re: Case #6
- Capital Improvements Committee

### **COVID-19 Address**

Mr. LeClair 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 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.

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

None

#### **OLD BUSINESS - CONDITIONAL/SPECIAL USE PERMITS**

None

#### **OLD BUSINESS - SUBDIVISION PLANS**

None

#### **OLD BUSINESS - SITE PLANS**

None

#### **NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS**

1. Riverside Properties of Nashua, Inc. (Owner) Haywood's Ice Cream Stand, Inc. (Applicant) - Application and acceptance of proposed Conditional Use Permit to allow for a production facility. Property is located at 1C Pine Street, Unit P. Sheet 77 - Lot 11. GI/MU General Industrial/Mixed Use. Ward 4.

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

**SECONDED** by Mr. Pedersen

**MOTION CARRIED 8-0 (Mr. Hirsch recused)**

Chris Ordway, Owner, 7 Daniel Webster Hwy, Nashua NH

Mr. Ordway outlined the request to expand dairy production facilities for ice cream. He said they are not making any changes to the site, just interior changes. He indicated the location of production.

Mr. LeClair said there was one stipulation in the staff report. He asked if the applicant has reviewed comments by Douglas Starr.

Mr. Ordway said yes, he has been in contact with Mr. Starr. He is waiting on the outcome of this meeting to issue a permit.

Ald. Tencza asked what kind of traffic would be coming in and out of this facility.

Mr. Ordway said very minimum, 2-3 employees a day. They will probably make 30,000 gallons, and have a few deliveries per week.

Mr. Weber asked if they will be producing ice cream for their stores, or outside locations.

Mr. Ordway said just for his stores.

Mr. Weber asked if this will make even better ice cream.

Mr. Ordway said they can make more of it.

**SPEAKING IN OPPOSITION OR CONCERN**

None

**SPEAKING IN FAVOR**

None

**PUBLIC MEETING**

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

**MOTION** by Mr. Weber to approve New Business - Conditional Use Permit #1. It conforms to §190-133(F) with the following stipulation:

1. Prior to the issuance of a building permit all comments in an e-mail from Douglas Starr, P.E. dated August 6, 2020 shall be addressed to the satisfaction of the Wastewater Treatment Plant.

**SECONDED** by Mr. Varley

**MOTION CARRIED 8-0**

2. Worldmark Homes, LLC (owner) - Application and acceptance of proposed Conditional Use Permit to allow for an esthetician's office. Property is located at 15 Pittsburgh Avenue. Sheet 140 - Lot 37. Zoned "PI" Park Industrial. Ward 9.

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

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 9-0**

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

Mr. Branon introduced himself as representative for the applicant.

Mr. Branon gave an overview of the subject property and surrounding neighborhood. He said they would like to convert 1,248-sqft in the front of the building into an esthetician office. This use is permitted by conditional use permit in this zone, so long as no more than 25% of the building is dedicated to non-industrial uses. The proposed use will occupy 9% of the building. He said there are no proposed exterior changes to the site.

Mr. Weber said he doesn't see a dumpster on the plan. He asked if there is one onsite, and if it will be enclosed.

Mr. Branon said he doesn't believe there is an exterior dumpster. If there is one, they can enclose it.

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Mr. Weber said he doesn't believe a stipulation is required, then.

**SPEAKING IN OPPOSITION OR CONCERN**

None

**SPEAKING IN FAVOR**

None

**PUBLIC MEETING**

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

**MOTION** by Mr. Weber to approve New Business - Conditional Use Permit #2. It conforms to §190-133(F) with no stipulations

**SECONDED** by Mr. Bollinger

**MOTION CARRIED 9-0**

**NEW BUSINESS - SUBDIVISION PLANS**

3. Roscommon Investments, LLC and MAG RE Holdings-Nashua, LLC (Owners). Application and acceptance of proposed lot line adjustment. Property is located at 117 West Glenwood Street and "L" West Hobart Street. Sheet 132 - Lots 84 & 31. Zoned "RA" Urban Residence. Ward 7. **(Postponed until September 24, 2020 meeting)**
4. Thomas G. & Justine A. Bergin (Owners) - Application and acceptance of proposed lot line relocation plan. Property is located at 4 & 6 Edgewood Avenue. Sheet 60 - Lots 42 & 36. Zoned "RA" Urban Residence. Ward 2.

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

**SECONDED** by Ms. Harper

**MOTION CARRIED 9-0**

Greg Jeffrey, Surveyor, Jeffrey Land Survey LLC, 1 Burgess Dr, Litchfield, NH

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Mr. Jeffrey introduced himself as representative for the applicant.

Mr. Jeffrey outlined their lot line relocation request. Currently there is a 15-ft easement of the southwest side of lot 36. The applicant proposes to move the lot line 15-ft so that the easement is entirely on the property of Lot 42. The easement is not to be extinguished or eliminated; it will become part of Lot 42.

Mr. LeClair asked the intent of the lot line relocation.

Mr. Jeffrey said the clients are wishing to sell one of the lots, and currently the easement is used for parking. They would like to maintain the parking portion of it and sell the lot that doesn't have the parking portion. He said it's basically one parking spot.

Mr. Bollinger asked which parcel is benefitting from the easement. Is that beneficiary ok with it?

Mr. Jeffrey said this would make Lot 42 the benefactor, because they would have the benefit of almost 2,000-sqft of area. It almost brings the lot size up to current zoning standards.

Mr. Bollinger said it looks like the owner of the rear Lot 38 has direct access onto Edgewood Ave. Would the owner of that parcel still maintain access?

Mr. Jeffrey said the purpose is not to eliminate the easement, just to shift the boundary line so it now crosses Lot 42.

Mr. Bollinger asked if they are just redefining the master parcel.

Mr. Jeffrey said correct.

Mr. Varley asked for further clarification of the benefit.

Mr. Jeffrey said the easement benefits Lot 38. There is no moving of the easement location, no extinguishing of the easement, or alteration of rights and responsibilities. The access to Lot 38 is still intact; it's just that the entirety of the location of the easement is going to be on Lot 42.

**SPEAKING IN OPPOSITION OR CONCERN**

David Linatsas, 10 Edgewood Ave

Mr. Linatsas explained some property history of Lot 38. He said the owner tried to develop it in the past, but couldn't because of the lack of access. He said Lot 42 doesn't extend entirely to Lot 38 currently, and asked how it would work. He asked that this remain an open access-way for safety reasons.

Mr. LeClair said his understanding is that there is no change at all to the easement, just what piece of property it is on. It will be in the same place, the same size, and serve exactly the same purpose.

Mr. Linatsas asked what the purpose of moving it is, then. He is concerned that if the property is sold, access to Lot 38 could be denied.

**SPEAKING IN FAVOR**

Greg Jeffrey, Surveyor

Mr. Jeffrey reiterated that this is an access easement. The location, purpose, and intent are not going to change. The easement will now be located on Lot 42 instead of Lot 36. It is not the applicant's intention to block it off.

Mr. LeClair asked if the access is a 15-ft swath from Edgewood Ave.

Mr. Jeffrey said exactly.

Mr. Weber asked if Lot 42 was sold, the access road still has to be there and cannot be taken away from Lot 38.

Mr. Jeffrey referred to Note #10 on the plan, which says the easement will not be voided in any way. It would be illegal to void the easement without all parties getting involved.

**SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL**

David Linatsas, 10 Edgewood Ave

Mr. Linatsas asked if he bought the property, would he have the right to use this access road to access his lot.

Mr. Jeffrey said correct. They are not extinguishing or voiding the access to that lot.

Mr. Linatsas said they only own half of the easement.

Mr. Varley said an access easement is written into the deed of the property and runs with the title. If somebody were to purchase the property, that would be in their deed. The applicant does not have the authority to extinguish the access. A buyer would be subject to that easement unless all parties agreed to forfeit the easement.

**PUBLIC MEETING**

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

**MOTION** by Mr. Weber to approve New Business - Subdivision #4. It conforms to §190-138(G) with the following stipulations or waivers:

1. The request for a waiver of § 190-282(B)(9), which requires an existing conditions plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. Prior to the Chair signing the plan, all minor drafting corrections will be made.
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 plans.
4. Prior to the Chair signing the plan, the electronic file of the plan shall be submitted to the City of Nashua.
5. Prior to recording the plan, all comments in an e-mail from Joe Mendola, Street Construction Engineer, dated August 20, 2020 shall be addressed to the satisfaction of the Engineering Department.

**SECONDED** by Mr. Pedersen

**MOTION CARRIED 9-0**

5. MG Holdings (Owner) - Application and acceptance of proposed three lot subdivision. property is located at 1 Morningside Drive. Sheet 118 - Lot 129. Zoned "RA" Urban Residence. Ward 7.

**MOTION** by Mr. LeClair that the application is NOT complete and the Planning Board is NOT ready to take jurisdiction due to outstanding engineering comments

**SECONDED** by Mr. Varley

Mr. Hudson gave a detailed outline of his concerns about the plan.

Mr. Weber raised concerns about water drainage.

Mr. Varley asked the applicants to provide a more complete picture of the items raised.

Mr. LeClair said this motion is specifically in regards to the completeness, and not any of the merits of the plan.

Mr. Varley said they have not accepted the application yet.

Ms. McGhee explained the next steps the applicant needs to take, and the process. They should address the outstanding engineering comments to the Engineer Dept.'s satisfaction before they come back. Abutters can contact the Planning Dept. with questions.

**MOTION CARRIED 8-0 (Ms. Harper recused)**

6. Stanley and Ruth Choate (Owners) - Application and acceptance of proposed 2-lot subdivision. Property is located at 438 Main Dunstable Road. Sheet C - Lot 825. Zoned "R-30" Suburban Residence. Ward 5.

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

**SECONDED** by Mr. Varley

**MOTION CARRIED 9-0**

Douglas Brodeur, Project Manager, Meridian Land Services, 31 Old Nashua Rd #2, Amherst, NH

Mr. Brodeur introduced himself as representative for the applicant.

Mr. Brodeur gave an overview of the onsite conditions and wetlands. He briefly described the proposal. They have received engineering comments, and believe they can address them easily.

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Mr. Brodeur explained their waiver requests as detailed in the staff report. He explained the grading onsite.

Mr. LeClair asked if they reviewed that.

Ms. McGhee said they did. The applicant also submitted a drainage letter. She said they received comments from Pete Kohalmi in Engineering, and there was only one minor outstanding condition.

Mr. LeClair asked if they should keep stipulation #5.

Ms. McGhee said if the Board wishes to, they can remove it.

Mr. Weber said his only concern is that there are delineated wetlands, and that it should be on the deed to make the owners completely aware.

Mr. LeClair said it's on the plan.

Mr. Weber said it should be on the deed to make sure everyone is fully aware when the house is sold.

Mr. LeClair asked staff what authority they have.

Ms. McGhee said they could stipulate wetland marker buffers before the issuance of a certificate of occupancy.

Mr. Brodeur said he understands their concern, but he's not sure if the deed is the best place to put it. He thinks the wetland markers are better.

Stanley Lee Choate Jr., 438 Main Dunstable, Nashua NH

Mr. Choate said the property is owned by his parents, who are selling it to him. They are aware of the wetlands, and will be the ones building the house.

Mr. Pedersen said there is a 12-inch culvert, which makes him think there are water issues onsite. He is concerned about the request to waive a drainage report.

Mr. LeClair said they submitted a drainage letter.

Mr. Pedersen asked if it was to the satisfaction of the city engineer.

Mr. Hudson said Pete Kohalmi reviewed it, and it was to his satisfaction.

**SPEAKING IN OPPOSITION OR CONCERN**

Alan Tefft, 16 Autumn Glen Circle, Nashua NH

Mr. Tefft said they have no issues with the setback of the proposed house. They are concerned that the applicant described the location as a "possible location" in relation to wetlands. He is concerned that changes to the building location would impact wildlife.

Mr. LeClair said that in residential subdivisions, there isn't a sort of fixed site plan.

Mr. Brodeur said the reason they cited the house in that area is because it's already a flat gravel area. He doesn't see them pushing the house farther back than proposed, especially because of the wetlands to the rear. They don't have an architectural footprint at this point; this is more for planning purposes to show that it is possible to build onsite.

**SPEAKING IN FAVOR**

None

Mr. Weber asked for clarification on the recommended stipulations of approval.

**PUBLIC MEETING**

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

**MOTION** by Mr. Varley to approve New Business - Subdivision #6. It conforms to §190-138(G) with the following stipulations or waivers:

1. The request for a waiver of § 190-221, which requires underground utilities for new subdivisions, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver § 190-212(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 \$16,488.00 in lieu of sidewalk construction pursuant to §190-212(D)(2), payment to be made prior to recording the plan.

3. The request for a waiver of Nashua Planning Board Bylaws Section 9.5, which requires a 30 day appeal period prior to recording the approved subdivision plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
4. The request for a waiver of § 190-282(B)(9), which requires an existing conditions plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
5. The request for a waiver of § 190-282(B)(15)(25)& (39), which requires a grading plan, drainage report, and drainage calculations, 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, all minor drafting corrections will be made.
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 the Chair signing the plan, all comments in a letter from Pete Kohalmi, P.E., dated Sep 4, 2020 shall be addressed to the satisfaction of the Engineering Department.
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 and a pre-construction meeting, a financial guarantee shall be approved.
12. The applicant will install an appropriate number of wetland markers.

**SECONDED** by Mr. Weber

**MOTION CARRIED 9-0**

**NEW BUSINESS - SITE PLANS**

7. Roscommon Investments, LLC (Owner) - Application and acceptance of proposed site plan to construct a new 22,560 sf auto body shop with parking, vehicle storage, and associated site improvements. Property is located at 117 West Hobart Street, "L" Glenwood Street, and "L" West Hobart Street. Sheet 132, Lots 84 & 38. Sheet 128, Lots 31, 32, & 84. Zoned HB-Highway Business and RA-Urban Residence. Ward 7. **(Postponed until September 24, 2020 meeting)**
  
8. Liberty Utilities (Owner) - Application and acceptance of proposed amendment to install an impermeable cap over former Gas Holders #1 & #2 to meet requirements of the NH Department of Environmental Services, regrade, repave and expand the site's existing parking lot and improve the stormwater management system. Property is located at 25 Van Buren & 38 Bridge Streets. Sheets 4 & 39, Lots 11 & 26. Zoned TOD-Transit Oriented Development and GI-General Industrial. Ward 7. **(Postponed until the October 22, 2020 Meeting)**

**OTHER BUSINESS**

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

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

**SECONDED** by Mr. Hirsch

**MOTION CARRIED 9-0**

2. Referral from the Board of Aldermen on proposed R-20-059, authorizing the sale of City real property located at 141-143 Burke Street. (Map 11, Lot 158) to Burke Street Nashua, LLC.

Tim Cummings, Economic Dev. Dir.

Mr. Cummings gave an overview of the proposal and property history. They are looking to close the sale before the end of the year. He said all of the terms are pretty much the same as last time from a land use perspective. He said it is very important to close before the end of the year because the proceeds will be used in next year's financial plan.

Mr. Bollinger asked what the sale price is.

Mr. Cummings said 3.5 million.

Mr. Varley asked if they know what the intended use of the property would be.

Mr. Cummings said the buyer is a manufacturer looking to expand over time. This is for potential future expansion of his business in Nashua.

Mr. Weber said it's always great to have manufacturing jobs in Nashua.

**MOTION** by Ald. Tencza to favorably recommend proposal R-20-059 to the Board of Alderman, as written

**SECONDED** by Mr. Varley

**MOTION CARRIED 9-0**

3. Referral from the Board of Aldermen on proposed amendment to R-19-183, to establish a Committee to draft a Master Plan.

Mr. LeClair gave an overview of the proposed amendment.

**MOTION** by Mr. Bollinger to favorably recommend the proposed amendment to R-19-183

**SECONDED** by Mr. Varley

**MOTION CARRIED 9-0**

4. Amendment to the FY 2021 Capital Improvement Program, proposed new item(s).

Tim Cummings, Economic Dev. Dir.

Mr. Cummings gave an overview of the proposed amendment. The purpose is to authorize the bonding of \$2.5 million for 50-space public parking to occur on a proposed future 44-unit multifamily development on School St. They are essentially giving the developer air rights to build the apartments and public parking, and they will retain fee interest in the parking. This is a project specific TIF.

Mr. LeClair added to the explanation of this request.

Mr. Bollinger asked if this is 100% city funds or if there is a contribution from state or federal programs.

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Mr. Cummings said no.

Mr. LeClair asked if it was tax increment financing.

Mr. Cummings said they are using future tax to finance the bond.

Ms. Harper asked if the 50 parking spaces are open to the tenants.

Mr. Cummings said they would be open to the general public, which includes the tenants. The spaces will not be rented, leased, or permitted. Leased spaces will be in the High St garage.

**MOTION** by Mr. Weber to favorably recommend the proposed amendment to FY 2021 Capital Improvement Program, to the Board of Aldermen

**SECONDED** by Ms. Harper

**MOTION CARRIED 9-0**

**DISCUSSION ITEMS**

**Roscommon Investments, LLC:** Paul Chisholm of Keach Nordstrom Associates held a detailed conceptual discussion with the Board regarding Case #7 (Postponed until September 24<sup>th</sup> 2020).

**Meeting End Time:** Mr. Hudson led a discussion regarding meeting duration and the procedure for a setting a formal cut-off time.

**MOTION** to adjourn by Mr. Weber at 9:02 PM

**MOTION CARRIED 9-0**

**APPROVED:**

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Mr. LeClair, Chair, Nashua Planning Board

DIGITAL RECORDING OF THIS MEETING IS AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS OR CAN BE ACCESSED ON THE CITY'S WEBSITE. DIGITAL COPY OF AUDIO OF THE MEETING MAY BE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.

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Prepared by: Kate Poirier

Taped Meeting