

EXPANDED DRAFT MEETING SUMMARY
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NASHUA CITY PLANNING BOARD
October 7, 2021

The regularly scheduled meeting of the Nashua City Planning Board was held on October 7, 2021 at 7:00PM in the 3rd floor auditorium in City Hall AND via Zoom virtual meeting.

Members Present: Adam Varley, Acting Chair
Mike Pedersen, Mayor's Rep
Dan Hudson, City Engineer
Bob Bollinger
Larry Hirsch
Mark Meehan

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

1. ACCESS

This meeting is accessible in person in the 3rd floor auditorium in in Nashua City Hall and via Zoom. Members of the public and representatives of the applicants have been urged to attend the meeting via Zoom, but they may attend in person at City Hall. Real time public comment can be addressed to the Board utilizing Zoom or in City Hall, 3rd floor auditorium.

2. PUBLIC NOTICE AND ACCESS

If anybody has a problem accessing the meeting, 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. Please note that the board will continue to take vote via roll call.

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

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.

APPROVAL OF MINUTES

September 9, 2021 & September 23, 2021

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

SECONDED by Mr. Meehan

MOTION CARRIED 6-0

COMMUNICATIONS

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

- Correspondence re: 36 & 44 Buckmeadow Road, A21-0185
 - Email from Adam Pouliot, Fire Marshal
 - Email from Jamie Ouellette, Project Manager
 - Two emails from Joe Mendola, Street Construction Engineer
- Correspondence re: 300 Main St A21-0216
 - Email from Mark Rapaglia, Fire Asst. Superintendent
 - Email from Wayne Husband, Traffic Engineer
- Correspondence re: 69 Cherrywood Dr, A21-0177
 - Email from Bala Krishnan, 65 Cherrywood Dr
 - Email from Bharat Rathi, 67 Cherrywood Dr
- Correspondence re: 496 & 500 Main Dunstable Rd, A21-0215
 - Request to postpone to October 21, 2021
- Correspondence re: 3 & 9 Fifth St, A21-0191
 - Request to postpone to October 21, 2021

REPORT OF CHAIR, COMMITTEE & LIAISON

None

OLD BUSINESS - CONDITIONAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

None

OLD BUSINESS - SITE PLANS

None

NEW BUSINESS - CONDITIONAL USE PERMIT

A21-0186 City of Nashua and Paul G. & Michael J. Gagnon (Owners). Conditional Use Permit to construct a new public middle school. Property is located at 36 & 44 Buckmeadow Road and L Cherrywood Drive. Sheet C. Lots 762, 25 & 2851. Zoned R40-Suburban Residence & FUOD-Flexible Use Overlay District. Ward 9.

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

SECONDED by Mr. Hirsch

MOTION CARRIED 6-0

NEW BUSINESS - SITE PLANS

A21-0185 City of Nashua and Paul G. & Michael J. Gagnon (Owners). Proposed site plan to construct a new public middle school. Improvements include a new city street off of Buckmeadow Road, bus loop, parking facilities and athletics facilities. Property is located at 36 & 44 Buckmeadow Road and L Cherrywood Drive. Sheet C. Lots 762, 25 & 2851. Zoned R40-Suburban Residence & FUOD-Flexible Use Overlay District. Ward 9.

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

SECONDED by Mr. Hirsch

Mr. Bollinger said this is the first formal presentation they will hear on the school. He would like to hear the testimony, but there is a plethora of material involved and he may not feel they can vote on it tonight.

Mr. Varley said absolutely. They reserve the right to take further time to review the case if necessary.

MOTION CARRIED 6-0

Ald. Rick Dowd, Ward 2, Chairman of Joint Special School Building Committee

Ald. Dowd thanked the Board for hearing the case this evening. They have been working on this project for five years, and have

finished one of the schools already. This allows the teachers to have the middle school level facilities to handle their curriculum. They ask for the Board's consideration in passing these proposals.

Jamie Ouellette, Project Manager, Harriman Architects & Engineers

Mr. Ouellette said the intent of this project is to replace Elm Street Middle School. Several years ago they were hired to perform a feasibility analysis on Elm Street School, and found that it would be more expensive to rehabilitate the school up to current standards than it would be to construct a new school. This takes the current population of students and redistributes it to approximately 800 per school. In addition, Elm St School does not have the athletic facilities of the other school; this new school will have those facilities.

Samuel Forgue, Civil Engineer, Harriman Architects & Engineers

Mr. Forgue described the subject area and topography. This is a heavily wooded area in southeastern Nashua, in between Buckmeadow Road and Cherrywood Drive.

Mr. Forgue presented an overview of the site, which has been broken into four areas- the city street/access, the school building, the athletic facilities, and the Cherrywood residential area. Mr. Forgue described each of these areas in briefly. He showed circulation of buses and pick-up traffic. They are proposing 171 parking spaces instead of 164, which will require a waiver. One of the things they have heard from the other schools is that there is not enough parking, so they have provided some additional spaces.

Mr. Forgue said they are proposing a secondary access drive from one of the traffic circles on Cherrywood Drive. This access is strictly for emergency access, and something that is required by both Fire and Police Depts. He outlined utilities and stormwater.

Jamie Ouellette, Project Manager

Mr. Ouellette showed architectural elevations of the proposed school and signage. He described the materials and design in depth.

Scott Thornton, Traffic Engineer, Vanasse & Associates

Mr. Thornton provided an overview of the traffic study performed for the school project. He described the study area, existing traffic conditions, how that might change, and recommendations to address any potential impacts. They are recommending a school zone and signage, a traffic management plan onsite, and specific areas for pedestrian improvements in the area. They feel that with these recommendations, the area can accommodate the additional traffic.

Mr. Varley said they have the empirical data from Pennichuck school for a comparison, but is there a distinction between the different levels of schools?

Mr. Thornton said yes. There is a lot more driving with a high school, and elementary schools have more walking or bussed students. They also looked at a standard source for trip generation and comparing that data for this school population gave them fewer trips than what was observed at Pennichuck. They felt it made more sense to use the Pennichuck data.

Mr. Varley referred to potential improvements at nearby major intersections. There is a median at the intersection of Buckmeadow, Main Dunstable, and Gilson. Would that have to be adjusted or removed to accommodate another turn lane?

Mr. Thornton said yes, it would be removed. There would be some slight widening, but most of that work can be done within the existing pavement.

Mr. Varley said there are some sight line issues going west on Main Dunstable Road. Did they do any sight distancing at this intersection?

Mr. Thornton said they did not. They focused on the new driveway access location.

Mr. Meehan said it seems that the relocation is further away from student population than some of the other schools. Is it comparable? Have they studied where the students are going to live and how far they have to travel to get to this school? Does that increase the amount of drivers?

Mr. Thornton said there may have been an analysis since they started the study, but they looked at the existence of the

residential base in the area. There could be an increase of vehicle traffic, but a lot of parents drive their middle school kids and that would have been accounted for at Pennichuck. He thinks the numbers are pretty accurate in terms of vehicle volumes going to the site.

Mr. Pedersen said when he drives that intersection, that can be really tricky. He thinks putting a pedestrian light along that route is useful, but will there be a need for a future traffic light?

Mr. Thornton said when they looked at what future conditions would look like, they predicted what would most likely be needed for 2026 future growth and traffic. They didn't see a need for a light based on that prediction.

Mr. Pedersen said they have the data on their side.

Mr. Thornton said in terms of the signal installations, there's a high bar set on purpose due to maintenance issues and large impact it has on the surrounding overall traffic flow. It's purposefully difficult to warrant a traffic signal.

Mr. Hirsch asked if students walking and biking were taken into account.

Mr. Thornton said they noticed that a lot of residences to the north, east, and west have adequate sidewalks and would have the availability to get to the site. But it is a 10% grade going up the driveway, and he's not sure if students would continue to do that as a standard type of arrival. They didn't specifically look at the number of kids walking to school because that wasn't reflected in the counts they did at Pennichuck.

Mr. Hirsch asked if they are saying the amount of kids walking would be so small as to not affect things.

Mr. Thornton said that's what it seems like.

Mr. Bollinger said with regard to the intersection of Buckmeadow Rd to Route 111A, was there any consideration for any southbound or westbound from 111A?

Mr. Thornton said they looked at the operations and level of service going south. They looked at the left turn lane warrants, and didn't see a need to add a left turn lane in that area.

Because that movement is free flow, it's able to come down and use shorter gaps to make it into Buckmeadow. The Buckmeadow Road approach as a stop sign, which means they need more time to clear the intersection.

Mr. Bollinger asked if the need was satisfied, would there be sufficient pavement width or would the road need to be widened.

Mr. Thornton said he thinks there might be room for a bypass area there. He will double check the left turn lane warrant, but counting the shoulder there is 16-ft of pavement. Some minor widening could occur to get a bypass area there.

Mr. Bollinger said in regards to sight distance at the proposed access point, he's having a hard time visualizing it. Is there any clearing of vegetation required, or a sight line easement in order to satisfying sight distancing requirements?

Mr. Thornton said they didn't notice any issue.

Mr. Bollinger said it might have been in the full traffic report, but sometimes the Board doesn't get the document.

Mr. Thornton said he knows they observed greater than 500-ft in either direction, which satisfies all criteria for the speeds they observed. There was no issue with grading or vegetation. Mr. Bollinger said in such a heavily vegetated area, maintenance may be required in the future. At an unsignalized intersection sight distancing is very important.

Mr. Varley asked for details on sidewalk construction and site access. He assumes there will be a walking radius, like other schools.

Samuel Forgue, Civil Engineer

Mr. Forgue said the study showed roughly 55 students living within a mile radius of the school. Those would be the "walkers" for the site. He showed the crosswalk and sidewalk access for pedestrians from both Buckmeadow and Cherrywood.

Mr. Varley asked of the sidewalk section north on Buckmeadow would be completed, and if there are plans to complete the sidewalk going south toward Ridge Rd.

Mr. Forgue said connecting the sidewalk on Buckmeadow north is part of this project. As far as to the south, ultimately they determined the students would be taking the Cherrywood access. The sidewalk on the Buckmeadow south wouldn't be warranted.

Mr. Varley said that at the intersection of Buckmeadow and Ridge, there are several neighborhoods to the west. The most natural path would be to go straight up Buckmeadow. Did they do any measurements to determine the difference in distance?

Mr. Oullette said he doesn't believe they have specific measurements of the distance up Buckmeadow from Ridge to the access road, but it is shorter to go across up Ridge to Cherrywood. In addition to being shorter, it is less steep. The access drive has a 10% slope, and it is easier for students to go up Cherrywood. If you go up Buckmeadow you are doing extra distance because you have to curve back around and go up the hill.

Mr. Varley asked if because the access entrance you would gain distance, instead of going through the back.

Mr. Ouellette said correct. The more natural approach was to go up Cherrywood.

Mr. Varley said in their packet there was correspondence with the Fire Marshal. Have they addressed comments about the water main?

Mr. Forgue said they submitted a response to the Fire Marshal that they would create a water loop around the school and provide for 6-in laterals to hydrants.

Mr. Varley asked if there have been any further discussions about the access, like a gate or bollards.

Mr. Ouellette described their conversations with the Fire Marshal and the options they explored. They are willing to work with the Fire Marshal to find a solution that works for them.

Mr. Bollinger asked for the general status of negotiations for the property purchase and sale between the Gagnons and City of Nashua.

Ald. Dowd said after the site plan is approved, the closing will happen within three days. They are waiting for this plan to get

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their ducks in a row. They have a purchase and sale in place, everything is ready to go, all the documents are signed. The closing would be within three days of the Board's approval.

Mr. Bollinger asked if that is the correct order of operations.

Mr. Varley said yes. The Board's approval would be a condition of the sale.

Mr. Bollinger asked about their stipulations. Acquiring the parcel in fee couldn't be a stipulation if the purchase and sale has to follow the approval. It's a chicken and egg thing.

Mr. Varley said the purchase and sale is a contract, but it has conditions. One of those is this approval. It's not as if they could approve this and the seller could change their mind and say they don't want to sell the property. It's subject to whatever the conditions are. It sounds like the closing is scheduled quickly after site plan approval.

SPEAKING IN OPPOSITION, QUESTIONS, OR CONCERN

Kathryn Peterson, 5 Cortez Dr U-38, Nashua NH

Ms. Peterson said she is concerned about traffic. She lives on Westgate Crossing, which is a mile long road between West Hollis St and Main Dunstable Rd. A lot of people use it to cut through and avoid the high school. She feels like nobody is going to be able to get out of Westgate Crossing anymore.

Ms. Peterson said Main Dunstable is a narrow road. The mailboxes are constantly hit, and there's no sidewalk beyond the Conant Rd firehouse. The traffic light at Main Dunstable and Northeastern Blvd was changed to a blinking light, and there are an awful lot of accidents. People coming in to Nashua have the green, but people with the blinking yellow cut right in front of them to go to Northeastern Blvd. They don't have a blinking red light. That intersection should be fixed.

Jie Liang, 93 Cherrywood Dr, Nashua NH

Mr. Liang asked if there will be a fence between the sports field and the residential neighborhood.

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Michael McDonough, 2 Jonquil Ln, Nashua NH (via Zoom chat)

Mr. McDonough said the school pickup and drop off plan indicates that children can walk to school by the emergency access way off of Cherrywood Dr. How will they ensure that this does not become a drop off area for parents who drive their students? There are many kids in that area, and it is a narrow, one lane road. If that becomes a spot where parents drop off their children, it will not only clog the road and void the traffic study, but will pose danger to the kids nearby. I would like to know how vehicle drops off will be prohibited at that spot. That needs to be addressed.

Mr. McDonough said the presentation does not account for the fact that the sidewalk on Buckmeadow frequently floods at the point where it crosses Cold Brook at the driveway. How will that be addressed? You would think that would be part of the assessment given the proximity to the school.

Mr. Sullivan said Medallion Ct is in fact a 2-way street, not a 1-lane road.

Kristen Ford, 101 Cherrywood Dr, Nashua NH

Ms. Ford said her property is directly behind one of the proposed baseball fields. She said they were assured that the emergency drive on Cherrywood was not going to be accessible by vehicles except for emergency vehicles. According to the plans there is a sidewalk. She is concerned about drop-off vehicles on Medallion and in the traffic circle on Cherrywood, which is a narrow 1-lane. What would prevent parents from dropping off their kids in this location? Traffic was the biggest concern they had in the first place, when this school was first considered.

Ms. Ford said she would like to see a fence between the athletic fields and the residential neighborhood. She asked what kind of lighting would be present at the fields. She said they were told by the development team that there would not be any light pollution for the abutters.

Prasad Tiruveedi, 6 Medallion Ct

Mr. Tiruveedi agreed with the concerns raised. He added that the street becomes slippery and difficult during the winter months. He wants to know how the walking paths would be safe for

students in the winter. They were told that the emergency access way would be barred by a locked gate, only for emergency vehicles. They were told that there would be no deliveries, no parents dropping kids off at Medallion Ct. He claimed that Medallion Ct is a private road.

Jay Parikh, 68 Cherrywood Dr, Nashua NH

Mr. Parikh agreed with Mr. Tiruveedi. It was mentioned multiple times that kids coming up on Ridge Rd that it would be better for students to walk up Cherrywood. He hasn't had a winter day where he has come up to the Ridge Rd intersection and his car doesn't slide. That intersection is always icy. What is the city going to do to protect the children?

Mr. Parikh asked if the city would take over clearing the sidewalks. Not all neighbors in their neighborhood clear their driveways, and their walkways are always blocked off. He has seen the city clearing sidewalks along Ridge Rd; will Cherrywood be included in this?

Sachin Patel, 69 Cherrywood Dr, Nashua NH

Mr. Patel asked if there would be a walkway on south Buckmeadow. He doesn't think it makes sense to direct students to walk across Ridge Rd and up to Cherrywood Dr. He thinks they should go up Buckmeadow. He is concerned that many parents will drop their kids off in the middle of the road at the Cherrywood roundabout. Having the walkway on Buckmeadow would make more sense.

SPEAKING IN FAVOR

None

APPLICANT REBUTTAL

Samuel Forgue, Civil Engineer

Mr. Forgue said they do have fences located around the basketball court. At this point the ballfields are set at a lower field than existing, which serves as a natural barrier. There is no lighting proposed for the ballfields. There is some site lighting on sensors, but will not be illuminated throughout the night.

Mr. Forgue said he understands the concerns of pick up and drop off at the emergency access. They are proposing to post signage with fines that will be administered. There would be a police presence and folks to prohibit this. This is just an emergency egress, and is not for general traffic. This is part of their discussions with the Fire Marshal on how to prevent general access to the site in that location.

Mr. Varley asked for clarification on sidewalk clearing.

Ald. Dowd said once they have a school in the area, they require the sidewalks to be plowed. That will be addressed. They have unique parent drop-off issues at all the schools, and this will be no different. They will tell parents not to drop off their students at the emergency access. They will have signage, and they will have periodic police officers there. They will work with the Fire Marshal on barriers or gates. They are working with city departments, especially Division of Public Works, and they will continue to do so.

Ald. Dowd said they are also working in partnership with the Conservation Commission, who will work with them on plantings and wetlands onsite. The Commission favorably recommended this plan unanimously, as did the Zoning Board. They will work with the neighbors to assure safety, He added that all lighting onsite is downward facing to reduce light pollution.

Mr. Thornton said there are shoulders on both sides of Main Dunstable, plus 12-ft traffic lanes. The traffic levels they observed do not approach capacity levels. When traffic is moving at a high rate of speed, it seems that there is a lot of congestion. The studies and volumes they collected don't indicate any capacity issues. They also received crash data from the police department and the intersection of Main Dunstable, Buckmeadow, and Gilson had three crashes in the past three years. This isn't a high crash location.

Mr. Thornton said in terms of the drop-off activity, the area on Cherrywood will be posted and monitored. The key to make sure it occurs smoothly is monitoring activity onsite to make sure there isn't a long queue and people looking for alternative locations.

Mr. Varley said one of the commenters raised a question about the intersection of Main Dunstable and Northeastern Blvd, which is a few miles away from the site. Can he assume that is outside of the project scope? Would it be impacted?

Mr. Thornton said no. It is outside of the study area. That whole stretch has a lot of traffic commuter volume. He can't expect people would notice much change at that location as a result of the school.

Mr. Varley said a commenter indicated he witnessed flooding on Buckmeadow Rd. Have they observed this, and are there proposed drainage improvements?

Mr. Forgue said that was not evaluated as part of this project, as it is offsite. If there are consistent issues with flooding, they can work with the city to evaluate and remedy it.

Mr. Meehan said one of the comments was about a sidewalk on the south side of Buckmeadow Rd.

Mr. Varley said the applicants do not propose a sidewalk on the southern side of Buckmeadow. They anticipate walkers will instead take the existing sidewalk to Cherrywood. He thinks the argument is because it's a better approach for walking, with a more gradual grade.

Mr. Ouellette said that is correct.

Mr. Meehan asked if there is a sidewalk on that emergency access.

Mr. Forgue said correct.

Mr. Bollinger asked for comment on the adequacy of the sidewalk between Buckmeadow and Main Dunstable. Is this ADA compliant? Is it sufficient for modern standards?

Mr. Thornton said they have not evaluated it for ADA compliance.

Mr. Bollinger said since they are accommodating school traffic, he thinks it needs to be looked at. It doesn't appear to be up to any standard.

Mr. Varley said it's essentially a paved path.

Mr. Bollinger said if that is going to be a regular route of travel for minors, there should be some evaluation of whether it meets minimum standards for pedestrian travel.

Ald. Dowd said he assumes the city is going to take responsibility of that sidewalk. He asked DPW to give him the cost to improve the sidewalk, as he is willing to put in the legislation for the funding. That is a city project to design and implement, not a school project.

Mr. Varley referred to the intersection of Buckmeadow and Main Dunstable, and said it appears there is some overgrowth there that limits sight distance. Given the increase in traffic, will that be maintained?

Ald. Dowd said they have had this issue at other schools. If it's in the city right of way, they can cut it. If it's on personal property and blocking sight lines, the city can require residents to cut it.

Mr. Sullivan said that someone on Zoom has raised their hand for public comment, but the public hearing has been closed.

Mr. Varley asked if this person has spoken before.

Mr. Sullivan said no.

Mr. Varley said he will allow it.

[Abutter audio is unintelligible. Board cannot understand.]

Mr. Varley suggested that the abutter enter their questions into chat, because they are having such issues with audio distortion.

Unknown abutter, via chat: What is the groundbreaking date, and what is the completion date?

Mr. Ouellette said assuming the project is approved, the anticipated groundbreaking would be this fall, with the building started in the spring. The intended opening is September 2024.

PUBLIC MEETING

Mr. Varley closed the public hearing and moved into the public meeting. He reminded the Board that they have two applications in front of them. He had a number of questions and items he felt needed to be addressed. Based on the discussion and feedback from the applicant, he feels that his concerns were resolved. This will result in some increase of traffic, but the windows are fairly narrow and he appreciates the improvements proposed to address those concerns. He feels comfortable with this.

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Mr. Meehan asked if their scope would include sidewalks out to Main Dunstable.

Mr. Varley said what is within their scope is on the plan. The only offsite improvements proposed by this is a small connection on Buckmeadow Rd.

Mr. Sullivan said there are two pedestrian improvements proposed in the form of two RFBs and a crosswalk. Those are included in the plan. The only sidewalk improvement is the north Buckmeadow connection.

Mr. Bollinger said it would be helpful to have a final determination from the Fire Marshal. They have dealt with situations where they have a firm concurrence; given the public safety element involved in a school that would be helpful here. His other question is that there are 19 proposed stipulations, including six waivers which weren't addressed directly. Are there any outstanding engineering comments not dealt with? How does this stand in terms of review?

Ms. McGhee said in their packet they have comments dated October 4th from Joe Mendola, and they got the memo from Wayne Husband. That with the Fire comments are the only ones outstanding.

Mr. Varley said he had a similar concern, but he understands from testimony that the issues raised by the Fire Marshal that they agree to address the issues. It sounds like the emergency access doesn't have a question about access, just what mechanism would prevent access. That would seem an appropriate condition of the plan.

Mr. Bollinger said he has no doubt a solution can be attained. There is a lot of public commentary and concerns of potential misuse of the access point. Full approval from the Fire Marshal could have helped dispel some of his concerns.

Mr. Pedersen said a member of the public mentioned that where Cherrywood Rd meets Ridge Rd it is quite steep and icy in winter. If that is brought to the attention of DPW they can make sure that is addressed.

Mr. Varley said the issue comes from Ridge, where the hill comes over.

Mr. Hudson said that Mr. Husband submitted a memo summarizing the traffic. Generally the studies prepared are reasonable. At the intersection of Buckmeadow and Main Dunstable there are some existing issues that were noted in regards to sight distance and capacity. But as with other schools they have a short period of time with congestion, and the rest of the time they don't have it. The improvements that were contemplated would be helpful all hours of the day. Some are not currently proposed as part of the project, but they agree that these should be pursued.

Mr. Hudson said the sidewalk along Buckmeadow was constructed to the standards at that time. Testimony was that the applicant is doubtful anyone will walk that way because of the steep grade change. He assumes some will, but that's something they can look into. The city has lots of sidewalks that don't meet standards and they are continuously trying to improve them.

Mr. Hudson said it is a long list of Engineering comments, but they are mostly minor technical things and he sees no deal killers. They met a number of times with the design team, and they have accommodated in general what they want to see in terms of the site driveway. The school will not be in operation for a few years, so they have time to work details out. He is comfortable with the conditional approval.

Mr. Varley said the recommended improvement at the intersection of Buckmeadow and Main Dunstable, the right turning lane, is there a plan with DPW to implement it?

Mr. Hudson said they have no hard and fast plan, but they have received requests and concerns for an improved crosswalk there are already looking into it. Their surveyor is starting to look into the turn lane. They're not sure that widening Main Dunstable would be good for pedestrian safety unless an island was added. There has been a recurring issue of screening vegetation at this intersection. That is city property, and they have gone out in the past to remove a rock wall. They can look into maintaining this. Mr. Husband's memo addresses the two crossings nearby, which are locations they have received concerns and are trying to make improvements. He did take notes on the icing and drainage issue, and encourages people to report them so that they can address them.

Mr. Bollinger thanked Mr. Hudson for his comments and clarification on technical details.

Mr. Varley said he is not hearing any objections in terms of moving forward. If anyone is willing to make a motion, they would start with the Conditional Use Permit.

MOTION by Mr. Bollinger to approve New Business - Conditional Use Permit A21-0186. It conforms to §190-134(F) with no stipulations or waivers.

SECONDED by Mr. Meehan

MOTION CARRIED 6-0

MOTION by Mr. Bollinger to approve New Business - Site Plan A21-0185. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of § 190-279, which requires site plans to be reproduced on 22" x 34" format, 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 § 190-209 A(1), which requires curb cuts for one way traffic to be a maximum width of 15 feet 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 parking aisles not contain more than 10 spaces in a row without a planted median and/or island, 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 § 190-279 EE, which requires showing existing conditions on and off site, 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 § 190-198, 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.
6. The request for a waiver of § 190-172, which requires certain building elevations, including the use of a flat roof, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
7. Prior to the Chair signing the plan, minor drafting corrections and standard notes will be added to the plan.

8. 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.
9. Prior to the Chair signing the plan, all outstanding engineering comments shall be addressed to the satisfaction of the Division of Public Works.
10. Prior to the issuance of a building permit, all outstanding fire comments shall be addressed to the satisfaction of the Fire Marshal's Office.
11. Prior to the issuance of a building permit, the applicant shall hold a consultation meeting with the Conservation Commission and the project landscape architect to discuss the proposed site vegetation, planting and seeding.
12. Prior to the issuance of a building permit, the electronic copy of the plan will be submitted to the City of Nashua.
13. Prior to the issuance of a building permit, stormwater documents will be submitted to City staff for review and recorded.
14. Prior to any site disturbance, the Alteration of Terrain and Wetland Permit for the project shall be approved by NHDES.
15. Prior to any work and a pre-construction meeting, a financial guarantee shall be approved.
16. Prior to the issuance of a Certificate of Occupancy, all comments in a memo from Wayne Husband, P.E., Senior Traffic Engineer, shall be addressed to the satisfaction of the Division of Public Works.
17. Prior to the issuance of a Certificate of Occupancy, all off-site and on-site improvements will be completed.
18. Prior to the issuance of a Certificate of Occupancy an as-built plan locating all roads, driveways, buildings, utilities, and landscaping shall be completed by a professional New Hampshire licensed engineer or surveyor and submitted to Planning and Engineering Departments. The as-built plan shall include a certification by a NH licensed professional engineer that all construction was generally completed in accordance with the approved site plan and applicable regulations.
19. All conditions of approval from the Zoning Board of Adjustment and Conservation Commission are incorporated herein.

SECONDED by Mr. Pedersen

MOTION CARRIED 6-0

The Board held a five minute recess

NEW BUSINESS - SUBDIVISION PLANS

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

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

SECONDED by Mr. Hirsch

MOTION CARRIED 6-0

Greg Jeffrey, Surveyor, Jeffrey Land Survey

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

Mr. Jeffrey said they are here to discuss a proposed drainage easement relocation at 69 Cherrywood Dr. The intent is to move the easement to more accurately reflect the swale or drain line that goes through the property. It will make it so that the water is actually draining in the easement, where right now it is not.

Mr. Varley asked if there are existing drainage improvements within the current easement that were intended to address water flow.

Mr. Jeffrey said yes. On the plan there is a gazebo, and between the gazebo is a house and brick patio.

Mr. Varley said it seems this is partly to address the fact that there were structures built within the easement.

Mr. Jeffrey said exactly.

Mr. Varley asked if they are being asked to move the easement so that there are no structures in the easement.

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Mr. Jeffrey said correct.

Mr. Varley asked with the relocation of the easement, are there any drainage improvements proposed?

Mr. Jeffrey said no. The swale system that has been in place since this subdivision was constructed has no manholes.

Mr. Hirsch asked if the easement continues into the abutting property.

Mr. Jeffrey said it stops at Chokeberry Ln. The length of the easement stops at the southern border of his client's property. They only have the ability to change the location of the easement on someone else's property.

Mr. Hirsch said the easement will basically stop at that property line.

Mr. Jeffrey said yes.

Mr. Hirsch asked what the implications would be for any abutting properties.

Mr. Jeffrey said they are not changing the easement on any other properties. They want to relocate the drainage easement so it more accurately reflects the location of the existing swale. The water doesn't drain where the location of the easement is right now.

Mr. Meehan asked if that is because of the building that has occurred on the lot.

Mr. Jeffrey said there has been some elevation change, but according to his client it is just the thickness of the pavers.

Mr. Varley asked if the construction of the patio and gazebo interfered with the operation of the existing drainage.

Sachin Patel, 69 Cherrywood Drive, Nashua NH

Mr. Patel introduced himself as the owner and resident. They moved into this property in 2006. Since then the wet area has always been where they are proposing to relocate the easement. They installed the patio in 2012. He described the topography changes across his property and the abutting properties 71

Cherrywood Drive. He said they have not changed any grade level, just placed patio pavers on the flat area. He repeated that ever since they moved there in 2006 the wet area has been where they are proposing to relocate the easement.

Mr. Patel said when they moved in there were very few houses and Hydrangea Ln had not been developed. As they built, Hydrangea Ln was built a whole 30-ft difference in elevation and the water flows this way.

Mr. Varley said they received comments from a few abutters with concerns about the impacts of the proposed relocation, changes in drainage on their own properties, and how this will affect them. He understands that moving the easement doesn't change the location of the water flow. He asked if in their view, this isn't changing the way in which the water is being handled on the property.

Mr. Jeffrey said no. It's just reflecting where the existing swale is now.

Mr. Pedersen said as part of this proposal they are requesting to waive a drainage letter or study, so there would be no documentation studying the impact of your proposed change.

Mr. Jeffrey said the intent is to relocate the position of the easement so that the water actually flows within the easement. It's not to change the flow, direction, amount, or retention of the water. It's just to reflect the existing conditions of the swale where the drainage goes.

Mr. Pedersen said he has some observations, is now a good time to discuss that?

Mr. Varley said they should finish asking questions of the applicant and open for public discussion, then they can do that.

Mr. Hudson asked who the easement relocation will benefit. They are proposing a reconfiguration of an existing easement. Who gets the benefit of the existing easement?

Mr. Jeffrey said it's for the benefit of Mr. Patel. Usually when they talk about an easement in the drainage sense, it's for a utility, for the benefit of getting the water off his property.

Mr. Jeffrey asked if it is fair to describe it as a limitation.

Mr. Jeffrey said correct. There are certain types of easements. Access easements would benefit one party. But this is an existing easement they want to relocate to reflect existing conditions.

Mr. Meehan said he is currently looking at Google Earth, and it's hard for him to say, looking at these photos-

Mr. Jeffrey interrupted and showed a plan with existing contour lines. He said they start highest at the southwest corner, and the water drains to the north. He outlined the contours and the water line onsite. He said they are trying to encapsulate the threat inside the easement as it exists.

Mr. Bollinger asked if there is any proposed regarding as part of this proposal in addition to whatever regarding was done to construct the gazebo and patio.

Mr. Jeffrey said no. He doesn't think regarding would be out of the question to smooth out the swale.

Mr. Hudson asked him to describe the swale. The topography makes it seem like it is pretty shallow versus a well-defined smaller channel.

Mr. Jeffrey said he would describe a swale as a V-shaped channel, at least a 1-2% grade. The drop from one side of the easement to the other is about 4-ft, which is decent.

SPEAKING IN OPPOSITION, QUESTIONS, OR CONCERN

Bharat Rathi, 67 Cherrywood Drive, Nashua NH

Mr. Rathi asked if any drains have been put under or within the proposed easement location in 2019. He has submitted his objections and opposition to this plan, included many photos, including the fact that in 2019 there was a complex drainage system installed. He asked if underneath this drainage easement there will be a pipe.

Mr. Rathi said the grading doesn't support the easement location. It is far too high up the hill, it needs to be further down. Water flows perpendicular to the contour lines, and the water is flowing right through. There is no swale there. That placement is incorrect.

Mr. Rathi said the easement would be angled towards his house. The only reason it's angled this way is because for a whole year he has refused to make changes to the easement because it would affect his property. If you angle that easement towards his house and it's coming from a much higher grade, water comes directly towards his house. That is what has been happening with the drains that were installed as well, which are closer to the shed. Last year they had a lot of seepage of water into his basement, which has never happened in the 15-years he has lived there.

Mr. Rathi said he has had to work hard with the City Engineer, the Engineering Dept., and others to figure this out. He had to put in his own swale, because you're not allowed to change anything in the easement. You're not allowed to change the grade, you're not allowed to put a drain in, you're not allowed to do practically anything. He got verbal permission from Joe Mendola to put a swale in. He has videos and photos.

Mr. Varley clarified their scope of review. They are looking purely at the question of where the easement is located. They are not proposing any changes to the physical drainage features.

Mr. Rathi said they already have changed it.

Mr. Varley said they are happy to address the question he asked regarding drainage. It is not within the scope of the Board this evening to address existing drainage issues. What they are proposing is to relocate the legal easement. To the extent that he is speaking to existing conditions onsite, that is beyond the control of what the Board is being asked to do.

Mr. Rathi said correct. But he has talked with Planning staff, and they said that the grading must support the easement. The grading does not support this easement. That water would not flow and angle down to his section of the easement. The only reason it's been doing this is because there is a whole lot of construction. And there's a fire pit after the gazebo, which isn't shown on the plan. The current drainage is not occurring in the original easement. Because of the construction, the flow has been pushed back 20-ft or so. Otherwise, it would have been draining in the current easement.

Mr. Varley said they understand there have been improvements made in the existing easement. There is a limit to what is within the scope of the Board's review.

Mr. Rathi said he has spoken to several people in the Engineering Dept. and one thing they have always stated is that there are no drains allowed in an easement. But there would be a drain, if they moved this easement. He asked what the Engineering Dept. is going to do about the drain. Will they remove it? Will they sanctify it?

Mr. Varley said they will get answers from the applicant and staff.

Mr. Rathi said the other two people who are party to this easement were not able to attend tonight.

Mr. Varley said they received comments from other neighbors, so that may have included those individuals. He asked the applicant and staff to comment on the conditions in the proposed area and whether there is existing drainage.

APPLICANT REBUTTAL

Greg Jeffrey, Surveyor

Mr. Jeffrey asked if when he means drainage, he means a structure like a manhole.

Mr. Varley said that the abutter Mr. Rathi very specifically referred to a constructed drain pipe in the area where the easement is proposed.

Mr. Patel said when they moved in 2006, 67 Cherrywood Drive was occupied, and the residents at that time planted a vegetable garden next side. He said that wet area always goes in that direction. He said the back of 67 Cherrywood has always been wet.

Mr. Patel said yes, there is a drain. They have small kids, and when they go out in the yard it is so wet that they can't play. So they installed gravel and a pipe. He said they spoke to Mr. Rathi about it at the time. They can remove the pipe but this is the existing drainage path, where they want to move the easement. It has always been wet. Even after the installed the drain pipe it remains wet. There is no pipe in the currently identified easement, just the slope. The water goes along the back side of all the lots.

Mr. Varley asked if there is a pipe.

Mr. Patel said yes, they installed that in the new proposed easement area. It does not help, the area is still wet. It is still flowing in the new proposed easement area. He wanted to relocate the easement for both his and Mr. Rathi's property, but Mr. Rathi was not in agreement so he had to just do his own. They are not doing any grade level changing. They just want the wet area to be in the proposed easement.

Mr. Varley asked for staff comment on improvements in the easement, and whether this drain would conflict.

Mr. Sullivan said many of the households in the area are affected by this rear lot drainage issue, and several property owners have done what the applicant has done, install underdrains in an effort to mitigate the wet areas. The end result is that there is much trespass of drainage onto abutting lots, and they are seeing the product of that in their discussions tonight.

Mr. Sullivan said the Board's authority is limited to the easement area and adjusting that easement area. That easement is functionally a product of a subdivision, Maplewood Phase 5. Therefore, they are functionally performing a subdivision amendment with any approval they grant tonight. As a result, he would ask the Board ensure that any proposed easement area does in fact convey drainage in the same way the original easement was intended to do in 2005. The relationship between topography and easement location is critical.

Mr. Sullivan said the Engineering Dept. is absolutely correct in the matter of installing drainage pipes within an easement. If the Board approves this change he asks that they require that any existing drainage or underdrain infrastructure be removed as a condition of this easement.

Mr. Sullivan said he has had several conversations with Mr. Rathi, and several of the issues they are hearing about tonight are civil drainage issues. They involve the trespass of water from one property to another as a result of changes in grading. It's a common issue in this development. He urged the Board not to conflate civil drainage issues with the functioning of the larger drainage swale that is intended to be a critical piece of infrastructure in the development.

Mr. Sullivan referred to the plan showing the easement for the underlying subdivision, to give them a sense of context. As the applicant indicated, this easement is intended to convey

stormwater for a distance of the development. They are specifically reviewing an easement adjustment on Lot 2755, which is intended to convey water through Lots 2754 and 2753. They need to make sure this a contiguous easement, and therefore the topography is critical. He would emphasize the need for removing the underdrainage infrastructure, if they approve this plan.

Mr. Varley asked Mr. Hudson if in terms of Mr. Sullivan's observation, the goal should be to ensure that the drainage would be occurring consistent with what was intended by the original easement.

Mr. Hudson said he has questions, not observations. He asked if there is a registry recorded document describing the easement and what is or is not allowed in the easement.

Mr. Sullivan said there are two locations where the easement is identified. One is on the subdivision plan, and he believes the deeds for these properties make a reference to the drainage easement. He doesn't believe the deeds have specific restrictions put in place. The reason for his statement that any drainage infrastructure should be removed is that he feels it cuts against the underlying purpose of that drainage easement.

Mr. Hudson said his thought is the intent was clearly to provide a way that drainage could cross a number of properties. It is the burden of the landowner with the easement to have topography that conveys stormwater from one side of the property to the other. That is the intent. To the extent that the topography has been altered where water has been rerouted, that could be of concern and contrary to the original intent of the easement. They are hampered somewhat by the fact that there is not a detailed description of what the easement entails.

Mr. Hudson said the Engineering Dept. tries to provide guidance to staff and review for Planning Board cases, but Public Works purview does not extend onto private property. If this were an easement to the benefit of the city, that would fall under their jurisdiction. There is information in the packet about what has been done and changed, but Engineering would not have been onsite inspecting the construction. They don't know what has been permitted or not permitted.

Mr. Varley said it appears that the existing easement is significantly obstructed by the gazebo and patio. It seems their alternative is to have an easement with no functional purpose.

Mr. Sullivan said he believes the construction in the easement cuts against the underlying purpose of the easement's original intent. Should the Board not approve this, staff would have to have further discussions with the property owner about what corrective actions would be needed.

Mr. Sullivan clarified that the easement is not clearly in favor of the City of Nashua. The way the language was phrased at the time is that it is a "public drainage easement" and there is no specific language that the City of Nashua is the recipient party. It is a public easement by nature.

PUBLIC MEETING

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

Mr. Pedersen said one of the first things he saw in reviewing the packet is that the abutter at 67 Cherrywood strongly urged a site visit. He described what he saw.

Mr. Pederson said that section of the development is on a hill. The contour is such that there is a slope along the houses and behind the houses, so they get double the water coming into their yards. He walked to 67 Cherrywood, who is in total opposition, and Mr. Rathi's yard has a trench that runs parallel to his back property line, deep and full of gravel. Mr. Rathi absorbs the applicant's stormwater and passes it right through. The yard at 65 Cherrywood is a soggy mess. You can't even walk in there, it's just muck. He walked up the hill to 69 Cherrywood, the applicant, and he noticed that the shed is elevated 3-ft off the ground because that could turn into a soggy mess. He noticed the house had a PVC pipe going right down the foundation, connected to a garden hose that runs the length of his driveway out to the street. It hasn't rained in a few days, and there is still water flowing down the street from the applicant's house. Water is a real problem in this neighborhood.

Mr. Pedersen said when he looks at the current easement put in by the builder, he's sure they put it exactly where the natural flow of the water is between those three properties, 65-69 Cherrywood, to get that water out of those yards towards Chokeberry.

Mr. Pedersen said in their packet is a letter from applicant telling them exactly what their motive is here. He wants to

expand his kitchen out 12-ft. He applied to the city and got turned down because he was encroaching upon the easement. So if he doesn't want to move and he wants the bigger kitchen, why doesn't he just move the easement? They are here tonight so he can get the easement moved and put his addition in.

Mr. Pedersen said this is a topographical thing. This is the contours in that neighborhood. The applicant is requesting they waive requiring physical features to be shown on the plan within 1,000-ft, like this property only occurs on their little lot. This is the whole neighborhood and the flow of water through it. And they want to avoid a study of that because then the Board will have a better understanding of the problem.

Mr. Pedersen said the applicant is asking to not do a drainage letter or study. Why would they not want that? Because then the Board will find out the easement was put there for a good reason, to direct that water through those three backyards. He can see why the abutter at 67 Cherrywood is so against this, because right now the easement is working for him.

Mr. Varley said he wants to look practically at what is onsite, and what the options are available to them. They already have major structural changes in the easement, the gazebo, patio, and fire pit. Those were all built within the easement.

Mr. Varley said it seems like they have two options. One they could not approve this and leave it as is. But basically the easement is not functioning in accordance with the original intent because they have all those structural changes within the easement. Two, they move the easement to something more conforming, and require the applicant to remove the drainage infrastructure. In either case, it will not change the condition of the site unless the owner removes the existing encroachments.

Mr. Pedersen said they can change the easement on paper, but nature put that water there. It's still going to flow there. When he saw the patio he thought, they just put that up with a little tent over it, they didn't get a permit for it. But a 12-ft addition needs a permit, and then they got turned down.

Mr. Varley said those structures exist in the easement now.

Mr. Pedersen said they are not harming anything; they are sitting on top of the soil. They're not dug in. They just sit on top. There's no impact on the flow of water coming down the

hill. But if you start really messing with the flow of water, then the next guy down the hill gets affected. The resident at 65 Cherrywood lives in a precarious place; that backyard is muck. If they start messing around upstream it will affect 65 & 67. Nature is determining that flow.

Mr. Varley asked what he means by there being no impact on the drainage flow now.

Mr. Pedersen said the patio and gazebo just sit on granite, it doesn't affect the flow of water through the soil.

Mr. Sullivan said the original intent of the easement was to surface convey drainage in addition to some subsurface drainage. The intent was to surface convey water through the development. By regarding and installing structures, albeit patio structures, it does fundamentally change whether or not that easement is functioning as it should when it was originally approved. There is an existing violation of the original intent of the easement with what has been done. The question is, is this alternative proposed by the applicant adequate to accomplish that same mission that was originally intended.

Mr. Bollinger asked if they are in a position to assess as a non-technical Board whether that disturbance has done enough to impact. He asked if this property also has to go to the Zoning Board for setback and driveway width issues.

Mr. McPhie said correct. They are trying to bring the issue forward so they can rectify some of the other issues onsite.

Mr. Bollinger said he is concerned about precedence. If rule after rule is broken and they see relief from the Zoning Board and Planning Board, he doesn't know where the limitations are. He doesn't feel he has enough to vote on this case tonight. There's too much going on to address.

Mr. Hirsch said they need some sort of drainage study and source to tell them what's going on. Right now they're just speculating. They need someone to take a look at it and draft a report.

Mr. Hudson said his speculation is that this goes back to a poor construction in the beginning. This is not natural topography, this area was regarded. There was a provision made for a drainage easement through here, but there was no real soil

constructed to capture the water and convey it without the backyards being wet. All of these people are aggrieved by that condition which unfortunately they bought into.

Mr. Hudson said changing the easement does continue provide a route that the water can be conveyed through the property, which is the intent of the easement. His largest concern is to what extent that drainage pattern has been changed. Water being captured, pumped, and directed to the street is not allowed. They need to remove that and return it to its natural pattern, which was the original intent. He wishes that all these property owners would get together and agree to construct a swale across all these properties to solve this problem, but that seems like a tall ask.

Mr. Hudson said he doesn't appreciate the encroachment on the original easement. There are other violations. He doesn't appreciate the rerouting of underground water to the extent that occurred, and thinks it should be removed. In granting a change, it wouldn't solve the problems noted. But he doesn't think it would exacerbate them either.

Mr. Pedersen said having been there, he feels the gazebo and patio may encroach on paper. But the real bulk of the water is 10-ft away from where they put the patio in. Nature put that water there. Maybe they graded it, but the water has to go somewhere, and now it is going through those three backyards. He thinks the reason why they are doing this is because the applicant wants to put in a 12-ft kitchen addition in the backyard. That is why this whole thing is being forced to move the current easement that was put there a long time ago. That's the applicant's words.

Mr. Varley said they could table this, but they would need to instruct the applicant what they are looking for. They could disapprove this, in which case the easement stays where it is. As Mr. Hudson and Mr. Sullivan commented on, the intent was to have a swale conveying the water. Clearly that is not happening with the gazebo and patio there. They could approve this, but they would be doing so without the benefit of expert testimony as to whether this would replicate what the original easement was intended to do.

Mr. Varley said if they want to table this matter, they have to be specific to what it is they want when it comes back.

Mr. Meehan said if they vote no, would it go back to the Planning Dept. to follow up on the easement violations.

Mr. Sullivan said it would result in enforcement action. Their objective is to achieve a comprehensive drainage solution across these four lots. They are open to a conversation prior to enforcement to some design that might accomplish that. That's why they brought this easement proposal forward tonight. They recognize that this easement adjustment has flaws. They would first try to facilitate a conversation about how a more comprehensive solution could be designed, because clearly they are seeing downgrading and impacts to the abutters here. They have a vested public interest in establishing stable drainage here. If that can't be accomplished, it would result in enforcement.

Mr. Meehan asked if that creates an opportunity for the city to resolve this in a more comprehensive manner for all the lots.

Mr. Sullivan said yes in theory. They have that opportunity now, before the Board votes to deny. If the Board votes to table this case, they would try to initiate a conversation between those property owners now.

Mr. Varley said they could table for the purpose of allowing that discussion.

Mr. Pedersen said if they approve this application, they would be shirking their responsibility. Stipulation 1 is a waiver request to not require a physical features study, and stipulation 4 is a waiver to not require a drainage study. All the engineering aspects would be ignored if they approve this, which would be wrong. To table this would mean they have to do further study. Who would pay for this study? Why would they do this study? Because the applicant wants to put a kitchen in.

Mr. Pedersen said he thinks disapproving this is in order. The applicant is asking for them to do all these changes to put his kitchen in.

Mr. Varley said based on their discussions and Mr. Sullivan's point towards a comprehensive solution, his inclination would be to table the case. That allows the city, applicant, and abutters to hopefully get together and talk about a solution. If the case comes back and they determine there is no solution, they still have the ability to approve or deny the plan. They can take that

interim step and provide opportunity for further discussion, and reassess afterward.

Mr. Meehan asked if a motion to table should allow the city to engage the applicant and abutters in an attempt to create a comprehensive solution.

Mr. Varley said yes.

Mr. Hirsch asked if they would table this for a meeting or until it is resolved.

Mr. Varley said they should table to a date certain.

Mr. Sullivan recommended they table to early November.

Mr. Hirsch asked if they could request a drainage study or independent analysis.

Mr. Varley said he prefers they not do that yet. He thinks that will effectively happen through the process of getting everyone together. Otherwise, they are asking the applicant to spend money on that without an understanding of the end result.

Mr. Bollinger asked if it is possible to table just for future discussion and review with staff. He doesn't want a vicious cycle of them submitting a response and getting comments.

Mr. Varley said they should give a reason so it is clear in the record why they tabled it. He agreed with Mr. Meehan's suggestion.

Mr. McPhie suggested the December 2nd motion.

Mr. Pedersen said a study as to how to improve the easement sounds good, but he can't help but find that the applicant has been living here for 15 years and this has not been an issue, until he wanted to put in a kitchen. Now the Board has to jump through hoops to accommodate this request. The city has better things to do.

Mr. Varley said with all due respect this is a bigger issue than just this property. He doesn't think this is just a matter of them chasing their tails over a kitchen. There are clearly issues out there, existing encroachments, and he thinks it's worthwhile to address it.

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MOTION by Mr. Meehan to table A21-0177 to the December 2, 2021 meeting in order to allow to engage the applicant and abutters in a comprehensive solution

SECONDED by Mr. Bollinger

MOTION CARRIED 6-0

A21-0191 Tim Forrence (Owner). Proposed lot line relocation and subdivision plan. Property is located at 3 & 9 Fifth Street. Sheet 87. Lots 309 & 310. Zoned RB-Urban Residence. Ward 4. **(Postponed to the October 21, 2021 meeting)**

A21-0215 Geoffrey & Christopher Lynch (Owners). Lot line relocation and three lot subdivision. Property is located at 496 & 500 Main Dunstable Road. Sheet C. Lots 837 & 1999. Zoned R30-Suburban Residence. Ward 5. **(Postponed to the October 21, 2021 meeting)**

MOTION by Mr. Bollinger to postpone A21-215 & A21-191 to the October 21, 2021 meeting

SECONDED by Mr. Hirsch

MOTION CARRIED 6-0

NEW BUSINESS - SITE PLANS (cont)

A21-0216 300 Main Street Realty, LLC (Owner). Omnium Brewery (Applicant). Site plan amendment to allow a portion of the building to be used as a restaurant and beverage manufacturing. Property is located at 300 Main Street. Zoned D3/MU-Downtown 3/Mixed Use. Ward 7.

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

Doug Brodeur, Project Engineer, Meridian Land Services

Mr. Brodeur introduced himself as the representative for the owner and applicants.

Mr. Brodeur said this is a change of use application. He briefly described the site, surrounding uses, and zone. The Mixed Use overlay district allows the Board to approve any use they feel is appropriate, with certain provisions. The proposal is to convert 27,500-sqft from retail to a bar-brew pub with retail and onsite alcohol production. This would include ancillary recreational activities, sit-down restaurant and event spaces. They are not proposing exterior changes.

Mr. Brodeur showed the location onsite proposed for the new use. They have requested seven waivers as part of this application, as detailed in the staff report, and related to existing conditions. These would be related to any exterior changes.

Mr. Varley said they seem to be straightforward waiver requests, and he does not need further detail.

Mr. Brodeur addressed some of the other stipulations. He said he understands that the Fire Marshal has signed off on this, and asked that Stipulation 13 be removed. He said one of the stipulations included an impact fee due to traffic and it wasn't clear how the requested contribution amount was calculated and the regulatory requirement that is was based on.

Mr. Varley said he saw that email from Mr. Husband. It's common for these types of traffic impact fees, which are supposed to reflect the increase in traffic.

Mr. Brodeur said they aren't disputing that there would be an increase of traffic to the site or the requirement. He asked that they change the fee to prior to certificate of occupancy, instead of the permit issuance.

Mr. Hudson said he can speak to it after the presentation and questions.

Mr. Pedersen said the packet mentioned they would need a wastewater permit. Was that approved?

Mr. Brodeur said they wanted to leave that as a condition of approval prior to issuance of building permit. There is a DES permit that has to be applied as well, if there is an increase in stormwater. All of this would be worked out prior to building permit or certificate of occupancy.

Mr. Pedersen said asked what would happen to the hops and barley waste grain.

Mr. Brodeur said it may require an industrial wastewater permit.

Vaheer Patel, Omnium Brewing

Mr. Patel said they will be coordinating with a few local farms in Hollis who will take the grain waste. They aren't sure how much waste grain will be produced yet, but the farmers will pick it up.

Mr. Pedersen thanked him for considering that.

Mr. Bollinger said the plaza has been around for a long time. Does he know what previous tenants might have been there? He is asking in regards to traffic analysis.

Mr. Brodeur said they based it on existing retail. Mr. Roberts is present and can speak to that. In the comparison there isn't a good mixed use for what they are proposing. They used 'Quality Restaurant' as the closest alternative. The city traffic engineer found a use somehow with 'Drinking Establishment' and took an average of the two. It was a basic ITE trip generation.

Mr. Bollinger thanked him, and said he didn't want to lose sight that this is a reuse of a space.

Ed Roberts, 300 Main St LLC

Mr. Roberts said he represents the owner. The space has been vacant for some time, but was previously a karate/dance studio, and a plumbing supplier. They are excited to bring a destination use to the plaza.

Mr. Pedersen asked about ancillary activities, and axe throwing.

Mr. Brodeur explained the concept of axe throwing as entertainment.

Mr. Patel said there would also be some other small games, like pinball and foosball. They are proposing four lanes of axe throwing.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

Mr. Meehan asked if they were to strike stipulation 13.

Ms. McGhee said they can strike stipulation 12 and 13. Mr. Hudson can speak to the traffic contribution, which should also be stipulated.

Mr. Hudson said he doesn't want to change the stipulation as recommended. He explained the Main Street Traffic Corridor Account, which accepts contributions in lieu of mitigation for traffic impacts due to development activity. They use a \$200 per trip rate, which has not changed for many years. It's a cost savings in that the applicant doesn't have to perform a full traffic study, determine mitigation, and then complete that mitigation. They can pay into this fund, and then the burden is on the city to maintain and improve.

Mr. Hudson gave an overview of how the exact fee was calculated. He would propose a specific stipulation that prior to issuance of Certificate of Occupancy the applicant shall pay \$28,000.00 to be paid to the Main Street Traffic Corridor account, or purchase a new overhead Gridsmart 360 camera to be installed at the Main Street/Lake Street intersection to the satisfaction of the Division of Public Works. That would give them a choice. That camera system will benefit the corridor and the applicant.

Mr. Roberts said they do not object to that stipulation.

PUBLIC MEETING

Mr. Varley closed the public hearing and moved into the public meeting. He summarized the discussion, and said this is straightforward.

Mr. Bollinger said the waivers are fairly typical for reuse of larger retail plazas in the past, and he does not think there is anything extraordinary there that needs further redress.

Mr. Varley agreed. They are doing no exterior work onsite.

MOTION by Mr. Bollinger to approve New Business - Site Plan Plan A21-0216. It conforms to §190-146(D) with the following stipulations or waivers:

1. The request for a waiver of § 190-279(C), which requires a new survey, date of survey and name of surveyor or if an old survey, reference plan used, HCRD# and book and page of deeds is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.

2. The request for a waiver of § 190-279(F), which requires dimension and square footage of all buildings and structures, 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 § 190-279(W), which requires wetland boundaries, 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 § 190-279 (BB), which requires a site grading plan showing existing grades with contours at two-foot vertical intervals, 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 § 190-279 (CC), which requires a stormwater management report, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
6. The request for a waiver of § 190-279 (EE), which requires an existing conditions plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
7. The request for a waiver of § 190-279 (KK), which requires a stormwater operation/maintenance plan and easement for reporting, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
8. Prior to the Chair signing the plan, minor drafting corrections and standard notes will be added to the plan.
9. Prior to the Chair signing the plan, all conditions from the Planning Board approval letter will be added to the cover page of the final mylar and paper copies submitted to the City.
10. Prior to the issuance of a building permit, a wastewater permit shall be approved.
11. Prior to the issuance of a building permit, the electronic copy of the plan will be submitted to the City of Nashua.
12. Prior to the issuance of a Certificate of Occupancy, the applicant shall pay \$28,000.00 to be paid to the Main Street Traffic Corridor or purchase a new overhead Gridsmart 360 camera to be installed at the Main Street/Lake Street intersection to the satisfaction of the Division of Public Works.

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. Hirsch

MOTION CARRIED 6-0

2. Nomination of Planning Board Member for liaison to Historic District Commission.

Mr. Varley said Ms. Harper has expressed an interest in becoming the liaison.

Mr. McPhie said the Commission needs another member as soon as they can.

MOTION by Mr. Bollinger to nominate Maggie Harper as the Planning Board liaison to the Historic District Commission

SECONDED by Mr. Meehan

MOTION CARRIED 6-0

Mr. Varley said he will take Other Business 3 & 4 together

3. Amendment to the NCPB By-Laws, to reflect having (2) two meetings in January and September in lieu of (1) one.
4. Adoption of the "2022" Meeting and Deadlines Dates" for the Nashua City Planning Board.

Mr. Varley provided an overview of the process for accepting meeting dates. They are given the list of potential meeting dates to review, and will vote on them at a later date. They are also proposing to add another meeting each to January and September. The idea is to provide more flexibility and reduce the need for special meetings. If there was nothing for the agenda, they would cancel the meeting. It doesn't commit them to having a meeting if there is nothing to do.

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Mr. Pedersen said they did have two meetings in January and September this year.

Mr. Varley said this is a opportunity to review the schedule.

Mr. Sullivan said this is increased predictability so that everyone can have it on their schedules. They also would like to have regular board trainings, and because of the caseload and volume over the past year they haven't been able to keep up with that. This offers them some additional nights to add that into the schedule.

MOTION by Mr. Meehan to table Other Business 3 & 4 to the October 21, 2021 meeting

SECONDED by Mr. Bollinger

MOTION CARRIED

DISCUSSION ITEMS

City of Nashua Parking Study: postponed to November 4th at 6PM.

MOTION to adjourn by Mr. Bollinger at 10:52 PM

MOTION CARRIED 8-0

APPROVED:

Mr. Varley, Acting Chair, Nashua Planning Board

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Prepared by: Kate Poirier

Taped Meeting