

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

SEPTEMBER 21, 2004

A meeting of the Planning and Economic Development Committee was held on Tuesday, September 21, 2004 at 7:03 p.m. in the Aldermanic Chamber.

Chairman David Rootovich presided.

Members of the Committee present: Alderman Kathryn D. Vitale
 Alderman Richard LaRose, Vice Chair

Members Not in Attendance: Alderman David MacLaughlin
 Alderman Robert G. Shaw, Jr.

Also in Attendance: Jay Minkarah, Economic Development Director
 Mike Lowe, Nashua City Planning Board
 Roger Houston, Director/Manager, Planning Department
 Betty Lasky, Chair, Nashua City Planning Board
 Christopher Hodgdon, President, Chamber of Commerce
 Mark Fougere, Planning Consultant
 Sean Duffy, Zoning Board of Adjustment
 William Farrell, President, Rivier College
 J. Bradford Westgate, Esquire, Winer & Bennett
 Larry Lesieur, Maynard & Lesieur, Nashua
 Brad Whitney

Chairman Rootovich

Alderman Shaw called me this evening. He said he will not be here as he has a parent/teacher conference with both of his children in school.

COMMUNICATIONS

From: J. Bradford Westgate, Esquire
Re: The Huntington at Nashua – Petition for Waiver of Public Schools Facilities Impact Fees
 Under Section 16-594 of the Zoning Ordinance

Chairman Rootovich

I would ask that Mr. Westgate come forward to the microphone, introduce your partner to the committee, and before we start I would entertain a motion from a committee member.

MOTION BY ALDERMAN LAROSE TO ACCEPT, PLACE ON FILE AND GRANT THE PETITION FOR WAIVER OF PUBLIC SCHOOL FACILITIES IMPACT FEES CONTINGENT UPON A FAVORABLE RECOMMENDATION FROM THE PLANNING BOARD AND DIRECTOR OF PLANNING

ON THE QUESTION

Brad Westgate, Esq.

Good evening members of the Board of Aldermen and others. My name is Brad Westgate. I am a lawyer with Winer & Bennett, 111 Concord Street, Nashua. I represent the Huntington in Nashua. To my right is Christine Hallock who is the Chief Executive Officer of the Huntington in Nashua. I wrote to the Board of Aldermen about a month or so ago requesting and filing a Petition for Waiver of the School Impact Fee under Section 16-594 of the Land Use Code of the City of Nashua relative to the Huntington a Nashua project. If you like I can give a brief description of the project and then be happy to answer any questions that the members of the committee may have.

Chairman Rootovich

Please.

Brad Westgate, Esq.

The project is a so called continuing care retirement community. It is located on about a 50-acre parcel of land on the North side of Spit Brook Road. As you head West on Spit Brook Road it is just beyond the Small World Elementary School. It's entrance is about across from the Sky Meadow entrance and pretty much straight across from Roby Park.

The project was started construction in mid 2003. It is now coming close to completion. The Huntington anticipates that in mid November the first units will be occupied. There is one main central building for this community Mr. Chairman, which will house about 136 units, 124 of which are independent living unit and other – a dozen or so are assisted living units. There is also a number of nursing home beds that are part of this community. As I noted it is a so called continuing care retirement community – about 90% or more of the units have now been under contract for occupancy starting this coming November. The average age of the occupants of those who have signed up for this residency is approximately 77 years old as I outlined in the Petition.

The School Impact Fee Ordinance contemplates that if a project is not likely to generate impact on the school facilities then a waiver from the School Impact Fee can be granted by the Board of Aldermen. It is under that section that we applied for that particular waiver. I believe that if I remember correctly the actual impact fee calculation for this type of unit – these are essentially 1 and 2 bedroom units Mr. Chairman, these independent living units – I think is based on \$.50 a square foot of living space and \$500 per unit maximum – at least that the last rate schedule that I saw.

We would be requesting a waiver from the imposition of the School Impact Fee for this particular community given its nature and its obvious purpose of serving the elderly community. I am happy to answer questions, as is Mrs. Hallock.

Chairman Rootovich

Are there any questions from any of the committee members with respect to the communication or anything that Mr. Westgate has before us?

Mike Lowe

Would they be amiable to have a stipulation put on that if school age children are in the facility that they will then pay the fee for the particular units the children are in?

Brad Westgate, Esq.

We could do that I guess. It would be probably an academic point. I was asking Mrs. Hallock earlier – she has been the CEO of the Hunt Community for a good number of years despite her youth. She has told me that in their whole history there is no knowledge of any school age child ever living at Hunt Community for example. I suppose if in theory a school aged child lived in a particular unit at the Huntington the applicable fee for that particular unit I guess could be paid if that is ultimately what the Board of Aldermen desires. Of course this Board is still awaiting Planning Board recommendation and Planning Director recommendation as well.

Chairman Rootovich

That is the motion to grant a favorable recommendation pending an approval from the Planning Board.

Alderman Vitale

Do we allow just on regular housing for waiver of impact fees – if not for a house if somebody that is 77 is building a house and they are living there would they get a waiver of the School Impact Fee?

Brad Westgate, Esq.

No. The Ordinance only allows it for low and moderate-income housing and elderly housing. Regular single-family dwellings can't apply for a waiver under the ordinance.

Chairman Rootovich

Are there any further questions?

MOTION CARRIED

UNFINISHED BUSINESS - None

NEW BUSINESS – None

HELD IN COMMITTEE

0-04-19

Endorser: Alderman-at-Large Brian S. McCarthy

AMENDING THE PLANNING AND ZONING ORDINANCES OF THE
CITY OF NASHUA IN THEIR ENTIRETY

DISCUSSION

Chairman Rootovich

I would ask for the committee's indulgence. We have an individual here this evening, Mr. William Farrell who is the President of Rivier College. He had called me and sent me a letter several weeks back asking to give testimony before this committee with respect to the higher education district, which we have already covered under 16-43. I think it is critical to get his comments and his concerns on the record. I have asked him to be here this evening. With the committee's indulgence, Mr. Farrell would you be so kind as to come to the microphone. We look forward to your testimony.

William Farrell

I appreciate your thought on some of the issues. Actually we are very supportive of the idea of having a higher education district. That would actually greatly simplify the circumstances under which we currently live because virtually for anything that we do we have to go in and seek exemption from the existing rules. The idea of having a special district is a good one. We are also pleased with the relationships that the college has had with Zoning and with Planning. As a matter of fact we have had a very cooperative relationship. The Planning Board has been very understanding for example of the unique nature of parking problems that a campus has. We have made excellent progress.

The problem is that the devil is in the details as you know. I would like to give you some examples of the kind of problems that do exist there. Just for the sake of your convenience I would like to send a letter, which essentially gives this in detail as part of the testimony. Let me just give you an example of some of the kind of issues that come up.

For example and I believe the colleges are unique in this respect – we would be required to have essentially a master plan as part of our presentation, which would be I gather subject to approval. I have been in the academic business for about 46 years. I have worked for about 10 campuses and have been responsible for planning in about 6 of them. I have to say that over that period of time I have never seen a master plan, which has become a reality. That isn't because planning isn't essential, but the nature of our business is so dynamic that essentially what really happens there is kind of a constant change to it. It is important for internal planning purposes, but in fact the idea of some sort of set plan, which is going to become the rule would really be very problematic for any campus to live with not just Rivier and would I think present barriers and obstacles as we tried to move along.

In addition to that, one of the great advantages of having a district is that you can come up with certain rules, which essentially makes some kind of exemption for the circumstances of a campus, but in fact the particular specifics in this case actually undermine that. For example let me just give you an example with respect to height. The purposes of one of the provisions is obviously to permit taller buildings of 75 feet. According to the rules as they are established for each foot over 35 feet we would essentially have to have a setback of 1 foot. If you think of the kind of urban area that we live in that basically makes the rule impossible. The kind of distance involved there might make sense out in the Midwest where you have a lot of land, but in fact in the kind of environment that exists here in the inner city and in Nashua that is really a kind of self-defeating provision. I think that a 25 foot setback or maybe a essentially a 2 foot increase in height per foot of setback would make greater sense. Under these circumstances there really is no benefit to the provision.

I think also when you talk about setbacks and that sort of thing, one of the things that should be kept in mind is if you are a district and you still have residential properties present within the campus area, and by the way we do. Most of them are properties, which will eventually come to the college anyway because of arrangements that they have with us, but really they are the non-conforming part if we are going to think of this as a district.

Parking – one of the key factors about parking on a campus is that no campus wants to get into an arrangement where you plan parking around individual buildings. Basically what you get is a cross patch of parking lot. I once lived on a campus like those – those whole campus was parking lot in affect – students would get in their cars, we would have streets and they would drive down the streets to another building to park. Basically parking needs to be done on a campus wide basis. Usually you have remote parking – for example for residential students – you get rid of streets on the campus if you can and we actually do have currently that arrangement with the Planning Committee. This would be a step backward to essentially have parking planned on a per building basis, which is what is really written into the rules here.

Another concern, and I am not sure why this is even included is that somehow or other the parking lots have to be connected. That is fine say if you are living in flat land out in Iowa somewhere where you don't have a ledge underneath, but for example if you come to our campus you will see that between one parking lot and another there will be a hill. There is plenty of ledge in that hill. There is no reason to connect the parking lots and it would be very expensive to do so and there would be no reason why someone who is let's say parking in a lot that is tied to the education building should have to connect to the parking lot that is tied to a athletic facility. They serve very different purposes.

These are some of the specifics that we are presented with. The rules currently require us to have 6-foot sidewalks. The city as you know does some major work in this area with respect to sewers. There is our 5 feet. There is no reason why sidewalks should necessarily be 6 feet wide on a campus unless it is a huge campus that has 30,000 students on it. In fact what we do is we accommodate the size of sidewalks with what is needed in the particular area. Those might an affective trail in some places and in other places it might be indeed quite wide.

There is also the problem of noise abatement. The rules says no noise either from activities or equipment. As the Chamber pointed out in their own remarks in this section that is an impossible provision to observe. I think these are some of the particulars that do need to be concerned with it. There are rules about the storage of materials and equipment on the outside. Once again this is kind of micro-managing things. There are certain things that do need to be stored on the outside particularly around our maintenance facility.

Essentially I think what we are talking about here is the idea of an overall plan is a good one, but once it becomes so specific in some of these details it is going to be a problem not only for us, but it is going to be a problem for Planning and Zoning and everybody else involved. There is a tendency in these rules to have a degree of micromanagement about them. What I would like to do rather than trying to go on with a lot of particulars is to put these in a letter to you, explain what the problems are, and then to share that with you as part of my testimony. We would also since we want to be helpful and help you achieve the end if you would be willing we will try to write some kind of revisions into this that we think would meet our needs and at the same time would be faithful to what you are trying to accomplish here in the ordinances. I would be happy to answer any questions.

Chairman Rootovich

Just so you know Mr. Farrell what we are going to do is – your testimony here will be typed verbatim, I will take from you the testimony you gave me this evening as well as the letter you are going to send this committee with respect to the concerns that you have, and give those to the consultant who put this draft together. He is going to come back to the committee with a matrix with all the issues that were presented to this committee. Hopefully we can come together with some sort of language to address those concerns that we have not only in your

particular area, but throughout the document. That is our game plan.

William Farrell

Thank you. I wish you the best. I think you have engaged a very important task here, and we are pleased to be part of it.

Chairman Rootovich

Are there any questions for Mr. Farrell before he leaves with respect to his concerns? The particular section that we are talking about is on pages 90-93, but 90-92 in the draft document.

Mike Lowe

As far as the parking why they are inter-connected mainly because of fire. If you can possible – we will waiver it if it is obviously not practical, but where it is practical for fire engines to get through – you have to get through a parking lot and you want to be able to get out two ways out of that parking lot and that is why you inter-connect them.

William Farrell

I see your point there. I think those kind of connections what exists in any event – what you usually have on a campus is remote parking where actually there are no facilities at all it is just a parking lot. That might be at some distance for example from the buildings. In fact, that is one of the things you try to do.

Mike Lowe

The other thing is we already have site plans for some of the other campuses that are within the city. That is the reason why. It doesn't say what your plans are for the next ten years or twenty years what it is is a plan that shows us what is there already so that we can make a judgment if what you are proposing is good or whatever you want to call it – within the campus itself and also doesn't affect the neighbors.

William Farrell

Those kind of plans certainly exist.

Mike Lowe

I understand. That is what they mean by the site plan as far as I am concerned anyway.

William Farrell

I think the issue there is are we going through a kind of approval process on the plans. That would be the issue. As far as explaining what we are about that is fine.

Chairman Rootovich

Are there any further questions?

Bette Lasky

I just wanted to reiterate some of what Mr. Lowe said. The master plan – we have always been shown them from the colleges is not to hold you strictly to that. Again as Mr. Lowe said it is sort of your outline of what you propose. I don't believe that is an onerous task for you and we need to look at it so we can see the whole picture when you come in and want to do something on campus.

William Farrell

Certainly we have no problem with using that as the context. We certainly have those plans.

Chairman Rootovich

Are there any further questions? Thank you again. Please get your letter written and send it to the committee. I will make sure it gets to the consultant.

William Farrell

I appreciate that.

Chairman Rootovich

This evening we are going to continue our discussion with respect to D1, D2, and D3. If you remember we left off on page 50. We will start 51 this evening. I am going to ask that we reel it in a little bit and keep our discussion and dialogue to the sections we are talking about. Try to keep your comments brief. I know it is difficult sometimes. I have to give some latitude because we are making some major policy changes, but for the last couple of meetings we have gotten somewhat carried away and gone off on some tangents. I don't want to get into a debate with one's dialogue to another. Please I ask that we just stick to the section we are talking about. We will take as long as we need to go through each section to answer everybody's concerns and issues as we go through the document.

Roger before we start again out of courtesy do you have any opening statements or any comments you want to give with respect to the last meeting we had?

Roger Houston

I did hand out – everyone should have an aerial photograph – it primarily shows the D2 district from West Otterson along Main Street up and past Mulberry Street for that indication. Also the city has a new pictometry mapping system that we are using and although it is still in its infancy, Angelo Marino in the GIS department is involved in that. It might be a good idea I think at some future meeting if there are particular areas in the city that this committee would like to zoom in. This is just an example of that D2 area that we have been looking at. You can see this at different angles. You can even project it up on the screen up here on the wall so you can get a better feel for it. These aerial photographs were taken last April. They are quite current. It gives you almost a bird's eye view of the neighborhood, the setbacks, what the buildings look like in a sense, which I think would be a very good planning tool.

Chairman Rootovich

These aren't available on line I assume.

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Roger Houston

No they are not.

Chairman Rootovich

Again we will start on page 51. We left off on generality. We talked about 3. We finished downtown D1 we are on page 51 with respect to 1, 2, and 3 – any comments?

Christopher Hodgdon

Our comments are actually general in nature that relate to the design; section 3. I think our comment is simply that we would like to encourage the consultant to try to come up with alternatives that give a business more flexibility. These requirements are very specific in their nature and they are written in such a way that our opinion is a business community would like to see more flexibility, better understanding that the design process should be – something that the land owner and the architect – they are participating in rather than having to refer to a planning document for direction. That is a very general comment. I don't think it is necessary for us to comment specifically on whether or not a cornice or a pediment or whether 60% of the length or 90% is appropriate.

I would just generally like to ask the consultants when they look at this to try to understanding the goals of the downtown master plan, which during the last two weeks I have re-read, the master plan seems to broadly set goals for the downtown district. This doesn't broadly articulate how those goals should be met it is very specific. We are looking for some relief on that.

Brad Whitney

On the number 2, the principal entrance – you have multiple uses for buildings, and I could see where there could be two principal entrances particularly on a corner location; one serving the second floor and another serving the first floor. I think this could be a little confusing or could cause a problem in determining what principal entrance you are talking about with on street parking cannot be between the principal entrance and the street particularly on a corner location.

Chairman Rootovich

Mr. Duffy and Mr. Houston can you comment – I have a question – let me hear your comments first with respect to the definition of principal entrances. I think Mrs. Lasky knows what I am talking about. My business on Main Street – everybody would probably associate that principal interest with the front door, but clearly 95% of my customers come in from the rear door because that is where the parking is. I am asking what your definition of principal entrances are.

Roger Houston

Reading number 1 it does refer to principal entrances to buildings that face the street or are open to a square or plaza or a sidewalk. Generally speaking what this is looking at is an entrance onto a pedestrian way or the street. There may be other entrances that may serve as access to the building. If I were interpreting this section today the word change that is how that would be interpreted. The idea is not to have parking between your main entrance let's say like Main Street and the sidewalk. The idea is to have the building, the sidewalk for pedestrians and then Main Street and then parking on street. I think that is what that is saying. Certainly that can be defined or clarified. You can pass it on to the consultant.

Sean Duffy

I think it is pretty clear that we included sidewalks. It is not just principal entrance as to front of the street – again as Mr. Houston said anywhere you want people coming in and out of initially is your primary entrance.

Regarding again I think it might be helpful for some of these design requirements or suggestions are the broad evidences that you would be looking for – maybe 10 or 15 items might be appropriate to pass onto the committee. Again, the tie to the master plan – there were some things there – I am not an expert by any means, but it is not all – it is not what else would you like and see yourself, what is your vision...

Chairman Rootovich

Your point is well taken. If you have those submit those in writing because we would give those to the consultant. I would like the comprehensive matrix with respect to all the issues that we have before us and some suggestions or language changes. It is important that you get that to the committee if you have them.

Mark Fougere

I apologize I wasn't here at the last meeting when I guess there was a very detailed outline.

Chairman Rootovich

I just want to say there were a lot of ill things said about you.

Mark Fougere

I have the tape ordered. Looking through the downtown master plan I concur that a lot of their recommendations were rather broad. There were streetscapes, and I couldn't find any specific recommendations as far as the design criteria outlined in number 3. The one area in the master plan on page 69 the consultant does make some very specific recommendations some of which are noted here in this section. They had to do with proposed development on South Main Street not in this area. I am wondering is the genesis of these ideas are they being thought about and being recommended in one area but they are brought up so let's extend them to the whole downtown or

Christopher Hodgdon

My comment relates to that discussion with the off street parking. It does say the principal entrance shall not open onto off street parking lot. I don't know whether that means if there is an intervening sidewalk in there then the requirement to enter onto a sidewalk is met. In your example or the example of the Subway for instance down there I would think that the entrance that is used most frequently is the one adjacent to the parking lot, which wouldn't seem to be allowed. I don't know whether for planning purposes it is considered to be the principal entrance, but if I were to define principal it is that entrance that is used most frequently or that business desires its customers to come through most frequently. It seems those are the ones at the back of the building.

Bette Lasky

I think in that case with that building I still think the principal entrances are the front in terms of what we are looking at here in design standards. In terms of what people use it may not obviously people go where it is close to the parking. I think that is also something that people want. It does obviously require two entrances. At any rate I still think that was implied with this because I believe that the entrance you want to show to the public I believe is maybe the principal entrance and that would be the front.

Chairman Rootovich

But they don't use it. It is an inconvenience to park and walk all the way around the building

when you have a door right there.

Betty Lasky

And I don't disagree with that, but it does not necessarily mean that it cannot be defined as the other entrance.

Roger Houston

To answer Mr. Fougere's question, the two consultants; the master plan consultant and the land use consultant, Mr. White, did meet on a couple of different occasions once here in the city to discuss some of those generalities and those design standards. There was a communication – I know the committee wanted to see that happen. Both the downtown master plan and the land use update were occurring at the same time so we had that opportunity for the dialogue to happen. That is not meaning to say that there might be some fine-tuning that needs to be done with this. Just bear in mind too that these design standards are intended for new buildings – primarily I think on the major streets Main Street in particular. It is the standards that staff would follow if we were issuing a building permit without going to the Planning Board as an incentive. There is always – on page 50 number 3(b), which is the standard process which is going through the mixed use overlay district, which is what any business would do today if the was a – they can elect to go that process if there is something unusual that would not fit with these design guidelines.

The intent of the design guidelines were if it met the intent of the city's downtown master plan and the design guidelines then they could proceed without going before the Planning Board and directly to a building permit process. If they don't they have this other alternative process. Of course any zoning issue anyone can seek a variance on.

Sean Duffy

I was going to pass that comment along this is really for new and future construction it is not eliminating expanded or similar uses in that area for that building.

Jay Minkarah

I think what the intent of this was I am presuming that when you are abutting the street Main Street or whatever that there be an entrance. The word principal is probably given too much focus, but I am sure the language can be tweaked to address that issue as well as address corner lots so that it is clear.

Number 1- I was going to suggest that we allow an exception for single story rear additions, which are fairly common in the downtown area. I think the intent was we don't want one story buildings on Main Street, but a rear addition I think might be something that we could allow to be single story.

Under number 2 – building design (c) where it says the principal entry for civic use can include a stoop, colonnade I would say for civic, residential or office use. I think for those types of buildings these types of entrances are also very appropriate.

Chairman Rootovich

Anyone else with respect to 1, 2 or 3?

Brad Whitney

Referring to Item (C) Jay just mentioned where it says may include I just want to be sure that may in the sense that a handicapped person it is not a requirement. I worry about stairs.

Chairman Rootovich

Most of us do too. Moving right along – 4—canopies, arcades and awnings, 5 – access standards, 6 – landscape requirements...

Brad Whitney

Ah...

Chairman Rootovich

Mr. Whitney please allow me to finish okay. I know you are all excited over there and that is a big part of it, but we have to get through this.

Chairman Rootovich

Number 7 – lighting, and number 8 – off-street parking requirements. Does anyone have anything with respect to 4-8?

Brad Whitney

On number 5 – driveways with ingress and egress onto alleys are preferred – no new driveways are permitted on a collector or arterial street except as provided for parking entrances. I find that confusing. If a driveway needs to be moved to accommodate parking I want to know if that would be considered a new driveway and also and this says no new driveway except as provided for parking entrances. This seems to say that for parking you can put a new driveway, but no other driveways. I find it a little confusing particularly if there is an improvement by moving a driveway or perhaps widening it or the turning radius or something. I don't understand what that means. If I could have an explanation and also to make sure that it doesn't create confusion.

Sean Duffy

My recollection on that is no new driveways – If you have a new driveway it means is there a new curb cut. If there was a driveway over here with a curb cutting and you move it that is a new driveway. The types of items I believe the committee was discussing was driveways for use of single vehicles instead of accessing a parking lot. For instance a use of a drive through lane, a delivery for trucks only, a place for garbage haulers to come in and access – again what it does is say if you do want to have those you still would go before either Planning or Zoning. My understanding of this section is that they go straight to Planning and not even go to Zoning anymore. Again the conditional uses here have been moved to upper step. We have eliminated a lot of different regulations and requirements by trying to make it clear that you can go right ahead to that level of review instead of having to ask for a variance, but again if you are not planning any new driveways or anything you can go right to permitting and even may possibly skip Planning. I hope that answers the question.

Brad Whitney

Under certain circumstances I can see where it would be beneficial to move a driveway if some city function or high power line or something was put in and to facilitate something else to move a driveway and you are saying that if you move a driveway three feet it would be considered a new driveway and you can't do that. That could impact the value of the property if they didn't come for a zoning change.

Jay Minkarah

I do believe that is an error for two reasons; it says no new driveways are permitted on collector or arterial streets except as provided for parking entrances, but off street parking at this point is not permitted in this district. Also it references Section 14 below, which I don't believe exists. I believe that section is inconsistent and it is an error and probably that last sentence again consistent with the way the rest of this is should probably be struck. The last portion of that I should say should be struck.

Mike Lowe

I assume you are on D1 not D2. ... tape inaudible – speaker away from microphone
...

Chairman Rootovich

What are you asking for Mr. Lowe? Are you asking for a definition?

Mike Lowe

Yes. ... tape inaudible – speaker away from microphone ...

Roger Houston

That (a) should be eliminated and it should just be street. That was a carryover where there was still a corridor district. When the committee decided after having the public comment sessions they reacted to those by eliminating those two corridor districts and they were referenced at one point in the design guidelines and it is no longer necessary.

Mike Lowe

... tape inaudible – speaker away from microphone ... that has to be defined in a better way than it is.

Roger Houston

I don't believe the hospital would use these standards they probably would have gone through the mixed-use overlay district process to achieve the look that they wanted to. This is of course the design standards you would have to meet if you were going to be approved without going to the Planning Board. In this case if you had windows above that you could not be approved by the planning staff as far as the building permit you would have to go to the Planning Board with your mixed use overlay and site plan.

Mike Lowe

... tape inaudible – speaker away from microphone ... I think that if we are putting up a glass front we should let them do it. I don't think it should have to come to the Planning Board. I think the planning department can make that decision. I don't think it is something that we have to deal with. Yes if it is different from the buildings around it then yes then there is a reason to come to the planning board.

Roger Houston

We are talking about new construction, for instance the new hospital addition that did go to the Planning Board. There are usually a lot of other questions that come up that the Board or abutters have in those particular cases, and that is why that would go. Again this process wasn't intended to be a quick approval process unless it met the design criteria.

Christopher Hodgdon

My comment was just to say that I read the (a) to be reference to the old corridor overlay. That is all.

Chairman Rootovich

Anybody else? Moving right along – Section 9 – Utilities & Trash Receptacles – anything in that final paragraph?

Jay Minkarah

I wanted to comment on section 8 off-street parking requirements – At the bottom of page 52 – I think again we touched on this last time and I just wanted to reiterate we had mentioned possibly limiting that to Main Street or Pearl. The restriction says surface parking lots shall not adjoin a street and I think practically speaking parking lots necessarily have to adjoin a street at some point particularly the back streets. I think the intent of this was not to have new parking lots on Main Street and possibly streets such as Pearl Street, but certainly not any streets, which include streets like School Street and Factory Street, which could be difficult.

Chairman Rootovich

Anything further including 9?

Jay Minkarah

Where it references loading – loading and unloading areas shall be located only in the rear or side yard. I think it is pretty typically in downtown loading does occur on the main streets and in some areas there really is no alternative. I am not sure that is not something that is conducive to the way downtown currently functions, and I think it is appropriate.

Sean Duffy

I believe the committee was trying to address here for new construction. I believe this is also testimony if I am not sure somebody could correct me, but I thought this was something that came up in a lot of the master plan discussions – the owners and commercial retail down there didn't want any more deliveries done on the street. This is where I think the committee was trying to tie into the master plan and feedback from the master plan discussions.

Jay Minkarah

I do appreciate that, but I think this would also be applicable in a situation with change of use. I think again – where the loading occurs on the street now downtown generally there is no alternative, and I don't know that is something we should be prohibiting.

Sean Duffy

I understand the point about change of use, but also according to the ordinances if they are like uses, similar uses you are allowed – even though the ownership changes it is retail – it is if you

change it from retail to residential – that change of use might – again if a commercial property became a new commercial property that is an expansion of its zoning and existing use. That is not something that would fall under these requirements or restrictions.

Jay Minkarah

Which section is that?

Sean Duffy

I could share that with you later and go over that if you like just to be efficient here tonight.

Brad Whitney

Page 53 number (C) down to the second paragraph – no opening that requires an access from the public right of way that reduced on street parking is permitted except for parking areas that are reserved for use by the general public. I find that statement confusing and I would like to have it explained.

Roger Houston

Any access if you were cutting a new curb cut let's say on Main Street and maybe there was a new parking garage – if it is a public parking garage that would be permitted. If it were for something other than that, other than the general public parking it would not be permitted. If you have to make a curb cut in the street and you do that, and this has happened on a number of occasions on Main Street where the city has lost 2 or 3 on street parking spaces because of that curb cut, and it was for a private parking lot what this sentence says is you can only have it if it is for general public parking area. In other words if you are creating this curb cut you are taking away let's say 3 metered spaces on Main Street and for a private parking lot then that would not be permitted. If it were for a public parking area then it would be permitted.

Mike Lowe

I have a problem with that in that if you are creating a parking lot – it is a public/private parking lot – in other words I've got a store or a business/restaurant and I am putting a parking lot on Main Street and 5 of the slots are for employees and 10 are for my customers then I am creating more parking places than I am taking away. I think that is the way it should be written. That is my feeling on that. We have lots on Main Street. We had a lot on Main Street that was never used and now it is being used. They came in and did something with it. It has a restaurant there and there are a bunch of stores there too. You need places also for the people who are working in those stores to park. This sort of prohibits that.

Christopher Hodgdon

In the context of Main Street most of Main Street area from East/West Hollis down doesn't really have any on street parking anyway so I guess it wouldn't really be possible to create a net loss in parking with a new entrance there, but there are many side streets in the downtown district where there is on street parking. I guess it is probably hard for us to imagine a new entrance on Main Street between Library Hill and East and West Hollis Street given the use and the lay of the land. There are a lot of non Main Street streets that are included in this with the rule of the Corridor A overlay that this would impact. I do think you need to rethink the specific nature of the restriction given that it is not just Main Street now that the Corridor A is gone.

Brad Whitney

The general public would use a private parking lot if it were for a store or a restaurant. I think if you are not careful you call it a public parking lot then it could only be like a city parking lot where no specific use other than like a parking garage. Certainly the general public go into restaurants and little stores. It would add to the – include the parking downtown maybe you could have a ratio that it had to for every 1 it took off it had to provide a certain number of spots. It would be a net gain as Mr. Lowe said, and I favor what he said.

Chairman Rootovich

Are there any further comments? Before we move on to D2 are there any further comments about anything we have talked about with respect to D1? D2 – Are there any comments with respect to purpose?

Brad Whitney

On page 53, I take issue with it says here to promote the goals, objectives, and strategies adopted as part of the city's downtown master plan along Main Street between Hollis Street and Otterson Street. Then it says to require smaller buildings with residential, institutional or office uses. That was not part of the master plan for downtown. The next line it says to discourage retail development in this limited area. There is no reference to discouraging retail in the master plan for downtown whatsoever. It was never brought up or discussed at any public hearing. I don't believe that is in the will of the public. This invalidates the master plan for downtown. That was never part of the master plan. It shouldn't be in there.

Chairman Rootovich

Mr. Houston do you wish to comment on that? I don't have my master plan with me. I apologize. Is there anything in the with respect to the language he is concerned with?

Roger Houston

As I understand it that language is in the adopted master plan. I do remember seeing that

somewhere in the downtown master plan, but certainly the consultant can check that and elaborate on that.

Brad Whitney

I have a copy of the master plan.

Chairman Rootovich

Mr. Whitney I don't want to get into a debate okay. The comments are on the record. I promise you that those concerns you have will be addressed with the consultant, and when he is here we will specifically ask him to address those and if the will of the committee desires to change any language in there so be it we will do just that, but I don't want to get into a debate right now where he says it is in there and you say it is not. We will get to ...

Brad Whitney

I have one last ...

Chairman Rootovich

There is one line left I assume you mean the last line.

Brady Whitney

Right. Building with narrow and deep buildings with small yards on all sides – that was never a objective of the master plan, never mentioned in that specific manner.

Chairman Rootovich

Are there any comments with respect to purpose?

Jay Minkarah

I don't know if it relates to purpose. I will just toss it out and then address it – I do have some comments on the permitted uses for D2 whenever you feel it is appropriate.

Chairman Rootovich

Is there anything else? Number 1 and 2 – lot design and building form ...

Brad Whitney

Excuse me ...

Chairman Rootovich

Mr. Whitney please for the last time allow me to finish before please ... I know this is a very passionate issue with you. I know your business in this section. If I was in your chair I would be just as passionate as you, but please allow me to go through the sections first before you get excited. We will address your concerns. Please. Both 1, 2 and 3 with respect to lot design, building form, and parking.

Brad Whitney

I wanted to comment on the above the page on page 54 I thought you were going to address that page. This is prior to lot design. It has 25-foot minimum rear setback, 100-foot minimum lot depth, 15-foot minimum front sidewalk, 50% minimum open space, and 5-15 side setback. I have several comments on this. The 50% minimum open space that is excessive, that is reduces the ability to utilize the property properly and it is far, far in excess of any of the other downtown areas. It is even far in excess of some residential areas in this city. It is in excess of the local business districts, which are located in neighborhoods. That is too excessive and too damaging. It is not necessary to have that much open space. The minimum 100 foot lot depth forces eminent domain situation where a person could not develop his property and because of that I can envision the city having to take property by eminent domain in order to let a person develop his property. You have a non-conforming lot, and that should be explained where they can build on a non-conforming lot. It shouldn't be that damaging to people that own property.

Two stories evenly spaced for buildings I think that is too generic – this evenly spaced. You see that in any city – Nashua is not any city. Having uneven ... tape flipped ... I just said I don't think it would look right to have a checkerboard affect or it just – it becomes mundane.

Chairman Rootovich

Are there any further comments with respect to lot design, building form, and parking with respect to D2?

Christopher Hodgdon

I will echo part of Mr. Whitney's comments. The 50% minimum open space requirement when you consider the open space cannot include sidewalks or parking really limits opportunity in this district to the point where I don't think viability for commercial standpoint is possible. I do understand the intent to protect the visual nature of these older buildings, although I just don't; think that you can do it reasonably with a 50% open space requirement.

Alderman Vitale

Isn't it when that situation would come up is where Zoning and Planning would look at that and make a determination of what would be reasonable – that this is a guideline – it is what you work toward, but if you have a lot that is non-conforming you have a lot that certainly obvious restrictions – isn't that what our exceptions are for?

Christopher Hodgdon

Mr. Chairman I think that you have a large district with a great variety of uses and building types – buildings that were built over decades and generations. That sort of flexibility could reasonably be assumed to be practical, however, this is very small district with when you look at the aerial view buildings are very similar, they are all being used in a similar way except for the institutional use, the Chandler Library. I wonder if that sort of flexibility was intended why it wasn't written in here because – because it is such a small district we are looking at just a handful of lots if you intended to have that then why require the 50% minimum space. I think that you are right to assume that Planning & Zoning could say we recognize that you are in a unique lot, you have a unique use, and structure and you want to do something that may not be allowed given the regulations, but it is still appropriate – however in this size district I don't know why they would assume that sort of flexibility is desirable. It is pretty clearly written for a handful of lots.

Alderman Vitale

I think it is a unique district compared to other parts of Main Street. I think they do stand alone. I don't know why – I don't understand why it sounds restrictive. It sounds pretty reasonable to me.

Christopher Hodgdon

Well if you look at these structures as they are currently used I am not going to guesstimate how much open space there is, but it is far less than 50%. If I understand that the types of uses are allowed in that could change, however, I think that by requiring that sort of open space requirement you are dramatically changing the uses that these buildings can be used for. I also on a separate note I think it is interesting that just North of Mulberry there is another structure that from the untrained eye seems to appear to be very similar. That was left out of the district – the Whitney building across the street – across the main knot in the district. The Whitney building and the building on the corner of Kinsley and Main are very similar. They have had their facades changed and incorporated medical offices, there are – this is not a point that is directly related to your comment, but there are buildings outside the district and inside the district that are have changed a great deal in their use. I don't think that the owners of those structures – I think they are going to be very severely impacted if we now require them to have 50% open space, which means great reduction in parking, sidewalks --- all those things that are now currently on those site just would not be allowed. Fifty percent open space is 50% lawn.

Alderman Vitale

Why as a city would you want to severely limit the owner? I would think there is a difference between limiting the owner as to the use of the building and maybe a owner requesting overuse of this building.

Christopher Hodgdon

I think that if the question is whether or not these buildings are currently being over used – I don't think that I can make a judgment on that. I think that they are being used to the capacity and in a nature that is consistent to the economic reality in this district. It is a commercial district. I am talking about the downtown area. There are a lot of valuable commercial uses. There is a demand for office space. There is a demand for retail space. In the context of 2004, I don't think those buildings are being overused. If there wasn't the demand for it five years from now or 15 years in the past I might have a different opinion. I think that because this is an evolving area if we are going to set a very specific limitation on how these structures are going to be used it is the city at that point saying this is the restriction, this is the use, operate inside these boundaries. I don't think that we are setting that standard for any other district in the city to this extent, and that is my concern.

Jay Minkarah

If we look at the aerials that Mr. Houston passed out we can pretty clearly see the percentage of the lots that are taken up currently by the existing buildings and parking areas. Perhaps it might be appropriate to have maybe staff look at what is really happening on the ground now in this area and then look at this dander and see if it is appropriate. The goal here I think clearly is to preserve the integrity of those existing former residential structures and the green spaces that do currently exist around them. Maybe by taking a look at these aerials we can evaluate what percentage.

Chairman Rootovich

Other than the library I don't see much green space around any of them.

Roger Houston

What I think in looking at the dimension table the open space requirement is generally follows the residential side of things and to keep that appearance as a residential, but these buildings are also being used for office use, which requires parking primarily in the rear according to these standards. That 50% needs to be looked at I think to make it reasonable. I think that is something the consultant should look at.

Chairman Rootovich

You are looking for parking in the rear so if there is currently parking in the front and there is

grass in the back you want to destroy the grass to make parking available correct?

Roger Houston

One good example and it is on that first sheet of the aerial is from the center it is – I don't know if you can recognize the nail salon – I can't think of the name – it has a parking lot in the back, has its entrance – that is very nicely done, nicely landscaped in the front, has a nice appearance. That certainly isn't 50%, but maybe we could look at some of those to see what might be a more appropriate number if we continue to go with the D2 district. If I could just add one more thing – I know the committee, some of the members here might want to comment on that, where these boundaries should go and we did discuss some of those items that Mr. Hodgdon brought up especially the buildings on the other side of the street and then of course on Mulberry Street. The committee felt that we should stick with the streets as the appropriate boundary lines and easier to defend, but there certainly is one thing that we could perhaps have a consultant look at. I remember Mr. Carter's words at our last meeting was the intent of the master plan was to preserve some of these former some of them were Mayor residences that were built in that time period and perhaps maybe looking at some other zoning technique whether it be a landmark designation or a historic district overlay and maybe not have a special district.

That is open for discussion. If that is something the committee would like the consultant to look at then there should be some dialogue on that.

Chairman Rootovich

If you want to preserve the old mansions of the Mayor I probably wouldn't have build this modern day structure on the current mansion. It kind of takes away the theme of what you have there. I am looking on page 3 – what is that building currently in the corner there?

Unidentified Speaker

I think it is the medical office building.

Chairman Rootovich

Next door to that.

Roger Houston

Doctor's office.

Mark Fougere

Just to follow up on the changes in this district, this area is currently zoned to GB, which is a very intensely – a lot of uses is allowed and the intensity of uses is very great. The rear setback

now is 10 feet and is proposed to be 25. Open space requirements are only 5% so we are going from 5% to 50%. Height currently is 60 feet four stories and that will get reduced to 2.5 stories to 35 feet. There are a lot of economic concerns that go along with what is allowed there today under the existing zoning and what is proposed in this section.

Sean Duffy

Mr. Chairman just to let you know I do have to leave in a moment. I believe the committee also discussed that when you do small districts like these that urban planners need to develop transitional areas that are different. You can't have a GB district or a D1 district all over because it doesn't allow the walking in the intent of the D1 to this kind of use that is existing and is an interesting and good use. It is not prohibitive to the future if someone wants to request an expanded use through the variance and planning process. Again it is trying to create a transitioning area instead of just one big D1 zone. That was something they thought was pretty important both developers and other members of the community. They saw too do we want to have the D1 walking traffic all the way down to Rivier College – no that is not practical so how do you create areas of economic viability and reasonable uses that everybody can get along with; commercial, office, residential.

Bard Whitney

One of the things you mentioned was that you are concerned about over use. We have found that on our property, the Whitney Building on the corner of Prospect and Main, twice a week the hospital has meetings and we get – we have complaints from our tenants because they all seem to park at the Whitney Building and walk across the street to the hospital – it is more convenient, they don't have to go up three flights in the parking garage. There is a lot of usage that comes from the hospital. In fact we had to put signs under the windshield wipers because that isn't for their parking. The public use the most convenient spot. That is a norm that will not change. We have to live with that and the city should be thankful that we provide parking for the hospital, but that is what happens, and we have to live with the fact that others use the property. It is the same as the Chandler Library that has no parking and there is no parking on the street so they park when they have a meeting there they park on our property across the street. I have lived with that for 40 some odd years. I have never gone over and complained because I understand that is a losing game plus I have never made anybody move. That is what happens and I just want to make sure that you don't think that the property is getting over used because you see a lot of cars because they might be from other places.

Also it is important to finance this building and maintain the general the cost of the building. You have to be able to rent the property to get the income. I would think that the city would be wanting to encourage the property owners in D2 to at least some of these buildings which they have a lot of character and history, to try to without putting a historical restriction, which you can't do anything, but to encourage them same as a farmer is encouraged to keep his fields undeveloped but yet he can do what he wants to do on them with farming, to preserve a little of

the history rather than put another brick building that you can see in any city in the United States. If you want to attract people to Nashua you ought to have something that gives it character and shows the history and not just another cutesy main drag I guess.

Also there are some – there is talk of development in D2, which would severely restrict the available space down to a very tiny location within – there is a lot of due diligence going on and that would only leave a very small area, which is available for developing. I also want to mention that well I don't know quite where you are on the page. You are still in lot design.

Chairman Rootovich

Mr. Whitney I am discussing 1, 2, and 3 – Lot Design, Building Form. And Parking.

Brady Whitney

On the parking, you are going over to page 55. Okay on the parking – it says here all parking must be on street parking. Off street parking is not permitted. There is just no logic to this parking prohibition and not having deleted this in past revisions. There is no parking on Main Street, there is no parking on Kinsley Street from Elm Street down so what you are saying is you expect somebody to build a building and have the tenants try to find a parking spot on Elm Street or they have to go another block up the street. This is totally inconceivable, it doesn't make any common sense, no one in this day and age is going to park three or two blocks away. That has to be an error. I wanted to mention that point.

You mention here that parking shall be located to the rear of buildings. A rear easement may be dedicated to the city for this purpose. I guess I would like a little explanation on that later. Then it says a rear easement is required to coordinate an efficient parking and circulation system. I assume that is for rear parking. Here we have a conflict here. One says rear easement to coordinate efficient parking and the other one says it is prohibited. Then it says all parking should be in the rear and on street. There is no street parking and that would – you wouldn't even go to a building there. You would stay away from it and so would everybody else.

Now it says pedestrian circulation should connect the sidewalk to the front door. Everybody who goes to their house parks their car and you go to the nearest door from where you park your car. If you park your car by the back door that is where you go into the house and the same goes for any building. If you are asking people to park in the rear and walk around the building one of these things says with only one entry per building permitted – that is on page 54, you have business owners, customers, vehicular pedestrians that arrive in a vehicle then they get out and they become a pedestrian, delivery people, employees, tenants, children, guests, and relatives, handicapped people – all must use the same entrance on the opposite side of the building from rear parking. New Hampshire gets ice and snow and that creates walking hazards all winter. Pedestrian friendly is not for pedestrians who get out of an automobile. One entry per building is a fire hazard so that is kind of ridiculous and should be corrected. Keep in mind the convenience.

There are plenty of buildings that have a nice front door. The medical buildings on Allds Street everybody enters through the back because that is where the parking is. That in the D2 district does not represent the master plan and all of this is arbitrary in size, location, changes, use, and it is unreasonable – it is selective, monopolistic, destructive, creates spot zoning, and should be converted to D3. D2 actually should be a D3 district. It would make a lot more sense and would not discriminate in the usage.

D2 is also discriminates because the hospital can sell certain items that retail cannot compete against across the street. D2 is highly favored for hospitals and medical use, but not for retail competition. Anyway the idea of the parking it has to be addressed that you have to have parking on site. You can't expect people to go over to Palm Street to park. Thank you.

Chairman Rootovich

Does anybody wish to comment on Mr. Whitney's concerns specifically the use of his adverbs and adjectives?

Roger Houston

I am not sure I can address those. I don't believe Mr. Whitney was at the meeting where we discussed this. I think this was early on, but I think everyone agreed that was incorrect under the parking and that it should be off street parking is not permitted in the front setback. The rear easement situation, which is indicated a direct source from Urban Design Associates was intended – it is something that the Planning Board does today when there are properties that connect with one another that and for whatever reasons have cross easements between the parking in the rear for instance – we have several retail buildings in many parts of the city where cross access easements have been given to facilitate the flow of traffic not only for emergency purposes, but generally the flow and circulation of traffic for the businesses. That is what that was intended to do with the rear easements.

Jay Minkarah

I just wanted to comment on these little renderings. I do believe that the intent of the small renderings was really to be a illustrative not to make regulation in themselves – it was illustrating the points of – for example where they are showing the rear easement I took that to mean in the circumstance illustrated a rear easement would be required because they are showing access to multiple properties –not that at all circumstances you are required to follow that design. I could be wrong, but I viewed all of these renderings as illustrating a point not making a requirement.

Roger Houston

There is language, I can't quote you the page, as well as the purpose statements they are not a

part of the official ordinance. They are there for illustrative purposes. It is either at the beginning or in one of the sections. I think it is at the beginning of the ordinance.

Chairman Rootovich

Is there anybody else because I call back to Mr. Whitney again?

Mike Lowe

I think it should be D3. I think we either leave it RC, which I think it is now. I think the problem is they are trying to micro-manage this small section and it is really not working because the problem with the small section is it is both apples and oranges. You have had two completely different types of buildings within the district. You have a place where they are going to build supposedly a Dunkin Donuts – it has been approved, you've got a place where they have a garage, you have a small little store, which is on a huge lot, which obviously is probably the one lot that can be developed, and the rest of them are old residences that are being changed into small businesses. I don't see how you can put it together other than put it D3 or make it RC. It really shouldn't be a district all by itself.

Christopher Hodgdon

Just to clarify. The existing district is at least half a block back from Main Street is GB. RC district doesn't really begin until the back boundary of the Chandler. That is the same in the proposed changes.

Brad Whitney

I would just like to comment from what Mr. Houston said that – it should state in here that these are for illustration purposes only because it leads one to believe that this is the way it intends it to be and this is the plan that has to be followed. Reference that it is for illustration purposes only as a guide perhaps but not as it looks now that this is what you want the end product to look like.

Secondly, I would just say that the D2 I find it very discriminating the way the uses and the lots and it would make a lot more sense, would be more equitable, more appropriate, if it was a D3. It would serve – all the required uses with required residential, for office and institution – they are all there now and they can continue to be there. You don't have to restrict it to those limited uses. However, it makes more sense to have it D3. It would be more equitable. It would not be discrimination, it would not be a monopoly, and yet you would serve the purpose for the aesthetics of the city and you would encourage people to continue with keeping their properties as such attractive. Thank you.

Jay Minkarah

Again whenever you feel it is appropriate I do want to address some of the permitted uses in the D2.

Chairman Rootovich

Please. Now would be appropriate.

Jay Minkarah

My primary point in doing so is really not to suggest that there should be one way or another way, but in going back through this and I actually apologize for not having done this sooner. I guess I went through them too quickly before, but I went back through them for the purpose of preparing for this evening, and I did find a number of uses that I thought were – certain uses were permitted and certain uses that I view at least to be very similar in nature are not permitted, and there are also some areas where I think there are some inconsistencies and some conflicts. My overall point is to just suggest that we look very carefully back through the table of permitted uses. In making that point I just want to point out I have a few examples.

I found quite frankly a number of them so I am only going to hit on a few. As an example and I apologize for making everybody jump around, but a few that jumped out at me use number 94, page 27 – nail salons – that is allowed in the D2 district as a conditional use, however, if you go back to use 35 – barber shops and hair salons are not a permitted use. Nail salon/hair salon they seem to be pretty similar in nature. You will notice use number 37 – store selling books and magazines, and music those are not permitted, however, if you go down to 43 a candy or confectionary making or retail sales – obviously a candy store is permitted. If you go to use number 70 a florist is also permitted. Again it is okay to sell flowers and candy and it is not okay to sell books. I am not sure that there is a real reason why this one was picked and that one wasn't picked.

There are a number of them I found quite frankly that are very similar – a consignment shop with used merchandise store is allowed, however, if you were selling new merchandise, new clothing, that would not be allowed. Also interestingly with this one if you look at the use code for 21-45 you go to another page, I think it is use 123, which would be on page 29 – sales, second hand. Swap shop and so forth is not permitted yet again you go back to consignment shop, used merchandise store – is permitted. This is an inconsistency I have picked up in a couple of places. We have the same type of use that is referred to in two different ways. In one area it is permitted and in one area it isn't so if you call it a second hand shop it is not permitted and if you call it used merchandise store it is. I think that is a conflict that I have picked up in a few different areas.

I don't want to kind of belabor the point, but we find these. Another example is daycare is not permitted in the D2; however, schools including nursery schools are permitted. Again I am not saying one should be or shouldn't be but there are some real inconsistencies as you go through it and we should probably figure out what really the nature is of the types of uses that we want in

this district and then make it consistent. Frankly I am sorry, but this isn't the only district that I have noticed this in I just made the point...

Chairman Rootovich

Mr. Minkarah one thing you again have brought another reason why this needs to be looked at. You are clearly correct. There are some you ask why one and not the other so clearly it does need to have a hard look at.

Brad Whitney

On the humorous side the D2 also allows agricultural products, silos, spraying..

Chairman Rootovich

But it does not allow chicken and poultry process – it is true look in the book.

Brad Whitney

What I wanted to say was it allows a daycare providing they do not have any medical services. They could not have a nurse to administer a shot to anybody. That seems to conflict with the hospital across the street. The hospital sells candy, they have a gift shop and sell flowers, they sell greeting cards, but yet nobody can sell that across the street. The hospital can take care of medical services, but they won't – but you don't want to permit a day care from having a doctor come in. That seems to be a conflict. It seems to be restraint of trade. I think that should be looked at. It is not appropriate at all. There are a lot of things with the use chart – the matrix is way off base. It is also discriminatory and anti competitive and monopolistic.

Roger Houston

I just wanted to point everyone's attention to that there are a number of uses that are on pages 75 and 76 under mixed use that could be authorized by the Planning Board in the D2 district. Some of those not permitted or conditional uses could be permitted under the mixed use overlay district, which is an option that the property owner has in the D2 district unless they want to – the option isn't there if they want staff approval. The option is there if they want Planning Board approval.

Chairman Rootovich

Is there anything else with respect to D2?

Brad Whitney

On page 57 – Are we in D2 or D3?

Chairman Rootovich

We are in D2 – anything further in D2, which finishes on page 5. Anything further before we go on? There being nothing further we will continue with D3 – purposes – any comments, concerns, or questions with respect to the purpose of D3?

Christopher Hodgdon

Mr. Chairman a comment was made earlier about the desire to create a transition – one of the reasons for the D2 district being established – in the purpose for the D3 district it talks about concentrating downtown's growth, a second retail node along Main Street similar to what you would find on North Main. I don't know how D2 achieves that goal of transition if north and south of its border you have a desire to create the same sort of use.

Alderman LaRose

I am just wondering under the purposes, number 1 – promote why it is between Otterson and Salmon Brook and not Otterson and Allds Street. It doesn't make much sense to me to go just up to Salmon Brook and when you just go over beyond Salmon Brook along Allds Street there are a couple of major businesses there.

Chairman Rootovich

Mr. Houston do you wish to comment on that why it didn't go to Allds Street?

Roger Houston

The map does go to Allds Street. I would have to look at the downtown master plan because I believe that is where these quotes would have come from, and there may be an inconsistency in the downtown master plan, but I concur it probably should be Allds Street.

Chairman Rootovich

Okay. Is there anything else with respect to purpose?

Mark Fougere

We are just looking at the proposed map and it does appear to go down to Salmon Brook. Actually down to Foster on the west and I think it goes around the Hunt Home.

Christopher Hodgdon

It does include that lot where Merchant's Auto Rental is. Really it seems ...

Alderman LaRose

It went beyond Allds Street to Foster Ave?

Mark Fougere

On the East side it comes up to the center line Main Street along the frontage that is the Hunt Community and then down Allds to include what I assume is just the lot where Merchant's Rental..

Roger Houston

It is a current general business mixed-use district ...it does go down to Foster and includes I think it is still Merchant Rental there on the corner at the traffic light. It does not include the Hunt Community. That is pretty consistent.

Alderman LaRose

Does it just include Merchants or does it include Merchants and the other two commercial businesses after it?

Mark Fougere

The map is very general, but if you were to come north of Faxon 200 feet that is the boundary. As you are heading south on Main it comes within 200 feet of Faxon, but not all the way to Faxon.

Unidentified Speaker

It is the existing GB district – just changing the name. It is currently zoned GB/MU.

Brad Whitney

On D3 purpose, the last item the third line up from the bottom it says to support existing and proposed infrastructure investments such as sidewalks, street trees, and on street parking with awnings in active storefronts – that whole section of D3 there is no on street parking on Main Street. There is only I believe there is no on street parking on the south side of Lake Street – there is just no on street parking for anyone all along Main Street and a lot of those stores it is just not appropriate. I think it is an error. It should be on site parking. It doesn't make sense to have on street in that whole section. There is just no parking for anybody.

Also I want to mention that Nashua does not prohibit overnight parking on any street. You get a ticket. That also reinforces this on street – particular it is these residential areas that you want to have downtown.

Chairman Rootovich

Are there any further comments with respect to purpose? Moving right along 1 – permitted uses, 2 – general standards and building form, and 3 – circulation – Are there any comments with respect to anything in those three areas?

Christopher Hodgdon

My comments are relative to 2 – I would like to point out that the same design standards that are in B, which is D1 to D3 and our general comments – I understand you are looking for specific ones, which will tend to follow up with is that those are overly restrictive of the owner's flexibility in designing with an architect their building. It is a relatively small one sentence line, but there is a lot of implication in that.

Mike Lowe

Where is B?

Christopher Hodgdon

Each of the districts are a, b, and sorry b, c, and d. Maybe I am wrong in this, but A is generally plus all three and then if you look at the mid point on page 50 it is b – downtown b1 – that is the only b that I could find that it might reference.

Mike Lowe

I just don't know where it is. In two it says the building lots and parcel shall conform to the following standards established in section b above. It should say b1 I think and it should be page 51 or it should tell us where.

Christopher Hodgson

My reading is that the lower case b referred to in downtown 3 – 2, general standards and building form refers to the heading lower case b D1 and then in (D-1).

Chairman Rootovich

Where are you reading this from?

Christopher Hodgdon

Mid page of page 50.

Betty Lasky

But it actually refers to number 2 where it should be 1 right?

Christopher Hodgdon

Mr. Chairman my assumption is that it applies to sections 1-9 on page 53. Those 9 items are all in subsection b.

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Chairman Rootovich

What is your point with respect to ...

Christopher Hodgdon

Well there are conflicts with maximum heights if that is the case, If you see in 1 building height maximum height permitted in the district is 6 stories. D3 district says 45 feet 3.5 stories.

Chairman Rootovich

I believe that is specific to that district. That is the change you would like to see.

Christopher Hodgdon

If it says general standards and building form the parcel shall conform to the following standards established in sub-section b – the standards established in sub-section b include building height and there is a conflict because and this may be one of those situations where the illustration is just meant to clarify, but the illustration indicates maximum height of 45 feet or 3.5 stories. Forty-five feet and three and a half stories actually referenced another matrix table – we have referenced a concern about that before, but if you look at in sub-section b-1 it maximum height permitted in a district is 6. That one just jumps out at me. There seems to be some inconsistencies there. More generally we have the same concerns about the design standards and their restrictiveness as I mentioned in the D1 portion of tonight's testimony.

Betty Lasky

I would think in general that section needs to be re-worked. It is unclear, and I find myself and in general when we have been going through this we are consistently slipping back and forth without reference and I know the whole purpose of this was to make clearer, more concise and easier to find things. I am sorry to say in general I think that has not been achieved at all. I

would just like to say for the record that I for one and especially being – I am more than a layperson, but still it is the average person who will go to this.

Chairman Rootovich

Your point is very well taken. That is why we put some money in the budget to bring the consultants back to really take a hard look at this and make the necessary changes to make the document more user friendly. Here is another example of that.

Betty Lasky

Basically it is organization.

Chairman Rootovich

Are there any further comments?

Jay Minkarah

I would just like to also jump in on the comment on the height. I would suggest that we keep the height at 60 feet, which is currently what is allowed in that district and is consistent with the D1 district. I also wanted to address a permitted use issue if I could.

Chairman Rootovich

Please.

Jay Minkarah

I share the goals I think of this district and what is being sought in the master plan for this area. I have to say though it does concern me that larger shopping centers are not a permitted use in the district where the predominant use in this district is in fact a large shopping center. To make the predominant use of this district non-conforming I think is problematic generally. I am also not sure what we gain in doing that. Again taking this back to the table of permitted uses referencing shopping centers – shopping centers over 25,000 sq. ft. are not allowed. If the sole goal here were to minimize large structures I could see it, but it really isn't. If you continue through permitted uses, and I will have to ask that you look back a couple of pages to page 26 you will note that department stores over 15,000 sq. feet are allowed. Large convenient stores are allowed. More examples – large home improvement centers are allowed so you could have a big box type of use. I am not quite sure why a building that is multi tenant is worse than a building that is single occupant. We allow the range. I think it is something to think about.

I recognize that one of the concerns was additional shopping centers in the area, but when I looked onto the GIS system I couldn't find another block of property that was large enough to

create a shopping center larger than 25,000 sq. ft. It would be extremely difficult to do that in this district if at all. Again at the same time you could take one of those other parcels or an assemblage of parcels and you could develop single tenant building of greater than 25,000 sq. ft. I am not quite sure why we focus on whether it is multi tenant or single tenant – I am not sure that matters. What matters I think is building massing and location and not really the number of occupants.

Brad Whitney

I would like to move on to circulation, but I don't want to do that prematurely. That is the next – that is number 3.

Chairman Rootovich

We are dealing with all three so please go right ahead.

Brad Whitney

The last line on 3a – the planting area between the sidewalk and the paved section of the street – that should be better defined with dimensions. How big an area would the city require? It should be not left open ended like that. Then I have on page 57 – B – pedestrian walkways shall be provided mid-blocks and between properties connecting the sidewalks in the front of the building with the parking behind the building. Certainly connecting sidewalks is a good idea, but mid-block walkway – I've been in cities that have those and it requires an extended amount of walking for anyone. You have to walk from where you park your car to the new block, down the new block to the other end of the building – the front let's say and then you have to walk back to a store and then you have to retrace your steps. That is not conducive to convenience; it is a penalty on the pedestrian. I don't think it is appropriate. I think there are better ways to do it. Who wants to have a block. That is not very attractive – a block of stores in that set. I just think that is not appropriate – that each block should have a mid-block pedestrian connection – nobody will like it. You will not like it. Elderly – we live longer now and have more ailments. All that stuff you have to take into consideration. In the wintertime with sleet, hail, ice the whole bit – it is just not appropriate.

Chairman Rootovich

Are there any further comments?

Jay Minkarah

Maybe it could be clarified, but I don't think that the intent is to say that there is only going to be one per block. I think what it references is if you look on page 5t the set setback requirement is zero. It goes up to a maximum of 10 feet. What it is saying is if you have a zero side setback subject 2 of the requirement that there has to be at least this mid bock connection. In other

words what this is trying to do is prevent somebody from building the entire block face without allowing for a connection. That is the way I understand it. In other words it is to encourage connections to the back not to limit them.

Chairman Rootovich

Are there any further comments?

Brad Whitney

I think what Jay just said – that should be defined as that. It makes sense, but without explaining it, it causes a lot of confusion. It should be defined as the intent of that.

Chairman Rootovich

Anybody else? Any final comments with respect to D1, D2, and D3 before we continue in the draft? This – we have taken two nights on this and I know how important this is to many of the business owners downtown. I know how important it is to you Mr. Whitney since your business is in D2. The committee will take a very hard look at it and get some feedback from the company that put this together and see if there is anything we can do to work your concerns out. I assure you we will do that.

Brad Whitney

I would like to say that we would have to destroy very heavy investments in order to comply with this code with this lot limitations of 100-foot lot depth. The whole Main Street is restricted to 100-foot depth. D2 should not be restricted like that. It would be just a destructive. We would do it if we had to, but in order to take one little building to change one thing you have to tear down another if the intent wasn't there. That is destructive. It also requires somebody to buy two buildings to make one. I know that you like to have this, but no other place in the city do you have that on Main Street. You don't have 100-foot setback anywhere, and that is not right.

Chairman Rootovich

Mr. Hodgdon I have also heard from various business owners downtown – it is surprising none of them are here to provide any of their concerns to the committee. Have you received anything from them in writing yet? I have requested that, but I have yet to get anything from anybody to come and testify. I would encourage you as we go through this to contact downtown. If they have some concerns I would encourage them to either write so we could give those comments to the consultant or address those at the committee. I don't want to wait until the last minute so again if they do please encourage them... I have asked all of them and I have yet to see somebody come here.

Christopher Hodgdon

I have asked them too. For the meeting two weeks ago I specifically asked our membership, which is only 110 or so companies downtown – it doesn't represent the entire business community downtown, to attend and we get a variety of reasons why they don't. They don't seem to object to voicing their concerns on the street corner. Certainly I am sure you have experienced the same thing.

Chairman Rootovich

Can't get through a meal in downtown without hearing from somebody.

Christopher Hodgdon

At 7:00 p.m. on a Tuesday seems to be different.

Chairman Rootovich

Is there any further discussion? Anybody from the public wish to comment at this time?

Larry Lesieur

I think it has been a very good discussion. The only thing I would add is I have been in touch with several people, Terry Glidden at Glidden's, Mike at H. Daw – they were here a couple of weeks ago. I think that they talk to me, to Chris, to Brad, and we told them what our concerns – we listened to their concerns and to a big degree Mark and Chris have addressed them. I think more people would be here, but I don't think they are necessarily comfortable being here. It is like the average person to come to a meeting do you know how hard it is to get – you get the same faces. I don't think it is that they don't care. I think what it is I don't think it is apathy I think they just feel that the process that you are going through is working. I know Terry watches this on TV. I don't know about Mike. Several of these business people – quite a few people actually watch this are watching these proceedings, which is amazing to me quite frankly. It is not apathy. I can tell you that. The only reason I don't have anything to say is like I say I think the process is working very well especially the downtown discussion to the point that I really have nothing to add that wouldn't be beating a dead horse. I am happy to be here because I think it has been a good discussion.

Chairman Rootovich

Thank you.

Brad Whitney

The first meeting there were a lot of people that came and weren't able to speak.

Chairman Rootovich

I allowed anybody who wanted to give testimony – I allowed everybody to speak.

Brad Whitney

Yes you did, and I appreciate ... tape flipped ...they were not able to come to every meeting or to know when a particular subject was going to come up. That first meeting showed you that there were a lot more people interested and concerned that can't come every day.

Chairman Rootovich

At our next meeting we will continue in the book with Division 6 and 7, which is the flood plan, management, and impact fees.

Jay Minkarah

Do you have the date for that meeting?

Chairman Rootovich

We will meet for the rest of the year on the 1st and 3rd Tuesdays of the month. That may be the 5th. There will be one thing on the agenda prior to us going through this with respect to the DOT asked to come down to our committee to talk about the rest area at exit 6 to get some input from the city on what we would like to see with that particular area so the DOT will be down here at our next meeting. After that we will get into the continuation of the draft.

Are there any further comments?

ADJOURNMENT

MOTION BY ALDERMAN LAROSE TO ADJOURN
MOTION CARRIED

The meeting was declared adjourned at 9:05 p.m.

Alderman Kathryn D. Vitale
Committee Clerk