

## PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

December 21, 2004

A meeting of the Planning and Economic Development Committee was held on Tuesday, December 21, 2004 at 7:05 p.m. in the Aldermanic Chamber.

Chairman David Rootovich presided.

Members of the Committee present: Alderman Kathryn D. Vitale  
Alderman Richard LaRose, Vice Chair  
Alderman Robert G. Shaw, Jr. (@ 7:40 p.m.)

Members Not in Attendance: Alderman David MacLaughlin

Also in Attendance: Alderman-at-Large Brian S. McCarthy  
Katherine E. Hersh, Div. Dir., Community Development  
Roger Houston, Director/Manager, Planning Department  
Jay Minkarah, Economic Development Director  
Christopher Hodgdon, President, Chamber of Commerce  
Mike Lowe, Nashua City Planning Board Liaison  
Bette Lasky, Chairman, Nashua City Planning Board  
Neal Barrett  
Brad Whitney

### Chairman Rootovich

Alderman Shaw called me earlier this evening. He has a commitment with his daughter at school, and should be here shortly.

### COMMUNICATIONS

MOTION BY ALDERMAN VITALE THAT THE RULES BE SO FAR SUSPENDED AS TO ALLOW FOR THE INTRODUCTION OF A COMMUNICATION RECEIVED AFTER THE AGENDA WAS PREPARED  
MOTION CARRIED

From: Neal Barrett

Re: Proposed Changes to the Water Supply Protection District

MOTION BY ALDERMAN VITALE TO ACCEPT AND PLACE ON FILE  
MOTION CARRIED

UNFINISHED BUSINESS – RESOLUTIONS - None

-

UNFINISHED BUSINESS – ORDINANCES

MOTION BY ALDERMAN LAROSE TO TAKE FROM THE TABLE O-04-19  
MOTION CARRIED

o-04-19

Endorser: Alderman-at-Large Brian S. McCarthy  
AMENDING THE PLANNING AND ZONING ORDINANCES OF THE  
CITY OF NASHUA IN THEIR ENTIRETY

Discussion Topics Include: Article V. Development Standards, Division 3,  
Adequate Public Facilities

Chairman Rootovich

If you remember we left off on page 263. We are starting this evening on Division 3, which is Adequate Public Facilities. Mr. Houston or Mr. Minkarah do you have any opening comments before we start?

Roger Houston

This is a new section. This is not in existing code. This is a section that I know the consultant spent quite a bit of time with the committee on as well as the Division of Public Works that would be involved in some of this application.

Jay Minkarah

I just had some general comments in looking at it – I am not sure I get it. I found this very, very complicated and difficult to get through.

Chairman Rootovich

As I did.

Jay Minkarah

As I walk through it I could not understand how I could calculate the capacity – just as an example if I were to turn to page 267 at the top of the page it tells me calculate total capacity by adding together the total capacity of public facilities consistent with subsection (a) above. I then turn back to page 266 and find subsection (a) and it says “No determination as to compliance

with this Division ... "-- basically what it does if you go to subsection 1 it references me to subsection (b) and (c) of table 531-1 above. Then I get up to table 531-1 above and I look at (c) not applicable see guidelines. That is just one example, but in reading through it I cannot figure out how I am supposed to calculate the capacity.

I think I get the next section on trip reduction, but I thought it was very complicated. I think I got that, but the rest of it I am not really getting. Maybe there is something else, another section or maybe something is missing, but I just can't follow it.

After reading through it I was a little confused because I noticed the section on adequate public facilities, but I think the only facility is traffic. Is that correct that streets are the only facility addressed? Unless there is an intent I think to add others I might suggest that we call it streets or traffic because I found it difficult to figure out what we were doing.

### Roger Houston

If Mr. Minkarah has another way he would like to re-write this section – I think the committee was satisfied with it. I do share his concern that it is a complex provision. Originally I think when it was written it included more than just traffic, but the committee paired it down if I recollect correctly to primarily traffic issues. It could have some implications for some areas in the city, and I think it is something that we ought to look at relative to let's say a transit oriented district – if we are looking at a site in the south part of the city how that might affect the level of service and how it is calculated. Obviously there might be issues relative to the timing and the service and we might want to look at that in more detail.

Obviously we have new individuals within the Division of Public Works now that have not had a chance I think to look at this section – the new traffic engineer. It might be a good idea to get his comments on it.

### Katherine Hersh

I think it is important that we look at all of this and we take the input and the concerns that people have and go back and take a look at it to make sure we are as clear as possible.

### Chairman Rootovich

I can appreciate the particular division but again it is complex. I went through it myself and if one doesn't have any degree in advanced mathematics and use a slide ruler it is complex.

### Alderman LaRose

I guess I would need a definition of what public facilities are. When I looked at this and started to read it I was looking for a definition of public facilities and I think I more or less agree with Jay that it seems to refer to streets only. I am not sure – I was kind of looking for something like

particularly in Ward 2 where we need a new fire house off Amherst Street, the western part of Amherst Street we have a piece of land and I was trying to figure out boy does this apply to that and I couldn't find anything in there that said to me well instead of getting monies for widening the road when the State is going to do it we could get money towards the application of a new fire house.

### Brad Whitney

I have to agree with Jay. I spent a little time on this and I found it very complex, very confusing. On adequate public facilities I have a question as to whether or not – I didn't see anything about public toilets and what hours – are there any public toilets? Is this going to address that? Are they going to be available – we have 24 hour stores – can someone relieve themselves at 3:00 a.m.? I think that should be addressed – public toilets.

Applicability – on the first paragraph down in the middle of the paragraph “The Chapter shall be accepted/ approved, granted or issued unless it provides sufficient information...” I wondered about unless it provides sufficient information to determine whether the Capacity of Public Facilities is adequate – if someone is going to do a small lot is this the same determination on anything? Would this be a hardship on a small individual? It is one thing if they are going to do a huge building that will attract 20,000 people a day or something.

Then the 16-531 under (b) Decision they are talking about “shall not approve a site plan or subdivision plan unless it determines”. I think some of these determinations should have a public input – in pharmacy they require on the Board of Pharmacy 2 or 3 people from the public so all decisions are not made by licensed pharmacists. Some of these determinations are strictly at the whim of the Planning Department. I found that the table on page 266, 531-1 – I couldn't figure that one out. It is confusing. I wonder if it really needs to be there.

Then on page 267 the first line “Public Facilities shall be deemed to be adequate if it is demonstrated that they have Available Capacity to accommodate the demand.” It doesn't say who would make that determination.

### Chairman Rootovich

It doesn't say determination it says demonstrated.

### Brad Whitney

If it is demonstrated by whom is it demonstrated – that is my question. Then on 267 under Transportation Analysis, that would be (d) (2) “If the proposed development would reduce the Adopted Level of Service, the applicant may propose the following mitigation measures.” Then it goes down to B, which is confusing “Mixed land uses as described in this subsection. The applicant shall have the discretion of calculating the project's transportation impact through a detailed traffic analysis using generally accepted standards and practices, or by reducing the

project's gross trips by combining uses in accordance with Table 532-1, below." Then I get into real confusion it goes through – I guess it says for the purpose of this table non-residents space means the gross floor space of any use in a building listed in use matrix 16-26, Table 26-1... it goes on "Except for the following .." then it lists all of these items. Then below the items on page 269, "For purposes of Table 532-1, above, the percentage shall include only those residential and non-residential land uses or structures, whether within the proposed development or offsite, that are within one-quarter (1/4) mile and are linked by a continuous system, of sidewalks." I found that – I think I would have to hire a lawyer to represent myself and pay the lawyer fees and I think most people would.

You go down on page 267, Table 532-1 and you have all of these percentages. I am not quite sure how to calculate those with what they are based on. They have units here of one dwelling unit of 800 Sq. Ft. I find that the whole thing is quite complex and if this is necessary and it solves a lot of problems that is fine, but I just found – if there is an easier way to do it. I will stop there I have other items going on starting at 16-533, but I will let others talk about this section here.

Mike Lowe

I read it over and I was totally confused. The first thing I thought it was going to talk about rest rooms. Then I figured out that I was talking about mostly highways and roads and so forth. Then I was totally confused about what it meant by it. If we are the Planning Board and we have to make decisions on this I would have no way of figuring it out. Thank you.

Chairman Rootovich

Are there any further comments?

Bette Lasky

I noticed one thing that the references to the capital improvements program are not consistent with what we do. That goes on further when we get up to this section about the CIP as well. Some of it is, but some of it isn't.

Chairman Rootovich

In 16-533?

Bette Lasky

Well not that, but even the references on section 3, page 265 – It talks about for planned capital improvements – that paragraph actually is more consistent with what we do than page 266, column E, which is based on the capital improvements program, but it is based on things that

our capital improvement program does not use such as it talks about methods of funding.

Christopher Hodgdon

I will speak generally to our comments about this division. We are concerned that it applies to any subdivision or site plan. I think we are concerned that there should be a trigger or a level of additional traffic that would trigger the need for consideration of adequate public facilities. Maybe some standard by which you could look at the amount of additional traffic and relate that to the carrying capacity or the standard of service of the facility that then property would be impacting rather than just create the need for a study an extensive study on the part of the developer for any project whether it is large or small. I think what the Chamber recommends is that you need to obviously understand the impact the development will have and if that impact is significant as is the case with larger developments then you need to have some offsetting resource. However, this seems to be written such that it would apply to any subdivision or site plan large or small. I think for a lot of people the production of the traffic study and their ability to meet these standards would be very difficult if it was not a large project that they were working on.

Although it is difficult to point to any particular aspect of the division, which leaves the door open to the application for schools, fire, police, water, sewer down the road, I think that is a lingering concern. I think that perhaps Jay or Roger mentioned that it was principally meant just to deal with streets. If there is some way to specifically clarify that I think it would be helpful for our concern about this division.

Chairman Rootovich

Are there any further general comments before we get started?

Alderman Vitale

How much has this changed since what is there now?

Chairman Rootovich

Roger indicated that this is a whole new section.

Neal Barrett

I just want to follow up on Christopher Hodgdon's comments. It does apply to any subdivision or site plan so anything that goes before the Planning Board – it could be a change in use or a minor change to a site plan and that would trigger this. There is no threshold as Chris mentioned. My concern is that it may serve as a disincentive for any type of redevelopment, positive redevelopment or any type of redevelopment or any type of development if part of the city has a level of service of D or less and the city hasn't addressed it. There is a burden shifting

onto the last guy in trying to do something. I think that it has to – I haven't read this as carefully as others, but I think that if there is a situation where there is a traffic problem and someone wants to come in and do something that may not generate any new traffic or minimal traffic generation above its current level for the property there is a shift for the person coming in to do something that they will have to pick up the tab for something that the city is not meeting at its current level.

### Roger Houston

I just wanted to point out to the committee on page 263, 16-530 – Applicability – the last sentence states “This Division shall not apply to any use, development, project, structure, fence, sign or activity that does not create a demand for Streets.” In other words, there is an out clause that it doesn't apply to developments who don't require demand for streets. I think the issue and the concern is if you are at a situation where your level of service D at an intersection perhaps and someone is going to do more intense use there is nowhere else – maybe there isn't a design fix maybe it is a new traffic light, maybe it is a widening or something that has to be done to make that happen – perhaps maybe the development is premature or in this case then the Planning Board would have a tool to be able to say no we can't do it until the city makes this improvement or you as a developer could make this improvement. I just wanted to point that out.

### Neal Barrett

I saw that. What does – I don't get the comment it does not create a demand for streets.

### Roger Houston

I would interpret that for streets – it doesn't create an impact on the streets or the street system. A new subdivision obviously the developer will build streets so it is there, but usually if it is a situation the street capacity – if you are on Spit Brook Road for instance and you have some intersections that are currently at the level F, which is below D this could create an issue in some of those locations because some improvements may need to be made to bring it up to an acceptable level. I know the committee had some discussion as to what level that should be, and I think D was – I know the previous City Engineer, Eric Teitelman, did weigh in on this and I think that everyone agreed that D was the level where that created problems. There again it is a new section. I think it is something that everyone has to weigh in. Whether or not you will keep it or not keep it I think I would like to hear from some other committee members that sat on the committee and reviewed this.

### Mike Lowe

I have been listening to what Mr. Houston is saying. I remember when Spit Brook Road, which was given as an example, we as a Planning Board told Bernie & Phyls that they had to put in another lane – Bernie & Phyls is in full operation, everything is going, and we still haven't got then other lane. We as a Planning Board did put as part of the stipulations that they had to add

another lane. It hasn't happened. We keep hearing from the Public Works Department well we are pushing it off because we want to do this and we want to widen something else, but I mean when does it stop? This thing here doesn't help us at all.

### Katherine Hersh

I think it is important of course to look at the impact of laws on proposed development, but I think it is equally important to look at protecting the rights of businesses that already exist. If you have a business that exists at a particular location, an intersection for example, and another business proposes to come to develop at that intersection and that will increase the traffic, certainly we need to look at how the laws affect that new business that wants to come in, but we need to look at how those laws also impact the businesses that already exist and whether or not that increased traffic will have a negative impact on some of the businesses that already exist. There is a balance there that we need to make sure that we protect.

### Jay Minkarah

Just to follow up on a point that Roger made, and maybe I misunderstand how this works, but if you go to the bottom of page 266, the last sentence says "If the streets within the impact area are operating below the adopted level of service when the application is filed, the adopted level of service shall be the existing level of service." I take this to mean using the Spit Brook Road example, that if the level of service is currently F then the adopted level of service is F not D. If that is not our intent I think we should probably change that unless I am reading it incorrectly.

### Chairman Rootovich

From my perspective that is how I read it too. Does anyone else have any comments with that?

### Neal Barrett

I just have one question for clarification – maybe someone could answer this – It is a follow up to my earlier comments – I guess there is a concern whether shifting philosophy away from what some towns have adopted as impact the ordinances where there have been proposed development is responsible for the proportionate share of the impact from where it is now in contributing towards a solution. I think that the city has had informal ways of doing that over the years and I think that agreeing with Kathy Hersh is that you have to look at the proposed development and existing development. I think that as I am reading this and I hope the clarification is that if someone wants to come in and the traffic is at a level where it shouldn't be prior to the development if the development wants to go forward they have to take care of the whole problem as opposed to their proportionate share of the problem, which is the end of my philosophy behind impact fees, which were another innovative land use control under state law.

### Chairman Rootovich

Is there anything further?

Roger Houston

The State law has been recently changed in so far as exactions are concerned. They went back to methodology reversing some of the previous not reversing but clarifying I guess a New Hampshire Supreme Court case that changed that. I know that wasn't the case when we adopted these provisions in the ordinance. I think the idea of having this provision was because of that Supreme Court interpretation of State law. That has been clarified and Planning Boards now can require certain improvements be made as part of a site plan or subdivision that sits on a road or if there is inadequate public facilities and State law does list those criteria. That might be something we might want to look at as opposed to this complex formula. I think that is something we should maybe give more thought to.

Beal Barrett

I am wondering in here where we see some sort of definition about the scope of which the improvements would be expected to reach. If you use the Spit Brook Road example, additional cars leaving my planned development could have an impact on the streets for some series of intersections down Spit Brook Road. How far is the development judged to be expected to have a positive impact? Is there a distance? Is there a number of intersections or some way of measuring? Is it dependent on the conclusions of the traffic study? How do you determine how far it reaches?

Roger Houston

Usually in – and I find this section there is some new confusing, but traffic studies are somewhat confusing too – if anyone has had a chance to review those as are other engineering calculations and other things unless you know the formulas and you know how to use them and the terminologies sometimes it is difficult to apply those if you aren't familiar with that particular method of operating – answering Mr. Barrett's question, I don't have a direct answer to that.

Chairman Rootovich

This is one that should be defined. It is something we will ask the consultant to look at as well. We're still on opening statements now and we are getting into a lot of details. Maybe if we go through each of the sections a lot of the questions will be answered and/or apply to one that you are going through. Are there any further comments with respect to general statements?

Christopher Hodgdon

This is actually a clarification – Mr. Houston's answer was to Mr. Barrett's question or my question?

Chairman Rootovich

With respect to the distance.

Jay Minkarah

I think it gets to Chris's question, but I think if you work through it you find yourself back at table 531-1 at the top of page 266, and what it comes down to is that the impact area is defined in column D, but what it says is see guidelines. Maybe if we have the guidelines available to us we could see what the impact areas would be under different circumstances. I think that is where that discussion takes you to this table.

Chairman Rootovich

Where are those guidelines is that part of the master plan?

Roger Houston

I didn't write this section so bear with me. This section – traffic engineers have level of service and they have a whole level of different detail of what they use and how they calculate issues relative to traffic. They also currently there is in operation in the city any development that comes into the city has to fill out a worksheet to determine whether there is any traffic impact. They work with the Traffic Department and negotiate – a lot of this goes on today maybe not to this level of detail as defined in this ordinance, but there is a worksheet – whether or not a developer has to hire a traffic engineer and do a traffic study – there is what they call a threshold analysis – their consulting engineer will fill that out and if they don't meet it then they don't have to do the threshold analysis. That is how it works today. If it does meet the threshold then they have to do a full-blown traffic study, which is depending on the size of the project is an expense.

Chairman Rootovich

What was the impetus of putting this section in? Was this a suggestion made by the consultant or did somebody on the original committee have concerns with this particular segment?

Roger Houston

I think the consultant put this in. This is a standard provision that I have seen in many other ordinances around the country. This is kind of a boilerplate. I think it was put in here to address the issue of the changes of interpretation of the state law by the Supreme Court case. I believe it was Simonson case or one of the other cases. Maybe Jay can enlighten you on that since he has some background on that. Those issues notwithstanding I think this section is a standard section. Some go into more detail and I think that is why it is in here is this is part of kind of a perspective that a lot of other cities have these types of ordinances.

Chairman Rootovich

Mrs. Lasky you served on the committee correct? What was the committee's feeling in the end when this was finally decided upon?

Bette Lasky

To be honest with you I have no recollection.

Kathy Hersh

I am sure we talked about it. I don't remember the specifics.

Chairman Rootovich

It really is very complex this one section. I don't understand it myself. If I were to try to follow this it is ....

Bette Lasky

Does it meet the need here? It is an administrative guideline as I see it. Certainly level of service is something that as a Planning Board we do look at, but each case is looked at separately. Not the guidelines for level service, but how it fits in with the rest of the area. Again there would be a lot of things that we would have to cut out of here that are not applicable. Do we need this?

Chairman Rootovich

Let me ask you this as a suggestion and I will leave it up to the committee and any suggestions – Mr. Minkarah had some suggestions and/or a way to re-write this in a more simplistic way – is there something we may want to consider and then bring back to the committee or is it the – the committee would like to go through it now and get a lot of the questions answered as we go through it or ... any comments? Roger what are some of your comments? How do you feel? Are you prepared? Are you capable of answering the questions as we go through this? I am sure Mr. Whitney will have several on each.

-  
Roger Houston

We have not actually – since this is a new section this is not something we do today. We haven't tested this. We haven't gone through the procedures to say how would this work. To answer Bette Lasky's question could the ordinance exist without it – yes it could. This particular section gives the Planning Board more teeth if you will, a reason – if there is a serious issue, and perhaps maybe we ought to look at some of the wording that gives – it does give them a little

more if they wish to deny an application because there are serious traffic concerns it gives them – it also has the reverse affect that if they want to do something that is on the threshold and they want to look at something else then there could be an issue. The State law having been changed in the last season I believe to clarify that section may – that gives the Planning Board that authority back again where it was somewhat not there for about 4-5 years. I don't see – I think we can look at this section. I think maybe it could be simplified more.

Mike Lowe

I think first what we need is a table of level of service to state just what it is. One thing to clarify it is to put in the table of level of service – exactly what it means. In other words, you have A, B, C, D, E, and F. I know F is failure and A is perfect, but I don't know what the in between is and we really need to. The table needs to go to this. It keeps referring to level of service, level of service everywhere within this document.

Chairman Rootovich

I understand it is delay time between cycles and that sort of thing.

Mike Lowe

If you are going to leave this in here then you need to put that in with it. If you are not going to leave this in here then put the statement like now is in effect – one or the other or maybe both.

Alderman Vitale

I do see where there could be a need for this section and it could be helpful to the Planning Board if we could kind of go through and discuss it. Would this section apply to where our new development is in my ward where the Pine Hill Road affected Coburn, Pine Hill, Indian Rock, and then further down Charron Avenue, Pine Hill where that is a failing intersection – no improvements were made to that intersection – would that address a developer or developments taking place on intersections like that – when you were talking about giving the Planning Board more teeth were you maybe suggesting that type of situation?

Roger Houston

I think it could apply in that situation without knowing the specifics distance wise – that intersection was not as I understand it immediately adjacent to the project. It depends on how much traffic was generated, what the existing level of service is, what the capacity of an intersection is in traffic terms – there are also a lot of other terms the traffic engineers use like whether it meets warrants for stop signs or traffic signals and those issues and when is a turning lane required and some other issues like that.

Jay Minkarah

A follow up on that point because it is an important one – this section addresses only level of service. When the Planning Board typically reviews plans there are a number of other things that they look at. They do look at safety considerations for instance, which wouldn't show up in a level of service analysis. Generally the number of vehicles between each category can be very significant depending on the road so you might see a development come in where there might be legitimate traffic concerns, but it will not change level of service.

Bette Lasky

The way I look at it the level of service when we give them the traffic report, the level of service is a guideline. It is and I don't think anyone can say okay it falls into the F category, which is failure, but as Mr. Minkarah said we look at other things to see whether this development in fact will send it over the edge or and again it is looked at the same. I see Roger's point where and it is always nice when we can have something definite to hang our hat on, but it also can really muck up the works and I think in this case it would. It would maybe give us two objectives and too tight criteria that we would be stuck with. In other words, where there are lots of variables and this only deals with level of service. To put something that is very specific in here and to say it has to meet that level of service such and such, which in my mind is a projective thing – I think it could be more trouble than it might be worth.

Chairman Rootovich

Mr. Minkarah is your idea/proposal would reduce this division significantly in terms of language and scope and make it more user friendly or are you proposing as well to eliminate it all? What are your thoughts?

Jay Minkarah

I think that eliminating it or not it is definitely a policy issue – I think in looking at it ..

Chairman Rootovich

Which we are not afraid to make by the way, but your input is critical in making that decision.

Jay Minkarah

If I understand this correctly I think it boils down to a couple of things; 1) this is saying that outside of downtown zoning districts, the minimal level of service is going to be D unless the existing level of service is already less than that. If you drop it you have to propose improvements to maintain the existing level if you are going to drop it, which will cause impact you have to propose improvements to maintain that. However, there is a significant caveat and that is the transportation analysis concept. What this seems to suggest is that where you are in the vicinity of mixed-use developments you can theoretically reduce your impact if you connect

to – you have to go down this table and look at the percentage of residential units and certain commercial components that exist within a certain area – in other words what it is saying is we want to encourage mixed-use development, therefore, just like in downtown area even if you have a traffic impact that is adverse that can still be okay if you provide pedestrian connections to these other things. To me those are really the main things that it is saying.

If I guess if those are concepts that we accept then I do think that you could simplify it pretty greatly because all you really need to say is that you can't drop below level of service D unless otherwise specified such as the existing. If you get on to page 266 almost all of this honestly really isn't necessary because if you work through it what it keeps doing referencing you back up to Table 531-1 and that is not really much of a table. All that says is none of this applies if you are in a downtown area and if you are not in a downtown area it is level of service D. That is all that is telling you. As you work through the rest of this you will notice that everything keeps referencing you back up – go to subsection c, go to subsection d – just repeating the same thing over and over. I think you can eliminate most of that language if that is what we want to do.

Bette Lasky

What if we wanted to ... tape inaudible – speaker away from microphone..

Jay Minkarah

You would have to change the ....

Bette Lasky

That is one of the things that I meant in terms of locking us into something that we may not want to be locked into. Why do you wait until it gets to D and is that the magic cutoff point? For some circumstances that may be okay and in some place due to other circumstances depending on things that can be happening there it could be in our minds an F.

Chairman Rootovich

Having a D could be a safety concern rather than having a B or C.

Roger Houston

I think the safety concern is addressed somewhere else in this ordinance as well so the Board also has that in their criteria for site plans. Notwithstanding this is more or less dealing with traffic and level of service and the capital improvements program. Because of the state law change since this was written and it has been what nearly two years now – over two years – we have had two legislative sessions or three since then and this issue has been corrected. You could eliminate this entire division, but if that is the committee's purview, but there again I think

we ought to maybe look at this to see if we want to keep some of this or reference the new State law and maybe re-write that – maybe that is something we have the consultant look at or perhaps NRPC when we are looking at this to see if they can come up with – they have some traffic engineering capability there that maybe we can get them to look at this to see if we could re-write this so it is more acceptable.

Chairman Rootovich

Notwithstanding any argument from the committee I would suggest that is the step that we take. Alderman Shaw do you have any concerns with that? Alderman Vitale? Then I suggest we do that – at least make it a lot more simple. If Mr. Minkarah wants to take a shot as well – I know there are time constraints and all that, but I hate to go through it and then eliminate it and take all the time to go through it – if you can come up with something that is much more simple and reasonable then I would rather discuss that then go through this and end up not voting for it in the end. That would be my suggestion. Mr. Houston is Division 4, Building Design and Division 5 also new or do those currently exist in the ordinance book?

Roger Houston

Those are in practice – most developers do submit elevations and building elevations. I think this is just putting them in writing.

Chairman Rootovich

They don't currently exist in the current..

Roger Houston

Not in this language form no. These are fairly new in terms of the requirements.

Chairman Rootovich

I would suggest that we go to Division 4 at this time, which is page 271.

Bette Lasky

I just want to bring up one point before we move on. On the Section 16-533 while looking at this that should be looked at very closely and be consistent with what it is that we do.

Chairman Rootovich

Are we talking about the building design Mr. Whitney? Okay we haven't gotten to it just give us a couple of minutes. Mr. Houston I will allow you first any opening comments before I go around

the room with respect to Building Design, Division 4?

Roger Houston

I think these are very basic standards. Currently now we don't require site plans for anything less than 3 dwelling units. It wouldn't apply. That is fairly consistent with the existing ordinance. As I said before the multi-family units and commercial buildings – usually where they go today they come in with an elevation or a building materials and show what it will look like anyway, and that is pretty much routine. The Boards want to see it and most builders have gotten to that point where they know what they will be putting on the site and what it will look like.

Brad Whitney

On Division 4, Building Design, I would feel more comfortable if the Board would consider postponing building design and making an attempt either through advertising or contacting some local builders – I would feel more comfortable if there were local business here, which this directly impacts their ability to function and get their comments. It is unfortunate that no one is here and for the board to proceed without the ability of hearing their viewpoints is disturbing to me. Either through a newspaper article or I would be happy to call some and tell them that we are going to discuss this particular point. It would be meaningful for the city and would be in appropriate to have it without comment from the building community – I see problems here. I can go on and tell you what I think about it, but I would like to hear what you think about my suggestion.

Chairman Rootovich

Mr. Whitney when this document was in its elementary stage, being put together, I believe there were members of the building community who had a chance to give input on this. Maybe Mr. Houston can give us the names of those individuals.

Roger Houston

We had Kevin Slattery. We had several consulting engineers, HIS and attorneys – local land use people. Most I would say shopping centers and builders – some smaller multi-family projects we have around the city – most of the shopping centers are done by out of town developers – we have had some problems with some in terms of how long it takes you to build them, but most of those are not local developers that develop shopping centers especially ones over 30,000 sq. ft. You are dealing with much larger firms.

Chairman Rootovich

I can tell you Mr. Whitney that ...

Roger Houston

There used to be standards. In fact, these are pretty lax compared to most cities.

Chairman Rootovich

I can tell you being Chair of the committee that I have had numerous calls from developers. This document has been available to them. This document has been on line. I have received calls from those particular developers in the city about not only this section, but sections throughout so they have had ample time to go through this and bring their concerns if they had any to this committee and to the Planning Department.

Brad Whitney

I just feel that maybe they didn't know that it was going to be discussed tonight. Going on I can't comment about that. I appreciate your comments. What I found is that in Applicability under that 16-540, page 271, ( C) "This Article applies only to those portions of a building elevation that are visible from a public street or right-of-way, or from neighboring residential properties." I take it that we are just talking elevations. Am I correct there or any addition?

Roger Houston

If you look Mr. Whitney this article applies to new construction, building additions, and alterations to buildings. If those alterations would affect the exterior or appearance of the building – I believe that should answer your question.

Brad Whitney

My concern is on a right-of-way some of these are just alleyways and I am not sure they should be to the same site plan review. I think this was discussed with some restaurant that wanted to put an addition on the back of a building and it was discussed that some places they face on two streets, but I don't know whether a right-of-way can be just an alleyway and if they have to go to a lot of expense to do a site plan for any addition on a back alley – I guess that is my concern.

Also going over to page 272 where states "Routine or maintenance of structure; or any work on the interior of a building; or any existing structures for which no exterior alterations are proposed" – does this include replacing the hinges on a door, a broken glass, replacing a radiator? This is routine maintenance and repair – what point is someone breaking the law or is someone fixing a broken windowpane?

Chairman Rootovich

What section are you talking about again please?

Brad Whitney

I am on page 272, top of the page under number (2).

Katherine Hersh

Does not apply.

Brad Whitney

I apologize. It is a confusing book. Thank you.

Chairman Rootovich

When we have a tendency to get overly excited these things happen.

Brad Whitney

I guess. I am doing the best I can and it is difficult.

Alderman LaRose

You are right that does not apply on should be at the top of the part that says not applied. I was confused too when I looked at it.

Katherine Hersh

We will make sure.

Alderman LaRose

I would like to make a comment about the building design section – I think that this section really talks about developers that come into the City of Nashua more than a builder in Nashua. In other words, if I am going to build a shopping center and I have plans and I hire a builder in Nashua to build it – that doesn't apply to the builder he is doing what the person who hired him to build the project and what we are – I guess what the city is looking for is a little more say on what some of these buildings are going to look like because as you know Mr. Chairman sometimes large developers come in and they can come up from the mid West and they have a set type of plan that they want to pursue and it really doesn't go with the aesthetic of your city of wherever they want to build it. I think a good plan is that is in Freeport, ME when McDonalds wanted to build a McDonalds and they wanted to buy this old colonial home in Freeport and they fought and fought and finally they went to the town fathers and they added on to this nice home and it is a really nice McDonalds. There are times when I guess these big corporations have to take a look at what the town fathers of a certain community would like to see and work with them

instead of coming in and saying this is our standard that is all we want to do. I think that is what this is trying to address. Thank you.

Brad Whitney

I think that is taken care of. Further on I read this code covers that where it has to meet the characteristics of the town and all that. When you read further it is protected.

Chairman Rootovich

What page are you on so we all know where you are reading it from?

Brad Whitney

I guess it might be under sensitive site features on page 276.

Chairman Rootovich

You are way ahead of the game.

Brad Whitney

What I said was – what Alderman LaRose was talking about was covered under characteristics of the community later on in the book.

Katherine Hersh

I wanted to concur with what Alderman LaRose said. I think it is important for people who come to this community to understand what the community is looking for. Right now we as a Planning Department and Community Development Division we sit down with developers that come in and have ideas about what they want to do, and we talk about what it is that we would like to see from the standpoint of building design. If it is a new developer that comes in we may go back and forth many times. We had a developer come in recently and he has been in before and he spent quite a bit of time back and forth initially and this last time he came in and the very first time he presented a plan it was exactly what we had envisioned from the standpoint of what fits with Nashua and he said I now understand exactly what you want and rather than coming in numerous times I can come in the first time and just give you what you want and then I am all set.

This clarifies that and I think part of what we were trying to do with these ordinances is make it clear so that the developer can understand what it is and that they don't spend a lot of money and time back and forth trying to understand ... tape flipped ... sometimes these ordinances have gotten a little bit wordy is that we are trying to make sure we are clear on what it is that we are looking for.

We already do this. We already sit down with these developers and say you know what we are kind of looking for a roof not just one big long expansive roof on there we are looking for some diversity and something that has a little more interest and a little more alternatives. We already do that.

Mike Lowe

By the way this is in here in the purpose of the building design standards – then if you go down to the large paragraph on the middle of the page it states that specifically. That is what we need. That is a very good tool for our Planning Board. We can say that you can't put a chicken coop on the top of a house and call it a restaurant or something like that and get away with it not in Nashua.

Alderman LaRose

Maybe if they are just selling chickens.

Roger Houston

I just wanted to add I know that we work with national chains like fast food restaurants and they all of a sudden come in and decide well we are going to change our color and are going to paint our brick buildings now red and white and we did another fast food where the board put a restriction on clapper siding because it was near a residential neighborhood and that it remain that way as a condition of approval and that worked. This helps in terms of keeping it that way so it doesn't change in the future because it is a part of the site plan approval. I wholeheartedly agree with Alderman LaRose because that is the contextual architectural theme when we think of what New England is and what we represent. What we represent is a city and our architectural heritage should be expressed in new construction. That is what people look for and what people expect.

Bette Lasky

This is something that has always been very important to me, and it has not been too long when we would have particularly national chains come in and say well this is the way it is. We didn't have anything in our ordinances to allow us to say no you are wrong. We have in the past few years thanks to Alderman McCarthy and Mrs. Hersh when she was on the Board of Aldermen. It has been considerably better. This again would give us even more teeth. I just think it is vitally important and I would go around to other communities and say well their McDonalds looks like it goes with the community why can't ours and now we will be able to continue to do that. As I said it is very important to me and it is very important to have in the ordinances.

Alderman McCarthy

I think that is vitally important and I think one of the things we have discovered over the last few years in talking with a couple of them, even the national chains that will come in and tell you that is tough that is the way it is, that is the way our buildings are, when you push back and you discover that is not in fact the truth. There is one chain that has stores in Nashua and also in the State where I was talking to somebody from another community who said that we told them they couldn't build the normal thing, which is just a block building with windows and they gave us this instead and pull out this rendering, which I had actually seen before, which is the second tier. If you push back on that one there is a third tier that you get and if you push back on that there is a fourth one that is customized for the community. Even the national chains when you go to them and say we have standards they will say great we have plans and come back with those things. It is just a question of for their part they will push the limits as far as they can because it is a lot cheaper. When you come back with a standard that says this is the kind of development we want that fits in the character of this community they say that is great and in the end I think everybody winds up better off for that – their building has more value, our community has more value. I don't see any of them going bankrupt as a result of those decisions that they made when they located in Nashua.

### Jay Minkarah

I was going to wait until we got a little further down – I agree with the comments that have been made. I am not sure that this really goes far enough to grab in all of the examples that we have been given and maybe I am wrong Roger in how I am reading it, but as I read this we have section 542 that applies to shopping centers and then it goes on the next page we talk about the different kinds of shopping centers. From the next section that we seem to get to is a brief section on page 275 under industrial buildings. I am wondering if this really does encompass the chain restaurants, gas stations, hotels/motels, and numerous other types of commercial buildings that are built. It seems – unless I am reading it wrong it is only shopping centers and maybe that is really not what we want. We want to encompass a little more.

### Roger Houston

I think based on our discussion I think the committee feels comfortable with this. I know this might have been if I remember correctly this was an issue to include all buildings at that time. Maybe it should be expanded to all commercial structures. That is again a policy issue. Jay brought out a very good point.

### Chairman Rootovich

I would bring up to the consultant to get some feedback on what suggestions he would make, but I have no problem with that.

### Alderman Shaw

It does appear that there is a reference to commercial buildings in the previous section, 541, and

it does seem like it would make sense to expand that into maybe just include that or find a different way to maybe group these – it might make better sense not to replicate everything, but maybe just find a way to include them as just another category or something like that.

I also wanted to go back a little too and maybe it speaks a little bit to Jay's point as well, but I think it is easy to maybe look at this and think that we are being very restrictive, but when you actually look at a lot of it seems like we are actually being extremely flexible in that there really aren't a lot of major stipulations or break points. A lot of the things that are even specified especially in the detail in section 542 I think allow for a lot of leeway and a lot of variability so it seems that it is actually quite a reasonable approach and much perhaps like we heard already by example that there is a lot of negotiation that can occur with various large chain retailers, etc. I think right now at least I look at it as yeah it seems like it could be quickly interpreted as we are very restrictive, but yet I think there is actually a lot of flexibility here.

### Chairman Rootovich

I don't think any of us have seen any new Poor Pierre's go up with that type of structure as of late.

### Christopher Hodgdon

To comment on the idea of having it apply to all commercial buildings – a lot of the language as it applies to the 30,000 sq. ft. plus really relates to large structures with large roof lines, large walls, large amounts of windows so I think that the desire of the committee is to expand on the design features for all commercial dwellings, multi-family dwellings – I think that you need to get new language. I don't think that incorporating this language will do what you hope.

I do have a couple of comments to some of the specifics. Under entryways there is a provision that – I am looking at (d) Entryways, page 274 at the bottom – “All sides of a principal building that directly face an abutting public street shall feature at least one customer entrance.” It goes on to say that if the building has more than two faces facing a public street then the requirement for an entrance would apply to only two sides. There are a number of structures when you consider the way our plazas were laid out where none of the entrances face a public street, but the building faces a number of public streets – Applebee's faces 101A and the Somerset Parkway at the entrance is facing the parking lot, which I don't think faces any public street at least not in the near proximity.

If we are considering how those sort of developments are done and this is referring to large shopping centers – I can understand the purpose for how that is written, but even Bernie & Phyls, which is not part of a larger development the entrances I am not sure if that road leading up to Longhorn is a public street or not, but that is where the entrance is and Spit Brook and Daniel Webster Highway South don't have any public entrances I believe. There is a side street that you turn right on – nonetheless that building has faces that abut a number of public streets and yet it only has an entrance on one.

Chairman Rootovich

The legal entrance to that is on a public street.

Christopher Hodgdon

Right, but this would require at least one more public entrance on either Spit Brook or Daniel Webster Highway South. I don't know whether that makes sense given where you want people to park and how that whole facility is laid out and interconnects with the other establishments. I would ask the committee to look at how that is written and what the intent and the consequence would be. Also again because we are talking about large shopping centers or large structures the requirement that 50% of the horizontal façade must contain windows or awnings – I don't know whether that applies simply to the front facing – that includes the public access point, but for a lot of these facilities to have an entire wall of that structure include that really affects their ability as a retail outlet. Home Depot is an example or Kohl's for that matter. A lot of the front of that building with public access faces the parking lot and has windows, awnings and a lot of features and the back and the sides don't yet those are facing public streets on all sides.

I would encourage everyone to think in terms of how it affects the entire building and whether or not that is the intent of that.

I also have a comment on industrial buildings – there is a reference to the fact that this applies to any PI or GI zone and then under standards it describes “Fabricated metal wall panels and undressed concrete or cinder block shall not be used except in industrial park areas.” I don't know what an industrial park area is. Is that any industrial building inside a PI or a GI or is there a definition of industrial park that would allow them? The Chamber questions whether or not this is inappropriate to use metal panels for an industrial setting. We use them in commercial buildings and light industrial all over the city. I don't know that it is unattractive or inconsistent with the rest of the community, but it does seem to be pretty restricted for its use relative to industrial buildings.

Neal Barrett

My concern about what is the definition of an industrial park and as a practicing commercial broker saying that you can and cannot build a building that is in an industrial zone has cost issues definitely cost issues – cost of construction for industrial buildings has gone up probably 30-50% over the past 3-5 years. Add on the cost of land and this is a big problem with small New Hampshire businesses that are looking to put up anywhere from a 10,000 to a 25,000 sq. ft. industrial building or a light industrial building. The cost of land like I said has gone up significantly. In all of Southern New Hampshire the cost of construction, steel, site work and all of that has gone up. It is already cost prohibitive and now if you put extra standards on the cost of construction materials that are acceptable within an industrial zone – once again my concern is what is the definition of an industrial park area. That should be a definite concern of the

committee looking at industrial zones – I think it is a challenge for Southern New Hampshire.

Going back to page 272, Section 16-541 – I am really concerned that the committee has talked about national retailers and that they have deep pockets and you can push and push and they will come back with the design that works for the community. That is fine. They have deep pockets and they will make it a cost analysis and probably some people feel that if they don't design it the way we want it then good riddens to them. I don't know if that is a good thing or a bad thing. My concern is that nobody has addressed – that this section addresses every small businessperson in the City of Nashua who may not have the resources that a national restaurant or retailer has to meet these standards. I am concerned about two costs; the cost of the application and meeting the standards to apply for a permit or a site plan and two the cost of construction materials to do something that someone would like whereas something else is totally acceptable. Like I said my concern is that all of the comments were talking about national companies and very little was mentioned about the small local business.

Bette Lasky

I was just going to say that industrial park is defined under page 371.

Christopher Hodgdon

If you read the definition of industrial park it essentially describes an area where you have two similarly designed buildings and they are connected by common landscaping features and common design and building facades. I guess that now that I look at the definition I still sort of fail to understand why it would be acceptable there to have buildings that have prefabricated metal panels or untreated block where some thought has been given to landscaping, screening, buffering and those sort of things and in another area that is zoned PI or GI where the common use is still industrial those construction materials aren't acceptable. Now that we do have a definition of industrial park I think my concern still is the same that the two should not be treated separately.

Brad Whitney

I wanted to comment on Mr. Hodgdon's point on entryways on page 274 (1) down at the bottom of the page – I found that confusing and I don't know if the building is on the corner of the street if this says it would have to have two entrances. I think the Barnes & Noble they are on two major thoroughfares and a very busy street – they are kind of on three streets and they have one entrance appropriately so for security reasons and I don't know how this would apply to a Barnes & Noble – does this say that they have to have two customer entrances if it is on a corner? At least one, but it says “All sides of a principal building that directly face an abutting public street shall feature at least one customer entrance.” Then it goes on to say if it is on a corner .. “Where a principal building directly faces more than two abutting public streets, this recommendation would apply only to two sides of the building.” I don't know which two sides.. “including the side

of the building facing the primary street, and another side of the building facing a second street.” That must mean that there is only one entrance required. Is that correct? It seems to be a confusing way to make a statement.

Roger Houston

I read it as two. I think the important thing in most of these standards – I think I mentioned this in some previous meetings, but these standards can be waived by the Planning Board. Obviously if your current design and the situations were applicable and you have a drainage ditching channel and lots of landscaping and you don’t really see it from the main road anyway that may not be the appropriate entrance. It needs to phase in with the parking area. Those are the sort of things when you get involved in design issues there is no set standard that fits every situation that is why the Planning Board has to look at it and that is why under page 257, 16-452 – Waiver of Site Plan Standards – the Planning Board has that ability to get into situations to waive those standards or if it doesn’t work in certain situations. That is there. I think that helps. I think that is understood and I think that is something that if we as staff see something that isn’t working or doesn’t make sense relative to this standard then we would push for them to recommend to have that section waived just like we do now with some issues the Planning Board can waive.

Chairman Rootovich

I see 4-5 hands up. Is it a response to Mr. Whitney because he currently has the floor? If he has any more questions I would rather get his statements out. Is it in response to him? He does have the floor. Mr. Whitney is there anything else?

Brad Whitney

No. I have other questions getting back to sensate site features, but right now that was my question on entryways. I just mention that there should be a simple way to describe that paragraph. It is very confusing wording. Thank you.

Christopher Hodgdon

My comment is if Applebee’s is a bad example because of the drainage, the Ground Round, which is roughly across the parkway from it doesn’t have those intervening features and the side of the building that fronts Amherst Street doesn’t have an entrance. On the parkway side there are two entrances.

Alderman Shaw

I just wanted to clarify. I had interpreted it as two when we started talking about more than two public streets, but I think the thing we might be losing site of and this maybe gets back to some of the other comments that were made earlier – these are really focused at quite large facilities where I think we are getting into examples of a small facility or something that doesn’t really

meet these criteria of the various shopping centers, super stores, and whatnot. I think in those situations it is not too hard to envision that we would want the multiple entrances, but when we start getting into single site feature that doesn't have the same sort of square footage or footprint – I think that is back to the previous point that when we start to expand – if we do try to expand things to all commercial buildings I think these are the kind of items that we need to redefine. I don't think it would make sense for some of the examples that we have already talked about to have two main entrances, and they might even be forced to the parts of the building, which wouldn't even be practical for the site itself. Even realizing we can – things can be waived, but I think we want to be careful that we are not writing things that expectations that we will usually be waiving the standard either. I think we have to kind of balance that.

I think that some of these requirements here as applied to the various shopping centers and large footprint buildings we are talking about really aren't actually that hard to envision.

### Katherine Hersh

I was just going to reiterate what I had said before with respect to what Mr. Barrett said that certainly costs are going up – being responsible for the senior center project I can tell you costs of construction are going up. However, one of the things that these ordinances are trying to do is protect the existing buildings and existing landowners as well. For example it says in the section on page 272 16-541 (C) it says “shall be compatible with the character of the neighborhood.” The point of that is that what we are really trying to do as much as look at future development is to look at what exists now and make sure that is protected and the value of that is protected.

### Jay Minkarah

This is minor, but on page 271 it goes back to some of the points we made way earlier, but I just suggest under subsection b we might add “except as provided for in section 16-423”. That is the section on minor site plan amendments. I read this section in relation to that section and we just might want to make that tie in. That clears up a lot of the issues I think of what has to go to Planning Board versus what can be reviewed administratively.

On the issue of the entryways I would suggest maybe putting in language to the affect of “except where pedestrian access isn't practical or undesirable”. That is just a thought. I do think there are situation where granted you have smaller buildings where you might not want it, but you may want at least one. I have noticed lately South Nashua has an increasing number of pedestrians. Now that we have sidewalks in a number of areas people are walking. I think that is the idea behind this is if you want to encourage pedestrian activity people having to cross parking lots to get to the entrances is an impediment. If you have – Bernie & Phyls is an example you have all of this frontage directly on the sidewalk and you don't have an entrance. I am not sure in the Bernie & Phyls example it wouldn't be desirable to have had an entrance on at least one of those streets.

I went to the industrial buildings and I don't have any particular proposal – I am on page 275 – I wonder if it might make sense to distinguish between the PI and the GI zones and in part I say that because I think that there is a quality in some of our PI districts of kind of first class office in a campus setting environment that is really different than some of the general industrial areas and it is important to maintain that quality if you want to attract the caliber of companies that we're looking to attract in some of those areas. I think we do have to be sensitive to what is built in those.

Christopher Hodgdon

I actually agree with Jay's comments, but this actually seems to take a step backwards though because it does allow those types of construction materials in the industrial park areas, which would be your campus style, which is perhaps where you want to have more control.

Jay Minkarah

That is why I suggested the distinction because I don't think that I would like to see some of these building materials in the PI zone.

Brad Whitney

I would like to make another comment on entryways that I think the code book should recognize the important of security for businesses where one entrance – you look at many small or large establishments, retail particularly – it is important to have control over the security of what goes out the door. Multiple doors increase the pilferage immensely. They have all kinds of protection. Loss is a huge problem. The city should not require additional entryways unless it is acceptable to the business for the type of security. Otherwise it is unworkable. Look at the Wal-Mart Super Center they have one entrance. It is a huge thing. There is a reason for it. I think that the city should recognize the need for security and it has been a problem for businesses for the last 100 years. It will not go away. I don't think that the city should require things that make it more of a problem. Thank you.

Chairman Rootovich

Are there any further comments?

Bette Lasky

I just wanted to say along with what Mr. Whitney is saying in the interest of safety sometimes those main entrances should not be on Daniel Webster Highway or Spit Brook Road – Bernie & Phyls was one that struck me particularly. These entrances with the electric doors – whatever – sometimes I think it is better not to have them. I think that is an issue that would be looked at by the Planning Board.

Chairman Rootovich

Since we have hopped around with respect to Division 4 is there anything that anybody wants to discuss with respect to either Purpose all the way through 16-603 – Industrial Buildings because that is primarily what we have been talking about for the last hour?

Roger Houston

I got the impression that everyone would like to look at maybe expanding 541 and then perhaps on 16-603 in Industrial Buildings maybe separating those out between PI complexes versus the standard heavy industrial type of districts, which would make sense. In fact I am not sure we didn't in one of the earlier versions of this – we may have had some further distinctions so I will go back and look at that and see if we have those.

Chairman Rootovich

Also the comments that Mr. Hodgdon made with respect to 542 having some language inserted with respect to the small business owner rather than just shopping centers with some criteria with respect to national chains and things of that nature.

Roger Houston

If I may under 541 that covers commercial buildings so you could leave the shopping center over 30,000 alone and then have an expanded 541, which would address those other issues. I think in terms of working like we do today businesses I think we take a balanced approach.

Alderman Vitale

Underneath 16-540 – the article does not apply to the single family, two family and three family dwellings, is there any need for that? The Planning Board has had a few things come in where people question the designs coming in for proposed buildings in that case and should we address that?

Roger Houston

I don't think – we certainly need to be more restrictive than State Law. Currently right now under State law a site plan is not required for anything a triplex and under. You can require a site plan for four and over. The only way to regulate it to get an elevation of the plan unless it was made a part of the building permit process and then we would have a staff situation approving it. I think we could ask Corporation Counsel whether we could be more restrictive and require site plans for two family and above or three family. That is a policy issue.

Alderman Vitale

Not that the city has many large tracts of land and we are going to be doing a lot of infilling or subdividing of lots – it might be something that we should consider.

Roger Houston

Let me talk to Corporation Counsel to make sure that there isn't any legal problem with – I know the State laws are very clear on site plans, but whether or not we can do some other process. I do recognize that concern. We have had a lot of discussion about that recently – one case in particular, but it hasn't been a problem in a lot of other locations either. It just depends on should we correct – because we have one situation should we correct the whole ordinance and we don't have a big problem. I haven't really seen it as a problem, but it could be a problem in the future.

Chairman Rootovich

Is there anything further with the aforementioned sections up through 603? What is the committee's desire? The reason I am asking. I know it is early evening, but there are some individuals here that wish to attend a particular function this evening. That is why Kathy Hersh and Alderman McCarthy left.

Roger Houston

I did get an e-mail from an elementary school – wondering if we were going to have the Santa Clause in here and I said I didn't think we would have one, but maybe we should have a definition to make sure that he is allowed to land on the rooftops throughout the city. I think that is understood that we would allow that.

Chairman Rootovich

We will set up a subcommittee to discuss that and come back with a recommendation.

Brad Whitney

I would like to make a comment about some of the problems that can occur in zoning. I would like to tell you an interesting story. Fourteen years ago a company came into the Town of Pepperell requesting to buy a farm on the west side of Pepperell to put a composting plant. They said they could not put that on farmland but to go see my brother in law who had a farm in Pepperell. After he stopped farming that whole side of the street west of the airport was zoned industrial land and he was taxed very heavily for industrial land – quite a bit of acreage and so they went to see him and they made an agreement to purchase the property and they went to the Zoning Board and 14 years later after many court hearings – in fact two years ago the State Supreme Court ordered the Town of Pepperell to issue a permit and they were able to stall that two more years and my sister called me today saying that they had issued the final permit to build this plant by court order from the Supreme Court of Massachusetts. In those 14 years the

Town of Pepperell never won one point of law in court, but they dragged that on for 14 years. They started construction today. That tells you what can happen. I don't think they have anything as complex as this, but if they had a code like this they could probably stretch it for 30 years. It just shows you what happens. They had lawyers from New York and Boston. My family did not pay for that. In fact the lawyers worked for free for the last 12 years. They will get their money probably somewhere down the line. That is a horror story of grand proportion. I am sure it would never happen in Nashua, but it just gives you an example of what problems can happen. That is an industrial zone that they told people could go there. I just wanted to relay that story to the Board in your deliberations. Thank you.

MOTION BY ALDERMAN LAROSE TO HOLD O-04-19 IN COMMITTEE  
MOTION CARRIED

Mike Lowe

I just wanted to say maybe we should invite members of the Conservation Commission to our next meeting.

Chairman Rootovich

I will do that. Is there any further discussion?

Christopher Hodgdon

Is the next meeting two weeks from today?

Chairman Rootovich

I don't know. Sue had sent me an e-mail with respect to some conflicting meetings at the end of the year, and due to my schedule I haven't gotten back to her yet. There are a couple of nights that conflict with Finance and a couple of other committees. I would say that I would check the schedule on the Internet with respect to the Board of Aldermen. It will be close to it, but it may not be on a Tuesday night several times next year because there are several conflicts. There are several different committees – especially budget – the budget has been moved up this year. It is kind of crazy the first two months of the year.

Jay Minkarah

There has been a delay in having the meetings posted on the Internet. If the meeting is going to move off of an every other Tuesday schedule ..

Chairman Rootovich

I will ask Sue.

Jay Minkarah

The meeting prior to this was not on the internet as of the morning of the meeting. I can't speak for today's meeting because I didn't check the Internet.

Chairman Rootovich

They are posted Friday for the following week and the week after.

Jay Minkarah

Not always on the Internet though.

Chairman Rootovich

I am not aware. I will check. If that is the case then that is an issue, but it is my understanding that it is.

Bette Lasky

Is that the only way everyone is notified – it is our responsibility to look on the Internet? That is the first I have heard of it. This meeting I wasn't sure about, and I don't believe I am on a mailing list. Have we been getting minutes?

Chairman Rootovich

The minutes are also on line. You can print the minutes on line. You go under the Board of Aldermen and then committees – it lists all the committees. It gives all the dates of the meetings and you can print particular minutes.

Bette Lasky

If that is the procedure and it is on us to do that I will certainly do that.

Chairman Rootovich

I will speak to Sue about making sure that those get posted at a minimum the Friday prior so you know that there is a meeting the following week.

Jay Minkarah

For clarification I think what is on the agenda is what is not always posted on the web site.

Chairman Rootovich

These are on the Internet by the way – these agendas. I will make sure – for instance we will continue our next one with Division 5, which is Conservation Regulations. I will have that posted on there. I will speak to Sue and make sure that gets on there.

I wish everybody a very Merry Christmas and a prosperous New Year.

NEW BUSINESS – RESOLUTIONS - None

NEW BUSINESS – ORDINANCES - None

ADJOURNMENT

MOTION BY ALDERMAN SHAW TO ADJOURN  
MOTION CARRIED

The meeting was declared adjourned at 8:51 p.m.

Alderman Kathryn D. Vitale  
Committee Clerk