

NASHUA CITY PLANNING BOARD  
June 3, 2004

A meeting of the Nashua City Planning Board was held on Thursday, June 3, 2004 at 7:00 PM in the Auditorium at City Hall.

Bette Lasky, Chair conducted the meeting.

Members present were:       Bette Lasky, Chair  
                                  Mike Lowe, Mayor's Representative  
                                  Ald. Richard Larose  
                                  Steve Dookran, City Engineer  
                                  Steve Farkas  
                                  Hugh Moran  
                                  George Torosian

Also present:                   Roger Houston, Planning Director  
                                  Mike Yeomans, Deputy Planning Manager

**APPROVAL OF MINUTES**

None

**COMMUNICATIONS**

Mr. Houston said the following items should be in the Board's folders:

Revised agenda - The item concerning Bernie & Phyl's will be heard in the future

A letter from Atty. Gerald Prunier asking that the Costco site plan be tabled to the July 15 meeting.

Preliminary Agenda to determine regional impact

Court decision on the "McCoy" subdivision.

He said Corporation Counsel has indicated he would be available if the Board wants to have a workshop in the future.

**REPORT OF CHAIRMAN, COMMITTEE & LAISON**

Mr. Farkas said Senator Gregg was in town to give away \$500,000 last week for Mine Falls Parkway. This was for the restoration of the gatehouse and the work that was done as a project for the kids from Fairgrounds.

Mrs. Lasky went into the procedure of the meeting as follows:

After the legal notice of each site plan or subdivision is read by the Chair, the applicant or his representative will be given time to present an overview and description of their project. The applicant shall speak as to whether or not they agree with the staff stipulations.

The Board will then have the opportunity to ask questions of the applicant or staff. The Chair will ask for testimony from the audience, first anyone wishing to speak in opposition or with concern to the plan may speak. Come forward to the microphone and state their name and address for the record. This would also be the time to ask questions they have regarding the plan.

Next follows testimony coming from anyone wishing to speak in favor of the plan before the Board. The Board asks that both sides keep their remarks to the subject at hand and try not to repeat what someone else may have said.

After the public testimony is given the Board will discuss the issue and render their decision.

**OLD BUSINESS - SUBDIVISION PLANS**

None

**OLD BUSINESS - SITE PLANS**

**Tabled to June 17, 2004 Meeting**

1. Jackson Falls, The Residences at Jackson Falls, LLC (Owner) - Proposed 1-year extension for the construction of a 5-story, 22-unit multi-family apartment building with associated access, parking and site improvements, 52 Main Street, Sheet 43 - Lot 103, Zoned "CB/MU" Central Business/Mixed Use Overlay, Previously approved by the Planning Board on July 10, 2003.

**NEW BUSINESS - SUBDIVISION PLANS**

2. Stanley R. Sutton & Regina M. Alati (Owners) - Proposed subdivision of one lot into two single-family lots, 21 Atherton Avenue & David Drive, Sheet 46 - Lot 24, Zoned "RA" Urban Residence.

Peter Holden, Holden Engineering. Mr. Holden said this is a proposal for a two-lot subdivision. His client owns property on Atherton Avenue which actually has a little bit of frontage on David Drive. David Drive is a street that comes off of Atherton Avenue and then ends in a dead end. There are three buildings on the north side and one building on the south side. There is about 40' of frontage on David Drive. The Zoning Board of adjustment has approved a variance for the frontage. They also granted a variance because they were requesting 80' where 90' is required. He said the proposed subdivision will consist of one lot with an existing house on it and has 10,800 square feet of land area. The other lot will have 7,600 square feet.

He said they have been working with the Planning & Engineering Departments and have addressed all of the issues except two. The Engineering Department wants to have a profile of the sewer line from the sewer in the street to the area where the house would be built. The second issue is to locate the water line in David Drive. The houses across the street have municipal water, but they haven't been able to find the water line. He said they are working with Pennichuck Water to try to determine where the water line is.

Mr. Lowe asked where the metal boundary is at the end of the street. He said when he stepped off the driveway it came out to twelve feet for the frontage. There's a steel barrier at the end of the road. He looked at the opening where there is supposed to be 40' and he couldn't figure out how it would fit in. He said if the barrier has to be moved, there is room to move it back.

Mr. Holden said he doesn't know exactly where it is. He said they might move the barrier back some so that it's closer to the end of the street and not as close to the pavement.

Ald. Larose asked if the little shed is on the applicant's property or on someone else's property.

Mr. Holden pointed out the property line on the plan. He said the shed is on Public Service's property. There is a little wooden ramp that goes to the shed that is on their property.

Ald. Larose asked if they are planning to demolish the shed. He assumes it services the existing house.

Stanley Sutton. Mr. Sutton said the shed would be moved. It was in this spot when he purchased the house.

He said the dead end that was referenced earlier is further than his property line. There are some granite blocks in front of the end of the pavement that would have to be moved back a little bit. He said he didn't even know why the concrete blocks are even there. The metal barrier at the end of the street is behind his property line.

Ald. Larose asked if this obstructs the 40' needed to get in.

Mr. Sutton said "no". He said it's further behind.

Mr. Yeomans referred the Board to the air photo in the packet for this project. He said that might help to show where the barrier is.

**SPEAKING IN OPPOSITION OR WITH CONCERN**

No One.

**SPEAKING IN FAVOR**

Mr. Dookran said in looking at the photo and in looking at the map, it appears that the driveway is probably right at the edge.

Mr. Holden said it appears to be about mid way of the proposed frontage.

**MOTION** by Mr. Lowe to approve the subdivision of one lot into two lots at 21 Atherton Avenue & David Drive with the finding that it meets NRO Section 16-108 and with the following stipulations:

1. Prior to recording the subdivision plan bonding for work in the public right-of-way shall be approved by the Division of Public Works and Corporation Counsel.
2. Prior to recording the subdivision plan any final drafting corrections shall be approved by the Division of Public Works.
3. Prior to recording the subdivision plan the storm water operation and maintenance plan shall be submitted to the Planning Department for review and recorded with the plan.
4. Prior to the issuance of the certificate of occupancy all work within the public right-of-way shall be completed to the satisfaction of the Division of Public Works.

5. Remove traffic barrier

**SECONDED** by Mr. Farkas.

**AMENDED MOTION** by Ald. Larose to show that the shed has to be moved onto the property or must be demolished.

**SECONDED** by Mr. Moran.

**AMENDED MOTION CARRIED 4 - 3**

**MOTION CARRIED 5-2, Mr. Lowe & Mr. Farkas.**

Mr. Lowe said the reason he is opposed is that he doesn't believe it is within the Planning Board's purview to have the applicant move the shed. He said it was there when he bought the property. The only thing he would have to remove is the ramp that's on his land leading to the shed.

Mr. Farkas said he believes they are trying to tell somebody how to deal with something that is on another piece of land that isn't his and isn't before the Board. They have no authority here.

#### **NEW BUSINESS - SITE PLANS**

**3. Greenleaf of Nashua, LLC (Applicant) EDR Associates (Owner) - Proposed construction of a 36-unit, single-family cluster development with associated access and site improvements, East Dunstable Road, Sheet B - Lot 24, Zoned "R18" Suburban Residence.**

Jim Petropulos, Hayner/Swanson, 3 Congress Street, Nashua, NH. Mr. Petropulos said Tom Monahan and Atty. Prunier are also present to answer questions, if necessary. He said they are seeking site plan approval of a 36-unit cluster residential development.

He said this property is located in south Nashua on East Dunstable Road. The property is abutted to the northwest by Bicentennial School and to the north by the Rosecliff Drive subdivision. On the east and the south is the recently approved Huntington project which is now under construction. East Dunstable Road borders the proposed project on the west and across the street is the Sky Meadow development. In the northwest corner across the street is Langdon Place, which is a large retirement community.

He referred to Exit 1 in Nashua and said it is one of the nicer parts of Nashua. It contains many mixed uses, starting back at the Everett Turnpike. He mentioned the Sheraton Tara, a first class office park, several multi-family housing developments, and a fire station, Small World School, Roby Park, Sky Meadow, Langdon Place, and Bicentennial School. He said they consider this parcel to be one of the last larger properties in this area and a transitional piece between the uses he mentioned and the single-family homes that are located to north between Exit 4 and Exit 1.

Mr. Petropulos said Hayner/Swanson surveyed the property. He referred the Board to the existing conditions map. The total square footage of the lot is 22.6 acres. This is within the R18 Zone, which permits 18,000 square foot residential lots. There is about 1,180' of frontage along East Dunstable Road.

He said the most significant feature of the land is its topography. It's a uniform constant grade from west to east. It's about a 12% grade. The site is wooded. Along the easterly property line is Old Maid's Brook and its associated wetlands that flow to the north. There's a small pond here. The wetlands were mapped in accordance with the City's criteria and the necessary buffers were represented on the plan.

He said they performed about a dozen test pits on the property and found some very tight glacial till soils - very difficult material. In the spring it's very wet and in the summer it's very silty and dusty.

He said the necessary utilities are available to the property on East Dunstable Road. There is a public sewer line that comes to the northeast corner, the lowest part of the site.

He said when they looked at the site they didn't feel a conventional R18 subdivision was the best use for the property. They felt it wouldn't work well with the land and that it would basically require a clear cut of the property. They evaluated the cluster residential alternative.

He said clusters provide more open space, work better with the land and ultimately they were able to save more trees along East Dunstable Road to try to give this development a little bit of protection from the traffic on East Dunstable Road. In May 2004 the Zoning Board voted unanimously to grant the special exception for a cluster residential development.

He said the proposal is for a 36-unit cluster in a condominium form of ownership. There will be private roads and the land immediately around the units will be in common ownership.

Mr. Petropulos said access to the site would be from East Dunstable Road. He showed the main entrance to the site on the plan. It is several hundred feet west of the Sky Meadow entrance. He said Sky Meadow has a defined entry, a defined exit and turning lanes. Given the fact they have turning lanes and the width of pavement, they were able to provide (for the proposed project) within the existing pavement the ability to get a left turn pocket so that vehicles traveling east bound on East Dunstable Road are able to seek safe haven into a pocket to make a left turn into the development. This is very similar to what was done with the Huntington. He pointed out the second access point. He said it is directly across from the Langdon Place entrance. It creates a simple four-way intersection.

He said in order to work with land that has a constant slope such as this parcel they wanted to traverse and run with the contours. In order to get down to workable grades they have a steep section of road. He pointed out the areas of the road. They are at approximately 10%, which is the maximum public road grade, but it's also what he considers a maximum grade for a development such as this. He said they are providing safe haven at the top. There's about an 80' bench at a flatter slope before they steep down. They are talking about 120', 50', and section that is about 70'.

He said Vanesse & Associates was their traffic consultant. They performed the traffic impact report worksheet for the project. They also studied the site distance to make sure that in looking at both directions there was adequate site distance.

He said the roads are private and 22' in width. There are sidewalks located throughout the proposed development paralleling the roads throughout the project. There will be no amenities such as a clubhouse, pool, or tennis court.

He said 80% of the property is to remain open space and 40% of the total tract is to remain wooded. A cluster such as this is required to have a 40' buffer and they have met those minimums. In some areas they have well exceeded those buffers. Along East Dunstable Road in between the two curb cuts there is a varying buffer of 40' to 100' of existing trees to remain.

Mr. Petropulos said with reference to the storm water, they will be piping the runoff from the roads through several treatment cells, a grass treatment swale and a water quality inlet. The majority of the flow is going into an underground detention basin located between Units 21 to 23, which is in the southeast corner of the property. He said they elected to go underground with this system for a couple of reasons. He pointed out the location of a beautiful old stone wall and they didn't want to take it out and create the typical dry storm water basin because these units would back right up to it.

He said they looked at doing recharge. This is where you let water back into the ground and allow it to perk back in. He said they don't think the soil has the ability to perk, especially during wet conditions. He said there is a letter in the file requesting a waiver of the recharge component of the storm water drainage system.

He said when the City performed improvements some time ago in East Dunstable Road they included some drainage and the drainage was dumped right onto this property in two locations. The locations are generally about where their entrances are on the plan.

He said they don't like to dump water onto a property and have it run a long way till it gets to its ultimate destination, which is the lowest area of the site. They are proposing to pick up the outlets and put them into a swale and run them around their project so they aren't flowing through the project. He said the drawings show a swale along the southerly property, but there is also one along the northerly property.

There is a woman who is present tonight who is an abutter and she had some issues about water sheeting across the property and getting into her back yard and with the poor percolation of the land back there it created some problems. He said there is also a gentleman present who has the same concern. He said they had noticed that in the design and he said they are improving the situation by constructing the swale on the project's side of the 40' buffer to carry the East Dunstable Road drainage down to Old Maid's Brook.

He said the focus on the landscaping is at the entrances. He said they noticed on the buffer between this project and Rosecliff that there are some trees in there that have been knocked down. There is some need for under-story protection as well. The landscape plan also represents some evergreen trees behind several of the units to provide some under story protection.

He said the project roadways will be lit with residential type lighting - 10' high poles, low wattage, downcast lighting.

Mr. Petropoulos said Mr. Monahan's desire is to build an upscale development. It is not the intent to build two story straight face colonials. They don't feel this would work well with the land since it is sloped. There will be numerous walkout basements. The footprints are about 1800 square feet. It is an age targeted community - meaning they are looking at first floor master bedrooms and suites for first floor living and a couple of bedrooms on the second floor. They won't be full second floors. Most likely there will be dormers.

He said the stipulations set forth in the staff report are reasonable. They are typical of a site plan type of development.

Mr. Lowe asked if anyone has thought of extending the sidewalk down the north side over to the school and cut through the playground.

Mr. Petropoulos said Department of Public Works has asked them if they would consider constructing sidewalks from their west entrance to provide access in case there ever were school children in the development. There is sidewalk on the west side of East Dunstable Road. They are providing a crosswalk in their main entrance. They have reviewed this with Mr. Monahan and he believes Mr. Monahan is comfortable with including the sidewalk connection in the design.

Mr. Moran asked if the question also includes the Traffic Department's recommendation for a sidewalk extension at the intersection of Prestwick & East Dunstable westerly.

Mr. Petropulos said "yes." He said there really isn't much difference between the corner and the school. There is sidewalk at the intersection of East Dunstable & Lamb on the school side.

Ald. Larose said the project is supposed to be for age-targeted residents. He asked if it precludes somebody from having children.

Mr. Petropulos said it is not restricted.

Mr. Dookran said there are some bad spots in the sidewalk on the opposite side of East Dunstable Road. He asked Mr. Petropulos if they would be willing to repair these areas.

Mr. Petropulos said they would have to take it under advisement. He said this is kind of broad. He doesn't know how large an area it

is. If it's just a couple of potholes they probably would, but if it's a couple of long stretches of poor sidewalk, he's not sure that it's this project's responsibility.

Discussion ensued.

Mr. Dookran said there was mention of the glacial turf being "tight". He said the report says that each test pit was described as sandy glacial turf. He asked if there is a difference.

Mr. Petropulos said in a till of material you have sands and you have clays. A till tends to be on the 75-yard line towards the clays. You could have a sandy till or a clay till. This tended to be a sandy till. The groundwater was extremely high. They are familiar with these soils from the Sky Meadow project and the Huntington project. When they are wet they are extremely soupy. When they are dry they are dusty and difficult to work with. He expects that they will have foundation drains for all of the units to control water.

Mr. Dookran said he wanted to make sure the reason for giving the waiver - whether it was for high groundwater or because of soil conditions.

Mr. Petropulos said primarily because of high groundwater. If they did try to recharge the basin would be full of water in the spring and if they had a big storm it would impact the downstream conditions.

Mr. Farkas asked Mr. Dookran if the Traffic Engineer had any issues with the entrance across from Langdon Place creating backups.

Mrs. Lasky said Langdon Place is elderly housing and she doesn't believe there is a lot of traffic going in and out of it.

Mr. Dookran said the Traffic Engineer didn't mention anything.

#### **SPEAKING IN OPPOSITION OR WITH CONCERN**

Zheng Li, 9 Rosecliff Drive. Mr. Li said the lot is currently wooded. East Dunstable is a busy road. He said there would be a change in the noise level and the view. He asked if there is any way possible to reduce the impact. He knows there is a treed buffer, but all the trees here are very tall and there is nothing at the lower level.

Mrs. Lasky said she believes Mr. Petropulos spoke about additional plantings. She said she would have him address this again.

Lori Apicerno, Lot 2307 on Rosecliff Drive. Mrs. Apicerno said it seemed like there is one unit short on the plan she saw at the Zoning Board meeting.

She said she also has a concern about the buffer. She said her expectation is that it will be an undisturbed 40' buffer.

She said she also had a concern about drainage. She said she has a drainage problem in her yard. Her expectations are that this should be alleviated by the elaborate drainage system that is being proposed for the proposed development. She said she has a very wet lot and she doesn't think what's behind her is very different.

#### **SPEAKING IN FAVOR**

Atty. Gerald R. Prunier, 20 Trafalgar Square, Nashua. Atty. Prunier said there is one less unit on the plan than was presented to the Zoning Board of Adjustment, but he doesn't know why.

He said as far as the drainage is concerned, Mr. Petropulos has indicated that they are trying to help the neighbors. There is drainage that comes across East Dunstable Road. They are going to take that water through their drainage and bring it to the lower end of the proposed site.

He said one of the advantages of a cluster development is that there is a 40' undisturbed buffer. They are going to be putting in selected plantings in some areas to help out. He believes the cluster is much better for the neighbors than a conventional subdivision because there would be clearing of lots right to the property lines.

Mrs. Lasky asked if the missing unit on the plan would be put back on the plan.

Mr. Petropulos said there are 36 units and Atty. Prunier said he wasn't satisfied with Mr. Petropulos' answer.

**MOTION** by Mr. Lowe to approve the site plan for the construction of a 36-unit, single-family cluster development with associated access and site improvements at East Dunstable Road, Sheet B Lot 24 with the finding that it meets Section 16-123 and with the following stipulations:

1. Prior to any work being conducted, a pre-construction conference shall be held with the Planning Department to review erosion control measures, tree removal and protection. Wetlands and trees shown on the plan to be saved shall be marked by flagging and protected from cutting or other disturbance with suitable temporary fencing. Bio-fence shall be used adjacent to wetlands.
2. Prior to any work being conducted approval of the NH Site Specific permit shall be obtained.
3. Prior to the issuance of the first building permit bonding for the required street and utility improvements shall be approved by the Division of Public Works and Corporation Counsel.
4. Prior to the issuance of the first building permit the Planning Department and Corporation Counsel shall review and approve the storm water operation and maintenance plan. Said plan shall be recorded.
5. Prior to a building permit being issued for each lot access shall be provided to the satisfaction of the Planning Department, the Department of Building Safety, the Fire Department and the Division of Public Works.
6. Prior to the first certificate of occupancy being issued the applicant shall install a permanent street name sign at the intersection of Prestwick Trail and Greenleaf Drive at East Dunstable Road. A street name sign shall also be installed at the intersection of Greenleaf Drive and Sutherland Way.
7. Prior to the final certificate of occupancy being issued all required site improvements shall be completed according to the approved plan. And all work conducted in the public right-of-way completed to the satisfaction of the Division of Public Works.
8. Sidewalk to be built on east side of East Dunstable Road to Bicentennial School.
9. Waiver granted on groundwater recharge.

**SECONDED** by Ald. Larose.

**MOTION CARRIED UNANIMOUSLY**

**Postponed to July 15, 2004**

4. **Costco Wholesale Corporation (Owner) - Proposed construction of an automobile fueling station with 12 fueling locations and associated access, parking and site improvements, Costco Drive, Sheet A - Lot 793, Zoned "HB" Highway Business.**

**OTHER BUSINESS**

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

**MOTION** by Ald. Larose with a finding that there are no proposals of regional impact on the tentative agenda.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED UNANIMOUSLY**

2. **Referral from the Board of Alderman on proposed Petition for Street Discontinuance: A portion of East Hollis Street & Arlington Streets.**

Mr. Yeomans said there is a plan, but apparently it was not included in the Board's packet. This is a small sliver of land that has never been built and will not be built. It is at the intersection of Arlington Street. There's a small building there that has been used as a restaurant, a church, a Laundromat, and a real estate office.

Ald. Larose asked if it is the land that is behind the building.

Mr. Yeomans said it is. He said the building basically sits on a little triangle island. He said they consider this a housekeeping measure. It should have been done years ago. It makes the lot a little more conforming. The parking is actually in the middle of the right-of-way.

**MOTION** by Ald. Larose to send a favorable recommendation to the Board of Alderman.

**SECONDED** by Mr. Torosian.

Mr. Dookran said he will not be able to vote on this because the City Engineer's Office has to sign off on it. They have not had a chance to review it yet.

**MOTION CARRIED - 6 - 1 Abstention, Mr. Dookran.**

3. Referral from the Board of Alderman on proposed R-04-60, authorized acceptance of the gift of an approximate 2.5 acre parcel of land adjacent to city-owned land that is part of the Field's Grove Park/Salmon Brook wetland and conservation area.

Mr. Houston said this site is mostly a wet area. It abuts city-owned land that is part of the Field's Grove/Salmon Brook wetland area. It is not being used for anything right now. It is not usable and the owner wants to donate it to the City.

He said it is the Staff's opinion that this land will add to the protection of the wetland area if it is under the control of the City.

**MOTION** by Mr. Lowe to submit a favorable recommendation to the Board of Alderman on R-04-60.

**SECONDED** by Mr. Farkas.

Mr. Dookran asked if there is any contamination on this site.

Mr. Houston said Environmental Health take a look at the site to determine if there was anything buried here. There are sizable trees and it doesn't look like anything has been buried here. There may be a pickup load or so of some surface trash that needs to be taken out.

Ald. Larose said from the map it appears that the only way to access the property is through the City's property.

Mr. Houston said currently there is an empty lot that hasn't been developed owned by the person who is donating this land. It is right at the corner of Hall & Roy Street. Just to the north there is a vacant lot where you could access it. He said anywhere you go into this site you are at a downhill gradient. It drops off considerably in the back into the wet area. Access to the site would be from the City's site.

**MOTION CARRIED UNANIMOUSLY**

4. Referral from the Board of Alderman on proposed O-04-19, amending the Planning and Zoning Ordinances of the City of Nashua in their entirety.

Mr. Houston said there was another Task Force that was established by the Administration to have the Chamber of Commerce reviews the ordinance. There were four Board members as well.

Mrs. Lasky said she hasn't seen any of the changes. There is a public hearing scheduled on July 6, 2004. She asked if this is going to be presented to the Committee or if Mr. Houston has any idea on the procedure prior to the July 6 meeting.

Mr. Houston said the staff didn't introduce this. He said he suspects that they will be there if there are any questions that anyone has. Usually at the Planning Committee's public hearings it's an opportunity for the public to comment. They don't generally look for staff comments.

Mrs. Lasky said it was in the Committee's hands and as she understands it, it was given to the Chamber of Commerce to add comments, etc.

Mr. Houston said the idea was that they would come back to the committee for review and the committee would pass it on to the Board. He said any legislation can be introduced by any Alderman at any point in time.

Ald. Larose said his understanding is that the President of the Board sent it to the Planning & Economic Committee to the Planning Board and his understanding is the Planning & Economic Committee is going to send the Planning Board an invitation for the July 6, 2004 public hearing.

Mr. Farkas said there appeared to be some frustration about the length of time this took and therefore it was going to be introduced, although it is his understanding that the Chamber was going to report ??????? **unintelligible**. He would support a motion to hold this until they can see how this ultimately ends up.

Ald. Larose said the Chamber has sent their concerns to the Board and what they would like to see changed or what they agreed with.

Mr. Lowe said he understands that this is fifty pages long. He said they really should be able to at least read it so they can understand what's going on. He said you can't go into a meeting and discuss a fifty-page report without seeing it.

Mrs. Lasky said it's been over a year since this was initiated. She asked if the committee that worked on this ordinance has been disbanded or if it will be resurrected to look at the changes.

Ald. Larose said he doesn't see the Planning & Economic Committee taking a vote on July 6. He said he thinks it's just a public hearing where they will accept testimony and then they will work on it. He said he didn't think it was going to happen overnight.

Mr. Lowe said the committee that worked on this ordinance was made up of members from the Planning Board, members of the Zoning Board, members of the Public Works Department, developers, and two Alderman.

Mrs. Lasky said there was also somebody from the Chamber.

Mr. Houston said the Conservation Committee also.

Mr. Farkas said that it is his understanding that at least some people who were on that committee thought they were going to get comments from the Chamber, that they were going to review them and they were going to have at least one more meeting.

Mr. Houston said the City had hired a consultant who put the ordinance together initially. He said they asked for additional funds through Capital Improvements. It was in this year's budget. It received an "A" rating to be funded in the FY 05 budget to bring back the consultant who wrote the draft land use code along with the committee. He would be available to answer questions of the Aldermanic Planning Committee, the Board of Alderman, and the Planning Board. That was the original intent. The budget isn't finished yet so he assumes this is still up for discussion.

Mrs. Lasky said that she is assuming from the discussion that this item will be placed on hold. She asked if it is possible to get some clarification of the status and if, in fact, the committee that worked on it has been disbanded or if it will be brought back together again. She asked if this is up to the Mayor.

Mr. Houston said they serve for the Mayor and he thinks when the committee disbanded it was the intent to wait until they got comments back from the Chamber and got some direction to start the process up again. He said there probably should be at least the consultant that the City hired to write this come back and defend it and explain the draft ordinance along with the committee that was involved.

**MOTION** by Mr. Moran to table O-04-19.

**SECONDED** by Ald. Larose.

**MOTION CARRIED UNANIMOUSLY**

**Discussion Item**

Mr. Yeomans said they have a proposal to upgrade Sears at the Pheasant Lane Mall. He said this is going to be a new paint job over existing blocks. He passed out information on what the proposal is going to look like.

Mr. Houston said the building is at or near the State line. The parking lot is in Tyngsborough.

Mrs. Lasky asked how this is going to blend with the rest of the mall. She asked if it wouldn't stick out like a sore thumb now. She said they went through a whole exercise when this was going on so that everything would have some sort of uniform look.

Mr. Houston said if the Board recalls, when they looked at the Filene's building they felt that the beige tone was a good contrast color. What is being proposed works well. He said it is close to what is on Filene's. He said the other two front buildings, Macy's and J.C. Penny are kind of a jumble type of brick. It is a different type of building material altogether. When you get on the Sears side and the backside it's a dark brown CMU type of concrete unit that's been painted. He said the Target store is CMU, but they went to lengths to try to match Macy's in the front and to get a color scheme that worked in nicely with Filene's in the back. He said he thought this would have a cleaner appearance that what is there now.

After further discussion on this issue, the Board decided to leave this up to the staff.

Mrs. Lasky asked if the Board members would like to have a workshop on the ruling on the "McCoy vs. City of Nashua". Some members didn't feel it was necessary.

There was discussion about why the case was denied.

Mr. Houston said he didn't think Atty. Connell wanted to speak specifically about this issue. He said the Board usually has a yearly with him and the summer is coming up and they will be busy at the next meeting. If they start at 6:00PM and go to 11:00PM or midnight, it's a long night.

Discussion ensued about the decision making process by the Board and how, when motions are made, reasons for the approval or denial

should be stated clearly. Also, the fact that a decision did not have to be made the same night a case is heard if the Board felt they needed to have some guidance from Corporation Counsel.

There was also discussion about the case heard earlier where there was a shed (Case #2) and the Board imposed a stipulation that it be demolished or removed and whether they could do that since it did not appear to be on his land and if, in fact, the shed really belonged to him.

Mr. Houston said that it really is up to Public Service if there is an encroachment. He said he didn't think the stipulation the Board put in the motion does any harm. If the applicant feels that the shed is his and he wants to move it from the Public Service property and correct the situation that's fine. If there's a problem he imagines the applicant can come back. He doesn't believe the Board could enforce the stipulation.

Mr. Farkas said that the only concern he has is if the applicant moves the shed because of the stipulation and then Public Service says the shed belongs to them.

Ald. Larose said he didn't hear that it was a Public Service shed. What he heard was that there was a shed and there was a ramp on the applicant's property that went into the shed. That would make you believe that the shed was erected by someone for his or her personal use and not erected by Public Service. If he had heard that it was a public service shed he would not have made that stipulation.

**MOTION** by Ald. Larose to re-open New Business #2, 21 Atherton Avenue & David Drive.

**SECONDED** by Mr. Moran.

**MOTION CARRIED UNANIMOUSLY**

**MOTION** by Ald. Larose to strike Stipulation #6 in its entirety.

**SECONDED** by Mr. Moran.

**MOTION CARRIED UNANIMOUSLY**

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**ADJOURN**

Mrs. Lasky declared the meeting closed at 8:55PM.

**APPROVED:** \_\_\_\_\_  
Bette Lasky, Chair, Nashua City Planning Board

LT  
Taped Meeting

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