

NASHUA CITY PLANNING BOARD
January 13, 2005

A meeting of the Nashua City Planning Board was held on Thursday, January 13, 2005 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)
 William Slivinski
 Kelly Dowling

Also present: Roger Houston, Planning Director
 Richard Sawyer, Deputy Planning Manager

APPROVAL OF MINUTES

December 16, 2004

Mrs. Lasky said she would like to have the approval of the minutes tabled until the next meeting because she wanted Mr. Dufour to be present as there was considerable discussion on one case where that he was involved in.

MOTION by Ald. Larose to table the approval of the minutes of December 16, 2004.

SECONDED by Mr. Lowe.

MOTION CARRIED UNANIMOUSLY

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.

She reminded everyone that there was no smoking allowed in City Hall and asked that everyone turn their cell phones off or set them to vibrate.

COMMUNICATIONS

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

Set of elevation drawings pertaining to Case #2 on the agenda tonight.

Letter dated January 12 to William Goodman from Scott Cote, Director of Property Management at Southern NH Medical Center pertaining to Items #3 & #4, but mostly #4 - the site plan on Main Street (former Mobile Station).

Technical Review Meeting Sheet to determine regional impact.

Communication they were asked to forward to the Board concerning "NCHV Survey Offers First Glimpse of "War on Terror" Combat Veterans Seeking Homeless Assistance." It's an article that Ald. Tollner request be sent to the board.

REPORT OF CHAIRMAN, COMMITTEE & LAISON

Mr. Houston said the Capital Improvements Committee had their meeting last Monday and their next meeting will be next Wednesday night. He said last Monday they met with Dept. of Public Works and Fire Rescue.

Mr. Lowe said the Planning & Economic Development Committee is still looking at O-04-19, amending the planning and zoning ordinances. He said he thinks there's been a slight setback because they lost the consultant.

Ald. Larose said he believes the Nashua Regional Planning

Commission will be taking over the consultant's role.
Mr. Houston said the next meeting of the Planning & Economic Development Committee is Thursday, January 20.

OLD BUSINESS - SUBDIVISION PLANS

None

NEW BUSINESS - SITE PLANS

1. **Dunstable Road, LLC (Owner) Petroleum Wholesalers, Inc. (Applicant) - Proposed amendment to NR307 for the conversion of the existing 1,575 square foot service station into a convenience store with drive-thru and associated access, parking and site improvements, 163 Main Dunstable Road, Sheet E - Lot 27, Zoned "HB" - Highway Business. (Tabled from December 15, 2004 Meeting)**

Mr. Sawyer said the applicant has sent a letter asking that this be tabled again. They have waived the 45-day condition.

Remains tabled.

NEW BUSINESS - SUBDIVISION PLANS

2. **Barbara A. Goulet & Michael M. Mills (Applicant) Stephen A. & Joanne Kreis (Owners) - Proposed lot line relocation, 373 Main Street & 1 Park Avenue, Sheet 108 - Lot 66 & Sheet 124 - Lot 157, Zoned "RA", Urban Residence.**

David R. Hope, Patriot Land Surveying. Mr. Hope said the applicant is now also the owner of the property. He said they are seeking a lot line adjustment. The lot line adjustment required a variance that was granted on Tuesday by the Zoning Board. The way the rear lot line would be interpreted now would be a foot closer than the existing setback.

He said there will be a dedication to the City for highway purposes as a result of this lot line relocation. He referred to the cross hatched area on the corner of Main Street & Park Avenue shown on the plan.

He said there is a stipulation by the Zoning Board with regard to the proposed structure to be built on the corner. He referred the Board to the elevations in the folder. The person who will be

purchasing the new parcel is in the audience. Mr. Sawyer said the Zoning Board had two separated issues concerning this site at their last meeting. One was for the variance of the rear yard setback, which was granted. The second request had to do with a special exception to allow a two-family home on the corner lot. That was granted with a stipulation that the Planning Board review the architectural design. This is a separate issue from the lot line relocation.

Mr. Lowe asked if all the existing structures shown on the plan will remain.

Mr. Hope said nothing is being removed. All structures are staying.

SPEAKING IN OPPOSITION OR WITH CONCERN

No One.

SPEAKING IN FAVOR

No One.

MOTION by Mr. Lowe to grant the lot line relocation for 373 Main Street & 1 Park Avenue with the finding that it meets Section 16-108 and must conform to the stipulations of the Zoning Board.

SECONDED by Ald. Larose.

MOTION CARRIED UNANIMOUSLY

Mark Maynard, 7 Burgundy Drive, Nashua. Mr. Maynard said this is the first time that the Zoning Board has ever required him to have an elevation of a house plan. He said he believes they were worried that he would be putting in a "double-wide" there and they wanted to see what the house looked like.

Mrs. Lasky asked the Board if there were any questions concerning the elevation drawings of the proposed house, which the Board had in their possession.

Mr. Lowe asked if the house would be accessed through Park Avenue.

Mr. Maynard said it would be.

Mrs. Lasky asked if there is one driveway.

Mr. Maynard said it's actually two driveways, both on Park Avenue. He referred to the site plan.

MOTION by Ald. Larose to approve the architectural drawings for the proposed house to be facing Park Avenue.

SECONDED by Mr. Lowe.

MOTION CARRIED UNANIMOUSLY

Following Cases Taken Together

NEW BUSINESS - SUBDIVISION PLAN

3. 267 Main Street LLC (Applicant) Exxon Mobil Oil Corporation (Owner) - Proposed right of way dedication, 267 Main Street & Prospect Avenue, Sheet 97 - Lot 13, Zoned "GB/MU" - General Business/Mixed Use.

NEW BUSINESS - SITE PLAN

4. 267 Main Street, LLC (Applicant) - Exxon Oil Corporation, 3 Prospect Avenue, LLC (Owners) - Proposed amendment to NR 1625 to demolish the existing fueling station and to show the construction of a two story, 8,400 square foot professional office building with associated access, parking and site improvements on Lot 13 and the construction of a 5-space parking lot on Lot 10, 267 Main Street & 3 Prospect Avenue, Sheet 97 - Lots 10 & 13, Zoned "GB/MU" - General Business/Mixed Use.

Jim Petropulos, Civil Engineer, Hayner/Swanson, Inc., 3 Congress St. Mr. Petropulos said he is representing Dr. Goodwin, a pulmonary doctor associated with Southern NH Medical Center and Atty. Morgan Hollis, Project Attorney.

He said the first approval they are seeking is a plan of land that dedicates certain land for a street improvement associated with the project. He said the case for tonight is for a site plan upon two lots at 267 Main Street & Prospect Avenue.

He referred the Board to the map of the site. He said it reflects an existing survey of the area. Sheet 97 Lot 10 on Prospect Avenue is undeveloped and is basically 70'X70'. The second parcel is

NCPB

January 13, 2005

Page 6

Sheet 97 Lot 13, which is the corner lot at Main Street & Prospect Avenue.

He said the properties are abutted to the west by residential properties on Elm Street. There is a zone line that runs in a north/south fashion on these two properties. There are also residential properties at the end of Prospect Avenue. Directly to the south there is an office building fronting on Main Street across the street from this site. Kitty corner to this site is Southern NH Medical Center.

He said Lot 10 is the smaller of the two lots. Lot 13 has been used over the years as a used car lot and most recently as a gas station. There is an existing building located in the center with associated parking and concrete. Right now the property has two full access curb cuts onto Main Street.

Mr. Petropulos said he has shaded in orange a 1904 square foot area along Prospect Avenue that they are dedicating to the Prospect Avenue right-of-way for a contemplated street improvement to Prospect Avenue. It is a simple street dedication plan.

The proposal is to construct a two-story, 8400 square foot professional office building upon the property. Lot 13 will contain the building and nineteen parking spaces behind the facility. The other lot (Lot 10) will also support parking. The site plan shows five spaces. He has a sketch plan with him tonight that amends this from five spaces to nine spaces. He passed out some pictures to the Board at this point.

Mr. Petropulos said one of the first things they looked at when this was brought to them for development was Prospect Avenue. Prospect Avenue is a short, dead-end way. It has 24' paved width. It is at an offset to the intersection. It is also at an angle, less than ninety degrees. Even though there is the ability to go from Prospect Street to Prospect Avenue, there is a little jog there.

He said in developing the site, the two curb cuts will be eliminated. They are located close to the signalized intersection and the turning movements here historically created havoc. This means accessing the property off of Prospect Avenue. He said the improvement to the right-of-way widens the pavement from 24' to 36'. They will be providing a designated right-turn lane and a much better through movement to Prospect Street. He said there is a designated left-turn pocket, which is also an improvement. There will be brand new sidewalk around the entire front of the site. They have been asked to relocate the existing crosswalk. He

NCPB

January 13, 2005

Page 7

pointed out a signal pole on the plan. They are going to putting in a new mast arm. He said the Traffic Department has asked for audio signals for the pedestrians.

He said they have showed the Traffic Department general ideas about how this is going to work. They need to have a final signal plan, which they wouldn't do unless they are able to move forward with the project.

He said the property is located in the Mixed Use Overlay District that gives the Planning Board certain authority, not only to architecture but also to parking. Medical offices require four spaces per 1000 square feet, which means they would need 34 spaces. They are representing 24 spaces on the plan and his handout seeks to increase the amount of parking.

He said Dr. Goodman is not only going to own the facility, but he is also going to have his office here. It is likely that there will be four practices in the building. Dr. Goodman needs anywhere from 4 - 5 parking spaces for each medical practice. He referred to Scott Cote's letter.

At this point Mrs. Lasky read Mr. Cote's letter into the record. Mr. Cote is the Director of Property Management at Southern NH Medical Center. The letter is dated 1/12/05. The letter supports the project as it is consistent with on-going redevelopment activities in the Main Street area and is in keeping with the Downtown Master Plan. It also indicates that the ground floor of the parking garage on the campus is reserved parking for all medical staff of the Southern NH Medical Center and, as such, the medical staff within the proposed building will have access to the parking garage.

Mr. Petropulos said the point that he wants to make is that the Southern NH Medical Center parking garage has a designated first floor for employees of Southern NH Medical Center. Dr. Goodman is an associate of the hospital and his staff will have the ability as the other tenants of the building will likely have to park in that facility.

He referred to a plan where he drew a 1,000-foot radius around the site. It encompasses the Maple Street lot and the Spring Street lot. He noted that both Prospect Street and Bowers Street has on-street parking, which is available to the public as well.

He said they represented five parking spaces on the parking lot

NCPB

January 13, 2005

Page 8

across the street on Lot 10. He said there is a 48" maple tree on the site. He said Dr. Goodman had asked how they would be able to get as much parking on the lot and try to save the tree. Since they have submitted the plan they spoke to an arborist and he gave them some ideas about how they could be more efficient in their parking and the best way to build over the root system of the tree. He passed out some material to the Board.

He said the arborist said parking can be built. He said he would like to amount of earthwork to be limited. He recommended a "grasscrete" product, which is a paver product. It has perforations through it. It is set in a better gravel and it allows grass to grow through it. It allows the root system of the tree to get water. The amended sketch represents nine total parking spaces.

Mrs. Lasky asked if that the total amount of parking spaces provided is now twenty-eight, with the rest provided within 1,000' of the site.

Mr. Petropulos agreed.

He said this property has been addressed within the Downtown Master Plan. The Downtown Master Plan designated this area seeking certain types of development - one of them was offices. It also seeks two-story buildings with parking in the rear. These two objectives are met with this plan.

He said the site plan contains lighting and landscaping. He said there will be single pole lighting the parking lot behind the building. There is no proposed lighting upon Lot 10. He said landscaping serves to accent the building in the green areas around Main Street and Prospect Avenue. There are a number of trees on the southerly property line and westerly property line. They are fairly mature and they are going to do everything they can to try to save these trees.

He said there is a residential property to the west. There is an old dilapidated stockade fence there that they will be upgrading to a new stockade fence along that line.

He said the architectural plan has been presented to the staff and also is displayed for the Board tonight. It is a two-story brick structure with a flat roof. It is a split faced masonry unit face to provide a breakup of the brick. There are features around the windows as well as some work around the roof eave. There is also

NCPB

January 13, 2005

Page 9

an entry feature. He said the site will have access both for pedestrians off of Main Street as well as the patients coming from the rear.

He said they feel the project is consistent with the Mixed Use District and the Downtown Master Plan.

Mr. Lowe asked if the building is going to have a basement.

Mr. Petropulos said it does not. He said it is a slab on grade.

Mr. Lowe asked if the old tanks in the ground are going to be removed.

Mr. Petropulos said "yes."

Mr. Lowe asked if they are planning to do the parking lot first since there is already construction in the area which is going to last at least another year and there is already a parking problem because some of the construction crews are parking on the streets.

Mr. Petropulos said this is a good question. He said they can talk to the construction manager about this. He said they do have the opportunity to demolish the building and get the back parking area graded out. It would be nice to get it surfaced and then use it as staging and parking for the construction of the building. It isn't a big building. He said they would be able to use some parking on the "tree" lot, but one of the things the arborist said was not to compact the area.

Mr. Lowe asked if the Board could stipulate that they build the parking on Lot 13 first.

Mr. Petropulos said this really the construction manager's decision and he would hate to be held to that.

Mr. Lowe asked if they would work with the staff about this issue and Mr. Petropulos agreed.

Mr. Slivinski said when he read Scott Cote's letter he believes it states that people that are employees of the Medical Center may park in the garage. He asked how many employees they expect to have in the proposed facility.

Mr. Petropulos said Dr. Goodman is a practitioner of Southern NH Medical Center. He and his staff will have the right to park on

NCPB

January 13, 2005

Page 10

the first floor in the garage. He believes that there are three, possible four staff people. Other doctors associated with the hospital, but leasing space in the proposed facility will have a similar benefit.

Atty. Morgan Hollis, 39 East Pearl Street, Nashua. Atty. Hollis said Dr. Goodman is currently an employee of Southern NH Medical Center, as is his staff. He said the policy of the hospital is that if you are an employee or are affiliated with it, you are allowed to park there.

Mr. Slivinski asked if this is where the doctor will tell his employees to park.

Mr. Petropulos said "yes." The intent is for the parking lot with the proposed facility is for patients.

He said they are requesting a professional office building. If a lawyer decided to locate here, he would not be able to park at Southern NH Medical Center's garage facility. He would be asked to park in the smaller parking lot, the street, or one of the other lots available with 1000' of the site.

Ald. Larose said Mr. Cote's letter implies that Southern NH Medical Center is open to leasing spaces so if an attorney does locate in the proposed facility, it sounds like they have the option to lease space.

Atty. Hollis said that 280 Main Street, which is a privately owned office building do lease space from SNHMC who are not physicians, but he doesn't know what their current policy is.

Ald. Larose said the last paragraph asks to be kept posted on the project and that they were looking forward to future discussions concerning the opportunity to lease space within the building.

Atty. Hollis said he thinks that means they are looking to lease space within the proposed building for physicians. He believes any leasing of the hospital's garage space would be dependent upon their counted spaces to their facility.

Ms. Dowling asked if they were going to put a fence along the Main Street frontage or Prospect Avenue frontage.

Mr. Petropulos said it's the westerly property line where they abut the residential property to the west. There will be no fencing

NCPB

January 13, 2005

Page 11

along Prospect Avenue or Main Street.

Mr. Dookran asked if the new schematic that was presented tonight showed the required setbacks to Prospect Avenue.

Mr. Petropulos said it does not. He said they are in the Mixed Use District, which gives the Planning Board the opportunity to waive dimensional standards. Typically there is a 10' front yard setback in the GB Zone. He said he has taken liberties with that in order to meet the goal of protecting the tree and put in parking. He said they are representing a 5' green area there.

Mr. Dookran asked if the pavement is reduced in total as opposed to the one with grasscrete.

Mr. Petropulos said it is. He is paving the apron so the heavily traveled area has asphalt.

Mr. Dookran asked if there are any provisions or intentions to monitor the survival of the tree after construction.

Mr. Petropulos said he doesn't know how that can be measured. In preparing the final plans and details of the grasscrete he is probably going to want to talk to the arborist to see what he recommends. He said it isn't uncommon to have these large maple trees next to paved areas, especially in this particular area. He said that the arborist has provided written communication that indicates that large trees are more susceptible to construction areas, however, if the proper care is taken and the above procedure is followed, it is his opinion that the tree could survive in its new environment.

Mr. Dookran said that there is testimony that the crosswalk was going to be relocated. He asked about a crosswalk on the north side. He said according to a memo from the Traffic Department it talks about crosswalks from all approaches and according to Susan Klasen they agreed to it.

Mr. Petropulos asked if there is a crosswalk there now.

Mr. Dookran said there isn't.

Mr. Petropulos said they weren't proposing to do anything there.

Mr. Dookran said that according to Ms. Klasen they had agreed to everything in the memo which states: "The Traffic Department is requesting the applicant install thermoplastic crosswalks and

NCPB

January 13, 2005

Page 12

audible pedestrian signals at all approaches to the Main Street/Prospect Street/Prospect Ave. intersection."

Mr. Petropulos said he saw the memo, but he didn't pick up on it. He said when they discussed the project with the staff that was never specifically talked about. He said they are not intending on doing this - the expenses are in excess of \$30,000 for an 8400 square foot building and they have been more than fair with respect to this intersection.

Mr. Dookran said they are introducing traffic.

Mrs. Lasky said there is the availability of taking the crosswalk across Prospect Avenue and taking the one that is proposed over to Prospect Street and there is a sidewalk along that side of the street.

Mr. Dookran said this is Main Street and they should try to make it more pedestrian friendly.

Mr. Petropulos was away from the microphone and went to the displayed plan to draw in red and show the Board the sidewalks and other improvements and where people would cross if they were using the proposed facility and wanted to cross over to the hospital side.

Mr. Slivinski asked what was involved in putting a crosswalk to the north side.

Mr. Petropulos showed where there are two wheelchair ramps cut into the sidewalk. He was away from the microphone so his testimony was difficult to understand. It sounded like it would cost an additional \$6,000 for another crosswalk where Mr. Dookran suggested.

Mrs. Lasky asked Mr. Dookran if would be the safest thing if there was a crosswalk there with the service station being right there.

Mr. Dookran said in his opinion it is the safest thing to do. He said he discussed the issues with Susan Klasen and she said everything in the memo was agreed upon. Mr. Petropulos is saying otherwise.

SPEAKING IN OPPOSITION OR WITH CONCERNS

Bradley Whitney, 38 Fifield Street. Mr. Whitney said he has owned the property across the street on the corner of Main & Prospect - Whitney Professional Building - for forty years and has owned the

NCPB

January 13, 2005

Page 13

property at the corner of Kinsley & Main for about forty-eight years.

He said there was a fuel spill at the site and they sunk a test well on the sidewalk next to his property ordered by the Environmental Protection Agency about 1 - ½ years ago. He is assuming that was to test the migration how far it got across the street. He doesn't know what the test results were. He said they wanted to put two test wells on his property, but wanted to make him liable for any negligence. They landed up doing it on the sidewalk.

He said the original plans shown for the Zoning Board showed that they were encompassing the two properties west of the applicant's site to be used to provide adequate parking for the building's size. He believes they received an okay from the Zoning Board. The plan has been changed, but they are still six parking spaces short.

This would indicate that they should be building a 7000 square foot building for the size of the lot. He said the proposed building is 17.7% short on its parking spaces. He said the property may not forever house physicians. He posed the question as to what happens if it no longer is medical offices and becomes something else and they can no longer park in the garage at SNHMC. When there is no parking, the abutting businesses parking lots will get the overflow.

He said the applicant owns the house at 3 Prospect Avenue. This house abuts the nine-space parking lot. This would allow for the proper amount of parking. He said this is an incredible request in order to be able to keep the house and rent it. He said he didn't think they even had to destroy the house in order to get adequate parking. He said there is a tree in the proposed lot and asked why they are considering a parking area that is deficient in parking site with a tree that takes one or two spots. There is adequate space available for necessary parking by expanding the parking lot where there is extra land. The Zoning Board approved it all the way back on the south side of Prospect Avenue. He said he didn't believe there would be a problem getting necessary parking on the west side of the proposed nine parking lot location and still keep the house. They could have the driveway on the west side of the house. The parking garage is a first come, first served. He said there isn't anything in the application documenting any guarantee of designated parking spots reserved for this site in the parking garage.

He drives up to the top of the parking garage twice a year to look at the roof of his building to see if there are any problems. He said this garage is full. One time he tried to park there because

NCPB

January 13, 2005

Page 14

his lot was full and he went all the way to the top and had to come out as there was no parking available. It was full.

Mr. Whitney said he questions whether a doctor who might be late for an appointment is going to pull into the parking lot on the site or if he would take the time to park in the garage. He said he has doctors at his site who have parking privileges at the hospital who said they would park at the hospital and that lasted about three weeks. In fact, they complain now when someone else is parked in what they call "their spot." Even when they lost all kinds of parking due to snow piles, they still park next to their door.

He said in all his years experience in business and attending business seminars, employees all park nearest the door. There seems to be many excuses. They won't park across the street or distant from the door, even with lighting because it's in the rear of the building, they might get mugged when it's dark. He said we are all creatures of comfort and preference. Human nature won't change now and everyone knows it.

He said as an abutting property owner, he speaks with years of experience and hardship because he constantly has unauthorized people parking their vehicles on their properties. He said when meetings are held at the Chandler Library the public constantly parks on his property. He said the public has used his property to park and then walk down the street to the nail salon. In addition, sales people, visitors, and delivery people going to the hospital will park in his lot on Prospect Street & Main Street. It's convenient. He said visitors to 268 Main Street, south of his property and visitors to 280 Main Street constantly park in his lot. He receives numerous complaints from tenants. One tenant had an unauthorized car towed and the next day she came out to her car and she had four flat tires. Available parking within sight of the door is where everyone wants to park. If they are six spaces short there will be parking on his property if they see a vacant space. They are closer to the site than the parking garage. Mr. Whitney said it isn't just his property that is being abused. He said to ensure available parking Bank of American and Bank of New Hampshire have security guards monitor their parking.

He said a small insurance agency has four employees. A small two-lawyer office has six employees. A two-dentist office with 1500 square feet had nine employees until they enlarged and had more employees. The average physician's office he consulted has four employees, including the physician. A general practitioner books patients every ten to fifteen minutes. The next patient is sitting in the waiting room and their car is parked somewhere as is the

NCPB

January 13, 2005

Page 15

patient who is in with the doctor. The average physician that he consulted see about three sales people a day. They aren't there long, but they do have a car that needs to be parked somewhere. There are patients who might be coming in for other reasons, i.e., death certificates, insurance forms, drug samples, stopping to pay a bill, etc. They all arrive in cars. Even one spot less in the proposed parking lot will place a burden on his property.

He said last winter his lot went from 16 spaces to 5 spaces because of the snow. He said he could only afford to have snow removed for two spots because of the prohibitive expense when you start removing snow.

He said unauthorized customers, patients, visitors, delivery vehicles, salespeople, neighborhood residents and their guests and visitors all park in his lots at the following locations:

Kinsley Street Apartment Houses
Chandler Library
Elegant Nails
SNHMC
268 Main Street
280 Main Street
Gas Station Employees

He said if they allow this over-sized building with not enough parking it is going to add to his problems.

He said he doesn't understand how this application got this far, especially when the applicant has available space in the parking area on Prospect Avenue and the house lot next door. He said there is no hardship.

Mrs. Lasky said the hardship is not something the Planning Board addresses.

Mike Dube, 7 Gilson Road, Nashua. Mr. Dube said he owns H. Daw Service Station on the corner, and has since 1978. Mr. Dube said his concern is with the parking because a lot of time even the overflow from Elegant Nails will try to sneak into his lot if they have an open spot. He is limited with his parking as it is. He needs every spot he's got.

Paul Carpenter, Owner, 271 Main Street. Mr. Carpenter said this house is kitty corner to the southern border of the site. He said he was under the impression that they were going to try to remove

NCPB

January 13, 2005

Page 16

access from Main Street and get access onto Prospect Avenue, but the talk is about the building so he had a few questions.

Mr. Carpenter asked if the property is going to be owned by Exxon Mobil or if the doctor is going to own the property.

Mrs. Lasky said the doctor is going to own the property.

Mr. Carpenter asked the construction hours and the estimated time it will take to erect the building.

Mrs. Lasky said they will have the applicant address these questions.

Mr. Carpenter said the fencing on the southern part was not mentioned. There is a stockade fence that separates the property from his right-of-way. He asked if that fence is going to be replaced.

Mrs. Lasky said they will ask the applicant to address this as well.

Mr. Carpenter said that he spoke with Mr. Sawyer about lighting and was told that there are ways to put in lighting so that it isn't invasive.

Mrs. Lasky said generally lighting is downcast so it isn't invasive. She said they will ask the applicant to address this again so Mr. Carpenter can see it more clearly.

Mr. Carpenter asked about the dumpster location. He asked if it was going to be in the corner closest to him and at what time the dumpster will be emptied.

Mr. Petropulos pointed out the location of the dumpster.

Ald. Larose said the pickup of the dumpster hours is regulated by ordinance.

Mr. Carpenter said there was testimony that they wanted to keep the trees on the southern part of the property. He said there's a maple and big ash tree. He said the power lines come down from Main Street and there is a pole about 4" off the fence, which is near the ash tree. It is growing up through the power lines. If they have an arborist come in he would like to see them come over to prune the tree. He said the trees are being pruned by the trash pickup truck and the recycling truck because they are ripping the branches right off with the truck.

NCPB

January 13, 2005

Page 17

Mrs. Lasky said she believes that PSNH will do this.

Mr. Carpenter said that PSNH will do it if it is on the public street, but they are on a right-of-way. He has a Main Street address, but he's not on Main Street.

Mrs. Lasky said if the trees aren't on the site's property the Board doesn't have any control over this.

Mr. Carpenter said these trees do exist on the site's property and they grow out into the right-of-way.

He said at the Zoning Board hearing Atty. Hollis said there is a right-of-way on the back of this property into his right-of-way. He said this hasn't been used in fifty years. He asked if this is going to be used or if they are going to make it go away so that it can't be used.

SPEAKING IN FAVOR

Atty. Morgan Hollis, Gottesman & Hollis, 39 E. Pearl Street, Nashua. Atty. Hollis said with regard to the fuel issue that Mr. Whitney brought up, the site is the subject of a groundwater management permit that has been issued by the State of New Hampshire. When Exxon Mobil Corporation sells the property will retain the obligation to manage that permit and reserves an easement access over the property to service the property. The groundwater management permit is really monitoring. The property is being built as a slab on grade because of restrictive covenants with regard to digging into the ground. There are also restrictions on use that would prohibit residential use or another gas station. This is Exxon Mobil's choice.

He said there was a reference to parking and that if it didn't continue to be a medical office that there might be a problem because those professionals cannot park in the garage. He said there is a less onerous requirement for parking when it's not being used for medical purposes. If the non-medical calculation is used, 27 spaces would be required and they have 28. They would meet the requirements if it was used for non-medical professional use. He said this is in a Mixed Use Overlay District and a downtown neighborhood, not to mention that it's in proximity to the medical center campus. He said they believe the letter covers the issues with regard to the staff. If there is an overload on the parking, which may occur, they feel they have sufficient control because 1) the owner of the property will be member owned by a doctor - not an absentee owner 2) they feel there is sufficient accommodation in the

NCPB

January 13, 2005

Page 18

parking garage and they have permission to use it 3)if the spaces are overloaded or if employees park close to the door pretty soon people won't be able to use the facility and the patients won't come and the site won't function.

He said the ownership of the property will transfer, but Exxon Mobil Corp. will retain some liability for dealing with issues of environmental matters only. The construction hours are addressed by ordinance. They hope to have the project completed by November. The fence has been shown to be a complete replacement along the westerly side, not along the southerly side. If the tree along the southerly property line that affects the power lines is on their side they will deal with it.

He said they believe there are legal documents that reflect the right-of-way that Mr. Carpenter addressed is shared. In fact, their site has the right to use that, but with the proposed site they are not proposing any use of that right-of-way. As long as this site plan is what is being relied upon there will be no use of that right-of-way. He said his client does not intend to abandon the right-of-way.

Atty. Hollis said they shouldn't lose the improvements that are being made to Prospect Avenue, which is clearly an undersized right-of-way as it sits today. In the past there have been medical office facilities on the street. By providing an extra lane and widening the street as whole, they are going to improve the safety of that intersection. He said they have gone out of their way not only to mitigate their impacts, but to address some concerns that exist today on that street. If there is a need for the crosswalk that Mr. Dookran spoke to, their site does not generate it, it's a need that's generated by the City and if they feel it's an issue, it should be for them to take a look at. He said they are taking their impacts and mitigating them on their crosswalk. He said he believes that Mr. Petropulos was surprised about this issue because they hadn't heard any feedback from the plan. He said they may have been some miscommunication between the Traffic Department and Mr. Petropulos about what the words "all areas of the intersection" meant. At no time was this ever discussed or shown on the plan.

Mr. Lowe asked about the right-of-way from Lot 13 to Mr. Carpenter's lot.

Atty. Hollis said there is a right-of-way that Mr. Carpenter clearly has, which is his driveway access. That same right-of-way is deeded to the benefit of the property under discussion. He

NCPB

January 13, 2005

Page 19

believes it is shown on the plan.

Mr. Petropulos (presumably) showed the Board the location. He was not on a microphone and his comments could not be heard.

Atty. Hollis said they don't plan to use it and there is no intention to use the right-of-way. If the plan is approved, they would not have the ability to use the right-of-way. If they wanted to they would have to come back to the Planning Board. The issues of the right-of-way and whether it's a good one or a safe one would then be brought forward.

Mr. Lowe said that eventually a two-story garage is going to go where the Texaco Station used to be. It's the last phase of the revamping of the hospital.

Mr. Sawyer said the Board hasn't approved the parking garage. It has been presented to the Board as a concept plan. He said it is in the Downtown Master Plan.

Mr. Lowe said once that garage is built it will relieve the pressure on the other buildings and sites in the area. It really needs to be done.

Ms. Dowling asked if there is parking allowed on Prospect Avenue.

Atty. Hollis said he didn't think there was a "no parking" sign. He said it is a narrow street.

Mr. Sawyer said he thinks there is a sign, but he's not sure either. He said the residents probably know better.

Mr. Dube (from the audience) said parking is allowed on Park Avenue.

Atty. Hollis said if there is an issue the remedy is to go to the Board of Alderman to consider "no parking" signs. This is typically a problem the residents would have.

Mr. Dookran said he wanted to re-visit the crosswalk situation. He said according to the Traffic Engineer they had reached a consensus and agreement with Mr. Petropulos on everything mentioned in the memorandum. He said he might have missed it, but that isn't the Board's fault.

Atty. Hollis said the plan has been drawn and reviewed and over-reviewed and at no time did anyone make a comment that the plan

NCPB

January 13, 2005

Page 20

didn't show the other crosswalk so they were surprised when this came up tonight. He said he thought the understanding of the language in that memo is different from both sides - that is, are you going to put four crosswalks or are you going to address the crosswalks that are there.

Mr. Dookran said the fact that the plan doesn't show the crosswalk doesn't necessarily mean that it hadn't been discussed. He said they see plans all the time that don't show the final design.

He said Atty. Hollis mentioned that this plan is mitigating impact. It's introducing over 300 vehicles a day. He asked how this project is mitigating this traffic.

Atty. Hollis said they are widening and donating land to the City of Nashua that it probably needs today to meet a safety factor at that intersection. They are going to pay for the widening of the road to put a right-turn lane in and make a dedicated left hand turn lane for any traffic they are generating that might come out at that intersection. They are going to have to move the light to re-align that intersection to make it a safe intersection. They are re-aligning the sidewalk so that it's not a skewed crosswalk so that it's a much more normal alignment of a sidewalk at an intersection. They are going to eliminate the curb cuts, which currently create hazardous entry/exit, and they are designing the site to improve the safety of Main Street. They are going to run a sidewalk that doesn't exist across Prospect Avenue. He said he has been told that these costs are in excess of \$30,000 - \$35,000, which are extensive mitigation measures for an 8,000 square foot building. That does not include the value of the donated land.

Mr. Dookran said the mitigation serves their project, not the City. The widening to give the right turn is to accommodate the traffic from their site.

Atty. Hollis said it does accommodate their traffic, but it might not be necessary to accommodate their traffic. Their traffic engineer doesn't necessarily believe this would have to be done in order to accommodate the traffic in and out of that street. It is their obligation to mitigate their impact on the downtown area and that is what they are doing. In addition to mitigating, it is helping out the City's intersection. It is an intersection that has problems and they are helping it out.

Mr. Dookran said they need a crosswalk on the north side to make this intersection safe. This proposed site is adding a lot of

NCPB

January 13, 2005

Page 21

traffic that is added to this intersection. He said they are not really mitigating their traffic. The proposed improvements are just for their site. He said it is appropriate for them to add another crosswalk and help make the corridor pedestrian friendly.

Atty. Hollis said he disagreed. He said they don't feel they have the impact that makes that crosswalk necessary. He said they don't think that the cars that they are adding are going to make it any more dangerous or less dangerous than it sits today.

Mr. Lowe asked if it was possible to put a gas station back on the site right now without having to come to the Planning Board.

Mr. Sawyer said this is correct.

Mr. Lowe said the point is that the gas station could generate five times the amount of traffic that this proposed site is going to generate.

Mr. Sawyer said the data provided by the applicant and what he wrote in the staff report said the existing site generated about 1300 trips within a 24-hour period. The proposed site will generate about 300 trips in a 24-hour period. These figures are based on ITE calculations.

He passed out a photograph of the other crosswalks that are in the area so the Board can see the distance to the next crosswalk on Main Street. He said they believe it is less than 300'. He said this is just for the Board's information. He said this is a point of contention so when the Board makes their motion he asked that they make it clear. He said as far as the reduction of the front yard setback is concerned, this would also have to be added to the Board's motion. It is not in the staff report. It is listed in Section 16-274, Paragraph #7.

He said the Board has dealt with the reduction of parking spots in the Mixed Use District on a couple of occasions, most recently the Parthenon Restaurant across the street from City Hall. It required several dozen parking spaces for retail/office use and only two parking spaces were provided. The Board made the decision that there was available parking within 1000' of the site. The site is right next to the Maple Street lot and close to the Elm Street parking garage. He said he believes they also dealt with this on part of the Jackson Falls redevelopment.

He said if this was purely a professional office they would have

NCPB

January 13, 2005

Page 22

sufficient parking with the proposed plan. It is the medical use that drives the parking calculation up.

He said there is one light shown on the plan. It is located on the mid point on the back of the building. It will shine down on the 19-space parking lot. It meets the regulations for lighting. To date there has been no lighting proposed on Lot 10.

He said if the Board chooses to do so, they may further restrict the dumpster hours. He is sure the applicant would agree to normal business hours.

Mrs. Lasky asked how many more spaces could be secured on Lot 10 if the tree is not saved.

Mr. Sawyer said maybe one on each side.

Ald. Larose asked if one light was sufficient on Lot 13.

Mr. Petropulos said Nashua has lighting regulations and given the size of the site, they are only able to accommodate one light. There will be some lighting on the building entrances so people can see the entrance, but there is only one light pole that is going to be centered in the back.

Ald. Larose asked if they could put some lighting on the building that would illuminate the back.

Mr. Petropulos said it wouldn't meet the code, which is very strict.

Mrs. Lasky asked if there is a need to put a light on the parking lot located on Lot 10.

Mr. Petropulos said they didn't think so. He said he thinks they would have a hard time meeting the lighting code and the tree would probably block all the light anyway.

He said the hours of operation are stated on the plan. They have normal business hours.

Mrs. Lasky said 8:00AM - 6:00PM Monday through Friday.

MOTION by Mr. Lowe to approve the right-of-way dedication plan for 267 Main Street & Prospect Avenue, Sheet 97 - Lot 13 with the finding that it meets Section 16-108.

SECONDED by Ms. Dowling.

MOTION CARRIED - 5 - 1, Mr. Dookran opposed.

MOTION by Mr. Lowe to approve the site plan for a two-story, 8,400 square foot professional office building at 267 Main Street & 3 Prospect Avenue with the finding that it meets Section 16-123 and with the following stipulations:

1. Prior to a certificate of occupancy being issued, all on site and public improvements shall be completed.
2. Applicant shall work with the staff on construction parking schedule.
3. Dumpster pickup will be between the hours of 7:00AM to 6:00PM.
4. Waive the front yard setback on Lot 10 from 10' to 5' per Section 16-274.
5. Accept revised parking plan on Lot 10 as submitted.

Ald. Larose asked if the Board was going to have some discussion about the crosswalk that Mr. Dookran wants on the north side of Prospect Avenue.

Mr. Lowe said this is asking the applicant to do too much. They are doing a lot of improvements.

Ald. Larose said that he agreed that they are doing a lot, but they are building a medical center and the doctor might refer the patient to SNHMC for x-rays. The hospital is on the north side of Prospect Street so when you come out of this building you are going to make a choice of either crossing the street on the south side or the north side of Prospect Avenue to Prospect Street. It would seem to him that you would want a safe crossing. He said he tends to agree with the City Engineer on this issue.

Ms. Dowling said this is putting the sidewalk in front of a place where traffic is going to come right out onto Main Street and nail people in the crosswalk. She went to the plan and explained what she meant.

Mr. Dookran said they are not putting people in harm's way. He said this is the way to treat a major intersection - crosswalks all around.

Mr. Slivinski said he agrees with the City Engineer. He said they knew that this was wanted before they put the plan together. He said he doesn't see anywhere on the plan where the crosswalk on the south side is supposed to be perpendicular to it. The fact that it's drawn at an angle tells him that they ignored this.

Mr. Sawyer said that there is a note on the second sheet that the final layout plan will be submitted in accordance with the memo and approved by Engineering, Planning and Traffic.

Mr. Slivinski said they are going to get a lot of traffic here and the Board is allowing them to build the facility with less than the required number of parking spaces. They have indicated some of the parking will take place across the street in the hospital's parking garage so people will be walking back and forth through the intersection. Although they are making improvements to the intersection, it is really to benefit their site. For safety sake and for long-term use of the property, he believes the applicant should put in the additional crosswalk on the north side of Prospect Avenue.

AMENDED MOTION by Ald. Larose to add another stipulation as follows:

6. Add a crosswalk to the north side of Prospect Avenue crossing Main Street.

SECONDED by Mr. Slivinski.

AMENDED MOTION CARRIES 4 - 2, Mr. Lowe & Mrs. Lasky opposed.

MOTION SECONDED (with six stipulations) by Mr. Slivinski.

Mr. Houston said about a year ago the Board had a major addition to the hospital across the road. A crosswalk was not required of that addition and it probably would have been more appropriate at that time. He agrees that there should be a crosswalk here, it's just a question of who pays for it.

MOTION CARRIED UNANIMOUSLY

Mr. Petropulos said that he didn't mind having a debate about a crosswalk, but he felt that he was impugned here tonight by Mr. Dookran and he was taking extreme exception to it - that he

NCPB

January 13, 2005

Page 25

purposely misled or agreed to something. He said this is totally false. He said Mr. Dookran has done this to him before and he is upset. He said he had two meetings with Mr. Doorman's staff and they talked about specific crosswalks and buried in the memo it says they own another approval. He said he was sorry - he missed it and he made that clear to them tonight. They talked about two crosswalks and Mr. Dookran has said he purposely left it off the plan. That is not true.

Mr. Dookran took exception to this accusation. He said he never did such tonight.

Mrs. Lasky said they will leave it at that. She said there has to be a meeting of the minds somewhere between what has been happening all too frequently, with the Planning Board in the middle. She doesn't know where it comes from, but the parties concerned ought to be sitting down and communicating as to who is doing what and when it is going to happen.

She said if this should happen again she is going to suggest that the project be tabled.

NEW BUSINESS - SITE PLAN

5. **Pennichuck Water Works, Inc. (Owner) - Proposed amendment to NR 705 for a 12,100 square foot addition to the existing water treatment plan and the construction of a 300,000 gallon spent water tank and a 6.5 million gallon water storage tank, with associated access, parking and site improvements, 200 Concord Street & 233 Manchester Street, Sheet 52 - Lot 118 & Sheet 51 - Lot 8, Zoned "R18" - Suburban Residence.**

Don Ware, Senior Vice President - Pennichuck Water Works. Mr. Ware said he is responsible for the regulated water utilities. He said Rebecca McEnroe, their Water Supply Engineer and the Project Manager for this particular project and Frank Holmes, a project engineer with Faye, Spoffard, & Thorndike are also present tonight.

He said this project is an amendment to the site plan that was approved to construct the existing water treatment plant along 200 Concord Street in 1978.

He said the site plan improvement are the result of about two years of intensive study of the existing treatment facilities and looking at both current and future safe drinking water act regulations. The

NCPB

January 13, 2005

Page 26

proposed site plan shows the necessary improvements to the water treatment plant in order to ensure continued compliance with the Safe Drinking Water Act. It is similar in nature to projects that are on going, either under construction in design or proposed design in Lowell and Lawrence, Mass., Manchester, Exeter, Salem, Portsmouth, and Concord, NH.

Frank Holmes, Faye, Spoffard, & Thorndike, Boston, Mass. Mr. Holmes said this project is going to be built on two separate lots. The first is 52-118, which comprises 124 acres and the second lot (51-8) is where the water storage tank is going. That lot comprises 38 acres. He referred to the plan and showed where the zoning line comes through the property. One portion is zoned R18 and another portion is zoned RA. He said Concord Street is to the east, Pennichuck Brook is to the north, Manchester Street is on the other side of Supply Pond and Harris Pond and Henry Burke Highway is to the south.

He said the features colored in tan are the existing buildings - concrete water tank, a building referred to as the snow building, and a couple of other buildings. He showed the existing access off of Concord Street. There is a road that comes on the north side of the existing plant building. He showed the location of the parking and the circulation road that goes around the back of the treatment plant building. He said new features are shown in the darker color. It shows a proposed finish water pumping station, and a proposed 300,000-gallon spent wash water tank. He said new pavement is shown in the dark color gray. The access road is going to be relocated around the building and there will be twenty-one new parking spaces. A loading dock area is proposed for the new pumping station building.

He said they have calculated that they require forty-six parking spaces for the site. With the twenty-one new spaces there will be a total of forty-nine spaces on site.

He said under the existing conditions, there are catch basins and drain pipes that discharge toward Pennichuck Brook. He showed their locations on the plan. He said all of the new pavement and the roof drains from the new building are going to be collected into the drainage system and discharged to an infiltration basin. He showed the location of the infiltration basin. He said runoff from the water storage tank will be directed in swales to a detention basin. He showed the location of that basin on the plan.

Mr. Holmes said the proposed landscaping on the site is going to

NCPB

January 13, 2005

Page 27

consist of landscaping at the front entrance of the building to help improve its appearance once the new elevator and stair tower are constructed. There will be landscaping on the east side of the parking area and another area (which he showed on the plan) to help screen the new work on the project from Concord Street.

He said new lighting is proposed in the parking area, around the new building addition, and along the relocated access road. The existing lighting on the existing road and the existing parking lot is going to be replaced with new lighting fixtures.

He presented drawings to the Board. He said one represents the proposed water storage tank. He said the drawing shows a section through the wooded area on the top of the hill where the tank is going. It is drawn to scale and shows the height of the structure and the height of the trees that are generally found in that area. He said Pennichuck went up on the hill with balloons that they raised up to measure the height of the trees. He said they found that they are generally 70' tall in that area so the view of the water storage tank from Henry Burke Highway and from Concord Street would be screened by the existing trees. In addition trees are proposed along the east side of the water storage tank that would be lower in height, but would fill in the area where lower branches are missing on the other trees.

He said there are elevation drawings of the proposed building, which is generally going to consist of brown face CMU block. He showed the location of the entrance to the addition. He said there is going to be a glass doorway entrance. All sides of the building are going to have 8"X8" glass blocks which will provide some natural light into the building.

Mr. Lowe asked if there are any houses in the area.

Mr. Ware said there are a series of paper streets in the area that encompass about twenty different lots. He said of these, Pennichuck owns fifteen. A couple of the lots are owned by St. Joseph's Hospital, a couple are owned by the City of Nashua and he believes a private owner owns one. There is no street access in here that was ever publicly accepted. He said the closest structures would be Pennichuck Jr. High. He pointed the location of the school out on the plan. He also pointed out the location of Lillian's Motel and the Lavalee apartment complex.

Mr. Lowe asked what the blue line represented.

NCPB

January 13, 2005

Page 28

Mr. Holmes said this represented the 75' buffer line for the wetland.

Mr. Lowe thought the buffer was 300' or 400' because of the ponds.

Mr. Ware said upstream of the ponds there is a 300' setback and a 500' setback. The supply pond is the lowest pond. The area that has been delineated 75' is down gradient. The water from there does not flow back into the pond. It flows away from the pond so it doesn't fall under those setback requirements. Also, within those setback requirements which were established by Pennichuck, were the provisions that if they had to and the only thing that impacts is the tank, is to construct within the setbacks, facilities necessary to carry out the operations of the water utility.

He said the tank behind Rivier College is essentially almost identical. It's 162' in diameter and 35' high at it's side wall. The proposed tank is 192' in diameter and 30' high at it's side wall.

Ms. Dowling asked if the tank itself sits on grass.

Mr. Ware said "yes."

Ms. Dowling asked if maintenance is required or if there is any access provided or if they would just drive on the grass to get a truck in.

Mr. Holmes referred to the plan. He said the grey line represents a 12 1/2' wide gravel drive that would provide access up into the area.

Ms. Dowling asked where it comes out.

Mr. Holmes said Concord Street.

Mr. Dookran asked how often they would have to gain access to the tank.

Mr. Ware said the tank will be concrete. Once it's constructed there is no maintenance. He said they will probably be going up once a week to observe the area to see if any trees have fallen or to see if there are any signs of activity. The transmitter that will measure the tank's elevation will be back in the new pumping station.

NCPB

January 13, 2005

Page 29

Mr. Dookran asked why access is on Concord Street as opposed to plant access road.

Mr. Ware said that grade is much too steep. He said they could run an access parallel with Concord Street in front of the grouping of trees and tie into the existing access road if that is preferable to the Board. He said he didn't have problems with doing that and would be happy to adjust the plans accordingly.

Ms. Dowling said she was thinking that if there is an entrance out onto Concord Street there is nothing from preventing somebody to go down the road to see where it leads. She asked if a fence is appropriate.

Mr. Ware said there is a fence on the site. He asked Mr. Holmes to show the Board the location of the fence on the plan. He said there is an entrance gate that will be maintained right there. Making a right is easy enough to go up there, but then you have to cross Concord Street, go down and go left. There is a fairly steep slope where the trees are, but they could make a left after they get past there coming out from the tank, go parallel with Concord Street, all on their own property and tie into the existing access road.

Mr. Dookran said it appears the base of the tank is above the surrounding grade. He asked if this is deliberate.

Mr. Ware said the tank was designed to balance the cuts and fills on the site. Instead of hauling off a lot of material, the tank is roughly 2' - 2 1/2' in the ground and the fill is then used to provide the cover around the tank.

Mr. Dookran asked if the detention pond runs into the woods.

Mr. Ware said there is a natural wetlands bog. If you were to drive along Henry Burke Highway you would see a big bog in that area and that is where the drainage is going. Until you hit a 50-year storm, nothing leaves the site at all.

Mr. Slivinski asked where the water would go if the tank happened to rupture.

Mr. Ware said this tank is designed with what are called "earthquake tendons." It is designed for the earthquake loadings in the area. He said they had the same questions when they sited the tank behind Rivier College. He said tanks such as this are

NCPB

January 13, 2005

Page 30

designed so that they don't rupture instantaneously. What would happen is that there would be a slow leak that would gradually build. The concrete is wrapped in pre-stressing wire and then coated in concrete again. If there were an earthquake in excess of the design he doesn't know of anybody who could give an honest answer as to where, how it would break, or where the water would go.

Mr. Slivinski said he always thought these tanks were made of steel. He asked if this type of concrete design is something new.

Mr. Ware said the design for this type of tank started in the 1930s. He said they are a competitor to steel. He said a steel tank this size costs about 1.5 million dollars to paint and they need painting about every 20 years. A concrete tank can be constructed at the same cost as a steel tank up front (about three million dollars), but once it's up you don't do anything to do. You drain it down every five years and do a visual inspection to make sure you don't have any cracking in the concrete that would be excessive or that would allow water to get at the steel so it would start to rust.

Mr. Dookran said it appears a stand of trees will be reduced significantly due to the construction of the access road, the building, and the parking. He asked if the neighbors across the street will be able to see the building.

Mr. Ware said he didn't believe they would be able to see the building at all through the stand of existing trees. He said the trees are pretty thick and they are high. The grade actually blocks a lot of the view. They are adding trees in one location where they were clearing some trees, and they thought there may be the ability to see the parking lot and the new building. It should look just like it looks now. You can only see down the corridor of the driveway.

Mrs. Lasky asked how many feet in the first parking lot is located from Concord Street.

Mr. Ware said 350' - 400'.

SPEAKING IN OPPOSITION OR WITH CONCERN

Barbara Pressly, 11 Orchard Avenue. Mrs. Pressly said approximately two years ago the citizens of Nashua by a 97% has given permission to the Board of Alderman to proceed with

NCPB

January 13, 2005

Page 31

purchasing this company.

Ald. Larose said the Planning Board has no jurisdiction on the economics of what Pennichuck wants to do. The Board has to make a decision on whether the plan meets the requirements of the site plan regulations and then voting to either approve or deny the application.

Mrs. Pressly said she appreciates Ald. Larose's point of view, but she thinks that it's important that some of what she wants to say be entered into the record. She said she knows that the purview of the Board is limited and she is aware that they have to do what they have to do by statute and laws. She is asking that the Board allow her to enter her views into the record.

Ald. Larose said this is a PUC matter, not a matter for the Planning Board. He said as far as he is concerned if Mrs. Pressly wants to bring up something it's at the PUC and not at the Planning Board. He said this has nothing to do with the City purchasing or not purchasing Pennichuck.

Mrs. Pressly said she objects. She said she is offended, that as a citizen and as an intervener, with the timing of this. She said she thinks it points out why its important for the City to purchase the property. It makes her curious as why the study began two years ago because it was the identical time they were selling the company. It also points out the differences. If the City were to own the company, she is not sure the City would pursue this course. One of the differences that the City wants and what the company wants has been natural protection or artificial. One of the major complaints has been the destruction of the natural protection of the water supply.

She said the company has not been a good steward and has not protected the land and the natural water system. She said the City has a document that has indicated they would much prefer to dredge the pond. She asked if anyone had stopped to think how this was going to affect the water rates. Although this might not be in the Board's purview, she doesn't know that anyone in the public knew about the opportunity for this to be expressed at a more appropriate time.

She asked if the Board would consider tabling this request at this time to see if there are other options and to see how it would affect the water rates. Right now the company is asking for a 19%

NCPB

January 13, 2005

Page 32

increase. She thought it would be appropriate to ask that the Board of Directors of the corporations attend some of the public hearings and present themselves.

Mrs. Lasky said the same procedure that is always followed, has been followed in this case in terms of abutter notification and hearings and allowing the public to come to say its peace.

Mrs. Pressly said she understands that the Board has guidelines and she expects them to follow them. She said she understands that the case went to the Zoning Board and the Conservation Commission and she did not know about those meetings.

Mrs. Lasky said it is not within the purview of the Planning Board to get into policy.

Mrs. Pressly said she understands this. She said the Alderman have been very careful about keeping an arm's distance from this, but she believes as a private citizen and as someone who has an intervener status that it is important that there be someplace in the City record that the timing of the request is inappropriate.

Mr. Lowe asked if the PUC had approved this project or if they have to.

Mr. Ware said the process began in 2001, long before the company was up for consideration to be bought or otherwise. It was driven by changes in the Safe Drinking Water Act. As he said earlier, when you look around the State there are utilities that are completing this project at this stage or are in the process of constructing projects at this stage. There are utilities like Concord that are just going out to bid.

He said as far as the way the process goes at the Public Utilities Commission, they have already had meetings with the Commission to present the scope and nature of the project. Once they reach a point where they have a good estimate of the project, the Commission reviews it. This has to be reviewed before you go to construction, but they don't comment on it. The only time they get into commenting is when you go in for rates to recover the investment in the project.

He said they had a meeting in April 2004 with the Commission as they completed the first part of the design. They had a meeting with them in April 2002 to discuss the process of identifying an engineer and before that in 2001 as they began the process.

NCPB

January 13, 2005

Page 33

Mr. Lowe asked if the Planning Board had to approve this project before the E 22 or is it the other way around.

Mr. Ware said there is no relationship between the two. He said the State doesn't look for the community to approve anything. The State is looking at it from the standpoint of whether it is prudent - if the investment has to be made/is it an investment that is necessary in order to provide safe drinking water to the community.

Mr. Lowe asked if the drinking water is for Nashua only.

Mr. Ware said the water treatment plant basically provides water to a small part of Merrimack, Nashua, Amherst at different times, sometimes all the way out to Milford, sometimes to Tyngsboro, and sometimes to Hudson.

Barbara Pressly. Mrs. Pressley said the presenters tonight are valuable employees of the company and she has a lot of respect for them. She said she is hopeful that when the City does purchase it, that most of them will remain.

She said according to the records that she has, Pennichuck started the process of selling its company in October 2001.

SPEAKING IN FAVOR

Bradley Whitney, 38 Fifield Street. Mr. Whitney said he is probably one of the closest homeowners next to the water tank by Rivier College. He said he asked a lot of questions at the time and he was well satisfied.

He asked if someone would go over how the access hole in the tank is closed. He said it was explained to him, but he can't recall, other than it was very strong and that it was safe. He is in favor of the request.

Mr. Ware essentially there is the equivalent of a submarine bulkhead that has a wheel that's lockable. Basically, when it is locked down like a submarine, it's got a gasket and that's what seals the door. He said when the water from this tank is drained it will enter an existing chamber underneath the plant and then pumped out of there.

Mr. Whitney said there is a gate at the entrance to the drive up to the tank by his house. He asked how frequently it is locked. He said at one time kids went up with their dirt bikes and that was

NCPB

January 13, 2005

Page 34

stopped. He knows the Police do drive up in the area. He asked if the Police monitor this site at all. He asked if there is anyone on site 24 hours a day.

Mr. Ware said they know there are cell towers at the Fifield Street site so the gate up there is constantly opened and closed and is more open than it is closed. He said at this site the only access is by employees of Pennichuck Water Works. The best way is to take the access to the tank and bring it back to their existing single pointed access. That will be fenced as well. There is someone there 24-hours a day and there are full camera facilities at the plant that look at all corners of the plant.

Mr. Slivinski asked when they would expect to begin construction how long they expect the process to take.

Mr. Ware said the plan is that the exterior work to the plant would be to start sometime around September 2005 and completing construction of that phase sometime in late 2006. The tank, which can be built in one construction season, would be slated to go to bid this fall. The site work to prepare for the construction of the tank would be done this fall and the actually tank construction would take place between April 2006 (or as soon as the snow was gone) and November 2006. The remaining contract associated with the internal improvements to the plant (upgrades to filters, pulsators, change in chemical feed facilities, etc.) are slated to be done in terms of design sometime the later part of this year, go to bid and start construction in early 2006 and will probably take to the later part of 2007 in order to complete.

Mr. Slivinski asked how many cubic yards of concrete this is going to involve. He is trying to get a feel for what kind of truck traffic they are going to be looking at going in and out of the site.

Mr. Holmes said he isn't sure. He would have to get back to the Board with that information.

Mr. Ware said as far as the tank is concerned, it will take approximately ten days to pour the tank. During that time frame there will probably be on the order of about twelve trucks a day. The first thing they do is pour the base slab. That will be the most intense time of truck traffic. That will be an all day activity. He said the walls and panels themselves are poured in panels on the ground and they do a series of pours over a period of 7-8 days as is the roof. They take those walls and stand them up. They take the roof and put it on top and then they wind it all in

NCPB

January 13, 2005

Page 35

steel. That process takes three to four months and then they come in with a series of trucks and coat the outside with what's called "shockcrete".

Mr. Slivinski asked if they expected to do any blasting.

Mr. Ware said the ledge up top is about 90' down. Based on the borings, the design was set to avoid ledge.

Ald. Larose asked if they were going to have a Police Officer direct traffic on Concord Street when they are having the concrete brought in.

Mr. Ware said he thought that would be a matter for Engineering/Police to decide. If it is recommended, that is the process they will follow and incorporate into the construction process.

Ms. Dowling said the staff made a recommendation that prior to any work being conducted that a pre-construction conference is to be held. She asked if something like this would be addressed at that conference.

Mr. Sawyer said this can be discussed. It is something they have talked about at other sites. He said if the Board has a particular feeling about this, he would like to hear about it tonight. He said he thinks a Police Officer for this period of time would be fairly expensive.

Ald. Larose said he wasn't talking about the whole time, but if he heard right there was going to be two days of solid truck traffic bringing in concrete and that's the time he was referring to.

Mr. Ware said they will be happy to discuss this with the staff. He said the engineers are not at the point in design where they know the total volume of concrete and how it's going to be staged. He said when this is done they will be able to say that they can anticipate there will be so many trucks a day and they will be a certain length of time apart. There is also going to be a certain amount of contractor activity and they will be set up with parking on-site. If it is determined that police are needed at certain times, they will abide by that decision.

Mr. Dookran said that section of Concord Street is under the jurisdiction of the Department of Transportation and not the City.

He said this tank has a severe impact to a valuable watershed. He

NCPB

January 13, 2005

Page 36

asked if they had looked at any alternatives.

Mr. Ware said this is the site that is viable. He said if they look at the land that they own and look at where they can go with a tank of this size, this is the location. If you go further away from the plant, you get into the upstream of the watershed. Where they are, the water from that tank is going to shed away from the pond. He said they could put it out front where the trees are toward Concord Street because the area is big enough, but the concern is the visibility.

Mr. Lowe said he thinks somebody should visit the site. He asked if anyone has visited the site and walked it.

Mrs. Lasky said she went in and ran into Chris County who was very helpful to her. She said she doesn't feel the need to walk the site with what she has seen tonight. She said if the Board feels that they need to do this, it can be arranged between now and the next meeting.

Ald. Larose said he doesn't feel he needs to make a site visit. He said he is familiar with the area. He said maybe Mr. Lowe could explain why he feels the need for a site visit.

Mr. Lowe said he wanted to get to where the tank is and take a look around to see if anything can be seen.

Ald. Larose said if you are going down the Henry Burke Highway he is interested only in what the guy in front of him is doing, not if there is a water tank over there. He said he doesn't see where having a glimpse of the tank is that disadvantageous.

Mr. Slivinski said initially he thought he might want to go out and visit the site, but he didn't think it would accomplish anything. He said the area in the back is a beautiful area and he is worried about expanding on the site, but he is also practical and knows the utility is there already.

Mr. Ware said even if the Board didn't take a site walk, if anyone here is interested in touring the site, they would entertain that.

Mrs. Lasky said one of the things she was informed of it that a lot of what they are doing is due to EPA requirements.

Mr. Ware said it is an ever-moving picture of regulations. The

Safe Drinking Water Act was authorized in 1974. There were no changes in the Act until 1979, when a single standard was added. He explained what that was for. He said in beginning of 1984 Congress got frustrated with EPA because nothing was being done further about safe drinking water. In 1986 the Safe Drinking Water Act was re-authorized and they went from 34 standards to 81 standards. They went from a turbidity allowance of 1 (he explained what this is) to .5 at that stage. He said Congress also said this Act would be re-authorized every ten years and every three years they wanted to come up with twenty-five new contaminants that would need to be monitored. He said they have migrated relative to surface water from the surface water treatment rule to the enhanced surface water treatment rule, to the long term 1 enhanced surface water treatment rule, and now to the long term 2 enhanced surface water treatment rule. Those changes in the rules have brought them to the point where they have operated the plant and the operators have only certain things they can do with the current mix of chemicals and treatment facilities, and pumping facilities. He said its very difficult to meet the regulations.

MOTION by Ald. Larose to grant the site plan for Pennichuck Water Works to amend NR 705 for a 12,100 square foot addition to the existing water treatment plant and the construction of a 300,000 gallon spent water tank and a 6.5 million gallon water storage tank, with associated access, parking and site improvements 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 set up with the Planning Department to review the overall details of the plan.
2. Prior to any work being conducted final engineering/drafting corrections shall be made to the plan and approved by the Engineering and Planning Departments.
3. Prior to a building permit being issued documents pertaining to the storm water operation and maintenance plan shall be recorded.
4. Prior to a building permit being issued, approval of the NHDES Wetland Dredge and Fill Permit, The Site Specific Permit and Shoreline Protection impacts shall be obtained, if required.
5. With approval of the plan the waiver of Section 16-110 for the plan size from 24"X36" to 30"X42" has been granted.

6. Change road access from the existing entrance to a roadway along Concord Street on their property to access the new tank.
SECONDED by Mr. Dookran.

MOTION CARRIED UNANIMOUSLY

OTHER BUSINESS

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

Mrs. Lasky asked Mr. Houston if any of the projects shows on the tentative agenda will be coming to the Board at their next meeting, particularly the Wal-Mart project.

Mr. Houston said it is not on yet, but they will keep the Board posted.

MOTION by Mr. Slivinski finding that there are no proposals of regional impact on the next agenda.

SECONDED by Ald. Larose.

MOTION CARRIED UNANIMOUSLY

2. 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. (Tabled from June 3, 2004)

No motion to remove from the table.

Other

Mr. Lowe referred to the memo regarding the issue of elderly housing. Basically, if there is housing for ages 55 and over, it has to be 80%. The other 20% can be anyone, including people with children. He said they have been told in the past that it is for people ages 55 and older and they have recommended the waiver of impact fees on that basis. They should be charged for at least 20%. The other thing about the age 55 and older is that only one person per unit has to be that age, which means you could have a younger spouse and there could be a minor child. He said they're going to have to watch this more carefully than they have in the past.

Mr. Houston said he has been in several of the retirement communities around town and hasn't seen children other than those that are visiting, but he believes Mr. Lowe's suggestion should be reviewed.

Mr. Sawyer asked the Board to check the list with Board members information on it and if there are any changes, such as telephone numbers, etc. to let him know.

Mrs. Lasky said the Mayor is setting up a Passenger Rail Advisory Committee and is inviting the Planning Board to participate. He said he has asked her and she asked if there is another member of the Board who would like to participate.

Mr. Slivinski said he would be interested.

Mrs. Lasky said the organization meeting is January 24 at 6:30PM in the City Hall auditorium.

ADJOURN

Mrs. Lasky declared the meeting closed at 10:40PM.

APPROVED: _____
Bette Lasky, Chair Nashua City Planning Board

**TAPES OF THIS MEETING ARE AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS.
COPIES OF TAPES MAYBE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.**

lt
Taped Hearing