

NASHUA CITY PLANNING BOARD
June 16, 2005

A meeting of the Nashua City Planning Board was held on Thursday, June 16, 2005 at 7:00 PM in the Auditorium at City Hall.

Ken Dufour, Vice Chair started the meeting.

Members present were: Bette Lasky, Chair (Arrived 7:12PM)
 Ken Dufour, Vice Chair
 Ald. Richard Larose
 Mike Lowe, Mayor's Representative
 Steve Dookran (City Engineer)
 William Slivinski
 Steve Farkas
 Hugh Moran
 George Torosian

Also present: Mike Yeomans, Deputy Planning Manager
 Rick Sawyer, Deputy Planning Manager

APPROVAL OF MINUTES

May 19, 2005

MOTION by Mr. Lowe to approve the minutes of May 19, 2005, waive the reading and place on file.

SECONDED by Ald. Larose.

MOTION CARRIED 7-0-1, Mr. Moran abstaining.

COMMUNICATIONS

Mr. Yeomans said the following item should be in the Board's folders:

Mr. Yeomans said the site plan for Beebe Rubber has just been handed out. It's on the agenda tonight. It shows some revisions. The engineer will discuss this in greater detail. Along with that there is a memorandum from Wayne Husband to him (Mr. Yeomans) dated June 15, 2005 on the same topic concerning the entryway onto East Hollis Street.

Memorandum dated June 15, 2005 from Wayne Husband to him concerning 12 Murphy Drive. It concerns the expansion of the traffic lane on Murphy Drive to accommodate the road widening.

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Memorandum from Dubois & King dated June 16, 2005 to him on the Exxon Station. There is a site plan attached to the memorandum concerning the Board's concerns discussed at their previous meeting. The engineer will go over the plan with the Board.

Memorandum from David Rootovich, Chair Planning & Economic Development Committee dated June 14, 2005 concerning the waiver of school impact fees. It is an invitation to attend a meeting to discuss this issue.

Technical Review meeting list dated June 13, 2005 for the next Planning Board meeting July 14, 2005 that they can use for consideration of regional impact.

REPORT OF CHAIRMAN, COMMITTEE & LAISON

Ald. Larose said on Tuesday night the Board of Alderman granted the waiver to Etchstone Properties.

Mr. Dufour 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 no more than fifteen minutes, at the Board's discretion, 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

1. **Exxon, Cumberland Farms, Inc. (Owner) - Proposed amendment of NR 1616 to show the demolition of the existing facility and the construction of a 3,240 square foot convenience store, 10 fuel pumping stations and a 1,380 square foot car wash with associated access, parking and site improvements, 103-105 Broad Street & Spar Avenue, Sheet E - Lots 186 & 205, Zoned "HB" Highway Business & "RA" - Urban Residence (Tabled from the June 2, 2005 Meeting)**

MOTION by Mr. Lowe to remove from the table.

SECONDED by Ald. Larose.

MOTION CARRIED UNANIMOUSLY

Atty. Gerald Prunier. Atty. Prunier said at the last meeting this case was discussed and there were issues that were of concern to the Board. One was the parking on the right hand side of the building, which could back up and interfere with the stacking lane. Those parking spaces have been removed and placed in the back of the building. This will be employee parking. The stacking lane will be able to come all the way around without any interference. They will be able to stack twelve vehicles.

He said with regard to the vacuum cleaners that were on the other side of the building have been removed and placed in the rear so there will be no interference with the stacking lane.

Mr. Dufour asked Atty. Prunier to point out the parking spaces that have been eliminated so as not to conflict with queue for the drive-thru.

Scott Borcier, Dubois & King. Mr. Borcier pointed out the original proposed plan to the Board. There was parking on the easterly and southerly side of the building. He showed the revised plan to the Board. He said there is still parking on the southerly side. It is the easterly side that the parking has been eliminated. In its place there is a striped no parking loading zone area.

Mr. Dufour asked if the footprint had changed and nothing changed, except that the vacuums have moved to the rear and the parking on the easterly side has been eliminated and compensated by putting in striping.

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Ald. Larose said he heard Atty. Prunier say something about parking behind the building.

Mr. Borcier said removing the parking on the easterly side of the building has impacted the employee parking area so they have added three parking stalls for those employees. He indicated the new location of the vacuum cleaners, which have been reduced from three to two.

Ald. Larose asked if there are still seven vehicles that they have the ability to stack.

Mr. Borcier said they had that number originally, but now they have twelve because they have removed the parking on the side of the building and extended the service window down from the center of the building to the southwest corner.

Ald. Larose asked how the stack up for the car wash works.

Mr. Borcier showed where people enter for the car wash and where the stacking occurs.

Ald. Larose said there will be two travel lanes behind the store. One is for the donut shop and one is for the car wash.

Mr. Borcier said this is correct. He said both of the travel lanes have a by-pass. He showed the location of these lanes.

Mr. Dufour asked if cars can get through at the rear if there is stacking in the donut lane as well as the car wash lane.

Mr. Borcier said there is not. He said right now the width between the edge of pavement and the curbing is 24', which allows enough room for two lanes.

Mr. Torosian asked how the cars at the vacuum area get out if there is stacking.

Mr. Borcier said explained that one of the vehicles will be able to maneuver into the by-pass lane, but if there is a stacking problem the other vehicle will have to wait till the first car gets out. He said he doesn't see that happening too often to be a major inconvenience.

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Mrs. Lasky asked the hours of operation for the car wash versus the hours for the other operations on site.

Atty. Prunier said he believes the car wash is open 7:00AM-10:00PM.

Mr. Dufour said the plan doesn't make reference to the car wash. It states the hours of operation are 24 hours a day.

Mrs. Lasky said the last staff report states that the hours of operation for the car wash are 6:00AM-10:00PM.

Mr. Slivinski said at the last meeting they had stacking for seven vehicles and now there is stacking for twelve. He said they must have picked up one stack because they moved the window. He asked where they picked up the rest.

Mr. Borcier said from wrapping around the easterly parking area.

Mr. Slivinski asked how they see cars coming into the stack. He said he sees cars coming in to stack potentially from three directions. He imagines a lot of the cars coming off of Pine Hill are going to come in off of Long Avenue. He asked what the cars are going to do.

Mr. Borcier said cars coming from Long Avenue are going to enter at the northerly entrance and go into a lane.

Mr. Slivinski asked what they expect to happen if there are already four cars in the lane.

Mr. Borcier said he expects that if anyone sees a line up to a point (he pointed out where) that they could continue down Spar Avenue and enter there. If the line continues he would expect them to by-pass the site and continue down to the next Dunkin Donuts.

Mr. Slivinski said the site at West Hollis Street has room for fourteen cars and it backs up onto West Hollis Street. He said the proposed site is tight to begin with.

Atty. Prunier showed where the twelfth vehicle would be located in the queue. There is still room for another four or five vehicles before it gets to Broad Street.

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Mr. Slivinski said he believes this site is going to be very popular. It's set up the same way as West Hollis Street. For people leaving Nashua this is the first place they are going to pull in to get coffee.

Atty. Prunier said he has either lived in this area or traveled in this area for about thirty-five years. If he was coming from Hollis and he wants to get onto the Turnpike he would probably end up going to the site on Amherst Street. He said he didn't think that they would see all those cars coming off of Pine Hill. He said there is also more competition where in most places within the City there isn't any because Starbucks is going to be on the other side.

Mr. Slivinski asked if Atty. Prunier's client would be willing to come back to the Board in six months to a year time period if there is a problem, at which time the Board might ask them to put in another window for people to pay at the first window.

Atty. Prunier said this is acceptable.

Ald. Larose asked if there are any statistics on a gas station that has a Dunkin Donuts, but no drive through versus a gas station that has a drive-through.

Atty. Prunier said "no", but he thinks common sense would say that the one with the drive-through is going to sell more than the one that doesn't have a drive-through.

Mr. Slivinski said at West Hollis Street there is a Dunkin Donuts and just a little way down there is a filling station that sells Dunkin Donuts. He said if he went to a Dunkin Donuts and saw a long line of cars he would go to the filling station and get out of his car and go inside.

Atty. Prunier said they are not afraid of coming back to the Board because if there is a problem they want to fix it.

Mr. Dufour said people are lazy and the fact that there are cross marks on the side and no parking is allowed, they are just kidding themselves. People will still park there. He said he isn't sure where the employees are going to park, never mind customers.

Atty. Prunier said 2-3 employees are the most they would ever have.

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Mr. Dufour referred to the Dunkin Donuts located across the highway where they didn't allow for proper parking or there wasn't enough parking on the site and the employees park all over the lawn. That's basically what is being created at the proposed site.

Atty. Prunier said they can put signs up that say "NO PARKING". Mr. Dufour said that the applicant is trying to lead the Board to believe that they have cured the problem by some artificial means of a bucket of paint putting a few cross marks and thinking nobody is going to park there. He believes they are still going to park there and that it's still going to be a problem. He said he believes there's going to be more problems when people try to come off Spar Avenue to get into the site because there will be fueling lines. He said the biggest stacking line in that site will be on Spar.

Mrs. Lasky said the only time she envisions the car wash to be a problem in on a weekend - Saturday and Sunday mornings. She asked if something could be worked out.

Atty. Prunier said you don't see many people at Dunkin Donuts early on a Sunday morning. There may be more people at around 10:00AM.

Mr. Slivinski asked how many visits are expected during prime time between 6:00AM - 9:00AM on a Thursday morning - given everything that is going on at the site.

Atty. Prunier said he would ask the owner.

Mr. Dookran said he thought that at the last meeting they had asked the applicant to look at other sites in order to give the Board a more comfort level.

Mr. Dufour said they did discuss this. Apparently there is no perfect example for them to point out.

Atty. Prunier said they didn't go out looking for examples. He said they took a look at their own problem and they would take care of it. He said he could compare it to the Mobil Station on Amherst Street because this is similar. They've taken the parking out of the picture and so now it's not comparable.

He said according to the traffic report, the amount of trips has been downsized from 204 to 170 for the 2 ½ hour period in the morning because two fueling stations were removed.

Mrs. Lasky asked if this was the high point and Atty. Prunier said it is.

Mr. Duffy said he believes the reason the pumps were eliminated is not because they are willing to sacrifice. He said the configuration that is there now makes it difficult to operate all the fueling stations at the same time. He said he sat and observed the station and the pumps weren't being utilized. He said he didn't think the Board should get sidetracked because there are fewer pumps. He didn't think that would eliminate traffic.

Mr. Lowe asked what would happen if they just changed the area where they have removed the parking into a green space.

Mr. Borcier the intention is to use the space for deliveries.

Atty. Borcier said the deliveries come in after everybody has left. He said he didn't mind putting up a sign indicating there be no parking and that the space was for deliveries only.

SPEAKING IN OPPOSITION OR WITH CONCERN

No One.

SPEAKING IN FAVOR

No One.

Mr. Lowe said there has been testimony that the fence would be fixed.

Mr. Dufour said that the memo they have this evening indicates that the fence would be replaced.

Mr. Slivinski said he was hoping the applicant would come back and eliminate one of the operations - he was hoping the car wash - to give the site a little bit more room. He said they have the car wash, a drive-thru Dunkin Donuts, the gasoline, and the convenience store. He believes this to be a crowded and cramped site. It's a

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site that's difficult to get out of. He didn't think the site would work. He would approve it if they could be assured that that they would come back to the Board within a certain time frame and the Board had the authority to tell them they had to get rid of the car wash or other conditions to alleviate a problem if there was backing up on Spar Avenue, etc.

Mr. Dufour agreed that there is too much happening on this site. He said that legally the Board has control of any site plan that they approve. They have talked about the other Dunkin Donuts on West Hollis Street several times and there's been no improvement at that site. He knows from past conversations the Board has had that they won't bring this back in a certain amount of time and tell them the car wash has got to go. It's too late at that point because they've approved it by then.

Ald. Larose said he didn't see how removing the car wash would do anything. The only time he would see a back up at the car wash is probably in the winter when there is a lot of salt on vehicles.

He said he has been at this site to get either gas or donuts. You have to get out of the car to go inside, but he never saw where the line was so long that if you had what is being proposed that there were cars going out into Broad Street. However, there is probably a difference between the Dunkin Donuts that's there now and the Dunkin Donuts that's being proposed because you don't have to get out of your car. He doesn't know if it would create a problem where they would back out into Broad Street.

Mrs. Lasky said she is concerned because as Mr. Dufour has indicated, once the site is approved, the Board very rarely would ask for removal of an element. She asked if there had been any testimony about how much faster a second window would speed things up - if that were a recourse and whether it would solve the problem.

She said she would rather have them come back to the Board to have them put in the car wash than to take it out. Right now it's a pretty maxed out site and she is concerned with the lines and people getting out of the site.

Mr. Slivinski questioned the testimony that indicated there would only be 2 -3 employees during prime time.

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Atty. Prunier said the operator has told him the maximum number of employees is three and there are three parking spaces.

He said this is a large site compared to some of the others the Board has seen and approved. He pointed out the Mobil Station on Amherst Street and some down on the south end.

Mr. Dookran said he would go along with Mr. Slivinski's remarks about a conditional approval based on performance.

Mr. Moran asked if the Board has the power to have the applicant come back and alter/change elements.

Mr. Dufour said the Board can do anything they want. The applicant may not necessarily agree to it and they can contest it. They could agree to come back in six months. If the Board feels the only solution, if there is a problem, is to tear something down or move something over, he doesn't think it would happen. He gave an example of wanting to have more employee parking and said there is no place else unless something is taken out.

Atty. Prunier re-iterated that this is a big site and there is more room for parking. He pointed out the land that they own. If the Board felt that they should provide more parking they should be told this.

Mrs. Lasky said if this is a big site, why isn't there room for another lane.

Mr. Dufour agreed with this. He asked if there is more room in the back, why wasn't the site spread out before it even got to this point.

Mr. Dookran asked if it was possible to consolidate the two by-pass lanes to get more space for parking.

Mr. Dufour said they may be talking about a problem that may exist only a couple of hours a day, but if it doesn't work for those two hours it's a major problem. He sees people trying to access this site in two or three different ways to get in the queue and he doesn't see how it will work.

Ald. Larose said if they are worried about people coming down Long Avenue, they could close down the exit next to Long Avenue so they

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have to come all the way down into the entrance on Spar Avenue to go up into the stack up lane.

Discussion ensued.

Mr. Slivinski asked if the Board should be concerned if cars stack up on Long Avenue or on Spar Avenue.

Mr. Dufour said if you live on Long Avenue and you can't get out of your driveway that's a concern.

Mrs. Lasky said she is concerned because people are in the line waiting, either before or after ordering and they can't get out if they want to leave.

Mr. Borcier said they can. He pointed out the by-pass lane for the drive-thru and the by-pass lane for the car wash. He said nobody is going to be in the car wash at 7:00AM.

Mr. Torosian said if they need to consider that if they asked them to close the northern exit on Spar, which they think would back up onto Long Avenue, there is the potential of blocking the bank's entrance during the morning.

Mr. Slivinski said the testimony indicates there can be additional parking places in the back. He asked if the vacuums could also be moved back.

Mr. Dufour said this wouldn't take care of the concern with the access to the drive-thru. People are trying to get into the donut line from Long Avenue and fighting the people who are already in the stacking lane on site.

Atty. Prunier said the menu can be limited so that it's only donuts and coffee that could be served at the window.

He said contrary to what the Board has been saying, the Board has jurisdiction over site plans that have been approved when they cause problems.

Mrs. Lasky & Mr. Dufour said they know this, with Mr. Dufour stating it's not really that easy to revisit these.

Further discussion concerning the blocking off of Long Avenue access and the addition of two parking spaces.

MOTION by Ald. Larose to approve the site plan for Exxon, Cumberland Farms, Inc., 103-105 Broad Street & Spar Avenue for an amendment of NR 1616 to show the demolition of the existing facility and the construction of a 3,240 square foot convenience store, 10 fuel pumping stations and a 1,380 square foot car wash with associated access, parking and site improvements with the finding that it meets NRO 16-123 and with the following stipulations:

1. Prior to any work being started, the applicant and their contractors shall hold a pre-construction conference with Planning Staff to review scheduling, erosion and traffic control. All erosion control shall be installed prior to the start of construction.
2. Prior to the issuance of a building permit bonding for public improvements shall be submitted to and approved by the Division of Public Works and Corporation Counsel.
3. Prior to the issuance of a building permit final project plans shall be submitted with any required drafting corrections.
4. Prior to the issuance of a certificate of occupancy documents pertaining to the storm water operation and maintenance plan shall be recorded.
5. Add two additional employee parking spaces in the rear.

Mr. Dufour said that he didn't see how the Board could approve something without seeing what it looked like ahead of time.

Further discussion ensued.

Ald. Larose added another stipulation as follows:

6. Applicant will return to the Board in six months after the issuance of C/O to discuss any problems and proposed solutions.

Mr. Dookran pointed out the area where the additional parking could be placed and discussion ensued.

Mr. Dufour said some of what they have talked about should have happened before this even got to the Planning Board. He said that when a plan comes to the Board they should rate it on its merits and if they feel it doesn't function, the Board should reject it.

SECONDED by Mr. Lowe.

Mr. Dookran said the fundamental question tonight was how the queue could be improved. According to what he is hearing from the applicant they can get as many as fourteen cars in the queue which compares to what the queue on West Hollis Street is today - plus or minus. He said he's comfortable that the site is manageable. He said it's not as tight as it appears to be. It's as big or bigger than other sites in the City. He said he didn't want to see any backup on Long Street or any street.

MOTION CARRIED - 5-4, Mr. Torosian, Mr. Dufour, Mr. Slivinski, Mr. Moran opposed.

Mrs. Lasky now chairing.

NEW BUSINESS - SUBDIVISION PLANS

2. Hollis East LLC (Applicant) Beebe Rubber Company, Inc. (Owner) - Proposed subdivision of one lot into three lots - 22 Marshall Street & East Hollis Street, Sheet 29 - Lot 26, Zoned "GI" General Industrial.

NEW BUSINESS - SITE PLANS

3. Hollis East LLC (Applicant) Beebe Rubber (Owner) - Proposed amendment of NR 610 for the construction of two, 4-story, 40-unit multi-family apartment buildings with associated access, parking and site improvements, 22 Marshall Street & East Hollis Street, Sheet 29 - Lot 26, Zoned "GI" - General Industrial.

Tim Watson, Cuoco & Cormier Engineering. Mr. Watson pointed out the entire lot on the plan. He said the proposal is subdivide the one lot into three lots. On two of the lots they are going to propose a 40-unit building on each lot and they are reserving the third lot for future development. He indicated this takes care of the subdivision.

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He said the site plan calls for a building on Lot 26 and one on Lot 64. Lot 65 is proposed for future development. They have provided 80 parking spaces for the building on Lot 26 - an average of two per unit, where the requirement is 1 3/4 parking spaces per unit. he provided the same for the lot next door and they just added one more with a reconfiguration in that they just came to an agreement with the Traffic Department.

He said originally they had proposed a third entrance off of Marshall Street. There was one for the first building and one for the second building and one for the future development. They also have one entrance off of East Hollis Street.

He said the Traffic Department wanted them to remove an entrance (he pointed this out on the plan) to alleviate having three entrances close together along Marshall Street. He said the Board should have a copy of the revision.

He said this is the location of the former Beebe Rubber site. That factory took up a good portion of the land and their parking spots. There wasn't much open space left. Their plan reduces the amount of impervious with smaller buildings. They are going four stories high so they aren't spreading them out as much. There's more parking than what Beebe Rubber had, but not near as much as what the Beebe Rubber building took up. He said they have reduced the storm water runoff just by redeveloping the site. That includes future development, assuming they have a 90% impervious on Lot 65. They need to have a minimum of 10% open space on that lot. They have provided a closed drainage system for the two parking areas. Each one goes through a mechanical separator that helps separate out the suspended solids and cleans the water before it gets into the City drainage system.

He said Marshall Street has a combined sewer system. There are complaints of a lot of backups out there. With their development they have proposed to separate out the drainage along a portion of Marshall Street down to Bowers Street (he pointed out the area involved). He said the City has separated the sewer and drain along the southerly portion of Marshall Street - southerly of Bowers Street.

He said the applicant is proposing to bring it up from Bowers Street all the way to East Hollis Street. They are taking the

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existing catch basins along Marshall Street and they are going to tie it into the new drainage system, which will help alleviate the backup and high intensity flows that are coming during storm events which is causing sewers to back up into people's basements and into the street.

Mr. Watson said at the request of the City Engineering Department they also put the sewer out into East Hollis Street to help alleviate the flow of the sewer that is currently in Marshall Street. Currently the City is planning to put in a pump station on Bowers Street to help that part of Marshall Street for their sewer and when the time comes they plan on moving it (he showed where) to eliminate any more problems along Marshall Street.

Mr. Lowe asked how many bedrooms there would be per unit.

Mr. Watson said he believes there are two bedrooms per unit.

Mrs. Lasky asked Mr. Watson to define the green space so he pointed out the green space on the plan. He mentioned there is close to 20' of green space along each face of the building. There is more green space in the backs of the buildings and along the backs of the parking lots. He said they have a proposed recreation area with a half basketball court. The Parks Department wanted them to do something like this because even though there is a park down the street, the basketballs court down there is heavily used. They thought this would help alleviate the amount of kids that are down there.

Mr. Lowe asked if there is a fence along the B&M Railroad land.

Mr. Watson said there is a fence now. He said it kind of zigzags along the property line. They are going to fix it so that it goes along the property line.

Mr. Moran asked the status of site reclamation.

Mr. Watson said Mr. Maynard is working with the State. He said he believes Aries Engineering is working on some additional information that they want. They are working on a restoration plan for the site. He said either Mr. Maynard or Atty. Prunier may have a little more knowledge on this than he does.

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Mr. Lowe asked if the buildings are going to have a basement.

Mr. Watson said it's going to be on a slab.

Mr. Dufour asked if the intent is to have condos like they have just down the street or if they are going to be rental units.

Mark Maynard, 7 Burgundy Drive, Nashua. Mr. Maynard said the intent is to have one unit be condominiums and the other as rental units.

Ald. Larose asked which building they anticipated being the one for condominium ownership.

Mr. Maynard said the one in back and Mr. Watson said the one closer to the railroad.

Ald. Larose said if this is the condominium building, what's to stop them from saying that the basketball court is on their property and the people who are renting in the other building can't use it.

Mr. Maynard said it will be covered in the condominium documents. There will be a cross access easement.

Mr. Watson said there is a note on the plan as well about the cross access easement.

Mr. Slivinski asked if this is the only "play" area that is being proposed.

Mr. Maynard said parks surround them.

Mr. Watson said there is a park about 1200' from East Hollis Street. He pointed out Bowers Street and the park on the plan.

Mr. Slivinski asked how people would be leaving the property to get back over to East Hollis Street.

Mr. Maynard said they envision that they will use Marshall Street. He said they've had extensive talks with the Traffic Department. They do not know what is going to go on the last lot and when that is developed they will be doing a more thorough study of East Hollis Street and that intersection. The Traffic Department didn't require it for this meeting.

Ald. Larose asked if they meet the ordinance requirements for recreation.

Atty. Prunier said they do when they use the neighborhood parks.

Ald. Larose said he noticed that there's nothing in the documentation that is asking for a waiver of the recreation requirements.

Mr. Watson said the ordinance states that the applicant has to perform one form of recreation, which is going to be the basketball court.

Mr. Yeomans said when he did the analysis he was under the impression that they met the requirement for recreation. He said recreation is not only development, it is also open space and sitting area. He said he believes they meet the requirement.

Ald. Larose asked about sidewalks.

Mr. Watson said there is existing sidewalk along East Hollis Street. He pointed out sidewalk on Marshall Street and another area of dilapidated sidewalk. He said they are proposing to construct new sidewalk all the way down to right around where the B&M Railroad land is.

Ald. Larose asked what type of sidewalks are contemplated.

Mr. Watson said they had specified bituminous, but they just received a comment from the City Engineer's Office and they want concrete.

Mr. Slivinski asked if they are going to raise the curbing.

Mr. Watson said it's going to be all new sloped granite curbing. There will be a 6" curb. Marshall Street right now is more or less wide open along where the old factory was. The new sidewalk and curbing will close it off and make it look like a nice even looking street.

Mr. Slivinski asked if they were going to do anything on East Hollis Street.

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Mr. Watson said they are not. He said there is sidewalk there.

Mr. Moran asked about the Traffic Department asking for a donation for traffic mitigation and pedestrian safety. He asked if that had been looked at.

Mr. Watson said Mr. Maynard has agreed to pay half and the Traffic Department accepted that.

Mr. Dookran said the sidewalk on East Hollis Street is in poor shape because the applicant is doing a significant amount of work on the City's right-of-way. He asked if they are willing to postpone the improvement to that sidewalk until they come back for the last lot. He said they aren't totally off the hook on this one.

Mr. Lowe asked about the left turn onto East Hollis Street. He said once the Fire Station goes in he thinks this is going to be a problem.

Atty. Prunier said they have one entrance onto East Hollis Street and they want to keep that one entrance and they want it to go right and left. It already exists. They aren't asking for any more than that.

He said they spoke to the Traffic Engineer that when they come back with the vacant lot that if there was a problem as a result of the development of that lot they would take another look at it at that point in time.

Mr. Watson pointed out the existing entrance. He said he knows the Board has some concerns with the proposed fire station. He said they did show approximately what they are planning to do. They are actually putting in a left turn lane all along past this applicant's proposed site. People are going to have an area where people can pull into that lane, wait for it to be safe and then proceed.

Mr. Lowe said if the Fire Department doesn't have a problem with this, he doesn't have a problem. If the Fire Department does have a problem he wants to make sure that they address the problem.

Atty. Prunier said they don't want to have a problem. They feel they won't have a problem. At this point in time they don't want

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to give up the existing entrance on East Hollis Street. He said at some point in time something might have to be done at the corner of East Hollis Street & Marshall Street. He thinks at this point in time the Traffic Department doesn't have a problem with the right/left turn from East Hollis Street. If the last lot causes a problem when they come for that site plan they will address it at that time.

Ald. Larose asked if Kehoe Avenue is a one-way street.

Atty. Prunier said it is and it heads toward Harbor Avenue.

Ald. Larose said he believes many people are going to go down Kehoe Avenue to get to Harbor Avenue to take the light. He said he has a little history with this area. It was very difficult to get out of Allds & Hollis Street so his father, who lived on Mulvanity Street up the hill from Beebe Rubber, would go down Bowers to Harbor Avenue to get the light. He suspects that the people who will be living in these units will find their way to Harbor Avenue to take the light if they want to go downtown.

Mr. Farkas said the Fire Department memo states that new flow data is necessary. He asked if that has been done.

Mr. Watson said this hasn't been done yet, and the Board may want to make it a stipulation. He said the data they had is from 1994 and it showed the pressure was adequate.

Ald. Larose said he is concerned about recreation. He said there is testimony that there's a park one block away. They said the same thing about the condos that were built on Harbor Avenue. He said he looks at this area and he can see some more development similar to this request, although not as big. If they keep saying there's a park over there, he's not sure that the Board shouldn't be asking for more recreation on site. He said it isn't anything that's going to make him vote against this project - he just wants to bring his thoughts out into the open.

Mrs. Lasky said it makes sense that when the last parcel is developed that some recreation be put into that end of the site.

Ald. Larose said it might be commercial.

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Mr. Dufour said when he looks at the basketball court he sees it as the only recreation on site. He's not sure he understands the demographics of who is living here. He said he sees a conflict if someone owns a condo with the rights to the recreation area and it conflicts with the rental property. That will be their problem.

He also sees a basketball court and they can all hear the ball hitting the pavement. It's very close to all the residential homes that likely aren't insulated as the new buildings will be. He questioned why the court is in this location.

Mrs. Lasky asked if it can be moved to the rear.

Mr. Watson said this is probably the best location because of its size.

Atty. Prunier said one of the other things that they have to do is to keep certain wells on the site for the State. They have to be tested every year. This is required because it was a hazardous waste site.

Mr. Watson said there are some that are existing and there are some that are being put in.

SPEAKING IN OPPOSITION OR WITH CONCERNS

Jerry Neuzil, 50 Marshall Street. Mr. Neuzil said those people who live in the area can personally attest to the high traffic flow and the traffic patterns that have taken place recently as a result of some of the other Board actions that have taken place.

He said he is a recent Nashua citizen, after serving in the Air Force for 20 some years. He checked with the Board before purchasing. At the time the information from the county was that these areas were going to be for people 55 and over. That was not the case on the Harbor site and it is inconsistent with the information that was presented to homebuyers at the time. It is also inconsistent with the documents on the web site right now that says it has to be consistent with the surrounding neighborhood.

He said the B&M railroad berm provides some sound abatement from the Spartans. The Spartans do practice. There will be a noise problem.

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He said when the trees in the winter time are bare the high intensity lamps that provide security for the residents of the apartments that were permitted on Allds Street come straight through to all the homes in the area. It's severe light pollution.

He said there is also the fact that several members of the community now use Sullivan Park - small children and YMCA for their daytime programs during the summer.

He said as a result of some of the changes that have taken place, there are 1-2 speeders a day that come flying down Marshall Street in excess of 40-50 MPH. Recently there has been a motorcyclist at 11:00PM who comes ripping through the neighborhood. Mr. Neuzil said every day he personally has witnessed multiple cars running the stop sign on Bowers & Marshall to do the cut-through the Board has talked about. He said 111 backs up and they use the residential streets as cut throughs and they are going at high rates of speed.

He said if they want safe places for their children, this is in direct opposition to all the hard work the Board has put into the community thus far.

He said the storm water/wastewater problem is being partially addressed. He said two years ago he was one of the flood victims of the backup sewers. At that time they were told that there were multiple problems. One was the combined sewer and the other problem was the flow entrance onto East Hollis Street. Even if the applicant diverts his to the back, there is still a problem when he splits the line to the main line on Hollis. This hasn't been addressed.

He said unless the applicant is picking up the tab for the road work, the cost is passed on to the taxpayers of the City.

He said right now the whole neighborhood enjoys the view of the church steeple, the bells, etc. These buildings will obstruct that view. He believes this development is inconsistent with the documentation that is on the web that states it should be consistent with the neighborhood. That is what makes part of their community aesthetically beautiful.

Mr. Dufour asked what web site Mr. Neuzil is making a reference to.

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Mr. Neuzil said he went into the City web site. It talked about the City in general and what the goals and objectives to try to keep this is a desirable City where people would like to come to live.

Mr. Dufour asked exactly where the B&M berm that Mr. Neuzil referenced is located.

Mr. Neuzil said it abuts one of his neighbor's property. He pointed out its location on the plan and said its right along the track. The Spartan facility abuts Hollis Street. He said by putting these buildings in this location they don't enjoy the luxury of that buffering. They will take the full brunt of the practice music. He said he doesn't think people would pay the prices that might be asked for this housing in order to hear bands play right outside their back doors. He said he's lived in communities where noise had been a major problem for their law enforcement people and led to some interesting noise ordinances.

Anna Boghigian, 42 Marshall Street. Mrs. Boghigian said there was something that was said about there being separation of sewer from Bowers Street going towards Allds Street and that they were going to continue it further down towards East Hollis Street. She said this has been put in, but they aren't connected to it. She would like to have what was said clarified. She said their section of the street down to the Dolan Street intersection are not connected. They still have a lot of water problems there.

She said Mr. Neuzil said something about the traffic. It is pretty bad already. People go through the intersection of Marshall & Bowers like crazy. They have traffic right up till midnight sometimes, but the busy time is early morning and working hours.

Dennis Raymond, 34 Marshall Street. Mr. Raymond said he abuts the B&M property and then it's the Beebe Rubber property. He said he has to agree that the infrastructure in this area is very poor.

He said the gentleman from Cuoco & Cormier mentioned that they are going to separate the storm water from the sewerage on Marshall Street. He asked what other infrastructure improvements were going to be made to Marshall Street. He indicated the sidewalks are in terrible condition. There's no curbing left. The street is in poor condition.

Mrs. Lasky said the applicant is going to do sidewalks.

Mr. Raymond said that is going to be at the property, but what about the whole street. He asked if the rest of Marshall Street going to be addressed. He asked if it was going to be repaved.

He said the sewer line on Marshall Street is over one-hundred years old. He asked if it was going to be changed.

Mr. Raymond said a few years ago they met with the City Engineer after all their basements were flooded and they had severe water and sewer damage. He said they were told then that the flows on Hollis Street during a heavy rain period are so high that it won't accept the incoming flows from the side streets. They had manhole covers that blew right off on Marshall Street.

He said the other thing he wanted to address is the traffic. Right now when you head out Marshall Street to East Hollis Street anytime after 8:00AM and later in the afternoon you can't get out. You have to do what Ald. Larose said - go down Kehoe and get onto Harbor Avenue.

Mr. Dookran said Mr. Raymond indicated he had basement damage.

Mr. Raymond said he had \$30,000 worth of damage.

Mr. Dookran asked if it is a finished basement and if there is plumbing in it.

Mr. Raymond said it is a finished basement. He said they have plumbing. They have a pump that pumps the toilet over and then down so the inlet is not below grade. He said when he had the damage there was so much pressure in the sewer line that the clean-out blew off the house trap. It also blew a 300 pound manhole cover off. This occurred during normal thunderstorms.

SPEAKING IN FAVOR

Tim Watson, Cuoco & Cormier. Mr. Watson said the traffic flow is a City-wide issue. Whether these buildings are constructed or not, the traffic is already there. Speeding is an enforcement issue that they can't do anything about. He said they did provide a speed study along Marshall Street at the request of the Traffic

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Department. The results of that study show that 85% of people were at 30MPH, which is the speed limit. It showed 13 vehicles out of about 950 were over 35MPH. That's 1%. It's up to the Police to be in the right spot to catch them.

He said there was also a mention of light pollution. He's not sure when the other building the speaker was talking about went in, but with the new lighting ordinance they are restricted as to how much light they can have at the property lines. It's just about dark at the property lines. They are proposing 10' high lantern poles spread out through the property. There are none proposed behind the buildings. There shouldn't be any light pollution from the proposed site.

Mr. Watson addressed the sewer issue that the abutters had concerns with. He said what's out here now is an existing combined sewer that comes down to Bowers. He said from a certain point (he showed where) down Marshall Street the City has put in a 36" drainage pipe which all the catch basins have been tied into to relieve that portion of the storm water. Currently they still receive all the backup from East Hollis Street that backs up the Marshall Street sewer and includes all the runoff that's coming into catch basins (he showed location of catch basins), which may be why they still have problems there.

He said he has talked with the City Engineering Department. He said they are in the process of designing a pump station that will go down Bowers Street. In the future the City wants to move that all the way up to Marshall & East Hollis so it will pressurize East Hollis Street so Marshall Street won't get the backup from that. This is what the City is proposing.

He said the applicant is proposing to extend the combined drainage system that's brought up to Bowers Street and bringing it down all the way to East Hollis Street and tying in all the catch basins up to East Hollis, which will relieve storm water runoff from the sewer. In conjunction with that they are putting their (the applicant's) sewer out onto the East Hollis Street main so that when the City puts in their pump system they won't have to worry about the sewer coming from their buildings.

Mr. Lowe asked what size pipe is going to be coming from their site and what size is in East Hollis Street.

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Mr. Watson said the sewer in East Hollis Street is a 40" X 54" trunk line (like an oval). The Marshall Street sewer is an 18" pipe coming up to Bowers. Beyond Bowers the City has separated the sewer and the drainage. The drainage is a 36" pipe and the sewer is a 12" pipe. The drainage outlets to Salmon Brook.

Mrs. Lasky said the abutter addressed a disaster situation that happened to him two years ago. She asked if Mr. Watson would be able to address this.

Mr. Watson said what they are proposing and what the City is proposing the area should be improved. The pump station will keep the sewer line in Marshall Street from backing up with whatever is in East Hollis Street.

Mrs. Lasky asked the time table for this.

Mr. Dookran said he would address this when Mr. Watson is finished with his testimony.

Mr. Watson said they are extending the drainage system by bringing in a 30" pipe (he showed where) and onto their property to maintain proper pipe cover. They are tying in all the catch basins that exist out in Marshall Street. He said this should help out the situation until the City is able to finish their improvements.

He said right now this is a vacant gravel lot with barrels and a chain link fence all around it. They are proposing a nice-looking building. It will be landscaped. It isn't going to be an eyesore like it is now.

Mr. Dufour asked if the sidewalk improvement that they are doing is strictly to the extent that it abuts their property.

Mr. Watson said that this is correct. They are not doing any improvements all the way down Marshall Street. The portion of the street where they are putting in the main will be overlaid with new pavement. He showed the location on the plan.

Mr. Dookran said having basement plumbing is at your own risk, regardless of where you live. Basement plumbing is under the surface grade and doesn't meet today's plumbing code. He said reports from that area going back many years ago with people having

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problems with flooding in their basements. It has been exacerbated as the City continues to expand and there is more pavement and more buildings.

Mr. Dookran said it a complication situation exists on this street and he doesn't believe the applicant can solve all of the conditions on this street. He said he believes what they are going to do will help to reduce the propensity of basement flooding, but not solve it. Marshall Street is a low-lying area. In fact, there are points on Marshall Street that are lower than East Hollis Street.

He said the City is under an administrative order to solve the combined sewer overflows. He said they have to separate the combined sewer in the City. In fact, a partial separation was done on Marshall Street up to Bowers Street. A 36" drain line was laid and it captures some of the storm water and therefore, reduces the amount of storm water getting into the combined sewer. That plan was changed. The process for solving combined sewer overflows is now called "hold and treat." They will be using storage tanks. They will be building a wet water plant at the current treatment facility that will take most of the storm water and treat it before it is discharged. He said the reason they wanted to go in this direction is because if you separate, now you are dumping storm water into the rivers. It so happens that storm water is as bad as combined sewerage.

He said it becomes complicated because the sewer on Marshall Street is affected by the high flows in Hollis Street. The smaller flows from Marshall Street just can't get in. The high flows on East Hollis Street will be reduced in the coming years under their current program where they are going to hold and treat. In the meantime, this applicant is pulling out some of the storm water out between Bowers and East Hollis Street. He is capturing all that drainage from the McDonald's parking lot, the lumber company, the proposed site (former Beebe Rubber) and a few other locations. That drainage is going to be put into the separated storm drainage that goes into Salmon Brook.

He said the City is in the midst of designing a pump station to be located on Bowers Street and it will be installed within the coming months. This will isolate the backing up of flows so people south of Bowers Street will be protected. When the proposed site is

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completed, the City wants to look at the possibility of putting a pump station at the intersection of East Hollis Street and Marshall Street. That will protect all of the residents.

He said there would still be unseparated flows within the Marshall Street area. New Street is still combined. There are portions of Bowers Street that are still combined. If you want a pump station to remove combined sewerage, it's going to be a big pump station. If they talk about a ten-year storm they are talking about a lot of water. The ultimate solution is to do complete separation of not just Marshall, but Bowers and New. You'll capture all of the storm water within that little basin. Then you put a pump station in that will handle only sanitary flows

Mr. Dufour said there didn't appear to be much in the way of immediate relief for a lot of these water problems. He asked if the Board approved this project if they would be increasing the likelihood that they will be adding additional problems.

Mr. Dookran said he believes the design that the applicant has produced will reduce the amount of basement flooding within the Marshall Street area.

Discussion ensued.

Mr. Dookran said people are responsible for their basement plumbing. People in other areas have installed automatic check bars that protect basements. He said while they look for a long-term solution for this area, the residents should look at what they can do for themselves. The ultimate solution is years away when the City completes the big projects like storage tanks and the wet weather plan.

Mr. Slivinski asked if it was firm that one of the buildings was going to be condominiums and the other rental units. He said he'd like to have both of them be condominiums.

Mr. Maynard said one of the buildings is going to be condominiums and the other will be rented units. That is their plan at this time.

Mr. Dufour said when somebody purchases a property you have to look at the zoning and imagine the worst and if you can't accept that

then you don't buy the property. Unfortunately, people get disappointed when they expect one thing and get another. The residential homeowner has property rights and the person who owns the lot has specific things that he can do with it and can change what he wants to do. As long as they comply with the requirements of the ordinance, there isn't a lot that the Board can do.

He said as far as the 55+ housing is concerned, he believes people envision less usage. He said it's important to realize that these are two-bedroom units at the most so there is limited capacity in any one unit. It's not like people will be bursting at the seams at this location. He doesn't see the intensity that people seem to be envisioning.

He said that he didn't believe there would be a sound issue because of the materials that will be used in constructing it.

MOTION by Mr. Lowe to approve the subdivision of one lot into three lots at 22 Marshall Street & East Hollis Street with the finding that it meets NRO16-108 and with the following stipulation:

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.

SECONDED by Mr. Farkas.

Mr. Dufour said there are lot of water concerns. He has reasonable assurances that the two buildings aren't going to adversely impact the situation more than it is today. In the unlikely event that it does, they would be hard-pressed to put in a third building on the last lot until they could show the Board that they could remediate the problem.

MOTION CARRIED UNANIMOUSLY

MOTION by Mr. Lowe to approve the site plan for the construction of two, 4-story, 40-unit multi-family apartment buildings with associated access, parking and site improvements at 22 Marshall Street & East Hollis Street with the finding that it meets NRO 16-123 and with the following stipulations:

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1. Prior to the issuance of a building permit the subdivision plan shall be recorded.
2. Prior to the issuance of a building permit the storm water operation maintenance plan and access easements shall be recorded.
3. Prior to the issuance of a building permit the applicant shall resolve any outstanding traffic issues to the satisfaction of the Traffic Department.
4. Per Traffic Department comments dated May 15, 2005, should commercial development be proposed prior to full occupancy of both residential buildings the traffic report shall include all three lots in the analysis.
5. Prior to the issuance of the final certificate of occupancy all work within the public right-of-way shall be completed to the satisfaction of the Division of Public Works, unless otherwise provided.
6. Prior to the issuance of the final certificate of occupancy all site work shall be completed, unless otherwise provided.
7. Prior to the issuance of a building permit, fire flow data must be re-run and approved by the Fire Department.

SECONDED by Mr. Farkas.

Mr. Dufour said that he didn't feel that this is out of character with the neighborhood. There is a similar structure in the process of being developed right down the street and there are the two Sullivan buildings as well.

Mr. Dookran gave further assurance to Mr. Dufour that the storm water from this site will not worsen the basement problems on the street because the basement problems are related to the sewer pipe. All the storm water from this site is being captured by a separate storm drain that is going to make its way to Salmon Brook and will never connect to the sanitary sewer.

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS - SITE PLAN

4. **Mile High Real Estate, LLC (Owner) - Proposed site plan to show the demolition of two existing single-family homes and the development of two, 5-unit multi-family apartment buildings, with associated access, parking and site improvements, 5 & 9 Lake Street, Sheet 98 - Lots 10 & 11, Zoned "GB/MU", General Business/Mixed Use.**

Richard Maynard, Professional Engineer, Maynard & Paquette, Nashua. Mr. Maynard said this project is at 5 & 9 Lake Street. On the corner of Lake & Main Street there is a Shell Station. To the rear is the St. Laurent Funeral Home. Across the Street is the Adult Learning Center. On the opposite corner is Poor Pierre's Restaurant. To the rear there are several residences, including an eight unit building. He pointed out the location of the middle school.

He said these are two existing single-family houses that are fairly old and are in run down condition. They are proposing to raze these buildings and consolidate the two lots to create a 19,000+/- square foot lot. In place of the single-family homes they would like to build two, five-unit townhouse style buildings. Each unit would have their own garage and parking in the front.

He said drainage will be handled on-site with groundwater basins at each corner of the building, which mostly will take roof drainage and recharge it into the ground. Some of the runoff will continue to run to the street.

He said this is in the mixed use overlay district. Multi-family is a permitted use. The project will meet all the requirements in the ordinance. No waiver is required from the Planning Board.

Mr. Maynard passed out material to the Board. He said there was a representation of the front of the buildings inside the courtyard. He said they are three-story townhouse units and garage. There's one room on the first floor, and living space on the second and third floors. There are flat roof terraces for each of the units where they can have a sitting area or viewing area.

He pointed out the view the units will have. He said the buildings don't have a flat face. There are projections from the buildings

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to give it some character. He said the first floor is a garage with a recreation room. The second and third floor are pretty traditional. They are two-bedroom units with roughly 1300 - 1500 square feet. The area requires 5% green space and they will have 25% green space.

Mr. Maynard said if this were a project elsewhere in the City they would tend to have 11 trips in and out during the AM/PM peak hour and roughly 90 per day. Because this is essentially a downtown project, many people may possibly walk to work, walk to restaurants and retail, or walk to recreation areas. It's possible to live here and not necessarily need a car. There is public transportation and there is a car rental agency right down the street. They are likely to have about half of what would be expected if they were in a more outlying area of the City.

He said the Traffic Department has asked for a voluntary donation of \$2,200 and they have agreed to that stipulation.

He said there is a full site suitability report for this project.

He said he has reviewed the stipulations suggested by the staff and feels they are reasonable.

Mr. Lowe asked where they would be putting the snow.

Mr. Maynard said there is 25% green space. He said in all but the largest storms there should be enough room. Like everybody else downtown about once a year they will have to truck the snow off the site.

Mr. Slivinski said the garage is a single-car garage. He asked about the second car.

Mr. Maynard said there is a full 20' in front of each garage.

Mr. Dufour asked if there is guest parking.

Mr. Maynard said there is on-street parking all along Elm Street. This is downtown Nashua, not in an outlying area. They have two parking spaces per unit. He said there are probably several hundred that have no parking spaces at all.

Mr. Dufour asked if these are going to be condominiums.

Mr. Maynard said most likely - probably definitely.

Mr. Dufour asked if the rendering is similar to what is going to end up being there.

Mr. Maynard said it is. He said the architect is present tonight. He said he would be the design architect. He said if the Board wants to stipulate that this be somewhat similar they are agreeable. They have worked on this with the staff and this is what the owner intends. He said he wants something with character.

Mrs. Lasky asked if the lighting proposed is fixtures at the entrance of each home.

Mr. Maynard said this is correct. He said they will have a subdued type of lighting.

Ald. Larose said he noticed that they are closing off two entrances that are there now and creating one and there is mention of replacing sidewalk. He asked if this is going to be concrete.

Mr. Maynard said that this is correct. He said there is concrete sidewalk there now. He said there will be curbing.

Ald. Larose said when they plow he is hoping that they don't put snow banks where the sidewalks are so that the kids going to school don't have to climb over the snow banks.

Mr. Maynard said he thought the City plowed the downtown sidewalks with their little Bombardier.

Mr. Sawyer said this is in a mixed use district and the Board has architectural approval. The renderings that are before the Board are intended to be part of the site plan package.

Y. Nahikian, Mohegan Associates, Hookset, Architect. Mr. Nahikian said because this building is downtown he tried not to provide a big block building. If you look at this project you see a streetscape where you have the impression that you have a line of buildings. He thinks this is appropriate to a downtown.

He said they will be using a stucco type material on the outside of the buildings and the colors that are shown are the colors that are in the neighborhood - red brick, tan brick, and gray brick.

He said they did a flat roof because the developer wanted to have the terrace concept. It will make the building look even smaller. With all the bum pouts and recesses in the building it will look very attractive.

SPEAKING IN OPPOSITION OR WITH CONCERN

No One.

SPEAKING IN FAVOR

No One.

MOTION by Mr. Dufour to approve the site plan for the demolition of two existing single-family homes and the development of two, 5-unit multi-family apartment buildings with associated access, parking and site improvements, 5 & 9 Lake Street with the finding that it meets NRO 16-123 and 16-557 and with the following stipulations:

1. Prior to any work being conducted, a pre-construction conference shall be set up with the Planning Department.
2. Prior to a building permit being issued, the storm water operation and maintenance plan shall be recorded.
3. Prior to a building permit being issued, bonding for all public improvements shall be submitted to and approved by the Engineering Department and Corporation Counsel.
4. Prior to a building permit being issued a \$2,200 contribution shall be paid to the Traffic Department for traffic mitigation and pedestrian safety improvements.

SECONDED by Mr. Lowe.

MOTION CARRIED UNANIMOUSLY

5. **White Family Ventures, LLC (Owner) - Proposed amendment of NR 1980 to adjust the percentage of use for multi-tenant, mixed**

use office and manufacturing, 12 Murphy Drive, Sheet 140 - Lot 60, Zoned "PI" - Park Industrial.

Richard Maynard, Professional Engineer, Maynard & Paquette. Mr. Maynard said back in March they came to the Board to approve a personal services establishment. He said they are back because at that time they did not have a traffic study completed. He said they would like to make this building a little more flexible in how it is occupied. Right now it's industrial. They are finding that they want predominantly office, but they want the flexibility of office or industrial. They meet all the criteria for office as well as industrial. The office criteria is a little more stringent and requires more parking than industrial. They exceed the parking requirements.

He said the traffic considerations for office use are greater than they are for industrial. The traffic study is based on office use. There is no proposal to change anything on the site plan. This has to do with the internal use of the building.

He said the traffic study looked at the Murphy Drive intersection with Northeast Boulevard, also Harris Road, and Main Dunstable Road. The increase in traffic to the intersection at Harris Road and Main Dunstable will increase approximately 2%-3%, which will be a minimal impact and won't impact or affect the operation of that intersection. At Murphy Drive there is the consideration that exiting traffic will have a low level of service. He said their traffic engineer and the City's Traffic Engineer also agreed that they make Murphy Drive three lanes at the exit - two lanes out onto Northeast Boulevard - one going right and the other going left and one lane into the property. They have also asked that they widen the lane coming in to a full fifteen feet so at the intersection of Murphy and Northeast Boulevard they will have to widen the existing pavement by approximately four feet.

Mr. Lowe asked if this is going to be used for holistic medicine.

Mr. Maynard said this has already been done.

Mr. Lowe asked where the new people are going in.

Mr. Maynard said every entrance has handicapped parking and they are spread throughout the site.

Atty. Zall. Atty. Zall pointed out the location of the holistic medicine office as well as some of the other tenants in the building.

Mr. Maynard said right now they are about half occupied.

SPEAKING IN OPPOSITION OR WITH CONCERN

No One.

SPEAKING IN FAVOR

Atty. Jeffrey Zall, 221 Main Street. Atty. Zall said he represents the applicant, White Family Ventures. He said the application appears to be requesting office at 88% and manufacturing at 8%. He said they would like to have some flexibility. He said they'd like the office use to be up to 88% so that if it turns out that the market is such that it's going to be 60% office use, they don't want to be stuck with 8% industrial.

He asked if it was possible to get even more flexibility. He asked if there is a way to receive an approval from the staff and not come back to the Planning Board every time they have a potential tenant who might be interested in leasing space within the building and they don't fit within the description of office use or within the description of manufacturing or warehouse, which are the permitted uses under the site plan, but they have a use that is permitted in the zone. For example, one of the uses they are looking at right now is a company that is in the kitchen and home remodeling business. They would use space partly for office and partly for showroom. The question he has in his mind is if this is office use, warehouse use, or manufacturing use. This is a permitted use in the zone since it is a supplier in the construction trade.

He said it makes it very difficult to negotiate a contract or a lease when it may take 30 - 90 days to achieve that because they have to go to the Planning Board.

He said they are asking for flexibility so that if it is a permitted use within the zone and if that permitted use does not overload the parking or the traffic in the opinion of Planning Staff that it would be permitted under the site plan.

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Mr. Yeomans said if the Board is comfortable with the staff reviewing this administratively, they would support that decision. If it's not a permitted use in that zone, it's a different question.

Atty. Zall said they have enough parking and no traffic impact to allow up to 88% office use, which is the highest and most intense use of all the permitted uses. The other types of uses they would be looking at would probably be less intense.

Ald. Larose said the only thing he has a problem with is that they would be doing this for all kinds of places and they lose their authority or losing the ability to plan correctly. He understands the problem, but they meet often enough that it would seem to him that if a situation came up that they could go to the Planning Department and ask to be on the next Planning Board meeting as a discussion item. He thinks the Board should be aware of what's happening and have a say in what's happening.

Mr. Maynard said ten years ago they would go to the City Staff and be able to get it done at that level as long as the criteria were met. They have been coming to the Planning Board only in recent years every one of these little uses. He said the process itself, between doing the plan, submitting the application, abutters, reviewing, etc. can be twelve weeks.

Atty. Zall said when they came to the Board for the Holistic Health Care Center they had to get Mr. Maynard to prepare a whole new site plan that had to be submitted with the application. It took four months. It impacted the ability for that particular tenant to open up and the deal almost didn't happen.

He said if they could get it onto an agenda as a discussion item that would be a lot simpler, but it doesn't work that way because it requires a public hearing.

Mr. Slivinski asked how many time they have had to come to the Board to ask for a change.

Atty. Zall said this is their third time before the Board. The first time they brought it down to 50/50 and then they came in with the holistic health care and now this appearance.

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Mr. Slivinski asked if another client should come to them offering the same type of service that the holistic health care has if they would have to come back to the Board.

Atty. Zall said they would have to go to the Zoning Board because it is not a permitted use. He said the holistic health care tenant received a variance and then they had to go to the Planning Board.

Mr. Farkas said he understands what Ald. Larose has said, but he didn't think that the Board would be giving up anything. He said he had faith in staff that if they believe anything is even a close call that they would want to give the Board a heads up and have them weigh in before they approve it.

Mr. Yeomans said this is the staff's standard protocol. If there any question whatsoever, it will be sent to the Board.

Mr. Farkas said the applicant took an eyesore and turned it into something good. They have some legitimate business concerns.

Mr. Dookran asked about a contribution for mitigation toward potential traffic problems.

Atty. Zall said they feel that they have made substantial contributions in the way of off-site improvements on Murphy Drive. The staff report does recommend certain improvements be made to Murphy Drive. He said they've made a number of other very costly improvements to Murphy Drive right from the beginning of the process. He said his client doesn't feel that should be obligated to make any financial contribution to traffic in addition to what they have already done.

Mr. Dookran said he is concerned that they will be adding traffic to the intersection at Main Dunstable Road & Harris & Northeastern Boulevard. He said it's starting to see failure and it should be addressed one way or the other.

Atty. Zall said that the percentage impact upon those intersections were very minimal. He said his client doesn't feel it's necessary or appropriate for them to make a contribution given the fact that they've made so many other expensive improvements to off-site areas in regards to this project.

Discussion ensued on whether the Planning Director should give his recommendation.

Mr. Yeomans said the Planning Director has the "call" already. It's his call whether to do something administratively or not. Even if he has the authority to do it, he still makes the call whether it's going to be done administratively or whether it's something that's going to be referred to the Planning Board. If the Planning Director feels that a certain use should not be done administratively then it will come to the Planning Board.

Mrs. Lasky said the other change that Atty. Zall testified to is that office use would be up to 88% and that manufacturing would be 8%.

Discussion ensued about the way this should be worded.

Mr. Maynard said he thinks the stipulation is that any uses permitted under this zone will be allowed by administrative approval with the judgment of the planning staff.

MOTION by Mr. Farkas to approve the site plan for the proposed amendment of NR1980 to adjust the percentage of use for multi-tenant, mixed use office and manufacturing, 12 Murphy Drive with the finding that it meets NRO16-123 and with the following stipulations:

1. All stipulations of approval from September 14, 2000 and February 5, 2004 are incorporated into this approval and shall remain in full force and effect, unless otherwise determined by the Planning Board.
2. Within 90 days after plan approval the applicant shall complete land widening and striping on Murphy Drive to the satisfaction of the Division of Public Works.
3. Any further use adjustments that are permitted uses within the zone shall be handled administratively by staff.

SECONDED by Mr. Moran.

MOTION CARRIED 8-1, Ald. Larose opposed.

OTHER BUSINESS

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

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

SECONDED by Mr. Farkas.

MOTION CARRIED UNANIMOUSLY

Mrs. Lasky asked if the Board would be able to get through the entire agenda the night of the 14th - based on what is listed on the technical agenda.

Mr. Yeomans said he would try to get a room for a second night.

Some of the Board members indicated that they were on vacation and out of town and would not be present for the meeting, even if it were going to be the following week.

Mr. Yeomans asked if there was a day that the Board would feel comfortable. He said otherwise they will take what the Board thinks is going to work for them.

The Board discussed this further and it was decided the following week for two nights, July 20 and July 21 - would be better. Mr. Yeomans said he would check the availability of the auditorium and advise the Board members what he finds out.

- 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.

- 3. Referral from the Board of Alderman on proposed R-05-204, Authorizing the conveyance of a 12-acre parcel on Gilson Road (Tax Map D, Lot 521) to Deborah A. Gleeson for \$100,000 for use as a private school. (Tabled from May 5, 2005 Meeting)**

No motion to remove from the table.

4. Referral from the Capital Improvements Committee amending the FY2005 and FY2006 Capital Improvements Program.

Mr. Dufour said the Capital Improvements Committee met last week and rated a couple of projects. He referred the Board to the sheet in their packets that gives them the information. He asked the Board for a favorable recommendation.

MOTION by Mr. Lowe for favorable recommendation on the three items presented in June 7th memorandum (CIC Committee Meeting 6/6/05).

SECONDED by Mr. Farkas.

MOTION CARRIED UNANIMOUSLY

Other

Mrs. Lasky said she believes Mr. Bolmarcich's term as a public member to the NRPC has expired.

Mr. Sawyer said that the Planning Director did speak to Mr. Bolmarcich about this. He does not know if Mr. Bolmarcich is willing to continue to serve.

Mrs. Lasky said she received an E Mail from him that he was not interested in serving again and thanking them for the opportunity to serve. Director Hersh has expressed an interest to be named as a public member to the NRPC beginning when Mr. Bolmarcich's term expires. She said as far as she knows the Board can appoint anyone they want to.

Discussion ensued.

Mr. Sawyer suggested that they put a memo together for the next meeting.

Ald. Larose said he didn't think a City official should be appointed as a public member of a body. He said he believes she is somehow on this Board. He asked how Mrs. Hersh could have two positions on a Board - as a City official and as a member of the general public.

Mrs. Lasky said as she understood it, Mrs. Hersh was an alternate on that Board and wants to be a full member.

She said they can let this go till the next meeting so they can get a clarification.

Mr. Dufour thanked Mr. Bolmarchich for his service on both the Zoning Board and the NRPC. Further discussion. Letter to be sent to Mr. Bolmarchich to thank him for his service.

Mrs. Lasky read a letter from the Dunkin Donuts facility at 315 West Hollis Street dated April 11 that the Board had already knew about. This letter indicated that some changes would be made and that the site would be monitored for the next sixty days. It went on to say that if the problem still persisted at the end of the sixty days additional steps would be taken to address the situation.

Mr. Dufour said this 60 day period is now up and things haven't improved much.

Mr. Slivinski said it looks like business as usual. He said they have a lot of items on the menu and people use credit cards, etc and this is the kind of thing that holds up the line.

Mrs. Lasky asked if the Board wants another letter sent.

Discussion ensued.

Mrs. Lasky said that they will take some added action.

Discussion Items

1. New restaurant at Maplewood Commerce Center

Atty. Gerald Prunier. Atty. Prunier said early on in the process of Maplewood there was discussion of having a restaurant there. The architectural committee approved the building in which the restaurant was to be located.

He said they now have a proposed buyer - maybe a tenant - for a restaurant. The description of the restaurant is a "high class" "Friendly's". There would be eating inside, but the individual

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would like to dispense ice cream through the windows outside (not a drive-thru). In the ordinance there is a question of no curb service. He said that they are coming to have the Board give their opinion concerning "curb service".

Mrs. Lasky asked if the architectural rendering of the building would change.

Atty. Prunier said "no". He said he may come to the Board for the window service, but the rest of the building will be the same.

Mrs. Lasky asked where the window would be located.

Atty. Prunier said he did not know.

Mr. Dufour said he assumed that the window service is only a portion of the business.

Atty. Prunier said "yes". The sit-down portion of the restaurant is year round.

Mr. Slivinski said it seems a strange place to have a window service because it's not like there is a lot of foot traffic around here that he is aware of.

Atty. Prunier said there is a lot of foot traffic around here.

Mr. Slivinski asked if there is going to be an outside eating area.

Atty. Prunier said there will be a couple of tables.

Mrs. Lasky asked if this will be used only for ice cream.

Mr. Sawyer said that the way they understand it this is a full order take-out. He said they just want to let the Board know that the ordinance under the Flexible Use District specifically states no curbside service as well as no drive thru service. He said the staff feels that this walk up window is different than curbside service like an old A&W where someone came out and served you in your vehicle.

Mr. Dufour said he worries about designated eating area outside because the restaurant has it's own contained little area. He

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asked what if this area contained a half dozen picnic tables or in the summer months it's an outside eatery. He said he didn't believe this is what they intended for this site. He said he doesn't have any opposition to the take-out window, but he does have opposition to establishing an outside eatery.

Mr. Sawyer said this is the village district and typically you would see outside seating, just like you see downtown. He said it needs to be done right. The pizza restaurant already has outside eating. The convenience store has a walk-up window for ice cream already. They don't have any tables. He said it's consistent with what's out there.

Discussion ensued.

There was discussion about the memo received concerning impact fees and the meeting the members are invited to with Mr. Dufour said he would be going to this meeting.

ADJOURN

Mrs. Lasky declared the meeting closed at 10:30PM.

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.**

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Taped Hearing