

NASHUA CITY PLANNING BOARD
August 11, 2005

A meeting of the Nashua City Planning Board was held on Wednesday, August 11, 2005 at 7:00 PM in the Auditorium at City Hall.

Bette Lasky, Chair conducted the meeting.

Members present were: Bette Lasky, Chair
 Ken Dufour, Vice Chair
 Ald. Richard Larose
 William Slivinski
 Steve Farkas
 Hugh Moran
 George Torosian

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

APPROVAL OF MINUTES

July 20, 2005

MOTION by Mr. Moran to approve the minutes of July 20, 2005, waive the reading and place on file.

SECONDED by Mr. Farkas.

MOTION CARRIED 4-0-3, Mr. Slivinski, Mr. Dufour & Ald. Larose abstaining.

COMMUNICATIONS

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

Mr. Houston said there is a slight amendment to the agenda. The approval date of the minutes is the 20th, not the 14th.

A technical review meeting list for the September meeting for regional impact.

An item from John Koutsos on professional statutes, liability and behavior which he asked be given to the Board members.

REPORT OF CHAIRMAN, COMMITTEE & LAISON

Mr. Slivinski said he had nothing to report, but he did read over the minutes from the last meeting, which he did not attend. He said there was some sort of reference in them about numbers of the Planning Board meeting with the Board of Alderman. He asked if that was explained fully, because it looked like no one really knew.

Mrs. Lasky said if this is with reference to the 55 and over housing issue the Planning Board was waiting for Ald. Larose to come back.

Mr. Slivinski said Ald. Larose is on the other side of the bench representing the Alderman. He said he and Mr. Lowe were at a meeting trying to explain the Planning Board's decision to send an unfavorable recommendation to the Board. He said he and Mr. Lowe have taken the position that the Board believes that every building has an impact on the schools. He said the Alderman had a different feeling. He said he doesn't believe anything was settled.

Mrs. Lasky said she thought the consensus was that after that they would try to set up a meeting.

Mr. Slivinski said that is the meeting that had been set up.

Ald. Larose said the Planning & Economic Development Committee's position was that the Ordinance gives them the right to waive the impact fees and they felt they would look at it on a case by case basis versus saying everybody has to pay. He said an elderly project would not necessarily impact the schools, even if there were two or three children in the whole complex.

He said the Alderman also had some information from Mark Fougere, a consultant for this type of business, and he showed different elderly places in the surrounding areas and there were very few children in any of them.

Mr. Dufour said as these types of development come before the Planning Board they will have to be more specific and ask the right questions as to who can be in these units.

Mr. Slivinski said that one of the things that were talked about was the fact that in these 55+ projects, by Federal law they have to allow for 20% that was under age 55. This meant that if a husband was age 55 and his wife was 52, she is part of the 20% that is not age 55.

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

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

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

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

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

OLD BUSINESS - SUBDIVISION PLANS

None

OLD BUSINESS - SITE PLANS

None

NEW BUSINESS - SUBDIVISION PLANS

1. **Richard Schwind (Owner) - Proposed subdivision of one lot into two single-family lots, 63 Manchester Street, Sheet 65, Zoned "RA" - Urban Residence.**

Richard Maynard, Professional Engineer, Maynard & Paquette. Mr. Maynard said this is a subdivision of one lot into two lots. The existing house is a two-family home and to the best of their knowledge it has been a two-family since the early 90s. It is a 41,000 square foot lot with a circular driveway. The proposal is to subdivide 7,900 square feet for a single-family home. This is located in the RA Zoning District where the minimum size is 7,500 square feet for a single-family lot. The "U" shaped driveway will be removed. He said there is an existing sidewalk across from the site.

He said he was told tonight that it appears that some earlier plans done by his office back in the 80s and 90s may have erroneously listed the house as a single-family house.

Mr. Dufour asked if there is anything in the Building Department file that shows this is a two-family home.

Mr. Slivinski asked if the two-family home will still be able to access the garage and how it was going to happen.

Mr. Maynard referred the Board to a plan that showed the existing driveway. He showed where the lot line was going to be located.

SPEAKING IN OPPOSITION OR WITH CONCERN

Diane Ducharme, 10 Monadnock Street, Nashua. Ms. Ducharme said she is the owner of 65 Manchester Street, the lot to the left of the property under discussion. She said this is the lot with a stone wall.

She asked what kind of home is going to be built on the proposed new lot. She was asking if it would be a higher valued home. She said it would have to be worth at least over \$400,000 to keep it within the line of the neighborhood.

Mrs. Lasky said this is not within the purview of the Board.

Mr. Dufour said land is very expensive so in order for a builder to build and recoup the cost of the land and make money on what he is building, he has to build a big house. He doesn't think they are going to see a \$250,000 house on this lot. He said the Board can't control what is built, but it makes sense that the economics dictate a big house.

Mrs. Ducharme asked if the City knows who is going to be building on the lot.

Mr. Dufour said this is only before the Board to approve the subdivision. They will have to secure building permits from the Building Department to do any construction.

SPEAKING IN FAVOR

Richard Schwind, Owner - 63 Manchester Street. Mr. Schwind said the apartment was added to in 1914. He gave some history of the family who was the first owner.

He said Mrs. Ducharme asked what was going to be built. He said at this time he isn't sure what's going to be built, but he can assure the "Ducharme's" the appropriate kind of property will be developed in accordance with the neighborhood and will add to it.

MOTION by Mr. Dufour to approve the subdivision of one lot into two single-family lots, 63 Manchester Street with the finding that it meets the requirements of NRO 16-108 and with the following stipulations:

1. Prior to the plan being recorded, the storm water operation and maintenance plan shall be recorded.

SECONDED by Mr. Farkas.

MOTION CARRIED UNANIMOUSLY

2. **Evelyn Cirelo, Hollis Acquisitions, Inc. And Ronald & Ann Hoyt (Owners) - Proposed consolidation and re-subdivision of two lots into five single-family lots, 366 & 368 Main Dunstable Road, Sheet C - Lots 136 & 1384, Zoned "R9" - Suburban Residence.**

Richard Maynard, Professional Engineer, Maynard & Paquette, Nashua.
Mr. Maynard said this project is on Main Dunstable Road just to the north of Michelle Drive and Chung Street on the other side. The proposal is to consolidate two existing lots that have homes on them, demolish the homes and re-subdivide, put a cul-de-sac and re-subdivide to put in five lots for single-family homes.

He said there is 74,514 square feet of land area. The cul-de-sac is approximately 200' in length. The lots will range in size from 9,600 square feet to over 13,000 square feet.

He said the road grade slopes down at roughly 5%. The drainage will be handled by two catch basins near the base of the slope. It will run to a drain line and an easement to be dedicated to the City into an existing detention basin that's going to be improved on an existing city lot at the corner of Chung Street.

He said they will also be putting sidewalks in. He indicated on the plan where these would be placed. There is a stone wall and some mature trees in this area. They will be putting the sidewalk behind the wall. They want to preserve all the trees and the wall.

He said there are two existing driveways out onto Main Dunstable

Road that will be removed. Any surplus stones when they put the street in will be used to infill the wall so there will be continuous wall across the front of each of these lots.

Ald. Larose said there is a big maple tree at 366 Main Dunstable Road with a lot of small growth around the tree. He asked if this is going to be taken down.

Mr. Maynard said any of the trees between the wall and the street are supposed to remain. That's where the tree is. Some of the growth may have to go if it's on the lot side of the wall to get the drain line in.

Mr. Lowe said the growth is blocking the site view. He said going south is very good. Going north is not bad, but if they can get rid of the little growth (shrub brush) it will be a lot better.

Mr. Maynard said that he would have no problem with a stipulation that this be removed.

SPEAKING IN OPPOSITION OR WITH CONCERN

Norman Litalien,, 370 Main Dunstable Road. Mr. Litalien said he has three areas of concern pertaining to this project. He said the plan shows the area within which the house can be placed. He said his deck faces the lot. He said all he will be seeing is the back of a new house. He would like to see the house moved over to the left, at least not to completely block his view. He said he understands that the placement of the house anywhere within that configuration would meet the requirements.

He said he has looked at the change in the grade and he took the plans to Scott Pollock who is the Superintendent of Streets and went over it with him. He said that Mr. Pollock told him that he had a concern. In a heavy rain once it hits the curb it will slow down and build up. It could actually go over the curb and because it's graded towards his house it has the potential of causing erosion on his property.

He said he talked with Bob Gagnon who lived at 368 Main Dunstable Road. He built the house back in 1964. He said that he told him there is a tremendous amount of ledge in that area. He built the foundation for the house on top of the ledge and filled in all the way around it. He asked what kind of assurance they are going to have that if there is going to be some blasting that it's not going to cause problems.

Don Webber, 6 Michelle Drive. Mr. Webber said he is Lot 846 on the map. He said on one of the plans that they saw there was a soil storage area. It happens to be on Lot 2957 and he is concerned because his yard slopes off from that. He is concerned about how the contractor is going to dam up the pile of loam.

He said he is also concerned with blasting. He said he has a propane tank as does his neighbor. They are buried underground. He said he would like to know what they are going to do if they are going to blast and what they plan to do about the tanks.

He said he's been in his home for 29 years and they have had some privacy all these years. The way the home is set up on the lot plan they will be seeing somebody's back window or side of the house. He said he would like to know if there's any plan for shrubbery or trees to give some extra privacy.

Mrs. Lasky asked if it was treed now.

Mr. Webber said he had a 6' stockade fence. He has an apple tree that shades part of it, but it's pretty much open, especially if some of the existing trees are taken down to put in a house.

Pamela Brookman, 9 Chung Street. Ms. Brookman said she has a concern about privacy and maintaining a buffer between the proposed subdivision and her lot as well as two of her neighbor's lots. These are Lots 2171, 840 & 2170.

She said there is a steep grade that goes from this property. She is at the top of the hill so she doesn't have to worry about the runoff that's going to come from this. She said her understanding is that at that juncture (the triangular area in the corner) there is going to be no disturbance of trees contemplated. She said she would like to see the plan amended to include a permanent "no disturb zone" in that area before it goes to the Registry.

She is also concerned about the existing detention basin at the base of her street. Not only is there scrub area on the lot, there is also scrub overflowing from the retention basin. They have regularly called the City to come out to trim it because the sight line to the left leaving their street is impossible. You can't see oncoming cars.

She said she is concerned with the re-design of the catch basin. She asked if it's going to be sufficient to handle the overflow from the five new homes. She said at the base of Chung Street they

NCPB

August 11, 2005

Page 8

have terrible flooding. There are two catch basins in the street and the retention pond and it's not working. She said however it's redesigned she wants to make sure that it will be able to handle the water that's going to be added and not increase the existing problem.

She said there are natural springs underneath the ledge that is on the property. This may be another water problem that will affect Main Dunstable Road, flooding in basements, etc. It won't be a personal concern because she is at the top of the hill, but it is a concern for the neighborhood and the City. It's an environmental concern if it is deemed a wetland.

Mrs. Brookman said there are vultures that live in the woods off and on. There are cardinals, lady slippers - some environmentally protected items that she wants to bring to the attention of the Board.

Julie Love, 367 Main Dunstable Road. Mrs. Love said her house has been there since about 1860. She said there is a flood plain behind her house. Her concern is the runoff that might go right through her basement to the flood plain.

Joe Mercurio, 101 Saranac Drive. Mr. Mercurio presented an aerial photograph to the Board. He said the lot with the largest pool is their lot. He said when they moved in thirteen years ago they had a very private lot with a lot of trees. They are dismayed that according to the plan, even though the maples on Main Dunstable Road are going to remain, none of the trees in the back are going to remain. This is a concern not only for privacy, but they have a 27,000 gallon pool that they just spent several thousand dollars to get repaired last year. The pool itself is as old as most of the trees. He said he is concerned that removing the trees will cause erosion. He's concerned about the pool being undermined. He is concerned that if there has to be blasting for ledge that it's going to crack the pool and they're going to have a leak, which would remain undetected because the area is all covered over by the pool.

Jamie Doughty, 4 Michelle Drive(Lot 845). Mr. Doughty said his biggest concern is the grading of the cul-de-sac. The cul-de-sac is going to go through the lot where the existing house is. Some people have already talked about the ledge and the blasting. The house is sitting about 6' above the grade right now. He said he's worried about erosion coming into his back yard and how that's going to be handled.

He said the other concern he has is the length of the construction. He said the person living at 366 Main Dunstable Road right now is going to remain there for another year. He asked if the other houses would be done before they got to this house.

He asked what types of homes are going to be built. He said he knows that the builder has used pre-fab houses before. He also wanted to know if there is going to be a natural gas line that's going to be run to these houses or if these are going to have electric heat.

Mrs. Lasky said the Board has no control over this.

SPEAKING IN FAVOR

Richard Maynard. Mr. Maynard pointed out the location of 370 Main Dunstable Road. He said a concern was expressed about heavy rains and the cul-de-sac. He said the entire cul-de-sac is curbed and it's only at a 5% slope. This is not unusual. He pointed out the catch basins. He said there's no reason to expect rainfall when you're coming from the bottom of Evelyn Circle over to that particular abutter's lot.

He said there is the potential for blasting in this area, but they don't know the extent yet. He said the City has some extensive regulations with regard to blasting. A survey of the neighborhood is conducted and the neighbors also should also have their own pre-blast survey done just for their own protection so if there is a claim, there is a proper procedure to go through.

He said the erosion control plans you have to designate stockpile areas during construction. These are protected with silt screen fences. You have to pile your loam out of the way of your construction so that when you finish disturbing the land you can come back to the pile and finish the lawns, etc. There is no reason for anybody to feel that the loam pile is going to erode onto his or her particular property.

Mr. Dufour said when the person who addressed this concern, he envisioned a rather high loam pile.

Mr. Maynard said it might be 20' high.

Mr. Dufour said it could be 50'.

Mr. Maynard said they have to put silt screen around the base.

Mr. Dufour said the only thing he could relate this to is the development at Sky View.

Mr. Maynard said at that particular development they were constantly trucking the fill off of the site.

Mr. Dufour said he imagines that if it became a problem there could be a stipulation that it be watered down.

Mr. Maynard said that is a reasonable stipulation. He said the staff will be following up on the project and if there is a problem it will be taken care of.

Mr. Dufour said there was another concern was expressed and that was the relocation of the house on the lot.

Mr. Maynard pointed out the building envelope for the lot in question. He said it is reasonably restricted and there's not a lot of play. He said whether they move it 3' to the left or right, it's not a material change. He said the houses shown are illustrative - they may be slightly bigger. He said the plan is to demonstrate that there is more than reasonable size to place a particular house on the particular lot.

He said there was a question about propane tanks. He said this is part of the pre-blast survey. He said these type of tanks are quite rugged and aren't prone to leak or blow up. He said the propane supplier could probably look at that issue if there is a concern by the abutter.

He said there was concern about privacy. He said the people who need privacy need to take care of themselves too. He said they'll do the best they can to leave whatever is there. He said they are required to put in some plantings, but he couldn't promise that he would leave a 10' strip of trees.

Mr. Maynard referred to the "Brockman's" on Chung Street and pointed out their lot. They are not planning to disturb the triangular piece. They will do the best they can to leave the trees.

Pam Brockman. Mrs. Brockman said she was suggesting that in that area that's not going to be disturbed to show it on a revised plan that it is a permanent "no disturb zone" and the plan gets recorded at the Registry.

Mr. Maynard said they can't agree to something like this. It's too restrictive. He said these people are asking the applicant to provide for their privacy. He said what they have to understand is that it's mutual. He said his client has already spoken to Mrs. Brockman and explained that he would do the best that he could not to disturb that area.

Mr. Dufour said these comments relate to this development and how it's going to be developed. Once this is bought, there would be nothing to prevent the owner from cutting his or her own trees.

Mr. Maynard said there is scruffy brush all around the detention basin, which is the City lot. He said they can clean it out when they do their work over there since they have to slightly expand it and clean it up anyway. He said if the Board wants to make a stipulation concerning this it's not a problem.

Mrs. Lasky asked how long they anticipate the project will be under construction.

Mr. Maynard said he believes it will be one construction season, which means it will be started late this fall and finished up sometime next summer. They would start the grading sometime this fall and then in the spring they would finish the pavement. The best time for some of the other work is in the winter months when you don't have the rainy season and also when it's not dusty.

Mr. Slivinski said that he indicated he expected there would be some blasting. He asked how much soil they expected to remove.

Mr. Maynard said he didn't do any calculation, but maybe twenty to thirty large truckloads.

Mr. Slivinski asked if that would be done within a short period of time.

Mr. Maynard said it would. He said the entire site should be blasted all at once. If it's ledge rock it has to be moved because it can't be used on the site. You don't blast, then build, then blast and then build. The blasting is done all at once.

Ald. Larose said the testimony is that the construction would be done in less than a year. He said the neighbors shouldn't think it's from today's date. They have to secure a building permit first and from that date in which to begin construction. What they are looking to do and what may happen are two different things.

NCPB

August 11, 2005

Page 12

Mr. Maynard said unless something unusual happens there's no reason to delay because it costs money to just let the land sit there.

Mr. Farkas asked Mr. Maynard to explain more on the drainage.

Mr. Maynard said he's not fully aware of the problem on Chung Street. He said when they design storm drainage in the City of Nashua it's based on a one in ten year storm. He said they did have an intense storm several weeks back and that would have caused temporary flooding of the low area. There's no way any storm drain anywhere in the City could take that.

He said he didn't know what the problem is with the catch basins as he hasn't been out there in the rain, but they drain to the detention basin (he showed the location of the basin) and flows out through the existing pipe down the back to the brook to the rear. The detention basin and the pipe are more than adequate.

He said there's a lesser amount of runoff coming from the proposed street and a lesser steepness and a lesser velocity of flow as compared with Chung Street. They are enlarging the detention basin and cleaning it out. Professional engineers in his office do the calculations and they are reviewed by the City engineer's office to make sure they are correct. The City is responsible for the detention basins and they want to make sure that they are more than adequate in size.

Mr. Slivinski asked what recourse the abutter would have who finds that he has water in the basement. There was mention of a spring below the ledge.

Mr. Maynard said he doesn't know what the person was talking about, but if there is a problem, the blaster and the developer are supposed to have insurance and have to have a blasting permit. Part of that is getting a pre-blast survey. The homeowner should also have their own insurance and as a last resort, there is the civil suit process. The primary safeguard is the pre-blast survey and the blaster/developer insurance.

Mr. Moran asked a question about natural gas.

Mr. Maynard said he's now aware that they will be putting in a gas line because he doesn't believe there is any in the area.

Mrs. Lasky said that the people on Michelle Drive are concerned about drainage.

NCPB

August 11, 2005

Page 13

Mr. Maynard said they shouldn't be concerned about the drainage from this project. He pointed out the direction the water is going. He explained the topography.

Mr. Yeomans re-iterated what Mr. Maynard said about the pre-blast survey and the home owners doing their own as well as having the one done by the blaster/developer.

Mrs. Lasky said an abutter (she thought it was Lot 841) was concerned about the grading of the cul-de-sac and called the Street Department about it.

Mr. Maynard said he doesn't understand what the concern is. It's a 5% slope. It's a pretty standard cul-de-sac. It's fully curbed. There's more than enough street area to carry the flow down to the catch basin.

Norman Litalien, 370 Main Dunstable Road. Mr. Litalien said the problem is at the bottom corner of the cul-de-sac. Water will be flowing down the grade rapidly, but when it gets down to the bottom it has to come up around to go out the road so it's going to slow down and build up. He said he works for the Street Department. He said there are many cul-de-sacs that are eroded behind the curb because of poor grading. He is concerned that in a heavy rainstorm the water is going to be coming at a rapid pace and once it is at the bottom of the cul-de-sac will slow down and build up. He referred the Board to the grading. He said it has the potential to come in and undermine his pool. He said he talked to the Superintendent of the Street Department and he looked at it and said this could happen.

Mr. Maynard said eroding behind the curb is poor construction practices. He said the City inspects all the projects. If you don't compact the fill and do it properly and get the loam and seed in, it is going to erode.

He said drainage runs ninety degrees to contours because that's the shortest distance down. Mr. Litalien is suggesting is that it's going to jump over and erode his pool. This is near impossible.

Mr. Torosian said he believes Mr. Litalien is suggesting that it has the potential to build up.

Mr. Maynard said the amount of drainage from this little cul-de-sac, relatively speaking, is minimal. It is a full width street (24') with a 7" curb. He said it's ludicrous to think that in a 5%

slope that there is going to be a puddle halfway down. It's a uniform slope going down.

Ald. Larose asked if the catch basins are sufficient for the five new homes.

Mr. Maynard said it is more than sufficient. He said the rule of thumb in development is roughly a catch basin for every 300' of road.

Mr. Dufour said Mr. Maynard has indicated the catch basin is more than adequate to handle the water, but he also said a while ago that in a one in ten year storm that it won't be able to serve it. He also said that there are no catch basins in the City that would handle that type of event.

Mrs. Lasky pointed out Stipulation #5 & #7. She said a pre-construction conference is going to be held with the Planning Department to review erosion control measures, tree removal and protection. Also, prior to the first certificate of occupancy being issued the storm water operation and maintenance plan shall be recorded.

Jaime Doughty, 4 Michelle Drive. Mr. Doughty said someone mentioned a spring earlier. He said there is a well underneath the house, therefore there is a spring. If there is blasting the spring could be re-directed.

Mr. Maynard said the well taps into the fissures in the rock. The water is stored in fissures in the rock deep below the grade. It is not a spring.

Joe Mercurio, 101 Saranac Drive. Mr. Mercurio asked how much a pre-blast survey would cost. He asked if they would have access to the results of the survey conducted by the developers.

Mr. Maynard said he believes it's administered through the Fire Department and should be part of the public record.

Discussion ensued.

Mr. Dufour said except for one instance in the City he isn't aware of any problems with blasting. He said the people that are going to do the blasting do the blasting survey. The neighbors have to let these people into their homes to do the survey. He said he would like to define who gets surveyed, for example, is it all the

homes that abut the subdivision and those directly across on Main Dunstable Road.

Mr. Yeomans said he believes on one of the projects they did a 300' to 500' radius from the outside edge of the property. He said it's important to note that it's not just the abutters who are potentially affected. He said he's had phone calls from people who had a crack in their foundation and they were a substantial distance away from the project and didn't have a survey so there wasn't any way to prove that it existed prior to the blasting. He said the company that specializes in this has their protocol that they follow. He said he doesn't think it's any magic number.

Mrs. Lasky asked if there were any way that the Board could stipulate how far the survey should cover.

Mr. Yeomans asked what if they didn't stipulate enough. He said it should be left to the professionals to make the determination and the homeowners should make sure they protect themselves.

Mr. Farkas said according to the staff report a small monetary contribution was requested. He asked how much this is.

Mr. Yeomans said the Traffic Department is asking for \$600.00 for whatever they negotiated. He said he doesn't know specifically what it is for, but presumably it will be applied to traffic improvements.

Atty. Gerald Prunier. Atty. Prunier said that this contribution is being made to cut the brush.

MOTION by Mr. Dufour to approve the consolidation and re-subdivision of two lots into five single-family lots at 366 & 368 Main Dunstable Road with the finding that it meets the requirements of NRO 16-108 and with the following stipulations:

1. Prior to this plan being signed final drafting corrections shall be made and revised plans submitted. Drafting corrections requiring approval by the Division of Public Works, including a signage plan, shall be obtained prior to submittal.
2. 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.

3. Prior to recording the subdivision plan all structures shall be removed and materials disposed of according to local, state and federal laws.
4. Prior to recording the subdivision plan a drainage and sidewalk easement shall be prepared and recorded with the plan.
5. Prior to any work being conducted a pre-construction conference shall be held with the Planning Department to review erosion control measures, tree removal, and protection. Trees to be saved shall be marked by flagging and protected from cutting, or other disturbance, with suitable temporary fencing.
6. Prior to the first certificate of occupancy being issued the applicant shall install a permanent street name sign at the intersection of Evelyn Circle and Main Dunstable Road.
7. Prior to the first certificate of occupancy being issued the storm water operation and maintenance plan shall be recorded.
8. Prior to the final certificate of occupancy being issued all required site improvements shall be completed according to the approved plan, and all work conducted in the Main Dunstable Road right-of-way completed to the satisfaction of the Division of Public Works.
9. A pre-blasting survey shall be conducted by the blasting company as required by code. All affected buildings shall be notified prior to the survey.
10. The soil storage area shall be monitored by staff and hydrated as needed.
11. All brush along Main Dunstable Road shall be cleared to improve site distance.
12. The catch basin located at the corner of Chung & Main Dunstable Road shall be cleaned out.
13. The applicant shall contribute \$600 to the Traffic Department for traffic mitigation.

SECONDED by Ald. Larose.

MOTION CARRIED UNANIMOUSLY

3. **James W. Freeman (Owner) - Proposed subdivision of one lot into two single-family lots, 9 Third Street & North Groton Road, Sheet 87 Lot 22, Zoned "RB" - Urban Residence.**

Stephan Toth, Professional Engineer, Granite State Engineering. Mr. Toth said the applicant is proposing to subdivide the existing parcel into one new residential lot. The existing home and garage are to remain. The porch will be removed as part of the subdivision in order to meet the side yard setback requirement. He said they have shown a typical house and driveway layout for the new parcel. He said each lot is conforming as far as the dimensional requirements are concerned.

He referred the Board to Stipulation #2 on the staff report. He said this indicates a storm water operation and maintenance plan for Lot 318 shall be recorded, if required. He said the soils on the site are Windsor soils, which are excessively well drained, which is why he has the roofs tying into some infiltration trenches in the storm water operation plan. He said the stipulation, in his opinion, is not necessary considering the soil type.

SPEAKING IN OPPOSITION OR WITH CONCERN

No One.

SPEAKING IN FAVOR

No One.

Mr. Yeomans said that he thought he would leave it to the Building Department to determine whether there should be foundation drains would be required and, if so, he would require that the storm water improvement would have to be constructed. This is the reason for Stipulation #2.

Mr. Slivinski said it doesn't look like there are any sidewalks here.

Mr. Yeomans said there are sidewalks on Ledge Street. There is the rail trail. The code says that all sidewalks are required unless there are other standards that can be used which would mitigate the need for it. Presumably a sidewalk here would go nowhere and connect to nothing.

Mr. Slivinski said it seems to him that they have had other people make a contribution to the general sidewalk fund of the City.

Mrs. Lasky asked what the contribution would be in this instance.

Mr. Yeomans said \$50 per foot. It can amount to a lot of money, depending on the length of the sidewalk.

Discussion ensued.

Ald. Larose said his recollection is that they can require a sidewalk be constructed, ask for a contribution, or they can waive. He said in his opinion they should not be asking for a contribution at this time. If they were going to ask for this it should have been done at the time they did the review prior to the case coming to the Planning Board. It's unfair to the developer to ask for this at the last moment.

Atty. Gerald Prunier, 20 Trafalgar Square, Nashua. Atty. Prunier said many of the Board members have visited the area and know what it's like. It's an affordable area. He said the City has plans to put new streets in this area with no sidewalks planned.

Ald. Larose asked Atty. Prunier's opinion on the sidewalk issue.

Atty. Prunier said he thought that the ordinance should be looked at with input from staff, the Planning Board and the developers because at times the sidewalk amount can be a large amount of money that is a great part of the expense of putting up a house. He said he thought that a better ordinance could be developed so that staff could come up with a recommendation and the decision would be the same every time.

Discussion ensued.

Mrs. Lasky said when she went to the site they were working on the existing house. She said the way she looked at it is that it is going to make that area and that corner 100% better.

Atty. Prunier said there is over \$8,000 in asbestos cost removal. There will be an old house that will be renovated and a new house built so there is a pride that goes along with that and people will start taking care of their property because something has been done.

Mr. Slivinski said his rationale is that when a property is split like this one, somebody is making money and a sidewalk contribution should be made so that it can go back to improve the City's sidewalks.

MOTION by Ald. Larose to approve subdivision of one lot into two single-family lots, 9 Third Street & North Groton Road, Sheet 87, Lot 22 with the finding that it meets NRO 16-108 and with the following stipulations:

SECONDED by Mr. Torosian.

MOTION CARRIED UNANIMOUSLY

1. Prior to recording the subdivision plan the porch shall be removed.
2. Prior to the issuance of the certificate of occupancy for Lot 318 the storm water operation and maintenance plan shall be recorded, if required.
3. Prior to the issuance of the certificate of occupancy for Lot 318 all work within the public right-of-way shall be completed to the satisfaction of the Division of Public Works.

NEW BUSINESS - SITE PLANS

4. **Alpha Financial Services LLC (Owner) - Proposed 1-year extension for the amendment of NR 820 for the demolition of the existing building and the construction of a 3-story, 15,088 square foot mixed use (retail, restaurant & office) building with associated access, parking and site improvements, 16 West Hollis Street & Elm Street, Sheet 82 - Lot 24, Zoned "CB/MU" - Central Business/Mixed Use Overlay. [Previously approved on August 7, 2003 & July 15, 2004]**

Richard Maynard, Professional Engineer, Maynard & Paquette, Nashua.
Mr. Maynard said this is the former site of the Parthenon Restaurant at the corner of West Hollis Street & Elm Street diagonally across from the Maynard & Lesieur building. This is a request for a second extension of a previously approved plan. There are no proposed changes.

He said his client is working diligently trying to get the financing in order. He said his client still intends to go forward and just needs more time to get things organized.

He said that for those who are new to the project, the existing restaurant will be razed and a three-story, principally masonry building will be constructed. The first floor will be retail and restaurant and the upper two floors will be for office use. There is a loading entrance to the rear and three parking spaces. They also have a documented easement from the City to use the Maple Street parking lot for access. They've also been granted a special exception from the Zoning Board for (he thinks) 28 spaces in a municipal parking lot.

He said as stated in the staff report, all conditions of approval remain the same.

Mr. Slivinski asked if the building is vacant.

Mr. Maynard said there was a fire and it's been closed since then.

Mr. Slivinski asked if anyone has inspected the building to see if there's a safety problem.

Mr. Maynard said it was inspected a year or so ago and it's been secured. It doesn't show any signs of collapsing.

SPEAKING IN OPPOSITION OR WITH CONCERNS

No One.

SPEAKING IN FAVOR

No One.

MOTION by Mr. Slivinski to approve the 1-year extension for the amendment of NR820 for the demolition of the existing building and the construction of a 3-story, 15,088 square foot mixed use (retail, restaurant & office) building with associated access, parking and site improvements, 16 West Hollis Street & Elm Street with the finding that it meets NRO 16-123 and Division 20 Mixed Use District (Section 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 to review the overall details of the plan.
2. Prior to a building permit being issued, the applicant shall coordinate the municipal parking lot and any necessary

- ordinance changes with Division of Public Works staff and the Board of Alderman.
3. Prior to a building permit being issued, final approval of the necessary covenants and easements for the storm water management system shall be obtained from the Planning Department and Corporation Counsel. The cost associated with recording the document shall be submitted to the Planning Department and the document shall be recorded.
 4. 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.
 5. Prior to a building permit being issued, final approval of the building elevation plans and materials shall be approved by the Community Development Division.
 6. Prior to a certificate of occupancy being issued, all site and public improvements shall be completed.

SECONDED by Mr. Farkas.

MOTION CARRIED UNANIMOUSLY

5. **Harbor Homes, Inc. (Owner) - Proposed site plan for the demolition of the existing building and the construction of a 3-story, 19,863 square foot 20-unit multi-family building with associated access, parking and site improvements, 46 Spring Street, Sheet 32 - Lots 36 & 54, Zoned "GI/MU" - General Industrial/Mixed Use.**

David Aho, Patriot Land Surveying. Mr. Aho said the existing site is 46 Spring Street and is adjacent to the Post Office. The existing building is run down. It was a former industrial warehouse building. It used to house a small engine repair company. They have relocated and the site is vacant.

He said the applicant is proposing to demolish the existing building and construct a 20-unit residential dwelling for homeless Veterans. It is anticipated that this will improve the area.

He said the site is comprised of two lots. The applicant is proposing to merge the two lots. The existing building does not meet any of the setback requirements or open space. It is not landscaped. The proposed new building and site will meet the dimensional requirements in the ordinance. The site will also be

fully landscaped.

He said they will provide for an infiltration trench around the existing building to intercept roof drainage and infiltrate on-site. It will also provide for roughly a 50% decrease in runoff from the site during peak discharge.

He said the applicant is proposing seventeen parking spaces. Twenty are required. There are several parking garages within 1,000' of the site and there is also a lot located on Spring Street for any additional parking needed. He said they actually only expect half of the residents will actually have vehicles. The rest would use public transportation. There is a bus stop located right next door at the Post Office.

Mrs. Lasky said there is only one handicap space.

Mr. Aho said this is what is required under the ordinance. He said they could designate an additional spot if the Board requested it. He said they will get into the wider requirement for a handicap parking space and it possibly could displace a regular parking spot.

Mrs. Lasky said from reading the staff report she understands that vocational services and other services are going to be provided. She asked how many employees will be there.

Mr. Aho said he would ask one of the representative from Harbor Homes to address this question.

Mr. Dufour asked if this is non-permanent housing.

Mr. Aho said this is correct. He said he would ask a representative from Harbour Homes to address this as well.

Mr. Dufour asked if there's anything that would prevent them from striping additional handicapped spaces if it's determined that they are needed.

Mr. Aho said this is correct.

Ald. Larose said he expects that they can also assign spots to individuals.

Mr. Moran said the Traffic Department has asked for a \$2,600 donation.

Mr. Aho said the applicant has agreed to this.

SPEAKING IN OPPOSITION OR WITH CONCERN

Robert Ellis, 33 Brook Street. Mr. Ellis said he objects to Harbour Homes using the term "Veterans". In the newspaper he said it stated that homeless Veterans housing was planned. He said if this is going to be a 100% Veterans project, he is for it. He said the newspaper goes on to say that Veterans can only reside in the facility for up to two years. It says the project is designed particularly to address the severe shortage of affordable housing in Nashua. He said this means that they will apply to get the Veterans and then they are just let it go to anybody once the Veteran is out.

Mrs. Lasky said she believes that each Veteran will have two years in the facility and then another Veteran would come in to take the place of the vacating Veteran.

Mr. Ellis said Harbour Homes has had two fund-raising drives at the Simeneau Plaza at Shaws to help the homeless Veterans. He said he would like to see where the money goes and who gets it.

Mrs. Lasky said she believes this has to be registered with the Secretary of State's Office and he would have access to that information.

SPEAKING IN FAVOR

Byron Buckingham, Commander of the Military Order of the Purple Heart. Commander Buckingham said they need to help the Veterans coming home from Iraq. He said he belongs to all the Veterans organizations in Nashua and he is Chairman of the Mayor's Veterans Council. He said they deal with Harbor Homes. The DAV has a van service that goes from the home of the Veteran and take them to the VA Hospital without any charge.

He said this is a win/win proposition for the City of Nashua and the community. He said it will clean up an eyesore that is next to a building that is named after the ex-governor (Post Office). He said he would like to see a nice clean Spring Street. It will also help out the Veterans.

He said the Veteran would be able to stay for two years and in that time the Veteran should be able to go out and be an asset to the community.

NCPB

August 11, 2005

Page 24

Mr. Slivinski asked if there would be a problem in filling the home with Veterans - that there is a real need for it. Commander Buckingham said he thought there was a real need for it. He said he has never gone to a VA Hospital without seeing every chair filled with Veterans asking for help.

Reginald Lapointe, 440 Amherst Street, Nashua. Mr. Lapointe said he has been in a Veteran's program called "Veterans First" for about a year. It is run by Harbour Homes. It has helped him and a lot of other Veterans.

He said he wrote a letter to the Telegraph that was published in their newspaper. He read it to the Board. The following is a condensed version of what this letter said. He came to New Hampshire from Florida in 1988. He was working in construction. In 1996 he started his own company with his girlfriend. He became successful. He was a social drinker and after a few years he started drinking more and more. Four years later his girlfriend left him because of his drinking. The drinking increased to a quart and over a 12 pack of beer every day. He lost his business and the person he loved. His family and friends told him he was drinking too much and he didn't want to hear it. He contemplated suicide. With the help of a friend at the VA Hospital he found a safe place for him to stay and get back on his feet at Harbour Homes, Inc. in Nashua. He said there are twenty of them in the program. They each have their own struggles, but they are each given the opportunity to reach their goals. With the help of "Veterans First" and Harbour Homes he is slowly regaining his dignity and self respect. He has been alcohol free for the last eight months and every day he thanks God for having an organization such as Harbour Homes and their "Veterans First" program.

David Smith, State Representative Ware III, 12 Gettysburg Drive. Rep. Smith said he is also a member of a number of Veterans organizations, including American Legion, DAV, and Military Order of the Purple Heart.

He said he's had the opportunity to review the plans for this project and he supports it thoroughly. He said not only do they have the opportunity to build a beautiful building in Downtown Nashua, but they will be serving a very necessary social need. None of this is at a cost to the taxpayer. It is a partnership between the DAV and the individual residents where they pay a portion of their income.

He said there is a need for this facility. There is a waiting

NCPB

August 11, 2005

Page 25

list. The building at 440 Amherst Street is filled. He said the gentleman who just spoke talked about the amenities coming from that program. The proposed facility will have meeting rooms and conference facilities so that these individuals will hopefully be able to get back into society.

He said every war has had a different type of casualty. WWII & the Korean War were primarily physical disabilities. Vietnam Veterans have drug and alcohol problems and unsocial behavior. If you read the papers and what's happening in Iraq right now, this again is a different kind of war. He said they are getting men and women sent there who have no idea how long they're going to be there. In Vietnam you went for a year and you came home. They have a lot of soldiers in Iraq who are older; who never thought they would be going into war, who are married, have children, and have stable jobs. There is a tremendous pressure and stress on family relationships. The divorce rate is considerably higher than in any other war. There is a continued need for Veterans.

Bob Keating, 5 Coburn Woods. Mr. Keating said he is not a Veteran, but he grew up in his elementary school years in Veterans Housing in Lawrence. He said his parents were WWII Veterans and it made a big difference in terms of the quality of life that his family and all the other families who lived there.

He said the Board has heard some very strong testimony about what this can do. Harbour Homes has an exemplary program in continuing to help citizens with multiple needs in the community.

He said the program also addresses a city-wide commitment. He said Nashua is one of the first cities of their size in the U.S. to endorse an "ending homeless plan." This is one step along the way.

Ald. Tolner. Ald. Tolner said he's been involved a little bit in this project. He said they had chosen a couple of other sites in the City and went through a number of different situations. They came up with this building. He thanked the Planning staff and Kevin Slattery and his partners.

He said he thinks this is definitely a win/win situation. All one has to do is look at the existing building to realize that pretty much anything that replaces it would have a positive impact on the City. He said this really does. They heard one of the speakers tonight talked about what the program means to him. He said Harbour Homes has been very diligent in pursuing this particular property. It's a good location in the City. There is definitely a need for it. He said if you ask most of the City leaders, they are

in favor of this project.

Peter Kelleher, Executive Director, Harbour Homes, Inc. Mr. Kelleher said he has been in this position for the past twenty-three years. He said he would be glad to answer any questions.

Ald. Larose asked if there is a possibility that some of the people in the facility would not be Veterans.

Mr. Kelleher said the building is 100% designed for Veterans. They received a grant award from the Veterans Administration. In order to receive payment, the people who reside there must be Veterans. There will be people in Veteran's household who will not be Veterans because their family members could also reside there.

He said at the present time they have 440 Amherst Street, which has been full since it has operated in the last year. They have people who go out and go on to permanent housing, obtain employment, or start their own companies. It's impressive what the Veterans have been able to accomplish.

Mrs. Lasky asked how many people are serviced at 440 Amherst Street.

Mr. Kelleher said they have sixteen. In total, the program has twenty. They have a couple of others at their Maple Street location. They have no capacity for single women who are Veterans. This building will provide for that.

Ald. Larose said he understands that there will be twenty apartments - fifteen single bedrooms and five units that are going to have two bedrooms. He said he assumes that with the five units that have two bedrooms they are anticipating having children living here.

Mr. Kelleher said there could be some children.

Ald. Larose asked if there has been some kind of discussion about having a play area for the children.

Mr. Kelleher said they have. He said they aren't anticipating a large number of children. He said they should be able to figure out how to move some space that will have family area. They also put a lot of thought into the layout of the first floor where there are going to be several larger rooms where people can meet.

Mr. Sawyer pointed out that this is a mixed use project in the downtown and the Planning Board has to review and approve the architecture of the building. The plans are in the Board's packet. The Board looked at the rendering of the building.

MOTION by Mr. Dufour to approve the site plan for the demolition of the existing building and the construction of a 3-story, 19,863 square foot 20-unit multi-family building with associated access, parking and site improvements, 46 Spring Street with the finding that it meets NRO 16-123 and Division 20 of the Mixed Use District (Section 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, bonding for all public improvements shall be submitted to and approved by the Engineering Department and Corporation Counsel.
3. Prior to a building permit being issued documents pertaining to the storm water operation and maintenance plan shall be recorded.

SECONDED by Mr. Farkas.

MOTION CARRIED UNANIMOUSLY

6. **Congress Supply, Inc., Clermont G. & Raymond E. Labonte (Owners) - Proposed site plan for the demolition of two existing buildings and the construction of a 16,750 square foot addition to the existing warehouse and the construction of a two-family house with associated access, parking and site improvements, 456 West Hollis Street, Sheet E - Lots 127, 179, 180, 220 & 241, Zoned "PI" Park Industrial.**

Tim Watson, Cuoco & Cormier Engineering, Nashua. Mr. Watson said the site is located over by the Exit 5 off ramp adjacent to West Hollis Street. This part of West Hollis Street is a dead end that ends right up against the highway. He said they are right across the street from the French Catholic Cemetery. The only real other abutter they have is Congress Supply, which is also owned by the applicant and owner of all the parcels (he pointed out the parcels). He said the only other potential abutter is across the street - the Greek Church.

He said they are combining the lots and merging them into one lot. The total lot area is just over 1.4 acres. There are two existing buildings that they will be tearing down. One of those buildings was supposed to have been torn down by June of this year, which was one of the stipulations of the discontinuance of Mercier Lane. There was also a stipulation of modifying the site plan for the Congress Supply building next door.

He said the building that is definitely going to be removed as it is right where they are going to be putting the new building. They are going to tear down the existing house that was off of Mercier Lane. They are also tearing down another small house that was further down West Hollis Street. They are proposing a second floor addition on the existing warehouse as well as expand the warehouse with a much larger area out back. They are proposing a duplex to replace the two single-family houses that they are tearing down. He said they appeared before the Zoning Board a couple of weeks ago and received a variance to allow two principal structures on one lot. They also received a variance to allow the second floor addition to remain in the front yard setback. They received a variance for lighting to go over the property line in excess of the .2 foot-candles allowed by the City. He pointed out the area where this would occur.

Mr. Watson said they have provided on-site drainage. They have a closed drainage system that flows to a couple of different underground infiltration chambers. These will overflow into the existing City drainage system. They have reduced the runoff from this site

Mrs. Lasky asked where the dumpsters are located.

Mr. Watson said right now they haven't proposed any. It's a warehouse.

Mrs. Lasky said there's a note on the plan that states it would have to be on a concrete pad, etc.

Mr. Watson said this is a standard note so that if they do have a dumpster, they can place it where it goes.

Mr. Dufour said if there are going to be dumpsters now is the time to say it because the Board can approve it now. If they do it later, it has to come back to the Board to be approved. He asked if there are dumpsters on site now.

Mr. Watson said there is no dumpster at this time.

Ald. Larose asked why they have no need for a dumpster.

Mr. Watson said it's a large warehouse and they have room to store. He said they can have the owner address that issue.

Ald. Larose asked if there was going to be a platform for a dumpster.

Atty. Gerald Prunier. Atty. Prunier said the dumpster is inside the building.

Mr. Farkas asked why the building that was to be removed in June was not removed.

Atty. Prunier said that the people living in the house are long-term employees of Congress Supply. He said Mr. Labonte is trying to provide for where they would live at the same time. The accumulation of land from the State and Mercier Lane took longer than it should have. He said that he and Mr. Yeomans had to come up with some suggestions that would make the City happy.

Mr. Slivinski said he remembers how upset he was that the building hadn't been taken down. He said when Atty. Prunier was here the last time he stated that there was one employee in there. He went back there and took a look and there are toys all over that place. There were also children there. He believes that if you look at the record Atty. Prunier said there were no children living there.

Atty. Prunier said if he did, he was mistaken. He's sure it was told to him as to who was living there.

Mr. Slivinski said the applicant agreed to take the building down and when it wasn't taken down it's like a slap in the Board's face and the City's face.

Mrs. Lasky said it hadn't been taken down before so the question is how can they believe that it will be done now.

Atty. Prunier said the proposed building is on top of the existing house.

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 buildings and the construction of a 16,750 square foot addition to the existing warehouse and the construction of a two-family house with associated access, parking and site improvements, 456 West Hollis Street, Sheet E - Lots 127, 179, 180, 220, & 241 with the finding that it meets NRO 16-123 and with the following stipulations:

1. Prior to this plan being signed any final drafting corrections shall be made and revised plans submitted. Drafting corrections requiring approval by the Division of Public Works shall be obtained prior to submittal.
2. Prior to any work being started, the applicant and their contractors shall hold a pre-construction conference with Planning Staff to review demolition, erosion control, and related construction activity.
3. Prior to the issuance of a building permit a storm water operation and maintenance plan shall be recorded.
4. Prior to the issuance of a building permit, approval for on site septic systems shall be obtained.
5. Prior to a certificate of occupancy being issued, all site work including final paving and landscaping shall be completed for both the residential and commercial building.
6. Prior to a certificate of occupancy being issued, an easement for cross access and parking shall be recorded.

SECONDED by Mr. Farkas.

Ald. Larose said since there are people living here and they want to build a duplex, he is assuming it is for the people who live in the two houses. He asked if the duplex is going to be done before everything else.

Mr. Watson said he believes this is what is going to happen.

MOTION CARRIED UNANIMOUSLY

- 7. Carlos Arias Realty, LLC (Owner) - Proposed amendment to NR71 for a change of use to allow automotive retail sales to the existing automotive service facility with associated parking and site improvements, 161 East Hollis Street & Hobbs Ave., Sheet 24 - Lot 3, Zoned "GI" General Industrial.**

Richard Maynard, Maynard & Paquette. Mr. Maynard said the site is located at the intersection of East Hollis Street & Hobbs Avenue. It has a sign that says "Morel Brake". It's the location of a former gas station. The gas pumps have been gone for some time. It is an auto repair garage at this time.

He said in June they received a variance to add a used car automotive sales operation to the site. He pointed out the area on the plan where the sales are designated. He said thirteen spaces are required. Fourteen parking spaces are provided.

He said the site is almost fully paved all the way up to the street. There are several wide open curb cuts. He said pavement will be removed to create green space. He said they also received a variance to allow paving in the front yard setback. The normal setback is 10' and they will be removing 5' of the existing asphalt.

He said they will be blocking off and narrowing up the curb cuts. He pointed out the colored plan to the Board to show where this would be occurring. He said there would be two access points to the site instead of three huge ones. This will greatly improve traffic safety.

He said the green space right now is approximately 17%. It will increase up to 22% with the additional landscaping. The building itself will be remodeled and upgraded, but essentially will be the same. There is a dumpster in the back and a fence to the rear. There is a stipulation that requires the fence to be kept in good condition.

Mr. Slivinski asked where the fuel tanks are.

Mr. Maynard pointed out the general location. He said they are underneath the pavement.

Mr. Slivinski asked if they expected any problems because of the

tanks.

Mr. Maynard said if you take the tanks out you have to test the soil for petroleum products. If there are petroleum products they tend to put a pile on plastic and let it aerate for a while. Then they take it to an asphalt plant where they incorporate it into the asphalt mix. Until it's excavated and tested for petroleum, nobody knows what's there. It's likely that there's some.

Mr. Dufour asked if it would be significant enough for mediation.

Mr. Maynard said it's not probable. They are talking about gasoline, not other kinds of hazardous materials. He said the pumps have been gone for about fifteen years now.

Mr. Yeomans said it's with a certain amount of trepidation that they are proceeding with the project. He said it concerns the number of vehicles that end up on the site. He said he placed a stipulation, if granted, that per testimony at the Zoning Board of Adjustment meeting concerning the maximum number of vehicles that could be on site at any one time. The applicant needs to be sure that they stick to this.

Mrs. Lasky asked about the fact that they also service vehicles. She asked if those vehicles are part of the twenty vehicles.

Mr. Yeomans said they service vehicles now and that will continue. He said that the site isn't very large to begin with. The twenty vehicles are for vehicles they are allowed to have on site for sale. This would be in addition to vehicles that they are servicing for auto repair.

Ald. Larose asked what the green space would consist of.

Mr. Maynard said it would be mostly shrubs with some trees.

Ald. Larose said this would stop them from encroaching onto the sidewalk with their cars.

Mr. Maynard said this is what Mr. Yeomans is alluding to. He said just about all the car dealers, new or used, can't seem to stay off their grass. He said he's represented several of them and he just doesn't know what to do with them. He said this site has well-defined pavement and if they are on the grass, they are in violation.

Discussion ensued about enforcement.

Mr. Torosian asked if this is a used car facility and if there was any affiliation with a franchise.

Mr. Maynard indicated it was for used cars and that it had no affiliation with a franchise.

SPEAKING IN OPPOSITION OR WITH CONCERN

No One.

SPEAKING IN FAVOR

Carlos Arias, 28 Kingston Drive, Nashua, NH. Mr. Arias said he is the owner of the property in question. He said he heard the Board members discuss that they had been at the site and counted the number of vehicles. He said that in the window of the cars he has a map that shows the location of his other site. He said anyone who calls him he directs them to the 6 Bennett ??? Street site.

Atty. Gerald Prunier. Atty. Prunier said what he thinks Mr. Arias is trying to say is that until he gets the site plan approved, he didn't want the Board to think that he was selling cars at the East Hollis Street location. He said he might have cars stored there, but he's not selling them there.

MOTION by Mr. Dufour to approve the amendment to NR71 for a change of use to allow automotive retail sales to the existing automotive service facility with associated parking and site improvements, 161 East Hollis Street & Hobbs Avenue with a finding that it meets NRO 16-123 and with the following stipulations:

1. Per Zoning Board testimony no more than 20 vehicles shall be displayed or offered for sale at any time. All vehicles offered for sale shall be parked in the display area only as shown on the plan, unless being serviced.
2. Prior to signing the State of New Hampshire, Department of Transportation, Motor Vehicle Zoning Verification for automotive sales all site work shall be completed and all work in the right-of-way completed to the satisfaction of the Department of Public Works.
3. The 6' high stockade fence along the Hobbs Avenue side lot line shall be maintained in good order including replacement, if necessary, to maintain screening for the adjacent residences.

SECONDED by Mr. Farkas.

MOTION CARRIED UNANIMOUSLY
OTHER BUSINESS

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

MOTION by Mr. Dufour finding that there are no issues of regional impact on the technical review agenda for the meeting of 9/8/05.

SECONDED by Mr. Farkas.

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)**

Mrs. Lasky said they have begun meeting again on this ordinance. She said their first meeting was in 2002.

Mr. Houston said that next Tuesday the Aldermanic Planning & Economic Development Committee is going to be taking up the downtown districts for discussion.

Mrs. Lasky said the meetings will be ongoing - about once a week.

Mr. Houston said there's a special meeting scheduled for 8/30/05 to discuss the proposed wetlands revisions.

No motion to remove from the table.

3. **Referral from the Board of Alderman on proposed O-05-104, modifying the restriction on use of a certain way between Cathedral Circle and property identified as Sheet F - Lot 21. (Tabled from July 20, 2005 Meeting)**

MOTION by Ald. Larose to remove from the table.

SECONDED by Mr. Dufour.

MOTION CARRIED UNANIMOUSLY

Mr. Dufour said he has read this, but he's not 100% sure of what it

entails. He asked if staff was going to make a presentation before the Board votes on it.

Mr. Yeomans said that at the last meeting he had prepared a small GIS map. They essentially showed the emergency access location on the small scale and in back of that was a large scale plan to show what the ordinance was proposing to do - to keep a portion of the connection closed to through traffic and would remove the restriction on that piece which was adjacent to Majestic Heights.

He has provided three additional maps. One is a small scale map that shows a two-lot subdivision. Attached to that is the proposed subdivisions and what they would look like. One is Phase I and the other is Phase II. The proposed connection to Cathedral Circle is shown on the plan. He said he was not aware until this week that Mr. Maynard has made some revisions to the Phase II plan.

He placed the various plans up and explained what they meant.

Atty. Gerald Prunier, Nashua. Atty. Prunier said he represents the owner of the land where the nine lots are shown. He said when the Majestic Heights plan first came about there was a connection (he showed where on the plan). When the plan got to the Planning Board, the residents of the area did not want the connection. It didn't make a difference to the applicant for Majestic Heights. He said the Planning Staff recommended a connection between the two. After the plan was approved, an alderman introduced an ordinance that this would remain an emergency access only. It ignored a piece of property (he showed the piece on the plan). It was decided that an ordinance had to be introduced - they are talking about nine lots and they will bring it out through Majestic Heights.

Mr. Dufour asked how much the gate is being backed off to allow access.

Atty. Prunier showed it on the plan. This is to provide the person with the nine lot subdivision access out.

Ald. Kathy Vitale, Ward 1 Alderman, 8 Massosoit Road. Ald. Vitale said this has been talked about as an emergency access road. It comes down to a gate that protects the residents of Cathedral Circle from people using the road off of Cathedral Circle to get through to Majestic Heights. She said she didn't know what the original intent of the original legislation was. She said she believes the Board needs to clarify whether it's an emergency

access road or if it's only an emergency access gate, meaning that you can't travel all the way down the road.

She said her understanding is that the property is a piece of property that runs from Broad Street all the way up to the proposed nine lots. Therefore, the whole property has access to Broad Street. The property is challenged in that there is a ridge that runs through it that makes the upper portion more difficult to develop and get the access out onto Broad Street. She asked if they are determining if the owner has reasonable development ability on his whole property or are they going to talk about this as being landlocked only for the top part.

She asked if it's the intent to break off the upper part of the property and sell it or if it's going to be kept and developed as what is being presented as Phase I and Phase II. She said she has heard that the upper part could maybe be separated out and sold.

Mr. Dufour asked Ald. Vitale if the parcel she is referring to as possibly being sold is the area where the cul-de-sac is shown on the plan.

Ald. Vitale said it is.

Mr. Dufour asked why it mattered.

Ald. Vitale said she thought it was all one piece of property.

Mrs. Lasky said he believes it is.

Ald. Vitale said that there's a piece of legislation that most of the residents believe made an emergency access road. She asked if they were denying the applicant development of his property if he has access off of Broad Street, or is it that he wants to develop 100% of his property.

Richard Maynard, Professional Engineer, Maynard & Paquette. Mr. Maynard said Mrs. Lasky asked him a few questions about the adjacent property at the time they did Majestic Heights. He said there is a substantial ridge line in this area. It's about 20' in vertical height. It's extremely steep. It's impossible to traverse this with any kind of road.

He said at the time he told Mrs. Lasky that more than likely there would be a cul-de-sac coming from Broad Street (he showed where) and another cul-de-sac (he showed where).

NCPB

August 11, 2005

Page 37

He said the way the ordinance was passed, it's not clear and in his opinion didn't do what it was supposed to do. He said the intent of that ordinance was not to have traffic from Majestic Heights into Cathedral Circle. That was the purpose of having gated emergency access only. It also makes the property they've been discussing landlocked and inaccessible. This ordinance is to clarify the original ordinance so the property is not landlocked.

Mrs. Lasky said somebody had to leave and she left a letter dated 8/11/05 for the Chair to read. She said it comes from Elaine Austin, 32 Cathedral Circle, Nashua. The letter is in opposition to O-05-104. The letter states opening up the road would open up the road would create a large amount of dangerous traffic speeding through her neighborhood. It stated that previous hearings have been held to get this access to only be gated emergency access. For the same reasons the gated access was considered appropriate then, it should be considered appropriate now. Any access opening that allows traffic to flow from Broad Street through any new neighborhood and then through her neighborhood will create dangerous traffic through her area. It went on to compare it with another area of Nashua and that it would cause her property values to decrease.

Mr. Dufour said she is under the impression that this would be opening up the whole road.

Dave Durocher, 29 Majestic. Mr. Durocher said he was told that this was an emergency access road only. He paid for the lot with this understanding.

He said he looked at the topography of the road. It's a pretty steep hill coming down to Majestic Avenue. He said he doesn't understand how this can be dumped out onto a very narrow street. If there are two cars parked on the street across from each other, there is no way that you can get through. He said this is a neighborhood with a lot of very young children. It's hard enough to get out of Majestic Avenue as it is. He said one of the things that was mentioned at one of the meetings was to open up a street across from Tilton.

Unknown Female Speaker. She said it's not impossible to get up that hill because the owner has pulled a trailer up that hill from the bottom. It is sitting close to Cathedral Circle on top of the land that he is stating is inaccessible to him.

NCPB

August 11, 2005

Page 38

She said she is unequivocally opposed to the legislation that would modify the restriction on any part of the emergency access road between Cathedral Circle and Majestic Heights. She said if the legislation that gated this road (there has never been a gate and there isn't one there now) is even partially overturned it will only be a matter of time before the entire road will be opened to help alleviate the traffic problems on Broad Street that have been exacerbated by the high school, the roundabout and the increased traffic from new developments in this area of the city and from outlying communities. She said it would soon become a shortcut.

She said she spoke against the use of this road as a second access road when the Majestic Heights subdivision was made public. The intersection of Cathedral Circle and this access road is on a curve and has been the site of numerous accidents.

She said she looks at existing traffic safety issues and how the city has tried to deal with them - the speed bumps that were installed on Edgewood Avenue and Middle Dunstable Road that also includes a mini round-about, the brick crosswalks in the city, and the 8'-10' wide sidewalk on Charlotte Avenue - all in the name of traffic calming. She asked why the Alderman would want to alter legislation that could lead to more safety issues in the city.

She said it has been suggested that the owner cannot develop his land because it is landlocked. Although it has been "couched" that the land is landlocked by the access road, that is not the case. The owner of 509 & 511 Broad Street wants to develop his land for residential housing. The entire parcel has access from Broad Street, but the owner wants to develop it in two subdivisions.

She said the first subdivision plan that is closest to Broad Street is designed so that there is no access to the back part of his property. This is his plan. Now he is requesting legislation to open the emergency access road to gain access to the back portion of his land. She said she realized that there were some topography issues with the land and that it would take some effort and some money to level out the grade. She said she understands that it was done in the Maplewood development in south Nashua. There was also substantial grading done on the access road itself to make it acceptable to the City. Much blasting and grading was done at the Majestic Heights development. It's the nature of the land in that area of the City.

She said when the Majestic Heights subdivision was being planned all the abutters were notified by registered letter. There were

NCPB

August 11, 2005

Page 39

many meetings with the buyer and his representative. As an abutter, this owner has the same opportunity to voice his concerns as the rest of us, but he did not. She said when the legislation from the access road was being debated he was silent. The rest of the abutters tried to work with the buyer of the "Tamposi/Constant" land and his representatives. Some were happier than others with the results. Now this abutter who took no interest in the development of this area wants to void much of what was compromised for his own gain. She said the City would be absolutely wrong to be part of this plan.

She said she realizes the property would serve the abutters better than the trailers that are there now. They are an eyesore, but the trailers were there when the people purchased their homes.

She said she didn't believe the land should be developed in a way that aesthetically benefits a few abutters and financially benefits the owner at the expense of quality and safety of the surrounding neighborhoods.

She asked that the Board retain the emergency access road in its entirety since there is no real landlocked condition for this property other than what the owner is developing to enable the taxpayers to live in neighborhoods with safe neighborhood streets.

She said that when Majestic Heights came to the Board the neighbors in the Cathedral Circle and Pope Circle areas were not happy about the two access roads that were shown on the plan. They made a compromise so the people at the top of the hill wouldn't have a road going through Pope Circle. The emergency access was going to be at Cathedral Circle. All the people in the neighborhood expected that entire road from Cathedral Circle to the bottom of the road at Majestic Heights was an emergency access road, and not just part of it. That was their understanding of what the legislation did for them.

Ald. Larose asked if he heard the speaker say that there were speed bumps on Edgewood Avenue.

The speaker (unknown) said that they had tried.

Ald. Larose said there were some on Ashland Street, but they were removed as the neighbors didn't think it was the way to go.

Bill Flynn, 27 Majestic Avenue. Mr. Flynn said that his property is adjacent to Mr. Durocher's property. He said they were also

told that this was an emergency access road. He said just this spring, because of the grade they had a major flood in their cellar of about 10" of water.

He said at a meeting on December 14 with Atty. Prunier before the Planning Board he indicated that the land was not landlocked and that it was accessible from Broad Street.

Mr. Flynn said he is opposed.

Gary Oden, 16 Cathedral Circle. He said he wanted to also raise the issue of the non-landlocked nature of the land. He said it was proposed at a meeting of the Alderman last week that it was landlocked. He said he can't understand why anyone would want to take that traffic and move it onto this road when there is a perfectly good way to get it out to the Broad Street area.

Leo Purcell, 5 Majestic Avenue. Mr. Purcell said he is at right at the entrance of Broad Street. He is reiterating what Mr. Flynn just said. On December 14 both, 2004 Atty. Prunier and Mr. Maynard tabled a proposal to develop the "Lavoie" property with an access road coming directly across from Tilton Avenue. It had to be that way based on what staff said and the City Street Department.

He said that when they sought a variance for 6' Mr. Lavoie was asked if he was 100% sure that there would be enough room if the Country Barn Motel was moved so they could get enough road clearance.

Mrs. Lasky and Mr. Dufour said the Zoning Board grants/denies variances, not the Planning Board.

Mr. Purcell said he had some questions. 1. Why isn't there a gate on Cathedral Circle. 2. If something goes through Zoning and goes to Planning and gets changed dramatically, is it correct. 3. How can somebody decide that their land is landlocked when there are seven trailers on the property.

Richard Maynard, Professional Engineer, Maynard & Paquette. Mr. Maynard said the previous speaker somewhat confused about what actually was presented to the Zoning Board. He said he is confusing the cul-de-sac roadway off Broad Street with the Country Barn Motel. To the rear there are several campsites (RVs, etc) that are substantially occupied for most of the year. The land is proposed to be part of a subdivision with nine or ten homes tributary to Broad Street. He said they never spoke about the back piece. It is physically landlocked by the steep slope as the Board

saw when they talked about Majestic Heights.

He said the lining up with Tilton Street has to do with the little short street on Broad Street.

He said the gate has not yet been installed. It remains an outstanding item that needs to be done. He said he believes they are waiting for the mechanism that the Fire Department uses to automatically open the gates.

Atty. Gerald Prunier. Atty. Prunier said at the December 14 meeting of the Zoning Board they showed the two plans that they have displayed with two cul-de-sacs. There was never any connection or mention of a connection.

Leo Purcell, 5 Majestic. Mr. Purcell said on December 4 there were two reasons for the request for a variance. The first was that the second building (Country Barn Motel) needed to be moved back. He said there was a direct question whether it was structurally sound enough to be moved back enough to allow the main road to access what was then proposed to be a 17 single-family lot development.

The Board members said they didn't recall this proposal at all.

Richard Maynard. Mr. Maynard said the Planning Board has no idea about these subdivisions because they've never been here. The ZBA action had to do with a variance so that they could have a whole different road at the other end of this property near Broad Street that was going to be close to the existing structure.

Vishal Sharma, 26 Majestic Avenue. Mr. Sharma said he was told, as his neighbors were, that this was an access road. He said he is across the street. He said the road is very steep and during the winter when there are snowy conditions he is concerned that vehicles may slide into his front yard.

Narender Tummala, 28 Majestic Avenue. Mr. Tummala said he is worried about the traffic. He was told when he bought his house that this was an emergency access road, and not for use by the public.

Ald. Tolner. Ald. Tolner said that he was the endorser of the legislation that has been talked about. He said it took place about three years ago. That legislation was approved unanimously by the Board of Alderman in direct response to the people who live

in Parrish Hill. He said the sole purpose of putting that gate there was to make sure that Parrish Hill was protected.

He said Majestic Heights is a brand new neighborhood. People have made some comments about steep hills, etc. If you look at the piece of land they are talking about right now, the land is no steeper than a good chunk of that development. It's probably a little flatter than a good number of those streets.

He said he had a couple of conversations with city staff a few months ago. This particular design plan was brought to his attention sometime in September. There were some designs that would be a lot more invasive to the neighborhood. This was a reasonable compromise between the people who want to develop the land.

Ald. Tolner said he understands the concerns some of the residents of Majestic Heights have stated. Their real estate person told them that this was an emergency access road, but this plan seen tonight, for the most part, has been discussed on and off for the last six months. The reason why the legislation was submitted was that in his mind and in the other Aldermen's minds, this is the least invasive arrangement for the neighborhood as a whole. He thinks it will be more successful in protecting some of the residents of Parrish Hill. If they don't come up with a reasonable solution to assist this piece of land that's landlocked, they are going to be back talking about whether the road should be opened up. Right now they do need to get the gate up.

Dan Durocher, 29 Majestic. Mr. Durocher said he keeps hearing the word landlocked. He asked if it is, in fact, landlocked property in the upper portion.

Mrs. Lasky asked if there is a strict definition of landlocked.

Mr. Yeomans said this property has legal access onto Broad Street.

Mrs. Lasky said basically the Board is here to give a recommendation to the Board of Alderman.

Mr. Durocher said he understands this, but the word landlocked keeps being used. He questioned if they are using this to base their decision on.

Mr. Dufour said they wouldn't base their decision on that because it's not what they are deciding on tonight.

NCPB

August 11, 2005

Page 43

Mrs. Lasky said the subdivision plan is not before the Board tonight. It is technically not part of the legislation that they are discussing.

Mr. Slivinski said this is a situation where two neighborhoods don't want this to happen. He said they make a strong argument why it shouldn't hook up to their neighborhoods.

Mr. Dufour said Ald. Vitale talked about the intent of putting that gate in. He said he wasn't even in favor of putting the gate in because he felt it was based more on political motivations. He said he thought tonight's question was whether to remove it. He said they have committed to having a gate there to keep through traffic out and that's the way it should be. He's not sure that they were determining where the gate was going to be. This was probably improperly conveyed to the people on Majestic Avenue. He said he's not sure whether this was the developer's intent. The question before the Board tonight is if they back it up and if they back it up, does it change the original intent of the Board. He said he didn't think it does. If they back the gate up the developer has many more hurdles to overcome.

Mrs. Lasky said when you have a piece of property that is undeveloped you can't be sure what can happen. She said she knows the people in her neighborhood were told that nothing would happen there; it's not true.

Discussion ensued.

Ald. Larose said he wasn't here when all the discussion went on, but he thinks what happened is that the Fire Department wanted a full road and once they knew the road was going to happen the people in the area wanted it gated, so the Board was really voting for a gate and not the road.

Ald. Tolner. Ald. Tolner said the purpose of the legislation was to prevent cars from going from Majestic Heights to Parrish Hill - period. The compromise was to put a gate there. Majestic Heights wasn't even considered when the legislation was passed. There were no promises made to anybody at Majestic Heights when this legislation was passed. There wasn't even a bulldozer on the land when the legislation was passed. The sole purpose of the legislation was in response to the concerns of the Parrish Hill residents was to put a gate there so no cars could come from any location on that side into Parrish Hill. He said he doesn't know why the gate hasn't been put up yet. There is a new gate at the condo complex.

He said the direct abutter to this road - the "Wright's" - live right on Cathedral Circle and are in favor of this legislation. He said Mr. Wright was here tonight, but he got called out. He said if you give the people in Parrish Hill a chance to digest this he doesn't think there are many people in Parrish Hill that are not in favor of the legislation. He said this legislation does not change the original legislation.

Rick Manning, 12 Majestic. Mr. Manning asked if at some point this will be opened up if the people on the other side like the idea and then all of a sudden there will be 100 houses that will be driving down their road for quicker access to Broad Street.

Mrs. Lasky said that would be something the Planning Board would look at if it were requested of them.

Mr. Manning said there have been people who have said the realtor lied to them. That's not necessarily true. Based on what's been said tonight this was planned a long time ago when Majestic Heights was being developed. Therefore, the information must have been passed on to the people who gave them the information from the developer. The realtor didn't pull it out of the air and say it's an access road. It had to come from somewhere.

Ald. Larose said the request was for a full road and a compromise was made that it would not be a full road and that it would be gated so that you could not get into Parrish Hill. On the other hand Parrish Hill can't get into Majestic Heights.

Bill Flynn, 27 Majestic Avenue. Mr. Flynn said it seems like the residents of Parrish Hill would be protected, but not the residents of Majestic Avenue. He said he thought over time they were going to see a huge traffic flow if the whole area is developed into an additional one-hundred homes in the future. They will all be coming up Majestic Avenue, which is a small road to begin with onto the access road which will have to be widened.

The Board questioned where they would be going since the proposal for the future is for nine homes, with Mrs. Lasky stating that it looks like that's all that they can do because of the size of the lots and the dimensions that the lots have to be.

Mr. Dufour said the plans show the Majestic Heights end of the gate further down. He asked if that's why the legislation is necessary. He said typically when there is a gated access; it's one gate, not

two.

Mr. Yeomans said the legislation dealt with that piece of the plat. He explained.

Mr. Farkas said if you read the legislation it states it's the way shown as "Future Street Extension."

Mr. Slivinski said no matter what the Board decides the Board of Alderman will ultimately vote it on.

Mrs. Lasky asked if its possible to send no recommendation and what would happen if that were the case.

Ald. Larose said a favorable recommendation only needs a majority vote to pass (8 votes). An unfavorable recommendation would need ten votes to pass.

Discussion ensued about the possibility of tabling the recommendation to the Board of Alderman.

Mr. Houston said when the Board sends an unfavorable recommendation to the Board of Alderman; it's the same as saying "no." He said he believes this is an amendment to the official map if he understands the legislation. He said if the Planning Board does not make its report within thirty days, it is deemed to have forfeited the right to further suspend action. He said the Board should send either a favorable or unfavorable recommendation.

MOTION by Mr. Dufour to submit a favorable recommendation on proposed O-05-104 to the Board of Alderman.

SECONDED by Mr. Moran.

MOTION CARRIED - 6-1, Mr. Slivinski opposed.

ADJOURN

Mrs. Lasky declared the meeting closed at 10:55PM.

APPROVED: _____
Bette Lasky, Chair Nashua City Planning Board

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NCPB
August 11, 2005
Page 46

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Taped Hearing