

NASHUA CITY PLANNING BOARD  
November 3, 2005

A meeting of the Nashua City Planning Board was held on Thursday, November 3, 2005 at 7:00PM in the auditorium at City Hall.

Ken Dufour, Vice Chair, conducted the Meeting.

Members Present:     Mike Lowe, Mayor's Representative  
                          Ken Dufour, Vice Chair  
                          Ald. Richard Larose  
                          Steve Dookran, City Engineer  
                          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**

None

**Communications**

Mr. Houston said the following items were in the Board's folder tonight:

Amended Planning Board agenda to include a new discussion item on Dunkin Donuts at 315 West Hollis Street

Preliminary Agenda to determine regional impact

**Report of Chairman, Committee & Liaison**

Mr. Lowe had a few remarks, but they were not intelligible.

Mr. Dufour said the CIC will be meeting next week to elect their slate of officers.

Mrs. Dufour went into the procedure of the meeting as follows:  
After the legal notice of each site plan or subdivision is read by the Chair, the applicant or his representative will be given no more than fifteen minutes, at the Board's discretion, to

present an overview and description of their project. The applicant shall speak as to whether or not they agree with the staff stipulations.

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

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

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

**OLD BUSINESS - SUBDIVISION PLAN**

None

**OLD BUSINESS - SITE PLAN**

None

**NEW BUSINESS - SUBDIVISION PLAN**

1. **Community Chapel, First Church of Nazarene (Owner) - Proposed subdivision of one lot into two - 5 St. Laurent Street & Ferry Road, Sheet 58 - Lot 10, Zoned "R18" - Suburban Residence.**

Richard Maynard, Professional Engineer, Maynard & Paquette, Nashua. Mr. Maynard said the purpose of this subdivision is to separate the parsonage residence from the Community Chapel site. The total site is about 11.8 acres in size. They are proposing a 40,000 square foot lot on Ferry Road. The existing parsonage has been razed and a new residence/replacement is proposed for the new lot. No new residents or building lots are being proposed.

He said they are not creating any new traffic, therefore a traffic donation is not appropriate for this requested subdivision.

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He said there is a letter in the Board's file from Steve Williams, a member of the Community Chapel, who will speak to the Board.

He said they do not feel that they should be asked to make a sidewalk contribution since they are not adding to what has been there in the past.

Mr. Lowe asked a question - unintelligible.

Mr. Maynard said they are not creating any new residences; it's to put a lot line around an existing house.

Mr. Dufour said that from Mr. Maynard's perspective, if they are building a new house the ordinance applies.

Mr. Maynard said "yes." He said if there were no parsonage or house it would apply because they would be doing something new.

Ald. Larose said he didn't think they should expect to get a contribution for 1700' of sidewalk, especially where the majority of the frontage is on the Henry Burque Highway. He said in reading the description it says that Ferry Road is not on the sidewalk priority list. He said he finds that odd since Ferry Road goes right to Pennichuck Middle School. There is a sidewalk on a portion of Ferry Road from Manchester Street to the main entrance of Glen Abbey.

He said they could debate that this is a house replacing a house and doesn't fall into the category where a new sidewalk or a contribution towards a sidewalk for the frontage that's on Ferry Road.

Mr. Maynard said if they chose to do this condominium style they wouldn't be before the Board. It's only because they are trying to separate the two buildings.

Mr. Dufour asked how the applicant felt about the request for a \$200 voluntary contribution.

Mr. Maynard said it's unreasonable. He said there's not one bit of traffic being generated with this request.

**SPEAKING IN OPPOSITION OR WITH CONCERN**

No One.

**SPEAKING IN FAVOR**

Steve Williams, Member of the Church Board (Community Chapel, Church of the Nazarene. Mr. Williams said they would appreciate it if the Board would grant the waiver of sidewalk construction. He said he is aware that under the regulations for a subdivision, it is required, but the Church could have easily demolished the existing house and built the house that's going to be built on the site without anything more than a building permit. The only reason they are taking this action is to facilitate a change of ownership. There is no impact to the community from this action

Mr. Duffy asked if the church was not going to maintain title to the property.

Mr. Williams said once they subdivide the property it is their intent to sell it to their current church pastor and he will construct a house on this location.

Mr. Dufour said that the house will continue to be the pastor's house.

Mr. Williams said it would be in the pastor's possession as long as he wants it to be. At such time as he should choose to sell it the church has the first right of refusal, but it will not necessarily revert back to the church.

Mr. Slivinski asked how many feet of frontage the property has on Ferry Road.

Mr. Maynard said 170'.

Mr. Slivinski said other than the sidewalk situation there's no problem. He said they are splitting the property and the ownership is changing. There's no guarantee on what is going to happen in the future as far as the house that will be constructed.

Mr. Lowe made some comments that were unintelligible - did make out that he said the applicant should be made to make a sidewalk contribution just like everybody else.

Mr. Houston read from the ordinance. He said for subdivisions in residential zones or subdivisions of a residential nature in any zone, the developer shall be responsible for constructing a sidewalk on at least one side of all proposed new streets within

the subdivision and along the site's frontage adjacent to the proposed subdivision subject to exceptions described below:

In a residential subdivision a contribution in lieu of the construction of sidewalks along an existing street may be required when all of the following conditions are met:

1. The subdivision produces buildable lots, none of which is further divisible into additional buildable lots under the minimum requirements of the zone.
2. The street does not appear on the sidewalk priority list.
3. The existing street adjacent to the resulting lots has no sidewalks for a distance of 250' on the same side of the street as the new lots measured from the nearest frontage point within the proposed subdivision.

He said it goes on to state that in a residential subdivision a contribution in lieu of the construction of sidewalks may be required to construct sidewalks along streets where the construction of sidewalks is waived when the Board determines that the proposed use or the proposed use of other pedestrian facilities would obviate the need for these improvements. He said a contribution in lieu of the construction of sidewalks may be required on cul-de-sacs.

He said buildable lots are any lots, whether they had existing homes on them or not. That's how it was defined when the ordinance was written by the alderman who introduced it.

Mr. Slivinski asked Mr. Dookran if the sidewalk is constructed if it has to be concrete.

Mr. Dookran said that the cost in sidewalks is actually the curbing. It's about 70% of the cost of a sidewalk.

Mr. Slivinski asked if it would have to be curbed.

Mr. Dookran said if they are going to construct a sidewalk they might as well build it so that it will last and that means a granite curb.

Ald. Larose said he isn't in favor of constructing a sidewalk along Henry Burque Highway. He said it's completely different on Ferry Road and he thinks that's what the Board should be concentrating on. He said he didn't have a problem waiving the

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1700' of sidewalk along Henry Burque and part of St. Laurent Street.

He said Ferry Road goes directly to a middle school he's very surprised that it isn't on the sidewalk priority list. He said he thought it makes sense to continue the sidewalk on Ferry Road. He said this parcel is across the street from where the sidewalks are.

He said they're in a "Catch 22" because it isn't on the priority list and if they provide a contribution, it would go toward the sidewalks that are on the priority list in that quadrant.

Mr. Farkas asked Mr. Maynard what the frontage for Ferry Road measures.

Mr. Maynard said 172'. There's an additional frontage (could not understand what he said). The contribution would be \$9500.00.

Mr. Farkas asked how the applicant would be with that.

Mr. Maynard said he didn't think they were comfortable with it because they can't afford it (not quite sure if this is what he said).

Mr. Dufour said the Board is trying to impose the minimum requirement. If they go the other way it may not be in their best interest.

Mr. Torosian asked if there are sidewalks on that side of Ferry Road.

Mr. Dufour said not at this end.

Mr. Torosian asked what they would accomplish by having only a section of sidewalk.

Mr. Dufour said the City ordinance requires that they get a contribution or the applicant builds it. He said typically it's less expensive for the applicant to make the contribution. The money the City would collect would go for sidewalk enhancement in that ward. There are sidewalks at the other end of Ferry Road.

Mr. Dookran suggested there be a little relief, if allowed. The case that follows. He said the sidewalk contribution be that much less the driveway width. He said if they agree with that, would they be able to apply that to this situation.

Ald. Larose said he thinks they are going to get into a lot of trouble if they go that route. He said Mr. Maynard talked about 50' of what used to be a road and he thinks they should waive that 50' and go with the 172' that is on Ferry Road.

Mr. Moran said according to his calculation the contribution would be \$8600.00. He asked if the sidewalk can be built for \$8600.00.

Mr. Dookran said it's much less than what the City pays contractors to do the work.

**MOTION** by Mr. Lowe to approve the subdivision of one lot into two, 5 St. Laurent Street & Ferry road with the finding that it meets NRO 16-108 and with the following stipulations:

1. Prior to the issuance of the certificate of occupancy the stormwater operation and maintenance plan shall be recorded.
2. Waiver of sidewalk on Henry Burque Highway and St. Laurent Street. Require a sidewalk on Ferry Road or accept a contribution in lieu of construction.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED 6-2, Mr. Moran and Mr. Torosian opposed.**

2. **Donna Street Extension, Constance D. Gauthier & State of New Hampshire (Owners) - Proposed lot line relocation & subdivision of former right-of-way into 5 single-family lots and one non-buildable lot, 26 Donna Street & West Hollis Street, Sheet E - Lot 1476, Zoned "RA" - Urban Residence.**

Steven Keach, Civil Engineer, Keach Nordstrom, Bedford, NH. Mr. Keach said this land is being acquired from the New Hampshire Department of Transportation. At the time improvements were done in the vicinity of the Everett Turnpike, West Hollis Street & Route 111 area, there was acquisition of right-of-way. Earlier this year the Department of Transportation opted to dispose of

this corner of land from their right-of-way system and relinquish it to the public by virtue of auction by sealed bid. He said Mr. Gauthier was the successful bidder for this land.

He said the proposal involves the subdivision of the parcel. It contains 1.816 acres of land. It is located at the southwesterly end of the existing Donna Street, which commences at New Dunstable Road, loops back at a ninety-degree turn and terminates at a cul-de-sac that intersects with Dale Street and New Dunstable Road. He showed this on a plan he had on display.

Mr. Keach said the proposal is for five single-family house lots in keeping with the requirements of the City of Nashua Zoning Ordinance. The lots exceed the minimum lot requirement of 7500 square feet and the minimum frontage requirement of sixty linear feet each.

He said there is a minor lot line adjustment that is part of the plan. He said Mr. Gauthier's wife, Constance, owns abutting property, E-1476, situated to the northeast of the parcel. In order to facilitate the extension of the Donna Street right-of-way a small trapezoidal piece of land will need to be dedicated to the City as part of the future right-of-way. In order to assure that the lot, which has a duplex on it, has the minimum required 10,500 square feet of lot area, they are providing a bit of extra land.

Mr. Keach said Pennichuck Water Works has a 24" diameter water main. He showed the location on the plan. He said part of their plat provides for a dedication of a 20' wide easement (10' on either side of the main).

He said there is a non-buildable lot that is being created that will be dedicated to the City. He showed the area on the plan that was on display. It is the area of the storm water management basin. It is a piece of just over 8,000 square feet. The proposed lots will be served by water, sewer, gas, etc.

He said the proposed extension of Donna Street has been designed to comply with the City's requirements, including sidewalk. The engineering design has been reviewed by Jon Lebrun and found satisfactory.

He said the cul-de-sac will have a landscape center island. It's more than grass. It will be planted.

He said technically there is one waiver that is a part of this. He said part of what they may have received from staff included a waiver request. He said the subdivision regulations have a provision that a cul-de-sac cannot exceed 500' in length. He indicated where Donna Street starts. He said Dale Street, which is about 400' in length, intersects with Donna Street. The length from the intersection of Dale & Donna Street at the present time is approximately 249' to the end of the current cul-de-sac. The proposal is to extend that an additional 140' so there would be a new ground total of 389' to a dead end.

Mr. Torosian asked if one will be able to see the houses as you come off of Exit 5. Right now there are trees.

Mr. Keach said one of the stipulations in the purchase & sale agreement that bound all bidders is a requirement that there be a 15' minimum width landscaped buffer around the perimeter of the parcel. This has been incorporated into the plan.

Mr. Dufour asked if the topography drops from the road.

Mr. Keach said it does. He said the 15' landscaping was a stipulation imposed on the conveyance by the Department of Transportation and they will abide by it. He said there is a maximum grade difference in the neighborhood of 20'.

Mr. Lowe asked a question - unintelligible.

Mr. Keach said he was not certain.

Mr. Slivinski asked if there's supposed to be another access or an emergency access right off of West Hollis Street.

Mr. Keach said the only access they're going to have is to the extension of Donna Street.

Ald. Larose asked what was going to be in the cul-de-sac island and who was going to be responsible for its upkeep.

Mr. Keach said there is a plant list that he believes the Board has. It will have a variety of trees, ground cover, and shrubbery. He said it's been his experience that the neighborhood maintains the cul-de-sac. The plant list that has been provided is hardy species. There's no grass. It's not going to need mowing or a lot of watering. He said he would

hope that the neighbors, with what little maintenance is required, would take care of it.

**SPEAKING IN OPPOSITION OR WITH CONCERNS**

Susan Russo, 8 Donna Street. Mrs. Russo said she is concerned with the trees. She said a couple of months ago when a more aggressive development plan was submitted she testified before the Zoning Board. She said the land is currently owned by the State. She has been talking with the Dept. of Transportation (Jeff Pignatelli) and has had some help from the Governor's Executive Council.

She said she lives on the section of Donna Street on the corner just before it turns to the cul-de-sac. There's only one other house there. She said the problem is the noise and pollution from the highway because of the grade in the land.

She asked if anyone has done a study to see how the pollutants and traffic noise affects a neighborhood. She said trees contribute oxygen or take out the particulates that could be damaging. There's a health affect by removing that barrier from the neighborhood.

She said when she spoke at the Zoning Board meeting one of the members lived somewhere in the neighborhood and he said even he could hear the noise from the highway in the summer time. She said those neighbors who live in the Donna Street area here the highway noise all the time. She said they hear the mild thumping bases from the people at the gas station on the other side on West Hollis Street when they pull up for gas. The same affect that causes air to be trapped in there also happens with sound. She asked what would happen with the noise level in their neighborhood if the trees are removed. She said she noticed that in the staff's recommendation some trees are going to be tagged so that they won't be destroyed. She said she didn't know how many trees would somehow mitigate the situation.

**SPEAKING IN FAVOR**

Atty. Gerald Prunier. Atty. Prunier said he believes most of the members have seen the site. He said the lots are at the bottom of a hill that is probably 20' or 30' high. There is no intent to clear everything that is there. There is a long wide path that the state will continue to own. In addition, on the proposed site the State wants them to have a 15' buffer so all

the trees in that area are in a "no cut, no disturb" area. He said they also have to erect a fence at applicant's cost around the entire parcel per the State's requirement. It has to be a special fence that needs to be ordered.

He said these lots are probably going to be a lot better off than some of the other lots in the area. They won't hear the clients at the gasoline station.

Mr. Dufour asked if the special fence that Atty. Prunier mentioned is a sound deafening type fence.

Atty. Prunier said "no."

Mr. Dufour asked about the maintenance of the island. He said they have had these in the past and they've had a requirement that the abutters to the cul-de-sac have it put in their deed.

Atty. Prunier said a lot of the plantings in the cul-de-sac island is hardy so the upkeep should be minor, but in every deed there will be a paragraph that the owners around the cul-de-sac will be responsible for the maintenance.

Mr. Slivinski said in looking at where the houses are supposed to be positioned it looks like most of the trees are going to stay.

Atty. Prunier said in most areas they are trying to do that. He said it's been his experience that in the past 15 - 20 years the developer tries to keep as much natural landscape as possible so they don't have to landscape it. If the owner of the land decides they want more grass they can cut their own trees down.

Ald. Larose said when he looks at the plan he sees the proposed tree line that has to be kept. He asked if it's going to be in the deed that they can't cut those trees down.

Atty. Prunier said "no." He said the 15' they've been talking about is a State requirement.

Mr. Dufour said in the staff report there is a paragraph concerning the Traffic Department. It states that they came to a determination that a full traffic report is not required and that a monetary contribution of \$800 was requested. It goes on to say that the applicant has indicated that it is not

financially feasible to make a donation. He asked for Atty. Prunier's comments concerning this.

Atty. Prunier said there were some comments at the last Planning Board meeting about these requests for donations that were being made of applicants. He said he will leave it that.

He said the recording of the plan usually is thirty days after approval. He said it can be recorded earlier if the applicant waives that period of time and accepts responsibility for anything he wishes to do at that point. He said they are asking that the plan be recorded before the thirty-day period.

Mr. Dufour asked staff if the Board has to grant the waiver.

Mr. Yeomans he believes that section of the by-laws is to give notice that there is a thirty-day appeal period and that if the applicant proceeds they do so at their own risk. He said the Board has done this in the past - maybe once or twice in his time with the City.

Mr. Houston said that if the Board allows the waiver the plan gets recorded at the Registry of Deeds. A site plan doesn't get recorded. If it's challenged, there is a recorded plan that allows them to sell the lots. He said he thinks that's why the Board has been reluctant in the past to grant waivers on subdivisions.

Mr. Dufour said if he understood what Mr. Houston just said the applicant would be able to start selling lots before the thirty days and they could be in a quandary if someone appeals.

Atty. Prunier said the Board wouldn't be in a quandary, his client would be. He said there's nothing that stops them from bonding and moving ahead. He said because of the time of year, his client is going to be moving ahead with this development.

He mentioned that if the condition of the \$800 donation is going to stay his client will make the donation.

**MOTION** by Mr. Lowe to approve proposed lot line relocation and subdivision of former right-of-way into five single-family lots and one non-buildable lot, 26 Donna Street & West Hollis Street, Sheet E Lot 1476 with the finding that it meets Section 16-108 and with the following stipulation and acceptance of \$800 donation:

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 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 required easements shall be approved by the Division of Public Works and Corporation Counsel and recorded with the plan.
4. 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.
5. Prior to the first certificate of occupancy being issued the storm water operation and maintenance plan shall be recorded.
6. 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 Donna Street right-of-way completed to the satisfaction of the Division of Public Works.
7. The waiver of street length is approved.
8. Owners of the cul-de-sac shall be responsible for the maintenance of the cul-de-sac landscaping.

**SECONDED** by Mr. Moran.

**MOTION CARRIED UNANIMOUSLY**

4. **Thomas M. Barnes (Owner) - Proposed subdivision of one lot into two single-family lots, 71 Pioneer Drive, Sheet C - Lot 1614, Zoned "R30" - Suburban Residence.**

Jim Petropulos. Mr. Petropulos said he is representing Tom Barnes, who is in the audience. Atty. Prunier is also part of the team.

He said this property was part of the Whitford Heights subdivision created in 1979. Pioneer Drive is off of Whitford Road, which is off of Route 111A/Main Dunstable Road. The property is located at the end of the cul-de-sac. There are 8.77 acres on the site. Lots require 30,000 square feet as it is in an R30 Zoning District.

He said abutting the property to the north is the Four Hills Landfill. All of their northerly frontage abuts the landfill. He referred the Board to the plan. To the east there's a cul-de-sac named Michael Drive and some of the abutting properties to Michael Drive also abut the subject property. The land to the south is undeveloped and land to the east contains homes along Pioneer Drive. He said the home of Mr. Barnes is shaded in brown.

Mr. Petropulos said the property is currently wooded, with the exception of Mr. Barnes house. There is a large wetland located in the center of the property. He said he tried to shade that in with a light green color. It's almost circular and is located directly behind the existing house. He said this wooded wetland drains to the south into a much bigger wetland complex that ultimately drains into Lyle Reed Brook. He said their wetland consultant, Bob Prokov, has flagged the site. He noted the presence of a vernal pool in the area, but it is not located on the property. It's on the lot located to the southwest of the site. He said the remaining land is quite flat. It's about 16' higher than the wetland. There are a couple of high knolls that exist on the northeast corner of the site.

Mr. Petropulos said three variances were recently granted for this project. One was for lot frontage on the existing house and lot frontage and lot width on the proposed lot. He said they are therefore proposing a subdivision of the one lot into two lots to support the construction of one new single-family home. Lot 1614 will be will be 4.11 acres and will contain the existing house. The new lot, 2971, will be 4.6 acres. It's a "flag" lot or a "pork chop" lot. He said the proposed house will be set back approximately 500' from the end of Pioneer Drive. It's a private driveway and will be 12' wide. The new home is about 200' from the easterly property and about 275' from the homes he mentioned that are located on Michael Drive.

He said there are no impacts to any wetlands or to any wetland buffers on the property.

He said when the variance was granted there was a stipulation that the lot could not be further subdivided. That can be made part of the Board's approval. There is 65' of sidewalk along the rim of Pioneer Drive being constructed as part of this subdivision.

He noted the proximity of the proposed driveway to the closest abutter to the project located at the end of Pioneer Drive. He said they have year-round plant materials located along the property line to assist in softening the appearance of the driveway.

He said Nashua Fire Rescue has approved this project and he believes has sent an Email to Mr. Sawyer stating that it was acceptable to them.

Mr. Petropulos said the plan meets the subdivision regulations and the conditions that the staff has outlined are acceptable to their applicant.

Mr. Lowe asked a question (sounded like something having to do with a guard rail).

Mr. Petropulos said he isn't aware of anything like that.

**SPEAKING IN OPPOSITION OR WITH CONCERN**

Tiffany Sano, 76 Pioneer Drive. Mrs. Sano said she abuts this property. She said Whitford Heights was originally developed in 1979. She said all the lots were large in size due to the landfill. She asked what has changed so that it's necessary to subdivide.

She said there was discussion of hardship. She said Mr. Barnes is a realtor and bought the property way under value already. She said she knows there was an amendment done on April 25, 2005 by NHDES. She said this is WT 101.94 - Unnecessary hardship means a hardship created by a special condition of the land which distinguishes it from other lands in the same area. A hardship does not exist if it relates to the personal circumstances of the landowner rather than the land itself. She said he is subdividing to make a profit.

Mr. Dufour said the issues that she is addressing are Zoning Board issues, not the Planning Board's. He said they have already been granted the variances.

Mrs. Sano said there are wetlands and there seems to be ecosystem. There are a lot of creatures, amphibians, wood frogs, spring peepers, bullfrogs, salamanders, snakes, turtles, dragonflies and many other animals in this habitat. She said when you start taking down the upland and all the trees where these animals are living they are causing problems within the watered area. She asked what is going to be done about the mosquitoes which some of these animals eat.

Mr. Dufour said they will have the engineer address this question.

Mrs. Sano said in the back of her land it is always soft. She said she knows its not wetlands per se, but in the spring it is very soft. If the trees that absorb the water are taken down she wondered if she is going to have a flooding problem.

Mr. Dufour said they will have the engineer address this question as well.

Mr. Petropulos said the vernal pool carries a higher degree of concern. He showed it's location on the plan. The proposed clearing needed to construct the home site will be kept to a minimum needed for the driveway and utility construction and for the house itself. He said on this 4.6 acres he is guessing that about an acre of clearing will be needed to facilitate it. He said he doesn't see any negative impact of runoff which gets filtered through the buffer entering into the large wooded wetland is going to carry the type of destruction that the abutter claims.

He said they had their wetland expert make sure that the vernal pool wasn't located in the center of the property. He has described how the drainage is going to work and that tree cutting is going to be kept to a minimum. He said her home is just before the cul-de-sac and they are trying to buffer that driveway.

Mr. Dufour said that the abutter spoke about the softness of her land.

Mr. Petropulos said he couldn't speak to her land. He said generally that part of the City has sandier soil.

Mr. Dufour said the abutter testified that there is a lot of wet area on that line. He asked if they anticipate any problems putting in the driveway.

Mr. Petropulos said the Pioneer Drive cul-de-sac drains right down in that location. He said they are not draining any water onto her property.

Mr. Dookran said in the previous case they heard testimony about noise and pollution. He asked if they considered the proximity to the landfill and its operation and future expansion.

Mr. Petropulos said his client is aware of the landfill and their plans.

Mr. Dufour asked if the landfill operation isn't removed from this particular area.

Mr. Dookran said probably, but he believes the area is slated for future expansion.

Atty. Prunier said they are talking about a tract of land that is over eight acres in an area where 30,000 square feet is needed for a single-family home. There will be two houses on this land. There are going to be as many trees as possible. He said they cannot drain on the abutter's property. They have to keep it on their property.

Mr. Dufour asked Atty. Prunier if he knows that there is future expansion planned for the landfill.

Atty. Prunier said there have been articles in the newspaper that the landfill is planning an expansion. They have not been granted permission to do so yet. The State is the one that has to grant it as he understands it.

Mr. Dookran said the landfill land has been looked at for two to three new cells. One expansion cell is being used now. There is a Master Plan that shows expansion in that area.

Mr. Dufour said as he understands it there is a cell that's been identified for future expansion that would be closer to that area.

Mr. Dookran said "yes."

Mr. Slivinski said he doesn't know what type of a hardship case can be made in front of the Zoning Board for this to be done.

This is a piece of property where the taxes were being paid as if it could not be subdivided. It is a piece of property that is right up against the landfill and it's right in the midst of some wetlands. Whoever bought the property knew what the rules were when they bought it.

Atty. Prunier said two weeks ago someone that said even though the plan met all the requirements for the City of Nashua they were voting against it. He said it's unbelievable that someone would make that statement. He said the hardship requirement in the State has changed by Supreme Court decree and the Zoning Board of Adjustment applied that. The law states that someone is entitled to the reasonable use of his or her property and this is a reasonable use of the property. A Board member may not like or agree with the plan, but if it meets the requirements the Board has to vote in favor of the request.

**MOTION** by Mr. Slivinski to approve the subdivision of one lot into two single-family lots at 71 Pioneer Drive with the finding that it meets NRO 16-108 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 the plan being recorded, the storm water operation and maintenance plan shall be recorded.
3. Prior to the plan being recorded, bonding for all public improvements shall be submitted to and approved by the Engineering Department and Corporation Counsel.
4. Prior to a certificate of occupancy being issued the wetland buffer markers shall be installed.
5. No future subdivision of Lot 2971.

He said the Traffic Department has requested a contribution of \$200, but he would not comment on whether they would or would not pay it.

**SECONDED** by Mr. Farkas.

Ald. Larose said he has a problem with the frontage on the lot - 20' where 105' is required.

Mr. Dufour said that is an argument that was made in front of the Zoning Board.

**MOTION CARRIED UNANIMOUSLY**

- 4. Sharon R. Tamposi (Owner) - Proposed subdivision of one lot into three single-family lots, 39 Indian Rock Road & Blackfoot Drive, Sheet F - Lot 236, Zoned "R30" Suburban Residence.**

Richard Maynard, Professional Engineer, Maynard & Paquette, Nashua, NH. Mr. Maynard said this piece of property was originally part of the Indian Rock area subdivision from the early 1960s. This property runs from the curve in Indian Rock Road all the way to Blackfoot Drive.

He said back in the 1960s this consisted of four lots and a (now) discontinued street of Mohegan Drive. Over the years on two or three different occasions Mohegan Drive has been discontinued and the properties have been consolidated. He said they would like to re-subdivide out two of the lots along the Blackfoot Drive frontage.

He said the lots will be served by private well and private septic. Therefore, they are required to be a minimum of 60,000 square feet in land area. One of the lots will be 60,000 square feet and the other will be 63,000+.

He said the Fire Department considers this outside of the fire hydrant district, it will be required to have individual residential sprinklers.

Mr. Maynard said there is a letter from Ms. Tamposi, the owner of the property regarding sidewalks. He said they have some excessive frontage. Indian Rock Road, for whatever reason, is on some kind of priority list, which he doesn't understand. Blackfoot Drive is not on the list. Indian Rock Road doesn't come close to the class of road as Ferry. He said the request is for a waiver of the construction of sidewalks in lieu of a contribution of \$10,000.

Mr. Sawyer said if the Board waives the construction of the sidewalks, the last two stipulations (#5 & #6) can be eliminated.

Mr. Dufour said that with reference to the sidewalk, the way he reads it, it is similar to a couple of other cases that the Board has heard this evening. He asked what the cost of constructing a sidewalk on Indian Road would be versus a contribution offered by the applicant.

Mr. Maynard said in Nashua whenever you do sidewalks it includes granite curbing as well. It is much more expensive. He said on existing streets it tends to be higher than \$50 a foot. It's more like \$60 or more, depending on the situation. He said the \$50 is a good "middle of the road" type number for the cost of constructing sidewalks. It's such a nuisance to do on existing streets that most people don't want to bother with building them so they'd rather pay the money.

He said in this particular area there are no sidewalks anywhere around here. Many people, including him, consider sidewalks to be urban. These are larger lots and more rural areas and people don't want sidewalks and curbs in their neighborhood in this area. This is another reason why they are asking for a waiver of the construction.

Mr. Dufour said if they ask for a contribution on Indian Rock Road, by City calculations that come out to \$12,200 and the applicant is proposing to pay \$10,000. He said the position that the applicant is taking is that the sidewalks are not needed here.

Mr. Maynard said there is absolutely no need for any sidewalks in this location. It is the least dense area of the City.

Mr. Dookran asked Mr. Maynard a question about Blackfoot Drive, but could not understand what it was.

Mr. Maynard said Blackfoot Drive is a fully accepted City Street from Massasoit all the way to the end of the cul-de-sac.

Mr. Dookran said he sees more need for maintenance - trash pickup, for example. He thought there would be a problem for these maintenance vehicles to get in and out to service the new homes.

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Mr. Maynard said there are homes on the other side of the street that have been there since the early 60s. He pointed out the original Jim Tamposi home.

Discussion ensued.

Ald. Larose said there is a sidewalk on a portion of Indian Rock Road. He said he doesn't agree that at some point in time sidewalks are not desirable on that street. It may be that the applicant doesn't want to build a sidewalk in front of their lot, but a contribution has to be made.

Mr. Maynard said that a contribution has been offered, whether its \$10,000 or \$12,200 is not the big deal.

Mr. Farkas asked if he heard Mr. Maynard say \$12,200 was agreeable.

Mr. Maynard said "correct."

#### **SPEAKING IN OPPOSITION OR WITH CONCERNS**

No One.

#### **SPEAKING IN FAVOR**

Atty. Gerald Prunier. Atty. Prunier said they will give a contribution according to the City's calculation (\$12,200). He said Blackfoot Drive is "nowhere land". He said there will never be a sidewalk there. If there's any time or any place in the City where there should not be any sidewalks and a waiver should be granted its on Blackfoot.

He said in the past this was two lots. When Mohegan was discontinued for some reason or other the line between the two lots was merged and one lot was created.

Erin Almeida, 10 Blackfoot Drive. Mrs. Almeida said she is across the street from the two proposed new lots in this subdivision. She said they support the request for this subdivision project and trust that it will be developed thoughtfully by the owner. She wanted to comment on some aspects of the project that had direct bearing on the Blackfoot Drive portion of the subdivision.

She said due to the topography of the lot there is a significant grade change from the highest point along Indian Rock Road to the lowest on Blackfoot Drive. She said their lot across the street from the proposed subdivision is at an even lower point. She said to date they haven't had any problems with storm water runoff, mainly due to the mature landscaping on the lot. She said they have some concern about possible runoff in the future once the land is disturbed during the construction period until new landscaping is established. She said they would like to be informed of the storm water runoff plan so that any problems can be proactively addressed.

She said their second comment pertains to the waiver of the construction of sidewalks for Blackfoot Drive. She said they don't have any issue with the waiver being granted as requested by the applicant. She said the pedestrian and vehicular traffic is very limited on Blackfoot Drive.

She said the final comment concerns the Fire Department's requirement that the two new homes have a residential sprinkler system installed prior to a certificate of occupancy. She said they would like the Planning Board to consider a second option - installing a fire hydrant at the end of Blackfoot Drive to meet fire protection requirements.

She said the Indian Rock Road/Massasoit Road/Blackfoot Drive residences are in a delayed response area of the City. The lack of a fire hydrant further compromises the Fire Department's ability when responding, thereby placing resident's safety and property at significant risk. She said that a residential sprinkler system would benefit the two homes in which it is installed. A fire hydrant would have a benefit to other residences and possibly prevent loss of life. She said according to the Master Plan, 94% of the City is already protected by a hydrant system. A hydrant on Blackfoot Drive will bring this area of Nashua up to the current standard.

She said they have City water at their home and they are asking the Planning Board and Pennichuck Water Works to evaluate the feasibility of tapping into this water source for hydrants for the area. This would relieve the applicant of the financial burden of a residential sprinkler system, while extending critical protection to many more homes in the area.

David Mahoney, 5 Blackfoot Drive. Mr. Mahoney said he didn't have any apprehension about the houses that are to be built. He

said he doesn't want a sidewalk and there is no need for a sidewalk.

He asked if water and sewerage is going to be brought to these two houses. He said there is water at 10 Blackfoot Drive, but he didn't believe there was a full main coming in.

Mr. Dookran said he couldn't address the water issue, only the sewer issue. He said the cost of installing sewerage is very high. He said the Board of Public Works took a vote some years ago about suspending the extension of sewerage at City cost because of the unaffordable cost to the City. If they were to consider extending sewerage to this location they would have to do the hydraulics and capacity. He said he doesn't know where the nearest main is, but he would suspect it would be Indian Rock Road. He said he doesn't think the City has any intention of taking on the burden of servicing homes at the City's cost anywhere in the future.

Mr. Maynard said the nearest sewer and water is in Perimeter Road. He said he didn't think sewer could get there by gravity. He's not sure there's capacity in that section of the sewer because that's near the end of the line. He said if the abutters wanted to bank together to talk about extending water into their area, the Tamposi's would work with them. He said these are 60,000 square foot lots and private wells and septic systems are more than adequate.

He said the soils in this area are very sandy. There's a low ground water table. The perk rate is on the order of two minutes an inch - well draining soil. It's not somewhere where there will be a lot of storm water runoff.

**MOTION** by Ald. Larose to approve the subdivision of one lot into three single-family lots at 39 Indian Rock Road & Blackfoot Drive with the finding that it meets NRO 16-108 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 the plan being recorded, the storm water operation and maintenance plan shall be recorded.
3. Prior to the plan being recorded, the sidewalk contribution of \$12,200 shall be submitted to the Planning Department.

4. Prior to a certificate of occupancy being issued for each new home a residential sprinkler system shall be installed to the satisfaction of the Nashua Fire Rescue Department.

**SECONDED** by Mr. Torosian.

**MOTION CARRIED UNANIMOUSLY**

5. **44 Ferry Road, LLC (Applicant) Le Loc & Linh Mach (Owners) - Proposed subdivision of one lot into two single-family lots and to show the conversion of the existing multi-family house to a single-family house, 65 Nagle Street, Sheet 102 - Lot 201, Zoned "RB" - Urban Residence.**

Richard Maynard, Professional Engineer, Maynard & Paquette, Nashua. Mr. Maynard said the existing property at 64 Nagle Street is in the "RB" Zone. It contains a two-family house on 13,877 square feet of land. The proposal is to convert the house back to a single-family and subdivide the land and land up with two single-family lots. The minimum lot area for a single-family home in this zone is 6,000 square feet. Each of these lots will exceed this. The lot with the existing house will have 7,077 square feet and the newly created lot would have 6,800 square feet. The existing garage in the rear has already been taken down.

He said the driveway length has been reduced by the driveway width. He said they've always considered the sidewalk contribution to be in lieu of the amount of sidewalk you had to construct. They have calculated 106' @ \$50 or \$5,300. Staff has calculated it at 140' or \$7,200. There are no sidewalks in this particular area and they are asking that the construction of sidewalks be waived.

Mr. Farkas asked if the \$7,200 is acceptable instead of the \$5,300 that they have come up with.

Mr. Maynard said they believe the other way is proper, but if the Board insists they will pay the higher amount.

Ald. Larose said he understands how the applicant feels, but he doesn't think they should start negotiating the width of driveways. It's based on the width of the lot because part of the driveway is part of the sidewalk.

**SPEAKING IN OPPOSITION OR WITH CONCERN**

No One.

**SPEAKING IN FAVOR**

No One.

**MOTION** by Mr. Lowe to approve the subdivision of one lot into two single-family lots and to show the conversion of the existing multi-family house to a single-family house at 65 Nagle Street with the finding that it meets NRO 16-108 and with the following stipulations:

1. Prior to the plan being recorded, the conversion of the multi-family house to a single-family shall be completed and the garage razed.
2. Prior to the plan being recorded, the storm water operation and maintenance plan shall be recorded.
3. Applicant to contribute \$7,000 as a sidewalk contribution in lieu of building a sidewalk.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED UNANIMOUSLY**

**NEW BUSINESS - SITE PLANS**

6. **Southern New Hampshire Medical Center (Owners) - Proposed amendment to NR 1380 for the construction of a 34-space commercial parking lot with associated access and site improvements, 286-288 Main Street & East Otterson Street, Sheet 17 - Lot 1, Zoned "CB/MU" General Business/Mixed Use.**

Jim Petropulos, Civil Engineer, Hayner/Swanson, Inc., 3 Congress Street, Nashua, NH. Mr. Petropulos said Scott Cote, Director of Property Management at Southern New Hampshire Medical Center, is also present. He said the proposal is for a parking lot at the corner of Main Street & East Otterson Street.

He said the lot is 0.4 acres in size and located in the southeast quadrant of the intersection of Main Street & East Otterson Street. He said the site is abutted by Southern New Hampshire Medical Center property to the north, a mix of commercial/retail uses to the east and the south, a commercial building across the street, and diagonal to the site is the

recently approved Walgreens store, which is currently under construction.

He said this site was previously used as a car dealership. The site is currently paved and used as a parking lot by the hospital right now. There's about 40 - 45 ill-defined parking spaces. Access is continuous along East Otterson Street and also Main Street. He referred the Board to photos that he had provided.

He said the proposal is to redevelop the site in order to construct a gated parking area for Southern New Hampshire Medical Center employees.

He said there is a traffic signal being installed at the intersection of Main & East Otterson because of the Walgreens project. He said it raised a concern with the left turn into this parking lot at the Main Street access.

He said Southern New Hampshire Medical Center has a little bit of an issue with the uncontrolled nature of the lot in that several businesses are using the property. The hospital employees struggle when they go out to lunch and come back and their parking spaces are being taken up.

He said Southern New Hampshire Medical Center is always seeking to improve both the function and aesthetics of their property. He referred to the "Texaco" site as an example of what they have done. He said they've been before the Planning Board numerous times for parking lot expansions and the hospital has done a tasteful job with them.

He said there will be 34 parking spaces on the site. There is one defined gated access coming in off of East Otterson Street. That gate is similar to the Prospect Avenue gate. The curb cut on Main Street is to be deleted. Open space will go from zero percent to 31%. He referred to the light green shading on the plan. These will serve as landscaped areas or snow storage areas. The landscaping plan has been approved. He said there is also new lighting that will conform to the new standards. They received a variance for the pole height because of the geometry of the property. He said if the Board looks at the photos they can see that the site is littered with light pole bases. This will be an improvement to what is there.

He said the black decorative fencing that was used at the Texaco site will outline the Main Street/East Otterson corner of this property. Sidewalk will be built. The section of Main Street that he said he colored with a darker yellow is to infill the curb cut that is being eliminated. Along East Otterson there's about 170' of new sidewalk where there is none today.

He said the curbing and sidewalk will provide good definition and with the signal there will probably be a crosswalk. He said he's been out at this property around 2:00PM - 2:30PM when Elm Street School gets out when the kids walk in this area.

Mr. Lowe asked if there will be a fence in the back.

Mr. Petropulos said the fence will be along Main & East Otterson. He said there's no fence along the back because there's no access for abutting properties to get into the property.

Mr. Lowe asked a question, but it was unintelligible.

Mr. Dufour said that Mr. Cote will answer this question.

Mr. Dookran asked if the fire hydrant on East Otterson Street would be relocated.

Mr. Petropulos said if it's in the way it will be. He pointed out the location of the hydrant on the plan.

#### **SPEAKING IN OPPOSITION OR WITH CONCERNS**

No One.

#### **SPEAKING IN FAVOR**

Scott Cote, Property Management Director, Southern New Hampshire Medical Center. Mr. Cote said that in answer to the question about the fence on the southerly portion of the site, it is abutted right now by a portion of what is now Quizno's Sub. There is an existing stockade fence that runs from the end of Quizno's Sub building down to the Collision's Auto Body Shop. It's not the hospital's fence and it's going to stay.

Mr. Slivinski said he had an occasion to have to visit the hospital a couple of weeks ago. He said it's impossible to find

parking. He asked Mr. Cote if they have any figures on how many more spaces they may need.

Mr. Cote said this isn't an easy question to answer. He said they have the ongoing construction of the Emergency Department and Cardiology Service expansion. This brings about 35 - 40 vehicles associated with the contractors and tradesmen working on the site. This project is coming to closure so he expects that this problem will diminish.

He said the other problem they have is that they have a high demand for students that are in the nursing education program. They have not dealt with this well over the last couple of weeks. Many of them have their own vehicles. There are about 50 - 75 so it's having a significant impact as well. He said they are working to manage this situation by either having them brought over by a bus from the technical college or something different than that.

He said the Board approved an 81-space parking lot at 14 Prospect Street a short time ago and this will help.

He said the long-term plan is the development of the lot on Medical Center Drive, which may involve some additional expansion of facility space plus an additional parking structure. He said it's been in their Master Plan for a long time. It will add somewhere between 350 - 450 parking spaces, which will give them more than what is there now.

Mr. Cote said the management of how and where people park is another issue - such as issuing stickers and controlling where the staff parks and making sure that patients have immediate access to certain areas.

Mr. Slivinski said when he went to the medical center it was before 7:00 AM and there were no spaces available in the parking garage. He said it must be used by employees.

Mr. Cote said they allow the staff that works 11:00PM - 7:00AM to park in the garage. He said they don't normally have a lot of visitors coming to the hospital before 7:00AM. For security and safety reasons and other issues it's better for the people who are working the third shift to park in the garage. He said during the day the staff is really only permitted to park on the fourth and fifth levels of the garage. The balance of the space, with the exception of the lower level off of Bowers

Street which is for medical staff. Everything else is for visitors. He said there are peaks and valleys during the day.

Ald. Larose said he went to the parking garage at 10:00AM and it was jammed. He suspects that it's not only people from the hospital that park here.

Mr. Cote said he thinks the majority of the people that are in the building are directly related to the medical facilities surrounding it.

Mr. Dufour asked if the proposed lot is going to be designated.

Mr. Cote said it is going to be gated. He said all employees have ID badges that they have to wear and they are encrypted. They will be able to swipe the card at the gate and it will open. He said this is primarily to support the folks who work at 268 Main Street and 280 Main Street.

Mr. Dookran asked a question having to do with storm water runoff and if they had any problems with their infiltration systems.

Mr. Cote said they haven't had any problems. He said the secret to them is maintenance. He said you have to go into the catch basin and make sure that it's vacuumed out annually. This is in the affidavit that's filed when you do the storm water management system. If you take the time and spend the money it's fine.

He said they had one issue last winter. It was a strange day where there were significantly cooler temperatures in the morning and then a sudden shift where the temperature rose in the afternoon and that occurred after a 4" - 5" very heavy wet snowfall. It all melted very quickly in the afternoon and when that occurred the collection system that ran around the building at 10 Prospect Street was frozen within the manhole system because it had been so cold from five or six days of very cold temperatures. The result was that the melt off from the roof system came down the roof drains and they were unable to discharge into the catch basins. They had a major break in their building in the computer service information area where the roof drain system broke from the pressure of five stories of water on the roof trying to get out and couldn't because of the plug on the end. They had thousands of gallons of water into

that building. He said if you don't manage it and keep an eye on it and control it, there can be problems.

He said if you are recharging water into the ground, particularly in this area where most of the soil is sandy, they are discharging the water relatively quickly through that soil. He said he's heard that some people that may have concerns that they might have wet basements - rest is unintelligible.

**MOTION** by Mr. Lowe to grant the amendment to NR 1380 for the construction of a 34-space commercial parking lot, with associated access and site improvements at 286-288 Main Street & East Otterson Street with the finding that it meets NRO 16-123 and with the following stipulation:

1. Prior to any work being conducted, bonding for all public improvements shall be submitted to and approved by the Engineering Department and Corporation Counsel.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED UNANIMOUSLY**

#### **Other Business**

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

**MOTION** by Mr. Farkas that there are no issues of regional impact on the upcoming agenda, except for WalMart which they previously noted.

**SECONDED** by Mr. Moran.

**MOTION CARRIED UNANIMOUSLY**

#### **Discussion Items**

1. **Dunkin Donuts - 315 West Hollis Street**

Atty. Prunier came to the podium.

Mr. Dufour said he believes that Atty. Prunier is aware of the concerns the Board has had about the site at 315 West Hollis Street.

Atty. Prunier said he is aware of it. His client is also aware of it. He said he thought he might meet with Mr. Yeomans, but Mr. Yeomans thought it might be better if there is a meeting with members of the Planning Board at the site and try to come up with a plan to resolve the issue.

He said they try to keep the service for each customer to thirty seconds from the time they order to the time they pick it up. He said they have equipment that does that. He said most of their tapes show they're moving their customers through in the thirty seconds.

Mr. Dufour said the problem seems to be occurring at peak times, which is early morning. He said he's not available early morning. He said he felt that they didn't belong there. He said there's a problem and someone should be capable of addressing the problem. If they are turning clients over in thirty seconds or less, maybe the solution is turning them over in twenty seconds or less. That may result in restricting the menu of the drive up.

Atty. Prunier said that may be the answer, but he doesn't know. He said he doesn't know what the problem is. He said if they speed up the service they will speed up the cars going through, but if cars can't get through there may be another problem.

He said his client recognizes the problem and wants to take care of it. He said one of the things that was mentioned by the engineer was that maybe the timing of the light is wrong and it's backing up traffic and the timing of the light needs to be adjusted. He said he doesn't know if that is true. It means they have to talk to the Traffic Engineer to find out if that can happen. This is just one item. He said the parking situation has to be looked at. People back out as the aisles go through.

Mr. Slivinski said he would be happy to be at the site on a morning to meet and represent the Planning Board - any time between 7:00AM - 8:00AM. He just needs one day's notice. It is an extremely popular Dunkin Donuts between these hours. There's a lot of traffic that goes by the site.

He said there are two problems, both of which need to be fixed to help solve the problem. One is that when they come into the site there's only room for one car so if somebody is in the long

line, there's no way for them to go by and go into a parking place.

He said the second item is that it's not convenient for somebody to park because everybody knows they have to back out and it stops the line.

He said from his way of thinking it's not going to be just twenty seconds. Some basic things need to be done with the parking and the entrance to make the site work to keep the traffic off of the street. He said it's really a dangerous situation when that traffic is backed up and somebody is trying to pull out into the traffic and they can't see what's coming.

Ald. Larose said he would also like to be present.

The parties agreed that they would get together to meet at the site when they decided when it would be.

Mr. Dookran said several months ago he presented an alternative that was carefully thought out by Mr. Husband. The plan might affect the green space so they would have to deal with that. It included the possibility of the relocation of the curb cut and may eliminate some parking.

Atty. Prunier said he would like to be able to have Mr. Husband attend the meeting at the site.

Mr. Dufour said he remembers Mr. Dookran explaining the alternative plan and as he recalls he thought it could very well work, but would involve significant commitment on the part of the applicant. His said his focus at the time was to see if something could be done internally as far as the menu and extra help rather than what he saw as a drastic change in the site. He said they may be at the point where Dunkin Donuts at least has to hear what the proposal was.

Atty. Prunier said once they are at the site they can see what's going on and listen to all the proposals so they can do something to solve the problem.

Mr. Dufour said if they consider Mr. Husband's plan as drastic they may consider a reduction in the menu as a much more feasible solution.

## **2. WalMart**

Mr. Moran said the WalMart case will come to the Planning Board at their next meeting depending on what the Zoning Board is going to do. He said this is probably one of the more controversial plans that will be before them and he wanted to suggest that before they deal with it that they have a site visit to have it explained rather than looking at a bunch of flat lines on the board. He also suggested that there be a separate meeting for the Wal Mart proposal rather than try to do other business at the same time.

Mr. Lowe made some comments - a lot of it unintelligible. He did say something about the backing up of traffic in both directions at 9:00AM.

Mr. Dufour said they have to hear the applicant's presentation before they start discussing this issue.

Mr. Farkas said that a site visit might be helpful, but he doesn't think a separate meeting is in order. By the time it comes to them they will have all the documentation, all the evidence and everybody would have reviewed it. He said just because it's controversial and a lot of people may want to talk about it, but he doesn't see how a separate meeting just for Wal-Mart does anything except to invite people to come and say the same things over and over again.

Mr. Lowe made some comments - unintelligible.

Mr. Torosian said he thought a separate meeting might be a good idea.

Mr. Slivinski said if they don't have a separate meeting they could put a time period on it, for example 11:00PM. He said it's the most controversial case they've looked at and the place is going to be jammed and people have the right to get up and speak for or against it.

Mr. Dufour asked for a show of hands on the three suggestions that have been made. He said whatever the majority is, that is what they'll do.

The results of this show of hands is that the Board will do a site walk and that their case would be heard on a separate night.

Ald. Larose said he didn't think that they should put a time limit on hearing the case, although the Chair can make that happen.

Mr. Dufour said Wal Mart would be the sole case on the agenda for the special meeting. The meeting will start at 7:00PM. He asked how many Board members want to have an 11:00PM deadline. After a show of hands he commented that the time limit would be 11:00PM. He said the applicant can be advised of this decision and it will be announced at the meeting.

Mr. Slivinski asked who they should have present at the meeting from the City, i.e., Traffic Engineer or others.

Mr. Dufour said the applicant would present their case. He said if they need expert testimony from the City and they aren't available, they would delay the case to another meeting as opposed to anticipate the questions.

Mr. Slivinski asked Atty. Prunier if he expects to be at the Planning Board for Wal Mart in two weeks.

Atty. Prunier said it's becoming difficult because of what's happening to other Boards in the City and getting quorums. He said he has to make decisions on the run. He said right now he expects to be before the Board on the 17<sup>th</sup>.

Mr. Dufour asked if they would come to the Planning Board before they overcame any Zoning Board issues.

Atty. Prunier said "no." He said he has one issue before the Zoning Board. That issue is removing asphalt from a buffer area. There are areas of the site that now have parking and asphalt which will be removed. Because it's close to the wetlands area, it is in the buffer. They had to go to the Conservation Commission to get their recommendation. He said he would have appeared a few weeks ago, but there were only three members at that meeting and he would have needed all three votes to approve the plan. He said there are supposed to be four members at the meeting of the Zoning Board on Wednesday and he has decided to proceed with the four members.

He said the Board has decided that this is going to be a separate meeting. He asked when they would have the meeting.

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Mr. Dufour said he didn't bring this up because he figured it was something that he could work out with staff.

Mr. Slivinski said the following week is Thanksgiving so they probably want to get it in as close to the 17<sup>th</sup> as they can.

Mr. Sawyer said they would have to check when the room is available and if the Board can meet on the night that is chosen. Also, the advertising deadline and the date that abutter notifications have to be out have to be taken into consideration.

Mr. Moran asked if the Regional Planning Commission has provided any input on Wal Mart.

Mr. Sawyer said they have. He said they've been given the site plan and the traffic report.

Mr. Dufour said as far as the site walk is concerned he guesses it's going to have to be a Saturday morning since it gets dark early now. He said the earlier this is done, the better.

Atty. Prunier indicated he would be back in touch - he's thinking about Saturday, November 19<sup>th</sup>.

ADJOURNMENT at 9:43PM.

**APPROVED:** \_\_\_\_\_

Ken Dufour, Acting Chair

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