

NASHUA CITY PLANNING BOARD  
May 4, 2006

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, May 4, 2006 at 7:00PM in the auditorium at City Hall.

Bette Lasky, Chair, conducted the Meeting.

Members Present:     Bette Lasky, Chair  
                          Ken Dufour, Vice Chair  
                          Mike Lowe, Mayor's Representative  
                          Ald. Richard Larose  
                          Steve Dookran, City Engineer  
                          Steve Farkas  
                          George Torosian

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

**Approval of Minutes**

April 13, 2006

**MOTION** by Mr. Lowe to approve the minutes of April 13, 2006, waive the reading and place on file.

**SECONDED** by Mr. Torosian.

**MOTION CARRIED 3-0-3, Mrs. Lasky, Mr. Farkas, & Ald. Larose abstaining.**

**Communications**

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

Letter from Cuoco & Cormier dated May 1<sup>st</sup> requesting the Board table Case #1 for Gregg Road to the Board's next meeting. This may be withdrawn in the future.

Email from Atty. Andrew A. Prolman to Michael Yeomans concerning Case #2 & #3 on tonight's agenda (Ferson Street). They are

requesting that these remain on the table until their next meeting.

Communication from 337 Amherst Street, LLC dated May 1<sup>st</sup> concerning the restaurant that is before the Board tonight concerning the cross access easements (Case #4 on the Agenda).

He said they just received a memo dated May 4<sup>th</sup> addressed to the Chair from Rick Seymour concerning the Lowe's development (Case #5 on the agenda).

Preliminary Agenda for determination of regional impact

**REPORT OF CHAIR, COMMITTEE & LAISON**

Mr. Lowe said the Planning & Economic Development Committee met and they are continuing their talks about changing some of the regulations.

**OLD BUSINESS - CONDITIONAL/SPECIAL USE PERMITS**

None

**OLD BUSINESS - SUBDIVISION PLAN**

Tabled to May 18, 2006:

1. Catherine W. Gregg Revocable Trust (Owner) - Proposed consolidation of two lots and lot line relocation, 17 Gregg Road, Sheet D Lots 3, 4 & 65, Zoned "R40" - Rural Residence.

**OLD BUSINESS - SUBDIVISION PLAN**

Remaining on Table at Request of Applicant:

2. Ferson-Lake, LLC (Applicant) Thomas L. Jenkins, Jr. & Andrea J. Harding (Owners) - Proposed lot line relocation, 333 Lake Street & 3 Ferson Drive, Sheet 88 - Lots 7 & 27, Zoned "RA" - Urban Residence.

**OLD BUSINESS - SITE PLAN**

Remaining on Table at Request of Applicant:

3. **Ferson-Lake, LLC (Applicant) Thomas L. Jenkins & Andrea J. Harding (Owners) - Proposed site plan for a 4-unit elderly housing development with associated access, parking and site improvements, 333 Lake Street & 3 Ferson Drive, Sheet 88 - Lots 7 & 27, Zoned "RA" - Urban Residence.**

No motion to remove either Case #2 or #3 from the Table. Remains tabled until the Board's next meeting on May 18, 2006 at which time they will be discussed.

Mr. Yeomans said it's his understanding that the applicant is working on an amended plan. He said they aren't going to do all the engineering that would be necessary to present a formal plan to the Board. It will be conceptual in nature. The present plan would be potentially withdrawn if there were general agreement that the revised plan would be a better plan.

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 Board will decide that the application is complete and ready for the Board to take jurisdiction of the application. If so, the applicant or representative will be given time to present an overview and description of their project. The applicant shall speak to whether or not they agree with recommended staff stipulations. The Board will then have an opportunity to ask questions of the applicant and staff.

The Chair will then 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, state their name and address for the record. This would be the time to ask questions they may have regarding the plan. Next testimony will come from anyone wishing to speak in favor of the plan.

The Board asks that both sides keep their remarks to the subject at hand and try not to repeat what has already been said and to be courteous at all times.

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

She asked that everyone turn off his or her cell phones.

**NEW BUSINESS - CONDITION/SPECIAL USE PERMITS**

None

**NEW BUSINESS - SUBDIVISION PLAN**

No One.

**NEW BUSINESS - SITE PLANS**

4. **Green Fall Plaza (Applicant) Red Fall, LLC & Paul C.L. Hui (Owners) - Application acceptance and proposed amendment to NR1273 & NR1699 to reduce the previously approved (not yet constructed 25,721 square foot retail building to 22,000 square feet and return the use of the existing 6,485 square foot building to a restaurant (previously approved for retail) with associated access, parking and site improvements, 341 & 345 Amherst Street & Trafalgar Square, Sheet G - Lots 28 & 30, Zoned "GB" - General Business.**

**MOTION** by Mr. Dufour that the site plan application is complete and the Planning Board takes jurisdiction of the application.

**SECONDED** by Mr. Lowe.

**MOTION CARRIED UNANIMOUSLY**

Richard Maynard, Professional Engineer, Maynard & Paquette, Nashua. Mr. Maynard said in July 2005 the Board reviewed and approved a site plan for this site. Among other things the approval was for the conversion of the existing restaurant building to retail. They are now asking that building to remain for a restaurant use, not retail. They previously had asked for a 25,000 square foot building to the rear and they are now reducing that building down to a 22,000 square foot building. He said the plan in July 2005 showed 131 parking spaces and this current plan has 137 spaces.

He said the existing site has two entrances. He showed the location of these entrances on the plan. One is being discontinued. The entrance is a one-way in, right turn in only and is pushed back as far as they can to stay away from the queue that tends to form at the jug handle.

He said the previous conditions and stipulations would carry forward with this request. There is also an offer of and acceptance of a donation of \$10,000, which is part of the plan approval.

Mr. Maynard said the Board has received a letter from the abutter, 337 Amherst Street, LLC. They have asked for some cross access easements. There are two potential locations. The easy one is in the back. He pointed out its location. He said there is also a potential "floating easement". He explained what and where this would be.

He said they have a lot line around the restaurant building with the parking lot straddling the line. They have asked for landscape waivers due to this. He said the criteria for landscaping is quite extensive in the new land use ordinance. One of the criteria is that any landscape islands be 300' long by 9' wide. He said this is not going to work on this site. They have more than the minimum green space, providing 12% where 10% is required - another reason for the landscape waiver.

Ald. Larose asked if the entrance and exit are via the same drive.

Mr. Maynard pointed out the entrance and said it was a right turn in only. They exit through the existing exit onto Somerset.

**SPEAKING IN OPPOSITION OR WITH CONCERNS**

No One.

**SPEAKING IN FAVOR**

No One.

Mrs. Lasky read a letter from 337 Amherst St., LLC into the record. They own the building where Coldwell Banker Real Estate and Chen Yang Li Restaurant are located. The letter asks the Board to consider an access for cars be considered along the property line.

**MOTION** by Mr. Lowe to approve the site plan amendment to NR1273 & NR1699 for 341 & 345 Amherst Street & Trafalgar Square with the finding that it meets the requirements in NRO Section 16-450(d) 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, including pavement markings and signings, 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 a certificate of occupancy being issued all site work including final paving and landscaping shall be completed.
5. Prior to a certificate of occupancy being issued an easement for cross access and parking shall be recorded.
6. Prior to a certificate of occupancy being issued a \$10,000 contribution shall be paid to the Traffic Department for Amherst Street traffic mitigation.
7. The request for landscape waiver is granted.
8. Hours of deliveries 6:00PM - 11:00PM and dumpster pickup not earlier than 6:00AM.
9. Landscaping shall be modified along Trafalgar Square for sight distance improvements.
10. Roof air conditioners will be screened.
11. Cross access with 337 Amherst St., LLC will be provided.

Mr. Farkas asked if the applicant is going to work out the cross access easement out with the staff and Mr. Lowe said that is what he is suggesting.

Ald. Larose asked if they should refer to both easements as Mr. Maynard alluded to a point in time there would be another easement.

Mr. Maynard said that both property owners are agreeable, at a minimum, to the easement in the back and at the appropriate time to a second one in the front at a mutually agreeable location. He prefers that the stipulation be that they work with staff.

**SECONDED** by Ald. Larose.

**MOTION CARRIED UNANIMOUSLY**

4. **Lowe's, Packard Development (Applicant), NP Nashua, LLC & Natick NH Realty Corporation (BJ's) (Owners) - Application acceptance and proposed amendment to NR1234 and NR1737 for the demolition of the existing Sagamore Ridge Shopping Center and the development of a 172,000 square foot Lowe's Home Improvement Center, with associated access, parking and site improvements, 143 Daniel Webster Highway & 8 Sexton Ave., Sheet A - Lots 55 & 173), Zoned "GB" - General Business & "HB" - Highway Business.**

**MOTION** by Ald. Larose that the site plan is complete and that the Planning Board takes jurisdiction of the application.

**SECONDED** by Mr. Torosian.

**MOTION CARRIED UNANIMOUSLY**

Atty. Gerald Prunier, 20 Trafalgar Square. Atty. Prunier said there is an existing strip shopping center on the site today. The proposal is to demolish the buildings. He pointed out the area where there have been problems with the wall on the site and indicated that these problems will be fixed by removing some of the earth and having the area re-compacted and another wall created. The plan calls for a Lowe's to be constructed on the site.

He said they have been to the Zoning Board of Adjustment to receive approval for a reduction in the parking requirements. There will be more than enough parking for the center based upon the applicant's calculations. He said the slowest time is at Christmas, which is BJ's highest volume. Lowe's highest volume is in May and it's the slowest for BJ's. He pointed out the location of the BJ's store. He said there are cross access easements.

Atty. Prunier said they were before the Board a few weeks ago to talk about their traffic plan and who was going to pay the total amount for the improvements the City thought would be necessary. It was anticipated the cost was going to be in the vicinity of \$750,000 and Lowe's was willing to pay more than their fair share at \$500,000. He said they've had at least two meetings regarding traffic and how this would be taken care of.

He said they had a meeting at the Department of Public Works today. He thought when they left this meeting that they had an agreement. His notes indicate that the agreement was that they would do the scope of work that included widening the entrance that goes into their center and some light improvements. There was some widening of some work was to be done at the most southerly "Tully" entrance, work on the light and widening and the whole island was to be reconstructed. The only thing that they were not going to do was the overlaying and the striping that was involved. In addition, there is a budget shortfall of \$60,000 in some lines that have to connect the lights to the Lake Street Fire Station and they have agreed to pay for that, in addition to the other work he just explained that they would do.

Mr. Lowe asked what kind of buttressing they were going to use where the high wall is.

Paul Cincotta, Packard Development. Mr. Cincotta said the wall system that is going to be used to reconstruct the existing wall and sloped area is called a segmental block retaining wall. It's a combination of concrete blocks that are on the face that are reinforced with grids that go back into the earth (similar to a "T" block).

Mr. Lowe asked about Sexton Street - a non - usable street. He said he wanted to make sure that it wasn't going to be used for emergency vehicles.

Atty. Prunier said they aren't doing anything to that end of the site. He said it belongs to the tenant in that area.

Mrs. Lasky asked Atty. Prunier to address the landscape waiver, the architectural waiver and the lighting waiver.

Paul Cincotta. Mr. Cincotta said he couldn't recall the specifics on the lighting waiver. He said the landscape waiver related to the project - the application actually straddling an ordinance change. He said he thought all three waivers relate to that. He said they are outlined in detail in a "Rizzo" letter that is part of the file.

Mr. Yeomans said the Board should have the correspondence that is being referred to in their packet of information.

Mrs. Lasky said she didn't believe that they addressed the landscaping as to why they couldn't comply with the new requirements.

Brian Potvin, Rizzo Associates. Mr. Potvin said they worked with the landscape architect on preparing the plan. He referred the Board to the plan. It reflects the trees that they are going to plan within the medians and the end cap islands. He said the City staff felt that there were sufficient trees and shrubs and that the requirement on this site was a bit excessive.

Mr. Dufour asked for an idea of what the reconstructed wall is going to look like. He asked if it is going to be on the street side as well as on the Tulley side.

Atty. Prunier said it is.

Mr. Dufour asked if it was tiered or if was going to be straight up.

Mr. Sincotta said it was essentially straight up.

Mr. Potvin said the wall they are planning is similar to the one behind Best Buy and also Applebee's Restaurant.

Mr. Dufour asked if there will be a fence.

Mr. Potvin said there will be a guard rail and fencing along the top of it. The elevation of the driveway will stay the same as it is.

Ald. Larose asked if it would be widened.

Mr. Potvin said the intersection that was pointed out by Atty. Prunier would be widened out a little bit to facilitate traffic movements, but essentially it's the same.

Ald. Larose asked if there is a sidewalk all the way down.

Mr. Potvin said it will remain.

Mr. Dookran asked if the batter on the retaining wall because the blocks on the bottom are wider.

Mr. Potvin said the blocks are all the same dimension. He said he isn't the wall designer, but the batter's there so that they

can stack on top of one another. He said it's very slight - only a few feet from bottom to top.

Mr. Lowe asked where they are going to put the snow.

Mr. Cincotta said the snow that can't be stored along the edges and within the limited amount of landscape along the perimeter will end up being removed.

Mr. Lowe said he noticed that there is a line down the center of the main parking lot. He asked if it wouldn't be better to open that up for traffic or snow.

Mr. Cincotta said their maintenance people would love to have that. They would prefer to have no landscape islands. He said that center island is providing a pedestrian connection as well as landscape improvements. It is an aesthetic improvement to the site, but it makes plowing a little bit more involved.

Mr. Dufour asked how the center island is going to be constructed.

Mr. Cincotta said there will be trees, plantings and sidewalks.

Mr. Dufour asked if it upsets things if there are breaks in the run. He said at the Home Depot at the south end in Nashua they have an island with signs that ask people to stay off. Ultimately people will traverse it in order to get to their vehicle. He said if there were a couple of breaks in it people could at least walk through.

Atty. Prunier said this wouldn't be a problem.

Ald. Larose said he didn't see that there would be any benefit to doing this because there are going to be cars parked there and people aren't going to know where the breaks are.

Mr. Dufour said most times that wouldn't be the case. The parking lot isn't always maxed out.

Discussion continued on this issue, with Atty. Prunier stating that they will comply with whatever the Board decides as far as this issue is concerned.

**SPEAKING IN OPPOSITION OR WITH CONCERNS**

Vince Tulley. Mr. Tulley said he is the neighbor to the south. He said on the plan he believes his property line is between the gray and the green. He asked if the wall is going to go down to his grade where his drive comes in.

Atty. Prunier said "yes".

**SPEAKING IN FAVOR**

No One.

Some elevation drawings were put up for the Board to review with Atty. Prunier indicating where each view could be seen.

Mrs. Lasky asked if there is a pylon sign proposed for outside the retaining wall.

Mr. Yeomans said that the proposed sign is within the property limits, with Mr. Dufour stating that it's between the wall and the store.

Mr. Tulley said he has found that there is a grade of 104 to 114 from his drive up to the wall and they have agreed that they can work together to lower the grade.

Mrs. Lasky asked if they could have a stipulation worded such that the applicant will work with Mr. Tulley as to the grade of the retaining wall.

Paul Cincotta. Mr. Sincotta said the wording should refer to the grade at the base of the retaining wall along the Tulley property boundary. He said this is going to be done in the field and will be on the order of a few feet.

Mr. Dookran said nothing has changed in the agreement that was made between the director and Atty. Prunier and his client. There was a plan presented that showed a concept of the off-site improvements. The agreement is that the applicant would perform all the improvements minus any overlays. He said he didn't think they discussed striping. He said the City doesn't have any money to do the overlay at this point in time so the applicant would have to do the striping.

Atty. Prunier said the applicant has indicated to him that they will do the striping.

Paul Cincotta, Packard. Mr. Sincotta said in order to have it operate as its intended to operate, some of the striping has to be slightly modified so along with the widening improvements there would be re-striping. The only aspect of the work that's being left out is an overlay. He referred to the display.

Mrs. Lasky referred to the memo written on May 4, 2006 from Mr. Seymour and said everyone is in agreement that the applicant will do the work, except for the overlay.

Mr. Dufour asked what the timetable is for this project.

Paul Cincotta. Mr. Sincotta said they hope to be able to begin construction in the middle of summer and the store open between eight to ten months from then.

Mr. Farkas asked about the drive on the way in and the intersection. He asked if he had indicated they were building an island in the middle to separate the traffic.

Atty. Prunier said they are. He said they are making the right hand turn a little wider to make it easier to get up so there won't be that much backed out to the light.

Some discussion with Mr. Dufour indicating he wasn't sure they would be able to make that turn.

Giles Hamm, Vanesse & Associates. Mr. Hamm said the existing island that comes out and approaches Daniel Webster Highway will be modified. As you exit there are only two lanes there today and it kind of flares out to the right turn lane. They will modify it so there are three full lanes exiting.

He said the other island they are talking about as you come in and turn right is a painted island. He said that will facilitate the right turns up the hill and allow traffic that's coming out to know they're in the right lane. It can't be a raised island because of the truck turning template. Trucks need a little wider turn.

Mr. Houston said he wanted to confirm that there wouldn't be any construction in the highway during November/December and first part of January. He said this is when there is the heaviest flow of traffic.

Paul Cincotta. Mr. Cincotta said they hadn't talked about that, but he agrees that this wouldn't make sense. He said they did not have a problem with that.

Mrs. Lasky referred to Page 2 of the staff report. She asked if this work is going to take care of the slumpage.

**MOTION** by Mr. Farkas to grant the site plan to amend NR 1234 & NR1737 for the demolition of the existing Sagamore Ridge Shopping Center and the development of a 172,000 square foot Lowe's Home Improvement Center, with associated access, parking and site improvements, 143 Daniel Webster Highway & 8 Sexton Avenue with the finding that it meets NRO Section 16-450 and with the following stipulations:

1. Prior to any work being conducted a pre-construction conference shall be held with City staff to review erosion control measures and other construction requirements. Erosion control shall be put in place prior to the start of construction.
2. Prior to a building permit being issued, bonding for work in the public right-of-way shall be approved by the Division of Public Works and Corporation Counsel.
3. Prior to a certificate of occupancy being issued documents pertaining to the storm water operation and maintenance plan shall be recorded.
4. Prior to a certificate of occupancy being issued all work in the public right-of-way shall be completed to the satisfaction of the Division of Public Works.
5. Prior to a certificate of occupancy being issued a voluntary contribution for Daniel Webster Highway improvements shall be submitted to the Planning Department, or the improvements constructed as determined by the Planning Board.
6. Prior to a certificate of occupancy being issued the applicant shall demonstrate compliance with the conditions of approval stipulated in the memorandum from Assistant Fire Chief Brian Morrissey dated October 13, 2005.
7. Prior to a certificate of occupancy being issued the applicant shall demonstrate compliance with the conditions

of final approval stipulated in the site-specific permit application #060117-04.

8. The waiver request for landscaping is granted.
9. The waiver request for lighting is granted.
10. The waiver request for building architecture is granted.
11. The applicant will work with staff to add a few breaks in the center landscape island in the parking lot.
12. No outdoor storage shall be permitted on the property in non-designated storage areas.
13. The applicant will work with the abutter "Tulley" to address grade issues at their common property line.
14. The incorporation of the May 4<sup>th</sup> Department of Public Works memo, with the exception of the overlay as shown in the first bullet of that memo.
15. The applicant will coordinate road improvements with staff and Public Works Department.

**SECONDED**

**MOTION CARRIED UNANIMOUSLY**

**OTHER BUSINESS**

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

**MOTION** by Mr. Dufour that there are no issues of regional impact on the tentative agenda.

**SECONDED** by Ald. Larose.

**MOTION CARRIED UNANIMOUSLY**

**Other**

Mr. Dufour said they have spent a lot of time in City Hall over the past six months. He said in an effort to cut back so that they are not there unnecessarily, he asked about the possibility of not hearing cases that have yet to clear Zoning. He referred

to a recent case that was kind of thrown out after many hours of discussion all around. All the time they spent on it was for nothing.

Atty. Prunier said in most instances (98%) there are minor things that have to be done by the Zoning Board and the plan moves along because the applicant wants to get under construction.

He said the case Mr. Dufour is referring to is a corner lot situation. The corner lot situation is a very unfortunate issue. It has wiped out forty years of history where the planning staff has been consistent in their interpretation. He said its going to cause problems to banks, appraisers - everyone. He didn't think the Zoning Board took into consideration the effect their decision was going to have on these lots.

He said outside of the corner lot issue he can't recall one time where the Planning Board has allowed a plan and then running into a problem when the Zoning Board heard the case.

Mrs. Lasky said she didn't remember in the past that they've had that many times when the Planning Board has acted out of sequence. She said maybe it's been a bit more lately because for a while the Zoning Board had been short members.

Atty. Prunier said he didn't think it was more than once a year. He said sometimes there are issues that come up after the fact and something has to go to another Board. He gave an example of the Red Barn. He said they are ready to open, but they have to go to the Board of Alderman because of the traffic calming. He asked why the experts (Department of Public Works) give its blessing.

Mr. Dookran said an ordinance was implemented a couple of years ago because they wanted to legalize traffic calming. Traffic calming, if designed properly and working effectively, could actually be a danger so it has to go through the proper review process and acceptance by the City.

Atty. Prunier said it's an example where you are going along and all of a sudden something like this happens and it wasn't expected.

Mr. Dufour agreed that the situations where cases come to them before they go to the Zoning Board is minimal.

Discussion ensued on the new ordinance and how there are adjustments need to be made because of some little discrepancies and how these are going to the Board of Aldermen for correction.

Mr. Houston said the Board may have a case out of sync on their next agenda. He said it's not a big issue. He said the City Division of Public Works and Barnes & Noble was originally going to come to the Board on the street widening to get the extra lane on Spit Brook Road. It is coming back to them and then going to the Zoning Board after that. They don't anticipate any issues with that. If they changed their procedures, it would mess up that entire construction project, which might bump it into another year.

Mr. Dookran said the City didn't receive any bids so it's going to go back out and some things will be changed. He said the reasons they got were that there is a heavy component of traffic improvements and a heavy component of road improvements and there aren't companies that do both all the time, unless it's a huge company.

ADJOURNMENT at 8:25PM

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

Bette Lasky, Chair, Nashua Planning Board

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**COPIES OF TAPES MAYBE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.**

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Taped Meeting