

EXPANDED DRAFT MEETING SUMMARY  
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NASHUA CITY PLANNING BOARD  
December 11, 2008

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, December 11, 2008 at 7:00 PM in the auditorium at City Hall.

Members Present: Jody Wilbert, Mayor's Rep  
Ken Dufour, Chair  
William Slivinski, Vice Chair  
Bob Canaway, Secretary  
Steve Dookran  
Mike Lowe

Also Present: Roger Houston, Planning Director  
Lucy St. John, Deputy Planning Manager

**Approval of Minutes**

November 6, 2008

**MOTION** by Mr. Lowe to approve the minutes of November 6, 2008, waive the reading and place on file.

**SECONDED** by Mr. Slivinski

**MOTION CARRIED 5 to 0 (Mr. Canaway abstained)**

**Approval of Minutes**

November 20, 2008

**MOTION** by Mr. Lowe to approve the minutes of November 20, 2008, waive the reading and place on file.

**SECONDED** by Mrs. Wilbert

**MOTION CARRIED 3 to 0 (Mr. Canaway, Mr. Slivinski and Mr. Dookran abstained)**

**COMMUNICATIONS**

Mr. Houston went over the following items that were received after the mailing went out:

- NCPB 2009 Deadline & Meeting Dates
- Revised Plan for Riverside Street (New Business #2)

- Modified staff report (New Business #2)
- Communication from Mr. Bonnette to Mr. Dookran
- A reminder that in your regular packet you received an invitation from the Planning and Economic Development Committee

Mr. Lowe asked if there were any major changes in number 2.

Mr. Dufour said he was going to ask about that. Are you talking about the revised staff report?

Mr. Lowe said yes for the Pine Street Extension.

Mr. Dufour said at some point because of what appears to be the complexity of this we would almost have to know what has been changed because everybody read the original.

Mrs. St. John said she would briefly explain that in the Staff Report she listed the new items you received in your packet. A lot of those are basically aerials and photos to familiarize you with the site and some additional informational that had been provided since the additional staff report went out. No information on the plan references, the warranty deed, some additional waiver requests, and some additional correspondence. Mrs. St. John said if you have read the previous staff report and she provided some updated information so if you have the old one and the new one, where it says update on issues, is a more of an update on those issues relative to the new information she had received to prepare this staff report and then the stipulations of approval that she has are quite lengthily however, she didn't think they are as bad as they look. That is her perspective, but there are six waiver requests in there and what she did was highlight the sections in bold. She took the previous list and then if added anything or changed the previous stipulation from the previous version of the staff report she highlighted that in bold so you can see what some of the changes were with the exception of the waivers. Once we get into that discussion she would be more than happy to talk about that and one of the things she did convey to the engineer and the applicant that it might be because this is a complicated issue in the sense it might be good just to review those of the ones that they may concur with and use that as a basis as a discussion in addition to what they are going to convey.

Mr. Dufour asked if the waiver requests have changed since the initial packet went out.

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Mrs. St. John said yes there was one new waiver request.

Mr. Dufour asked what number that is.

Mrs. St. John said it would be number 7.

Mr. Dufour asked if anybody any questions for staff.

#### **REPORT OF CHAIR, COMMITTEE & LIASON**

Chairman Dufour went into the procedure of the meeting as follows:

After the legal notice of each conditional, special use permit, site plan or subdivision is read by the Chair, the Board will determine if that the application is complete and ready for the Board to take jurisdiction of the application. The public hearing will begin at which time 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 or 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 public testimony will come from anyone wishing to speak in favor of the plan. The applicant will then be allowed a rebuttal period at which time they shall speak to any issues or concerns raised by prior public testimony.

One public member will then be granted an opportunity to speak to those issues brought by the applicant during their rebuttal period. The Board will then ask any relevant follow-up questions of the applicant if need be.

After this is completed the public hearing will end and the Board will resume the public meeting at which time the Board will deliberate and vote on the application before us. The Board asks that both sides keep their remarks to the subject at hand and try not to repeat what has already been said.

Above all, the Board wants to be fair to everyone and make the best possible decision based on the testimony presented and all

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applicable approval criteria established in the Nashua Revised Ordinances for conditional, special use permits, site plans and subdivisions. Thank you for your interest and courteous attention. Please turn off your cell phones and pagers at this time.

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

None

**OLD BUSINESS - SUBDIVISION PLANS**

None

**OLD BUSINESS - SITE PLANS**

None

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

None

**NEW BUSINESS - SUBDIVISION PLANS**

1. Hollis Acquisition, Inc. and Joseph & Christine Mercurio (Owners) - Application and acceptance of proposed Lot Line Relocation Plan (HCRD #34755), to exchange 886 square feet of land area. Property located at 8 Evelyn Circle and 101 Saranac Drive, Sheet C Lots 2958 and 840, Zoned R-9 Suburban Residence. Ward 5.

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

**SECONDED** by Mrs. Wilbert

**MOTION CARRIED UNANIMOUSLY**

Richard Maynard, Maynard & Paquette

Mr. Maynard said this is a simple lot line relocation of two existing lots of record totally built up and no changes to the lots themselves. They want to move the line from this particular location to run roughly parallel to existing fence lines up there and those that have been out there roughly parallel to the ridge line. It is a simple exchange. All the lots will remain conforming and there are no other changes to the site. They are

requesting three waivers. The first waiver is for utilities, the second is for topo, and one for the 30-day period to get the plan recorded. Mr. Maynard said he had no problem with the other stipulations.

Mr. Lowe asked why, other than the fact that the topo really makes it difficult to do anything, they are doing this.

Mr. Maynard said the neighbor on Saranac Drive would prefer to have the line at the top of the ridgeline because that is where the fence has been historically. This will match the historical lines of usage. Mr. Maynard said they want to go on record this month and so that is why the waiver for the 30 days is asked for.

Mr. Dufour asked if there any other questions.

**SPEAKING IN OPPOSITION OR WITH CONCERNS**

No one

**SPEAKING IN FAVOR OF THE PLAN**

Attorney Pamela Schwartz

Atty Schwartz represents the Mercurios who are also here tonight and have signed the plan and are in full support of the plan.

Mr. Dufour asked if anybody had any questions.

Mr. Slivinski asked Mr. Maynard in stipulation #2 you are seeking the 60-day be reduced down to 30 days?

Mr. Maynard said the 60 days is a totally different thing. Normally plans are not recorded for 30 days because that is the statutory appeal period. In this particular case it is unlikely anyone is going to appeal this so they would like to go on record as soon as possible. Normally the staff keeps the plan until the 31<sup>st</sup> day just to make sure there are no court appeals.

Mr. Slivinski said you are asking us to make another stipulation that you can do this?

Mr. Maynard said it is the third listed one. The staff stipulation about 60 days Lucy can tell you about later. It is more generic that sometimes people submit plans within 30 days;

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sometimes they are in 6 months. Lucy is trying to get that cleaned up.

Mr. Dufour asked what happens if we record a plan and there is opposition within the 30-day period?

Mr. Maynard said nothing. It just causes temporary confusion. In past years we have done it all the time, at a time when people were appealing things staff didn't like to have a plan on record when it is in the courts. Nobody is going to appeal this one. Everyone is in favor.

Mr. Houston said that the by-laws do not allow you to do that so you will probably have to do something with your by-laws to waive the 30 days. Your Planning Board by-laws prohibit you from recording subdivisions within the 30 days. So you need to waive your by-laws in this particular situation.

Mrs. Wilbert asked if we need a separate motion to act beyond the by-laws in this instance to grant a waiver for number 3?

Mr. Houston said exactly.

Mr. Dufour asked what the reason for the urgency in doing this again is what Mr. Maynard?

Mr. Maynard said for financial and legal reasons. The person buying the house on Evelyn Circle commitment runs out this month. They have been waiting to get on record so they can close and in this day and age that is a small emergency.

Mr. Dufour said he understands that but in the same regard if we suspend the rules so to speak and the plan gets recorded and it gets appealed then there is still an issue.

Mr. Maynard said it is their risk.

Chair Dufour said this concludes the public hearing on this application. We will now carry the deliberations into our public meeting. The Board reserves the right to recall any party to this case for clarification.

**MOTION** by Mr. Lowe to approve New Business #1 Subdivision Plans, Hollis Acquisitions, Inc. and Joseph & Christine Mercurio (owners), 8 Evelyn Circle and 101 Saranac Drive. It conforms to NRO 161-38(G). Do we want to do it here or do we want to do it afterwards?

Mr. Dufour said lets continue with this as you were doing. We have 3 waiver requests. It is kind of laid out a little differently.

1. A waiver for a grading plan/topography plan (Section 190-281 (D) 10, 17 and 48 has been submitted with an explanation that the purpose of the plan is to amend relocate the lot line between the two lots and there are no changes to the exterior of the building or to the existing site, per letter dated November 14, 2008.
2. A waiver of the existing utilities (Section 190-281 (D) 23, 27, 30, 36 & 38 with an explanation that the purpose of the plan is to relocate the lot line between the two lots, there are no changes to the existing building footprint, there are no changes to the grading or layout of the site, existing utilities are adequate and no additional proposed utilities are proposed nor needed, per the letter dated November 14, 2008.
3. A waiver to Section 9.5 Standard Operating Procedures of Nashua City Planning Board Bylaw which states: The Planning Board shall not record any subdivision plan in the Registry of Deeds until after the statutory appeal period has run, per the letter dated December 3, 2008 pending suspension of the bylaws.
4. All requests for waivers are granted.
5. That the lot line relocation plan be submitted in final form for recording within sixty (60) of the Planning Board meeting date with all applicable recording fees.
6. Prior to recording the plan, the stipulations of approved shall be duly included on the final plan.

Mr. Lowe said they are all done together. All requests for waivers are granted with the three staff stipulations. Now do we approve this and then suspend the rules?

Mr. Dufour said he wasn't sure but asked Attorney Wilbert for....

Mr. Canaway asked if a second was needed on the motion before we move on?

**SECONDED** by Mrs. Wilbert

Mrs. Wilbert said she said she sees two ways to do this. The first would be to incorporate within your motion a approval of

the third waiver subject to a suspension of the rules, of the by-laws. So having seconded that I would like to asked Mr. Lowe if he would be willing to amend his motion to approve the third stipulation granted pursuant to a suspension of the by-laws.

Mr. Lowe said yes.

Mrs. Wilber seconded that.

Mr. Dufour asked if was the new motion now or does that have to be separate?

Mrs. Wilbert said she didn't think it has to be a new motion.

Mr. Lowe said we have a motion and we have a second. Then we have a suspension of the rules on item #3.

Mr. Dufour said correct. Now all we have to do is discuss and vote. Is that correct? Is there any further discussion? All in favor?

**MOTION CARRIED UNANIMOUSLY**

**NEW BUSINESS - SITE PLANS**

2. **Riverside Properties of Nashua, Inc. (Owner lots 10 & 11) and City of Nashua (Owner lot 3) - Application and acceptance of proposed amendment to NR 2009 to show tenant additions, revised parking calculations and paving of existing grass area. Property located at 1 C Pine Street, 5 Pine Street Ext. North and 7 Pine Street Ext. North, Sheet 77, lots 3, 10 and 11. Zoned GI/MU - General Industrial/Mixed Use Ward 4.**

**MOTION** by Mr. Lowe that the application is complete and the Planning Board takes jurisdiction of the application with a codicil that we use the new staff reports.

Mr. Dufour said that they would be working off the new staff report provided to us.

**SECONDED** by Mrs. Wilbert

**MOTION CARRIED UNANIMOUSLY**

Peter Bonnette, President, Riverside Properties of Nashua, Inc.

Mr. Bonnette said they are here this evening to present a site plan suitability report where we are looking to take a 30,000 square foot vacant building that has been vacant since we have owned the property for the last 10 years, mostly vacant, and finally bring it back to life. Over the last 10 years we have taken the other properties and brought them back to a point to where we are 85% occupied except for this one parcel. We have a proposed tenant who would like to take 24,000 square feet of space and we are looking to convert it into office space. It is a state sponsored agency that is looking to move. This agency is currently within a half mile of this location and they are looking to expand beyond what they have at their present location. To go over the statutory requirements of a mixed use overly in an industrial zone as we sit in. The proposed use seems to be a good fit for this mixed-use zone for the following reasons:

The property is isolated as a peninsula between the canal waterway and the Nashua River in the Millyard district. Within the building itself this will be a final tenant on the south quadrant of the property so peaceful co-existence between this tenant and anybody within distance is already established and is suitable. On the north side of the facility, separated by insulated fire and sound walls there are tenants associated with warehouse distribution and low level fabrication. This use is compatible to peacefully co-exist. Parking for north side and south side tenants is separate. Similar uses may be found with both the New Hampshire Department of Probation and Parole which is also in the building and the New Hampshire Department of Welfare, again which in Keystone and Nashua District Court which are all within 2 city blocks of this location. Although this will not have a natural architectural visual impact or aesthetic impact in itself since they are talking about an interior renovation with this mixed use request we will continue to restore the exterior of the building. This is the last phase that we haven't touched and a lot of it had to do with whether the parkway or whether the parkway doesn't go through and now at this point we are confident that we can put siding on the building and make it look like the rest of the facility that at one time there was talk that it may be torn down. There will be positive health and safety impacts by following this very necessary service to expand their resources and better service our community and make a safer Nashua. Handicap access is provided. The elevator and a new ramp system are proposed on the south side of the building is similar to what we have already built on the adjacent building known as the number 6 mill annex. There will be a very positive economic impact as we rescue a

section of this building that has been vacant and abandoned since 1983 and restore it to its true potential. The economic impact of the city will be recognized both in tax dollars and land lease fees. Although the future Broad Street details will ultimately the final traffic patterns of this area, there is easy traffic flow and more than adequate parking for this tenant after this approval process with 2 means of traffic flow in and out of the property. The building is adequately provided with city water, sewer, fire alarm, catch basins, water hydrants, high speed internet and full sprinkler. The proposed parking improvements meet or exceed the potential uses for the property. This use in the millyard district seems to be consistent with other uses as detailed in the prior analysis as I mentioned in 1c with regards to proximity of similar services provided by state, municipal, and private agencies. There is also potential within this facility for additional social service agencies that provide a fair level of autonomy from other professional and office environments that may be conducive to a similar client base. That concludes my answers to the statutory requirements for the mixed use overlay. At this time if there are no questions with regards to the statutory requirements of the mixed use overlay request, with permission from the Board I would like to address some of the concerns of Staff over our waiver requests and touch on the list of 32 proposed stipulations.

Mr. Lowe asked for a map to be put up so they can do it that way, the way we are use to doing it, point out.....

Mr. Bonnette said the one main area and its really about staff recommending the elimination of some of the parking spaces that they we requesting. With all due respect, I would not be putting in any more parking spaces than I needed, but the problem is with this particular tenant I had to apply through a request for proposal through the system in order to see if I qualified to have this tenant move in to this particular property. One of their stipulations was that they needed 133 dedicated parking spots in order for the property to qualify. I don't believe that they are going to use 133 parking spots but that is what they have put into the RFP and in order for me to be successful at the Governor's Council Meeting I need to be able to number those 133 and these are the ones that are approved for the state. What staff is requesting, is that we take away these perpendicular parking spots that are along this line. They also state that one of the opposition to that is that they do not want to eliminate any of the greenery that is in that area. There is in fact no greenery within the confines. If anything the greenery that is

all the way back along that line is down an embankment and there is room for us probably eventually plant more greenery in and behind this place and make it more presentable. So that presents some opportunities. There is actually is a fence that is further back on the property and none of these perpendicular parking spaces would go deep enough to even interfere with that fence area.

Mr. Dufour asked if that was numbered.

Mr. Bonnette said it was his plan, because he didn't feel that the state really needed those parking spaces, those were some I was going to dedicate to the state.

Mr. Dufour said not the spots numbered, is there a number, that issue you are talking about, is this referenced in one of the stips?

Mrs. St. John said she is looking to see where she discussed that.

Mr. Dufour said obviously if we are looking to reduce it, it would have to be shown on the plan though, everything that you are requesting. Is that request?

Mrs. Wilbert said she didn't think so. Am I misoriented? Are they in here?

Mrs. St. John said they are sort of discussed in a couple of places. On page 4, under open space and relationship to drainage and stormwater I basically elude to the fact that staff believes that the existing natural vegetation along the western side from Lots 3 and 11 should be preserved and not used for additional parking. The area of open space for each lot should be noted on the plan. If you skip back to page 3 where I talk about the waiver requests, there are 3 particular waiver requests related to parking. It talks about parking and the benefits of the landscaping in there and in particular the second bullet on that page, of page 3 it says in the previous staff reports staff suggested that the proposed parking on the western side of lot 3 and 11 be removed 25 spaces proposed and I talk about in addition why I state that is although there is a right-of-way shown on that plan although it is not a defined street. Basically in the ordinance you are not suppose to back out into a street and although it is not a defined street but because it is a primary means of access in there I did not want that to interfere with traffic circulation.

Mr. Dufour said if we are asking him to eliminate spaces that he needs is this not a non-starter?

Mrs. St. John said if you go down to page 3 of the revised staff report under parking provided and required what I have noted in there is even if he doesn't have these 25 spaces he would still have the minimum required per the ordinance. What he would have, based on if he shows this, he would have additional parking. In our ordinance we have minimum and maximum standards and there is quite a range in what you can have. But if he does not have these 25 spaces he still would maintain the minimum required and from his perspective he is trying to convey that he would like those additional spaces because it would help his potential client to have whatever.

Mr. Bonnette said it is a no go if I don't have these spaces.

Mr. Dufour said the reason for him being in here is get this approved so he can get a particular tenant that he has been trying to get I am assuming for the past 10 years or until the cloud of the bypass got squared away so you are in here requesting this because you have a specific client and your specific client has requested that amount of parking spaces. Do I have that correct?

Mr. Bonnette said that is correct.

Mr. Houston said just to make it clear staff was not aware of that.

Mrs. St. John said she was not aware that you had to have a certain number for that. I was told that you had a client who wanted those but I wasn't aware that it was like you had to have 133 spaces so for the record.

Mr. Bonnette said it was in the beginning with Mike Yeomans but I wonder if it got lost in the transition.

Mrs. St. John said she wasn't aware of that.

Mrs. Wilbert asked in light of that Lucy, is there anything that would preclude us from approving it with those given that is not a street that you would be backing out into?

Mrs. St. John said no, I mean it was just as I said I made those motions to the fact that I was looking at from the visual perspective of the lot and for overall circulation and emergency

vehicle access and then people crossing there but you can certainly approve that.

Mrs. Wilbert said those would be those most furthest from your entrance. Where is your entrance again?

Mr. Bonnette said the main entrance for the clients will be on this side and the main entrance for the staff will be, I shouldn't say the main entrance, a staff entrance will be on this side and so the thought was to designate these as staff parking spots so they can go in through the side door and their clients go in through the front door where the handicap ramp is.

Mrs. Wilbert said presumably that would eliminate a lot of in and out of traffic back there anyway?

Mr. Bonnette said not only that but he would like to comment about the traffic patterns as well. As the Broad Street Parkway does the plans and the current plans as they are being presented where the parkway dumps now onto the front on the Pine Street side there is a lot of talk about the big Baptist Church building being brought back and then that is sort of opening up the whole front of this property here and in my view eventually when this all gets resolved a better location for sidewalks would be where this will be the main intersection will be to come right through the center here. Right now most of the traffic even though this is a very narrow passageway most of the traffic that comes into our complex does travel through this direction. Very few people go all away around this way. So this is not really that active. The only time this get used is for tractor-trailer deliveries for my business where they come and back into this loading dock.

Mr. Lowe asked where is the state police training area? I am still slightly disoriented.

Mr. Bonnette said it was right here and showed it on the map.

Mr. Lowe said that is ok that is what I wanted to know. Now I am getting an orientation of what I saw.

Mr. Dufour said I am sure you had a prepared presentation. I made you jump into that one issue. I think what I would rather have you do is go through your presentation rather than have a question after every item. It gets too confusing, however if anybody has any questions as it relates to the parking issue or

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the elimination of the parking issue lets ask it now and then we will let him go to his prepared presentation.

Mr. Slivinski asked how would they develop the rest of the property with no parking spaces.

Mr. Bonnette said how was I going to?

Mr. Slivinski said how are you? Your tenant is going to take 24,000 feet and they are demanding 133 dedicated spaces. What will you do beyond that?

Mr. Bonnette said he is at 90% occupancy right now through this whole building, except for this piece. This is 30,000 square feet. When we did our calculations for the parking requirements where we arrived at where we did on the 271 parking spots it also includes an additional 20 parking spots for the final 8,000 square feet of second floor development that has not been developed yet in this final section of building. And at that point I am 100% occupied.

Mr. Bonnette said he thought the best way to handle this is to go down the list of stipulations which is 32 stipulations and make your side notes so you can as a group vote on these individually and I will give you my two cents on them as we go through them.

Mr. Dufour said if you are going to present it that way if anybody has questions on that stipulation if we can keep it to that stipulation, lets do it. That way if he is going through all 32 I just assume to it that way.

Mr. Bonnette said stipulation #1 really acknowledges that we are complying with the suitability report. We are in agreement with that one.

Mr. Bonnette said number 2, the waiver requested per the letter is or is not granted for perimeter parking that is number 2. That is what we just spoke about. So you can all have your opinions about that.

Mr. Bonnette said number 3 the waiver requested per the letter of December 9<sup>th</sup> is or is not granted for parking area median landscaping.

Mr. Houston asked the Chair if it is his intent to discuss each of these individually.

Mr. Dufour said yes.

Mr. Houston said that he had an item to add on number 2. One of the reasons is that the parking area shown on the plan overlaps the right-of-way or easement that is owned by the Millyard Association. This right-of-way runs through this property that provides access to Peter Bonnett's lot as well as the 2 lots owned by the City. Some of those spaces if you look at the plan are encroaching into that right-of-way easement. I don't know if they can be shifted so there isn't a problem with that or getting some kind of concurrence with the Millyard Association.

Mr. Bonnette said in fact the right-of-way that exists is according to the deed this property at one time was the Barrett and Gould factory. The state tore that building down about 4 years ago because they thought the parkway was going through here. We have the president of the Millyard Association who can verify some of these things. In 1984 the Nashua Foundation which owned all of these mill buildings plus all of the land which is now known as Mines Falls Park, all that land was owned by the Nashua Foundation. They split off a good portion of that land and donated to the City for the park, however that went and then 13 different owners became the owners of all these different mills. At that time certain right-of-ways were granted so that the person who bought what use to be Stanley Elevator, now the police state barracks building that the City took over and of course this right-of-way I also needed for my property because my loading dock is over here. So originally when this building was here there was a connector here and a connector here and the only way that you could get around to that loading dock was to go around this way. So there was a right-of-way but the right-of-way is not stipulated to say it is one foot here or one foot there. It just states that the area that is presently being used as a right-of-way will be always utilized as a right-of-way. It doesn't give a very specific dimension. So my feeling is as long as we maintain a proper width right-of-way through that area that we meet the letter of that law.

Mr. Canaway said he had a question for Roger or Planning Staff. As I am reading through the ordinance and it talks about perimeter landscaping, this hinges on whether we feel it is a right-of-way, which I think it is and whether that should be landscaped per the land use code.

Mrs. St. John said correct.

Mr. Bonnette said this is a natural landscape right now.

Mr. Canaway said he is asking for clarification just based on the facts. I want to understand what I am going to vote on.

Mr. Bonnette said they are not looking to disturb any green area that is already there. We are not looking to encroach anywhere into the green area. There is already a chain link fence with paving going up to that point.

Mr. Canaway said he understands. The way that the ordinance reads is a minimum 5-foot buffer strip abutting a public right-of-way shall be landscaped. You want parking spaces there. That is what we are voting on as far as I see it.

Mr. Bonnette said the land continues and there is landscaping but it is of a natural breed.

Mrs. Wilbert said she just got lost. I thought that we needed some follow-up on Roger's question with regard to the roadways and whether or not there are parking spots that are infringing on what Staff sees as specified roadways or rather whether or not Mr. Bonnette's position that these are not dimensionally delineated on any plan roadways but merely right-of-ways.

Mr. Bonnette said he maintain that in the days of Barrett and Gould this were parking spaces along this whole area.

Mrs. Wilbert asked if Staff is comfortable that as long as there is a right-of-way maintained?

Mr. Houston said he thinks the right-of-way is owned by the Millyard Association. I know Peter is a member of that association but I think there should be some concurrence with them that they agree to this because they are the ones that have water lines, sewer lines, I am not sure what is under this right-of-way or where those lines are located. I am not sure those are included on the plan. Maybe Peter can address that. The plan that he submitted to us shows the parking spaces and the dotted line that supposedly came from the plans of record that you have attached in the back of the file. We just want to make sure that if the Board, with Peter's explanation that he needs those additional spaces and that the Board is willing to waive that landscaping requirement, and then to make sure that everyone is ok, the Millyard Association in particular, that access is maintained down through the site. Primarily that right-of-way is for access to those 3 lots. That's its sole purpose. You don't go anywhere other then if you are a cyclist

or pedestrian that is either hiking or walking to work or cycling to work in the millyard can use that access as well.

Mrs. Wilbert said you said the president of the association is here and that he would verify that the association is in concurrence?

Mr. Bonnette said yes he is and as a matter-of-fact he came to my office yesterday and forced me to sign something that I would maintain those lines that are underneath that parking lot.

David Bagshaw, President and Treasurer of Nashua Millyard Association

Mr. Bagshaw said he has been president and treasurer since 1985. As Peter mentioned Nashua Millyard Association was formed in 1984. We purchased the assets from the Nashua New Hampshire Foundation. These were the assets of the Nashua Millyard yard. As we operate the WH Bagshaw Company in the millyard. We purchased that building in 1950 and it is a manufacturing facility. I was treasurer and president of the WH Bagshaw Company from 1994 to 2006 when I took semi-retirement. Do you have any questions that I can answer relative to these easements? Peter is right that there are easements throughout the millyard that allow travel in and out and around the millyard for the various millyard owners.

Mr. Dufour asked Mr. Bagshaw if he was comfortable with Mr. Bonnette's interpretation of that easement.

Mr. Bagshaw said yes he was.

Mrs. Wilbert asked if the association was comfortable with the fact that the thoroughfares will be maintained as they need to be and parking spots are not encroaching on them.

Mr. Bagshaw said yes. He would like to read a prepared statement.

Mr. Dufour asked if this pertains to this particular issue?

Mr. Bagshaw said yes. It is a real pleasure for me to be here on such a beautiful night. My name is David Bagshaw, president and treasurer of Nashua Millyard Associates. We were incorporated in 1985 when we purchased the assets of the Nashua New Hampshire Foundation. I represent many property owners in the Millyard complex that own commercial, residential, and industrial space.

We are proud to have Peter McKay, or PM McKay and Mr. Bonnette as one of our fellow owners. We urge the acceptance of his current development plans. Peter and PM McKay have been at the forefront of property owners committed to the revitalization of the Nashua Millyard investing in the infrastructure, creating new and exciting mill spaces through state-of-the-art renovations for businesses new and old helping to re-identify and redefine what is the Nashua Millyard. We at the Nashua Millyard look forward to working closely with the City of Nashua in a cooperative manner especially concerning the Broad Street Parkway. This road will be a positive development for Nashua. These are tough economic times for everyone and it seems concern for road and bridge infrastructure appear to be at the top of the to do list. So let us join in and do our part to improve our City and provide some jobs along the way. This is a great plan. Another great plan for the Nashua Millyard and I would like to thank the Board and Chairman for the opportunity to speak and again the Nashua Millyard Association property owners are very much in favor of accepting these plan proposals. Thank you very much.

Mr. Dufour asked if we are done with # 2? Two down 30 to go.

Mr. Bonnette said that was number 3.

Mr. Dufour said that was number 2. We went back to number 2.

Mrs. Wilbert said she went back to number 2. He had discussed number 3.

Mr. Bonnette said number 4, the waiver requested for the letter of December 9<sup>th</sup> is or is not granted for off-street loading spaces 12 x 45. There are 2 loading areas in question. One of those I have a tenant that is currently in the building that I plan on relocating away from the front of this building where I am proposing this canopy where the main entrance is. It is a moving company, Gentle Giant, I am thinking of moving them over to the backside of the building or relocating them to another site eventually but it will take about another year, year and a half. I would like to as far as that particular loading area, if I could be given a little more time, maybe a year on that one and then eliminate that loading zone that is on the front of that property. The other loading zone on the backside is an existing loading zone that has been there for 100 years. It is a loading dock that has been there for 100 years. My new tenant being an office function is going to own the rights to back of that loading area but you know if it's a UPS truck or WB Mason

truck that is about all that it could possibly be. There is no chance they would ever have a tractor-trailer backing into that area. So I don't think its relevant on that particular zone so I would request the wording for elimination of the use of that particular loading zone because it is not 12 x 45 be eliminated because I feel it should be grandfathered in. It has always been there. It has a concrete ramp that has been there, how long David, 100 years? I feel like I am grandfathered in on that particular case.

Mr. Dufour said your request or your preference would be to eliminate that stipulation all together. Is that correct?

Mr. Bonnette said there is talk of 2 of them. I would go along with eliminating the one on the south side of the building in a year's time. It gives me a chance to relocate the tenant.

Mr. Dufour asked if we are still on number 4 here. Let's stay with number 4.

Mr. Bonnette said yes.

Mr. Dufour said is it your request that it be granted or it not be granted?

Mr. Bonnette said it be granted on.....

Mrs. St. John said you want the one in the rear to stay.

Mr. Bonnette said he wants the one in the rear to stay and I want the one on the front on the south side to go in one year's time.

Mrs. St. John said her concern with that one too was the fact that there was a fire lane there and as far as loading and that and there was the other provision in the ordinance that said it needed to be, I believe if I am correct here, I would have to go back and look, a minimum of 200 square feet or something and I know it didn't meet that and that is why I made that comment.

Mr. Bonnette said that he expects by the time this tenant moves in July of next year I will probably have that one out. In case it takes me a little bit longer I would to have a year on that one.

Mrs. St. John said it seems reasonable.

Mrs. Wilbert asked if it needs to be reworded.

Mrs. St. John said we could reword it maybe to say something to the effect that the waiver is granted for the existing loading dock which is on the north side of Lot 11 and the existing loading dock on the south side where the no parking fire lane remain for a period of one year or something to that effect. Is that what you are thinking of Mr. Bonnette?

Mr. Bonnette said yes.

Mr. Slivinski asked what dock are they talking about that is in violation?

Mr. Bonnette stated that is another issue.

Mr. Dufour asked if that was another number on here.

Mr. Bonnette said no, but he thought sooner or later they address it. I built a deck on my building. I built a nice little deck which he showed on the map. I cantilevered it a little bit over the canal and we feed the fish. I eventually thought we might have a little kayak launch off it but the Conservation Commission took issue with me doing anything around their canal. About a year ago they sent me a nasty letter and I had the guy from the state come over and look at it and he didn't have a problem with it but it is still a lingering issue.

Mr. Slivinski asked if it had nothing to do with those docks?

Mr. Bonnette said no, different kind of water dock then a loading dock.

Mr. Bagshaw said the canal itself is the property of one of the assets of the Nashua Millyard Associates from the sleuth way inside the Millyard complex to the end of what would be the Gate City Fence building now is where the property line is. It would be the old Lockhead building, but the end of that Lockhead building is the property line and that is Nashua Millyard Association property.

Mr. Dufour asked if anyone else had any questions on number 4, if not they will discuss number 5.

Mr. Bonnette said he believe number 5 is pertaining to the roof articulations that are required for a commercial building. In this case I have a historic building that has existing rooflines

that are in place. We are meeting certain requirements of the roof articulation rules by introducing a canopy at the first floor level on the south side that will introduce 3 articulations in that roof. Either way, the building is under 150 feet so I don't think it really hits that stipulation anyway. I think you need to be over 150 feet long.

Mr. Bonnette said for stipulation #6, the waiver requested per the letter, is or is not granted for stormwater management. We are offering to provide stormwater management through the hoods on the catch basin, the oil hoods on the catch basins and the yearly annual management with reports to the City.

Mr. Dufour asked what waiver are you requesting.

Mrs. St. John said they are requesting the waiver because in the ordinance they talk about providing calculations for the 2, 10, 12, 50, and 100 and all that. But in here as he stated they are going to put the hooded catch basins in. They are going to create per these stipulations here. They were going to do a stormwater management report and easement typically like we do and the other thing was that I requested that they submit their stormwater requirements for their existing 2 lots which are lots 10 and 11 which was recorded back with the previous site plan so I have documentation that those activities which are part of that maintenance plan are on the record and they submit them annually so as part of the city's process to improve stormwater management in the city that we have them and I think as put these stipulations in there, we make them much more enforceable.

Mr. Dookran asked about stormwater. I didn't see any drainage plan on your plan of drainage system on site. I would like to ask if all of this site drainage goes into catch basins.

Mr. Bonnette said he couldn't say if it all goes into the catch basins but can say that it has been doing what it has been doing for the last 100 years.

Mr. Dookran said he understands that.

Mr. Bonnette said he can also tell you that when the Barrett and Gould building was in place it had a pitch roof and the pitch roof went to the ground, onto the pavement and into the catch basins or where ever it found itself to go. So nothing has changed. The same amount of water has always been on that site for the last 100 years. There are no differences.

Mr. Dookran said he would tend to agree in terms of quantity. In the terms of quality maybe the engineer can help me with this. We are talking about different runoff now. Building runoff is cleaner than parking lot runoff so that is why I asked if all runoff was going to the catch basins or the water separators that have been proposed. Can anybody help me understand what the drainage system is doing?

Mr. Bonnette said he can tell you along the right-of-way, the right-of-way has a tendency to pitch towards the embankment and off and over the embankment. Anything that is in this parking area I can tell you for certain it will to what it takes to pitch this parking area towards catch basins. Right now at the center of the parking lot it pitches half way this way to these catch basins and the other half was planning to pitch this way and I was going to put it towards those catch basins. I can play with the grade because it is right now a gravel lot. I can make it work towards the catch basins. I cannot control what happens on the far end because this is a lower area and it tends to drain over the embankment.

Mr. Dookran asked where those catch basins drain to. Where do they discharge to, the canal or the cove area?

Mr. Bonnette said he wasn't sure where those 2 catch basins go off too.

Mr. Dookran asked if what you are proposing is to tie more catch basins into that system?

Mr. Bonnette said no, use the 2 existing catch basins that have always been used. They have been there forever. If anything I have taken the center of the lot and pitched it this way to these catch basins which do eventually runoff this direction into the cove.

Mr. Bagshaw said relative to the catch basins we very recently inspected those and found that they are in good operating condition although we are speaking with them being very old, but they are still in good operating condition per a very recent inspection.

Mrs. Wilbert asked where they go.

Mr. Bagshaw could not say exactly where they go.

Mr. Lowe asked if we should stip that to part of 6 that between staff and applicant, the flow of the water to catch basins shall be agreed upon by both parties.

Mr. Dufour said the applicant has said the flow of the catch basins has been going for 100 years.

Mr. Bonnette said that one spot is lot. I know where all the water goes. We actually had a little washout there. I am not opposed to putting a catch basin in that low point and bringing it back towards the drainage as I do this parking lot work. I will agree to that to make sure that water on that one low spot, I will put a basin in there if that solves the issue.

Mrs. Wilbert asked if Mr. Dookran could help with the language that would be incorporated in number 6.

Mr. Dookran said it could be language stated like new areas to be paved be graded such that the runoff would be discharged into existing or new catch basins improved with oil hoods.

Mr. Slivinski asked Mr. Dookran what are you doing this storm water plan here? Isn't it a little makeshift. Isn't that what a storm management plan does when you do something like this?

Mr. Dookran said no. The management plan tells you what you must do from here on after it's built. We are talking about the design is, how it is captured runoff and how he is treating runoff. That is not shown anywhere here. I think what the applicant said is he is going to let it do what it has done. What I was contesting is that what it was doing is with the roof you have clean runoff. Today you are parking cars, you have a different runoff. Same quantity but different quality. I wouldn't like to see the runoff today discharged directly into the canal or sensitive cove area so we are asking for more collection and treating prior to discharge.

Mr. Bonnette said for stipulation #7 they asked for a waiver for.....Lucy can you help me with this?

Mrs. St. John said the Nashua Canal and Nashua River are basically wetland areas and they have asked for a waiver of flagging of the wetlands after some thought on this I recommended that we not grant the waiver. The reason being once we get back into the discussion regarding the dock and when he goes to the Conservation Commission and that and the fact that I believe at some point you need, as we have discussed, talk to

the state regarding the Comprehensive Shoreland Protection Act and any wetland provisions that may apply. So at some point you are going to need that anyways from them and when you go to the Conservation Commission part of the process is you should have the wetlands flagged. You can come before them without that and say we just took it from the GIS map. I believe it should be shown because those are two primarily wetlands which are designated in our zoning ordinance. I think it would be a simple enough thing to do especially for a canal although it is pretty easy to do.

Mr. Dufour asked that Staff recommend it not be granted?

Mrs. St. John said correct.

Mr. Bonnette said that they are here to talk about the renovation of a building and the parking related to that building. The side issue of the water dock on the canal is something I would prefer to address separately with the Conservation Committee. To say that we should be flagging wetlands in an area when we are at an elevation in a parking lot that is already existing and we are not doing anything to in this area and we know that is not wetlands because the wetlands are 20 feet below in the cove area in the flood plain. We are up on another level and it is not relative to what I am trying to do with the parking lot. If you open that can of worms with flagging wetlands back in here when you are worried about a dock over here, I feel it is a separate issue.

Mrs. St. John said as far as the part regarding the cove area and that is part of river, the fact is once the city leases it to you we want to make sure it is in compliance with all state requirements for wetlands and shoreland and some of that area although the property line there is probably within 100 feet and the city ordinance applies to 75 feet within a wetlands the state has jurisdiction of 100 feet. So from that perspective we just to be sure that whatever is being done on this "city piece of property" which would be leased to you is in compliance with state provisions.

Mr. Lowe asked if there is any grandfathering with that state ordinance for something that is existing.

Mr. Bonnette said he doesn't even own the parking lot, it is the city's parking lot and he is leasing it.

Mr. Houston said the state may require him to flag this property because they will want to know where the 100-foot setback runs from. That is what they normally request and require this. Normally we would have that information on a site plan but we don't in this case. It appears to meet the City's 75-foot requirement, but we aren't sure what the state is going to do in this situation and Mr. Bonnette needs to be aware of that situation.

Mr. Bonnette said his concern is he has a limited amount of time to build out some space and he didn't know the months and the cost he would have to pay Mr. Cormier.

Jeff Rider, Cuoco & Cormier

Mr. Rider said he has two phone calls into the State right now trying to set up a pre-application meeting with DES to discuss these issues. When they submit their application to the state they will have to flag the wetlands. The reason for the waiver tonight is they are dealing with this particular site plan. One of the stipulations that they will be getting to is the applicant will need to apply to the state for all necessary permits. That would be the appropriate time to flag the wetlands.

Mrs. Wilbert asked if that meets the concerns of Staff the fact that they will have to get the necessary approvals.

Mr. Houston said that concurs with their concerns. The main reason for that stipulation is that obviously as part of their lease agreement that they are required gain any necessary State or Federal permits.

Mrs. Wilbert asked because they are required to gain the state approvals this is no longer crucial because it will be accomplished under?

Mr. Houston said it should be. As long as the State is comfortable with what is shown and given to them when this is presented to the State. Mr. Lowe is right; they do look at what has been there and what hasn't been there. We wanted to flag that to make sure everyone was aware of that.

Mr. Lowe asked how long the state is taking. I have one in.

Mr. Dufour said that is his problem.

Mr. Lowe said just so we know as a Board. I have had one in since August and it still hasn't gone before the State.

Mrs. St. John said it was her understanding it can take several months or more. I know initially when they came out with some revisions to that it was anticipated that the process would improve but just so the Board is aware that there is another application that the Board has approved in the past which was over on the river and the applicant was within the 250 foot buffer and they had to go through the process and the state made them make some changes and I did talk to you about that. For the purpose of this site plan I don't think its critical that the wetlands be shown on it for the work he is doing at this moment, but for the purpose of making sure that he complies with the applicable wetlands ordinance relative to his dock and for the provisions of the shoreland protection and just for the city's provisions we can accomplish that separately but at some point that information we need to be presented to us if that is understood.

Mr. Dufour asked if #7 can be removed.

Mrs. Wilbert said that it should be granted.

Mr. Dookran said we are looking at a GIS wetlands delineation. How much off do we usually find that from what is identified from licensed scientists?

Mrs. St. John said she couldn't give a specific number or percentage because every site is unique. When those maps are done, just like when you do any soils mapping or anything like that, they are done from a general perspective. They are used for general planning purposes and not site specific planning. I can't really answer that the way you want me to, but I would say, for the purpose of this, it may be relatively close as least for the canal because it is a pretty defined area. It is contained. As far as the other one, the part with the cove, as he says there is an elevation difference there. You may find it may not extend up. It probably doesn't but I can't really address that.

Mr. Dookran asked if we often find a discrepancy.

Mrs. St. John said there may be some discrepancy but to the degree of discrepancy I think it site specific for every piece of parcel is unique.

Mr. Dookran said his concern would be this. We can approve the plan based on this delineation what if it turns out the wetland is not in the applicant's favor and the site cannot work in the manner.

Mrs. St. John said that he would need to come back to the city because you are going to be impacting a wetland and if he didn't show that he would need to come back before the Conservation Commission and the Zoning Board. That is one way you can approach that.

Mr. Dookran said he was ok with that answer.

Mr. Bonnette said they are in agreement with stipulation 8.

Mr. Bonnette said he is in agreement with stipulation 9.

Mr. Bonnette said he is in agreement with stipulation 10.

Mr. Bonnette said he is in agreement with stipulation 11.

Mr. Bonnette said he is in agreement with stipulation 12.

Mr. Bonnette said for stipulation 13 it would be up to the city because he is leasing the land from the city. If you are putting requirements on the city to somehow address the pedestrian and emergency services, trail access, I don't know how they are going to do that in the form of a lease. The right-of-way as we have spoken already is a right-of-way for everybody to use with the Millyard. It is written into the deed that those who use it can continue to use it.

Mrs. St. John said the reason the way this one was written at the time at the time was the fact that there has been several draft lease agreements that have been circulating going back and forth. There was this infrastructure committee which prepared different recommendations to them and some of those recommendations included these elements. That went to the infrastructure committee last night and from my understanding that was approved. As far as the actual lease agreement at this moment in time is what the language says I don't have the most recent copy of that and that is something that is being worked out with city corporation counsel. There may be provision in there that address some of those things. I don't remember all the specifics of that. The city may incorporate that, I don't know all the details of that.

Mr. Bonnette said he would have to agree with that.

Mr. Bonnette said for stipulation 14, he showed on the map this where the deeded lot line is based on where the foundation for the Barrett Gould building was. When the building got torn down he allowed the state to take down his walkway and entrance that was in this area because it made sense to rebuild it at a later date. Now what they are asking is to make sure that lot is where it is and I am not going to construct my new roof system onto their property. I know that it was 16 feet and I am only building 12 feet, so I know I am safe.

For stipulation 15 Mr. Bonnette said he has already contacted the Millyard Association so we have already been there.

Mrs. St. John said the first she talked to Mr. Bagshaw was last Friday and I suggested he come and either present via a verbal presentation or something in the record for that purpose.

Mr. Bonnette said he is in agreement with stipulation 16.

Mr. Bonnette said he is in agreement with stipulation 17.

Mr. Bonnette said he is in agreement with stipulation 18.

Mr. Bonnette said he is in agreement with stipulation 19.

Mr. Bonnette said for stipulation 20, he is in partial agreement. First, April 1, 2009 to put fences around dumpsters is not good timing since we are going into the winter. If that could be pushed off until June that would be helpful. Second issue is I have a dumpster. I run a construction company. Any given morning I have 10 or 12 trucks that are loading, off-loading into my dock area. I have a 30 yard dumpster in there. It is tucked all the way around the building. It's in between the police building and my building. It is not visible from anywhere. For me to have to enclose that dumpster and I can't take trucks and move things around that dumpster would tough on me. I will do every dumpster on site but prefer my construction dumpster be waived.

Mr. Dufour asked if that particular dumpster references a specific lot. Can we eliminate that lot? It says located on lots 3, 10, and 11.

Mr. Bonnette said you could because it is the only dumpster on lot 10. I have also taken the 20 tenants in that building and make them use my dumpster.

Mrs. St. John said she was fine with the June 1<sup>st</sup> date.

Mr. Bonnette said he is in agreement with stipulation 21.

Mr. Bonnette said he is in agreement with stipulation 22.

Mr. Bonnette said he is in agreement with stipulation 23.

Mr. Bonnette said he is in agreement with stipulation 24.

Mr. Bonnette said for stipulation 25, they are in agreement but would like the date changed to June 1, 2008.

Mr. Bonnette said for stipulation 26 they are in agreement.

Mr. Bonnette said for stipulation 27 they are in agreement but would like the date changed to June 1<sup>st</sup>.

Mr. Bonnette said stipulation 28 will be eliminated.

Mr. Bonnette said stipulation 29 for open space is ok.

Mr. Bonnette said for stipulation 30 they are stuck on this again where this wetland thing kicks in relation to paving. If it comes back around and there is a problem, then we will address the problem.

Mrs. St. John said part of it too she can't image Mr. Bonnette being able to pave this time of year so there is sufficient time to go through whatever state process you need.

Mr. Bonnette said as long as it gets addressed at some point without putting a specific date on it, give it a year or something would be reasonable.

Mrs. Wilbert asked for staff's opinion.

Mrs. St. John said her concern is if goes ahead and paves it and there are requirements that aren't met and especially the part that is on the leased portion of it.

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Mr. Dufour asked if before the parking area can be paved could the parking area have to be paved before he can proceed with the development of that proposal?

Mr. Bonnette said no. He could be well into construction, he has 4 months of solid construction.

Mrs. St. John said for a compromise, is that rather before it can be paved that the owner shall submit a plan to DES regarding their proposal to pave this before...submit your application to the state before March 1<sup>st</sup> or something so at least you are in the process. If you find out you do need it, at least you are in the process.

Mr. Bonnette added further that if we do pave it and there are certain criteria that need to be met by the state, that we will meet those criteria after the fact.

Mrs. St. John said that would be reworded to the fact that by March 1, 2009 the owner/lessee of the this lot shall submit the appropriate applications to the state and will be in compliance with all requirements of the state for wetland and shoreland for the paving of this parking lot as dictated by the state application.

Mr. Bonnette said that was fine.

Mr. Bonnette said stipulation 31 and 32 are ok.

Mr. Houston said Mr. Bonnette had a short time table and we didn't have the normal review process that we would normally have where we would have more time to work things out. We were getting documents as early as this week and so we have been trying to work with Mr. Bonnette so he can effucate his terms of his lease with the city as well as his potential future occupant so we can all work together. He had to have his approvals in place relatively soon so that is why this is a little less professionally polished then what you would normally see.

Mr. Dookran said one of the stipulations asked for cleaning up the debris on lot 3. There is quite a bit of debris along that edge where the old fence and the fence is broken. There is also a lot of debris along the fence and there is also a lot of debris on lot 11. Will that be cleaned up?

Mr. Bonnette said he has a problem tenant that should be leaving soon and everything should be cleaned up within the next two weeks.

Mr. Dookran says that stuff slides down into the wetlands and along the edge of the trees. Do you have any intention of (inaudible) the fence along that line there. There is a big opening and I believe people go through.

Mr. Bonnette said yes.

Mrs. St. John said stipulation 31 is ok with cross easements. She just wanted to make sure that was thoroughly understood.

Mr. Bonnette said there is not way they can clearly define the easement then to say it is the area wide enough between the parking spaces and (inaudible)

Mr. Houston said we are talking about a different easement. The Millyard Association has access along the westerly side down through all 3 lots. The Millyard Association has another easement on the easterly 2 buildings owned by you. There is no easements between those buildings and the lot the city owns. Part of lot 10 straddles the property line, the drive aisle. It would be in your interest to have some sort of easement so we can have a circular movement between all the lots so you don't lose those parking spaces at some point in the future.

Mr. Bonnette said he completely agreed.

**SPEAKING IN OPPOSITION OR WITH CONCERNS**

No one

**SPEAKING IN FAVOR OF THE PLAN**

No one.

Mr. Dookran asked if they anticipate any problems with the flow of traffic of the site.

Mr. Bonnette said he had thoughts about making the roadway on the front of 1C a one way because it is fairly narrow. He said he is hesitant to make that move because he wants to wait and see what will happen with the Broad Street Parkway. Maybe the canal will be getting filled in. In order for this whole thing to work somehow that water body has to be filled in and brought

back to a certain point and that might make this access much cleaner at a later date. This corner up here can be tough right here. Which is back to you wanting cross easements in this area.

Mr. Houston said he believe there already was a cross easement in that area with the Millyard Associates. I am talking more about between lot 10 and the City's lot. Along the front of your lot 10 building you see the property line runs right down the drive aisle. There should be an easement down from the end of the Millyard Associates easement down to connect with that other Millyard easement.

Mr. Bonnette said at some point they will have to talk about that and what the best traffic flow is.

Mr. Houston said there might be away of addressing, like we did with Clocktower Place, I had discussions with Mr. Bagshaw in the past about a Class B trail easement that would run down some of these to provide for pedestrian and cyclist movement for employees that work in the millyard since the city just completed the 7<sup>th</sup> street bridge over the canal where people that work in this area can access it from that neighborhood.

Mr. Bonnette said one of his dreams was to have a brick paver sidewalk all along the canal but after getting caught up the Conservation Committee I got nervous about it.

Mr. Dookran asked if the stop sign on the site will be upgraded. Those stop signs have seen their days.

Mr. Bonnette said they just had a meeting about a week and can't wait until the city of Nashua comes in to take some ownership some of the roads in the milliard and then we can get things polished. We could get new stop signs.

Mrs. St. John said for stipulation #31, the cross easements. I had initially put in here that they would be worked out by June 1<sup>st</sup> but that might be a little quick to accomplish that so maybe it should be within one year from date of approval of this plan. Also that Staff work with the engineer to correct notations on the plan regarding parking spaces.

Chair Dufour said this concludes the public hearing on this application. They will now carry the deliberations into the public meeting. The Board reserves the right to recall any party to this case for clarification.

**MOTION** by Mrs. Wilbert to approve New Business #2 Site Plans, Riverside Properties of Nashua, Inc. (Owner lots 10 & 11) and City of Nashua (Owner lot 3), proposed amendment to NR 2009. It conforms to NRO 190-146(D) with the following stipulations and waivers:

1. The applicant complies with the requirements required for the site suitability report per NRO 190-23 (item E- (1) (a-g) and NRO 190-280.
2. The waiver requested per the letter December 9, 2008 is granted for 190-184 C-Perimeter Parking.
3. The waiver requested per the letter of December 9, 2008 is granted for 190-184 (D) (1) Parking area median landscaping.
4. The waiver requested per the letter of December 9, 2008 is granted for 190-199 Off-street loading spaces 12 x 45 feet, for the north side loading dock. The south side loading dock to be eliminated within one year from date of approval.
5. The waiver requested per the letter of December 9, 2008 is granted for 190-172 C Nonresidential building roofs.
6. The runoff from new paved areas shall be directed to new or existing catch basins and treated there prior to discharge.
7. The waiver requested per the letter of December 9, 2008 is granted for 190-116 B. Wetland flagging.
8. All notes and details included on the plan are incorporated by this reference as specific conditions of approval and compliance with these notes, details and other information is required. Non-compliance of the site plan may result in revoking of the site plan and or other penalties and fees may be imposed.
9. That the requirements of the Nashua Fire Department are included as conditions of approval, and must be addressed to the satisfaction of the Fire Department.
10. The building design external improvements shall reflect the photographs or other materials conveyed at the meeting and are incorporated as part of this approval.
11. Prior to any work being conducted a pre-construction conference shall be held with City staff to review elements on the plan, erosion control measures and other construction requirements. Erosion control shall be put in place prior to the start of construction related to

- building improvements and the expansion or improvements to the parking areas.
12. Prior to any work being conducted on Lots 3, 10 and 11 related to this site plan, the applicant shall submit and receive all required local building permits as are required.
  13. Prior to any work being conducted on Lot 3 Riverside Properties shall have duly executed a signed Lease Agreement with the City of Nashua. Said lease agreement shall incorporate and reference provisions to adequately address pedestrian, emergency services, trail access and other provisions as required by staff. This may include provisions for easements and defined right-of-way to be shown on the plan.
  14. Prior to a building permit being issued for the improvements on Lot # 11, the survey boundary line shall be clarified. The note currently included on the plan states it is an approximate property boundary (line shown between lot 3 and lot 11). The plan shall include the surveyor's stamp, removal of this note with the actual boundary line shown on the plan. The city wants to be sure that all improvements to the buildings are done on lot 11 and not extend into lot 3.
  15. That Riverside Properties contact the Nashua Millyard Association and provide a letter for the Planning Department file to document who has the legal responsibility for maintaining the driveway/right-of-way access to and on the properties shown on this site plan (Lots 3, 10 and 11).
  16. Prior to any improvements occurring on Lot 3 a stormwater operation and maintenance plan and easement per Article XXXI, Stormwater management 190-214-218 shall be recorded for Lot 3, with responsibilities to Riverside Properties not the City of Nashua.
  17. The owner of Lots 10 and 11 shall provide to the City Planning Department a copy of annual stormwater reporting requirements for lots 10 and 11 for the year 2008, per the requirements identified in the stormwater documents recorded in 2002.
  18. All existing catch basins on lots 3, 10 and 11 shall be retrofitted with oil hoods at the expense of Riverside Properties and be operational by May 1, 2009.

19. Prior to any improvements occurring on Lot 3 relative to this site plan the notice of compliance for the city shall be signed.
20. By June 1, 2009 all existing dumpsters located on lots 3 and 11 shall be screened, per 190-182 (Screening of service or storage areas) and 190-183 (Additional screening requirements for industrial and business uses).
21. By March 1, 2009 the owner (Riverside Properties) shall submit a completed application and be scheduled on the Conservation Commission agenda for review and consideration of the dock/deck on Lot 10. Following the Conservation Commission review, the applicant shall within 60 days submit a completed application to the ZBA for review and consideration. Concurrent with submitting the application to the Conservation Commission, said applicant shall also submit any required application(s) to the NHDES wetland and shorelands. Said application submitted to the NHDES shall also be copied to the city concurrently. If the applicant learns that he is not required to submit or receive such approvals from the State, a letter from NHDES shall be submitted to the Planning Department stating such decision as has been rendered by NHDES.
22. It is the owner/lessee responsibility to demonstrate compliance with all applicable state requirements relative to wetlands and the comprehensive shoreland protection act for lots 3, 10 and 11 and to provide a copy to the Planning Department.
23. The final plan shall show the parking arrangement approved by the board, including all loading spaces and landscaping requirements.
24. The final site plan and required mylars/copies shall include all stipulations of approval and shall be submitted by March 13, 2009 in final form.
25. The fire lanes shown on the plan shall be marked on the pavement and maintained to be visible at all time. Said markings shall be completed by June 1, 2009 or sooner as may be required by the Fire Department.
26. The Lessee of Lot 3 shall maintain the site in good condition free of debris, unregistered vehicles and other materials, which detracts from the appearance or safety of the site.
27. By June 1, 2009 all parking and loading spaces shall be painted on the ground per the approved plan.

28. The area of open space for each lot should be noted on the plan.
29. By March 1, 2009 the owner of lots 10 and 11 and the lessee of lot 3 shall be in the process of obtaining a letter from NHDES to the Planning Department stating that they are in compliance with all applicable state permits related to wetlands and shoreland protection.
30. The plan shall show the location of cross easements between Lots 10, 11 and 3 for right of access and passage to the City and for future owners of said lots. Said easement documents shall be reviewed and approved by City Corporation Counsel and recorded in the Registry of Deeds by one year from the date of approval.
31. The owner or leasee of said lots is responsible for submitting all required stipulations of approval prior to the date(s) noted.

Mr. Lowe said he was thinking for number 6, we add the word grade at the beginning.

Mrs. Wilbert said what she believe what she said is that new paved areas shall be graded to be directed to new or existing.

Mr. Lowe said that some of that area in there is already paved so you want that to go to.

Mrs. Wilbert asked if it should be paved areas shall be graded to direct runoff to new or existing catch basins?

Mr. Lowe said that he has grade runoff be directed to new or existing catch basins.

Mr. Canaway said they both sound the same to him.

Mrs. Wilbert said she believed we are dropping the word new with referenced to paved. So paved areas shall be graded to direct runoff to new or existing catch basins and treated there prior to discharge.

Mr. Canaway reread this one as amended to state that paved areas shall be graded to direct runoff to new or existing catch basins to be treated prior to discharge.

**SECONDED** by Mr. Canaway

**MOTION CARRIED UNANIMOUSLY**

**OTHER BUSINESS**

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

None

**MOTION** by Mr. Slivinski that there are no issues of regional impact.

**SECONDED** by Mr. Canaway

**MOTION CARRIED UNANIMOUSLY**

2. Consolidation and Subdivision Plan for Evelyn Circle, 368 Main Dunstable Road, per plan recorded as HCRD #34755. Review and acceptance of sidewalk easement and drainage and sidewalk easement as noted on the plan.

Mr. Dufour had a note from Lucy St. John stating that Mr. Howard Chain, Hollis Acquisitions requests that this be postponed until the January 8, 2009 meeting as he is out of the state on a family matter. This was sent per e-mail of December 3<sup>rd</sup> which is on file.

Mr. Dookran asked what the issue that requires a discussion.

Mr. Houston said the discussion is when this subdivision was approved, there was a short period of time when easements that were approved by this Board had to then go back before the Board of Alderman. It would take maybe 6 months, or 3 months to get the easement accepted by the Board of Alderman. It was a short window of time. Then the Aldermen changed the ordinance back again to permit the Planning Board to accept easements. This is one of those subdivisions that got caught up in this. The applicant did not take it on to the Board of Alderman to accept the easements. The Board now has the authority to accept those easements on behalf of the city and this is the cleanest way of handling it. As we have been informed by the developer, all the lot owners are in agreement of granting this easement.

Mr. Dookran said it sounds like we are going to be making a motion that night.

Mr. Houston said he would hope so. It is just to accept the easement. There is a sidewalk and the purpose of that easement

was to save the stonewall and the maple trees along that section of Main Dunstable Road.

Mr. Dookran asked for a staff report to accompany this is we are going to be making a motion.

Mr. Houston said we will, but didn't think it was necessary because we knew it was going to be....

Mrs. St. John said she actually started one but then when he put the request in to have it tabled we sort of threw that to the way side.

### 3. Lower Merrimack River Corridor Management Plan

Mr. Dufour said in light of the elements out there we should probably take this up at our next meeting.

Mr. Canaway (?) said what are we suppose to do with this? I read through the whole big packet that we got and I like what they said, but what is the next step?

Mr. Dufour said that when he first came before us, you want us back, maybe in December. I went through this I didn't see any reason to have him back. I didn't go looking to send him an invitation. When I saw this on the agenda I questioned it. I guess there is some possibility about incorporating part of this into the city master plan. We have had this master plan amendment proposal before us before and I don't like the way it works. But what I didn't specifically like about it is a March 1<sup>st</sup> date on whatever I was reading. The hope was to get it done by March 1<sup>st</sup>. I don't know why that March 1<sup>st</sup>...it talks about the establishment of a committee. I don't have time in the very near future to be dealing with other committees. Unless someone is ready to pass that baton and I take the reigns of that then that is fine.

Mr. Canaway asked if it is something that they should really be taking up with the legislative body because a lot of what they are talking about would require new ordinances or changes to existing ordinances.

Mr. Dufour said he thought they were looking to pick and choose and incorporate some of this into your master plan. That is easier said than done. You are into meetings.

Mrs. St. John said the March 1<sup>st</sup> date was something that I put on there because as a practice I am trying to put some dates to try and keep things on track and have a way of systematically of saying ok we are going to work on this and that. Typically when you get like a plan like that it is not uncommon that it be presented to the Planning Board and they make some sort of formal recommendation that either they incorporate it or agree or don't agree and then send it through whatever city or town may have established to decide whether they want to incorporate some of those things. That was the whole point of my draft recommendations there was maybe we should just submit it and have a sub-committee to discuss it and move forward however which way you want to do that. The March 1<sup>st</sup> was something I put on there just so we could have something as a time frame to work for. But it wasn't concrete or anything. It was just an initial discussion purposes.

Mrs. Wilbert said while we are busy enough doing the specific work that we are mandated to do we are a land use board of this city and this Merrimack River Corridor Management Committee has developed a plan and spent a considerable amount of time on it and I think while I am loathe to stay extremely late I think they deserve a hearing from us and we should be aware of what their plans have to offer and whether it becomes a part of the master plan or not that is up...when the statute requires an updated master plan. Does it still Roger?

Mr. Houston said the statute doesn't give a specific date. It says 5 to 10 years. Our existing master plan was officially adopted in 2001. It took a year to get it going through the process after it was written. I think at some point there needs to be some consideration of looking at a new citywide master plan.

Mrs. Wilbert asked if it were fair to say that a piece of the new master plan which we are by statute required to do at some foreseeable point in the future would benefit from the input of those who have studied closely the river corridor.

Mr. Houston said normally that would be in the city's master plan which has a conservation element now and maybe that is where some of those provisions, all or some, or whatever the Board decides on a policy level or master plan level, to put in the master plan. Then if there is any kind of legislation that the Alderman would need to address, specific regulatory legislation, then you would have a supporting master plan to back up that legislation. That is the way the system works. The

Planning Board develops a master plan, your zoning and regulations should be based on that master plan. They don't always fit hand in hand, but that is the nature of the planning process in this state.

Mr. Dufour said they have been this once.

Mrs. Wilbert asked if that was not right. They did a portion. They were going to come back and do a second portion with it?

Mr. Dufour said they didn't give us a CD.

Mrs. St. John said they did give us a disc and she has copies of the full report if you want to look at it that way. It was basically submitted to the 4 corridor towns, Litchfield, Hudson, Merrimack, and Nashua and they were going out to those planning boards and conservation commissions presenting the plan and asking for additional input for just as you said at some point in the process when you update a master plan are the provisions of the ordinance where are recommendations.

Mrs. Wilbert asked what exactly are they asking of us now if we have seen their whole plan.

Mrs. St. John said what she thinks they are asking is that obviously that the boards review it and have some discussion on it because that becomes part of the record and the fact that we acknowledge that it could become a component of the master plan. There are components of that could be incorporated or modified ordinances, for example, there may be something regarding wetlands that we might want to make some revision to our wetland ordinance that could better tailor to make it a much more effective wetlands ordinance or something related evasive species. They have a whole list of different things in there. So I mean it's for the purpose of long range planning in the community and a lot of great recommendations in there. Obviously there is 85 action items. We certainly wouldn't necessarily address all of those but some of those could at some point in the future be address and incorporated.

Mr. Dufour said his anxiety is just how this.....what seems needs to be an urgency here to incorporate the master plan. The conservation committee had seen the same presentation, I feel that they are more professionals in this then we are. I think they have a greater understanding of that. I think that if they feel that we should .....there should be anything that needs to be

tweaked in our ordinances, I think it should start there. From them to us and Mr. Lowe did you have a ....

**MOTION** by Mr. Lowe to accept and place on file communication from Lucy St. John regarding the Lower Merrimack River Corridor Management Plan to a date set by the Planning Department. At either at a special meeting or at one of our regular meetings. This is what we did last time. We did it at a separate meeting when we did the master plan.

Mr. Dufour said right, but we are not doing the master plan meeting. This group did not go out and write us a new chapter of our master plan. They went out and did their studies and came back with this report and they presented it to us. We are charged, someone in this city is charged with reviewing it, want to see if we have any areas that we want clarification and is there any part of this we want to incorporate into our master plan. Now when we start extracting things to incorporate into our master plan it requires more than that. It requires public meetings, it requires clarification from professionals and it is that which gives me anxiety. I don't see that happening in a short period of time.

Mr. Lowe said all he is saying is we accept the communication, you as chair decide what we do with it. It is a communication, basically this is what it is. It has to do with our master plan and some of it has revisions of the master plan which is the venue of the Board of Alderman because the final say or change to the master plan is the Board of Alderman not us. We make the recommendations then they make the changes. They send them back to us and we send them back to them. Any changes they want to make.....

Mr. Dufour asked if they have been given a copy of this presentation.

Mrs. St. John said she didn't know at this point if they have or not. Typically, my understanding, is they would go to the Conservation Commission, then they go to the Planning Board. I don't believe they have at this point.

Mr. Houston said typically in most towns in New Hampshire and surrounding communities regional agencies such as this would go to the respective planning boards and conservation commissions and ask them to look at their masters plans, either amend their master plans or adopt their master plans, that sets the ground

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work for any future legislation. The planning board adopts the master plan under state law and under city charter.

Mr. Dufour said in those other communities the buck stops with the planning board. It doesn't necessarily stop here in this town.

**SECONDED** by Mrs. Wilbert

**MOTION CARRIED UNANIMOUSLY**

**DISCUSSION ITEMS**

Nominating Committee for the January 2009 Annual Planning Board Election of Officers meeting.

Mr. Dufour nominated Bob Canaway

**MOTION TO ADJOURN** by Mr. Lowe at 9:04 p.m.

**APPROVED:**

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Ken Dufour, Chair, Nashua Planning Board

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Prepared by: Linda Panny

Taped Meeting