

NASHUA CITY PLANNING BOARD
March 19, 2009

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, March 5, 2009 at 7:00 PM in the auditorium at City Hall.

Members Present: Ken Dufour, Chair
Bob Canaway, Vice Chair
Jody Wilbert, Mayor's Representative
Steve Dookran, City Engineer
Mike Lowe
Cynthia Overby, Alternate
Raymond Jurewicz, Alternate

Chair Dufour said in the absence of two regular members Mrs. Overby and Mr. Jurewicz will be taking part and voting.

Also Present: Roger L. Houston, Planning Director
Lucy St. John, Deputy Planning Manager
Chris Sullivan, Planner II

Approval of Minutes

March 5, 2009

MOTION by Mr. Lowe to approve the minutes of March 5, 2009, waive the reading and place on file.

SECONDED by Mrs. Wilbert

MOTION CARRIED 6-0 (Mr. Jurewicz abstained)

COMMUNICATIONS

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

- Case #1 on the agenda, David Hughes and Cynthia M. Sofrin owners of 53 Shady Lane have requested to be tabled to the May 7th Planning Board meeting.
- Memorandum dated March 19, 2009 from Lucy St. John concerning Resolution 09-174 which is another business item on your agenda, Shoreline Protection.
- Memorandum date March 19, 2009, from Roger L. Houston concerning the petition for waiver of school impact fee for elderly housing for 57 Palm Street under other business.

- Attorney Bennett filed a brief with the New Hampshire Supreme Court on the Guiterman appeal and wanted the Planning Board to have a copy of that brief.

REPORT OF CHAIR, COMMITTEE & LIASON

None

PROCEDURES OF THE MEETING

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 plan is read by the Chair, the Board will determine if that the application is complete and ready for the Board to take jurisdiction. 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. Please 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 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. David Hughes and Cynthia M. Sofrin (Owners Lot 1510), the City of Nashua (Owners Lot 3116) and Mary Ann Hughes (Applicant) - Application and acceptance of proposed lot line relocation plan, to relocate the lot line between Sheet B - Lot 1510 and Sheet B - Lot 3116 and to subdivide Sheet B - Lot 1510 into two (2) lots. Property located at 53 Shady Lane. Sheet B - Lot 3116 & Sheet B - Lot 1510. Zoned R-9 Suburban Residence. Ward 9.

MOTION by Mr. Lowe to table.

SECONDED by Mrs. Overby

MOTION CARRIED UNANIMOUSLY

MOTION to amend previous motion by Mr. Lowe to table to May 7th.

SECONDED by Mrs. Overby

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS - SUBDIVISION PLANS

2. Estate of Vinnie Berube (3 Fifth Street) and Donald J. Berube (9 Fifth Street). Application and acceptance of proposed Lot Line Relocation plan to relocate the lot line between Sheet 87 lots 309 and 310. Property located at 3 and 9 Fifth Street. Zoned RB - Urban Residence. Ward 4.

MOTION by Mrs. Wilbert that the application is complete and the Planning Board takes jurisdiction of the application.

SECONDED by Mrs. Overby

MOTION CARRIED UNANIMOUSLY

Richard Maynard, Maynard & Paquette

Mr. Maynard said this particular project was before the Board in November, 2007. The Board reviewed and approved a three lot subdivision which involved an existing duplex that had to be reduced down to a single family new building lot and an existing house. The Berubes have rethought this and decided they don't want to do that. They want to keep the duplex. The current plan before you is to simply move the lot line from here away from the garage to this particular location and we would end up with the same number of lots. We have a duplex lot with 12,800 square feet and the single family lot with 10,400 square feet. There are no changes to the site proposed. No construction. Stipulation 3 on the staff report does not really apply. Stip 1 and 2 are fine.

Chair asked Staff if stipulation #3 does not apply.

Mr. Sullivan said that was fine.

Mr. Dookran said the staff report says that the 2007 application stipulations that the applicant didn't understand, can you share those with us.

Mr. Maynard said that is not what they meant. They didn't agree. They didn't understand the implication of the stipulations which had to do with converting the duplex to a single, which has a significant expense as I understand. Plus with moving driveways and houses we had curb cuts and that expense which they did not want to undergo.

Mr. Dookran said they pretty much changed their mind.

Mr. Maynard said essentially they changed their mind.

SPEAKING IN OPPOSITION OR IN CONCERN

No one

SPEAKING IN FAVOR OF THE PLAN

No one

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.

Mrs. Wilbert said it certainly looks like simple lot line relocation. There are not any dimension issues and in a lot of ways it means some of the concerns we usually have about adding small lots, carving them up, etc.

MOTION by Mrs. Wilbert to approve New Business #2 Subdivision Plan, Estate of Vinnie Berube. It conforms to NRO 190-138 (G) with the following stipulations and waivers:

1. Prior to recording the plan, the stipulations of approval shall be duly included on the final plan.
2. Prior to recording the plan the surveyor shall add a note to the plans stating the date the property bounds were set.

SECONDED by Mr. Canaway

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS - SUBDIVISION PLANS

3. **17 Hobbs Street, LLC (Owner) - Application and acceptance of proposed Subdivision plan to subdivide Sheet 24, Lot 7 into two (2) lots each with a two-unit residential structure. Property located at 17 Hobbs Avenue, Zoned "GI" General Industrial. Ward 7.**

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

SECONDED by Mrs. Overby

MOTION CARRIED UNANIMOUSLY

Richard Maynard, Maynard & Paquette

Mr. Maynard said this property is located in the GI Zone on Hobbs Avenue, which is off of East Hollis Street just before the bridge to Hudson. The property has been for decades two individual lots until it was merged back into 2002. Now they are requesting to sub it back out in accordance with the requirements of the zone, which the plan does meet. Back in January we met with the Zoning Board

and the Zoning Board approved two duplexes. It is all multi-family residential in the area. There are many duplexes and several multi-families of up to 4, 5, and 6 units. Even though it is a GI zone it really is a residential zone. The proposal before you is to subdivide, re-subdivide for a duplex. The sidewalk in front of the whole site is going to be reconstructed. The site will be served by public water and sewer and on-site drainage will be handled by recharged basins connected to the new drain system. There are no requested waivers and the steps suggested by staff are fine.

Chair Dufour asked Mr. Maynard to make sure the applicant understands stipulation number 7 regarding protecting trees.

Mr. Maynard said they understand that.

Mrs. Overby asked if there is fence on the back part of the property.

Mr. Maynard said there is some fence. It is all the way up the left and across the back.

Mr. Dookran said looking at your stormwater summary here typically I see when you present the pre-development and the post-development you include those numbers that reflect mitigation. This table here shows all increases at all storm levels.

Mr. Maynard said it is a little confusing. That only shows you pre-mitigation. It only shows you before and that gives you the numbers you have to mitigate. If you keep reading the paragraph below it explains how it is being mitigated. This particular engineer does the same thing every time and you always ask me this question.

Mr. Dookran said he understands what you are proposing, leeching catch basins to capture the extra volume so I suppose if you were to have the correct table, the table after mitigation you would show a reduced calculation for the flows as well, right?

Mr. Maynard said sure. We are talking I think it is 1.24 cfs or something less for the 10 year storm.

Mr. Dookran said that is correct.

Mr. Maynard said he has to mitigate about a half a cfs I think. That is very small for you folks that are not engineers with regard to runoff on a site.

Mr. Dookran said even though it is half a cfs when you are talking about a small lot like this it could still be considerable. He would love to see the right numbers presented the next time.

Chair Dufour said he hopes that gets addressed.

Mr. Lowe said he still has problems with the little map they give us. You go down East Hollis Street and you get to the site and it is one way.

Mrs. Overby said it is an interesting point. She had checked ahead of time if it is a one way and then went down Crowne and came around that way.

Mr. Lowe said that if you look at the site the site is off the upper left hand corner.

Chair Dufour asked how we can correct this concern short of my saying use MapQuest. MapQuest is good at identifying one ways. That is the best source.

SPEAKING IN OPPOSITION OR IN CONCERN

No one

SPEAKING IN FAVOR OF THE PLAN

No one

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.

Mrs. Wilbert said it is a very simple plan and all of the staff recommended stipulations are agreed to by the developer so she would make a motion to approve.

MOTION by Mrs. Wilbert to approve New Business #3 Subdivision Plan, 17 Hobbs Street, LLC at 17 Hobbs Avenue. It conforms to NRO 190-138(G) with the following stipulations and waivers:

1. All Zoning Board of Adjustment conditions of approval are incorporated herein and made a part of this approval.
2. Prior to recording the plan, the stipulations of approval shall be duly included on the final plan.

3. Prior to recording the plan the applicant shall add a note to the plans stating the date the bounds were set.
4. Prior to recording the plan, the storm water operation and maintenance plan shall be recorded.
5. Prior to the issuance of a building permit, a preconstruction conference shall be held with the Planning Department staff. It is the owner (applicant's) responsibility to contact the planning staff.
6. Prior to the building permit, bonding for all public improvements, shall be submitted to and approved by the Engineering Department and Corporation Counsel.
7. Prior to ANY development of the new lot (53) the existing trees shall be protected by using orange construction fence. Inspection of the tree protection by staff prior to commencement of work.

SECONDED by Mr. Lowe

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS - SITE PLANS

4. David Bovarnick, et al and Brook Village North Associates Owners) - Application and acceptance of proposed amend to NR 1846 to reconstruct the existing 22 building 88 unit multi-family residential on the existing foundations (with no increase in the number of units), expand the existing on-site parking, add an in-ground pool and landscaping to compliment the existing vegetation on the site. 201 Brook Village Road, Sheet A - Lot 646, Zoned "RC" Urban Residence, Ward 8.

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 the property of concern is located at 201 Brook Village Road, also known as Sheet A, Lot 646. The lot contains 7.3 acres, 88 multi-family residential units and some 137 parking spaces. This is very similar to the project to the south at 301 Brook Village Road which contains 72 units approved by the Board

in October, 2008. This proposal is to demolish and rebuild all 88 units on their existing foundations with all utilities, water, sewer, drainage, etc. remaining in place. In addition, a swimming pool will be constructed. Some 4,000 feet of pavement will be removed and loam and seeded, shown in green as well as several landscape islands created in the existing parking lot. Overall parking will increase by some 14 spaces for a total of on-site parking of 151 spaces. Back in October we went to the Conservation Commission and reviewed the plan and the plan had a sidewalk and they come up with their recommendation for approval of 11 strips. On January 13' 2009 we went to the Zoning Board for the wetlands special exception and they came up with their 5 strips. These are part of the plans. This is drawing number 2. Those strips are already included if you approve the plan tonight. Other than what I just described, there are no other changes to the site being proposed and the 4 suggested staff strips are fine.

Chair Dufour said he was surprised to see the first section that they are working on now, it appears they are filling in the basements. Is that correct?

Mr. Maynard said they are leveling off. These are slabs on grade foundations. We have a water table that is 3 feet below grade, 4 feet below grade and plus there is ledge there too. We are essentially rehabbing the foundation.

Mr. Dookran said he is trying to understand the plan. He has a very small version here. Those green spots, they are removing pavement and you are putting in some landscaping.

Mr. Maynard said correct.

Mr. Dookran said he sees a note that says you are going to provide a one foot channel for drainage. How is that going to work?

Mr. Maynard said behind the existing curbing we need the water to be able to go to that catch basin. It is going to go along the back of the island adjacent to the existing curb. It is just a gap to let water flow along the curb line.

Mr. Dookran said you think that will be maintained?

Mr. Maynard said yes, it is a very well maintained site and it has been for decades. This is a 40 year old project and very well maintained and will be continued to be with the same owners moving forward.

Mr. Dookran asked the buildings being removed; he read in the paper and heard in the last discussion that there are problems with the buildings?

Mr. Maynard said yes.

Mr. Dookran said the structures that you are putting now wouldn't have those problems? Wouldn't experience those problems?

Mr. Maynard said back in the 40's this was an innovate type deal of prefab cubicles or boxes being supplied by a unit of GE at the time. Problem becomes they didn't have vapor barriers and so you had moisture problems in the winter inside and in the summer outside. When you have moisture some of you know it arrives to mold. We have persuasive mold in sections of these buildings and you can't get rid of it so you have to knock them down and rebuild. Plus with no vapor barrier these buildings are not energy efficient. They are old-fashioned.

Mr. Dookran said when he first read about it that problem had to do with the wetness of that general area.

Mr. Maynard said it is more the panels on these pre-fab cubicles did not have a vapor barrier. There are only 4 of these projects through the whole country I am told.

Chair Dufour said just for clarification you have eluded to the 40's, 60's and this was in the 70's.

Mr. Maynard said it was the 70's and he is saying it is about a 40 year old project.

Mrs. Wilbert asked if the replacement buildings pre-fab or stick built.

Mr. Maynard said they are a combination. They come pre-fab panels onto a framework.

Mrs. Wilbert said she is assuming with vapor barriers?

Mr. Maynard said yes. They meet all building codes.

Mr. Dookran said the other comment he wanted to make is the location of the pool. It is a kind of strange location. It is boarded by two big bodies of water.

Mr. Maynard said it is a chlorinated pool.

Mr. Dookran asked if esthetically would fit right, look right?

Mr. Maynard said it is meant to service both 201 and 301 so it is centrally located. Those of you who remember we had a pool tucked way off into the corner nobody liked to use plus it was deteriorated any way and it was not a convenient location. This is a four foot pool, this is not a big deal pool.

Mr. Dookran asked if you are removing the pavement from both sides of the pool.

Mr. Maynard said correct.

Mr. Dookran asked if you are going to maintain the sidewalks.

Mr. Maynard said yes, the sidewalk stays.

SPEAKING IN OPPOSITION OR IN CONCERN

No one

SPEAKING IN FAVOR OF THE PLAN

No one

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 #4 Site Plan. David Bovarnick and Brook Village North Associates to amend NR1846 to show reconstruction of 22 residential buildings, 88 units and associate site improvements including parking and new pool, 201 Brook Village Road. It conforms to NRO190-146(E)(1) with the following stipulations and waivers:

1. All Conservation Commission and Zoning Board of Adjustment conditions of approval are incorporated herein and made a part of this approval.
2. Prior to the issuance of a building permit, a preconstruction conference shall be held with the Planning Department staff, with proper notice. It is the owner (applicant's) responsibility to contact the planning staff.
3. Prior to the issuance of a building permit, the Stormwater Operation and Maintenance Plan shall be recorded.

4. Prior to a certificate of occupancy being issued for any unit the conservation marker and buffers markers will be installed.

SECONDED by Mr. Canaway

MOTION CARRIED UNANIMOUSLY

OTHER BUSINESS

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

None

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

SECONDED by Mr. Lowe

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. (Tabled from December 11, 2008 Meeting) (Mr. Houston said hopefully at the next meeting the applicant will be ready).

Mrs. Wilbert said for clarification she and Mrs. Overby would like to know if that is scheduled for the next meeting.

Mrs. St. John said she anticipates that it may be ready for the next meeting.

Mrs. Wilbert asked if you will resubmit the proposal to the Board.

Mrs. St. John said she would prepare a staff report.

3. Referral from the Board of Alderman on proposed R-09-174, relative to the Mayor submitting an application for a shoreland exemption as provided for in RSA 483-B:12 for selected areas in the City of Nashua, primarily in downtown along the Nashua River and Nashua Canal which are protected under the Comprehensive Shoreland Protection Act (CSPA).

Mrs. St. John said in April the state had adopted the Comprehensive Shoreland Protection Act and it actually came into effect again July 1, 2008. Within that there are provisions that

basically protect numerous water bodies in the State of New Hampshire and several in Nashua here within 250 foot area along these water bodies to basically there is provisions of the state regulations where if you want to do certain activities you would have to apply through the Shoreland Protection Bureau and go through the state process and do an application and all that. There is a provision in the state statute that allows municipalities to apply for an exemption of urbanized areas and the city is basically requesting that it be able to do that. As part of that application process we have to prepare an extensive list of all the properties which at this point is roughly 374 parcels and I have draft tables at this point where you have to list the age of the structures, we have to provide aerial photographs, we have to say how many of these structures can be viewed from the water. There is a bunch of criteria and we have basically have that information included in the application. The other thing is the exemption pertains to properties that were built prior to 1971. If a structure was built after 1971 they will likely not exempt that. However, if there was a structure that was demolished and that a new one put up they will probably exempt that parcel but they will make that determination when we submit all the application.

Chair Dufour said from the Board this evening you are looking for a favorable or unfavorable recommendation?

Mrs. St. John said a favorable recommendation to basically have the Mayor and Board of Alderman to submit the application to the state and the application is submitted to both the DES and Office of Energy and Planning.

Mrs. Wilbert asked if they are asking to be exempt from the Shoreland Protection provisions as they relate to the parcels along the inner city waterways.

Mrs. St. John said as it relates to the parcels along the Nashua River and the Nashua Canal.

Mrs. Wilbert asked inside the city limits?

Mrs. St. John said right.

Mr. Houston said this is in concurrence with the downtown Nashua master plan. It is somewhat of an impediment now if we are trying to do any trails or any kind of activities along the riverfront or any redevelopment. It can be a long protracted process with the state. If the city undertakes that process, it gives the planning

board and other city agencies more local control over that situation.

Mrs. Wilbert said it isn't as if we are relinquishing oversight, rather we are saying we will do the oversight ourselves with the city department.

Mrs. St. John said that is correct plus in the application you have to site how you will handle that and the fact that we already have wetland provisions and the fact that the city has an active Conservation Commission and that we have a proactive planning board and we take all those things into consideration when we review an application and many other communities in the state have or are going to apply for the exemption as well.

Mr. Lowe asked if this was new legislation. We have approved a bunch of new building to be built across the river on the other side and the bridge and the walkway. It goes on and on. This legislation would stop that as far as I can see.

Mrs. St. John said it is not that it would stop it. It became effective July 1, 2008. There had been provisions in place before but they basically updated the state regulations on this and it didn't mean it would stop it, it just meant that you would have to go through the state permitting processing similar to what you would have to do for a wetlands application or alteration of terrain. It would just be another level of regulatory application procedures that an applicant would have to go through and if we get this exemption we wouldn't have to do that and it would expedite the review and the development of these different areas of the city.

Mr. Lowe asked if this was only on the Merrimack and Nashua Rivers.

Mrs. St. John said no. We are doing this for the Nashua River and the Nashua Canal.

Mr. Canaway asked if there was a much closer to the body of water regulation that where you would have to go up to the state. Does that still exist or is it 250 and there is nothing closer. If we exempt this there is no state involvement anymore when it comes to along the Nashua River and Canal.

Mrs. St. John said that is correct. That is her understanding of it.

Mr. Lowe asked if there is 250 foot on some of the brooks.

Mrs. St. John said right, but what we are applying for here are the sections along the Nashua Canal and Nashua River. There still may be provisions of the wetlands that they might have to abide by but this is just for the Shoreland Protection provisions.

Mr. Canaway said the wetlands are still in effect of course, but this would be non-wetland within 250 feet of the river.

Mrs. St. John said basically this incorporates any property within 250 feet of the reference line of those water bodies.

Mr. Canaway asked what is the one property west of Everett Turnpike.

Mrs. St. John said she couldn't recall but can get you that but didn't remember exactly which piece that was.

Mr. Canaway said it's not the park.

Mr. Houston said the park is part of that. There is the former Teredyne Building now Amphenol and Axys.

Mr. Dookran said that is not west of the Turnpike.

Mr. Houston said west of the Turnpike is the high school.

Mr. Dookran said Attorney Wilbert you said you thought a minute ago it was the city limits, now it's just to the turnpike. Are we considering anything on the Merrimack River for this exemption.

Mrs. St. Johns said actually at this point what we were initially discussing was basically the urban core because that was basically the gist of the state regulation, the urbanized area. Certainly there are some developments along the Merrimack River but historically Nashua has developed along the canal and the Nashua River so that is what we have focused on at this point in time. Certainly we can apply this, if we decided later to incorporate sections along the Merrimack River we can do that and go through the application process again but we wanted to get this section incorporated at this point because it is the primary urbanized section.

MOTION by Mrs. Wilbert to make a favorable recommendation to the Board of Alderman on R-09-174.

SECONDED by Mr. Lowe

MOTION CARRIED UNANIMOUSLY

4. Referral from the Board of Alderman on proposed request for Full Waiver of School Impact Fee - 57 Palm Street.

Mr. Houston said he didn't think anyone from the developer was here tonight. The request for petition went to the Board of Alderman. The fourth page states in my memo to you that the requirement for waiving school impact fees for elderly housing, is that elderly which "can be reasonably expected not to require additional educational facilities". This project was the former Batesville Casket building/factory. The Planning Board approved the site plan back in 2006 for 150 elderly housing units along with some interior commercial space as well. They are requesting an exemption for the school impact fee. It appears reasonable and staff would recommend you forward a favorable recommendation on to the Mayor and Board of Aldermen.

Chair Dufour said he drove by there tonight on the way in. He realized that the rental office is now open. If they were at any time were to decide to change the use from elderly housing to open housing they would have to come back to us, is that correct?

Mr. Houston said that is correct.

Mr. Dookran said when they do come back, are they now subjected to the school impact fee at that time, if they should come back?

Chair Dufour asked if we were to waive it tonight and they applied for a change of use would they be exposed to the school impact fee?

Mr. Houston said he thought that the Board could bring that issue back up again because it has been waived. If the site plan is amended to permit unrestricted residential apartments in the future, then the Planning Board could revisit the school impact fee. We may need a legal interpretation at that point in time but the same could be said of any elderly housing project if it converts back then there might be some improvements that require the school impact fee to be paid.

Mrs. Wilbert said she was going to suggest that if we make a favorable recommendation we should include with our thought process we are making that recommendation because it is a senior housing complex and that way if it were every to change we would

have a paper trail to indicate that was one reason we did it and that was because it was senior housing.

Mr. Lowe said he agreed with Mrs. Wilbert but would like to see a codicil (inaudible) Board of Alderman with an approval that they put a codicil on that if the use changes from elderly housing to regular housing that the full impact fee be paid.

Mrs. Wilbert asked if this was approved as elderly housing.

Mr. Houston said it was.

Mrs. Wilbert said it was approved as elderly housing so a change of use would require re-approval process.

Mr. Houston said that is correct.

Mrs. Wilbert said they have no right to use it for anything else right now without re-approval.

Mr. Dookran said he wants to find out how often are we doing this. I know we have done quite a number of elderly housing in the last couple of years and I don't remember the discussion desiring exemption of the school impact fee in that approval. Is that something that is becoming more and more frequent? Shouldn't it be taken up at the time when we are given the approval for elderly housing?

Chair Dufour said we have this several times and the precedent has been set. I don't have the answer to your question why is it we don't address this at the time we approve the plan.

Mr. Canaway said it is because the Alderman have to approve this.

Mr. Houston said certainly they could inform the Board they intend to apply or ask for a petition in the future, why would they do so until they know they have a project. Sometimes these projects don't materialize and sometimes they do.

Mr. Dookran said something else he brought up for the last one I guess we had before us was enforcement. We have Mario Plant's letter here but staff agrees that this is a case to allow this kind of exemption. Are we as a city going to be tracking to make sure that this promise is kept?

Mr. Houston said obviously if it is an elderly housing project and if it converts we will probably hear from the residents first of

all who will complain about kids in the hallway or other issues like that. Usually the Code Enforcement Department is involved in those situations. Whether we will be going knocking on doors to check driver's license I don't think we will be doing that. Obviously you can tell a lot from the outside and inside of the building when you go in and look at it and certainly we will look at all those things when we approve the certificate of occupancy.

Mr. Dookran said that wasn't the answer he got last time. Last time I asked the same question, I think Chair you provided an answer saying I know the manager of the complex and he has experience with HUD or federal housing so you trust he would know the laws and apply the laws. I guess you have to take a leap of faith when we do this kind of thing.

Chair Dufour said he agreed. When he gave that response I remember that and obviously I was making that leap.

Mr. Houston said there certainly is a stipulation of approval on their site plan that's included attached to this that says that they have to comply with that, and also, there is a condition of approval that they comply with elderly housing statutes. Obviously they are required to do that under the codes and if they don't we have the ability to enforce on that.

Chair Dufour said we can't always prepare ourselves for the worst case scenario but this particular one I had referenced that time, I went by there again this week and that is equivalent to trying to move three newborns into Arel Manor. It just not going to happen without someone noticing it and calling the City.

MOTION by Mr. Canaway for a favorable recommendation on the referral from the Board of Alderman for a full waiver of school impact fee at 57 Palm Street because none of the residents will be younger than 55 years of age.

SECONDED by Mr. Jurewicz

MOTION CARRIED UNANIMOUSLY

DISCUSSION ITEM

1. Nashua Technology Park - Future Extensions of Tara Boulevard to Innovative Way.

Richard Kane, John J. Flatley Company

Mr. Kane said they are going to be in the next couple of months coming before this Board with a proposal to extend Tara Boulevard which runs up behind the Radisson Hotel and tying it into Innovative Way. They will be doing some discontinuance of Dozier Road. He thought it was important to bring everybody up to date on what the holdings are of the John Flately Company and kind of what their thoughts are relative to that at this time. He started with an aerial photo. He pointed out Spit Brook, Everett Turnpike, Long Hill Development, Radisson, Nashua Office Park which was developed by Mr. Flately and now owned by John Flately. About a year and a half ago when the HP property, formerly Compaq, originally Digital, was sold, Mr. Flately convinced John to go ahead and acquire it. John now owns 400 acres of land in this area. Of that 260 is undeveloped with the remaining 140 developed as what we know call Nashua Technology Park or Nashua Office Park. The only land they don't own is one piece which is owned by the City of Nashua. The City also owns another piece called Proctor Park. Otherwise John Flately owns all of it. We own 360,000 square feet of first class office space. We own 750,000 square feet of R&D space. We own over 1 million square feet. It is the largest holding the Flately Company has ever owned in one City. These 3 buildings have been relabeled as what we now call Nashua Technology Park. The roadway off of Tara is now called Innovative Way. The section over here is called Research Drive and this building is now 100, 200, and 300 Innovative Way. Currently we have in this building as tenants Skillsoft, Intel, and Dell. We have Anthenol in 2 of the 3 floors of 200. In 100 we have HP. Six months after we bought the building they indicated to us they were leaving the building, they are on the hook for another year and half or until August of 2010 but from our standpoint we got a fairly major task on our hand. First lease this 250,000 square feet as well as lease the remaining 100,000 plus square feet in the building. The first priority is really making sure these properties are leased up. We have been spending a fair amount of money in the former HP buildings. We have separated out some of the utilities, we have repainted the whole buildings, we improved the lobbies, added an elevator into the building that Anthenol went into. We are spending money trying to bring them up to current standards. The building were built in the 1980's. This is to try and give you an overview. This area in here that is developed is zoned park industrial. This back land area here which was owned by HP is about 80 acres is zoned residential. This piece here which has been owned by Mr. Flately and John Flately was rezoned in the 1980's for park industrial and then you have the back piece here which is zoned residential. So you have industrial, residential, industrial, residential. From a land use standpoint it doesn't make a lot of sense. My understanding is

when we rezone this property we agree to a 300 foot buffer in this area. HP was never willing to meet with the residents and work a deal so I think that land has always been held hostage saying when we have some party willing to do something we will consider rezoning it. The master plan does in fact recommend this area for park and industrial use. First thing we did is really look at what are called the existing developed area. We have the buildings here, the office buildings in here and the Radisson here. We identified a couple of parcels, one in here, we could maybe do an out parcel of about 80,000 square feet, two-story building. We could probably do a 30,000 square foot building there. We are looking at maybe doing a couple of business type hotels. This would be just rooms for the business traveler not with cafeterias or restaurants. This involves a relocation of Dozier Road. We have identified this piece up front as a potential service retail. We are talking about maybe a bank, maybe a small restaurant, dry cleaner uses that might be applicable or serve the people in our park as well as maybe a couple of small medical office buildings. Total square footage in here is 30,000 square feet. There are a lot of people not only at our park but also in the complexes in residential development in that area and there is not a lot of services via the convenient type services, local business type services or medical access available without traveling up into the center of town. That was their first thought. If anyone has been up there, there is a fairly extensive trail system through the existing HP property and this shows you a blow up of the buildings we were talking about and some idea of the small retail neighborhood center.

?? asked if that neighborhood center (inaudible) on Spit Brook?

Mr. Kane said he would probably have right turns in and out but the access would be, the left turn coming out would be on the signalized intersection at Tara. Back in the 80's Mr. Flately had a land use plan for his back land HP hired VHB to look at alternatives for how their land might be developed. What we did is superimposed these plans on the land to give you an idea of some of the thoughts, not what we are thinking today, but what was thought about. This is a proposal from Digital at the time where they are just talking about doing single family lots in conformance with the zoning. This is a plan put together by Mr. Flately for more R&D uses, again the 300 foot buffer in this area and we really never thought about what we will do up in the back land but we do have an emergency access onto Spindlewick Drive that we would gate or if this was developed as a separate residential gated here. Another plan we have looked at from Digital was to do R&D office type uses closer to the turnpike. Do

this small residential up along Chaucer and Shakespeare and tying it in to what we propose. The third alternative was to all R&D type use. If this was all built out you could be looking at another 2 million square feet of space. There are several problems. First of all my guess the interchange could not accommodate 2 million square feet of R&D. That is problem number one. Problem two is the market and the world has changed dramatically and this plan probably made a lot of sense in the 1980's but there is not a lot of demand for major new manufacturing or R&D space. One of the problems that we as developers have is you are trying to compete with the existing space and that space that was built back 20 years ago at much cheaper dollars then you can build today. A lot of companies that use to want to have their own building are saying they will go into an existing building because it is less expensive and they are competing in a world market. However, there are still some companies out there that will in fact look at their own space. I am not sure as a company we want to own 3 million square feet in one community. It is just too big a risk. We have also had a number of meetings with high tech companies in the area and we think this is a tremendous potential for this area. Not only do you have our existing uses, you have BAE across the street and you have ORACLE next to us. It is a natural area, it attract people out of the 495 market for employees and occupancy rates for our office buildings have always been 10% higher then what you would see on Amherst Street because of the proximity to the Mass line. It is just a question of what do with it all. Candidly, whatever we do back here is probably a 30-40 year build out. In talking to some of the high tech companies they have trouble attracting people into this area. A lot of the young engineers move to the new high tech areas. Digital use to be a "cool" place to be but now its North Carolina, California. Creating a nice environment, which we have, is important. A lot of these high tech companies are very green so we are spending a lot of time looking at how we can green up the buildings. HP had a very extensive management system for the buildings. The high tech companies we find it difficult to find places for people to live and they like to be able to live close to work. It got us thinking about using some type of mixed use development on the site. Zoning doesn't allow, we would have to bring in some type of overlay zone to allow it. What we have come up with is a concept. I have actually gone out and met with about 12 - 15 of the abutters and just bouncing ideas off them and surprisingly very positive response. We will eventually be having additional meetings with the neighbors. What we have talked about doing is expanding the 300 foot buffer to 500 feet. That is a no build, no touch. What we have now is a 300 foot no touch buffer and a 500 buffer where we can do parking, but no

buildings. We will propose something along this way of 500 foot no touch/no build buffer. The only area might have to deviate from is one area to get a circulation pattern because we do need to loop the road through. It didn't seem to have too many problems with the immediate abutters about that. We are looking at doing some type of residential use that abuts the residential neighborhoods. I can't tell you what type of residential. One of the problems you have today when you try to do definitive plans, you do a plan you think is current with times in the market and 10 years from now, 5 years from now when you go to build it things have changed. What we are talking about is a kind of palate that says here is what we do and as we develop individual pieces it will have to be in conformance with this concept plan. Then what we do is take the R&D office type use and put it down closer to the turnpike where it makes the most sense getting it further away from the residential and it has the exposure to the turnpike. We would have a loop road system which would come back through. We would have no access point into any of the residential neighborhoods. We wouldn't potentially have any access into Spindlewick. It would be gated. It is an idea, a concept of how we think we would like to proceed. This is a actually a good time to be doing this. I am not under pressure to rush something through. It is a time for us to be thinking about where we go long term. We have had presentations to business communities, to the Chamber, we have had some presentations to City staff, we have met with the major and some of the neighbors. So far it has been very positive. The city and the mayor's office has indicated they look at this as the last piece of undeveloped land. It is a potential for a large tax base. It isn't going to happen overnight. It is all being done with private money, which isn't easily obtained these days. The Flatley Company has always owned its property for long periods of time. When we have sold we have sold our portfolio. We don't typically sell little pieces of land. We recently sold off our retail portfolio and most of our commercial. John has very similar ideas to his father, he likes to own property and have a cash flow. You can see on the plan where Dozier Road exists. What we are talking about doing is taking Tara Boulevard that officially ends where the receiving area is for the hotel. We are talking about extending it up and tying it in to Innovate Way so we can develop some type of internal loop systems and taking this portion of Innovate Way and rededicating it as a Class 6 Highway, which is similar to what Dozier Road. Except it is a paved road, you can travel it where as Dozier Road is in pretty tough shape, somewhat graveled. It only serves our properties at this time. Long term we don't even know if we need it, but the thought at this point is to extend Tara Boulevard up to Innovate Way, discontinue a portion of Dozier Road and take a portion of Innovate Way and designate it as

a Class 6 highway. That will be coming to you later. We are also working on an overlay zone for this area to try and allow something along the lines of what we are talking about. I have the first draft done and have given it to Roger and to Kathy for their comments. Hopefully get their input and get it into the Board, have public hearings. Before we get to that stage I really want to have another neighborhood meeting where I get everybody involved. We are trying to do this right. We are trying to involve everybody and I think we are being responsible in trying to work with the neighborhood and come up with something that makes sense. We are looking at bike trails, walking trails, cross country skiing trails that would tie in the developments, one to the other. Some of the neighbors have asked if we would tie in from those trails to their system. I told them they should come to me and tell me where you want it because I am not proposing anything. It is a unique piece of land. It's a great location. Somewhere along the way something is going to happen with the land and I think we want to do it in gradual stages and work with everybody and do something that is an asset to the community and hopefully an asset to our portfolio.

Mrs. Wilbert said the biggest problem here has always been that there is just that one little "neck" that takes you down out of your property. Even though you loop up above, there is still one way in and one way out.

Mr. Kane said yes and no. We actually have an access into 98 Spit Brook Road. If you are coming off the turnpike you will see an entrance right here and that brings you into 98 Spit Brook Road and 1 Tara Boulevard.

Mrs. Wilbert asked what it is coming off of?

Mr. Kane said off Spit Brook Road, a right turn in only. There are two large office buildings. You wind your way around the building and come across at the base of the pond and you tie into Tara Boulevard. In addition there is an emergency access at ORACLE.

Mrs. Wilbert asked for traffic purposes, can either of those be utilized?

Mr. Kane said one can be utilized for an inbound movement, but candidly it is designed to serve these people here.

Mrs. Wilbert asked if that corner is your land?

Mr. Kane said yes they do and they have rights to the road. At one time we owned the whole thing but when we sold off to the Sheraton Group we reserved the rights to use that roadway, which is Tara Boulevard. We do have the ability to come in for emergencies. We have a very long stack up area. At one time when Digital was fully occupied they had 3,000 employees. Right now we have probably have 1,200 employees. I don't see us ever having more than 1,800 employees in that park.

Mrs. Wilbert asked if you are talking potential housing, retail?

Mr. Kane said obviously we have to do traffic studies. Again they kind of counter flow. The people who might be coming in to this park to go to work are coming in are the people who would be residential. Only a certain percentage would be going out. In the morning there is really no traffic problem at Exit 1. The traffic problems at Exit 1 tend to be.

Mrs. Wilbert said she has been stacked up at 1 going to the meetings at the Huntington at 8:00 in the morning.

Mr. Kane said he hasn't seen it. I have only been down there since the first of the year so I could be wrong. There is some counter flow. The traffic coming from the park at night, 70% of the traffic is going down to Massachusetts.

Mrs. Wilbert said surely you have plenty of roadway inside. That isn't my issue. I feel better knowing there is this emergency road and I know you have to do traffic studies.

The city did traffic study back 8 years ago on that whole corridor. They identified there could be another 300,000 - 4000,000 square feet added without much improvements. Up to 800,000 you would have to do some improvements to Spit Brook Road. Beyond that there are issues. One of the things we may face at some point we may exceed the capacity. But I can't stop myself from trying to develop something there. One of the advantages of doing the residential and the industrial uses is there are some counter flows and some ability to make better use of the interchange. The key issue to address long term is traffic.

Mr. Lowe said you need a restaurant. Tara has cut their restaurant. They are down to just that little area when you come in the front door. They have no breakfast. There is no where in this area even when you go down to Spit Brook all the way down to the highway, other than McDonalds.

Mr. Kane said within this facility, all the buildings are interconnected. You can go from one end of the building to the other and never go outside. There is actually a cafeteria there that has seating capacity for 800. We probably only serve about 200 of which probably 50 sit in the cafeteria and the other 150 take their food back to their office. We do have breakfast and we do have lunch. We have a use going in that may be a 24 hour operation that would expand the hours. We do have a fitness center here. We have an auditorium. We have a very large meeting room. It is really kind of an interesting building. It has a tremendous amount of common area way beyond anything you would build today because it is very inefficient. We have a day care center at 1 Tara Boulevard. We have some amenities there and we want to build on that.

Mr. Lowe asked about biotechnology and batteries (inaudible)

Mr. Kane said the other thing they thought about doing here is medical equipment manufacturers.

Mr. Lowe said there is a lot of them in the area.

Mr. Kane said they use to own Cherry Hill Park in Beverly and Danvers and there are several others in that area. Actually the Cummings Center in Beverly has been very successful in getting some of the biomed areas. They tend to like to cluster. We are looking at that. They need wet labs and we basically big computer labs in the buildings. These buildings are also unique in that they go from basement to third or fourth floor. You have these huge server labs or computer labs in the middle that (inaudible) that we are now tearing down walls to open this space up because there is not a big demand for that type of space. We are looking at the whole medical area as another growth area. That is somewhat compatible with what we consider our definition of high tech. There is a lot of software going on there. You have servers with Dell. Skillsoft which is a software company so there is still a market here. There is still a lot of high tech companies in this area. Dell which use to be Equilogic started 6, 7 years ago with (inaudible) employees and they now have 350 when they were bought out by Dell. So I think there is still companies that can grow. What we are finding is in this type of facility you have to really go after the companies that are already here that are growing. It is very hard, but not impossible, it is very hard to attract somebody from way outside the area.

Mr. Lowe said you have Dell and Dell is a Texas (inaudible).

Mr. Kane said Dell has bought out an existing company and retained all the employees. With a high tech company their biggest asset is their employees. Those people don't necessarily want to relocate. I think we are looking at trying to find the companies that are hear, that are growing, or shrinking. Anthenol came in here and went from 200,000 square feet to 100,000. We have another company that is talking about coming but they are downsizing.

Mr. Lowe said Anthenol use to make big connectors and now they make small ones.

Mr. Canaway he didn't want to guess what is going to be high tech in 20, 30, 35 years from now but one place that I lived before moving back to Nashua was out near San Diego, a town called Pow Way that built a business park, much bigger then what you could put on this place, but what I thought was unique about it was the mix of different sized office buildings. Obviously it is high tech because it is down by San Diego. Is that sort of where you are thinking where you have these three enormous buildings relative to what you are looking at today?

Mr. Kane said they will never build something that big. Any building that we build we are trying to set up and eventually do multi-tenant even if we had someone come in and say they want 100,000 square feet. You want to design it up front so it is multi-tenant. When you go to this site, first of all most people don't even know it exists because you can't see it from any roads and it sets so beautifully into the environment. Carol Johnson who is a landscape architect out of Boston did the original design. The whole building is stepped back, instead of stepped forward. The floors get smaller as you go down because the grade drops off so they are built into the hillside this way.

Mr. Canaway said he knows if they develop it with the trails he use to walk back in through there and it really is a gem of a parcel left in Nashua.

Chair Dufour said from our conversations it has always been viewed as you alluded to as the last economic frontier for the city of Nashua. It is nice that you are planning ahead, you are talking to the abutters. We have had abutter issues back there over the years. It is good that you are trying to address those things right up front.

Mr. Kane said they want this to be a great environment. The one thing that has been the hallmark of the Flately Company is they always really build good projects and really maintain their

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property and the grounds. That is kind of the trademark of the company and John certainly intends to continue that and this is by far the largest investment we will ever make.

MOTION TO ADJOURN by Mr. Lowe at 8:40 pm.

APPROVED:

Ken Dufour, Chair, Nashua Planning Board

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Prepared by: Linda Panny

Taped Meeting