

NASHUA CITY PLANNING BOARD
April 9, 2009

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, April 9, 2009 at 7:00 PM in the auditorium at City Hall.

Members Present: Ken Dufour, Chair
Bob Canaway, Vice Chair
Daniel Latham, Secretary
Jody Wilbert, Mayor's Representative
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
Matt Taylor, Deputy Planning Manager
Chris Sullivan, Planner II

Approval of Minutes

March 19, 2009

MOTION by Mr. Lowe to approve the minutes of March 19, 2009, waive the reading and place on file.

SECONDED by Jody Wilbert

MOTION CARRIED UNANIMOUSLY

COMMUNICATIONS

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

- Reminder of the training session next Thursday at 7:00 pm in the third floor auditorium.
- Copies of the State Law on master plans and amendments to master plans. Also, the relevant pages on master plans were copied from the handbook for local government officials put out by the Office of Energy and Planning.

- Copy of section I. Streets: Access and Connectivity from the adopted Downtown Master Plan element. It will be useful for the Planning Board to look at the entire section and not just the piece of it being requested to be amended as shown in the resolution attached under discussion items.

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

1. City of Nashua (Owner) Nashua School District (Applicant) - Application and acceptance of proposed Conditional Use Permit for the New Searles School to show parking, drainage and traffic circulation improvements on the existing school property. Sheet B-Lot 62. Located at 39 Shady Lane. Zoned R-9. Ward 9.

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

Together with

NEW BUSINESS - SITE PLANS

5. City of Nashua (Owner) Nashua School District (Applicant) - Application and acceptance of proposed amendment to site plan NR 1775 for the New Searles School to show parking, drainage and traffic circulation improvements on the existing school property. Sheet B-Lot 62. Located at 39 Shady Lane. Zone R-9. Ward 9.

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

Patrick Colburn, Keach-Nordstrom Associates

Mr. Colburn is joined tonight by Ward 9 Alderman Jeffrey Cox, Director of Plant Operations Shawn Smith, and the school principal Jay Harding. The School Department is proposing access and circulation improvements as well as parking expansion at the New Searles School. In addition they will be improving the emergency access around the existing building, the stormwater management on site, the site landscaping, and lighting. Because of the nature of the school, more of a special school than others, in that there is much more one-on-one coordination between students and teachers. Because of the nature of what they do there students come from all over the city. A lot of traffic is generated here. Many students are dropped off and picked up by their parents versus dropped off and picked up by city transit. What we have done to conquer the issues is to identify the problems. We see a lack of parking as a main issue. During afternoon dismissal the lack of parking causes passenger vehicles to park up and down both sides of the access drive making it so that the existing 30 plus foot wide driveway is down to a single lane. What happens with constant in and out of school buses and passenger vehicles neither of those types of vehicles can pass when cars are parked on both sides. What we have done is take back the parking lot that is constructed currently in this area but is used today as a playground. That adds approximately 40 spaces. To give the students back some of what we have took away with this proposal we are proposing a new paved park surface playground area. The playground equipment remains in another location. The second issue is co-mingling of bus traffic and parent-passenger vehicle traffic. To try and conquer that issue is to reconfigure the existing parking and construct a parent bypass loop around the parking lot. The bypass loop is 20 feet wide. By enlarging the paved surface we can keep almost all of the parking spaces that are in that area today and still provide the bypass loop. The idea circulation wise is constant in and out flow with the complete separation of student crossings in front of traffic. Parents start coming in 15 to 30 minutes before dismissal. Those parents will queue around the bypass loop and have a stop condition. Until those students are loaded either on the existing concrete walkway or off of the proposed paved walkway. While the parents are beginning to queue and both small and large buses begin to queue on site the shorter school buses can queue and load students off this new proposed concrete island allowing the larger school buses to pass them on the left and queue to load students on the right adjacent to the new paved

sidewalk area. While the school buses are waiting to be loaded if parents pick up their students and they are ready to go, they can leave the stop condition and pass the buses on the left and exit, keeping a constant traffic flow around the site which we hope will eliminate the congestion issues. What happens today, especially when snow is an issue, students are forced to dismiss all the way to Shady Lane because either their parents, school buses or both just can't get into the site. Out in front of the school that is the primary focus. The unique thing here at New Searles is that most of that work is going to happen over an old city landfill. The limits of the existing city landfill are drawn with this dark line here. Our concern is to keep excavation either at or above existing grade and limit the subsurface excavation because at different depths in front of the school building is old city landfill cap. The landfill was closed in the late 1960's. Additional closure efforts occurred in the mid to late 1990's. The city solid waste department and our office have worked closely with this design. We want to keep everybody that has an interest in this involved. What we are told by old plans as well as from Terry Congress from the City's Solid Waste Department is that when the recapping occurred in the mid to late 90's a gas collection system was installed. That consists of a stone and pipe interceptor that is plumbed to this existing methane pump building and exhausted through a PVC stack that runs up the side of a telephone pole. Naturally we don't want to be working in the area of that existing gas collection system. The second phase of the project that we are proposing is the maintenance reconstruction of an existing fire road. The existing road hugs the building and is very steep in spots and too narrow for an emergency vehicle to make it to the back side of the building. Today they have three sides of access. As a second point with the emergency fire road is the fact that it currently looks like a gravel pathway which leads to vandalism at New Searles School. That is something that the school department has been fighting for sometime. Because it is not well lit and is completely segregated from view from both Shady Lane and the front end of the building people of all ages end of back here and there have been incidents of broken windows and spray paint. With this proposal comes a 20 foot wide paved emergency road that will be used for emergency vehicles and maintenance vehicles, trash pick up and that sort. The lighting around that fire road is proposed to be improved with several new light poles that will keep this area at least dimly lit at all hours providing a place the school department can be patrolled regularly by city police and with the increased lighting hopefully deter some of the vandalism that occurs out here today. Anywhere where we had to cut some of the existing foliage, we are proposing buffers to take their place. In one area we are proposing a 6 foot

stockade fence. In another area we are proposing some evergreen plantings. In front of the school some trees, shrubs, bushes are all proposed with this improvement project. Out back where the new fire road we are eliminating a lot of pavement that exists in these central areas here. This one is going to be grassed, fenced in and used as a kindergarten playground area. Another area the pavement will be removed and the area will be grassed and a couple of trees planted to try and boost the esthetic appeal. Stormwater wise we are restricted by the landfill cap out in front of the building. We have used the entire infrastructure that exists out here today. A closed system currently conveys all the stormwater from the existing facility down towards Shady Lane, across the street and down towards Salmon Brook. This proposal proposes to do the same thing. We haven't added any catch basins. We are utilizing what is out there today. Out in back we are proposing to collect all the runoff from the new fire road into a closed pipe system that will either convey the stormwater in this direction or in this direction into the existing city system. On this end of things this stormwater outlets towards an on site wetland. Further it discharges towards a detention system that was constructed in the 90's with the recapping project. The stormwater in that basin is controlled with an outlet control structure and as well discharges across the street to Salmon Brook. Thus far we are in receipt of a wetland special exception from the Zoning Board of Adjustment to impact wetland buffers and wetlands for the purpose of construction of a fire road. We gained a favorable recommendation from the Conservation Commission and the Zoning Board with stipulation from each which this plan reflects. We also hosted a neighborhood meeting in conjunction with Alderman Cox to try and ease some of the concerns that were raised early on by abutters as well as answer some of the questions that they had. We have submitted a minimum impact dredge and fill permit application to the New Hampshire Department of Environmental Services for the wetland impacts as well we are impacting enough land to warrant an alteration of terrain permit also from NHDES. Both of those permits remain pending. Because we are going to perform work over the existing landfill cap we do need to amend the existing cap which we are working on through Carrie Congress' office in Solid Waste Department. Should we gain approval this evening our next step would be to finalize our specification package, submit our plans up to Solid Waste for the permit amendment and the school department wishes to start construction with a chosen site contractor as soon as the current school year ends. We are looking to go out for competitive bidding as soon as possible.

Mr. Dufour asked Mr. Coburn if he spoke to the specific waiver requests.

Mr. Colburn said they are requesting two waivers this evening. The first is for interior landscaping. We are required to have a certain number of plantings and landscape islands in certain places where we have strips of parking such as this. For maintenance reasons, as well as our restrictions with the landfill cap, what we are trying to do is maintain the area. It is going to receive a shim and overlay treatment so we are proposing (inaudible) landscaping in that existing parking area. In another area we have attempted to meet the requirements to the extent practicable by keeping the end caps in a natural stone state something that the school department can maintain and as well proposing landscaping where ever possible on all ends of the site. We are requesting the Board consider that waiver. The second is for parking. We are adding approximately 40 parking spaces. This section of the ordinance, 190-198 only allows for a maximum of 2 parking spaces per classroom. If you figure out how many classrooms are in the building we are only allowed about 56 parking spaces which is proven insufficient out here. We are providing as much parking as we can fit because that is the need of the school.

Mr. Dufour said you describe the light poles as dimly lit. Will that be at a constant level?

Mr. Colburn said yes. What he meant by dimly lit is there is not a lot of overlap. If you look at the lighting plan basically what we asked our lighting designer to do is provide lighting where there is paved surface as well as replace the wall pack lighting that exists such that these areas that are concealed remain well lit.

Mr. Dufour asked if it will not have any adverse effect on the neighbors.

Mr. Colburn said that is correct. All the lighting meets city standards.

Mr. Colburn asked if Mr. Colburn was at the neighborhood meeting.

Mr. Colburn said he was.

Mr. Dufour asked what the abutter concerns were.

Mr. Colburn said lighting was a main concern and early on the abutters had concerns at the Zoning Board about the original proposal which was to utilize the fire road as a bypass for parent pick up and drop off. That is why tonight we are proposing this as the parent pick up and drop off.

Mr. Lowe said (inaudible)

Mr. Colburn said they have had that question. We have been asked if this is an EPA rated superfund site. There is obvious concern because people don't know exactly what is out here. I am told and through the research our office has conducted we shouldn't find asbestos. During the recapping some asbestos was found and removed on the opposite side of Shady Lane. None found on this side of Shady Lane.

Mr. Canaway asked Mr. Coburn how the runoff moves from the site across Shady Lane and into the brook. Is it piped across the street?

Mr. Colburn said yes it is. The municipal drainage system picks up the Wethersfield subdivision as well as a portion of Shady Lane and joins with the closed system at the New Searles site. That closed system discharges on this end of Kirpatrick Park through a 30 inch pipe and runs through a vegetated swale towards Salmon Brook.

Mr. Latham said his concern is there is plenty of room for when the parents are queuing to go around one another in the winter time as well?

Mr. Colburn said yes. Notice the sidewalks here. It is our intention to keep this whole area cleared in the winter months because Principal Harding wishes to use that is why we widened the sidewalk in this area. He wishes to use that as a loading zone for students so that would remain clear in the winter. And that is 20 feet wide.

Mr. Latham said how the cars park up and down, you have signs there that say no parking fire lane and I think the culture basically is they are use to parking there. Are you guys going to change the signs to say strictly enforced so they know there is plenty of parking because that is one of the main reasons you are doing this whole thing is so people don't park there.

Mr. Colburn said right. We are proposing a fair amount of signage and pavement markings. In all of the schools that we have done for the city the number one priority once the project is finished is enforcement and teaching the parents how to utilize the new facility.

Mr. Lowe asked if the change in the site increase the water flow onto Salmon Brook.

Mr. Colburn said it shouldn't. What we have done is the closed system out here, because it is a fixed (inaudible) we want to maintain or reduce the flow through that system. We have done that. We have reduced it. By the same amount we have reduced the flow through the closed system we have had to increase the flow to the detention pond. So the detention pond outlet structure may need to be modified slightly and that is what I have proposed with my drainage design such that the flow towards Salmon Brook be maintained at the same peak rate.

Mrs. Wilbert asked if she was recalling correctly that were gas issues under the landfill and that there were piped vents out there. Are they still out there?

Mr. Colburn said yes. That was what he was referring to when I was talking about the interceptor trench. That was installed in the mid to late 90's. It is a stone and pipe interceptor that intercepts the gases.

Mrs. Wilbert said that is what you are saying in that tank there and guided over to (inaudible)

Mr. Colburn said and then exhausted here.

Mrs. Wilbert asked if you will be disturbing anything.

Mr. Colburn said not at all.

Mrs. Overby said back to the parent pick up lane, will there be signage that says form one lane so there will be a bypass lane? I can see the parents being tempted to park on both sides.

Mr. Colburn said to date they have not proposed any signage such as that. We may need to see how it works for a week or two to decide if we need further signage.

Mrs. Overby said if they were parked on both sides that bypass lane wouldn't work and then you would have parents tempted to use the fire lane to go around the school and exit out that way.

Mr. Colburn said the parent loop would still work and would queue twice as many vehicles. It would create a situation like what is out there today where parents double queue. The principal out here is going to see what works and what doesn't. We have certainly provided adequate width. Twenty feet is adequate width for two vehicles.

Mrs. Overby asked where the original footprint of the landfill. Is it the whole area?

Mr. Colburn said if you have a set of plans, it is the dark line and we refer it as the inferred limit of waste and he showed it on the plan. The reason it is an inferred limit of waste is because we pulled that line from the 1996 environmental plans.

SPEAKING IN OPPOSITION OR IN CONCERN

Willard Brown, 49 Wethersfield Road

Mr. Brown said he abuts the city property that does not belong to the school, but belongs to the city that still is part of the landfill issues that they have been dealing with. A previous house is being proposed on that land and that is one of the reasons why he is here. With this property, I go back 40 years when this was just a hole. Over the years we have built the school. We have closed it for two years for methane problems, for other issues. It behooves me to understand why the city decides to build on a landfill that basically the EPA won't allow us to do anything on even though it is capped. We have already spent a huge amount of money going into this area and now we are proposing to dig again. I understand the school is smaller than most of the schools in Nashua, yet we are bringing more traffic to it. I propose that the current situation that you have there stay the same and mitigate some of the people in the school to other schools in the district and minimize the impact on digging because I always say when you do dig, you don't know what you will find. If you want to go behind my house I will bring you back where there are bands of steel coming through. Things still coming through and they just mitigated that 10 years ago. Asbestos was back there and when you go down that strip by the parking lot I will guarantee you if you dig far enough you will find something. They have been throwing stuff in there, it's unknown, barrels. Right behind where that road is the emergency vehicle road they propose to dig, there were buried cars up there. It was an old junkyard known as the Gagnon Junkyard. While the people may be living here that live on Cannon Drive have dug in their backyards and found cars in their backyards amongst other things. But I will tell you right now that you will probably dig and find something in this area. I am concerned that you open up a can of worms because whatever the cost of the project is may go skyrocketing as soon as you dig into something you can't handle and the EPA requires some kind of mitigation. We have run into this several times in several lots in Nashua. I am somewhat concerned about the amount of digging they are going to do and I think that maybe looking at other schools to

take these children to might be a better idea than trying to expand this so it creates more trouble in the future. I am not against fixing the problems and fixing the roads but as soon as you start digging you have an issue.

Kristin Garland, 38 Taschereau Boulevard

Ms. Garland said her only concern with this project at this point is fire access in the back as the engineer was speaking to is very welcoming to vandals and kids hanging out. I would like everyone to consider possibility a Knox gate or some type of fire gate to deviate traffic going behind the school that doesn't belong there.

Mr. Dufour asked Ms. Garland if she was proposing that a gate be placed where?

Ms. Garland said behind the school to the access on either side on the fire road. Just a fire gate so that fire trucks can pass but other vehicles don't have general access to the back of the school.

Greta Brennenman, 65 Wethersfield Road

Ms. Brennenman said to the point this woman just made about the security issues, I have lived at 65 Wethersfield Road for about 10 years. Over the years I have had to call several times about vandals down at the school. The response time from the police has been a little bit lacking to say the least. I think that a gate so people can't drive around the school would be great but even better how about a gate at the entranceway up to the school so kids aren't hanging out there at night and they are not vandalizing the school because when they are there and as soon as you call the cops, it takes 45 minutes for them to get there. They can hear them coming, they can see them coming because of the way the school is positioned and they have plenty of time to get away. By the time the cops get there, they are gone. If there was a gate at that entrance road down at Shady Lane they couldn't drive up to the school at all. They wouldn't be there. They wouldn't be breaking windows, drinking beer. They got Kirpatrick Park across the street to hang out for awhile but they shouldn't be up at the elementary school. I don't care if they are hanging out but they are destroying the place. Over the years I have called and nobody ever comes to do anything about it. If you are going to spend all this money to make these improvements, spend a few more bucks and put a gate so they can't destroy what you are going to do.

?? said you have seen people vandalize. Are they on foot or are they coming up with their cars?

Ms. Brennenman said both. I have been there for 10 years. I can't even tell you how many times I have called and the cops don't come or they take their time about getting there. Once after they installed that play structure I heard people down there taking it apart. We called and nobody ever came. The next day all the cops were there at the school because there were kids playing on it and it was falling apart.

SPEAKING IN FAVOR OF THE PLAN

Shaun Smith, Director of Plant Operations for the School District

Mr. Smith said vandalism has been a problem here. There was one summer probably 3-4 years ago we had \$10,000 worth of glass breakage in one summer. Within a couple of months I installed a security camera system and vandalism virtually came to a halt. As we move forward I want to expand the camera system around the school. We have about 6 or 7 cameras and I want to add more. There are some cameras in the back. As far as I know all of our lighting is going to be downward lighting. Keach-Nordstrom hired an engineer who specializes in lighting. The luminaries stay within the confines of our property. We have to strike a balance between that and having enough light for the cameras to pick up people or vehicles. We are very conscious of not ruining the scenery for the neighbors or stargazers. Fire access road, I just talked to Alderman Cox, he talked to the fire department who said a gate would probably be ok, similar to what we did to Stellos Stadium. We have an access road that goes out to West Hollis Street off of the parking lot and they are ok with that sort of thing.

Mr. Dufour asked Mr. Smith where he proposed to place that gate.

Mr. Smith said he is somewhat opposed to putting a gate there. I am not dead against it. My past conversations with the police department is they don't want to put a gate there. It inhibits their patrols. They have to get out of the car and get back in. That was there issue. I have DPW stopping by to pick up the recycling dumpster off to the back side. There are a number of people that have to open and close that gate on a daily basis. I am more hopeful with enforcement and security cameras we can keep unauthorized vehicles off of there. We have certainly put a lot of signage to keep people off. You would have to put a gate at both sides if you want to keep people off the access roads. Draw a line

in the front of the school on both sides and that is where you would have to put 2 gates.

Mrs. Wilbert asked about location and maybe it's the engineer who could say it because I understood one of the ladies who spoke is living on Taschereau which is behind and therefore I understood her to say she was talking about some kind of access to the road from behind and I don't see it. I see a walkway there. So the only places you can stop it is at either end of the U. Correct?

Mr. Colburn said that is right. What the neighbors are asking is if we would consider gates at what we call the entrance and exit. One thing I would offer just as a comment to that I know Shaun has been opposed to it and we sort of are as well because gates prevent cars but gates don't prevent people. Now you have a situation where the vandals can be out here gated off from vehicular traffic.

Mrs. Wilbert asked if it not also true that those gates might just be the first thing that is vandalized if you had drivers intent on getting to the back.

Mr. Colburn said it is certainly a possibility.

Mrs. Wilbert asked if it is alright to have a proposal to have a gate down at this end because as I understood it the last speaker wanted us to gate down by Shady Lane which strikes me as a significant burden for snowplows in the winter coming in and out, and garbage men and all the other things and I know we certainly don't do that with other schools. Is that at all practical?

Mr. Colburn said he hadn't even had a chance to chew on that and discuss it with Shaun so I wouldn't have much to say at this time about it. My first thought is I don't particularly care for that idea because of those reasons you just stated.

Mr. Smith said as for the gate on Shady Lane, again we don't do that in any other schools. We have schools with the same sort of configuration that are backed up against woods and abutters and that sort of thing we just haven't used gates at all. One gentleman talked about the large population of one-on-one learners. We have a special education, SPED, we have quite a few of them at this school. That is a growing concern across the city. We have a number of schools that have a fairly large SPED population. The school district could look at relocating some but that's a big issue. If you take a look at our budget, at least last year's budget, of the \$84 million, \$18 million was for

special education. It is a big "nut" and that is not something we can start moving people around. Maybe Principal Harding can talk about that issue. We talked about lighting, we talked about parking. This is our 5th project we have done similar to this. We are upgrading sites and similar to the other schools the old ordinance just doesn't seem to fit anymore. Two spaces per classroom. We have teachers, teacher helpers, volunteers, cafeteria workers, any number of people coming in. You have visitors coming in. It is hard to find parking in a real parking space at that school during the daytime. You have to park on the driveway that goes down to Shady Lane. The fire department has asked us to mark it, to enforce it and I kind of raise my hands. There is no other place for those people to park. Digging, I think the engineer can talk better to this, but to my knowledge we are not really digging into the landfill at all. The landfill is capped with a fair amount of material. I don't know if it is a couple of feet of dirt or not. The only places where we would be digging perhaps is where you are putting in a basin for a lighting structure. Instead of the old fashioned way of putting in a sonnet tube and digging down 4 to 6 feet this is going to be more of a spread foundation so you are only going down a couple of feet.

Mr. Jurewicz said you have actually experienced a decreased in vandalism since putting in the security cameras?

Mr. Smith said yes.

Mr. Jurewicz asked how long ago were the security cameras put in?

Mr. Smith said 2006, early 2007?

Mr. Jurewicz asked if there was signage?

Mr. Smith said where ever they put in security cameras, we do say "Warning, Surveillance Cameras is Use".

Mr. Jurewicz asked if they had a problem with vandalism. When was the last problem you have actually had.

Mr. Smith said they still get tagged with the spray painters from time to time. The more interesting situation lately is the paint ball people shooting cameras. They get off to the side, just so the cameras can't see them and bang. We have to clean the camera or replace the camera. But that doesn't happen too often. That was just one incident this past year. The real damage in vandalism has pretty much come to a halt. We still have some issues with the

playground because we don't have a camera out there yet, but we will in the future.

Mr. Jurewicz asked if the breaking of glass has gone away?

Mr. Smith said pretty much.

Mr. Dufour asked if you spoke to the gate at the main entrance.

Mr. Smith said yes. We have no other schools that have gates at the main entrance. It would be an issue for the same reasons as we spoke, snow removal, emergency vehicles coming and going, that sort of thing. As to the parent (inaudible), I recall some broken glass last summer. It is much better then it use to be.

Mr. Dufour asked the broken glass, the paint guns, is that something that is unique to this school? Or do you face throughout the district, is it worse here than others?

Mr. Smith said this has been one of the more challenging areas for some reason. We do have some schools, maybe 3 or 4 that seem to be targets and the rest aren't. Where ever we have had consist vandalism we have put security cameras in and that seems to help the situation.

Mr. Canaway said he understands that cameras are a good deterrent. But he wasn't sure site plan wise how they really are going to fit in? Are these monitored cameras? Or are you waiting for something to happen then try and figure out who did it and give the footage to the police?

Mr. Smith said they are not monitored 24 hours a day. There is a screen in the secretarial office so that when school is in session they will see what is going on. Everything is recorded on DVRs so as incidents occur we can go back and catch the culprits which has occurred.

Mr. Canaway said that is where he grew up and he understand the neighborhood. There is lot of children who live and walk to this school and then they go on to junior high and high school and it is an attractive location because of the woods that surround it. I understand all of these things. In my mind I just don't see, I can understand if there were a lot of cars comings in but I would assume the cameras are set up so that if cars are coming up that front drive you are going to capture there license plate and then an investigation would follow if there was vandalism. So I guess my point is that, Mr. Smith, is it safe to say that a lot of

people who are coming to vandalize the site are walking here in the first place, or parking some where else at least and walking over?

Mr. Smith said he thought that was a safe assumption. I couldn't say it for sure is occurring. The cameras we have installed are fixed cameras. They are set up at a certain resolution to measure a certain distance away. A car coming up the drive, have cameras at the two entrances pointing outwards probably wouldn't pick up a license plate. They might make out the car and the color of the car, maybe the fact that it is a New Hampshire plate but that's about it.

Mr. Canaway said the question could be are you seeing a lot of cars coming on when you have occurrences of vandalism or not. I mean if there is a lot of cars coming then gates might help prevent the vandalism. If it is not car traffic then gates would be a waste of time and probably cost us other issues with the site.

Mr. Smith said it is an issue at every school for some reason. The schools seems to be very popular for places for people to go. There is a playground that enough kids play there so putting a gate at the end of the drive would not stop it but make it more difficult for the parents. Again, we just haven't used gates in the past. We had gates at Charlotte Ave at one point and the police asked us to remove them. That was going around the back of the school.

Mr. Canaway asked if gates would help with the vandalism problem.

Mr. Smith said it may.

Mrs. Wilbert said she remembered that vandalism was an issue over at Sunset Heights in large part because it is situated somewhat similarly and there was a fire road constructed around the back as well. Were gates used there?

Mr. Smith said no. The vandalism, the one I remember, was the playground was vandalized because there was a lot of rubber tires construction there and those were set on fire. There is a gravel fire lane that goes around that school.

Mrs. Overby said a gentleman has described steel coming through the land, buried cars, methane problems. It should probably be debated if a school should have been built on this property, but one has and so this school was closed. What sort of problems

prompted the school to be closed with the methane and have you seen anything sticking out of the ground?

Mr. Smith said the school was closed in the mid 90's, before his time. He thought there was concern about people getting sick in the school. There was the smell of methane, that sort of thing. The school is monitored even to this day by my staff. We go in there on a periodic basis and measure for various gases. The pump off system also has an alarm system that if the pump fails the light goes out and we call solid waste and they fix it. I actually feel that we are taking pretty good measures to avoid this thing in the future or any sort of thing like this in the future. Just having the pipe way there in the very front of the school right on the landfill border somewhat assures we are not going to have any migration into the school of methane. As to things popping up I have not heard of any on our site. I haven't seen anything on our site. Where we are expanding the fire lane somewhat and putting in an access road around for the parents it is going to be paved. If there was anything sticking up that is going to be pushed down and pushed out of the way.

Jay Harding, Principal of New Searles Elementary School

Mr. Harding said the traffic in staying late and night and coming right here, not a lot of cars in that playground area where when we get vandalism it tends to happen mostly painting, broken glass, that area up around the playground. In the fall there were a few instances of painting, graffiti, and what have you on the playground. I set up a meeting with Alderman Cox and Captain Seusing with a pledge and a promise to increase patrols, which we did and it ceased. That seemed to work out very well. Spring is coming, the snow is melting and starting to have a few instances of painting on the playground again. I have a phone call into Captain Seusing for another meeting and I expect the same cooperation. It seemed to work out at that initial meeting that we had in eliminating that. Another comment about the gates and parking, it was interesting coming tonight they are already starting to practice, the situation with the parking lot with the use of that upper field mostly for soccer and baseball, lot of cars park up in what is our existing employee lot. Gating it off you might have some potential issues with Park & Rec, parents parking in that area. Just again in what I have seen already, its early in the season, seeing how many cars and people were using that field parking in that lot. It is definitely a neighborhood school, having worked in a few different schools in the district with a very challenging traffic pattern. Everybody is looking forward to the improvements and upgrade because of the existing

situation with cars literally backed on down to Shady Lane by the tennis courts in the afternoon with parents waiting for pick up. It does create its unique challenges and we have staff out there manning the different posts in the afternoon. In the morning one of the panel members asked about double parking around the loop road. We have staff out there now even trying to ensure the student's safety but the traffic flow. We use our staff both in the morning and afternoon to help and enhance the best that we can right now. There is no doubt we will use that with the new plan.

Alderman Jeff Cox, 12 Colleen Road

Alderman Cox said he lives a couple of streets away from the school. He has been there for 23 years. He wants to compliment the engineer for coming up with a great plan. They have addressed everything tonight. I also want to compliment Shaun Smith. They heard a lot of concerns from the neighbors, many of which you have heard tonight. Many of the issue, and it has been awhile now and I have tried to quickly address anyone that calls and says the lights are out on the footpath I try to call and get them done as soon as possible because that seems to draw most of our trouble. Those footpaths are wide, well lit they come down and linger around those areas. The traffic area where you see the cars coming at night is across the street. There is a couple of basketball courts, couple of tennis courts. For the most part that is all good. When you hear kids at night bouncing the basketball, playing tennis, that's all good. Most of the trouble seems to be foot traffic, most of the vandalism. Especially in the fall we had a few eye witnesses. We were able to directly apprehend a few people and bring quick resolve to a major part of our problem. But also some of the things were pre-existing. Some of the lighting issues. Some of the neighbors were very upset that the current lighting, the wall packs and the lights that are off there now fully illuminate their backyards. It is a little upsetting but they wish it wasn't there. The bus traffic going behind the school and or parent traffic. Shaun and the engineer quickly listened to what the abutters had to say and addressed all the issues, I think, beautifully to bring it to happy resolve and the increase parking there and the way they had it set up is tremendous for this school recognizing that this is the 5th of 5. Only one other, Sunset Heights, had a group of abutters and they put in the fire road and put in some other things to address their issues. The other three don't have any abutters in the back and or around the school and very few issues. Compliments to them. They did have a list of concerns and or problems for the neighbors. They addressed them quickly and I think you currently have a great plan in place.

Pete Maccini, 156 Tinker Road

Mr. Maccini said as was mentioned earlier problems with vandalism in the school district and one concern I heard here was about the frequency of police patrol. As was mentioned earlier there was a problem with Charlotte Ave School that would be in the Ward my children go to. They took out gates at Charlotte Ave. There was a specific instance there were at the elementary school children are very impressible. They had basketball courts, etc. like you might find at the playground. Where you will find there also was that vandalism, this one individual was riding a motorcycle in the playground court yard. Young reckless teenage driver without a helmet was doing motorcycle handstands on the front wheel. This was something that these young kids of 7, 8, 9 years old thought was very impressible. You may have seen Need for Speed Car, been in all kinds of reckless shows that glorify reckless behavior with automobiles. In lieu of gates I might recommend that you put some type of ballards or deterrents for that type of behavior. We had some parents at the playground while this was happening. We challenged the individual that persisted in doing this. When the police came he gave a lot of attitude to the officer and the result was all over successful because the officer placed his cruiser on the side street and as we were leaving this reckless individual was actually ramping his motorcycle up to about 60 mph on Charlotte Ave and the police officer pulled him over and dealt with him accordingly. But you know vandalism comes in many forms, whether they bring mountain bikes in, pedal in, walk in, drive in, if there are other deterrents like ballards or such like that they may not be a big expense to the city but they may be helpful. Maybe on a footpath you can put a ballard in the center. Pedestrians can go around but motorcycle access isn't so readily available.

Mr. Dufour said a specific concern that Mr. Brown eluded to environmental issues generally on that site. In the areas where you are digging that outside road there is drainage there that was part of the 90's fix. Is that correct?

Mr. Colburn asked which loop are you talking about? The proposed parent loop or the fire loop?

Mr. Dufour said the parent loop.

Mr. Colburn said there is some closed drainage out there today.

Mr. Dufour asked if the drainage was put there at the same time that the drainage was put in front of the school. Is that correct?

Mr. Colburn said he believe so. It looks like an "L" parking area, there is closed drainage in there that is connected to the closed system draining towards Shady Lane.

Mr. Dufour said he is making the assumption that was part of the fix when they had problems in the 90's.

Mr. Colburn wasn't positive when that was installed. There was closed drainage out here since the original site plan but it has evolved over the years and been added to and taken from, etc. He can help by offering this note, we subcontracted Sanborn Head, environmental geotechnical consultant and they came out here and bored 24 test borings all over the site. They started on the access drive littered the existing parking areas and carried the borings all the way the back side of the building in an effort to try and determine the depths to trash. Those depths ranged from 2 feet to 10 feet. They stopped boring at 10 feet because they found no trash. Up in back of the building, I already mentioned the inferred limit of waste stops in front of the building. As far as we know and from what we have for background knowledge we have no reason to believe when we are constructing the fire road we will be confronted with any trash at all. The test borings we dug out there had no remnants of trash in fact we found ledge before we found trash. I don't believe the waste is going to be an issue back there. Out in front we took a lot of time to design around the landfill and keep the proposed improvement above the cap. We quite frankly do not want to be involved with any issues if trash is encountered. Because it is a possibility we are taking every precaution. The city as well as the state is going to require that we have an asbestos trained individual on site whenever we are excavating in areas with potential for finding trash. The front access drive today is experiencing differential settlement due to the underlying trash and its instability. Sandborn Head has come up with some reinforced pavement cross sections that we are going to use to reconstruct that area. Those require an excavation to a depth of 20 or 24 inches so when that construction is occurring we will have somebody from that office, an asbestos inspector on site in case trash is encountered. Now normal municipal waste should that be encountered, as Shaun said for instance during the installation of a light pole base that trash if it does not contain asbestos can be loaded and trucked to the Four Hills Landfill where Cary and his guys are currently operating an existing landfill. We are taking every precaution in case we hit trash but it is our intention to stay out of it.

Mrs. Wilbert said am I to understand that it really is impossible to know how deep the cap is at any one site. The plans are such

that they have evolved over time and you can't say right here it is down 48 inches. Its impossible to do that?

Mr. Colburn said that is right, which is reflective with our soil borings.

Mrs. Wilbert said so is it also fair to say that you are not going to be digging beneath 24 inches anywhere?

Mr. Colburn said only with the installation of light pole bases.

Mrs. Wilbert asked if you are reasonably comfortable the locations as they are on the plan? You are reasonably comfortable that you can go down as far as you need to there?

Mr. Colburn said what he is comfortable with is if trash is encountered, it can be dealt with and hauled off site and replaced with clean material surround the light pole base.

Mrs. Wilbert asked what about the gas issues? If you go down for the light is it possible to run into gas escape issues that wouldn't be collected by the piping?

Mr. Colburn said by from what he has been told by Cary and others, for instance, they irrigated the ball fields and had to trench across the drive and ran into some trash at that time because they were trenching a waterline under the driveway. No issue, the trash was picked up and trucked off site to another landfill.

Mr. Lowe said they are fixing the depression at the junction of Shady Lane and New Searles School. Has anybody thought to fix the one at Sheffield Road and Shady Lane. Or is the city not talking about this.

Mr. Dufour said this has nothing to do with this plan.

Mr. Lowe said just a point of information.

Mr. Dufour said that would be a question for the city engineer unless the Alderman knows.

Mr. Cox said (inaudible)

Mr. Dufour said one of your constituents will be contact you.

Mr. Canaway asked Mr. Colburn to take him through the permitting process with the state, just high level. You briefly mentioned it when you gave your presentation.

Mr. Colburn said they will be amending the land fill cap permit with DES Solid Waste. That will occur through Cary's office. We will feed his office the information necessary, plans, specifications, work plans, things of that sort and then the permit amendment has to come through his office. Other than that we are going to get a Dredge and Fill permit for the dredging and filling of the wetlands for the construction of the fire road and thirdly the alteration of terrain permit, also through DES.

SPEAKING IN OPPOSITION OR IN CONCERN - REBUTTAL

Williard Brown, 49 Wethersfield Road

Mr. Brown said there are several issues that we go back on. On the environmental as you have witnessed, I have been here 40 years. I have seen this thing evolve. I was one of the first graduates out of that school when it opened. It is a walking school. That is why the parking is what it was. There was no buses coming into that area, just the school teachers parking and the parking was a lot smaller. Where the ball fields are right now were basically fields of steel bands coming through the ground even when I was a kid going to school there. That is buried and topped in the early 90's. After that they realized they had an asbestos issue that ran down the main driveway right down behind my property. They mitigated some of that but we are still finding trash popping up through the top. We got several neighbors and we discussed this with the city regarding this land. I know that if you go into that property right there next to that parking lot you are going to dig things up. My issue is as soon as we start digging there we just spent how many millions of dollars mitigating issues that were leaking up to that property and into the building and how many more millions of dollars are we going to spend we start digging again to find this stuff to go through and find its way back to the building regardless of what we have done to protect it from the front. I still stand by my statements. Up in the back you will find buried cars. You will find things when you start digging those trees. Those trees grew up after that trash or junkyard was up there. It is called Gagnon's Junkyard. It was on Cannon Drive, off Task Road. The old man lived up there in a shed. That property was built right into that. There is still things in the woods up there. I question anybody's ability to say that they didn't see anything. They may have cored, if they haven't done a coring around that side of the building you could still have a car down

there with gasoline in it. You can talk to the people on Cannon Drive that have had to take them out of their backyards and EPA got involved and it was very costly. We just can't go digging without someone watching what is going on here. If we are going to go ahead and dig, you better have an inspector on here watching what is going on. When you dig up a foot of trash you have created another pathway for methane gas. You just can't fill it in. You have to mitigate it. That whole driveway going right down from the flagpole down is nothing but a big pit of ...it has had tar on it for years. Nobody knows what is under it except maybe if they cored it. But we already got testimony from one of the engineers here that said two feet. I have it coming through over on my lot just a couple ways around. I don't know what is under there. I am not going to dig it. But I know when they dig it you can have a one million dollar project today and it turns into two or three million dollars. The school department really should be looking at that. This has nothing to do with the planning board but the planning board should be concerned about the fact that we are going to dig on a site that has been a hazardous waste site. It's been a dump. It's been capped. We talked about capping Four Hills all the time and how much it cost to do that. We start messing around we will start capping other areas of this land fill at a huge cost. All I can say is that this was a walking school in 1967, 1968. It was designed for that. And now we are in the 2000's EPA has come around 180 degrees from what it was back then. We can't do the things we did back then. And we shouldn't do it today. We should be very careful and any samples that get taken should be fully documented and you just can't fill a hole in when you dig five feet down, you can't fill it in. You got to find out what that is going to do the ecosystem with the methane gases. You are messing with fire here and I encourage the Board to take a hard look at this and understand really what we are getting into before we start messing with it. I like next door to it and I don't want to deal with another nightmare we had 10 years ago where they dug the whole thing out and they had trucks hauling asbestos out of there and it is not fair to us that live there and it is not fair to the city to have to pay for it. If it's buried we can forget about it but we start digging it up it is a whole different game.

Mrs. Overby asked Mr. Brown where his home is located.

Mr. Brown said his home is located, it's the old Acton tracks. It goes right to the end of the driveway. It's 200 feet down off the end of the driveway and backwards on Wethersfield. It's the old Acton tracks. It was part of the... that run across where the asbestos was found behind the tennis courts. The tennis courts

were all redug and mitigated many years ago along with this and I know we spent if I remember correctly five million dollars to do this project. A lot more money today but I still think we have an issue where we are just playing with fire here. The fire roads in the back you can widen them to get a fire truck back there. You are taking trees down, you are moving stuff around. You are not going to go down two feet, you are going to go down four feet probably just to get under the frost, you have to if you are going to build a road that is going to stand. So at two feet we are already digging stuff up. You will find a car back there if you dig far enough and there will be gasoline in it. So you just dig it up and throw it away? You don't mitigate the property around it? I don't understand that logic. So there is a lot of issues here that need to be discussed and I don't think it should be done in one evening.

Mr. Canaway said he would like to have the engineer come back up and address some of these points that were raised. Some of the points Mr. Brown raised I think are good points. I would like to know more about what kind of digging is going on where you got 2 foot core samples. I know you said you weren't going to dig further than 2 feet, but just kind of give us a sense for what is going to happen, where again, and that should be good.

Mr. Dufour said he was surprised that with all the issues they had with that site in the 90's that they can't tell us what is 25 feet away from the building. That just flabbergasts me. It seems to me the answer is somewhere. Shaun wasn't here at that point. The principal is new. It seems to me someone would have that answer.

Mr. Colburn wants to preface with environmentally and working over a landfill I am not an expert and nor is our office that is why we subcontracted the services of an expert. That gentlemen is not here with us so I am going to do the best I can. I think that in terms of excavation I don't want to give a warm and fuzzy that we are not going to dig deeper than two feet. That has been brought up a couple of times. What I said is on that access drive in and out the proposed excavation is approximately two feet due to the pavement section the geotech is proposing. I also mentioned I know that when we install light pole bases we are going to have to dig deeper than that. As far as what is out in front of the school, I am fairly confident that nobody does know the exact depths of trash at every different spot out here. As I mentioned in some spots we found trash as shallow as two feet. In other spots it was three, four, five, six and beyond 10 feet deep. As far as excavating into the trash I don't want to underestimate it but at the same time I don't want to overestimate the complexity of that.

It's not going to be the end of the world if we do run into a pocket of trash that needs to be trucked off site. As I mentioned we are striving to work with city solid waste. They are your experts. They work with this stuff every day and we are doing and following protocol exactly as they suggest as well not only them but New Hampshire Department of Environmental Services. If we do find asbestos containing materials out here then those are obviously going to have to be dealt with in a different way but if you find asbestos in a small area I don't believe it's an instance where all of a sudden you are digging up the whole site to try and find any pocket of asbestos that may be out there which I think is the scenario that the gentlemen is trying to portray. If we run into a pocket of trash we aren't going to have to mitigate over the rest of this parcel. It is a point instance. We remove it, we replace it. It is not going to affect the methane collection system. It's simply going to replace waste with clean material. I don't think it is as serious as we are making it out to be, but again I am not the expert.

Mr. Canaway said I appreciate your answering these questions. One, just the kind of way I am thinking about this is you talk about cost, and what would happen is something was found as you are digging. I am treating this like I would treat any case. One nice thing about the City of Nashua is the City is held by the same rules as private property owners are and it does cost us to go through these processes so if this was a private builder and applicant if they had asbestos they would have to mitigate it. That sort of stuff does happen in the City of Nashua. I am not as concerned about you know oh you guys have to do all sorts of stuff after that. I would hope the school board would be able to deal with our money effectively and the alderman but one thing was kind of interesting, this methane it is something that having gone to school there as well and you know you can see the pipes. It is always on the top of your mind. Now this process of digging and changing the underlying structures or whatever is in the ground, what was your experts...what did they talk about as far as making sure that was not going to happen. I don't think of this as there is sort of these streams of methane coming up and it kind of finds its way out to where ever it is going right now. How did they address...is this a concern that they brought up? Is it something that they kind of laid out that you might have to deal with as you go through the construction process here?

Mr. Colburn said no. The short answer is no. It isn't a concern. The waste out here was recapped. The cap is a soil cap. It is not as if we have got a membrane cap overlaying all the trash. It is not as if we are going to dig and puncture a membrane cap and

spoil the functionality of it. It is a soil cap, sand and gravel, a foot thick with six inches of loam minimum. That is the cap specifications. It was capped according to DES. It is functioning as designed. On a yearly basis the city engineer, Mr. Dookran and Cary Converse put together a water quality because they have monitoring wells all over the property that they monitor on a yearly basis and perform tests if there is anything interfering with the ground water and the report that I read from this past year states from Mr. Dookran that the system is functioning as designed. The existing cap proves functional and that it limits the amount of ground water infiltrating into the landfill and leeching out the sides.

Mr. Dufour suggested to the Board that we hold off on our environmental questions from this engineer who by his own testimony is not comfortable explaining all the particulars and we will address it at the next meeting with the people that will have those answers.

Mrs. Wilbert said she concurs with what Mr. Dufour has said. We have heard that there are issue and we don't have someone before us who can testify credibly to whether they are to be given due aid or not.

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 Mrs. Wilbert to table this until the next hearing so that we can hear evidence from the expert who did the geotesting but we do need in my opinion have someone give us more information about the environmental issues.

Mr. Dufour said we are going to table this to get more information. I would like to make sure that everybody is comfortable in knowing what information we are going to request for the next meeting. Our concern on this side of the table here appears to be environmental as Mrs. Wilbert has stated. As we look at our notes are there any other issues, police testimony about vandalism in the rear, ballards, do you want someone to address the reality of a gated front, gates in the back. Do we want fire to address that issue? Do we want police to address that issue? Those are just issues that if I am throwing out there so if we have those concerns I don't want at the next meeting saying we gave to get police in here to give testimony.

Mr. Lowe said he has lived in the area for 35 years. Every 10 or 15 years this comes up. Why aren't we going back to the people who mostly the PTA that fought this and made them straighten the problem out. There has to be sets of maps that show where the asbestos is.

Mr. Dufour said he thought as part of Mrs. Wilbert's request for environment answers, there has to be someone that can address those issues. At least let them tell us what it is.

Mrs. Wilbert said if she can amend her motion, she will make a motion to table pending additional information from the city solid waste department with regard to what exactly the perimeters of that landfill are and what they know about the depth of it, etc. Number two, to have the applicant's environment engineer present to address our questions about the environmental issues and number three to have at a minimum a letter from the police department and fire department stating their position with regard to gating at various points. Those three things might cover the issues that were raised tonight.

Mr. Houston said you should table both case number 1 and case 5.

Mrs. Wilbert said that would be her motion.

Mr. Dufour said we have two applications before us. New Business #5 Site Plan would like to take Mrs. Wilbert's request. So a motion is before us tabling New Business #5 Site Plan New Searles Elementary School for the stated reasons.

SECONDED by Mr. Canaway

MOTION CARRIED UNANIMOUSLY

Mr. Dufour said as it pertains to New Business #1 Site Plan Conditional Use Permit I will entertain a motion.

MOTION by Mrs. Wilbert to table pending information from the city with regard to the landfill issues from their expert regarding the environmental issues and from the police and fire department with regard to gating.

SECONDED by Mr. Lowe

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS - SUBDIVISION PLANS

- 2. Costco Wholesales Corporation (Owner) - Application and acceptance of proposed subdivision of one (1) lot into three (3), 311 Daniel Webster Highway, Sheet A - Lot 793, Zoned "HB" Highway Business. Ward 8.**

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

SECONDED by Mr. Jurewicz

MOTION CARRIED UNANIMOUSLY

Together with

NEW BUSINESS - SITE PLANS

- 6. Costco Wholesales Corporation (Owner) - Application and acceptance of proposed amendment to site plan NR 1659 to show the driveway and landscaping improvements resulting from the proposed subdivision plan of Sheet A - Lot 793 into three lots at 311 Daniel Webster Highway, Sheet A - Lot 793, Zoned "HB" Highway Business. 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

Mr. Dufour said he is a member of Costco Wholesale and sees no conflict in hearing this case. Mrs. Wilbert is also a member and sees no conflict in hearing this case.

Morgan Hollis, Gottesman & Hollis

Atty Hollis said it is Lot 793, Costco Wholesale. It sits up on the highway on Daniel Webster Highway. It is a private driveway, Costco Drive. It is all one lot. It was originally subdivided back in 2001 and then the Board reheard the application in 2003 and approved it again. However, neither 2001 plan or 2003 plan were ever signed by the applicant and the city and never recorded. It came back before this Board in 2008 but in 2008 the Land Use Code had been adopted so the plan had to change a bit from 2003. Once the plan was found in 2005 it was too late to record it. Just before the plan could be signed it was discovered that it was not in compliance with the ordinance and a cell tower situated on the

upper parking lot area, one of the lots to be subdivided, the subdivision line was laid out too close and was not in compliance with your ordinance. As a result the subdivision line has been redrawn and it is simply this "jog" or "bump out" of the line that is before you this evening that differs from the June 2008 approved plan. In terms of statistics the acreages changes a bit so we start with 19.1 acres it goes to 11.7 on the Costco lot. The second lot which is 988 will be 2.4 acres and 989 which is primarily occupied by a previously noted but never given or recorded conservation easement and a drainage area. It is not planned or will it be built upon in the future. That is the subdivision. Costco Drive is dedicated to the public. There will be cul-de-sac at the top and it will never be accepted by the public and the notation says it will always be maintained as a private roadway. The request for the subdivision also contains two waivers. One of the waivers has to do with map scale due to the size and scope trying to get it on one plan. The other waiver is for utility requirements. The existing conditions with this subdivision plan is merely a boundary implementation. We are not proposing any new development at this point in time for this plan or for the site plan. The request is to waive that requirement which is Section 190-282 (9) for utilities to be shown. So those are the two waivers. The site plan has the same factual background heard by this Board the same number of times. Strictly as a result of the subdivision, there is a need to formalize the cul-de-sac. There is a need to remove some of the existing parking spaces at the top of the hill. Those are going to be removed and there will be a more formal shaping of the cul-de-sac. There will be some landscaping installed but there will be no new construction up there. That is pretty much it in the site plan just because of the subdivision and the cul-de-sac we had to do some rearranging of the landscaping and paving, putting in some islands and a crosswalk at the top. There was a note I noticed from the Public Works Department with regard to sewer and since we are not proposing any structure up there at this time there is only one sewer servicing the one lot. When and if we do propose anything on the other lot, 988, we will have to deal with the city on that issue of how to get separate sewer.

SPEAKING IN OPPOSITION OR IN CONCERN

No one

SPEAKING IN FAVOR OF THE PLAN

No one

Mr. Lowe said to Staff my pet peeve is the little map on the subdivision. You can't even see it. You can see it on the subdivision plan. You can't see it on the site plan.

Mr. Sullivan said to Mr. Lowe if you look in your packet he provided a GIS map of the property. It is a larger print. It should be right after the picture.

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. Canaway to approve New Business #2 Subdivision Plan, Costco Wholesales Corp (Owner). Subdivide one lot into three. 311 Daniel Webster Highway. It conforms to NRO 190-138(g) with the following stipulations and waivers:

1. Prior to recording the subdivision plan the applicant shall submit all required easements including parking, drainage, cross access and road maintenance. Easements shall be recorded with the plan.
2. Prior to the plan being recorded the applicant shall resolve any outstanding issues with the Division of Public Works.
3. The waiver request for map scale Sec. 190-282, A is granted.
4. The waiver request for existing conditions - utilities Sec. 190-282(9) is granted.

SECONDED by Mrs. Wilbert

MOTION CARRIED UNANIMOUSLY

MOTION by Mr. Canaway to approve New Business #6 Site Plan, Costco Whole Corp (Owner) It conforms to NRO 190-146(D) with the following stipulations and waivers:

1. The waiver request for map scale Sec. 190-282A is granted.
2. The waiver request for existing conditions - utilities Sec. 190-282(9) is granted.

SECONDED by Mr. Lowe

MOTION CARRIED UNANIMOUSLY

NEW BUSINES - SUBDIVISION PLANS

- 3. Evelyn Neveau Irr. Trust (Owner) - Application and acceptance of proposed to consolidate Sheet 103 - Lot 186 & 188 into one lot and to relocate the lot line between new Sheet 103 - Lots 186 & 190. Located at 97 Linwood and L Linwood Street. Zoned R-B. Ward 6.**

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

SECONDED by Mr. Latham

MOTION CARRIED UNANIMOUSLY

Richard Maynard, Maynard & Paquette

Mr. Maynard said the site we have here is three lots of record. Each 5,000 square feet in size. The proposal is to consolidate the three lots into two such that the duplex will be on a 9,000 square foot lot and the building lot for a single family home will be on a 6,000 square foot lot as required in the RB Zone. The Zoning Board in January gave us a variance to be on 9,000 square foot as the requirement use to be in the old ordinances. It also happens to mirror what is on the other side. What is happening is this line gets eliminated and this line gets moved over there by 10 feet so we create a 6,000 square foot building lot.

Mr. Dufour asked if the issue of sidewalks raised at all?

Mr. Maynard said yes. These are lots of record. Three down to two, this is not a subdivision so it doesn't apply.

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 Mrs. Wilbert to approve New Business #3 Subdivision Plan, Evelyn Neveau Irr Trust (owner). Located at 97 Linwood and L Linwood Street. It conforms to NRO 190-138(G) with the following stipulations and waivers:

1. Prior to recording the plan, the stipulation of approval shall be duly included on the final plan.
2. Prior to recording the plan existing shed shown on the plan to be razed shall be raised and a copy of the demo permit and photographs showing the shed was removed. These photographs are to be dated and then provided to the planning staff.
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 the issuance of a building permit, a preconstruction conference shall be held with the Planning Department

SECONDED by Mr. Lowe

Mr. Lowe asked what "L" Linwood Street.

Mr. Dufour said it is a location designation.

Mr. Maynard said it is when you don't have a house it hasn't been assigned an address. It also means land.

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS - SUBDIVISION PLANS

4. **QFE Development, LLC (Owner) Tinker Road Development, LLC (Applicant) - Application and acceptance of proposed reapproval of subdivision (Kempton Heights) of one lot into twenty single family lots and one non buildable lot, approved on March 15, 2007 and one-year extension granted on April 10, 2008. Property located at 144 Tinker road, Sheet G - Lot 21. Zoned "R40" - Rural Residence. Ward 2.**

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

SECONDED by Mr. Lowe

MOTION CARRIED UNANIMOUSLY

Andy Prolman, Prunier and Prolman

Atty Prolman said they are seeking a one-year extension of the existing approvals. The project just under 22 acres was approved in March 2007 into 20 single-family house lots. All conditions would remain the same. There has been no plan changes. As I outlined in my March 9, 2009 letter to the Board we are simply

seeking a one-year extension and hope that things improve in the next few months.

Mr. Dufour asked how many times you can request this before the Board has to rehear it.

Atty Prolman said he wasn't aware of a limitation but hope not to come back here for the same request. He didn't think there was a limitation in the ordinance.

Mr. Houston said at one time the Planning Board had a general rule that after the third extension the plan would need to go through review and a complete presentation made. Essentially an extension is a reapproval of the plan with the same stipulations but it is not a full presentation. You are just reapproving what was approved the year before and in this case the year before that.

SPEAKING IN OPPOSITION OR IN CONCERN

Pete Maccini, 156 Tinker Road

Mr. Maccini said he is hoping you reconsider approving this extension. I am an abutter to the current property. The address there you will see is the first sliver of land that abuts (inaudible) lot sites. Those would be along Jordan Terrace. So I would be what is designated lot 442 on your plan. Two years ago I spoke in opposition to the plan. As stated then I was disputing the property line that was surveyed by Maynard & Paquette organization. You will see on Sheet 7 of your plan that property line (inaudible) of property line. My survey of record was used here as a plan reference as one of the four references. It wasn't until I disputed the property line that they located an iron pin that is depicted by the roadside there. The dimensions were initially were inaccurate. You also note that it shows on this plan survey DHFND I believe that would be in survey terms "drill hole found". There are no records of those said drill holes along the stone wall that is existed for over 100 years. Those drill holes were never captured on my initial survey and I would argue that they were placed there because there are still remnants of dust (inaudible). I would argue that the references sited in this plan, mine, was not used, as far documenting that property line for those six abutting, or four anyway along Jordan Terrace. Why I make a big issue of this is you notice that in Nashua you need 40,000 square feet of property in lot number 693, or designated with a circle 7 is just at 40,041 feet. Two years ago I brought this up and still not to my satisfaction that isn't in fact a compliant lot in this subdivision for if the original survey that

was conducted by Jard Corporation, its reference 3 is accurate, and this one is not then I would argue that you don't even have a compliant lot there within the subdivision. This subdivision has been extended once before in 2008. Trees were clear cut in 2007. The property looks like an embarrassment. I always thought I had the worse looking property on Tinker Road. I don't believe that to be the case any longer. There were trees cut along an access road that were used for logging and skidding operations. Many of those trees are piled up 10 feet high and still remain as a (inaudible) and rotting along my backyard. Those trees currently are located on that said property which I have in question. I believe in 2007 I asked for a buffer zone that wasn't given any consideration. As you notice on one of the sheets here there are several corner lots where Jordan Terrace forms a T at the top of the highest elevation of the subdivision. Those corner lots are depicted with double set backs. I believe that is depending on whether it is a side or rear yard setback. There is no rear yard setback as depicted in the other lots for one that abuts my property. I asked that at least that setback be granted to 50 feet. You will notice the one by the street only shows a 25 foot side yard setback. The proposed driveway on Jordan Terrace might indicate that would be a rear lot. Again if this should go to construction which I am beginning to wonder after two years, I wouldn't want that logging road that goes along that area there along the rock wall that I mentioned be used as a thoroughfare for the heavy equipment and the construction of this project. I would prefer that they use their men and equipment construct Jordan Terrace and utilize Jordan Terrace so that would be my concern as far as any proposed construction activities for developing property. Again there has been many fallen trees over the winter storm damage and such and all that debris and in addition to the log debris that abuts my property I have very much concern that we are going to see trees and stumps etc and all that pine in the same area. I am not good with that. I don't want to see the impact and I don't want to see that this project gets extended either. Should it not go to construction it is going to be an unsightly mess for probably another year still. I see no action. Like I said I still not good with the surveyed lot line. I still dispute that and should they go to construction I may make an issue of it.

Mr. Dufour said you said they reference your survey. When did you do your survey?

Mr. Maccini said that survey was performed in 1972. I might add that survey was actually recorded and is actually the only register and recorded and deed on Tinker Road in that time frame. So lets just say that work was done prior to any other.

Mr. Dufour asked if you are making an assertion that the engineer falsified some of these markings.

Mr. Maccini said he would appreciate it if the city came out and examined it for themselves because I don't believe them to be original and no where were they captured on any print that I have seen documenting the property bounds of my lot. Yet it is referred to within. If you would like I will give you some digital pictures and e-mail them to you.

Mrs. Wilbert asked wouldn't your proper recourse if you have a question about the lot line and you have dueling surveys wouldn't your proper recourse be to go to the court system to determine the answer to that lot line issue?

Mr. Maccini said he hasn't been harmed today. Until he constructs I have no issue at what they are doing at Tinker Road.

Mrs. Wilbert said you are asking us to deny an applicant based on your position that his survey is incorrect.

Mr. Maccini said I don't know if you have a testimonial. There is no signature on this page.

Mrs. Wilbert said it indicates that it was done by Maynard & Paquette Engineering Associates.

Mr. Maccini asked if you see a signature?

Mrs. Wilbert asked where would you have him sign this? It is the Planning Board that signs it.

Mr. Maccini said somebody has a nice little block there that certifies they did this in accordance with referenced diagrams. There is a block in the middle of the page without signature.

Mr. Houston said there would be an engineer's stamp or surveyor's stamp on the plan.

Mr. Maccini said he hasn't seen a signed or stamped or any kind of drawing that documents this today.

Mr. Dufour said when this is recorded it would have such stamp.

Mr. Maccini said he trusts your judgment and that is probably when I would have a formal dispute.

Mrs. Wilbert asked you are not harmed yet and you wouldn't be harmed until construction takes place. My question is it would seem to me given the devastation to the land that you have described to us that you would prefer to have it built out now? It's just a stripped area now.

Mr. Maccini said it is very unsightly, that's true, but I would also appreciate it if it were built out that credit be given to the land I actually possess. That is not captured in the drawing. I have issue with that.

Mrs. Wilbert said she doesn't know if we are the proper place to take your concern that is my concern.

Mr. Maccini said you have the power on this board to either affirm or deny the continuance of this plan that is to give it extension or not. I am just bringing forward to you tonight my concerns.

Mrs. Wilbert said we have a plan that Staff tells me has been certified by the engineer on its original when it was filed with the Planning Department. Is that correct?

Mr. Sullivan said yes.

Mrs. Wilbert said Staff has it here if you would like to see it.

Mr. Maccini said he agreed, you have it.

Mrs. Wilbert said unless we have good reason to believe that is not a true plan, we would accept that plan as we do all other certified plans by licensed engineers. If you have a question about it I don't think we are the ones to resolve that.

Mr. Maccini said he has had a question about it and it was entered into record in the minutes of the 2000 meeting, 2007 meeting before it was ever approved.

Mrs. Wilbert said again, you ask this board to settle your dispute.

Mr. Maccini said no, I just ask you to consider that there is the potential for a dispute to emerge should it go to construction. Until they improve the site I don't believe the subdivision is formal. Is that true?

Mrs. Wilbert said if it is approved we have a subdivision, do we not?

Mr. Houston said when they meet all the conditions and the plan is recorded then its approved. Then at that time they can apply for a building permit and proceed to build. If you have a concern obviously you should seek legal counsel and there is certainly an appeal process with any kind of decision that is made, or you can discuss your concerns with the applicant and his attorney.

Mr. Maccini said he has actually brought this to matter of the Quimby Family and to Maynard & Paquette and I got a nice little letter back from them in 2007 stating their position. Ever since then I have been waiting to see whether they were going to actually going to build with it or not. It seemed smug and arrogant at the time and if they do continue I will have issue.

Mrs. Wilbert said perhaps you should seek your survey, a new one.

Mr. Maccini said he has already had it surveyed.

Mrs. Wilbert asked in 1972? I just want to clarify. Did you say that that survey was from 1972?

Mr. Maccini said that is right. It was captured no more or less accurate then the survey equipment they have today. I mean if you are talking 100th of an inch or satellite based GPS equipment it is all nice fancy stuff. Problem of it is I see a property line that looks like a wavy squiggly line because it follows a rock wall. There were iron pins set. I see four drill hole found that I would very much be surprised if they were ever on the original stone wall. Especially since after two years there is still dust and remnants of drill holes that look fresher than any other moss or any other weathered stone appearance on the ones that were actually located from their survey. I can forward you the digital pictures. I can't believe the information within my survey was captured on their print. I think that they way they surveyed it was to go along a stone wall that is actually a legal boundary but if you use their math it will give you 40,000 square feet I am sure. If you use the math on my survey it is probably a nonconforming lot. This is my speculation.

Mr. Lowe said I don't know how we answer this but the other part is this in violation of the by-laws in actually giving them the extension. Now you have somebody contesting the extension.

Mr. Dufour said before us tonight is a request for an extension. We have all the right to grant that request or deny it. So now we are taking testimony. What we are hearing now is a civil dispute that cannot be ruled on at this Board level.

Mr. Lowe said he understands that but we know now there is a civil dispute.

Mr. Dufour said no there isn't. By his own omission there is no civil dispute until he decides there is one.

Mr. Lowe asked where are we

Mr. Maccini said by his omission when they go and put the shovel in the dirt and try and improve this and validate this permission for subdivision that is when I will be harmed.

Mr. Dufour said that is your position. You have the right to do that.

Mr. Lowe said his position is he agrees with him. That is his position. But the problem is that we have a set of by-laws that we should be adhering to and the by-laws say that we can only do it to two years. This is the third year.

Mr. Dufour said no, this is only the second extension.

Mr. Lowe said how do our by-laws address this?

Mr. Houston said the by-laws, and I was just looking for that provision but did not see it, but the Board at one point had a general policy that the applicant wouldn't have to go through a full blown review. It would just be a reapproval, but nonetheless, the abutters are notified and it is an approval, and an abutter still has the ability to appeal that decision.

Mr. Dufour asked if the clock starts new?

Mr. Houston said it starts new.

Mr. Dufour said he has 30 days?

Mr. Houston said he has 30 days to appeal from your decision to appeal to Superior Court.

Mr. Dufour said when we extended it a year ago, he waived that right to appeal. If we vote to grant the extension he has another 30 day period to appeal if he so chooses.

Mrs. Wilbert said this is not the third time we are extending this, it is the second time we are extending this. So we are well within our general practice.

Mr. Dufour said your time to appeal would probably be within the next 30 day window as opposed to the applicant in six months from now having the legal right to put a shovel in the dirt. I think you have waived your right to appeal, but I am not an attorney. You seem to be quite concerned about it.

Mr. Maccini said the one concern I have is not so much that they develop the property. I think the property owner's prerogative. My issue isn't what they do with their land, however is more such that they don't impact me at my land. As such my land is captured on their prints and survey as a reference that they stated. It is not captured as a reference that they stated. Maybe they finally found the pin that is on mine that they can tie my survey to theirs but that property line is by no way depicted as accurate on the survey that I had performed and registered. Should that survey have to be reaccomplished does it nullify theirs? I am not sure. Those are issues for surveying folks and legal people. Like I said nothing that what they have done to date has harmed me at my residence, ok, I just ask for today to consider not granting their extension, ok. This will be however if it's the second extension I will be impacted for now for a third year with their proposed plan, ok. So because they won't be able to ask for another extension until after three years have lapsed. Like I said my issue is not with them developing the property but the property line that separates the two properties and any construction impact etc that may come out of the approvals. I don't appreciate that they downed trees and the ones that they had actually farmed for whatever purpose and that their access road be used during they have like a little logging access road that parallels that rock wall in question and you know again I ask that there be a buffer. There was no consideration for buffer and I don't see that there is a rear setback on that corner lot as depicted on the other corners at that intersection or (inaudible) up high. So I would like they use the same consideration for setbacks, apply a 50 foot setback as it abuts that first lot towards Tinker Road, and refrain from you know for construction a lane if you will that is littered with fallen trees and the debris of previously harvested trees. Like I said it is not my intention to hold them up in developing the property just that due consideration be given for my property line if it turns out during the course of you know the development that they have a noncompliant lot it has been brought to your attention.

SPEAKING IN FAVOR OF THE PLAN

No one

Richard Maynard, Maynard & Paquette

Mr. Maynard said we are not the only surveyors that they surveyed this piece of property. There was a surveyor that did a full survey on this before we did ours. We agreed with the surveyor's that did ours. More importantly the boundaries of our neighbor's lot and ours are defined by a stone wall. His debate is that when you survey a stone wall the stone wall tends to wiggle and you define it by drill holes. If you can find these little drill holes then you identify them and you recover them by repainting them so that the next person that comes through in the next 10 years can possible find the wall. I think that is what he is talking about. The wall is where the wall is, no questions that is the boundary. Whatever else he is talking about I have no idea. This is the same things he brought up several years ago. I talked to him, I sent him a letter, and I explained it to him. He still doesn't accept it. He has an old 1972 survey. It was not done for him and that particular surveyor is debatable in the accuracy of some of his plan. We have two surveyors on ours plus a wall. That is the boundary. No question about it.

Mr. Dufour said at issue here is that particular site that he questions is he is saying if the wiggles are in his favor you may not have that 40,000 square feet. If that were the case could you not have just moved that line over because you have an excess of 356 feet on the other side?

Mr. Maynard said two things. First his claim is ludicrous. These are modern survey methods with modern computers and modern accuracy. In the old days in 72 you had accuracies of one foot in 600. Today we have accuracies of 1 foot in 10,000 foot accuracies. Night and day different in the methods we use. And second point is correct if we have to move lines, we move lines. To lose 41 feet because of a wiggle in a wall just doesn't happen that way.

Mr. Dufour said what is going on out there now as far as using a roadway.

Mr. Maynard said nothing. There is an old woods road in there used for access. There is an old house in there that I don't think has been demolished and I guess about a year ago they tried to start work out their and the economy collapsed. So they got as far as some initial clearing and it stopped. There is no money. Nobody is lending on subdivisions right now, maybe in six months.

SPEAKING IN OPPOSITION OR IN CONCERN - REBUTTAL

Peter Maccini, 156 Tinker Road

Mr. Maccini said the comment about accuracies one foot in 600. You don't have to be an engineer to know that is less than ½%. We are talking about 41 feet whether that is ludicrous or not if you look at the length of that bound right there on that said piece of property it shows to be about 250 feet wide. We are talking 3" off and you lost your 41 feet. We are talking 3 feet, we are not talking 3 feet, and the wall itself is 3 feet wide. I would enjoy showing you a picture of a drill hole that is located on my side of center of that wall. I have contested from the beginning that that wall is entirely mine because it was made from stones removed from 10 acres that were subdivided. Those stones on that wall itself were removed from the interior of the 10 acre property that belongs to myself and two neighbors to the north of me. Ok, so if I had to concede that half of that rock wall belongs to the six abutting neighbors those drill holes are not in the center of the wall either. Ok, actually those drill holes that were processed to be found are more towards my side of the property line than towards the center. Ok, so judging the reputation of some other surveyor because you happen to have modern equipment I think is a disservice to the amount of hard work that was done long before these modern survey methods and by own omission, if it is one foot in 600 that is less than ½%.

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 we have a signed engineer's plan and we have a hypothesis raised by an individual who hasn't shown us another survey that the lot line is in error. If the lot line were in error and if that lot were non-complying by 41 feet as the Chair pointed out that is easily addressed by a change in the lot line between lot 692 and 693. We are being asked to change a plan that has already been approved twice on the basis of same evidence that was presented.

MOTION by Mrs. Wilbert to approve New Business #4 Subdivision Plan granting the one year extension. It conforms to NRO 190-141(c) with the following stipulations and waivers:

1. With approval of this plan, all prior conditions of approval including waivers are incorporated herein and made a part of this plan, unless otherwise determined by the Planning Board.

SECONDED by Mr. Canaway

MOTION CARRIED 6 to 1 (Mr. Lowe voted no)

NEW BUSINESS - SITE PLANS

7. **SAT SR Limited Partnership (Owner) ITT Corporation (Applicant)**
- Application and acceptance of proposed amendment to NR1973 to
construct a 12,000 square foot, 1-story building addition on
the west side of the existing structure and other site
improvements. Zone "PI" Park Industrial. Sheet H - Lot 633.

Mrs. Wilbert recused herself on this case.

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

Jim Petropulos, Hayner/Swanson, Inc.

Mr. Petropulos said they are seeking site plan approval for property at 85 Northwest Boulevard. Westwood Park is in the northwest corner of Nashua. Northwest Boulevard was extended across the railroad tracks to create a small industrial back in 1997/1998. This particular site received a site plan approval for a 55,000 square foot building in 2000 and that building was to be a combination office/R&D/manufacturing facility. The tenant that is in there, ITT, has been in there since the early 2000's. They are in the business of data and information technologies and they are a defense contractor. In 2007 I appeared before this Board for with an 8,000 foot addition to the west side of the facility. Tonight I am before you for another addition, a 12,000 square foot on the east side. ITT is a growing business. They need space and this site can't accommodate it. Currently they have 126 employees at this site. The property itself is 12 ½ acres, zoned park industrial and abuts undeveloped city owned and Pennichuck land on three sides and across the street is Delta Education. The current building measures about 63,000 feet. There is loading behind the building and parking on four sides. It is a very attractive building. There is a large storm water management system behind the building. You can't really see it. It is there to accommodate and handle the runoff from the parking and the roof. What is being proposed is a one-story 12,000 square foot addition on the west side. The addition will have one singular loading area behind

the building. The addition is being placed on an area that is currently pavement. We are displacing about 50 parking spaces. The site currently has 314 spaces and employs about 126 so we have enough parking. With the addition the curb cut into the property will need to be shifted to the west by about 130 feet. No impact to stormwater because the building is being sited on paved areas. Don Ware from Pennichuck has sent back a confirmation that he is in agreement with this proposal. No new lighting. New landscaping primarily in the front of the building and at the new curb cut entryway. With regard to architecture it is a seamless addition. Same exterior, same roof elevation, and same glass features so it will look like one unified building. No staff conditions. We believe the plan conforms to your regulations.

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. Canaway to approve New Business #7 Site Plan, SAT SR Limited Partnership (Owner) ITT Corporation (Applicant) 85 Northwest Boulevard. It conforms to NRO190-146(E)(1) with the following stipulations and waivers:

1. Prior to the building permit, bonding for all public improvements, shall be submitted to and approved by the Engineering Department and Corporation Counsel.

SECONDED by Mr. Lowe

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

DISCUSSION ITEM

- 1. Requested amendment to 2003 Downtown Master Plan as requested by the Board of Alderman through R-08-114, approved by Board of Alderman on October 28, 2008.**

Mr. Dufour said at issue is they proposed a favorable recommendation on a piece of legislation that would reword the 2003 downtown master plan to comply with the 2000 master plan. The Board passed a favorable recommendation and it went on the Board of Alderman. They approved that. The Planning Board being responsible for the finished product of the master plan, it now comes back to us for us to deal with. I met with Alderman Deane and he posted an inquiry as to why we haven't acted on this yet. I explained to him that the reason we had not acted on it, there were several reasons, but primarily I was hoping I could have an educational session for the board about master planning. Master planning goes well beyond constituent approval. There are sections of the master plan that could offend a neighborhood. It was my hope we could have someone in here talk about master plan have anyone who has not had a seminar or dealt with master planning to address any questions you had before we voted on it. It is obvious in the near term we will not have that educational session. It is fair to Alderman Deane to vote on his legislation but unless someone has a better solution we have to schedule a public hearing, take testimony, and vote on the legislation. It disappoints me, not that we are having the meeting, but you haven't had the background on master planning that I feel you need. The next step is to schedule that hearing. It is my understanding that we just need one public hearing, it will be published. We are altering the downtown master plan so those parties should be notified. I would ask Roger to work out the particulars of this public meeting. The sooner the better.

Mr. Lowe said we need a copy of what it is being changed from to.

Mr. Dufour said that was in our packet that came in the mail.

Mrs. Wilbert agreed with the Chairman. Another thing that we ought to consider as a Board is if this is the process by which one can amend the master plan we might consider asking the board of

Alderman to pass legislation that changes the method by which we change a master plan. To have a given person come forward and sponsor legislation which in an isolated situation might look pretty ok. We could have a public session and amend something that another group of people doesn't smell right to me. I remember when the first master plan was done. That was my first involvement with the city. It was 1978. The mayor picked a board of people to serve as the committee. It was a huge uproar. The argument was he had picked businessmen and developers. The public said that's not right. And so I volunteered. It was made up of a true cross section. The city's master plan is for the good of the city. I find it difficult to accept that we voted a positive recommendation and we hold a closed public meeting and we change the thing that was so carefully wrought.

Mr. Dufour said in our packets for this meeting the 2nd page of a document was labeled Nashua Downtown Master Plan.

Mr. Dufour highlighted the section dated 2003 that has the section reads an alternative to Thru Traffic. Mr. Dufour highlighted some things and read those. What caused Alderman Deane's legislation is that issue awhile back where they were proposing to extend Henry Burke Highway through some streets. That is what generated this legislation that says I want to eliminate this paragraph from the 2003 downtown master plan which by doing so would revert back to the 2000 master plan which is mute on this issue. This legislation was passed and it back to us to hold the public hearing. We are obligated to hold the public hearing, then we vote. If everyone is comfortable with moving forward with the meeting, I would entertain a motion that we direct staff to hold a public meeting.

Mr. Canaway said he is comfortable moving forward. There are two issues here, addressing the request from the Board of Alderman to look into this and to amend the language and the process by which the citizens should request an amendment or change. Is it through the Board of Alderman? We have to deal with the issue at hand. They brought forward this resolution requesting us to do this. That all of the constituencies were represented by their Alderman.

Mrs. Wilbert said you are right. We have to hold the public meeting. My concerns about the process are a different issue. Whether the whole Board of Alderman voted in favor of this again I could argue that politicizes the process which is not intended to be political. The other thing I would say is since we have to hold this meeting I would like to second your thought that we need to publicize this and make it as broadly inclusive of the people who

participated in the downtown master plan as possible so that is isn't something that happens in a vacuum.

Mr. Dufour said he reverts to his original comment to keep it in its simplistic form. I am asking you to drive a car that you don't have a license yet because I feel you don't have an understanding of master planning. It goes way beyond what is at stake here. I tried to make Alderman Deane aware that the reason we are talking about this six months after the fact was not because I don't like the process. I would like it in the form of a motion.

Mr. Houston said this is a discussion item, you don't need to make a motion.

Mr. Dufour asked if we should have the meeting before or after we get training? If we training first it could be another couple of months. I want the public to have as much exposure to whatever we are going to do as soon as possible.

Mr. Canaway said the resolution has laid out a time frame. This needs to be looked at. We are responsible for making the right decision as a Board.

Mr. Dufour said by no means is he looking to stonewall this anymore than it has. If we all agree we need training I am not sure we can get this training. We have no funds to go to our spring conference. We have a free training coming up and if we are not able to attend this it could end up coming out of our pocket. I think it is sad we can't get properly training to do our job effectively.

Mr. Houston said they did ask NRPC if they wanted to come and do a training session. The professional staff can walk you through the master planning statutes. They are not that long. They are provided in your package. We can certainly walk you through the master planning process. We could hold a workshop if we can get a commitment from the Board member to attend one and we can discuss the issues relative to what master plans are. Then you can proceed if you wish to analyze this particular request in detail.

Mr. Dufour asked how long would it take before we could put something together? He would like to have NRPC as well as Staff's involvement because I feel it would probably present itself as more objective.

Mr. Lowe asked if there were DVDs out there on master plans in general. All we would need is one copy. We could sit and watch it. It could give you some basics.

Mr. Houston stated that the State Office of Energy & Planning has put out a guide to how to do a master plan. It is in your packet. It is not a complex issue.

Mr. Dufour asked how long will it take? He would like to get back to Alderman Deane and we are looking for a workshop so we can hold a public meeting. We are looking to have a workshop on master planning, take it in, and ask any questions they may have. I am going to assume at that stage most members, then we will schedule the public hearing.

Mr. Houston said it wouldn't take long to put something together as long as we can get some dates and discuss it prior to the workshop is on April 16th.

Mr. Dufour said that would be fine. We don't have to do that in a formal setting. He will find out, we will discuss it next week and go ahead and set it up. Lets shoot for Thursday night.

Mr. Dufour had one other discussion item to discuss. He welcomed Deputy Manager Matt Taylor.

Mr. Houston said Matt has a master degree in planning from the University of Arizona and he was previous planning director in Hillsboro for the last 10 years. He also has a couple years experience with the Jefferson County in Colorado. Matt is originally from Maine.

NONPUBLIC SESSION

The Planning Board will need to make a motion to enter into a Nonpublic Session under RSA 91-A:3, II(e) for the consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body.

MOTION by Mrs. Wilbert to go into nonpublic session

SECONDED by Mr. Latham

MOTION CARRIED UNANIMOUSLY

MOTION by Mrs. Wilbert to seal the minutes of the nonpublic session until we go to trial or come to agreement

SECONDED by Mr. Lowe

MOTION CARRIED UNANIMOUSLY

MOTION by Mrs. Wilbert to adjourn the nonpublic session

SECONDED by Mr. Lowe

MOTION CARRIED UNANIMOUSLY

MOTION by Mrs. Wilbert to set a special planning board meeting for 6:30 PM on April 16, 2009 at City Hall.

SECONDED by Mr. Lowe

MOTION CARRIED UNANIMOUSLY

MOTION by Mr. Lowe to adjourn the meeting at 11 PM.

MOTION CARRIED UNANIMOUSLY

APPROVED:

Ken Dufour, Chair, Nashua Planning Board

TAPES OF THIS MEETING ARE AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS.

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

Prepared by: Linda Panny

Taped Meeting