

NASHUA CITY PLANNING BOARD
June 18, 2009

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, June 18, 2009 at 7:00 PM in the auditorium at City Hall.

Members Present: Daniel Latham, Secretary
Jody Wilbert, Esq., Mayor's Representative
Bob Canaway, Vice-Chair (Acting Chair)
Steve Dookran, City Engineer
William Slivinski
Cynthia Overby, Alternate
Raymond Jurewicz, Alternate

Vice-Chair Canaway, acting as Chair for tonight's meeting because of Chair Dufour's absence, stated that in the absence of two regular members, the Alternate 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

June 4, 2009

MOTION by Mrs. Wilbert to approve the minutes, of June 4, 2009, with corrections as pointed out by Mr. Dookran, waive the reading and place on file.

SECONDED by Mr. Jurewicz

MOTION CARRIED 6 to 1 (Mr. Canaway abstained)

COMMUNICATIONS

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

- Letter dated June 16, 2009 to Matt Taylor from HIS related to the site plan for case #3, 118 Northeastern Boulevard. There is a slight error in the square footage reported and advertised in the staff report so they want to make that correction.

- Communication from the Capital Improvements Committee. Since Chair Dufour, the chair of that committee is not here tonight he wanted this communication sent to the Board. There was a change to the FY2010 Capital Improvements Program. There was a request from the administration to add a project called ERP (Enterprise Resource Planning) System. That project was thoroughly reviewed and prioritized in the 6 year plan amended by the CIC. It is being forwarded to the Planning Board tonight to take action to send it onto the Mayor and Board of Alderman with a favorable recommendation.

REPORT OF CHAIR, COMMITTEE & LIASON

None

PROCEDURES OF THE MEETING

Mr. Canaway 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

1. **Andrea James Realty, LLC (Applicant) Clarence Clark (Owner) - Application and acceptance of proposed one year extension for approved amendment to NR1592 for the construction of a 1 story, 6,000 square foot building for retail use with associated access, parking and site improvements. 311 and 323 Daniel Webster Highway, Sheet A - Lots 384 & 743, Zoned "HB" - Highway Business. Ward 8 (Postponed from the June 4, 2009 Meeting)**

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

SECONDED by Mrs. Wilbert

MOTION CARRIED UNANIMOUSLY

Richard Maynard, Maynard & Paquette

Mr. Maynard said the request before you is for a 1-year extension. The site plan was approved in June of last year. It is the Clark's Auto Sales site just south of the Costco entrance drive and north of Jordan's Furniture at 323 DW Highway. It is proposed for 6,000 square foot retail on a 1.1 acre site. We are asking for it to be extended 1 more year. Costco hasn't started and my client is not ready to start either.

SPEAKING IN OPPOSITION OR CONCERN

No one

SPEAKING IN FAVOR OF THE PLAN

No one

Mr. Dookran said it has been a year or so since we saw this. The sidewalk on DW Highway, the proposed sidewalk, there will be utility poles that will not be moved that are sitting in the middle of the sidewalks and the small version of the plan I have here it appears that you will be building the sidewalk around the poles to leave ample room.

Mr. Maynard said correct. To meet the ADA sidewalk width requirements.

Mr. Dookran asked if we are proposing to give public easements.

Mr. Maynard said yes, of course.

Mr. Dookran said he couldn't tell. The other thing I have is I am sure you and the applicant know the improvements at this intersection are contingent upon you having your access built onto Costco Drive. So the City has suspended that work at that intersection until this takes place. Are you aware of that?

Mr. Maynard said roughly.

Mrs. Overby asked what business is going in here.

Mr. Maynard said it is unknown at this time.

Mr. Canaway 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. Slivinski to approve Old Business Site Plans #1, Andrea James Realty, LLC (Applicant) Clarence Clark (Owner) to reconstruct a new retail building at 323 Daniel Webster Highway, Zoned "HB" - Highway Business. It conforms to NRO 190-146(D) with all prior stipulations.

SECONDED by Mr. Latham

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

2. **Cambray's Automotive Service, Inc. (Applicant), 1987 Nash-Tamposi Limited Partnership (Owner). Application and acceptance of proposed conditional use permit for vehicle repair and service in "PI" Zone district. Property is located at 118 Northeastern Boulevard. Sheet 140, Lot 57. Zoned "PI" - Park Industrial. Ward 9.**

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

SECONDED by Mrs. Overby

MOTION CARRIED UNANIMOUSLY

Together with

NEW BUSINESS - SITE PLANS

3. **Cambray's Automotive Service, Inc. (Applicant), 1987 Nash-Tamposi Limited Partnership (Owner). Application and acceptance of proposed site plan to change use of 9,800 sf from warehousing to vehicle repair and service. Property is located at 118 Northeastern Boulevard. Sheet 140, Lot 57. zoned "PI" - Park Industrial. Ward 9.**

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

SECONDED by Mrs. Overby

MOTION CARRIED UNANIMOUSLY

MRS. WILBERT RECUSED HERSELF FROM THESE 2 CASES

Steve Auger, Hayner/Swanson, Inc.

Mr. Auger is here on behalf of Cambray's Automotive Service, Inc. In the audience tonight is Mr. Cambray, president of Cambray's and Attorney Brad Westgate providing legal representation for Mr. Cambray. We have come before you this evening for 2 items. The first is to grant a conditional use permit for vehicle repair and service business in a park industrial zone and the second is to change 9,800 square feet from warehouse to vehicle repair and

service. It is located at 118 Northeastern Boulevard, Lot 57, Map 40. It is 2.265 acres in size, zoned park industrial. It is abutted by industrial businesses on the north, south, and east. To the west is the Canterbury Apartment complex. Some of the site features on the right half of the building is a current business, Redlon & Johnson. They are a plumbing supply unit. On the left hand of the building, that is the 9,800 square feet that Cambray is looking to occupy. There are 2 access points to the site. One on each side. It is in and out access for both points. The way the site is set up, one access works for 1 business, 1 works for the other. There was some discussion about making it in and out only, but we really need both access points to be in and out. We will be restriping the lot when it is done. There are a lot of parking spaces out back that are old and faded. There are currently some parking spaces right now that sit in the front yard setback. We will be restriping that area to remove those spaces from the front yard setback to bring the site into conformity and we will be restriping some of the spaces behind the building to see a better traffic pattern. Also as part of occupying the 9,800 square feet Mr. Cambray will be adding an overhead door to the side of the building that he needs to get vehicles in and out of the building. Other than that there is no new impervious surfaces being added to the site. Outside of the striping the only function that this plan does is just an internal change to the building. We have asked for a couple of waivers. The Nashua Land Use Code requires a minimum 5 foot buffer strip along all public right-of-ways to be landscaped. This plan merely proposes to change the use of a portion of an existing building. The existing conditions of this site provide a green strip of 2 trees. There are no future plans to provide additional landscaping as we feel the existing conditions along Northeastern Boulevard meet the intent of the Land Use Code. The second waiver, the Land Use Code requires landscaping on all sides of a parking lot or paved drive that abuts adjoining property or public right-of-way. If you look at both our side lot lines there are currently parallel spaces along both of them. That has been an existing condition that has been there for some time. We will be restriping the entire parking lot including those spaces; it is our intent to keep those in their current spots. We can't put them out back because there are a couple of loading docks for each side of the building. We need to maintain traffic patterns. This site works with those spaces being where they are and we want to maintain those. The third waiver is the Nashua Land Use Code requires parking isles shall not contain more than 10 spaces in a row unless a planted median or island is provided. Again this goes back to the existing conditions of the site. This only applies to the parallel spaces on both of the side lot lines. Because this is an existing condition we want to leave it in the current state it

is. As part of the conditional use permit there are 9 criteria that the site has to meet in order to grant that permit as part of our submittal to the Planning Department we wrote a letter detailing how we believe we meet all those criteria. I can go through them in detail but I believe that was in your packet.

Mr. Canaway asked Mr. Auger to go through them in detail.

Mr. Auger said the first one is the building structure or use is specifically authorized by the use matrix, 190-15, Table 15-1. This site does fall under 140, vehicle repair and service which is permitted in the use matrix. Criteria #2 if completed, the development in its proposed location will comply with all requirements of this article and with specific conditions or standards established in this chapter for the particular building structure or use. The development is an internal change to an existing building. The vehicle repair use, Cambray's Automotive, that will occupy a portion of the building, is merely relocating from approximately 1/3 of a mile away. Cambray's is currently located at 17 Progress Ave and already functions as a vehicle repair business in an industrial zone. The development will comply with all article requirements and any special conditions. Criteria #3 the building structure or use will not materially endanger the public. The services provided by this use will be contained within the confines of the existing building. The only proposed change is the addition of the 12 foot overhead door so cars can access the building. The overall general integrity of the building will remain intact. Criteria #4 the building structure or use will not substantially devalue abutting property. Prior to the occupation on the other half of the building the site was dormant. Once Cambray's relocates along the main road in this section of the City will be operation once again. The actual repair service will not be visible to the public and there are very slight proposed changes that alter the existing physical conditions of the site so abutting property values should not decline. Criteria #5 the building structure or use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located. The abutting uses in the neighborhood are mixed. They involve anywhere from manufacturing, industrial, specialty retail stores, fast food restaurants, and a residential apartment complex. There are also existing automotive repair shops in various portions of the neighborhood. The other lots involve anywhere from existing automotive service shops that provide the same service as Cambray's and there is also an additional building that is McLaughlin Moving. They aren't in the automotive business, but they do vehicle repairs for their own vehicles inside their building. Criteria #6 the building structure or use will not have

a substantial adverse impact on highway or pedestrian safety. The businesses operating in this facility do not generate heavy pedestrian traffic so safety should be an issue. Criteria #7 the building structure of use will not have a substantial adverse impact on the natural and environmental resources of the city. Services such as oil changes, antifreeze flushes, and transmission maintenance are contained in an existing building so there shouldn't be any impacts on the natural and environmental resources of the city. Criteria #8 adequate public utilities and community facilities are available to the property to ensure that the proposed use will not necessitate excessive public expenditures in providing public services. There are no public expenditures necessary for this site since it has existing adequate public facilities. Criteria #9 that the use of on-street parking in the downtown zoning district is consistent or compatible with the existing use of on-street parking in the area. This site doesn't fall in the downtown zoning district and there will be ample zoning on site.

Mrs. Overby asked if the lighting will be changed.

Mr. Auger said it is going to stay the way it is.

Mrs. Overby asked one large light out in the parking lot. One faces the building and the other is turned to the side slightly. Didn't know if there is going to be abutters saying anything about the lighting since there is a condo.

Mr. Auger said there is actually pretty ample buffer between that apartment complex and the back of our parking lot. It is pretty wooded in there.

Mr. Slivinski asked to see the flow of traffic to your site and whether all the cars that you are going to be servicing are going to be inside. Do you normally queue 8 or 9 cars that are waiting tomorrow or the next day. Where are they parked and what happens when a tow truck brings a car in?

Mr. Auger showed on the plan the access points to the site. They are both more than 24 feet so they can accommodate traffic in either direction for both lots. There are currently some parking spaces along this building but that proposed door is going to go there so we eliminated those spots and we will be keeping the spaces right here. Mr. Cambray can answer the questions about how many cars. We don't anticipate any problems with cars or tow trucks getting in. In addition to the new door that we are going

to put in there is an existing door in the back corner that cars get in and out of the building as well.

Mr. Slivinski asked if any of the board members take the opportunity to visit his current operation and site to see the amount of cars and vehicles that were around.

Mr. Dookran said he has seen it before. Sometimes it is full and sometimes it is not.

Mr. Canaway said he concurs. He has seen it before but did not take a drive at this point. It is like any auto service station. It can be full or less than full.

Mr. Dookran said I don't think I have to tell you that this general area in Northeastern Boulevard experiences quite a bit of flooding and stormwater issue and it says here that and I agree that there will be no increase in impervious area. But you also said here in the staff report that the stormwater operation maintenance plan will be recorded for the current drainage pattern. Can you describe what that current system is on the lot?

Mr. Auger said as far as he knows there currently right now everything just sheet flows off. I don't believe there are any catch basins. But the typical stormwater documents that we have recorded involve sweeping and using non-salt products for plowing in the winter to de-ice and things of that nature.

Mr. Dookran asked if that will be adequate.

Mr. Auger said yes.

Mr. Dookran (inaudible) of other service would there be any modifications to the site to deal with any kinds of waste, affluent or anything like that?

Mr. Auger said that we actually have a note on the plan regarding that. We discussed that with Planning. Let me approach the board and read that. It is note #21 on the plan and deals with hazardous materials such as oil and antifreeze and things of that nature. All hazardous materials will be stored and disposed of in a legal and safe manner. Applicant is responsible for obtaining any and all permits associated with storage and disposal of hazardous materials.

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Mr. Dookran said the plan also says here that there is an area towards the rear of the parcel for future parking if needed. Now that is all a paved area today or is part of the wooded?

Mr. Auger said you can see by the red line the entire back lot is paved so it wouldn't involve any additional parking or construction. It would just involve more striping.

Mr. Dookran said looking at your waivers, you are looking for waiver for not having perimeter landscaping and so on because you would like to utilize the parking along the edges as they exist.

Mr. Auger said correct.

Mr. Dookran asked why you couldn't meet the criteria by transferring some of the parking towards that area back there.

Mr. Auger said there are actually 2 loading zones right here. These are pull up dock loading zones and I believe the Land Use Code requirement is 600 square feet for those so and that comes out to about 60 feet away from here so in order to stripe anything else in there it would mess up the pattern we would need if trucks have to get back there and back in.

Mr. Dookran asked if you are saying that the area identified for future parking needs to be clear of parking today. Is that what you are saying?

Mr. Auger said no. I am talking about this as opposed to say we wanted to remove some of these spaces along here and here and put them in this area. I am saying we couldn't put them all in here because we would need rooms for trucks to get in.

Mr. Dookran said he was thinking about the area at the very bottom of the plan. Think about moving some of the parking there. What I am getting at is this. I started by talking about the stormwater problems you have in the area. And we know if you reduce the amount of impervious area you have on the site that will help in solving some of these problems. And here we have an opportunity for you to meet what the code is asking you to do which means add some landscaping, remove some pavement and you think your hardship is your parking but you are showing me you have room for relocating some of the parking so I think we should try and meet that code as best as we can. I don't think you deserve those waivers.

Mr. Auger said this is also an existing condition site and those historically those have been treated differently in the past. We are not making any physical improvements to the plan. Like I said it is really just an internal change to the building. To do something like that and tear out a lot of pavement to make the site greener we don't think that is a due expense that the applicant and landowner should have to absorb.

Brad Westgate, Esq.

Atty Westgate said they appear primarily just to note we support this application and are here to answer any questions you may have as well that weren't addressed. In regards to Mr. Dookran's question regarding the parking spaces and the possible reconfiguration and how that pertains to landscaping. As Steve had mentioned, what is before you is really an application that has no footprint or site changes to it. The only modification to the building as part of this application is a new garage door on the westerly side of the property. It is pretty well established and also it has been recognized in both the existing Land Use Code and the prior zoning ordinance that the city has that when internal operational changes are made to a property and outside site or building or footprint changes aren't made the existing site conditions are grandfathered. They are really taken as status quo and don't need to be modified if the internal operations don't cause external changes. In the old zoning ordinance for example there was a section 190-99 that said that if for example there were physical conditions on a site that later because of zoning changes became non-conforming and if they were done I think before 1982 by way of valid building permit they stayed in place. They didn't have to be brought into conformity. Of course that is consistent with the general land use law. The current zoning ordinance also recognizes that concept. I think it is in around Section 119 which essentially says if you are not making a lot more non-conforming, then it can stay as is in this context with the internal change only. All we are really doing is suggesting that it is appropriate in this context to allow the site to remain as it is set up in terms of its building footprint, its external layout, its impervious surface because it is merely an internal use change that is occurring for which adequate parking for example is provided. Just lastly on the merits of it, Steve talked about how, for example, the loading areas in the back of the building require a certain amount of allocated pavement and that would have an impact on where you could place parking spaces. I think another physical limitation and Steve can correct me if I am wrong is on the side of the building, on both sides of the building. If you had to landscape on both sides you would of

course push the parking spaces in closer to the building along both sides and really I think limit their utility and possibility their ability to even function if they were pushed so close to the building that the clearance wouldn't be there. That would then necessitate putting them elsewhere on the site, removing them away from the building, squeezing them again with the loading area that Steve mentioned. Those are the thoughts that we gave into this design.

Mr. Dookran said you started talking about what the code provides for. If that is true here don't you think you should just get an automatic, not just 1 but 3 automatic waivers instead of having the board to rule on these.

Atty Westgate said no, he wasn't privy as to how Steve and Staff worked but they did request the waiver perhaps as a result of Staff recommendation. Frankly I would agree with you in the sense that it probably doesn't strictly speaking need a waiver requesting grant if the board believes as I do which I think is the case that the existing conditions are left to stay by way of their grandfather status.

Mr. Slivinski asked if there is any body repair or is this straight mechanical repair?

Norman Cambray, President, Cambray's Automotive

Mr. Cambray said no, we don't do any type of body work. We are not a major repair facility. We don't do big jobs, engines, transmission overhauls, things of that nature.

Mr. Slivinski asked if all the work is going to be done inside the facility.

Mr. Cambray said correct.

Mrs. Overby asked the hours of operation

Mr. Cambray said 7:30 am to 5:00 pm, Monday through Friday.

Mr. Canaway asked if tow trucks drop cars off after hours.

Mr. Cambray said it does happen, typically not a lot. And the ones that do get towed in we usually we have them back right up to the door and put them right inside. That way it facilitates the technician having to go out there and push them around.

Mr. Canaway asked if you do that after hours.

Mr. Cambray said no.

SPEAKING IN OPPOSITION OR WITH CONCERNS

Maggie DeSantis, 43 Scott Avenue

Ms. DeSantis is the property manager for Canterbury Apartments. The back of the property abuts 118 Northeastern Boulevard. We wanted to voice our concern about the usage of the large parking lot that is directly behind 4 of our buildings and we are concerned about a large amount of cars that are in various states of repair being stored in the parking lot. We are a rental property. We have about 60 units that are facing that particular lot and we feel that the marketability of those units is going to be affected by possibly having these types of vehicles in a big parking lot like that and therefore it could affect our income for the property. I do have photos. Also here is a site map of the property.

Mrs. Overby asked if any of the occupants complain about light pollution from the parking lot from the tall lights.

Ms. DeSantis said not that she knows of. There is some advantage to some of the lighting. Obviously keeping thieves and unwanted individuals away from that area. But that is another concern having that large parking lot full of vehicles could attract people who are looking to steal vehicles.

Mr. Canaway asked if you spoke to the applicant about your concerns.

Ms. DeSantis said no. We received a letter and the property management company asked me to come take a look at the site and come to the meeting. I received a letter on site.

Mr. Canaway asked if you tried to reach them before the meeting.

Ms. DeSantis said to be honest she didn't know it was Cambray's. I didn't even know until I got here right now that was who was applying.

SPEAKING IN FAVOR OF THE PLAN

No one

Atty Westgate said he was going to ask Mr. Cambray to briefly describe how cars coming in for repair are handled, where they are kept, and how they are ready to go out for repair in light of the comments by the abutter.

Mr. Cambray said cars at his facility, if you drive by on the weekends there are no cars left in the parking lot. The only cars we don't bring in at night are cars that are hung up for parts and don't run. On the weekends those cars get put right inside because there isn't a lot of activity down in that neighborhood. I have been in that neighborhood for 13 years and we have never had a problem but I always err on the side of caution when it comes to my customer's cars so we have always put them inside on the weekend just because nobody is going to be there for a couple of days. If you went to my site at night or on weekends the amount of cars that are actually in the parking lot are minimal compared to a couple of other automotive repair shops in that area where they have had issues. If you drove down there tonight 7 or 8 cars parked on the street plus unregistered cars parked in the back of his establishment. That is not the kind of business we run. It is not productive for us to have unregistered or cars there for a long time because we only have 26 spaces where we are at now so our goal is to get them in, get them fixed, and get them out. We do about 25 cars a day so if you have 2 or 3 spaces that are hung up by cars that don't repaired and are just sitting there that is not advantageous for us or our customers when they are trying to pull in to drop off their cars and have no place to put them.

Mr. Slivinski asked if you are going to utilize the parking places on the north side.

Mr. Cambray said yes.

Mr. Slivinski that is your primary place you are going to be parking cars that are waiting to be done and the back of the property might be employees.

Mr. Cambray said correct. What my plan is these 7 spaces will be employee parking and these 12 and 14 will be customers. My plan is to have the customers drop off here and leave these spaces open. After I have their keys and information I turn around and tag the keys, tag the car, so the technician knows what the cars, I bring them out back. When the customer picks them up at night I usually get the keys, bring the car out front. So these spots in the front will be "live" spots so they won't have cars in them all the time.

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Mr. Slivinski your primary parking really other then employee parking will be on the left hand side of the building.

Mr. Cambray said correct.

Mr. Latham said did somebody say you were going to blacktop that parking lot.

Mr. Cambray said it is already black topped.

Mr. Latham asked if you are going to paint it black.

Mr. Cambray said they are just going to stripe it.

Mrs. Overby asked how many bays will you have.

Mr. Cambray said 7 the same amount we have now.

Mrs. Overby said Mr. Latham did mention hard topping. I noted you have some holes in the parking lot. In lieu of the type of business you have I would appreciate it is those holes are ...

Mr. Cambray said Jeff Knight from the Tamposi Company has already said they are going to take care of that. That is part of the stipulation in our lease that they were going to take care of any patches in the parking lot before I moved in. When you drive into the site there is a good sized hole that water gets into. They are going to come in and cold patch any of the holes and then stripe it.

Mrs. Overby said you have 2 loading docks.

Mr. Cambray said there is a loading dock here, which isn't for my space. This is for a future tenant. There is another one right here for this side of the building and then on the side that is for Redlon & Johnson.

Mr. Canaway said he thinks he appreciate the fact that the state of the cars that your business works on you aren't doing heavy duty auto repair so they are not going to show up totaled and have to be stretched out and fixed so that is the intent of your business. My only concern is if we grant a conditional use permit for an automotive service business to be here that a future business, that isn't your business, or if your business evolves those types of automobiles could be brought onto the site. I don't know how you want to address that concern or if you want to defer to your engineer or attorney.

Mr. Cambray said he understands what you are saying. Actually the amount of space that I occupy in the building that I am in now, I started out with just 4 bays and then I grew to 7 bays 7 or 8 years after. I don't really know anybody who does that type of like for instance if somebody tows a car into my facility and it has an antifreeze leak it goes right inside because we drain it or if you have somebody that comes in with an oil leak because one of the problems we have at the facility we have now is that they put an addition on the back of the building and when it rains it goes across the street and flooding McLaughlin's and it goes right through the parking spaces. So if you have got something that is leaking oil or antifreeze it is going to get washed right out into the street. If I am not there my manager knows if we have something that is leaking it doesn't stay in the parking lot. It comes right in and we address it and that way it doesn't get all over the place. Getting back to you would almost have to be like a salvage yard to get into something that you are talking about. There is not really a lot of people that do unless you are a transmission shop where you took transmissions apart and put them back together but they are fairly highly regulated on disposal as I am. Like we have a waste oil heater for our waste oil. It doesn't get hauled off site. It gets burned. Every year we have to send sheet to the Department of Environmental Services. I just filled mine out yesterday to send them in to let them know how much toxic material right from floor cleaner to used oil to used antifreeze we have as a generator indemnification from the oil company for 3 million dollars if there was ever a spill at our facility. We have a service that comes and takes our antifreeze away so.

Mr. Canaway said normally through our process we allow 1 abutter to represent the group of abutters to refute anything that has been said. I don't know if you want to come up and address anything the applicant has said to this point.

Mr. Canaway 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.

Mr. Slivinski said first the new business #3 conditional use permit Mr. Canaway brought up a good point. That is if we allow this change of use to just vehicle repair and service vehicle repair could be a lot of things. I think looking at the apartment complex the last thing we want is an auto body shop there that might bring wrecks in or something to that extent. I would like the board to discuss changing a term there possibly to allow it to

be vehicle mechanical repair and service. I don't know if that is possible or not. We might have to get some guidance from staff on it. Maybe we could put it in as a stipulation. He says that is all he is going to be doing is vehicle repair so I don't know if the applicant would have a problem with it but certainly it would keep it away from something that might be detracted to the neighborhood. With regards to the site plan I don't think the waivers of landscaping that they are asking for is unreasonable. The guy is just changing use inside. I can remember many years ago when we use to sit here and argue when any piece of industrial property was taken for anything other then industry as we were going to save Nashua for all the large industrial complexes that were going to come in here but the building is empty now. It certainly behooves the neighborhood and everybody else to have it occupied. I do understand the concerns of the apartment complex back there but it sounds like I don't think the concerns are much and it really sits back and there is a tree buffer there that will continue to grow. I think what he is asking for the site plan, I have no problems with the site plan.

Mr. Latham said I agree with you on the vehicle repair. We need some more support with the verbiage on that. I can't think of how to word it. Does anybody have an idea on how to word that.

Mr. Slivinski said he was thinking about using the mechanical aspect of it because that is what they do. When you are doing body shop work its different from the mechanical.

Mr. Latham asked wouldn't the term service as opposed to the word repair be suffice?

Mr. Slivinski said when he thinks of repair I think of replacing water pump. When I think of service I think of changing the oil or changing the coolant in your cooling system or whatever. That is the way I look at it.

Mr. Canaway said it sounds like we are trying to narrow the use down to what was described by the applicant.

Mr. Slivinski said yeah, it describes what the applicant said he is going to do. He is going to do mechanical repair and service to vehicles.

Mr. Canaway said it sounded pretty good to us. Now the question is how do we craft that up. Roger if you guys have anything to guide us here.

Mr. Houston said first off, whatever language you decide, you should ask the applicant if they are willing to agree to that as well. Vehicle repair and service generally includes several use activities. What the applicant said that he wasn't doing was engine rebuilding or transmission repair. You might want to think about excluding certain types of services. Maybe that is a better tact to take. General repair and services usually includes any kind of mechanical aspects that go wrong with a vehicle. If someone is rebuilding engines and taking engines out that is a little more complex and involves longer repair times. Generally speaking you are safer to just go with the use class that is in the ordinance as it is described. If you want put restrictions on it as to what it can't be, then that is probably a better course of action.

Mr. Canaway said before he asks the applicant to come back, does the Board have any other concerns.

Mr. Slivinski said he would just say if he wants to drop a brand new engine into a car I would have no problem with that. I would be less concerned about restricting him with what he does inside on a mechanical basis then I am with a body shop type operation where you are going to have damaged vehicles out in the parking lot for longer periods of time as they are waiting for parts to come in and what have you. I personally wouldn't be as concerned about doing a transmission replacement or repair as I would be about the body shop work.

Mr. Canaway said he will ask the applicant to come up to address this.

Atty Westgate said what thought occurred to us while listening to your discussion was perhaps adding a note to the plan to the effect that says no auto body restoration work. That way we are not running into the risk that Mr. Houston very adequately pointed out of trying to distinguish between service and repair and what elements of service and repair are ok and which are not. Mr. Slivinski said that is kind of a slippery slope. It is hard to deal with that but clearly there won't be auto body restoration work done here and that is probably the primary concern.

Mr. Dookran said he has no problems with the proposed use but I do have questions about his site. I listened to what Mr. Slivinski had to say. You know we have become a board that we allow a lot of waivers and Atty Westgate said earlier it has become policy. To me we have become a board that has adopted a policy of just grandfathering things that are substandard. Why do we have the

Land Use Codes? Why does it even come up in a discussion like this for this application? I don't understand it and I don't agree with it. We have too often allowed this kind of grandfathering of existing conditions that are again substandard in the name of well its vacant property. It will benefit you know economically people by businesses by occupying these vacant establishments but understand they are vacating other places as well without any assurance that those places will be filled in return. So I started by saying earlier that there are problems in the area and I recall you know maybe 2 years ago or so another business in the area was here for redevelopment and we had the discussion about stormwater knowing everybody is aware of the stormwater issues in that area and I had a discussion with the engineer about can you do more on site because they have a sea of pavement and they were doing minimal amount and I was getting some agreement that they can do more. It wasn't a promise but I think the engineer was starting to concur that they can do some more and it was discouraged by someone here saying it is not fair to the applicant so we allowed this business to go in as they had planned and last year that location on Northeastern Boulevard flooded at least 6 times across the street. To me that was a missed opportunity. So to me this is poor planning when we just give up. To me that is an easy waiver to get some landscaping, relocate some parking, all of the parking, but some of the parking to get some green space in there. The applicant said that the drainage is all sheet flow, all sheet flow, sea of pavement, same kind of thing all sheet flow, no control of the drainage. As a Planning Board we have the opportunity to do what is right. It is time that we start doing so.

Mr. Slivinski said he understands what Mr. Dookran is saying but this is a minor change of use and if in fact he didn't get the waiver on some of the landscaping I think he could possibly lose some parking spaces on the left hand side where we want him to park anyhow. To keep the parking there. I am happy the building is being done, being occupied. I think the waivers that he is requesting is very small. It is sort of like if we are a homeowner and you have a garage and the house was built a 100 years ago and your garage is sitting 1 foot from the property line which is now out of city code and you want to add a tiny shed or lean-to out back of a couple of feet in order to put in whatever it would be that you do and they asked you to move the darn garage in order to do that. I think it is just unreasonable and I think it is a very minor thing and I do agree with the waivers sometimes that come across here but from a personal point of view I don't think this is the place to draw a line in the sand.

Mr. Canaway said just in recent memory there were some minor changes to the site that were external and the board did not entertain the waivers that were requested. My view is that this is an internal change in use. The site plan isn't changing anything outside of the building so it doesn't afford these opportunities. I concur with Mr. Slivinski on that and I agree with the flow issue.

MOTION by Mr. Slivinski to approve New Business 2 Conditional Use Permit Owner 1987 Nash-Tamposi Limited Partnership. The applicant is Cambray's Automotive Service, Inc. for conditional use permit for change of use to vehicle repair and service at 118 Northeastern Boulevard. It conforms to NRO 190-133(F) with the following stipulations or waivers.

1. No auto body restoration work be performed on the site.

SECONDED by Mr. Latham

MOTION CARRIED UNANIMOUSLY

MOTION by Mr. Slivinski to approve New Business #3 Site Plan 1987 Nash-Tamposi Limited Partnership Cambray's Automotive Service, Inc. new site plan for change of use to vehicle repair and service, 118 Northeastern Boulevard with the change of 9,600 square feet to 9,800 square feet. It conforms to NRO 190-146(D) with the following stipulations and waivers:

1. Prior to the issuance of a building permit, minor drafting changes shall be made to the plan.
2. The request for a waiver of Section 190-184(C)(1), which requires a five foot landscape buffer strip along public right-of-way is granted.
3. The request for a waiver of Section 190-184(C)(2), which requires landscaping on the perimeter of parking lots, is granted.
4. The request for a waiver of Section 190-184(D)(1), which sets specific requirements for interior landscaping of parking lots, is granted.
5. Holes in the parking lot to be repaired before the Certificate of Occupancy is approved.

SECONDED by Mr. Latham

MOTION CARRIED 5 to 1 (Mr. Dookran voted no)

MRS. WILBERT HAS RETURNED TO THE MEETING

NEW BUSINESS - SITE PLANS

4. Linear Retail Properties, LLC (Owner), Application and acceptance of proposed amendment to Site Plan #NR1459 for the purpose of converting 2,667 square feet of existing retail space for use as a restaurant. Property is located at 225 Daniel Webster Highway. Sheet A, Lots 190 & 761. Zoned "HB" - Highway Business and "GB" - General Business. Ward 8.

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

SECONDED by Mr. Slivinski

MOTION CARRIED UNANIMOUSLY

Andrew Prolman, Esq.

Atty Prolman said he is representing the applicant Linear Retail. With him tonight is Jeff Rider from Cuoco & Cormier, Mark Connelly from Linear Retail and Brad Toothman for Chipolte Mexican Grill. We are seeking to get approval for a 2600 square foot restaurant in the existing site of Daniel Webster Plaza. We believe we are presenting a very simple application. The existing retail being converted into the restaurant is an allowed use in both the highway business and general business district. We have no change to the building. No change to the footprint and you have the staff report. All staff proposed stipulations are fine by the applicant. We are asking for 2 waivers tonight. One with respect to landscaping and the other with respect to the plan showing utilities in the streets on the plan. The landscaping kind of gets back to the discussion you had a moment ago with Cambray's Automotive. We have an existing approved site approved back to the late 1980's so we could rest our hat on that and say it is grandfathered. But having met the requirements back in the 1980's for the landscaping we could say that is all we necessary need to do but we are doing additional landscaping as been described in the staff report and also as shown on the plan. The proposed landscaping doesn't entirely meet today's regulations under the Land Use Code, but I believe with the additional landscaping, the street trees, hundreds of shrubs going in, they are redoing parking islands that we can meet the intent of the landscaping requirements today while working with an existing approved site. With respect to showing utilities and the streets again we are just bringing in a 2600 square foot restaurant for the site. It

would be a hardship if we had to do a full blown plan showing all the utilities in the streets and in the area and I would respectfully submit that the city is well aware of utilities and other infrastructure improvements that are in the Daniel Webster Highway South in this area and it wouldn't add anything to this Board's consideration or add anything to the plan for it to show all the utilities in the area. We meet parking requirements for this site. We are actually slightly decreasing the impervious area because right now there are a few parking islands that are painted asphalt. We are going to be taking a couple of those out and putting in a landscaped parking island in a few areas.

Mrs. Wilbert said you state in your request for waiver in your letter dated 8 June 09 that the landscaping is significantly improved but to bring it to code would "have a negative impact on the available parking". Can you clarify that or perhaps the engineer who is behind you can?

Jeff Rider, Cuoco & Cormier

Mr. Rider said the current code requires landscaping every 10 spaces and it also requires a strip of landscaping when you have a certain number of isles. If we tried to meet those particular requirements it would have a significant negative impact on the parking that is available on site.

Mrs. Wilbert asked if it would take you out of compliance with the parking requirements.

Mr. Rider said yes it would.

Mrs. Overby asked what will happen to the bank overhang.

Mr. Rider asked the drive through?

Mrs. Overby said yes, the drive through.

Mr. Rider said that is not touched at all. We are in the next unit over.

Mr. Slivinski asked if the tables out front are just going to go out under that overhang? And the hours of operation of the restaurant?

Atty Prolman said his understanding is we have a 10 foot wide sidewalk all under cover so it is a pretty wide sidewalk. I understand the seating, it is not like the old McDonald's seating

where it is bolted to the ground. It is going to be seats just like these that can be taken in the winter time.

Mr. Slivinski asked if it is going to be an informal thing.

Atty Prolman said informal and it is part of the draw to the site as you are driving by the restaurant wants to capture your attention to the tables out front. We don't expect they will be used all that often but they will be visible.

Brad Toothman, Chipotle Mexican Grill

Mr. Toothman said the hours of operation will be Monday through Sunday. We open up at 11:00 am and close at 10:00 pm. I do have pictures I can provide you of the operations. To give you a little history of the company we are a publicly traded company. We are a Mexican restaurant. We are based in Denver. We have about 850 units across the country. Specifically in New England we have 16 current units operating. All we sell are burritos, tacos. We do a bowl and we do a salad. Very specific, very small menu items. The operations is very similar to a Panera Bread. We are in the fast, casual category. The operations of the patio will strictly be seasonal. Open in April and start to close down in late September, depending on the weather. Chipotle is one of the first restaurants in the country that raise products. All our meats are naturally raised, organic free is all our vegetables. Everything is done. We have no freezers in the restaurant. Coolers and we are also part of the green council. We have several green buildings throughout the country that are certified. So we use a lot of the materials inside our restaurant.

Mr. Toothman passed out pictures to the Board

Mr. Dookran said he was going to challenge them on their (inaudible) landscaping and drainage but it appears now they are doing a little too much. I take my question back.

SPEAKING IN OPPOSITION OR IN CONCERN

No one

SPEAKING IN FAVOR OF THE PLAN

No one

Mr. Canaway 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.

Mr. Slivinski said this particular restaurant it looks like what they are going to do is a restaurant that is badly needed in that shopping center to get some life into it. From a person observation that parking lot is not used at all and with the new landscaping and so forth looks like a pretty exciting project to me.

Mrs. Wilbert said with regard to the landscape waiver issue I think that this is a demonstration about of why we have to look at each waiver request independently and while I absolutely appreciated your comments on the last 2 items before the board, this one doesn't meet the strict requirements of the code either and yet it is such and improvement and to improve it further would reduce the parking that they need immediately around that building or they are going to be parking a mile away and walking across the parking lot to get to this building. And so I think it is a demonstration of the need to look at each waiver request individually and make a judgment thereon. Some of them should be granted and some of them I agree should not be granted. Not a blanket one way or the other is the way I look at it.

Mr. Canaway said just a further comment on Mrs. Wilbert's observations there, I think we would end up with dueling waiver requests if we were to push the landscaping there would be a waiver for parking which in that area we may not be willing to grant so either I agree with that.

MOTION by Mrs. Wilbert to approve New Business Site Plan #4 Linear Retail Properties, LLC of proposed amendment to site plan NR1459 for the purpose of converting an existing retail space for use as a restaurant located at 225 Daniel Webster Highway. It conforms to NRO 190-146(D) with the following stipulations or waivers:

1. Prior to the issuance of a building permit, minor drafting corrections shall be made to the plan.
2. Prior to the issuance of a building permit, the stormwater management and operation plan shall be recorded.
3. Prior to the issuance of a certificate of occupancy, cast iron hoods shall be installed on the fourteen existing catch basins on the site to prevent sediment from entering the drainage system.
4. All landscaping improvements shall be installed prior to the issuance of a certificate of occupancy.

5. The waiver request for a waiver of Article XXVII, which specifies site landscaping requirements is granted.
6. The request for a waiver of 190-279(J), which requires that the location and size of all utilities in the street adjacent to the site be shown on the plan is granted.

SECONDED by Mr. Jurewicz

MOTION CARRIED UNANIMOUSLY

OTHER BUSINESS

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

None

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

SECONDED by Mrs. Wilbert

MOTION CARRIED UNANIMOUSLY

2. Amendment to the FY2010 Capital Improvement Program to add Enterprise Resource Planning system (ERP) project.

Mr. Houston said at the request of the Mayor, the Capital Improvements Committee held a special meeting. The committee met last Monday and heard a presentation by the IT Department and the Finance Department on the ERP project which stands for Enterprise Resource Planning System. After a thorough discussion the committee voted on it to prioritize it as an "A-1" project and voted to send a recommendation onto the Planning Board for inclusion into the FY2010 Capital Improvement Program. Then the Planning Board takes this recommendation and votes hopefully favorably on it and it is passed onto the Mayor and Board of Alderman. As I understand, there is a meeting next week by the Board of Alderman to consider this addition.

Mr. Canaway asked if this is a 3 to 5 year project that must begin immediately to mitigate the large risks to the city's operations, just curious if this is such a large risk how did it just become something we know about today or just recently.

Mr. Houston said it has actually been known about for some time. The city currently uses an older data system utilizing software known as the VAX system. As was described to the CIC committee, most of our finance and other operations are contingent upon this old system operating and there isn't the hardware or software to support it. The software has to be developed or written by one person in house and you can't find individuals with those skills anymore because it is so outdated. The City has been using this system for over 30 years. The City has received very good use out of that system, and now that system needs to be replaced. The City is looking at taking this system so it is integrated with all departments and divisions in the City. The committee strongly felt that this was necessary based on the recommendations of the Finance Director as well as Information Technology Director and prioritized the project its highest rating "A-1".

Mr. Canaway asked if the city has experienced any outages.

Mr. Houston said he can't answer that question specifically. I know that there have been some issues. I know that if the developer is not here or away, then there is no one in the City to write a development code. Right now to keep the existing hardware running they have to cannibalize other parts from other equipment.

Mrs. Wilbert said there was a letter but I don't think it was in your packet. It's a letter that went from the Mayor to Ken Dufour as Chair of the Capital Improvements Committee and it has additional background in it. For example it says that it was included in last year's Capital Improvement budget but was not included in the most recent one we voted on which was FY2009 nor in 10 because they didn't have updated numbers to put in there and having recently gotten the appropriate numbers now they feel they need to go forward as soon as possible. It apparently has been on the back burner for some time. There is also additional information in this letter that deals with the critical need that the obsolesce of the ...for over 10 years city staff and elected officials have recognized that the migration and modernization of these applications is necessary due to system obsolesce, maintenance limitations, and functional obsolesce. It goes on at some length to point out that some of them are actually beyond their life span and that its all of these systems within the city are being maintained on a system that was developed over 30 years ago. I have to say, that said, I am shocked at the price tag but I have to trust that the Capital Improvements Committee wouldn't have pumped it up to A1 if they hadn't done their homework and weren't aware of this in the past.

Mr. Canaway asked if it addressed about, now a days of a system that runs the city for all intends and purposes would be expensive mostly likely. Does it get into recouping the cost, it is a \$7 ½ million dollar total price tag. Which for these systems, for this size, I mean, this is something I have experience with isn't out of scope. It might be on the high side, it might be on the low side. This is probably before getting bids out from vendors. Did they get into how much this cost us per year? How much we could save by having this system in place?

Mrs. Wilbert said she actually doesn't have that information but I do know of something of the scope of what the system will do. ERP Financials which include general ledge, budgeting, billing, payroll, HR, procurement, that is just part of it, I am condensing. It will also handle licensing and permitting, Fire Department, DPW, Public Health permits, city clerk licensing, inspections, code inspections, building permits, and that is just an edited version and the electronic content management system. As far as what it might save year by year I don't have that information. It is unfortunate Mr. Dufour isn't here to address it more completely.

Mr. Canaway said he hasn't seen cases where companies in the private sector have upgraded from 30 year old systems and not recouped a benefit from it monetarily but I am always interested in seeing the cost justification and my assumption would be that the Alderman would ask for that before they vote on this as a budget item.

Mr. Slivinski said the problem is and I ran into this also and Roger brought it up, it is maintaining the system. It turns in over the years it has become a hodge podge and when something does go wrong it is impossible and very expensive to try and solve it and find out what is happening and solve the problem. Very expensive to have somebody come in if you want to change something. If all of a sudden we want to do property taxes on a quarterly basis or something, it is just astronomical trying to work with an old system like that and try and patch it up.

Mr. Dookran said the ADMIN system is based on the old VAX or VMS system and the risk are really high. The investment is \$7 million. It would probably in the long term be very cost effective should the system break in the next couple of years. The urgency also I believe in getting this before us in such short order has also to do with the issuing the bond without having it go through CIC I don't think by bond rules you can issue a municipal bond.

MOTION by Mr. Slivinski to send a favorable recommendation to amend the FY2010 Capital Improvement Program, as prioritized by the CIC, by adding the Enterprise Resource Planning System Project.

SECONDED by Mrs. Wilbert

MOTION CARRIED UNANIMOUSLY

DISCUSSION ITEM

Mr. Slivinski said he was out of town and got an old paper and saw there was a meeting some place in town by somebody, but I don't remember, that was going to educate everybody where the 173 asbestos dump sites were in the city. That would be a great thing for us to get a hold of and know if some sort of project or renovation or site plans. I would like to know if they are on an asbestos site.

Mr. Houston said he would talk to the person involved in that. We do have a map that we look at for the known sites that we are aware of and we review that relative to the plans that come before us.

Mr. Slivinski said you are completely, 100% aware of that.

Mr. Houston said right if there is an issue we have a specialist (Deb Chisholm) on board on a contract basis come in and look at the site for us. We have involved that specialist on numerous occasions. One of them was the Bennett Street project, a project done by Etchstone property. The city worked with the developer and we were aware of the environmental hazards and they were able to clean up the site and build a residential condominium project.

Mrs. Wilbert asked if there is a condensed listing you can make available to us. It would be a nice thing to have in the packet.

Mr. Dookran said Mr. Slivinski if 173 sounds like many, there are site still to be discovered.

MOTION by Mr. Latham to adjourn at 8:42 pm.

APPROVED:

Ken Dufour, Chair, Nashua Planning Board

NCPB

June 18, 2009

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Prepared by: Linda Panny

Taped Meeting