

**MANCHESTER PLANNING BOARD**  
**PUBLIC HEARING / LIMITED BUSINESS MEETING**  
**Thursday, May 21, 2020 – 6:00 PM**

**Members Present:** Chairman Mike Harrington, Vice Chairman Michael O'Donoghue, June Trisciani, Alderman Pat Long, Dan Leclerc, John St. Pierre, Andy Boyle, Robb Curry

**Alternates Present:** Barry Lussier, Bryce Kaw-uh

**Excused:** Alternate: Chris Wellington

**Staff Present:** Pamela Goucher, Deputy Director Planning & Zoning; Jeffrey Belanger, Senior Planner; Jonathan Golden, Senior Planner; Jodi Nazaka, Planner; Kristin Bixby, Planner

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**I. The Chairman called the meeting to order and introduced Planning Board Members and Planning Staff.**

Chairman Harrington advised that due to the ongoing pandemic this meeting of the Manchester Planning Board is being held remotely. There is no single physical location for the meeting. The meeting is being broadcast by Manchester Public Television on channel 22 in Manchester and on MPTV's website. Anyone who wants to watch the meeting on their televisions or their computers as it occurs is able to do so. The picture and audio being broadcast are working through software that allows them to remote screen share. All members of the Planning Board are using the same software, which allows them to hear one another, to speak to one another contemporaneously and they are also able to notify the Chairman if they would like to speak and he will recognize them one at a time, just as he would during a normal in person meeting. When the Board has finished questioning the applicant he will ask if there are any members of the public who would like to make comment. Anyone watching the meeting who wants to comment can do so at any time up to and during the public comment period for each application. They have set up an email address and a phone number specifically for that purpose. The phone number is (603) 792-6737. The email address is [planningboard@manchesternh.gov](mailto:planningboard@manchesternh.gov). Staff will monitor both mailboxes during the meeting to relay any messages left to the Board. He requested if they have a lengthy amount of comments to please send them via email rather than leaving a phone message. Please be aware that the Planning Board has received dozens of emails and almost as many phone messages about some of the applications on tonight's agenda. Staff has provided the Planning Board with all the email transcripts and all phone messages received up until 5:00 this evening. Those messages are part of the Board's record and do not need to be read aloud or played aloud during tonight's meeting. The Board has worked diligently to review them. In addition to the email address and the phone number set up to receive public comment, the Planning Board is also offering the ability for the public to attend this meeting through their webinar software. Signing into the software as an attendee would allow for further comment to be made live to the Board rather than by email or phone message. Should they feel they are not able to adequately provide comments by email or phone message, Chairman Harrington requested that they send an email to the above email address and a request an invitation to the meeting. They want to avoid duplicate comments so please do not request to join the meeting and say the same thing that have already been said in emails or phone messages that the Board has already received and are part of the

public comment already. A short recess will be called at the start of each public comment period to allow emails and phone calls to come in. After the public has made comments and the applicant has responded to them the Chairman will allow the Board to ask for any remaining questions. The Board will then decide how to handle the application. All votes shall be taken by rollcall. If anyone has problems accessing the meeting please call 792-6737.

## II. PUBLIC HEARING:

*(New Items)*

*With respect to the following applications, appropriate materials have been submitted to invoke the jurisdiction of the Board. Although additional information may be required prior to final consideration, it is the recommendation of the Staff that the Planning Board determine the applications complete and conduct a public hearing. A motion would be in order.*

***Vice Chairman O'Donoghue made a motion, which was seconded by Alderman Long, that the following applications are complete and available for public hearing: S2019-004, SP2020-005, SP2019-018, CU-01-2018, SP-01-2018 and S2020-006.***

***Rollcall In Favor: Boyle, Lussier, Leclerc, St. Pierre, Trisciani, Curry, Harrington***

*(Motion Carried)*

### 1. **S2019-004**

**Property located at 2108 River Road (Tax Map 557, Lot 5), a remand of an application to subdivide one lot of approximately 87 acres into 1 lot of approximately 71 acres and 17 additional, buildable lots that would be accessed from a new extension of Arthur Avenue in the R-1A Zoning District. Joseph M. Wichert, L.L.S. for C and D Realty Trust.**

Joe Wichert advised C&D Realty Trust was looking to subdivide a parcel which they would then further subdivide. It was a 17 lot project. There were 16 building lots, one large remainder parcel that could also be developed and they had two new roads. They had an extension of Arthur Avenue and a new road that came off of the north end of Arthur Avenue, which is Felix Circle. They originally went to the Planning Board in May 2019. They went back on June 20, 2019 and the plan was subsequently conditionally approved. After approval the abutter, Mr. Frank, appealed in Court and there was a decision that came down in March that remanded it back to the Planning Board. They were originally scheduled to be heard at the April hearing.

Chairman Harrington asked Mr. O'Donoghue, who was the Chairman at the time of the decision during the business meeting, what his recollection was of the motion to approve. Mr. O'Donoghue advised his motion was really dealing with the condition that was rendered as part of the judgment in the previous Planning Board activity where the Planning Board heard an application from the school to expand their school building and add some playgrounds and things of that nature. The bottom line was the condition that was put in the letter regarding the application approval specified there would be a 200-250 foot treed border or something of

that nature between the property line and the closest new development area by the school application. His intent in the motion that they made was because of the nature of the application that was before the Board to remove the prior condition that was part of the application in 1997. The intent was to remove that approval condition because they had a brand new application with a total new use in front of them and the original conditions applied to the development that was proposed by the school at that time. The application in front of the Board that they were addressing was for a development and, therefore, the first thing they needed to do was make a proposal to remove the approval condition from the prior Planning Board ruling.

The Chairman said in his reading of the remand it was not specific in Mr. O'Donoghue's motion that circumstances had significantly changed. Mr. O'Donoghue said he did not address his motion stating it was because the application circumstances had changed. He said he did not specify that as being the reason that they were making a motion to remove that condition.

Chairman Harrington called on Mr. Leclerc who made the second on this motion and asked if that was his intent as well. Mr. Leclerc said it was and he believed at the time Mr. O'Donoghue made a good argument and he went along with his motion. The Chairman confirmed with Mr. Leclerc that circumstances had significantly changed between when that buffer was proposed and added to the plan from what it previously had been.

Mr. Belanger said that staff, in working with their legal counsel, has gone through the Court's order. This was appealed by an abutter. The Court sided with the abutter's argument that the Board did not sufficiently find adequate facts to support the conclusion that the prior condition of approval imposed in 1998 by the Planning Board at that time was met. There are really two separate decisions that are in front of the Board this evening on this application, because the trial court not only vacated the Board's decision on the amendments to the prior conditions of approval but also on the subdivision as well. The first decision in front of the Board is whether or not adequate facts exist to support a conclusion that the condition of approval required by the 1998 Board may be amended because circumstances surrounding the imposition of that condition have significantly changed. The exact wording of Section 4.13(G) of the Regulations says, "The Board shall base its decision regarding the request to amend a condition on whether circumstances surrounding the fulfillment of the condition have significantly changed since the condition was imposed." That is the first issue to figure out; whether to amend the prior condition of approval regarding the 200-250 foot treed buffer. The second decision before the Board is also whether or not to approve the subdivision. They have a complete record in front of them of all the proceedings that occurred about a year ago on the substance of the subdivision, so the Board can base their decision entirely on that record. They are also free to ask any additional questions they may want to ask about the substance of the subdivision. That is completely in their purview; however, they do have an adequate record and they can base their decision on that.

Attorney John Cronin of Cronin, Bisson and Zalinsky advised he provided the representation counsel when this was back in July. He appreciated the explanation of the history. He said he read the Judge's order a lot more narrow. He thought what the Judge basically said was, "Look, you made a motion, and when I look at the minutes, there was really no meat behind

it” as Mr. O’Donoghue said. The Attorney thought all the Judge was asking them to do is to articulate what the changed circumstances were. If they do that and articulate those reasons and put them as support for the motion and it passes, he thought it goes without saying that the subdivision passes. The only reason the subdivision was vacated was based on this issue relative to the buffer and the change of the condition. He thought it was a pretty simple task. He didn’t think they had to go down a rabbit hole and revisit everything. He thought they have to evaluate whether there has been significant change. He recalled back in July when they had the initial hearing there was a lengthy discussion about the history and the concerns about ballfields and ball lighting, etc. This proposal is significantly different. It is proposing exactly what the Ordinance calls for; single family houses next to single family houses with appropriate setbacks. There are no variances and no relief for setbacks at all whatsoever so they believe it is apparent from the existing record that there are substantially changed conditions that warrant approval of the change of that condition so this project can move forward.

Mr. Lussier asked if the plan is exactly the same and there have been no changes from the Court decision and the plan remains exactly as presented back in July of last year. Jon Rokeh said the only thing they did was obtained the AoT permit so there were a couple engineering changes to the detention ponds and just some comments from the State but it is almost exactly the same as what was approved. There was nothing in the AoT comments or verbal process that changed the substance of what was approved by Manchester.

Mr. Kaw-uh asked if the applicant could explain the changes in circumstance between now and when the initial condition was put in place. Attorney Cronin said when this was put into place by the Derryfield School the ballfields had not been built yet and there was some concern that the expanse of that entire property, even moving down to the southwest, which would be the area of Arthur Avenue where this land is located may in the future be developed for ballfields or school activities, whether they be tennis courts, lighting systems, etc. The neighbors had legitimate concerns about that and they raised them and there was a dispute in the record as to whether or not there was a tree buffer or a limited school activity buffer. The significant change is that this property now has no potential to be developed for school activities such as lighting, tennis courts or ballfields; it has changed to become a single family subdivision. That subdivision is what is allowed by the Ordinance, what the Ordinance wants and it will meet all of the dimensional requirements. It was not a perpetual buffer there. The Board has the power to amend it. He said Mr. Mosca, for whatever reason, went forward and got a firm bound agreement for his protection for him being close and directly in line with the ballfield. In fact, the Mosca buffer would shield Frank and others from the existing amenities of the existing ballfield there. Even having single family residences there as opposed to ballfields or school facilities is sufficient in their view to satisfy the significant change standard.

Chairman Harrington turned the hearing over to the public.

Amy Manzelli of BCM Environmental and Land Law with offices in Keene, Concord and Portland, Maine advised she was present on behalf of Stephen Frink, one of the abutters. Attorney Manzelli advised that the Frinks reside at 602 Coral Avenue. In the plan set it is noted as 556-23. Mr. & Mrs. Frink are direct abutters to the treed buffer promised to them by

the school and required by the Planning Board in 1997. If the Board eliminates this treed buffer the Frink's home would instead abut the proposed residential development. Instead of the promised 250 feet worth of forest behind their backyard, their backyard will become contiguous with a series of backyards and the proposed homes in the subdivision.

Attorney Manzelli said to the extent the applicant's claim that the Planning Board's record from 2019 contains ample evidence including findings by the Planning Board that there has been a significant change of circumstances they respectfully disagree. In fact, lawyers for the applicant and the City argued that during the lawsuit and the Court rejected that. The Court had before it and reviewed the entire record upon which the Board based their decision in 2019 and the Court concluded that the Planning Board did not make the required findings, which is what brought them here tonight.

Attorney Manzelli referred to her letter in which she referenced specific pages where the Court makes important statements. She said she would let the Board know where in that order what she is discussing tonight is referenced. For example, on pages 8 and 9 they will see the Court's discussion of the lack of findings.

Attorney Manzelli said the treed buffer condition is not limited to preventing school facilities in the treed buffer. The 1997 Planning Board knew that the ZBA had previously imposed a condition that would prevent school activities in the buffer area so they were aware of the ZBA proceedings and at the end of those proceedings that was the condition of approval that resulted. With that knowledge and based on the record before them, including Derryfield's promise to maintain the treed buffer, the Planning Board decided the condition imposed by the ZBA simply was not enough. Accordingly, the Planning Board imposed a much stricter condition, which would allow only trees in the buffer area; not athletic fields, not houses, nothing but trees. That can be seen in the Court orders on pages 5 and 6. The Planning Board in 1997 absolutely had the authority to stick with the no school facilities condition imposed by the ZBA but it didn't and the change of the condition of approval the Planning Board made makes all the difference in the world for the question before the Board tonight. It showed the Planning Board wanted nothing but trees to be in the buffer to protect the abutting neighborhood from development on the 87 acre Derryfield lot.

Attorney Manzelli could see from the record that in 2019 this Board had some significant questions about what the nature of the buffer was; whether it was a no school facilities buffer or was it a treed buffer. Even just now she said Attorney Cronin referenced an apparent continuing question about that. The Planning Board's May 1, 2019, minutes indicate that if the buffer was a no school facilities buffer then putting in houses would make that condition moot because houses are not school facilities. However, if it was a treed buffer, such a buffer would still be relevant in the face of a proposal to replace the treed buffer with houses. Now fast forward past the lawsuit, she said they definitively know that it is a treed buffer and a treed buffer is so relevant. She agreed with those sentiments from the Planning Board in 2019 and it should be their entire focus tonight. The question the Board needs to answer is have the circumstances changed since 1997 such that abutting residential neighborhoods no longer need a treed buffer to protect them from development on the Derryfield lot.

With that focused question, Attorney Manzelli said many of Attorney Cronin's requested 14

findings and fact are irrelevant. It is not at all that they disagree, she said in fact they agree with many of them, it is just that they don't have anything to do with whether the circumstances have significantly changed. For example, she said they agree that the proposed subdivided lot would be located in the R1-A zoning district, but that has nothing to do with the question whether circumstances have changed since 1997 such that the abutting residential neighborhood no longer needs the treed buffer to protect it from development on the 87 acre lot.

Attorney Manzelli said the key point from Section 4.13(G) is that they are looking at the circumstances surrounding the fulfillment of the condition. There is nothing in Section 4.13 that says, is the application in 2019 for something different than what is applied for in 1997? That was not at all what that says. This is a broad reaching question. Look at all the circumstances surrounding the fulfillment of the condition, have they significantly changed such that the condition is no longer needed?

Attorney Manzelli said what the Board needed to address was not about whether the Zoning Ordinance allows houses in this area. It is not about a no school facility condition imposed by the ZBA. It is not about what the approved site plan says. It's not about what setbacks and buffers are required by the Zoning Ordinance. It is about determining whether circumstances have changed since 1997 such that the abutting residential neighborhood no longer needs a treed buffer to protect it from development on the 87 acre Derryfield lot. The facts support that circumstances have not so changed. In fact, circumstances have actually worsened such that the treed buffer is needed more now than it was in 1997. The risks that the Coral Avenue and other neighborhoods will experience decreases in property values, increased traffic, more noise, more aesthetic impacts and all that comes with development. That risk hasn't gone away at all; it has worsened.

In conclusion and on behalf of Mr. Frink, Attorney Manzelli respectfully requested that this Planning Board not remove, vacate and extinguish the treed buffer condition as the applicant requests. Instead, they respectfully request that the Board find that the circumstances have not changed.

Mr. Frink said the prior decision to amend the treed buffer condition was based on an incomplete record. He appreciated the opportunity to provide greater clarity as to the 1997 Planning Board process and conditions that led to the Planning Board imposing the treed buffer condition. He has lived in his home since 1991, well before Derryfield purchased the property from New Hampshire College and he participated in the 1997 Derryfield informational meetings and the Zoning Board and Planning Board hearings. He appreciated being allowed to correct and clarify the record based on personal experience. The biggest factor in their decision to buy their house was the existence of the woods. The woods add great value to a lot of starter homes along Coral Avenue. New Hampshire College owned the woods and they worried that someday they might find a dorm in their backyard, but decided to enjoy the woods while they lasted. In 1997 when Derryfield held an informational meeting to inform the neighborhood that it had bought the property and planned to put in playing fields but promised to keep the existing woods as a buffer he supported the proposal. It meant they would never have to worry about losing the woods. He made his position known at the informational meeting and Derryfield later asked that he speak in support at the public

hearings, which he did on the school's behalf and the interest of his family as it meant they would always have the woods behind them. There was a great deal of opposition to the Derryfield proposal. The Moscas, his neighbors and fellow abutters two doors down, were most vocal. Their primary concern, as was his own, was that the woods behind their homes be preserved. The solitude and wonders of nature are right out their backdoor for the convenience and benefits of living in the city. Great homes in which to raise their children and retire. In 1997 at informational meetings and Board hearings Derryfield would not commit to retaining the buffer once the fields were built. The school would not agree to seek a conservation easement for the buffer as it had for the woods on the opposite side of their property. In fact, during the hearings the Moscas informed the Boards that Derryfield trustees, the Planning Board Chairman and the Ward 1 Alderman told them that the school intended to build homes in the buffer. The Zoning Board approved a no facilities buffer which would have allowed for homes. The Planning Board added the condition that there be a treed buffer in essence requiring the Derryfield to keep the promised buffer in its natural state in exchange for being able to develop the rest of the lot. If Derryfield felt the Planning Board had overstepped its authority in requiring the treed buffer it should have filed an appeal with Superior Court within 30 days of that decision. Instead Derryfield built its fields under the treed buffer condition imposed by the Planning Board. Now 22 years later the applicant is arguing that not being able to build homes in the buffer is unreasonable and a significant change of conditions. The exact same situation existed in 1997; Derryfield planned to build homes in the buffer and the Planning Board set a treed buffer condition to ensure that wouldn't happen thereby protecting abutter's property values and loss of enjoyment of their homes. The primary concern in 1997 was the negative impact losing the woods would have on the enjoyment and property value of the Coral Avenue homes. The secondary concern was the noise that would result from developing the rest of the lot and there has been a significant change in circumstances in that regard. The noise is far greater than when the treed buffer was imposed. In addition to Derryfield's use of the fields the fields are rented out and used year around. It was from expansion, maintenance and use of the fields has increased. In addition, eliminating the forest and leveling the hill to build those fields now means the traffic on I-93 can be heard on Coral Avenue. Amending the treed buffer condition would allow homes and roads to be built in the buffer which would exacerbate the problem when trees are lost and hills leveled. Putting aside the legal issue, he has requested the Conservation Commission include this property in its natural resource inventory. Manchester will be far better served by preserving this protected green space than by adding another high end housing development. Losing these woods would hurt his property value and that of the other abutters but importantly the neighborhood and the City as a whole would have lost another piece of its ever dwindling forested area. The ability to be able to walk from your home into a nearby forest with multiple well-kept trails has never been more welcomed or needed than during this pandemic and time of social distancing. He sincerely hoped the Board would find the conditions that led the Planning Board imposing the treed buffer in 1997 have not significantly changed and preserve the woods. Back in 1997, based on Derryfield's promise, the treed buffer imposed by the Planning Board, he never imagined he would one day find himself spending thousands of dollars to hold Derryfield to its promise and he hoped tonight would end this fight and save himself, the City and the developer further legal action and expense.

Chairman Harrington inquired if any emails or voicemails had been received as public input.

Ms. Bixby said that, in addition to e-mails that the Board has received, a couple of emails were received after 5:00 PM. She read those emails into the record as follows:

To Whom It May Concern,

We are new homeowners at 572 Coral Avenue in Manchester and we received an abutters notice from the planning board (File Number: S2019-004) — an application to develop the land behind our home.

One of our concerns is whether or not this plan is appropriate or responsible during a pandemic and this time of economic uncertainty. We are not even able to make our voices publicly heard in person. If any of our neighbors are without internet access, they are not even able to participate in this public meeting at all.

We worry about the environmental and ecological impact of removing ~70 acres of woods and implementing the infrastructure to support 17 new homes in its place which may include new roads and utilities. There is a variety of wildlife whose habitats will be completely removed by heavy machinery and development. Moreover, we have concerns about erosion damage as the trees are removed.

A project this large is bound to take years to complete which will disrupt us on a daily basis especially as many of us now work from home in a more permanent way. Likewise, as the children go back to school at Derryfield School they will be disrupted with loud and dangerous machinery.

The properties in question will also be close to the river and a railroad which puts them at risk for flood damage and dangerous for any families with children and pets.

Ultimately, we oppose the plan to develop the land behind our home as we feel it is economically irresponsible and damaging to an environmentally rich area of Manchester.

Ariana Goldberg and Bego Terzimustafic

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Members of the Planning Board: I am writing to let you know that I strongly oppose the petition of The Derryfield School to sell the wooded area behind the Coral Ave neighborhood so that a sub division can be built. If this sale is allowed, the city of Manchester would lose a valuable environmental asset and the sale would be detrimental to the quality of the Coral Ave neighborhood. Wooded areas are becoming a rarity in the city. If the city were to allow the sale of this land, it would be land that the city could never replace. It is my opinion that The Derryfield School should not be allowed to renege on a promise that was made to the residents of Coral Ave in 1997. Thank you for consideration in this matter.

Sincerely, Sue A. Devine  
125 West Haven Road  
Manchester, NH 03104

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We are attempting to view today's planning board meeting. The letter states a variety of ways to view this meeting beginning at 6:00 but it is not being live-streamed. We see a taped school board meeting from May 12.

We are concerned about the increase in traffic entering Arthur Ave. This turn can be hazardous now with limited traffic.

We are concerned about the developer on Elgin Ave purchasing one of the building lots and creating a connecting road through this proposed subdivision to allow him to proceed with his building project. This would be a very different proposal than the one before us today. What assurances do we have that this will not happen?

We are concerned about a promise that was made by Derryfield School and documented by the Planning Board back in 1997. The promises that were made to the residents of the neighborhood should be maintained.

We are concerned that losing this feature to the area will diminish the appeal of the neighborhood and the property values.

Thank you,  
Kimberly Smith  
69 Arthur Avenue

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Dear Planning Board Members,

In addition to agreeing with other comments regarding the underlying value of saving the Derryfield Woods we understand have been submitted by others, we would like to raise another concern, namely the traffic considerations for the portion of Coral Ave connecting River Road to Union Street. This portion of Coral Ave is used as a cut through point and there is already a challenge with the volume and speed of cars using this portion of the road. We are deeply concerned about the impact of additional residential units on this existing problem with the proposed 17 units and even moreso with the potential to add additional units at a subsequent point. If my understanding is correct, this would be a change of circumstance since the initial condition for this land, as a majority of these homes were not yet built at that time.

In addition to the residential traffic, the construction traffic is another concern, as we have noticed an increase in commercial traffic already.

Thank you for considering this factor.

Respectfully,

Richard and Colleen Cone

705 Coral Avenue  
Manchester, NH 03104

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Re: Atty Manzelli statements - Why do homes need to be protected from homes? This is an allowed usage, there are no provisions in the zoning to require treed buffers nor any buffers of any kind between homes.

Re: Mr Frink - He states that the School intended to build homes, there is no evidence nor proposal ever presented to build homes in this buffer until now.

I would like to make a simple point that this land is privately owned land. This is not a park. This is not public land. People can go visit stark park. People's use of this land is a privilege. Just as if your neighbor wanted to bring his dog onto your lot and do his business on your lot, you might object. It is very conceivable that Derryfield could immediately revoke any access onto their land.

Property rights of owners cannot be ignored

Chris Evans  
Berkshire Hathaway HomeServices  
Verani Realty  
1 Club Acre Lane Suite 1  
Bedford, NH 03110

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Ms. Bixby played the following voicemail comments into the record:

Hi. My names is (inaudible) Paquin. My address is 664 Coral Avenue and I'm calling about Notice of Planning Board Action, file number S2019-004 with regards to the 71 acres and 17 or so building lots on Arthur Avenue in Manchester. I have pretty much three concerns.

Those are wetlands back there and he is concerned with conservation. Also, there are some walking trails back there that are utilized by a lot of people in the neighbor. Also, I'm questioning what they are going to do with the additional traffic on Coral Avenue. There are 17 lots going in so there will be maybe 34 additional cars coming through and this is a relatively quiet neighborhood and I don't want to disturb that. Totally against this development. I don't think it is the right thing to do to this neighborhood. If somebody could call me back I would appreciate it.

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Hello this is Kevin Cavanaugh, the Alderman for Ward 1. I am just calling to voice my disapproval. I hope the Planning Board doesn't approve item #1, property at 2108 River Road. There are some past agreements between the Derryfield School and neighbors that abut this property. It's a longstanding good friendship that I would like the Derryfield to please keep their word they made in the past. I would also, even before the decision is made up or

down ask the Planning Board to at least ask the Conservation Committee to at least look at this. This wooded area is very (inaudible) remain in the City and very well used by many people biking and hiking. Again, I'd ask the Planning Board to please vote this down or if not to vote it down tonight to again ask the Conservation Commission to take a look at this plan.

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Hi. Good evening. This is Tina Fishow. I live at 55 Arthur Avenue in Manchester. I sent in today an email regarding my opinion about the proposed subdivision off of River Road. I'm hoping you will read my opinion during the meeting. Thank you very much.

Ms. Bixby advised Ms. Fishow's message referenced an email that came in earlier today that the Board received digitally before the meeting started.

Ms. Bixby advised there were no further comments from the public.

Ms. Goucher advised that the Alderman from Ward 1, Alderman Cavanaugh, is trying to connect and log in as he has some comments. She has been working with him to try to get him set.

With regard to Alderman Cavanaugh's comment about the Conservation Commission looking at this, Mr. Belanger advised that Mr. Frink actually asked for something quite similar; asking the Conservation Commission to review this area as part of their natural resources inventory, which they are conducting and it is kind of like a natural resources master plan for the City. He said they just met on that at their most recent meeting last week and they asked their consultant, who is a biologist and scientist, to look at this with aerial photography and determine whether or not any fieldwork was warranted to further investigate this for any kind of natural features. It was the consultant's opinion that there was nothing outstanding about this area that warranted any further review. He is willing to do fieldwork if the commission requests, but the Commission's opinion was basically that if he didn't see anything that warranted it from aerial photography then they would not request any further review. It has been in that regard looked at by the Conservation Commission.

To clarify the record, Mr. Belanger advised that Ms. Goldberg made a comment that people who are trying to attend this meeting and who do not have internet access are not able to attend the meeting and that is actually not true. He advised there is the ability for people to watch this on Manchester Public Television and also to call in using just a telephone so there is an opportunity for people to comment even though they don't have internet access.

Ward 1 Alderman Cavanaugh called in and thanked the Board and staff for all that they are doing. He said he was very familiar with the calls and everything going on the last few weeks because he feels like he is living on them. That is another reason why he added on here. He stood by neighborhoods all over the City and many people and these Boards he stood with to stand up and against some of the developments going in. He thought it was important that Manchester really maintains what we have in not only neighborhoods but also natural resources. We are a City and we are taking away more. It upsets him that they have been in a partnership with Derryfield School for many years and they have been a great partner but he

thought they would be just as upset as them if the City went back on a promise they made to them. That is upsetting to him and with everything going on he did not think now, with the frustration felt tonight just trying to get on this call on top of everything else going forward with this. He thought sometimes you need to take a break, take a step back. It is important to the residents of the City and he thought it is just not a good thing to get through. He wasn't saying they are rushing through. There has been a hearing and there has been a court battle with this and now that has been sent back. He asked that everybody be given a chance to get back to normal so they can get back together. He didn't think this development has to go through or anything has to be approved tonight. He asked that the residents be given a chance to get together and really talk to the Board and if they had the difficulty he had tonight getting in maybe they need a chance to be heard to. He asked everyone on the Board to take a minute and maybe table this until we are out of this crisis and state of emergency and maybe revisit this so they all have a chance to look at how it is going to affect some of the residents in this City. He thanked everyone on the Board who are volunteering their time.

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Chairman Harrington advised there were no further comments from the public and he brought the hearing back to the Board. He asked the applicant if they would like to address some of the concerns.

Attorney Cronin said he sympathized with the Chairman with some of these meetings and the ability to frame what is relevant versus what is not. It is difficult in this forum to focus on the issue that is before the Board, which is only a substantial change. He counted over ten times before he stopped counting the word "promise" from some of the speakers. He said there is no "promise" or enforceable contract. These are smart people and he knows they are stating it for a reason. It is not a binding agreement with anything with respect to that buffer. It is a condition, a condition that can be waived or released. That's it. The Attorney advised he has less and less patience for people that are concerned about resources on other people's property. This is not property that is owned by the City. This is privately owned property and he heard most of the people stating "we don't want it developed because we want to use the trails" or "we like the trees" or "we like the resources". He said that was fantastic and he likes trees and resources; most people do. But in this Country if you want to protect them you go and you buy the property and make arrangements with the owner to make sure that is clear. He also heard a number of comments that this buffer was intended to protect against development. It was not. There is no evidence anywhere in this record, which is all that should be looked at, that there was any intent to build any houses. The buffer was to protect against ballfield and school activity and that type of activity and noise and lights, etc. He asked them to think for example if Derryfield School said "I'm really frustrated by this process and the difficulties that we're having. We can acquire land elsewhere to establish these fields because we don't use them very much. We don't use them at night. Let's forget about ballfields and let's develop this all for housing. Certainly there would be no need for that buffer; none whatsoever. You would go in and lay it out with the appropriate setbacks and you would be duty bound to review it as any particular subdivision. This is a relatively small subdivision in an isolated area that has had a history of problems; people trespassing and doing things that they ought not to do. This will be consistent with the neighborhood. It is going to provide houses in the \$400,000-\$500,000 range; in excess of the values of the

houses in that area. There is no evidence anywhere that any lots would be diminished. He believed there was a document provided that said there would be no reduction in value.

Attorney Cronin advised that Mr. Frink made a lot of comments about the harm to him but very shortly after filing his appeal he made a demand of this developer for \$500,000 to withdraw it or to give him credit to get a house for nearly nothing in this new development. He said that didn't sound like a person who is very concerned about the environment or anything of that nature with respect to development. It sounded like someone that sees this as a fiscal business opportunity. This buffer was clearly designed to protect against school activities. The houses are going to go in there. Their setbacks are established. All of the information the Board heard, including comments from Alderman Cavanaugh, who he said he has the greatest respect for, people have rights to and they shouldn't put a hold on people that want to develop their property. This has been going on for a year at a great expense to Mr. Frink as well as the applicant and Mr. Welden. This has to move forward. As such, Attorney Cronin asked that the Board look only at the issue that is in front of them, whether things have substantially changed that would warrant the reduction of this buffer. They have already voted on it. As the Court said on the final page of its opinion, there is nothing here to surmise, the Board did act and they did vote to remove that condition. The only thing they didn't do was cite the reasons of substantial change to support it. He said that is all they need to do today. He believes there is ample evidence that is in the prior record for them to get to that conclusion.

Alderman Long said his recollection was that this project wasn't in the original buffer. He remembered seeing a plan that articulated better where the buffer was. Attorney Cronin believed Mr. Long was talking about a plan that was presented at the prior hearing that showed what they call the "Mosca buffer". There is a section of land near the baseball diamond in proximity that is subject to a real agreement; not a promise but a binding agreement and there is no intent there to do anything with respect to that buffer. He believed in one of the other plans it will show where the Mosca buffer is as opposed to what was defined on the approved Planning Board plan, which is the limited activity buffer. There were two distinctly different buffers there and they were talked about in the original presentation. He pointed out Arthur Avenue on the plan and said that is where this new development is proposed to go across that limited school activity buffer and it won't have any impact whatsoever on the Mosca buffer.

Mr. Lussier asked if they heard from the six direct abutters (54, 55, 56, 22A, 22, 23). Ms. Goucher believed they gave their address. Mr. Belanger advised that staff has been working pretty frantically over the last day or two trying to put all these communications together that have come both for this project and others and there has been a deluge in the last 24 hours and they have not taken the time to correlate all of those to where people live geographically so the answer is that staff doesn't know the answer to Mr. Lussier's question at this point. Chairman Harrington said there may have been three or so that were abutters to the subdivision. Mr. Wichert said Mr. Frink, the Smith's and Ms. Fishow were abutters that spoke and there may have been one other abutter to the project that registered opposition tonight.

Mr. Wichert said what they wanted to bring to the Board's attention and what Attorney

Cronin has been trying to mention is when they went through this in 2019 this issue with the difference between the plan, school activity buffer and the tree buffer was a last minute pop-up that came up right before the hearing. As such, at their first presentation Attorney Cronin spent an awful lot of time going through that process and asking do they go forward or should they go to court first and the Board made the determination that they were fine with them going forward.

Mr. Wichert said as part of their permitting process they went through the two public hearings. When they did their presentation they had a national heritage inventory check and they also had the archeological check from DES because that was one of the requirements with their AoT permit. Those came up and they were signed off by the State on those levels. Some of the comments that were coming up there was discussion about clearing 71 acres. He said there is no intention to clear 71 acres. Should the project be re-approved, there would be 15.7 acres that would be taken off of the school property and a portion of that would be developed into house lots at this time. As far as ecological and the environmental and all those other items, he believed that during this process both the City and State agencies have had a chance to go through and look at those items.

Mr. Rokeh said when they turned in the NHB they said they had a hit because they were on the Merrimack River and then they did their additional review and came back and gave them a clean NHB letter that even though it had a hit the development wasn't going to impact anything. When they did the DHR request they had a request for a phase 1 archeology study, which they did and that also came back clean.

Mr. Leclerc said one of the concerns with people in the area is the amount of time this project will take. He asked if the plan was to just go in and build all of the houses or would it be build one sell one. Mr. Wichert said typically, should the project be approved, before the mylar is signed they will have to post a financial guarantee for the road construction so that road construction may be broken up into one or two phases. He was not 100 percent clear if they were looking at one or two phases, but the road as a whole will be built before the houses get built. He believed the City requires that the road either has to be to subgrade or binder course before a permit would be issued and the road has to be the binder course before a CO could be given. There will be an agreed upon construction phasing through DPW. Attorney Cronin advised it was Mr. Welden's expectation is to complete it within 18 months. This has been pending for a year and there are people that have expressed interest in acquiring a home up there.

In reading some of the notes from the last meeting, Mr. Leclerc said that Mr. Wichert said they were going to leave as many trees as possible. He asked if it was still the goal to make the trees work with the housing and do their best to at least leave some spacing and some vegetation between old and new. Mr. Wichert said there is a little bit of friction so he wanted to make sure what he was saying was accurate and nothing gets misconstrued. He said what they had agreed to before is as you come in on Arthur Avenue they proposed a 20 foot no cut buffer. That no cut buffer was going to be adjacent to Lot 5A and 5Q (Lots 55 & 56) on the existing houses on Arthur Avenue. When you get east of that lot line they had not shown any proposal for a no cut buffer because at that hearing in 2019 this is what they went with and everything was approved. When the applicant is building on the house lots there will

obviously be cutting trees. He wanted to be clear so everybody knows they can't build on the house lots without cutting trees. Mr. Leclerc said once the houses are built and the property gets sold obviously nobody has control over who wants to clear what. If the owner wants to take down every tree in their yard they have the right to do that.

Chairman Harrington said he thought they had sufficient information to close the public hearing.

***Rollcall vote in favor of closing the public hearing: Boyle, Lussier, Leclerc, St. Pierre, O'Donoghue, Long, Trisciani, Curry, Harrington***

Chairman Harrington closed this public hearing and it will be taken up at the next business meeting.

2. **SP2020-005**

**Property located at 310 Second Street (Tax Map TPK3, Lot 60), a site-plan application to change the use for a landscape yard with retail sales, in addition to a tree service company, and associated site improvements in the B-2 Zoning District. *Joseph M. Wichert, L.L.S. for James S. McDowell.***

Joe Wichert appeared on behalf of James McDowell who owns what is currently known as Lot 60 on Tax Map TPK3. Currently it is about a 2.7 acre parcel of land that previously had a building on it which burned down sometime in the mid 1990's. The property has been vacant for about 25 years. For all of that time and prior to the rear of the property was used as a stockpile by DOT when they were doing some highway work. It was used by Audley when they were doing some construction work. Right now Bedford Tree Service is in there. There is an area that shows on the back of that plan where those stockpiles are.

Mr. Wichert showed a plan of what they originally presented and said in the interior of this property there are a series of concrete block walls that kind of ring the area. That is a secondary use that was historically used throughout the years by various tenants. Currently it is OMS, LLC, which is a landscaping firm, so they had bark mulch, stone and all those type of materials were there. What has driven this application is the principal of OMS, Ken Marier, who used to be involved in the landscape operation on Eddy Road. He is no longer involved with that operation and he went out on his own and now he would like to be able to sell the material. What they originally proposed was a throughway coming in from the south heading east going north by the bins and going out to the west. That was their intent. There is currently a construction trailer and one of those cloth tent garages and they were going to relocate those to just north of the southerly access aisle and they were going to leave the middle of the site vacant for storage and equipment. During the review process it came to light that any kind of business has to have permanent plumbing and water fixtures so their proposal was similar to what was on Eddy Road, but that is not allowed for new construction.

Mr. Wichert said they had to regroup and go through this. This is kind of a substantive change for both the applicant and for staff. He assumed they will get tabled to the next hearing and if needed he said they can talk through this.

Mr. Wichert said they changed the process and instead of going south to north the traffic flow will now go north to south. Because they had to put a permanent structure in there, Mr. Marier wanted to centralize the location of the building so they put that in the center of the lot. It is a 14x24 building and then they have a 14 foot overhang in the back. The bin location will stay the same. The southerly row of parking spaces will stay the same with the exception that they moved the tent garage so it is up against the block wall. The reason they did that is because there is a tall monitoring well there. Originally they were going to reconfigure the monitoring well but if they go in this location they don't have to.

Mr. Wichert said the intent of this proposal is they would be allowed to do retail, continue to use it for stockpile and hopefully it will clean up the area some. As part of this process, because they abut the north branch and south branch of the Piscataquog River they are aware of and are in the process of a shoreland permit. He said they actually pulled the shoreland permit back after they had this change on the building because their original application did not have a permanent building in it and now this one does so they wanted to make sure the Planning Board had a chance to review this and weigh in.

Mr. Wichert said as part of this application they are asking for a waiver on the landscaping plan as well as one for land grading, slope control and surface water drainage. On the original layout, DPW supported that waiver request. They are waiting to hear back from DPW about the amended plan and whether they would or would not support it.

Mr. Wichert advised one of the other changes from the first to the second set of plans is the first set of plans, because of the previous tenant, it was sort of like packed earth so when his crew was out there pavement wasn't visible it was all dirt. Mr. Marier over this time has been working to clean up the site and make it more presentable and functional so he has swept that parking multiple times and there is actually an area of existing pavement that was covered up with dirt. This proposal, although it has more total lot coverage has actually less new asphalt proposed. The new asphalt in this proposal is just going to be for the parking spaces on the south and then there was some existing asphalt they put in late last year after they did the survey up against the bin so they are including that so it is accounted for and adjusted onto the numbers. They hope the Board feels this proposal has less asphalt is instead of having vehicle traffic going all the way to the back, which would have to be on pavement, they only need to have enough where they put the bins so they are not digging up dirt when they scoop the material. That still leaves the center of the site behind the building for equipment and material storage.

Mr. Wichert advised they found out on Tuesday relative to the use is whether or not the contractor's yard/stockpile use was considered grandfathered. They had been operating on the assumption that it was grandfathered and allowed. He believed they found out on Tuesday that a determination was made that it was not grandfathered. That part of their application and what that does to them is not clear right now. His intent for not tabling earlier was to make sure that the Board saw that and they could take any comments or input.

Ms. Trisciani found it puzzling that a landscaping company who is opening a retail location would not want to put together a landscaping plan. If they are going to be having customers coming to the site wouldn't they want it to look very inviting and kind of showcase some of

their work. Mr. Wichert did not think they were opposed to landscaping. They were asking for a waiver of the requirement to have a stamped landscape design. He said over the last month or so they have tried to get rid of a lot of the overgrowth that sat in front of the block walls. There is a green area that sits east of the sidewalk and west of the walls and they are not opposed to doing something there. Because this is a relatively small scale project they are hoping they would not have to get a landscape architect designed plan. Ms. Trisciani said it would go a long way for her on that point if she could see some ideas they have and conceptually how this is all going to come together.

Ms. Trisciani asked if the parking spaces are only going to be for customers. She did not want to see this lot turned into storage for unused equipment or things like that. Mr. Wichert said currently he has 4-5 pieces of equipment already on this property. Prior to this tenant the other tenants had similar amounts of equipment. The only customer parking would be in the paved area adjacent to the building. On the south would be for employees and equipment storage along with the area out back. Depending on the time of year and what he has out there, a lot of his employees won't ever come to this site. If he has a couple supervisors that are going to come to the site they login in the morning they get their assignments then they go to the jobsite. Most of the laborers will go directly to the jobsite. In the off season the only difference will be that there really won't be a retail component from October-March because no one will be buying landscaping material. At that point in time he said there will be stockpiling of plows and things that he has done in the past and what the previous tenants have done. As such, there will be some storage of equipment on site.

Ms. Trisciani said she would be more comfortable in their next iteration to get a little more visual of what that's going to be because she would hate to see it look like a construction horrible disaster zone when the landscaping business isn't open.

Alderman Long confirmed with Mr. Wichert there was a third waiver for a traffic impact letter. Mr. Wichert did not believe they met the threshold for needing the study.

With respect to lighting, Alderman Long asked if there is a lot of added lighting. Mr. Wichert said the intent is the lighting will stay as is now. He said currently there is a wooden pole next to the trailer and he thinks there is a light on that pole. Because that pole is sort of a temporary pole, when they connect the building they can come up for something for the next time around but he was envisioning they would end up putting some wall mounts on the building.

With respect to security, Mr. Long asked if their fences are locked. Mr. Wichert said at this time they are not. He hasn't had a ton of problems. The concrete block wall is probably only 2-3 feet so basically somebody could hop over it if they chose to and there would be a chain across the entranceway so a pedestrian could get in.

Mr. Leclerc asked what they will be selling there. He asked if they were going to have trees and shrubs in an area where people can stroll through and pick things out. Mr. Wichert believed the majority of his business is the material. From March to June he envisioned that maybe he would have some plants or small trees on site. When you get behind the building that area was supposed to be dedicated for employees, not the public, so he didn't think they

were looking at having the public walk out back where they are running loaders and an excavator. Any kind of material that would be sold would probably be adjacent to the building. This is a pretty small area so he was not envisioning a large inventory but he said he could confirm.

Mr. Leclerc asked if Mr. McDowell owned this property and just took it over. He asked why he didn't go before the Board a long time ago or at least get permits to use the property as such. Mr. Wichert said that was a good question, but he could not answer. Their position going into this was the use of the back for stockpile and for the wholesale storage of materials was grandfathered and up until Tuesday he was working under that assumption. Being honest, he thought that was the reason why there was no permitting done prior because no one was aware that there was permitting needed. He believed the position was that a contractor's yard would require a variance in this district.

Mr. Leclerc asked who owned the property to be able to say Audley could put stuff there, etc. Mr. Wichert said McDowell owns the property. What they originally thought was the change of use that was firing up the need for site plan approval was adding the retail component for the landscape firm, OMS. Mr. Leclerc asked if Mr. Marier was going to purchase the property. It was Mr. Wichert's understanding was it is a lease for now.

Mr. Golden said with the revision to this plan none of the technical review agencies have been able to provide comment on it so they would like to keep the hearing open to provide them the opportunity to do so.

Ms. Goucher said it was her understanding that the individual who is running this landscaping business had his main headquarters over in Goffstown and that there wouldn't be trucks here onsite. She heard Mr. Wichert say that the intention was there would be trucks on site because the workers would go there to pick up trucks and in the winter there would probably be snowplows on the site. She asked what was going on with the Goffstown business that he is going to now do some of that activity out of this location. She also inquired about the access the State has across the property. She understood it was not a specific area as far as where their access is, but asked how the State would get across with the concrete wall there. She asked if they would be coming in from along the southerly edge of the property to provide access. She also said Mr. Wichert mentioned some grandfathered use on the property. She said staff had a discussion with the Director earlier in the week and it was his opinion that you can't grandfather a use that never had any legal rights or occupancy to operate. She thought what may have happened as was mentioned earlier is there has been tree cutting and clearing and stockpiling for quite some time and it was always associated with the work the State was doing. She wasn't sure anyone knew when it transitioned from some tree clearing relative to the State activity into a private tree operation business onsite. She said it might have just kind of morphed without anyone realizing it was no longer activity that was associated with the DOT for example. That is partly why the decision was made by the Director that you can't grandfather something that never had permission to be there in the first place. Mr. Wichert said he was unaware about the other facility in Goffstown so he would have to talk to Mr. Marier and get back to her on that. He believed when Mr. Marier was involved with the Eddy Road operation, their main facility was in Goffstown. Mr. Wichert said he didn't know if there had been a change in Mr. Marier's status from when staff talked

to him to now, but he will address that when they come back. With regard to trucks, Mr. Wichert said he can't put all his equipment on this little site so it is not going to be his only site as far as equipment storage. Much of the pick-up trucks, the small dumps and that type of equipment are his supervisors' company vehicles so they take those home. Now they are looking at the excavator, the loaders and the dump trucks and some of those are here, some of them will be in and out and some of them just usually stay on jobsites. He said he would try to get more clarification on that. Mr. Wichert said the State access is basically going to stay the same. South of the concrete block walls is where they are showing a gate. They are showing a silt fence for DES for the shoreland permit so that silt fence is a temporary measure. When the site is paved and everything is stabilized that silt fence will go away. The current way the State gets to the back of the property is through a gate on the east side up against the highway that DOT uses. They come in through the south, they come in through that gate and they go right down there and that won't change. Ms. Goucher asked if they would come in off of Second Street. Mr. Wichert said they are going to come in off of Second Street, but currently there is a large curb cut there. He said there will be two driveways on one curb cut. They are going to more or less come in on the existing curb cut on Second Street and instead of going left to get into the landscape facility they are going right through that first gate and then they can access the highway, which is the same way the tree clearing company accesses their area.

Chairman Harrington advised he was there this afternoon and it is an abomination what's going on there. He said he was not in favor of granting any of the waivers. They really have three curb cuts, the dog entrance then there is the roadway that leads to the guys that do the logging then there is landscaping curb. It's not really a curb, it is just wide open. He said he wanted to see a whole. He wants to see how this property should be laid out properly, how the traffic flow should be done taking into consideration the two other businesses that are there. Mr. Wichert asked what two other businesses the Chairman was talking about. He said the dog park is not on their property. The Chairman said he understood, but the curb was there. He said if he was looking at this in its total you would be seeing basically three entrances right up against each other. He understands it is not part of their property, but there to be three curb cuts that close together would not meet their codes. They are there now because there is an entire open street. There is not even curbing there, it is just a wide open mouth. Mr. Wichert said that was correct.

Chairman Harrington said he would like to see a landscaping plan, a traffic study detailing how the trucks are going to flow in and out of this property and how they are going to affect Second Street. He was not sympathetic for this particular operation at this location under the current way under which they are operating, which to him is ridiculous, especially given the fact that the park is right across the street, which the City spent a ton of money on and got grants and tried to beautify this area a little bit and then they end up with this.

Mr. Wichert explained there is very area that they are talking about that is practicably speaking going to be landscaped. It would most likely be in front of the block wall. The north end of it has some asphalt and has sewer easements on it. The south end of it is the access for DOT and the tree company and the pavement for the dog park is probably within a foot or two of the lot line so there is really no area in there that they necessarily have the ability to make a green strips. That is one of the reasons why they were asking for the waiver

on the landscape plan because the site for all practical purposes is already disturbed and there. He understood the frustration but from a practical matter, this isn't a site where they are going to look at and say "we're going to come back and this site will be 180 degrees different" because he doesn't think that is an honest statement. If it was going to be 180 degrees different it would have been 20 years ago when they had it approved for a restaurant and it was opposed by people involved with the City and that is why it sat there. In a better world, they are trying to make some incremental change to get to a point. When they talk about truck traffic onto Second Street he wasn't even sure the tree service would have five a week and DOT is an as needed basis. They were taking the position that they were only going to account for the increase in traffic on the retail use. That is how they looked at it when they submitted that and that is why he thought if they would look at it from that perspective he didn't believe they hit the threshold for needing a traffic study. He said if the Board wants them to clean up the traffic pattern or flow that is something they can look at and see what they can come up with.

Chairman Harrington asked if the building was the trailer that is there. Mr. Wichert said trailer is going to be replaced with a building. What they have at the Eddy Road facility is a small white building with black shutters on piers. It is not going to be a large ornate building. The Chairman confirmed with Mr. Wichert it will be connected with water, sewer and power.

Mr. Curry said it seemed the only reason they are doing the retail is so they can maintain the wholesale construction site. Mr. Wichert said that was incorrect. The whole reason they are calling this a change of use site plan is because they were working on the assumption that they had a grandfathered use for the contractor's yard and they wanted to add a retail component to it. That, in their mind, was the only reason they were in front of the Planning Board.

Ms. Goucher said there was never a landscape operation such as what is there currently to even be grandfathered. Most of what was there was the tree clearing operation that was generally tied in with the State and the activity the State was operating. She understood Mr. Wichert had a different opinion about what they were doing coming before the Board, but for clarification there isn't something to give them "rights to remain" because it hasn't gone through the Board whether it is a retail use, which is what staff last understood it to be because the contractor's main facility was in Goffstown. If it is morphing more into a contractor's yard then they are potentially talking about variances because that use is not permitted in this zoning district. She thought they needed to have some discussions. Mr. Wichert said he hoped they could be tabled date certain either the business meeting in June or the public hearing in July and that would give them enough time to work through this.

Chairman Harrington turned the hearing over to the public. Ms. Bixby advised no emails or voicemails had been received.

***Rollcall vote in favor of holding open the public hearing of this application: Boyle, Lussier, Leclerc, St. Pierre, O'Donoghue, Long, Trisciani, Curry, Harrington***

Chairman Harrington advised this public hearing would be held open to June 18, 2020. No further notice to abutters.

3. **SP2019-018**

**Property located at 785 Goffs Fall Road (Tax Map 871, Lot 1A), a waiver request from the Special South Willow Streetscape Plan to allow for a freestanding sign with an area of 200 SF where 32 SF is permitted and a height of 35 FT where 6 FT is permitted. *MHF Design Consultants, Inc. for Irving Oil Marketing, Inc.***

Nicole Duquette of Greenman Pedersen, Inc. appeared on behalf of Irving Oil Marketing, Inc. Also present was Brad Pernaw from Granite State Convenience. This is really a site plan amendment just for the signage. The site is currently under construction and very close to being opened. They would like to increase the size of the sign. They are not looking at changing the location of the sign. The intent of the sign will remain the same. The reason they needed to come back for a waiver was due to this being within the general business district. She explained you are allowed to have a 200 SF sign in area and a 40 foot high sign, which they would comply with. However, there is almost an overlay on this called the Special South Willow Streetscape Requirements. They are just barely within that corridor for the special requirements on South Willow. Within those plan requirements, the sign regulations are reduced to 32 SF and a 6 foot high sign. Prior to construction there was a sign out there that was 160 SF and 25 feet high. They are proposing a 200 SF sign, which would be compliant with the underlying district, and the sign height would be 35 feet high. They are seeking a waiver from the requirements of the Special South Willow Streetscape requirements as many of the signs in the area already do not conform to this requirement including a potential future competitor to this site. In order to be a viable competitive site the facility needs a sign that is consistent with the neighborhood. She advised the Midas sign has an overall height of 46 feet. Down the street at 1932 South Willow Street the sign has a height of 32 feet 10 inches and this is somewhat similar to the square footage of their sign. Autofare down the street has an overall height of 56 feet and Quirk Chevrolet has an overall height of 48 feet. There are various others that have well over 40 feet within the area. They feel this is consistent with the neighborhood properties even though it is not meeting the Special South Willow Streetscape plan requirements and they feel it would be a disservice to their client to have to maintain those special requirements where the neighboring properties and competitors aren't required to do the same.

Alderman Long asked if the other signs she showed were within the Special South Willow Streetscape area. Ms. Duquette advised the majority of them were. There are a few that are right on the border. Alderman Long asked about the Shell sign. Ms. Goucher advised that was in the South Willow Streetscape area. She thought a couple of the ones Ms. Duquette showed were probably permitted prior to the implementation of the South Willow Streetscape overlay. The Shell was definitely after the overlay had been put in place but she thought Autofare or Toys 'R Us may have been permitted to that requirement, but she was not positive.

When they originally looked at this site Ms. Trisciani believed they had already done a waiver because the current sign that was there was larger than what is approved for that zone. She asked what point they decided that sign was not going to be large enough and that they were going to come back for another waiver on this. Mr. Pernaw advised he was part of the Common Man Roadside family and they operate under Granite State Convenience. They inherited this deal from Irving through an assignment of lease and the site plan had already

been submitted and approved without any input from them and in order to maintain construction schedules and development timelines they came back solely looking at changes to the building to make sure they could operate it the way they were. As development continued they started to focus on signage and were concerned that given the prominence of all of the neighbors and some of their competitors relative to what they had that they wouldn't be visible enough and they wanted to come back and ask for a re-look at the original waiver.

Chairman Harrington asked if they felt they would be at a competitive disadvantage by not having a sign this large on that strip. Mr. Pernaw agreed and said when you see the size of the signs across the street from them, right before them and right after them he felt like the existing sign that is permitted would not be visible enough or prominent enough.

Chairman Harrington asked if it was just the size of the sign they are proposing that is changing. Mr. Pernaw said it was primarily just size. There are very strict brand standards from Irving. Ms. Duquette advised the Common Man logo changed from the original application. Mr. Pernaw advised it said "TBD" on the original application. The number of price signs might have changed, but the structure of the sign did not.

Mr. Kaw-uh said it appeared the sign might be underneath or close to the powerlines. He asked what the height was of those powerlines. Mr. Pernaw believed the powerlines were greater than 40. The sign was surveyed by Sousa Sign as well as another sign company and there is no interference with the powerlines at 35 feet. They meet all required distance clearances.

Mr. Leclerc said the building was looking really nice and is definitely an improvement to that corner. If they were worried about visibility he didn't think a sign was going to matter because that building is right there on the corner nice and visible and it is probably the nicest looking building right around there. He honestly didn't realize the height of those signs just living in the City his whole life. He understood how the competitors' signs may affect yours and you might have a disadvantage, but he didn't agree with that. Given the location and the predominance of the building on that intersection he didn't think they would ever have an issue with visibility. In looking at the gas station they consider their competitor, they're kind of hidden behind the restaurant. He didn't think it was necessarily a detriment, but he understood why they would want to ask.

Ms. Goucher thought the Key Auto sign that was approved originally and which the Board supported when this project went forward originally was 25 feet in height. Ms. Nazaka didn't have the exact square footage of the Key Auto sign in front of her, but she had the signage that was approved by the Planning Board in 2018 for this. She confirmed that the design is the same as what they are proposing this evening. It had an overall height of 22 feet and overall area of 127.5 SF in area.

Mr. St. Pierre said the sign they are asking for is significantly larger than what is allowed by the Ordinance and he was curious why the signage in that particular area of South Willow Street is required to be so small. Ms. Goucher said there were two prongs to the special streetscape requirements. One was trying to minimize the size and visual clutter of signage in general for re-development, and the other set the 25 foot landscape width, which is

significantly greater than the setback distance for landscaping in the rest of the commercial zone on South Willow Street. The businesses that went in after that section was adopted adhered to that 25 foot setback for the landscaping, for the most part. She knew that Valvoline across the street from the site has a sign that conforms to the South Willow Streetscape standards, but she thought most of the others were waived to a certain degree. She didn't know that any of them in that area were waived to be 40 feet in height. She did not think Olive Garden and La Carreta were actually 40 feet high but they are definitely higher than the six feet allowed. The answer to Mr. St. Pierre's question was the Board was hoping they wouldn't have as much sign clutter as what is on the north end of South Willow Street and they were hoping that as redevelopment occurred, signage would be somewhat toned down.

Ms. Trisciani stated that the building looked fantastic and everything they have done there is great. She agreed with Mr. Leclerc that visibility is going to be their issue. She asked if they tried to mock up the sign at the site the size that was approved to look at it from different angles and see. With their canopy on the gas station she thought their location was prime. They have fairly easy access in and out, probably easier than the other gas station up there. Mr. Pernaw said they did. He said if they have driven by recently they would see how tall some of the trees are that they have to maintain in that area as well. Between his team, Irving's team and their sign vendors they came to the conclusion that raising the sign up taller will have an impact to their operation. He appreciated the comments on the building and said they are trying really hard to do something nice looking, but at the same time they feel the height of this sign also has impact so people driving down the road can see "Irving" as well from a fuel standpoint.

Ms. Nazaka advised the Key Auto sign was 25 feet in height.

Chairman Harrington turned the hearing over to public. Ms. Nazaka advised nothing was received from the public. Ms. Bixby advised no emails or voicemails were received from the public.

Chairman Harrington brought the hearing back to the Board.

The chairman advised there was sufficient information to close the public hearing and it would be deliberated at the business meeting tonight.

4. **CU-01-2018**  
**Property located at 55 Edward J. Roy Drive (Tax Map 645, Lot 34B), a remand of a conditional-use-permit application to allow the use of automotive service station in the B-1 Zoning District. *MHF Design Consultants, Inc. and Z-1 Express for Victory Distributors, Inc.***

**SP-01-2018**  
**Property located at 55 Edward J. Roy Drive (Tax Map 645, Lot 34B), a site-plan application to construct a retail motor fuel outlet with 6 fuel dispensers / 12 fuel pumps and a 6,500 SF building, including two fast-food restaurants and convenience store with onsite parking, loading, landscaping, and lighting in the B-1 Zoning District. *MHF***

***Design Consultants, Inc. and Z-1 Express for Victory Distributors, Inc.***

**S2020-006**

**Property located at 55 Edward J. Roy Drive (Tax Map 645, Lot 34B), a subdivision application to subdivide one lot of approximately 7.4 acres into two lots of approximately 3.9 and 3.4 acres in the B-1 Zone. *MHF Design Consultants, Inc. and Z-1 Express for Victory Distributors, Inc.***

Attorney Roy Tilsley of Bernstein Shur appeared on behalf of Z-1 Express, who has been authorized by the property owner, Victory Distributors, Inc., to file this application. He believed he was joined online with one of Z-1's principals, Jack Naser, as well as Nicole Duquette and traffic engineer Rebecca Brown from GPI.

Attorney Tilsley advised they have three applications before the Board tonight. One is a conditional use permit from 2018. The conditional use permit is to allow the gas station portion of this convenience store, restaurant and gas station project. This case was remanded to the Board by the Hillsborough County Superior Court. They are seeking a conditional use permit for an automotive service station in the B-1 zoning district. There is also an overall site plan for the project, also from 2018. That was never voted on by the Board during the 2018 process. It had been tabled on a long term basis as a result of the ongoing appeal of the conditional use permit. There is also a subdivision application, which proposes to subdivide the property into two lots. It is a new application with a 2020 date. It is essentially the same subdivision application, which the Board approved in 2018, but again because of the appeal they did not move forward with the subdivision while they were litigating the conditional use permit so they could request subdivision approval yet again.

Attorney Tilsley said they have made some changes to the project since they were before the Board in 2018 and also as recently as the last few days. Despite the application saying they are seeking sixteen gas pumps, they have reduced the gas pumps to one row, which basically has six pumps or twelve filling stations. They had previously requested sixteen filling stations within two rows. They have pushed the 6,500 SF convenience store with fast food, likely a coffee shop and deli, further back on the site to further buffer it from the neighbors. They have decided that they will limit their operating hours both for the store and the gas pumps to 11:00 PM. Originally, there had been some discussion about allowing the gas pumps to remain open on a credit card basis 24/7. They are withdrawing that request and are only seeking approval through 11:00 PM.

Attorney Tilsley there were a couple overarching principals he wanted to remind the Board of. This property is commercially zoned. The abutters' comments that he reviewed speak a lot to this proposal not being consistent with a residential neighborhood. This property is not zoned residential. They could not build a single family home here if they wanted to. It is zoned neighborhood business district B-1. It is a commercial property. Although it abuts residential uses, it is not a residential property. An automotive service station is an allowed use in the B-1 zone as a matter of right provided they meet the conditions for a conditional use permit. This is not a case they are asking to do something that is completely disallowed in the zone. They are not asking for a variance. Gas pumps automotive service stations are allowed provided they meet all of the conditional use criteria, which they will show that they do. It is

also important to remember that the convenience store and the two restaurants are an allowed use in the B-1 district. Their conditional use permit application only concerns the issue of the twelve gas pumps. As he read the many abutters emails, phone calls and comments, much of the opposition is focused on the whole package of the convenience store, the restaurants and the gas station. When looking at the conditional use permit, he asked that the Board please keep in mind the only issue is the gas pumps; not the store or the restaurant.

Since they were before the Board in 2018, Attorney Tilsley said this Board has approved an extensive expansion of the Dartmouth Hitchcock campus located off Edward J. Roy Drive. This expansion will add more traffic to the road than what they have proposed. He didn't recall during that process there being as much concern about this additional traffic as there is with them. He reminded the Board that their application was filed before the Dartmouth Hitchcock application so they cannot hold that traffic against them. More importantly, because their application was pending when Dartmouth Hitchcock filed theirs, their traffic studies included all of their projected traffic. In fact, at the higher rate of sixteen pumps rather than twelve pumps. Dartmouth Hitchcock's mitigation plan in terms of changes to the various intersections in the area, which again, this Board approved all were based and included the proposed traffic from their proposed convenience store, restaurants and gas pumps. Essentially, in approving the Dartmouth Hitchcock project this Board has already signed off and approved their proposed traffic. They have already determined that the roads can handle their traffic because it was included in the study that Dartmouth Hitchcock gave to the Board who approved their application.

Nicole Duquette of Greenman Pedersen, Inc. appeared on behalf of Z-1 Express. This is a 7.4 acre commercial lot within the neighborhood business district along Edward J. Roy Drive. She referred to the site plan and pointed out the location of this site. Across the street is Carlton Place Apartments and behind that is Wellington Estates. Next door to the north is Stone Terrace Condominium aka 245 & 265 Edward J. Roy Drive. To the east is Dartmouth Hitchcock. It is in the neighborhood business district; however, it is surrounded by residential so they have the residential suburban multi-family district both to the north and to the south. To the west is the land that has the TV access road to a radio tower in the back. To the west of that is land owned by NHDOT.

Ms. Duquette said this property is basically a big hill. The center of the property is the highest point at about elevation 390 and then it drops off on all sides. It drops off to about elevation 354 towards the north corner of the site. Some of the restrictions they have on the site is a wetland known as Humphrey Brook and a wetland finger from the site going into it. There are two culverts that cross Edward J. Roy Drive that contributes to this brook. There is a smaller culvert in the middle of the site and then a larger culvert towards the eastern part. There is a 100 foot Eversource easement in front of the property and that weighs heavy on how they decided to develop this property because within the easement they are restricted to what they can have in that easement and the amount of encroachments they can allow in that easement.

Ms. Duquette advised they did a Natural Heritage check for this site and it was determined that although there was a record in this site, the Natural Heritage Bureau did not expect that there would be an impact to any rare wildlife plant and/or natural community for the

development of this site.

Ms. Duquette advised they were before the Board for three applications. One a subdivision application, a site plan application and a conditional use permit. The subdivision application is to subdivide the 7.40 acre lot into two commercial lots; one being close to four acres and one close to being three and a half acres. They reason they had to reapply for the subdivision application is because Jack Naser from Z-1 express did not want to file the subdivision for this unless he had an approved site development for the lot. That is why the subdivision application approval expired. They are back here today to ask for not only the site plan application approval but the subdivision approval as well.

For their site plan application, Ms. Duquette advised they are just focusing on the left hand lot, the Z-1 Express lot that is almost four acres. The other lot they will have to come back to the Planning Board in the future and go through this process again. They have allowed for a shared driveway to limit the amount of curb cuts along Edward J. Roy Drive so they have provided both a shared access driveway and utility easements to the second property. In the future they have provided stubs on their plans for that property so no additional curb cuts will be needed in the future if that second lot is developed.

Ms. Duquette advised they are proposing a 6,500 SF convenience store with a fast food restaurant. With this they are proposing 29 parking spaces with two accessible spaces up front near the doorway and a six island or 12 fueling location fueling area with UST tanks. This is a reduction in the previous site plan that was submitted to the Board. The applicant really tried to hear what some of the concerns of the abutters and Board have been and has tried to, within his means, reduce the development footprint in an effort to help appease the situation. It used to be 16 fueling stations or 8 islands. This has been reduced to 6 islands or 12 fueling locations. The fueling area had a double row of dispensers. They have cut that down to a single row so they can reduce the amount of development impact to the rear of the property and shift the development. Without shifting the development further on the site they have increased the separation to Stone Terrace Condominium in the back and shifted the site about 20 feet towards Edward J. Roy Drive without moving that front development line of pavement. This creates a reduction in pavement and increases the distance to Stone Terrace Condominium. Because this is a commercial entity abutting a residential district, there is a requirement for a limited activity use buffer of 50 feet. This is required for any type of things that could be noise or fumes or that sort of nature so any vents to mechanical units, dumpsters or intercoms. It is not limiting buildings. As such, not only have they kept out of that 50 foot limited activity use buffer, their building is approximately 175 feet from the property line to the north. Some of their plan restrictions had to do with the Eversource easement. They are required to not have any structures within this easement besides light poles. They are allowed a very minor encroachment of pavement and no parking spaces within this easement. That is why they have only shown minimal encroachment into that easement and that basically set the front line of this -development.

Ms. Duquette advised that although this district allows lot coverage of 85 percent is allowed the applicant is only proposing to have lot coverage of 35 percent; the rest will be green space. The driveway location was determined by a recommendation of DPW. It was recommended that the driveway be directly opposite the eastern Carlton Place driveway. They are

requesting a waiver with that driveway to allow for emergency vehicles to access the site. They have provided the required turning radius, the curb lines, curb radii into the driveway or approaches into the driveway to allow all emergency vehicles to access and exit the site. DPW is in support of this waiver.

Ms. Duquette said another thing that was added the last time they were before the Board was the addition of a six foot high stockade fence in the rear of the property to help buffer any light that would come from the vehicles circling the site.

Ms. Duquette advised the number of fueling stations typically in a store with a drive-thru you would see less fueling locations and that's for the main reason because people can fuel and then go through the drive-thru. Without a drive-thru window people stop at the pumps and go into the store instead of parking in front of the store. As a result, that limits the amount of usable fueling locations. It is not about how many he can get in and out, he doesn't want to have people waiting and stacking at those fueling locations because someone is going into the store. This leaves pumps available for that situation.

Ms. Duquette advised they are proposing a sidewalk from the store down to Edward J. Roy Drive. She spoke with Todd Connors from DPW today and they are trying to work out a connection. At first they were going to do a crosswalk from their driveway across the street directly opposite their site; however, they are working out different situations which may include either connecting to Wellington Road or connecting to the crosswalk at Stone Terrace.

With regard to stormwater management, Ms. Duquette said there is ledge so the site was graded to reduce the amount of blasting they are proposing on the site. They have done test pits all over the site so they know the ledge elevations and it varies completely depending where you are on site. They know they are filling enough to not blast for the foundation. There will be some blasting when it comes to the underground storage tanks, which are towards the front of the site and there will be blasting for the driveway. The reason for that is because with the power lines they have to keep a separation between any delivery trucks or emergency vehicles and the sag of those power lines. That has been thought out and worked out with Eversource. She said they are trying to dip the driveway down so they have more than sufficient separation between those power lines and top of the maximum size truck that could enter the site. That is why they will most likely have blasting in that area to allow for the drainage structure that is in that low part of the driveway. They may have to do some jackhammering for the utilities towards the rear of the site.

Ms. Duquette advised that because this disturbs over 100,000 SF they are required to go by the NHDES AoT regulations. Some of the things that are required to comply with those regulations include pretreatment, treatment, groundwater protection and groundwater recharge. There are special provisions for sites that have fueling areas. What they have done is separated the site into areas so the fueling areas aren't connected grading wise to drainage. This includes the canopy cover but she didn't want to shade that area as the area underneath the canopy grades to another location. Just the canopy, the area to the west of the building, a portion of the site in front of the building and the roof drainage will all drain into a deep sunk catch basin and go into an underground stormwater infiltration system. This will have an isolator row, which they provide for pretreatment before it is infiltrated into the groundwater.

They have sufficient depth to ledge in this area so they are maintaining their separation between the bottom of the infiltration system to the groundwater to provide the treatment needed for recharge. This provides the recharge volume that is required by the State. They can't do that for the rest of the site. The rest of the site will be captured by deep sunk catch basins with oil/water separator snouts and that will provide some pretreatment although they are not allowed to count that as pretreatment, but you will get settling of sediment and separation of floatables within those deep sunk catch basins but that has not been included in their design calculations. What has been included is a 2,500 gallon oil/water separator which will collect all the water from the site and allow the water go through for the two and ten year storm. This will allow any floatables or sediment that's on the pavement that isn't separated out by the catch basins first to be collected in this unit. This is one of their pretreatment devices on this site for this area. This oil/water separator goes to a line sediment forebay and bio retention area and that liner is required by the State for sites with fueling areas in them. The sediment forebay provides the rest of the pretreatment that is required. It will allow sediments to settle again and then it will be conveyed with an overflow spillway to the bio retention area. This is what you hear as bio retention areas or rain gardens so it will be planted basin with filter media. Because they have that liner they will not be able to infiltration in this and they will be collecting the water underneath the filter media with under drains and that under drain will outlet treated water to the swale in the back of the property.

Ms. Duquette advised the second waiver they are asking for is for a slight increase in the two year storm. They have done this because they felt it was more valuable for this site to reduce the peak flow in the larger storms. This has been talked over with Ridge Mauck at the State and, although they have not gotten an approval yet, through preliminary discussions with him, he is in approval of what they are planning. There slight increase in the two year storm they are talking about 0.2 CFS. They are looking at a decrease in the ten year storm of 0.4 CFS. In the 50 year storm they are looking at a significant decrease of 1.1 CFS. They know that the brook and the culverts that are onsite are sufficient size to handle that .2 CFS increase in that smaller storm and the brook will have more capacity in the larger storm events.

With regard to utilities, Ms. Duquette they are proposing to connect to the municipal sewer just over the property line on the north, which is encompassed by easements. They are providing a stub for the future lot to tie into for that sewer stub. The water line would come off a municipal line in Edward J. Roy Drive and a connection stub would be made for the proposed future development so no further trenching within the pavement would be required. Natural gas, electric, telephone and cable will also be underground and come from Edward J. Roy Drive.

With regard to landscape, Ms. Duquette advised on the front there are some street trees and then there is a little bit of a gap until the site. They are not allowed to have trees within a certain distance of the power lines, which is why they kept the gap in the property. They are proposing Freeman Maples in front of the site as street trees and landscaping with low shrubs around the proposed monument sign. They are also proposing a snow crab apple tree at the entrance of the driveway so closer to the fueling canopy and black tupelo around the rear of the property. There are more Freeman Maples within the sides of the property as well. The bio retention planting consists of native plants; native dogwood, American cranberry bush and the bottom will be seeded with a New England seed mix.

Ms. Duquette showed the lighting plan which showing the intensity of the lighting on the site. None of the lighting at the property lines is less than 1 or closer toward the 0.12 at the property lines or below. Their shared property line with Stone Terrace doesn't even register as having any light encroachment on that side. That represents lighting during operation hours. Most of the poles are very short in relation to commercial development. The ones within the Eversource easement will be 10-1/2 feet high and the other ones within the site will be 15-1/2 feet high. After hours for security and safety reasons they need to keep the lighting onsite. As such, they have dimmed the lights so there will be a lot less light at night. There will be dark areas of the parking lot, but there will be a little bit of a glow so the site is secure.

Ms. Duquette showed photographs of sight lines to the surrounding areas. There are a lot of deciduous trees and she showed photographs of the area both in the spring/summer months as well as the winter. She also showed photographs depicting the elevation change within the neighbor. They created a site line of what individuals would see from the top window of the structures. None of the sites actually see the canopy, which is allowed with a granted conditional use permit. The convenience store and fast food restaurant, which is permitted by right in the neighborhood business district blocks the view of that canopy with its tower. As such, they most likely will be able to see the top of the convenience store, which is permitted by right in the neighborhood business district, but not so much the canopy.

Ms. Duquette showed the architecture of the building. Regarding signage, they are allowed 80 SF of wall signage on the site, which they have split between the building frontage and the canopy. The building frontage would have most of the wall signage with a small little 36 inch diameter logo on the canopy. That is all the canopy will have and the rest will be the white fascia. With regard to the freestanding sign, she said they are allowed a 40 SF sign being 12 feet high and 5 feet from the property. They are proposing a 38 SF sign being 12 feet high and five feet from the property so that will meet the sign regulations for the neighborhood business district.

Ms. Duquette was aware there was a lot of concern on the fueling aspect of this application. She expressed that gas stations are not developed the way they used to be. There are a lot of measures that a developer can use on a site to ensure there is more than sufficient protection of the groundwater and the environment around it. She said Mr. Naser from Z-1 Express has agreed to put all these bells and whistles in his fueling system for this site. There are positive limited barriers or spill containment grooves, which are the grooves in the concrete around each dispenser island. Those can contain up to 5 gallons if for some reason there is a spill from the hose. The dispenser hoses themselves have breakaway couplings (dry break connections) so if somebody drives off with the pump handle still in the car, it will shear away and it will shut off the system. There will be an emergency shear valve if the dispenser is dislodged. Underneath the dispensers they will have an electronic liquid sensor in the sump. Should the product leak inside the dispenser captured in the sump the alarm will go off in the building and the pump will be shut off. Then there is the emergency shut off, which is the manual way an attendant can manually cut all power to the dispensers. As far as the fuel storage systems, there is a leak detection console unit that is hooked up to the tanks. They have electronic monitors that level the gasoline in each of the tanks and can detect a 0.1 gallon

per hour loss of product. If this is detected in the sumps or the double wall space between each tank a high level alarm will go off in the store and it will be shut down. They will have double wall fiberglass tanks, which are made to be explosion proof. There is a space between the two walls that is filled with a brine fluid and it is a freeze resistant liquid solution to contain the tank. The brine in between the walls is monitored with an electronic sensor and that is connected to the console unit as well. All the fuel piping will be double wall. The primary pipe contains the fuel and if there was to be a leak it would drain into the second pipe and slope back to the containment sump and then it would be detected by the same sensor. With regard to filling the tanks, there are manholes around each of the fill tubes that are installed to collect up to 5 gallons capacity in the case there is overflow in the hose as it is removed from the fill tube and this is sensed and goes back to the console unit. There is also a pressurized leak detection monitor, which detects if there is a loss of pressure within the system. If there is a loss of pressure it will shut down the dispensers automatically.

Rebecca Brown of Greenman Pedersen located on South River in Bedford, New Hampshire. She is also a resident of the City of Manchester and she drives through this area on a daily basis. She is very familiar with this area and the traffic that occurs in this area as well. When they were before the Board a couple years ago they provided a traffic impact study for this development. Since that time the Dartmouth Hitchcock project has been approved for an expansion of roughly 80,000 SF of additional development at their campus so they have done a full update to their traffic impact study to account for the traffic that would be generated by the Dartmouth Hitchcock project. One thing that is important to note is that when the Dartmouth Hitchcock study was under review they also included the traffic that would be generated by the Z-1 Express because it was still an open application at the time so the improvements they designed for the intersection of Wellington Road and Edward J. Roy Drive actually included the traffic that would be coming in and out for the Z-1 Express as well.

Ms. Brown advised their original traffic study was based on traffic counts that were collected back in September 2017 at each of the study area intersections along Wellington Road. That is the intersection of Wellington Road with Edward J. Roy Drive; Wellington Road with the I-93 northbound ramps; Wellington Road with Bridge Street with the I-93 southbound ramps and the intersection of Mammoth Road and Bridge Street at the westerly end. When Dartmouth Hitchcock did their study they looked at the same study area intersections that they had done and their traffic counts were done in October of 2017. The traffic volumes they used were slightly higher than the ones that they had collected in September so they updated all of their traffic analysis based on those October 2017 traffic volumes. They also adjusted these traffic volumes to a peak month condition in accordance with NHDOT standards. Based on the nearest count station to this facility it showed that traffic volumes in October are about 4 percent lower than a peak month condition so they grew those October traffic volumes up another 4 percent to represent a peak month condition. They also grew their traffic volumes out to 2021 and 2031 conditions, which represents the 2021 opening year and then 2031 is the opening year plus 10 years for a design horizon in accordance with NHDOT standards. To grow these volumes out they looked at count station data available in the surrounding area, historic counts on Edward J. Roy Drive, Wellington Road, Bridge Street and Mammoth Road, which overall showed traffic volumes are actually decreasing at a rate of about .5 percent per year so they used a conservative 1 percent per year growth rate and

increased the traffic volumes by 1 percent per year to get out to that 2021 and 2031 traffic volume conditions.

Mr. Brown advised they also took a look at crash data at each of their study area intersections. They looked at available data from NHDOT for the last 3 years of crashes that were available on file. The intersections of Wellington Road and Edward J. Roy Drive and Wellington Road at I-93 northbound ramps both had pretty low crashes. The Mammoth Road and Bridge Street intersection was on the cusp with 8.3 crashes per year. The majority of those are rear end crashes that are occurring and most of those are on the channelized right turn movements, which are pretty common for channelized right turns. The only one that was really notable was at the I-93 southbound ramps intersection where there are over 10 crashes per year occurring at that location. Again, the majority of those are rear end collisions and a lot of those are occurring on the ramps as cars are both merging to get onto the southbound on ramp and traffic is coming off of the southbound off ramp. About 40 percent of those crashes are occurring during the morning and evening peak commuter periods, which is an indicator that the traffic congestion on that area may be contributing to those crashes as well. That is an intersection where significant improvements are being proposed as mitigation for the Dartmouth Hitchcock project, which includes widening on the ramps to provide two separate lanes coming off of the ramps and also some reconstruction of the Bridge Street approach to reassign the lanes there where it is currently a shared left through and a dedicated right turn lane. That will be converted into a dedicated left turn lane and a shared through right lane to improve the traffic operations at that location as well. There are also signal timing improvements that are proposed all up along the corridor for better traffic flow throughout the entire corridor. The combination of all of those should help to reduce the crashes at the Wellington Road and Bridge Street intersection as well.

Ms. Brown advised the Dartmouth Hitchcock project obviously was approved since the last traffic study was completed and that they proposed a number of improvements at the intersections as mitigation for their development. Currently is one left turn lane that exists on Wellington Road turning onto Edward J. Roy Drive and to accommodate their traffic they are proposing to remove a portion of the median island along Wellington Road to provide a second left turn lane that would have a storage of about 400 feet. To be able to accommodate that heavy mostly morning traffic that is coming into the hospital and turning onto Edward J. Roy Drive. Those two lanes would extend up a little bit beyond the first driveway on Edward J. Roy Drive into the condo development and then would merge back into a single lane. Coming southbound on Edward J. Roy Drive they are proposing as well to extend the two turning lanes a little bit longer to provide additional storage for the two lanes queueing next to each other. There is also some minor widening proposed on Wellington Road on the westbound approach as just to shift the alignment of the roadway to be able to accommodate that traffic coming through and signal timing improvements and signal upgrades to be able to accommodate those. All of those were included in their no build traffic projections based on the fact that Dartmouth Hitchcock has already been approved.

Ms. Brown said at the I-93 southbound ramps intersection they are proposing to widen out the southbound off ramp to provide a dedicated right turn lane. Right now that roadway is about 20 feet wide and a lot of people use it right now like it is two lanes but it is really only striped for one lane coming off of that ramp so they will widen that out and officially provide two

lanes of storage coming off of that ramp. They will also reconstruct the Bridge Street pedestrian crossing and run that appropriately for pedestrians to cross the road. Although not shown on the plan, they are also proposing to re-stripe Bridge Street for the land use changes mentioned previously.

Now that they projected out what a no build condition would like for their 2021 and 2031 conditions, Ms. Brown advised they looked at how much traffic would their site actually generate. They looked at ITE data for a coffee and donut shop use, a fast food restaurant without a drive-thru to represent the proposed deli and a convenience market with fueling pumps. She referred to a graph that showed what the combination of those uses would generate during each of the three peak hour periods that were evaluated in the traffic study. They looked at weekday morning peak period from 7:00-9:00 AM when most people are headed into work and a lot of traffic is coming into the hospital and then they looked at the weekday PM peak hour from about 4:00-6:00 PM when a lot of people are coming home and hospital employees are leaving then the Saturday midday peak hour as well.

Ms. Brown advised the proposed use will generate a large amount of traffic from pass by activity, which would be someone coming in to Dartmouth Hitchcock who may stop into the facility and grab a coffee on their way in or a resident of the Edward J. Roy Drive neighborhoods that was headed to work and stops into the site to get gas or a coffee on their way to work in the morning. Based on ITE data, a convenience market with gas pumps generates roughly 56-62 percent of pass by traffic, a fast food restaurant is 49-50 percent pass by traffic and a coffee/donut shop can generate anywhere from about 50-89 percent pass by traffic depending on whether or not a drive-thru is provided and the type of donut shop you have. She said they used the most conservative rate for the donut shop. The graph showed a large portion of the trips that would be generated would be pass by trips.

Ms. Brown said there is also another component that wasn't included in the traffic study and that is what is known as diverted linked traffic. That would be someone who would normally be headed eastbound on Wellington Road and they would take a left hand turn onto the I-93 northbound ramps and head up to work in Concord. Now instead of taking that route they would divert their trip and come into the site, grab a coffee or gas, and then go back out and get onto the highway. It could also be someone who lives in this area already who is driving downtown to get gas because there isn't a gas station located here and in the future they would be coming to this site instead of driving along the corridor into downtown to use one of those gas stations instead. She said they didn't take into account those diverted link trips but those could be anywhere from 25-35 percent of the traffic depending on the time period that you look at. Based on this information they show the site would generate approximately 133 new trips during the weekday morning peak hour, 86 during the weekday evening peak hour and 153 new trips during the Saturday midday peak hour. A trip is either one vehicle entering the site or one vehicle exiting the site. Given the type of use proposed here there will be mostly high turnover so people will be coming in getting what they need and leaving the site within a few minutes. Essentially that is showing that they have roughly 70 or so vehicle coming in and out of the site during the weekday morning peak hour that will be new to this area, 45 during the weekday PM peak hour and about 75 during the Saturday midday peak hour.

Ms. Brown advised one thing to note that both Attorney Tilsley and Ms. Duquette mentioned was that the coffee shop, the convenience store and the deli are all by right uses within this zoning district. They wanted to show just by comparison if they were to build a facility that only contained a coffee shop, a deli and a convenience store how that would compare to what is proposed with the gas pumps and what they see is about 60-90 percent of the traffic is generated by just the convenience, coffee shop and deli and the other 8-40 percent is what is generated by the pumps alone. A large portion of that traffic would be pass by trips that are already in this area and they are going to stop at the site on their way to their destination. Based on that, the number of new trips that would be generated by just the fueling pumps alone would be only 9 trips during the morning peak hour and 33 trips during the weekday evening peak hour, which is roughly 1 additional vehicle every 2-6 minutes out on the roadways that would be coming in for the gas pumps. Once they estimated the traffic that would be generated by their site they distributed that traffic out over the study area roadways and they did that based on existing travel patterns since a portion of the traffic that would be generated by this facility would be from trips that are already coming to and from this area. What they saw was that about 8 percent of the trips would be coming to and from Wellington Road to the east, about 22 percent out Bridge Street to the west, 13 percent on Mammoth Road to the north, 18 percent down Mammoth Road to the south, 7 percent only Bridge Street, 13 percent on I-93 north and 16 percent on I-93 south coming in and out of the site. This shows that on each of the study area roadways how much traffic they would anticipate to have during the weekday morning peak hour. On most of the roadways leading outside of their study area they have anywhere from in looking at the lower end of Bridge Street 9 trips during the AM peak hour and if you look at Bridge Street to the west where you see the highest percent of traffic there are 27 trips that would be headed out Bridge Street to the west; so anywhere 9-27 trips or roughly 1 every 2-6 minutes on the study area roadways. This one also showed PM peak hour with relatively similar traffic volumes during the PM peak hour; increases on Bridge Street of 6 vehicles, increases on Bridge Street to the west of 19 vehicles with somewhere in between the two on the other roads. This showed the Saturday midday peak hour with very similar volumes to the AM peak hour as well.

Ms. Brown said another thing they looked at was the sight distances exiting their driveway to make sure the sight distances are adequate to meet AASHTO recommendations. The table up top showed what was actually measured for the sight lines and what the minimum requirements are. Looking out of the sight driveway the green triangles shown as 335 feet looking south to the driveway and 325 feet looking to the north of the driveway is what would be required sight lines to meet AASHTO recommendations. The area shown in red represents 490 feet down to the traffic signal and you can see over 500 feet to the north looking up Edward J. Roy Drive. One of the items that came up as a question was whether the proposed signage for the Z-1 Express would block the sight distances because it is set back only 5 feet from the property line. She pointed out the location of the proposed signage and it is well outside of the sight line triangles that would need to be kept clear of any vegetation that would be over 3 feet in height or any signage that might block sight lines. All of the large trees Ms. Duquette mentioned and the signage area all set well back from that sight distance line.

Ms. Brown said the biggest item of everyone's concern was what the traffic operations look like with the proposed development in place. She said the level of service under the 2021 no build condition would be in the opening year if this project was not constructed what the level

of service and delay look like at each of their study area intersections. In looking at the weekday morning peak hour at all of their study area intersections with the mitigation proposed there is very little increase in the delay at any of these intersections. During the weekday morning peak hour the delay does not increase by more than 1 second per vehicle through any of the study area intersections. All of the study area intersections during the weekday morning peak hour will operate at an overall level of service D or better under the 2021 no build conditions, which assumes that Dartmouth Hitchcock traffic is added in and the improvements that Dartmouth Hitchcock is proposing are also added in that includes the signal timing improvements down the corridor. During the weekday PM peak hour at each of the study area intersections with the mitigation that is proposed none of these intersections are anticipated to increase and delay by more than 1 second per vehicle with the proposed improvements. The intersection of Wellington Road at the I-93 southbound ramps where that intersection is anticipated to operate at an overall level of service E under both no build and build conditions at that location but with the improvements that they are proposing there is actually a slight reduction in the amount of delay through that intersection. During the Saturday midday peak hour all of the intersections will operate at level of service C or better and there is not more than a 1 second increase in delay at any of the study area intersections.

Ms. Brown said the improvements proposed as part of the project at the intersection of Wellington Road and Edward J. Roy Drive are already being constructed as part of the Dartmouth Hitchcock project. When that project was designed it was designed to accommodate the traffic from the proposed Z-1 Express as well because that site plan was still open at the time. They are showing that in the built condition the storage areas they have provided will still be long enough to accommodate those queues even with their traffic added in but the storage area Dartmouth Hitchcock proposed as part of their project along Edward J. Roy Drive coming south was a little bit too short to accommodate the build condition within that right turn lane. They have extended that from the 160 feet they proposed of the 200 feet for that right storage to be able to accommodate the queue that is occurring there. They have maintained the same two lanes they had proposed coming on to Edward J. Roy Drive that would taper back into a single lane just after that first driveway into 50 Edward J. Roy Drive into those condo units. It would taper back into a single lane and then would widen out to provide a dedicated left turn lane into the site and that would allow traffic that is turning to the site to pull out of the through lane and allow that traffic to continue on up Edward J. Roy Drive unimpeded. They are showing a slight shift in the alignment coming southbound to be able to mirror out that left turn lane. They had previously proposed a crosswalk across Edward J. Roy Drive right at the site driveway to be able to get pedestrians across Edward J. Roy Drive to the existing sidewalk on the easterly side of the road and from there pedestrians could either walk down to the Wellington Road intersection or they could go north up to Dartmouth Hitchcock or the residential developments to the north along Edward J. Roy Drive. They have had some discussion with various City staff and they are still working out a plan for whether this will be the location of the proposed crossing or if a sidewalk will be continued down Edward J. Roy Drive to cross them at the signalized intersection or if a sidewalk will be extended further north along the westerly side of Edward J. Roy Drive to cross at the Stone Terrace driveway where this already an existing crossing at that location.

Ms. Brown said to be able to accommodate the traffic they are also proposing some signal timing changes that are slight modifications to what Dartmouth Hitchcock had proposed. The

main difference is actually for the off peak time. Dartmouth Hitchcock had proposed two different timings; one that would accommodate the morning peak hour and one that would accommodate the PM peak hour but they hadn't looked at revisions for those off peak times. She said when they looked at the Saturday midday condition what they were finding was that the maximum green times on all of these approaches were pretty long and as a result of that cars that were headed westbound on Wellington Road wanting to take the left turn onto Old Wellington Road were having to wait a long time for the intersection to cycle around through the other phases to get back to them even though there was no traffic presence on those approaches. They reduced the cycle lengths so the signal could turn over a lot faster and respond to traffic coming in from the various approaches because traffic volumes are a lot lower during those off peak times than they are during the peak morning and evening times when they are trying to accommodate residential traffic headed to and from work and hospital traffic coming in and out for Dartmouth Hitchcock. They found that worked a lot better and they were able to eliminate the level of service that was occurring on this westbound left turn and bring that back down to and E and almost to a D. In addition, they are proposing signal timing changes up and down Wellington Road at all of their study area intersections. They are mostly slight modifications to extend some of the green times to be able to handle the additional traffic and one adjustment to the yellow and red clearance intervals where they didn't meet NHDOT standards.

Ms. Brown said something that was brought up when they were before the Board previously was that there is an existing truck restriction on Edward J. Roy Drive that would appear to prevent trucks from utilizing the roadway. They had discussions previously with Kristen Clark from DPW to determine what the City's guidelines were for those truck restrictions. Essentially, the truck restriction that is out there would limit any vehicles that were more than 26,000 pounds from utilizing Edward J. Roy Drive. She said in the second condition, that does not apply to any commercial vehicle or truck that would be making a delivery or service call on the street and the guidance that they got from DPW was that a fuel delivery truck or a beverage delivery truck would be considered making a service call to the site. As such, those vehicles would be allowed to come in and out of Edward J. Roy Drive to make those deliveries. She said the site is not really designed to be able to accommodate larger trucks. There was previously a concern that with the number of pumps they were proposing and the presence of diesel fuel being provided at the site that they would be attracting a lot of truck traffic off of I-93 that would be coming into the site. It is not designed to accommodate a truck fueling. She showed a photograph of a WB50 coming in and circling the site and coming back out. That would represent the fuel delivery vehicle so there is really just enough space on the site for a fuel delivery vehicle to come in, circulate around, access the fueling pumps and get back out but they would not be able to come in to the canopy. The canopy that is required for a truck to come in and fuel is significantly larger than what is being proposed so if a large truck were to come in they would actually strike the canopy. In addition, large tractor trailer trucks and stuff like that typically have separate pumps that fuel much faster than the pumps that are proposed. The diesel fuel that is proposed here would just be for your average passenger vehicle such SUV's, pickup trucks, small sedans and those types of vehicles that would be coming in and out. It would not be for your large tractor trailer trucks.

Attorney Tilsley addressed the criteria for a conditional use permit as follows:

Criteria 1, the use as a gasoline service station is specifically authorized by Section 5.10 of the Zoning Ordinance. This is a specifically authorized use by conditional use permit.

Criteria 2, they have completed. The gas pumps will comply with all provisions of Article 12 of the Zoning Ordinance on conditional uses as well as Section 8.17 of the Zoning Ordinance on automotive filling stations.

Criteria 3, the use will not materially endanger public health or safety. As they heard from both Ms. Duquette and Ms. Brown, there are offsite improvements proposed to mitigate the traffic effects. They have a stormwater management system. Some of the abutter comments he read today raised concerns with crime. The issue on a conditional use permit is again the gas pumps so they would have to find that gas pumps in and of themselves created an increase in crime. He spoke to Mr. Naser today about the gas pumps and he was advised that 90 percent of people who buy gas pay for it with credit cards. There are some allegations that Mr. Naser's current station has been bought recently; that is not the case. He has the one station in Goffstown and has had no issues over there. There was a suggestion in an abutter's letter that 2016 FBI statistics showed an increase in crime in convenience stores and gas stations. He took a look at the FBI's website. Their most recent numbers are for 2018. Gas station crime was down 7.5 percent and convenience store crime was down 6.4 percent. More importantly are the 7 types of categories the FBI looks at when looking at robbery type crimes; gas stations are the second lowest number of crimes. Only banks have fewer crimes than gas stations. For every gas station robbery that the FBI has in their system there are 5 home robberies that occur in residential properties. There simply is no evidence or indication that adding gas pumps to this property is going to increase crime. That information can be verified on the FBI's website at [ucr.fbi.gov](http://ucr.fbi.gov).

Criteria 4, the use will not substantially devalue abutting properties. They provided an updated report from Russell Thibeault of Applied Economic Research. He is a real estate appraiser and provided an opinion 2 years ago. He updated it now stating that the gas pumps, which are the issue for the conditional use permit, will not have a substantial impact on the value of abutting properties. They have a mixed use neighborhood with apartments, condominiums, single family homes and Dartmouth Hitchcock medical center. This property is an appropriate addition to that mixed use type of neighborhood. They are in a commercial zone so it is an appropriate type of use. The sight lines of the property have been designed in a way so the neighbors do not see the gas pumps. There was an allegation today in a letter from Attorney Matt Johnson on behalf of the Stone Terrace Condominium where he suggested that if the condominium is located within 300 feet of the underground storage tanks that would make Stone Terrace ineligible for FHA financing which would therefore affect the marketability of those properties. As an initial matter, he said he checked and the gas pumps are 365 feet away from the Stone Terrace property line so even if Attorney Johnson is right that criteria, Stone Terrace will not be impacted. Secondly, Attorney Johnson relies on HUD handbook 4150.2, which is an obsolete handbook. It was replaced in 2015 with HUD Single Family Policy Handbook 4000.1. Under the old handbook the prohibition on storage tanks applied to both above and below ground storage tanks. Under the current HUD standards, the prohibition on storage tanks only applies to aboveground storage tanks. Therefore, even if they were within 300 feet of the Stone Terrace Condominium units with their tanks, under the current HUD regulations their underground storage tanks would not make Stone Terrace

properties ineligible for FHA financing. The HUD Single Family Policy Handbook 4000.1 now controls and creates that rule.

Criteria 5, the use will be compatible with the neighborhood and with adjoining or abutting uses. They are zoned for a neighborhood business here. Business use is appropriate and allowed. They are in close proximity to the civic hospital district with Dartmouth Hitchcock. They have mixed uses around them. The convenience store/restaurant is allowed. The pumps are not going to change the type of use of the property. This is a property located in a business district. It is entitled to be developed for business purposes.

Criteria 6, there will be no substantial impact on highway or pedestrian safety. Ms. Brown spoke in detail about the traffic study and the additional improvements. He reiterated that Dartmouth Hitchcock included all of their traffic in their proposal to the Board a year or two ago and it was approved with very little noise from the neighbors and abutters. Their traffic has already been approved for these intersections.

Criteria 7, the use will not have substantial adverse impact on the natural and environmental resources of the City. The Board heard about the stormwater management system. This is a business property and there is no obligation or requirement to keep the property green simply because people like it that. They are entitled to develop it as long as they do it in a responsible fashion.

Criteria 8, adequate public utilities and community facilities are available to the property. The proposed development connects to existing sewer lines, electric, gas and water lines with stubs being provided for the development of the subdivided property next door so there will be no additional trenching or curb cuts for any of those purposes.

Chairman Harrington opened the hearing up to the Board.

Alderman Long asked what time they would open. Attorney Tilsley said 4:00 AM is their normal opening time and they will close at 11:00 PM.

Alderman Long asked if there are any ideas with respect to future development in that other lot. Attorney Tilsley did not believe they had anything concrete.

Alderman Long asked why the diesel pumps were on the outside of the islands. Ms. Duquette said typically they like to design them on the ends in a situation where they have the ability to turn around. If someone had a pickup with a trailer it would be some much easier for that person to go to the diesel pumps on the exterior islands.

Alderman Long asked if residential traffic was considered. Ms. Brown said they also looked at the residential traffic coming in and out of Carlton Place, which is the driveway directly across the street from the proposed driveway location. They showed that there is enough capacity there to accommodate the traffic. They showed a queue of 2 vehicles or less on the driveway coming out from Carlton Place. They had previously shown on a plan proposed extending the two lanes all the way up beyond their site driveway, up beyond Carlton Place and then merging them down to one. Based on feedback they got from DPW they were

concerned about traffic being able to exit Carlton Place across essentially 3 northbound lanes of traffic and the difficulty with being able to judge traffic and make that maneuver so they requested that they merge it before that to be able to handle it. Attorney Tilsley said their traffic counts include not just traffic for the proposed gas station, convenience store and Dartmouth Hitchcock, but also the residential traffic that is on the road as well.

Alderman Long said he had an issue with pedestrian and bicycle safety. He said it seems like it is very congested to actually go visit a resident or a resident coming out on a bicycle or walking that there would be a cluster at the intersection where their driveway goes in. Attorney Tilsley said they are working with DPW on the appropriate location for a crosswalk. They talked about pretty much doing it at the driveway and they learned earlier today they wanted to think about that for a bit. He said they are committed to providing crosswalk access to the site.

Mr. Leclerc asked how far it was from the driveway to the corner going south towards Wellington Road. Ms. Brown said it was 490 feet from the driveway down to the intersection. Mr. Leclerc asked what she figured for a stack there. Ms. Brown said they were showing a queue of 200 feet back from the signal, which would be 8 vehicles. Mr. Leclerc asked why there was such a big difference. Attorney Tilsley said 490 was the distance from the driveway to the intersection and they only need 200 feet to accommodate the level of traffic.

Mr. Leclerc asked if they considered painting “Do Not Block” on the road like they do in front of Dunkin Donuts so people coming out of Carlton Place going south and also coming out of the site going north. Ms. Duquette said that was brought up the last time they were before the Board. They talked to DPW at the time about it and they were told the queues they were showing from the intersection of Wellington Road and Edward J. Roy Drive were only estimated to back up about halfway to the driveway. Based on that because the queues were not going to go past the driveway they didn’t want to stripe that “Do Not Block Intersection” because there is maintenance associated with that and the striping gets faded as vehicles drive over it so if it wasn’t going to have any real value of stopping people from walking since the queue doesn’t extend back that far that it wasn’t worth the additional maintenance associated with putting it in. If it became a problem it is something that could be put in.

Mr. Leclerc asked about the blasting as he thought it was a big hole that needed to be filled to develop that site. Ms. Duquette said it is actually a big hill. It drops down a little bit in the Eversource easement but it does go back up. They are planning to cut slightly within that property but they are trying to make the blasting as small as possible. It is in the benefit of their client to keep it as small as possible as well. She said AoT now requires blasting plans to be done and requires monitoring so that is something that will be required by AoT to be submitted and approved.

With all their safety measures for possible spillage of fuel, Mr. Leclerc asked if they were confident there not be any effect ever on any of the brooks or streams that run throughout the property. Ms. Duquette said they do a lot of gas stations and one thing they try to do is make sure they have that chain of what ifs and with the actual components within the fueling system, in addition to what they have with the drainage, the oil/water separators, etc. With

the 2500 oil/water separator tank, which is oversized for this site, and the lined basins she said they can capture any spill before it gets to Humphrey Brook. Mr. Leclerc asked if that included winter conditions when there is oil on the ground and you are plowing and its pushing not only the snow and water beneath it but maybe a little spillage that may or may not have occurred. Ms. Duquette said that could be said of any parking lot. Any parking lot can have residuals from people that don't maintain their vehicles. As far as the fueling areas, the fueling area is covered by a canopy so it won't have to be plowed.

Chairman Harrington turned the hearing over to the public. He advised a number of emails and letters were sent in and received by all Board members and have now become part of the official record.

Mr. Belanger said staff has sent the Board members a number of emails that were received over the last couple of days. They have also had a number of voicemails that have come in, which many were transcribed and provided to the Board members. Those don't need to be gone over again because they have already received them. He said in the last few hours several emails and voicemails were received that they would like to relay to the Board now so they can have them in the record. He advised they would play the voicemails and then read the emails.

Ms. Bixby played the voicemail messages as follows:

- My name is Ann Hankins. I live at 245 Edward J. Roy Drive. I am in opposition to the 16 pump gas station and whatever all else you are planning to be put there. We have only one entrance and one exit. It is actually going to be a nightmare. Thank you.
- My name is Paul Brodeur and I'm at 265 Edward J. Roy Drive, apartment 214, and I'd like to state my strong opposition to the new building filling station that they want to build in that area. I'm strongly opposed to that, seriously, because as far as reality is concerned that is a wetlands and that would be in violation of the Federal wetlands policy and I strongly oppose it and also because we are weaning ourselves slowly off of fossil fuels. That is not the place to build a station in a wetlands area and that would be in violation of the Governor's Federal guide against wetlands. That is definitely wetlands area and I strongly oppose. Sorry for repeating and stuttering because I'm really upset that they want to do what they want to do and I'm strongly opposed to that. Okay. Thank you very much and I hope everything is straightened out. Thank you very much. Goodbye.
- This is Monica Lajoie. I'm at 899 Wellington Hill Road. I have been a citizen of Manchester for over 20 years and I'm calling to object to the construction of the fast food restaurant and gas station on Edward J. Roy Drive. It is congested as it is. There is construction at the Dartmouth clinic. There is one way in and out of this area with many, many, many people living here. My phone number is XXX-XXXX.
- This Monica Lajoie at 899 Wellington Hill Road, Manchester, NH, 03104. I called a minute ago. I'm calling to object specifically to item #4 to be considered at your meeting tonight, May 21<sup>st</sup>. There are 3 items listed under #4. I object strongly to all 3 of them. The first one, CU-01-2018, is not necessary because..inaudible..where it meets 28 bypass

there are already 2 gas stations. Inaudible...mention the site plan SP-01-2018 regarding the fuel pumps and fast food restaurant but I neglected to say the number. The third item under #4 is S2020-016 and..inaudible..an already congested area..inaudible..put a property at 7.4 acres right smack in the middle of..inaudible..and I strongly object. My number is XXX-XXXX and I shall also send an email. Thank you very much. Bye.

- My name is Mark \_\_\_\_\_(inaudible). I live at 265 Edward J. Roy Drive. My unit directly faces the area which is proposed to be developed on Edward J. Roy Drive. This will be a disaster for those of us who live at Stone Terrace Condominiums. It will disrupt the, the proposed canopy is a joy to live and look out upon. As a bird lover I am vehemently opposed to the development of this property. As a conservationist I think this is a terrible idea. The runoff from this flows directly into Steven's Pond nearby which is filled with fish and is used by the public for boating, fishing, ice skating. This would be a traffic cluster. Inaudible.....new expansion and the traffic will probably be tripled because of the services are outpatient. This was not something to be concerned about when this application was first put forward and it is totally unnecessary. We don't need junk food and cheap gas in a neighborhood. If people wanted it they would have moved someplace that had more junk food and gas stations for access but no one suffers from a lack of these availabilities. It is merely an attempt to take a beautiful piece of undisturbed property and make more money for someone who already has too much money obviously. I propose this be an ecologically preserved zone, possibly a park. It could be deemed by the owner who hopefully donate it to the City of Manchester or to New Hampshire Audubon and declare that it be named.....inaudible. It will be right in our eye. If I get in the car and leave it will be right in our eyes when we open the window in the morning. It will be right in our eyes if we look out over the sunrise or the snow in the morning and the noise will be incessant. The lights will shine directly at our windows and it will do nothing to improve the quality of life in the neighborhood. In fact, the evitable pollution noise, light, discarded waste, leaky dumpsters, early morning dumpster deliveries, gas truck deliveries, food deliveries and noise that occurs through all hours of the day and night will ruin the ambiance of our existence and this is an abominable plan which should be ditched as soon as possible. If it is approved I think it should be at the shame of the people who let it be approved. This is just totally unnecessary and we ask that the Board do the right thing in the name of decency and ecology. Thank you very much.
- Hi. My name is Julianne Newman. I am a property owner at 265 Edward J. Roy Drive. I'm calling in regards to the meeting tonight on the Z-1 gas station at Edward J. Roy Drive. I'm calling in to protest. I'm not sure why this is taking as long as it does to get this thing denied. Obviously money talks. This is an area where there is wildlife, where there is natural preserve. This area there is enough building in this City and we need to stop. We don't need a gas station. There are plenty of gas stations. We don't need the restaurant and fast food and all that other crap that comes with all these little chain restaurants. We need good healthy food. We need areas where people can walk and get healthy. I'm a healthcare provider. This is a disaster waiting to happen with gas leakage, more people, more traffic; the whole nine yards. Please, you can give me a call back; you can reach me at 603-XXX-XXXX that's my cell number, if you have any questions. But please we need to get this thing stopped and it needs to get stopped and stopped now. Thank you.

- Hi. My name is Joan MacCauley and I live at 265 Edward J. Roy Drive in Manchester and I'm just calling about the proposed Z-1 gas station and donut shop and convenience store at the corner of Wellington and Edward J. Roy Drive. Totally against it. It's not a good idea for the neighborhood. Thank you. Bye.
- Hi. This is Mark Hanscom at 521 Fox Hollow Way. I'm totally against the gas station opening up there at the end of the street Edward J. Roy. It sounds like a dangerous situation. It's the only way in and out for the hospital and thousands of people who live down the other end of the street and getting in and out sounds like a pretty big problem. I am totally against this. If anything happens to the gas station, like I said there is only way in and out for thousands of people not only talking the hospital but the rest of the people. I am totally against this and I would appreciate it if you considered by debate. Thank you. Bye.
- Hi. Good afternoon. My name is Mo Qamarudeen and I am a resident of the City of Manchester and I kind of concur with regards to the Z-1 Express gas station that is going to be discussed on the committee's list for 55 Edward J. Roy Drive in Manchester. I had sent an email last evening with regard to this conveying my dismay and I am against this. I am opposed to it and I did not state my address to you. So my address is 223 Fox Hollow Way, Manchester, NH 03104 and my name, once again, is Mo Qamarudeen and my phone number if you need to reach me is 603-XXX-XXXX and I would appreciate if my comments and concerns are taken into consideration when this comes before the Planning Board tonight. Thank you very much and have a pleasant evening.
- Yes, hi. My name is Mel Christy. I reside at 245 Edward J. Roy Drive in Manchester, New Hampshire. I'm calling regarding the proposed property at 55 Edward J. Roy Drive, Tax Map 645, Lot 34B. There is a Planning Board meeting scheduled for this evening at 6:00 PM. I already submitted an email. I just wanted to further reiterate my concerns against the proposal mainly due to the fact that having an increase in residences is much more different than multiple commercial businesses that are proposed. From what I read I believe a convenience store, two fast food restaurants, 12 gasoline fueling positions, etc. are proposed for tonight's meeting and I just wanted my point to be clear that you know having a resident going to and from his property is far fewer than the flow of traffic that you are going to have at multiple commercial businesses and we only have that one access road, which is Edward J. Roy Drive and I think it is going to definitely cause a safety issue. This is without considering what Dartmouth Hitchcock has already done and that is completed or nearly completing their expansion, which will also create a lot more traffic constantly going in and out of that location from only one means of access. I hope the Planning Board sincerely considers you already have a number ambulances and fire trucks going in and out of this location because, once again, we have a high number of elderly people residing at this location alone. I appreciate your concerns and taking my own concerns under advisement. Thank you very much!
- My name is Les Rottenstein calling regarding the Planning Board's meeting for this evening specifically 55 Edward J. Roy Drive regarding the convenience store and gas station. I was told that the meeting would be on channel 22 to be able to view the

meeting. It is not on at this time, 6:10 PM on Thursday. There is a meeting on the Committee on Finance and Facilities that is actually from May 12, 2020 and I would like to know if the meeting will be on channel 22. If not let me know otherwise. My number is XXX-XXXX and as you know this is important to our community and we were told we could review it on channel 22 so please respond. Thank you.

- Hi. My name is Margaret Capletti and I also live on Wellington Hill Road. I have concerns about the gas station..inaudible. Traffic is already too much in this area with one exit out of this area and I just have a lot of concerns. Thank you. My phone number is XXX-XXXX.
- This is Deidre Perry. I live at 50 Edward J. Roy Drive and this is for the Z-1 gas station. I'm listening to this proposal and everybody keeps glossing over the very first driveway, which is my driveway. You keep talking about Carlton Place and them getting in and out but you're very much glossing over the fact that if there are three people at the light, our driveway is blocked. We're right at the median so you're glossing over the fact that our driveway is already super hard to get out of now we're going to be going across 3 or 4 lanes of traffic depending on how many lanes were upgrading and you keep glossing over this entrance and I'm sure it's by design but it is very dangerous. It's very hard to get out as it is.....inaudible. I want to make sure that you are aware where our driveway is and how much of a difficulty it is already to get out of. Thank you.

Ms. Bixby advised that was the last voicemail.

Mr. Belanger advised there were 11 emails and read them into the record as follows:

Monica Lajoie of 899 Wellington Hill Road. I object to having a retail motor fuel outlet/fast food restaurant and a convenience store at 55 Edward J. Roy Drive. It is a residential neighborhood except for the Dartmouth Hitchcock Clinic. The impact of the proposed development will be a change in the nature of the neighborhood negatively. For one thing traffic already gets congested as one approaches Wellington Road intersecting with Edward J. Roy Drive. People exit from Hitchcock Way, apartments and condominiums almost on top of one another. Accidents just waiting to happen. Numerous cars and trucks go in and out of the Edward J. Roy Drive intersection all day. This is where I live and not an area to be polluted with businesses. For another thing, although traffic during the pandemic has been eased one cannot go by volume of traffic as it is now. These are not normal times to consider the impact of traffic. This is a residential neighborhood in the area branching of Edward J. Roy. The developers need to find a business district, not a residential one.

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My name is Brian Fanning, and I am a resident of Fox Hollow Way. I am concerned about the proposed Z-1 Express site at 55 Edward J. Roy Drive because it will undoubtedly increase traffic and congestion in that area, which serves numerous residences in addition to the Dartmouth-Hitchcock facility. Considering that there will only be a single entrance and exit to the proposed facility on Edward J. Roy Drive, it concerns me even more. If it were possible to have an additional egress directly to Wellington Rd., then I would be more apt to support the proposed site, but I cannot support the proposal in its current state.

I would appreciate my concern be addressed at the Planning Board Hearing on the evening of May 21.

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Hello Manch planning board,

Short note to express my concerns of the propose Z1 Express at the corner of E J Roy Dr. "No Thank You"!!! Beautiful neighborhood that doesn't need it.

Totally against! Thank You

Kenneth Collins  
130 E J Roy Dr. Apt 204  
Manch, NH 03104  
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With over 1,000 people living off Edward J. Roy you no doubt have heard from many people in opposition to the proposed gas station/convenient store/restaurants development. It is my understanding this proposal has one entrance/exit on to Edward J. Roy Road. Please consider this one more email in opposition of this project as planned.

I am opposed to this for the following reasons:

1. The intersection of Edward J. Roy and Wellington is not a four way intersection but rather a **five** way intersection as within a few feet of entering Edward J. Roy there is a driveway for a condominium complex with at least 100 residents who enter and exit via that one egress. It is not uncommon, during peak times, to see cars lined up hoping to catch a break during a red light to exit.
2. There is only one entrance and exit to our community. This community also houses a doctor's office and soon to be same day surgery center. Ambulances, fire trucks and other emergency personnel have **one** way in out of this community. As DHMC expansion is not complete, we do not know the full impact on the community. We do know DHMC expects to increase staffing and patients. Currently accidents on this road shut down the road. With the increase of traffic, the proposed **six** way intersection at the base of Edward J. Roy Road, accidents will increase, especially during morning rush hours.
3. As the demonstrated with the DHMC expansion, the City of Manchester does not have the capacity to monitor the construction and keep our community safe. Edward J. Roy Road has become a speedway for heavy trucks, construction vehicles and workers vehicles. Despite reporting to DHMC, Harvey industries, and the Manchester Police Dept, the speeding and unsafe driving continues.

I am not opposed to development on this corner. I am opposed to a business that will draw this much traffic, exiting on Edward J. Roy as it is the only exit for a health care facility and 1,000's of residents being built with one egress/exit on to an already busy intersection, with an unknown increase in traffic for a facility half way completed.

Thank you for your time. I had also hoped that a project with such an impact would have been able to have comments done in person.

Heidi Kuttner

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This email is to again address the gas station proposal at 55 Edward J Roy Dr. This gas station has already been voted down. We are only back here again due to a voting technicality and a very poorly trained and prepared city lawyer. I urge you to realize it was already denied. If you look back to previous testimony to can see that every question Joe Kelly Levasseur asked was very fair and looked at both sides of this. He in no way prejudged this case. This developer has already been denied a conditional use permit.

Putting a gas station on this property does not meet the needed criteria for a Conditional Use Permit.

It can be challenged on any of these qualifications. These qualifications are: public safety must not be endangered, the use will not de-value abutting property, use will be compatible with the neighborhood and abutting uses, use will not have adverse impact on highway or pedestrian safety, it will not have impact on natural and environmental resources of the city and adequate public utilities are available to the site to ensure extra public expenditures will not be needed for the development.

First, public safety must not be endangered.

A study done by Arizona State University shows how service stations and convenience stores are a large target for crime. <https://popcenter.asu.edu/content/robbery-convenience-stores-0> This study shows that service station/convenience stores “located in shopping complexes or strip malls had fewer robberies than those not in more concentrated commercial settings.” It also states it will be more of a target when there is the ability to escape easily. In our case, there is plenty of wooded area for anyone to escape to. In previous proposals, it was stated that this gas station would be operating 24/7 and that the lighting would not be visible in our neighborhood. According to this study, most crime at a gas station or convenience store happens when it is not brightly lit. Either this gas station will shine light into our neighborhood or be dimly lit and invite even more crime than a gas station or service station already does. Other locations of Z1 Express owned by the applicant have been robbed in the past and he stated he has no real way to not make this happen. Wellington Hill is not normally patrolled by police and this station will be a big target in the neighborhood that currently does not have this kind of risk.

Second, the use will not de-value abutting property. There will be light, traffic and noise coming from this 24 hour gas station. We bought our house in this neighborhood because it is not inner city Manchester. Of course this project will single handedly lower our property value. Either there is a huge increase in traffic or if there is not, we will eventually have another empty gas station at the entrance to our neighborhood. There are plenty of other abandoned gas stations in the city. Maybe the developer could open his gas station at one of

those.

Third, use will be compatible with the neighborhood and abutting uses. This area is NOT a commercial location, it is residential. The nearest commercial site is over a mile away. A gas station is the highest possible traffic frequency of any land use in Manchester's zoning ordinance. Any other kind of building would produce less traffic than a gas station. - and this is a 16 pump gas station - this is the size of the Hooksett Toll Plaza Since it is not a commercial area, why should we allow a VERY commercial, high turnover type of use? This is not something that belongs in a residential area. The scale of this project (16 pumps) is not a "neighborhood" station. This is scaled to be a service station for I-93. Dartmouth Hitchcock is the only commercial use in our neighborhood and they have always been very good neighbors.

Fourth, use will not have adverse impact on highway or pedestrian safety. This is the main reason this conditional use was already voted down. There is only one entrance/exit to Wellington Hill. The single entrance/exit to this gas station would be on Edward J Roy Dr. lined up across from the second driveway at Carlton Place. This single opening is only a few hundred feet from the only opening for Stone Terrace and a few hundred feet from the only opening for Dartmouth Hitchcock. ALL traffic will need to turn from Wellington Road onto Edward J Roy and then stop again to immediately turn into the station. This will ABSOLUTELY increase traffic turning onto Edward J Roy. It will also be a very high frequency and volume of traffic. There are many children who wait for school busses next to the proposed site or directly across the street. This will be very dangerous for these children. This traffic will also have a negative effect on ambulances traveling to and from Dartmouth Hitchcock and residences in the neighborhood, employees and patients coming and going as well as traffic on Bridge St including affecting Eastern Ave and Karatzas Ave. With Dartmouth Hitchcock expanding this will add even more traffic load. It is important to note this was the PRIMARY reason this conditional use failed last time and the situation is worse now.

Fifth, will not have impact on natural and environmental resources of the city. Green space in a city is a valuable resource. This project will remove natural woods and habitats. This area also has 2 natural drainage swales that would be impacted by development here. I would hope a study has been done of this as well as how any blasting would affect the area. There was another project in the past that was voted down because of concerns of blasting.

Sixth, adequate public utilities are available to the site to ensure extra public expenditures will not be needed for the development. The traffic increase will very likely necessitate changes to the intersection of Edward J Roy and Wellington Road. The left turn lane will need to be changed in order to handle the increased load. It is also very likely the traffic signals here will need to be changed in order to deal with additional traffic. This proposal failed last time based primarily on traffic concerns. New development at Dartmouth Hitchcock exacerbates the problem.

A gas station is not at all compatible with this neighborhood. The developer noted last time that he needs a car in and out in less than three minutes to make money. This is completely different from traffic activity at Dartmouth Hitchcock. As patients go there for appointments

or procedures they are parked there for a much longer period of time.

This property is zoned in such a way as to specifically restrict a gas station. The people who originally zoned the land knew it was not an appropriate place for a gas station.

The greater area of Wellington Hill neighborhood will also be affected adversely. When we buy property zoning ordinances provide us some measure of expectations on how our neighborhood might be developed. When conditional uses and variances are granted often these serve to break the rules of the zoning and impact surrounding property owners. Please do not grant this conditional use for this project. Do not allow one property owner to affect many surrounding property owners because they are un-imaginative or unwilling to develop an allowed use. - especially when there are many vacant gas stations already in the city.

There are several criteria (mentioned above) that an applicant must meet to get a conditional use permit. The last time this was voted on a planning board member said he was voting for it simply because a guy showed up with money to build something. That goes against everything that a planning board is there for. We are trying to keep Manchester as a beautiful, well thought out city. Just because someone has money and is obnoxiously persistent doesn't mean that this is the right place for a gas station. It's not safe for many reasons. They planning board is has an important purpose. Please don't let it come to a comment that just because someone has money they can build whatever they want.

The last time this proposal was heard, voted on and denied many of the board members focused on the traffic concerns. The adverse impact on highway and pedestrian safety was discussed at great length. The sight the developer chose to present as a fair comparison traffic study was at best a poor comparison and in fact was not comparable at all. There is only 1 way in or out of our neighborhood and that is through Edward J Roy Dr., there will only be 1 entrance into this proposed gas station and that is also on Edward J Roy Dr. It was already determined that there will be a significant increase in traffic that could pose serious safety risks. If the traffic impact was a concern 2 years ago, it can only stand to reason that it will be of a much greater concern for risk now that the Dartmouth Hitchcock expansion is in full swing.

The people of this neighborhood are able to prove that the conditions for a conditional use permit are not proven. Please do not allow someone with no interest in this neighborhood to ruin a great part of Manchester. We do not want and will not use this gas station and convenience store. He has already shown bad faith to this neighborhood. Please listen to the many voices who have spoken against this use. It is not the right fit. Please vote to deny this Conditional Use Permit.

Thank you for your time and careful consideration.

Kathleen Hanson  
50 Heathrow Ave

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I am writing you today to express my disapproval of the proposed Z1 gas station planned for

the entrance of Edward J Roy Drive. This gas station poses a threat to the peace of mind and of the greater Wellington Hill community. With the already large residential population, and the expansion of Dartmouth Hitchcock, commuter and residential traffic is already excessive. This poses a safety issue for the community. People continuously exceed the speed limit, make illegal turns, and are confused by the traffic patterns of these streets. Young families, the elderly, and employees of Dartmouth Hitchcock walk these already busy streets of Wellington Hill.

I'd like you to continue to keep the residence of Wellington hill in mind when you make any decision regarding this project

Thank you for your consideration.

Sincerely,

Justin Rosamilio  
Wellington Hill Resident  
728 Fox Hollow Drive  
Manchester, NH 03104

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No vote should be taken until people can be present to voice their opinion.

Bruce Worthen

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My name is Angie Miller, and I am a resident of Fox Hollow Way. I'm writing with concerns about the proposed site Z-1 Express site at [55 Edward J. Roy Drive](#) because it will greatly increase traffic and congestion in that area, which serves numerous residences in addition to the Dartmouth-Hitchcock facility.

The current proposal states that there will only be a single entrance and exit to the proposed facility on Edward J. Roy Drive, so that concerns me even more. If the plans included an additional egress directly to Wellington Rd., then it would be a more appealing project which I would be more inclined to support at the proposed site. However, at this time I cannot support the proposal in its current state.

I would appreciate my concern be addressed at the Planning Board Hearing on the evening of May 21.

Thank you.  
Angie

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Since there are numerous technical issues with the current meeting, I'd like to respectfully suggest that the Z1 portion of the meeting be tabled to a future date.

Thanks,

Amy Hanmer

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I am opposed to any development of a gas station at 50 Edward J. Roy Drive. This is a residential district that already has a lot of congestion for the dense amount of houses and apartments/condos in the area on and off Wellington Road which is the main thoroughfare connecting to Edward J Roy Drive. We have bike paths along this area that has allowed for safer travel of bicycles. Adding more traffic that comes with having a super gas station in the midst of this residential district will endanger the many walkers and cyclists in addition to vehicles of those who live here.

Having lived in Currier Hill for 24 years, I have always felt that the quality of life in this area of town has been so family friendly and wholesome. I have watched as Dartmouth Hitchcock came in and built a clinic that has blended in well with the neighborhood. Although, their present expansion is a bit much and has upset the wildlife traveling the ridge from the lake heading north. But we will see if it works out. Hopefully they are still maintaining the 600 foot barrier between our neighborhood and their space.

I've also watched as the village called Wellington Hill was developed off of Edward J Roy Drive. That's a lot of houses and condos that have gone up there. Unfortunately, even more cluster housing is now being built along Wellington Road.

Why build this gas station that will become a blemish on this area of mostly residential housing? It won't blend in. It will stand out and intrude on the quiet and darkness of the night as things settle down for the night, while its bright lights invade the night. It will cause a bottleneck of traffic at an important intersection for moving people through. We already have two gas stations at the other end of Wellington Road and Dunkin Donuts. We have another gas station up one exit off Exit 9 and another several gas stations off the Hanover Street Exit if you're heading south. And we have Dunkin Donuts on almost every corner within a mile or less of this area. We do not need a gas station in our neighborhood.

Please do not approve this gas station with all its additions or anything that clashes with the residential nature of this area.

Thank you for your consideration.

Sincerely,

Theresa A. Bianchi  
196 Currier Drive  
Manchester, NH 03104

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I am writing to express my extreme concern and opposition to the development of the Z1 Express gas station on Edward J. Roy Drive in Manchester, NH. As a resident and owner at Stone Terrace Condominiums for 15 years, I am particularly concerned about several issues surrounding the Z1 gas station proposal:

- **Safety Issue #1:** Edward J. Roy Drive (EJR) is the only egress in and out of the neighborhood. Should there be an accident or emergency of any kind (such as a gas leak, spill, or explosion, a broken-down tractor trailer, etc.), it would affect the intersection of Wellington Road and EJR. There would be no safe way for all residents to evacuate the neighborhood.
- **Safety Issue #2:** A gas station will undoubtedly attract unwanted individuals, who may loiter, smoke, drink, and potentially sell drugs. Crime and noise will undoubtedly increase. Gas stations get robbed—this same owner has had robberies at his gas stations in recent history. All of this makes me extremely uneasy and concerned for not only my safety, but that of all the neighborhood families and their children.
- **Increased Traffic:** A gas station with restaurants on the corner of EJR would certainly increase traffic, which is already problematic at rush hours. It can be extremely difficult to pull in and out of the Stone Terrace driveway with the onslaught of cars from Wellington Road, the neighborhood, school buses, and the Dartmouth Hitchcock (DH) employees—now factor in the expansion of DH, which is adding about 600 employees! To reiterate, EJR is the only egress in and out of the neighborhood, and a gas station is the highest possible traffic frequency of any land use in Manchester’s zoning ordinance.
- **Decline in Property Value:** There is extensive research showing that gas stations devalue property. Stone Terrace Condominiums (my home) would most definitely be negatively impacted by the Z1 proposal as it is an abutting property. In effect, the gas station would essentially be in the front yard of building 265 and this is just not aesthetically pleasing nor is it pleasing in terms of noise from traffic and individuals who may be hanging out at a gas station that is open 24 hours a day, 7 days a week.
- **Impact on Environment:** Currently the proposed area of development is natural woods that serve as a watershed for the Wellington Hill neighborhood. The construction of this gas station will have a negative impact on the surrounding environment.
- **Just Not Right for the Neighborhood:** The Wellington Hill neighborhood is a residential neighborhood. Why do we need a 16-pump gas station with restaurants in a residential neighborhood? The proposed 16-pump gas station is the same size as the Hooksett Toll Plaza gas station—that is just not right for our neighborhood, or any neighborhood. I doubt very much that any member of the Planning Board would want such a gas station in their neighborhood.

I am pleading with each member of the Planning Board do what is right and to deny the conditional use permit requested for the Z1 gas station development on EJR. Please help us preserve our safe, quiet, and aesthetically pleasing neighborhood!

Best regards,  
Bonnie Piotrowski

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Given the strong opposition of the neighborhood, the right thing to do is deny this Z1 proposal. The modification they submitted do not address the neighborhood’s concerns. Twelve vs. 16 gas pumps changes little, as does a 4 am - 11 pm schedule. The developer clearly had access to all of our letters prior to the meeting and came to play, hoping a few little tweaks would convince you otherwise. It does not change the facts as I stated below.

Also, no one has talked about the bus stops on the road with all this additional traffic. Please, do the right thing here and deny the proposal. None of you would want to live near this gas station & restaurants.

Respectfully,  
Bonnie Piotrowski  
265 Edward J Roy Dr.

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I am a resident of Wellington Hill Neighborhood and am writing to express my strong opposition in regards to the development proposed at the property located at 55 Edward J Roy Dr. Any increase in traffic would have a negative effect on this already congested neighborhood. We have only one entrance & exit to the main road. The light pollution is concerning. The noise pollution. Negative environmental effects. We have several gas stations, convenience stores within a 5 miles radius. We do not need this business in our neighborhood.

Thank you,  
Jessica Panneton

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Called into meeting:

Karen Sutkus echoed what everyone else said, especially with the concern of the one means of egress for such a large congested population up there, including Dartmouth Hitchcock. If there has ever even been a consideration to expand egress out even to the backside toward Leda Avenue especially if there were to be a hazmat type of situation associated with this new proposed gas station. That is asking for disaster for such a large amount of people, including the medical community to be trapped in this area.

Chairman Harrington said the Board would take that into consideration.

There were no further comments from the public and the Chairman invited the applicants to address the concerns of the public.

With regard to one entrance and one exit for the whole neighborhood, Attorney Tilsley said the possibility of a second exit was something that was raised in the Dartmouth Hitchcock plan. Dartmouth Hitchcock didn't feel they needed it. He said Dartmouth Hitchcock hasn't objected to what they are doing. This Board approved Dartmouth Hitchcock's traffic and the traffic for this site with the one entrance and one exit from Edward J. Roy Drive so he thought that issue had been addressed and their traffic was included in that.

Attorney Tilsley said they have sidewalks on Edward J. Roy Drive so in terms of pedestrians, once they determine with Todd Connors where they are going to put the crosswalk people will have safe pedestrian access. They appreciate the concerns of the abutters. They have been at this for a long time. They have put an extraordinary level of detail into this project. They have tried to address their concerns. They have reduced the number of fueling stations. They

have added the fence in the back. They moved the site. They're using state of the art techniques to make sure they protect the neighborhood. They've done the sight line studies. They have done everything they can possibly do to try to address the neighbors' concerns. At the end of the day most of what they hear is this is a residential neighborhood, we don't want this in a residential neighborhood. They understand that but this property isn't zoned residential, it is zoned commercial and the issue before this Board is whether they meet the requirements of the Subdivision and Site Plan Regulations and whether or not the gas pumps meet the requirements for a conditional use permit. He has been through it in great detail and thought they have shown the Board they meet those requirements and that they are entitled to this permit. This is an allowed use in this zone if they meet those criteria. If they meet those criteria they ask that the Board approve it.

Ms. Brown said there was a comment about whether they had looked at the driveway into the condos that are located at 50 Edward J. Roy Drive. The updated traffic impact study didn't include any analysis there but when they were back before the Board in 2018 they had done a response to comments document dated February 15, 2018 where they had actually gone out and taken some traffic counts and they did a delay and queue study at their driveway there. They showed that there was never more than one vehicle that was waiting to get out of that driveway at one time and it never took more than 30 seconds for a vehicle to get out. Even when they added their traffic in on top of it, it was showing a delay of up to 30 seconds. In terms of queues that would be on Edward J. Roy Drive backing up she mentioned that the maximum queue that occurs in the morning when everyone is trying to leave is 200 feet but the average queues out there are only about 75 feet or 3 vehicles. That driveway is actually 130 feet back from the stop bar at the intersection so those vehicles the average queue wouldn't back up beyond that driveway so people can get out as the light is red for people turning onto Edward J. Roy Drive they would be able to get out and come in at the back of that queue.

Chairman Harrington brought the hearing back to the Board.

Alderman Long confirmed with Ms. Brown that the traffic counts were all taken prior to mid-March.

Chairman Harrington advised that Fabrizio Spiro had called into the meeting and he invited him to make his comment.

Fabrizio Spiro of 389 Whittington Street said he and his family are against the proposal. He was concerned that the timing of the traffic counts may not reflect accurate picture due to the amount of people quarantining and working from home. He said they bought their house in 2018 because it is a beautiful family friendly neighborhood. If they had known or seen this type of commercial enterprise here their decision to move into the neighborhood would have been different.

Ms. Brown advised that all of the traffic counts that were included in the study along Wellington Road were all from the Dartmouth Hitchcock study that was submitted to the City in April of 2019 so all of the counts were done before April of 2019. The counts at the driveways along Edward J. Roy Drive were collected in February of 2018 as responses to

comments that were received from the original submission.

Mr. Belanger advised that Mr. Spiro's email was part of the record.

Chairman Harrington advised another public comment was in the queue.

Judy Brown thanked the Board for staying up so late and said they all appreciate it. She wanted to understand a little better why blasting is now required.

Ms. Duquette said the blasting has always been proposed. She said if you look back to the meeting Minutes from the beginning of the application process they said blasting would occur in the exact same spots that they showed today. With an AoT application if you are disturbing less than 100,000 SF the State leaves it up to the town or city to regulate the blasting; however, this is disturbing more than 100,000 SF so now it is in the hands of the State and has to meet the State's requirements for blasting and they have to review a blasting plan for this.

***Rollcall vote in favor of closing the public hearing: Boyle, Lussier, Leclerc, St. Pierre, O'Donoghue, Trisciani, Curry, Harrington (Against: Long)***

Chairman Harrington closed this public hearing and it will be deliberated at the next business meeting.

**5. Review of new applications for Regional Impact and comment by the Manchester Conservation Commission.**

The staff has received and reviewed the applications listed below, and the Planning Board should determine if any of the applications are likely to have impacts beyond the boundaries of Manchester, requiring regional review pursuant to RSA 36:54, 55, 56 & 57, or warrant comment by the Manchester Conservation Commission.

**1. S2020-007**

Property located at 300 Varney Street (Tax Map 662, Lot 3), a subdivision application of Tax Map 662, Lot 3, for the creation of one new buildable lot of 5,596 SF. in an R-2 Zoning District. *Sandford Surveying & Engineering, Inc. for Paul J. Beaudoin. (Zoning Board relief necessary)*

**2. S2020-008**

Property located at 1394 Belmont Street (Tax Map 912, Lot 30), a subdivision application of Tax Map 912, Lot 30, for the creation of one new buildable lot of 9,379 SF in an R1-B Zoning District. *Sandford Surveying & Engineering, Inc. for Miriam S. Sargent*

**3. SP2020-008**

Property located at Dunbar Street and Sundial Avenue (Tax Map 435, Lot 1B), a site-plan application for the construction of a 160-unit, multifamily building with associated site improvements in the RDV Zoning District. *Brady Sullivan Properties, Inc. for Velcro USA, Inc. (Conservation Commission Review Required)*

4. **SP2020-009**  
Property located at 170 Baker Street (Tax Map 734, Lot 1), a site-plan application to raze the two existing commercial buildings and construct a new, 5,430 SF, drive-thru bank with two drive-thru lanes and a separate ATM/Dropbox area in the RDV and B-2 Zoning Districts. *Nobis Group for Bangor Savings Bank.*
5. **PDSP2020-003**  
Property located at 909 E. Industrial Drive (Tax Map 727, Lot 23A), a site-plan and planned development application to add an overhead canopy and aboveground propane fuel storage tanks in the IND Zoning District. *Greenman-Pedersen, Inc for Campeau Family Investments.*
6. **CU2020-006**  
Property located at 909 E. Industrial Drive (Tax Map 727, Lot 23A), a conditional use permit application to allow bulk fuel storage for distribution within the IND Zoning District. *Greenman-Pedersen, Inc for Campeau Family Investments.*

*Ms. Trisciani made a motion, which was seconded by Long, that the following applications do not have regional impact nor do they require comment from the Manchester Conservation Commission: S2020-007, S2020-008, SP2020-009, PDSP2020-003 and CU2020-006. Application SP2020-008 does not have regional impact but does require review by the Manchester Conservation Commission.*

*Rollcall in favor: Boyle, Lussier, Leclerc, St. Pierre, O'Donoghue, Long, Trisciani, Curry, Harrington. (Motion Carried)*

### III. LIMITED BUSINESS MEETING:

1. **SP2019-018**  
Property located at 785 Goffs Fall Road (Tax Map 871, Lot 1A), a waiver request from the Special South Willow Streetscape Plan to allow for a freestanding sign with an area of 200 SF where 32 SF is permitted and a height of 35 FT where 6 FT is permitted. *MHF Design Consultants, Inc. for Irving Oil Marketing, Inc.*

*Alderman Long made a motion to approve the waiver request from the Special South Willow Streetscape Plan, which was seconded by Mr. Leclerc.*

Ms. Trisciani said she had serious concerns about this because when they came to the Board with the original application they approved a sign that was larger than what was allowed in the Streetscape Plan to begin with. She felt the Board was again making it very easy to take a plan that they put in place to make an area better and create something and they are just throwing that out again and again. She thought all too often the Board falls into that trap and they are doing nothing to make things better and everything is just have it keep status quo. She was quite confident that given their location, the building, everything they have going on that it is not necessary to go for the larger sign than what they already had approved.

Mr. Kaw-uh advised he had similar concerns as Ms. Trisciani. He said in the grand scheme of things, policies aside, he is very used to seeing large gas station signs but if there was a plan put in place to attempt to reduce the amount of signage on this road he was not sure there was a sufficient Planning Board case to justify approving the waiver.

Mr. O'Donoghue said he had the same sentiments as Ms. Trisciani and he will not be able to support this.

Alderman Long said he was erring on the side of business. He could think common sense wise where he would think it doesn't need this sign. He said he wasn't going to second guess them and there are several signs out there that are larger than this so he was in support of it.

Mr. Lussier thought their comments were well taken that they had seriously looked at this. They have had a change since we approved that and the Common Man has moved in and he thinks they are doing an excellent job down there, but they have also asked for the trees along the South Willow Street strip. They are proposing a very good looking sign and he thought their point with the trees was well taken and they've done a good job and presented a very reasonable solution to their problem and he would suggest that it be approved.

Ms. Trisciani understood people don't want to second guess the business because obviously they know their business; however, part of their point was that they felt their competition would win well their competition is 1 gas station across the street tucked behind a restaurant and it didn't sound or feel like they gave any consideration to a sign that might be lower than the trees that would stand out equally as a tall sign going above the trees would. She thought there were many other options they could have considered and to her it didn't feel like all options were considered. The Common Man was part of the original presentation. She doesn't think the players in the store had changed.

***Rollcall vote in favor: Lussier, Leclerc, St. Pierre, Long, Curry, Harrington  
(Against: Boyle, O'Donoghue, Trisciani)***

**2. Annual Organizational Meeting and Election of Officers.**

Chairman Harrington advised that Mr. O'Donoghue has provided his resignation from the Board, which will be effective at the next meeting. He also advised that he himself will be terming out.

Mr. Belanger advised that alternates could vote on the election of officers because they are officers to preside over the entire Board and this is not a vote on any particular kind of quasi-judicial application; this is more of an administrative matter for the Board.

Mr. O'Donoghue nominated Ms. Trisciani for vice chairman.

Mr. Leclerc stated that Ms. Trisciani would be the person that would be the best fitting for that position.

***Alderman Long made a motion to close nominations for vice chairman.***

***Rollcall vote in favor: Boyle, Lussier, Leclerc, St. Pierre, O'Donoghue, Long, Kaw-uh, Curry, Harrington***

Ms. Trisciani nominated Dan Leclerc for chairman.

Alderman Long made a motion to close nominations for the chairmanship.

***Rollcall in favor: Boyle, Lussier, St. Pierre, O'Donoghue, Long, Trisciani, Kaw-uh, Curry, Harrington***

Mr. Leclerc told Chairman Harrington that he did an awesome job as chairman. He said he learned a lot from the Chairman and hoped to mimic everything he has done and his professionalism in the way he handled the meetings.

Ms. Goucher said while Mr. Leclerc is the new chairman and Ms. Trisciani is the new vice chairman, Mr. Harrington has graciously agreed to stay on for the next 30 days or so in a holdover status as a new name has not been brought forward to replace him just yet so even though he is no longer the chairman after this vote, staff expects to see Mr. Harrington at the next two meetings in June. Unfortunately, she couldn't say the same about Mr. O'Donoghue because he officially resigned and this is his last meeting.

On behalf of the staff, Ms. Goucher thanked Mr. O'Donoghue for all the years he was on the Board and the two years in a row that he didn't miss any meetings. She said that was really outstanding and she knows the staff appreciates his hard work on the Board.

#### **IV. ADMINISTRATIVE MATTERS:**

**1. Review and approval of the Planning Board Minutes of March 5, 2020.**

Review and approval of the Minutes was tabled to the next meeting.

**2. Any other business items from the Planning Staff or Board Members.**

Mr. Leclerc said he echoed Ms. Goucher's comments about Mr. O'Donoghue. He said it bothered him to see Mr. O'Donoghue go as he was like the level head of the Board. Everybody listened intently to what he had to say and he will miss his input.

Mr. Boyle said he works with a State agency and a Board and tonight starting off extremely stressful with technical difficulties, he thanked the staff for their calmness and coolness to get through this. He said it was really impressive and the staff is terrific. He thanked the chairman and vice chairman and wished them the best. He said he was very impressed with this organization.

Mr. O'Donoghue made a motion to adjourn, which was seconded by Mr. Leclerc.

Rollcall: *Boyle, Lussier, St. Pierre, Leclerc, O'Donoghue, Long, Trisciani, Kaw-uh, Curry, Harrington (Motion Carried)*

ATTEST: \_\_\_\_\_

Michael Harrington, Chairman  
Manchester Planning Board

APPROVED BY THE PLANNING BOARD: July 16, 2020

- With Amendment  
 Without Amendment

**The above minutes are a summary of the meeting and are not intended to be verbatim.  
Audiotapes are available in the Planning and Community Development office for a limited time.**

*Transcription by Lori Moone, Planning & Community Development*