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

II. PUBLIC HEARING:

(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 Mr. Leclerc, that the following applications are complete and available for public hearing: S2019-004, S2019-009, SP2019-010, CU2019-008, IMP2019-002, CU2019-003 and SP2019-003. (Motion Carried)

1. **S2019-004**

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

Attorney John Cronin of Cronin, Bisson & Zalinsky appeared along with Jon Rokeh, the project engineer, Joe Wichert, the surveyor, and Dan Welden, the principal of the applicant. Also present was Scott McPherson, the CEO of The Derryfield School, the current owner of the property.

Attorney Cronin advised the master tract on which The Derryfield School campus sits is approximately 87 acres in size and they have done a lot of work to improve their campus. Going back to 1997 there was some work done to add a middle school and some ballfields that were the topic of some land use meetings that are at issue here tonight.
As an overview, Attorney Cronin said there is approximately 87 acres and the school is proposing to sell off approximately 15.8 acres, which would be accessed of Arthur Avenue. It is now a dead-end in the Coral Avenue neighborhood. That area is proposed for 17 new lots. The zone is R-1A. The minimum lot area is 12,500 SF. Most of the lots will be substantially larger than that. The minimum frontage is 100 feet. The front setback is 25 feet. The side setback is 20 feet and the rear setback is 30 feet. He believed all of the lots will meet or exceed those requirements.

Attorney Cronin referred to the staff report where there was a reference going back to the 1997 approval process. The members of the Board were quite different then he was not sure what staff members were there at the time, but this was certainly one of many cases. In looking back at the available history, during one of the meetings there was a discussion about whether or not the school would be receptive to a 200-250 foot variable width treed buffer along the area abutting the then existing houses on Coral Avenue. There was an indication in the record there would be some reception for that but as things developed, and as the Minutes are in summary form and not verbatim, and in the business meeting it talks about a treed buffer of 200-250 feet. In the intervening time there was an ongoing lawsuit between one of those abutters and the school that had legitimate concerns about having ballfields next to their house. The school willingly made an agreement to have a 250 foot buffer behind what he thought was referred to as the “Mosca Plans”. In looking at that and looking at the interpretation of it the signed plan has no reference to a 250 foot buffer throughout the entire length of the distance. Whether something got lost in the translation, he can’t say for certain, but what is clear from the staff report is the Planning Board this evening has the ability to waive or modify that particular condition, which is what they are asking them to do.

In looking at the history, Attorney Cronin said the current Zoning Ordinance and the Site Plan Regulations contain two provisions that are important when looking at different zones. For example, if you have a zoning district that is industrial or commercial in nature abutting a residential district you have the 25 foot treed buffer section and that is detailed right in the Zoning Ordinance in Section 6.08(A) which requires you to have screening. There is also the limited activity buffer, which is a 50 foot distance that limits certain things like mechanicals and other things. Those two sections are cross referenced by the Site Plan and Subdivision Regulations at Article 8, Section 8.3 and they basically talk about what needs to be in there in terms of vegetation. The reason Attorney Cronin pointed those out was because he thought it was clear if, in fact, the vote back in 1997 was done to require a 250 foot wooded buffer it certainly would have exceeded the jurisdiction of the Planning Board at that time. He said he never heard of such a buffer. Notwithstanding that, he said the purpose for what that buffer was discussed in 1997 goes away with the presentation of this plan. They have R-1A and R-1A. They won’t have ballfields next to houses. They will have single family lots of adequate size and dimension, which the Zoning Ordinance specifically states with its setback requirements what is needed. As such, they are asking that the Planning Board weigh in on that. To the extent that the 200-250 foot variable width treed buffer was in fact a condition of approval, which they reserved the right to debate at a later date if necessary, that the
Board modify it only to be in effect as per the agreement between The Derryfield School and Mr. Mosca and his successors, which is appropriately noted on the plan.

Attorney Cronin said the plan before the Board presumes that buffer does not apply anywhere but to the Mosca property.

Given that they indicated that the buffer is not part of this application tonight, Chairman Harrington asked if they looked at what the buffer would do if the Board somehow said no. Attorney Cronin thought the buffer would diminish 4-5 lots along the distance between the back of Coral Avenue and the subject site. He said it would be such a severe impact that what he would recommend to his client is that they call a timeout and file a court proceeding and get a declaratory judgment and figure out what it really means. He hoped they would not have to go through that time and expense, but it is such a significant impairment on the property and one that exceeds any Zoning Ordinance or Planning and Site Plan regulation that he has ever worked with in this state. It seemed to him where they are doing housing against housing if in fact there was a need in 1997 for it when putting houses against ballfields however that need is no longer in force.

Mr. Long asked which property was Mosca’s. Attorney Cronin requested that Mr. Wichert identify where the Mosca buffer is and where this other section would be if it were enforced. Mr. Wichert advised that the Mosca property is Tax Map 556, Lot 25. The property that C&D Realty Trust would be purchasing begins at the northwest corner of Lot 24. As such, there would be no impact to the existing natural buffer that was the subject of litigation and is in the Deed. He stated there was no notice of decision on file or not in the file. The approved plan, instead of calling this a tree buffer actually calls it a school activity buffer, which matches with the correspondence to the Zoning Board of Adjustment in July of 1997 and they have not been able to “make the leap” to see how it went from the limited school activity buffer to a treed buffer because the treed buffer only shows up in the Planning Board Minutes and on the staff recommendation.

Attorney Cronin requested that Mr. Wichert show the impact if the 200-250 variable width buffer was enforced. Attorney Cronin also asked him to show the limited activity buffer. Mr. Wichert said that note 20 in the plan that was provided by staff says “No school facilities are to be built within a 200-250 foot wide variable zone along the westerly property line which is the yards of Coral Avenue residences location per plan.” Part of their issue is there is this conflict and the approved plan and an attachment of this plan was recorded as part of the Mosca settlement and they have the same limitations on that plan.

Mr. Leclerc asked if they plan to leave any vegetative buffer if the request is approved. Mr. Wichert said it was not part of their presentation. He believed they were treating it as they were going to develop the lots and they would cut as needed. They had an abutter meeting at The Derryfield School and they made the same statement that there is not a proposal to go in and clear cut all 16 acres. Obviously the sequencing would be they would go in and log where the road is going. They are going to log some staging areas and depending on what
the construction plans are they are probably going to do some logging for some house sites on a generic basis but they hadn't looked at leaving a buffer along the entire boundary.

Mr. Leclerc confirmed with Mr. Wichert that they were planning to leave some of the trees. Mr. Wichert said they are trying to make this development fit into the neighborhood and they are not looking to clear cut and make it all lawn. He thought it would match in well. He said a lot of that growth is smaller hardwoods and not a lot of large trees. There are some larger pines and stuff right up against the wall and they have had discussions with one of the abutters about whether or not those are going to stay or not stay because there was a concern if their house would be impacted.

Attorney Cronin advised he had an opportunity to speak to Mr. Welden and they have no issue with preserving within the setbacks, which are pretty substantial in this zone, and not doing any cutting in that area. Certainly for the homeowner to be restricted from the use of their lot otherwise would be a burden but they could put a no cut buffer other than scrub and damaged and diseased trees within the setbacks. Mr. Wichert said part of their drainage design is they are going to have the swale along one of the boundaries so that will have some clearing but other than that he was sure as Mr. Welden and Attorney Cronin mentioned they could incorporate that into the plan. Mr. Leclerc thought the neighbors would appreciate that.

Mr. Lussier said there was a heavy dashed line on the site plan that has a dash and two dots and there is a notation that says “existing natural buffer” that seems to end at the stream or the drainage area and it doesn’t really go to the Mosca property. Mr. Wichert said that was the limit per the recorded agreement with Mr. Mosca. He thought the way it was worded is from a depth of 200 feet back past his residence was a vegetated natural buffer and could not be cut. Mr. Lussier asked why it didn’t keep going to the property line. It doesn’t even go to the Mosca property. Mr. Wichert said he would have to look at that and get back to Mr. Lussier.

Mr. Lussier confirmed with Mr. Wichert the intent is for that line to go over to the property line and be the 250 foot natural buffer. He showed what Mr. Welden and C&D Realty Trust are purchasing and the remainder of the property will stay in the ownership of the The Derryfield School and there will be no change to what exists today. The only development that would take place would be in the 15.8 acre parcel.

Mr. Lussier asked what the vegetation is between the rest of the property line and all the way down to the B&M railroad and the access road that goes around the ballfields. He asked if that is something that is mowed and maintained or if it was somewhat of a natural buffer in and of itself. Mr. Wichert pointed out to an area referred to as the “sandpit”, which was an area that was excavated and has been in that form for many years so there is really very little vegetation there. He pointed out the ballfields and the access road that runs around the ballfield. There is a brook that runs close to the north boundary of what C&D would be purchasing. There is a wetland setback along the brook so their intent would be that from
the wetland setback to the ballfield there would be no change to the existing tree line. Inside the 15.8 acres the lots are going to be developed so there would be clearing based on yards, improvements, decks, pools, etc. there will still be at their narrowest point they are somewhere around 160 feet to the ballfield. Mr. Lussier said it appeared from the aerial photograph that is all heavily vegetated. Mr. Wichert said there are a lot of smaller hardwoods and on the perimeter there are some larger soft woods.

Mr. Lussier said it appeared they have a 17 lot subdivision. It looked like 16 house lots with the other drainage area. He asked if a house would be built on that 17th lot and who would be responsible for that piece of property. Mr. Wichert said the intent is all 17 lots could be developed with houses. One of the conditions of the sale was that the school wanted to dispose of the pit area, which has sort of been a problem for them. They have the 7 acre lot, Lot F; that has the drainage pond. That would most likely be the last lot sold just because of access issues. The intent for it is a single family residence. There is a path down to the pond. The pond would be owned and maintained by a homeowners association, not the City. That is in accordance with the standard DPW policy.

Mr. Belanger asked Mr. Wichert to go back to the Mosca area that is just above the property line on sheet 4. He said the book and page number that is referenced there references the settlement agreement between the Moscas and The Derryfield that arose after some litigation regarding a ZBA decision. He assumed in reading the plan that the extent of that area stopped at the new property line that they are showing. He asked if they traced out the meets and bounds. He asked if they knew where the land area is that is the subject of that settlement agreement goes to. Mr. Wichert believed the actual agreement in the 925 is actually behind the Mosca residence, which is number 25. He thought he was pretty clear on that. Mr. Belanger said he wanted to make sure that whatever land is subject to that private agreement between Mr. Mosca and The Derryfield School does not overlap with the subdivision area. For the Planning Board’s understanding, Mr. Belanger said there is a difference between the Mosca area and the 200 foot buffer that was the subject of the Planning Board’s decision in 1997. That 200 foot buffer as shown on the plan extends much further down towards the railroad tracks. Mr. Wichert said there is however, he was not 100 percent certain what that difference. The way they interpreted it when they were doing their due diligence and before they were provided the Minutes of the meeting, there was an area that had a limited school activity buffer and an area with the natural buffer. That was subject to a mutual agreement with The Derryfield School and the abutter.

Mr. Hebert confirmed with Mr. Wichert that this plan does nothing to change or reduce what the school and the Moscas agreed to.

Chairman Harrington asked if they did a Title search on the property. Attorney Cronin said they have not, but he had the recorded agreement. Chairman Harrington asked if there was anything in the Deed that referenced the 200 foot buffer. Mr. Wichert said there was nothing in the Deeds because they did an extensive amount of due diligence prior to going into the agreement. The only places that this buffer shows up on is the approved site plan
noted as the limited school activity buffer and in the Planning Board Minutes there is the notation for a treed buffer. Mr. Belanger advised those Minutes were in the Board’s packets.

Mr. Long confirmed with Mr. Wichert that they are not in the Mosca and Derryfield agreement. Attorney Cronin said whatever the Board does tonight, even if they voted to make it all go away, they would still be bound by the legal agreement and the Moscas would have every right to enforce it. They are not asking the Board to temper that, change it, vacate it or do anything. They recognize that it is there and it is a legal obligation to be complied with.

Mr. Hebert asked if the tree buffer was the understanding that it is 180 degrees around Mr. Mosca’s property or if it was just 250 feet back from his lot. Attorney Cronin said it was not around the entire property, it would be just along that single bound where the end of the Arthur Avenue cul-de-sac is.

Ms. Goucher said there were two specific descriptions on the plans and the Mosca one is specific with bearings and distances different than the one that they are talking about on their property. Ms. Goucher said it would the 250 feet from the boundary at the end of Arthur Court; 250 feet up. She said the Mosca’s is a separate recorded document with meets and bounds that is not the same as the 200-250 foot buffer that Attorney Cronin and Mr. Wichert talked about. There is no impact to the Mosca’s buffering. Nothing is affecting the Mosca’s agreement with them.

Mr. O’Donoghue said the buffer was identified and shown and what they are talking about mainly is “treed versus no school activity”. He said this is converted into lots the no school activity zone is no longer relevant. Mr. Wichert said that was the assumption they were working under. If it were treed, Mr. O’Donoghue confirmed with Mr. Wichert it would still be relevant.

In fairness to the applicant, Chairman Harrington said he would like to get an idea as to whether the Board believes this is something they would allow to still continue and then they could continue making their presentation.

Chairman Harrington advised it was the consensus of the Board at this point that they are okay with them to move forward with presenting the rest of their application.

Attorney Cronin requested that Mr. Wichert to go through his typical presentation to show the lots and the variances sizes with the assistance of Mr. Rokeh where needed.

Mr. Wichert said the subject Lot is 5 on Tax Map 557. All the property encompasses The Derryfield campus. It is 87.02 acres as configured. The intent is to subdivide the southwesterly corner or 15.8 acres and then to develop that 15.8 acres into 17 building lots. Out of the 17 lots they have 16 lots as well as a 7.3 “remainder lot” or “large parent tract”. The lots average in size from 14,375-38,900 SF and they have one 7.3 acre lot.
Mr. Wichert said they are not asking for any waivers or variances. The lots are all fully complying with the Zoning Ordinance. They have gone through the zoning review with staff. They are not asking for any waivers relative to the road or construction. During the initial submission they asked for a waiver for road width. He explained they initially submitted this project in January and three to four days prior to their submission DPW posted new rules that eliminated the need to get a waiver for the reduced road width on the travel surface. As such, they do not require any waivers.

Mr. Wichert advised the proposal consists of extending Arthur Avenue. The total distance of the extension is 682 LF from the intersection of Camelot Drive and Arthur Avenue into the radius point of the Arthur Avenue extension and then from the same intersection of Arthur and Camelot they have 715 LF to the radius point of the Felix Circle road. There is roughly 180 feet from Arthur Avenue to the property line. The proposed roads are much shorter than the 1,000 allowed by the City regulations. They are going with underground utilities. They have gotten comments back from DPW. They had some technical issues they are trying to work through but he thought they would be able work through those with staff.

Mr. Wichert said the school was gracious enough to host an abutters meeting last week where they went through the proposal with them and what the school’s position was. It was explained that this portion of their property was too far to really access as part of the campus. They are making substantial improvements to other portions of the campus that are closer to the facilities, which is one of the reasons the property was deemed surplus and available for sale.

Mr. Wichert said there is very little non-buildable area on the proposed lots. He referred to sheet 5 of 18 and advised that at the very end of 5G there was some steep slope, which would be the bank down to the brook and then on 5Q there is a small area in the middle of the lot and on 5A adjacent to the abutter’s property where there was some fill placed. Those are really the only steep slopes they have.

Mr. Wichert said the only wetlands on the property, with the exception of one small area, are actually off of the property being purchased so the brook is still going to remain on the Derryfield School land. They have no wetlands impacts by this project. They are going to require an Alteration of Terrain permit, which they will submit once they get further along with DPW and their comments. They would also require a permit for a sewer main extension from DES.

Mr. Wichert said one of the items that came up in the DPW review and because the abutters are in the audience they can go through it. He pointed out Arthur Avenue Extension. Currently Arthur Avenue Extension is a cul-de-sac and this property is owned by Mr. & Mrs. Smith, who attended the meeting at The Derryfield School and they also met with them on Monday at the property to go through it. One of DPW’s comments is they would like the bulb of cul-de-sac removed and reclaim that so they don’t have to plow a cul-de-sac there
and then continue and plow another cul-de-sac. The applicant has no opposition to reconfiguring the asphalt. The Smith’s property obviously will take the brunt of that impact. He referred to the topography and said they have about a 10 foot grade and roughly 60 feet from their garage slab to this lot line or the edge of pavement and then there may be another 3 feet of rise from the edge of the seam where the asphalt is to where they would remove it. They met with the Smiths and discussed possible options and there were 3 or 4 different iterations discussed about whether they would just extend the driveway straight or whether they would move the driveway entrance up to the north a little bit and then put a bend in it. He said they are working with them and after this hearing they will probably put together more detailed sketches to try to see which options they would prefer. One of the DPW comments was in addition to removing the asphalt, which they are not opposed to, was their comment asking for the excess right-of-way to be abandoned. Mr. Wichert said they had a concern that he did not believe the applicant has the ability to do that because the applicant would not be the landowner so in this case it would the Smiths and the Fischeaus who own the property to the south. Typically if they abandon a road the general philosophy is you extend it to the center, but that is on the assumption you have a lot line that is more or less perpendicular to the right-of-way and then because they are in a cul-de-sac this lot line is radial. If they extended the lot line radial what will happen is it will stick in front of the Smith house. As such, he doesn’t really think this was an equitable. There are different methodologies that can be used as if it were a water boundary or they could just leave it as is, which is an option they suggested to DPW. He believed DPW was still working through on their end as to what they would like for that area. He was sure the Smiths, when they testify, can explain to the Board the option they would prefer. Based on what they talked about on Monday, he said they were probably good with whatever the Smiths say.

As part of their preliminary work before submitting to Alteration of Terrain Mr. Wichert said they did the national heritage inventory check and there was a notice so they submitted for further investigation. They just got that back today and there would be no impact in any of the resources based on the project.

Mr. Wichert said they submitted a letter from Steve Pernaw, traffic engineer, and he went through and based on the 17 new houses and the fact that there are various options for where travelers can go that there should not be any significant impact by approval of the project.

Mr. Belanger asked if they had a chance to look at DPW’s comments about the detention basin and the location of that basin given their concerns regarding the grade of the access road down to the basin as well as the depth of the drainage pipes leading to that. Mr. Rokeh advised that he talked to Owen today and they went through the entire staff report. One of the things he talked to Mr. Welden about was trying to reconfigure it a little bit and try to bring the pond back up. They were trying to avoid basically hanging it right on the edge of the side but there might be room. In an initial version of the subdivision they had something in the area before it actually went over the edge and he will take another look at that. DPW’s main concern was that when you come down over the hill it was just a steep access
road. What happens is when it is that steep then the pipes are going downhill fast and they were worried about velocities in the pipes and stuff like that. They are going to try to balance that out.

Mr. Belanger asked if they anticipate the movement of the detention basin would have any impact on the lot layout. Mr. Rokeh said it would not, but said they might need an easement.

Ms. Goucher understood why they have the swale shown where it is now, but she asked when they revisit the drainage in general that they look at whether or not that drainage swale might be between the first two lots (Lots 5A and 5B). If they could move it they could get the catch basins and flow to work in that general area providing a better chance of at least trying to keep a buffer in that area as opposed to taking all the trees out. Mr. Rokeh said what happens is the whole road just goes up all the way to Arthur Avenue so when the drainage comes down they had two catch basins at the very end, at the property line basically. In one of the initial versions they did they were actually bringing the water back up through the cul-de-sac and getting it all to go to the pond, but what happens when you do that is the drain manholes in the center where the intersection was were 15 feet deep and DPW did not like that.

Ms. Goucher asked if they would be able to pitch it down towards those lots. Mr. Rokeh said he would have to take the catch basins out and put a drain manhole up because they are going uphill to where the drain manhole would be and it would just be a matter of how deep it gets. He didn't think it would be too deep but then they would have to bring it back down the property line and basically run it back that way or something like that. He said he would look into it.

Mr. Lussier said the sewer looked like it would all be served by gravity except for four of them and he assumed Lot F would have to pump also. He said they should make a notation there that is going to be an individual pump also. Mr. Rokeh said in one of the comments they were talking about the sewer depth of the last manhole they were putting in. It was forcing the run down lower because it is going down on Felix Circle and one of the things they talked about was moving the manhole up a little bit and adding one more house onto the force main to actually reduce the sewer depths too. Mr. Rokeh said he understood what Mr. Lussier said and he would fix that.

Regarding the letter from DPW, Chairman Harrington said Mr. Wichert indicated that they were more or less technical or minor details that can be worked out with staff. He asked if that was a correct assumption. Mr. Wichert thought what they looked at was before they made some of the design changes they had actually spoken to staff at DPW. Just because of staffing issues, he said there was another reviewer that did the initial review. He thought what they needed to do was just sit down with both people and coordinate which one is going to hold and which one they fix. He said they ran both scenarios with the depth of the run and the access because one of the items when they had an application meeting after
their initial submission was that path was actually a private path. Because the homeowners association is going to maintain the pond the City really isn’t on that. He believed DPW’s concern was they own the pipes and if the pipes break then they would end up having to fix them. He said it is a steep access but he thought they could get a small dump truck or a pickup. You wouldn’t do it in the middle of the winter, but during the summer it would be fine. Chairman Harrington said the Board likes to see those sorts of details in the plan.

Chairman Harrington turned the hearing over to the public.

Patrick Smith of 69 Arthur Avenue advised his house is located just off the right of the cul-de-sac about 15 feet from the property line. He thanked the Planning Board for the important work they do for the City. He said they have a sizeable driveway with a rise of about 20 percent or so and often times in the winter they come down in an “uncontrolled descent” and they use the cul-de-sac to kind of control that descent. The plow drivers are fantastic to them and try to do the best they can. He had a safety concern with their driveway heading back out towards the cul-de-sac. He understands the cul-de-sac may dissolve into just a through way and they had a good faith discussion with Mr. Welden, Mr. Wichert and Mr. Cartier about some possible solutions to that driveway and how they are impacted with that on the cul-de-sac. If this project goes forward he will be looking for some help with what to do with their driveway. Another thing that came up in their discussions was property lines, the cul-de-sac and who owns what. As an average taxpayer in the City he said he does not want to get into any property line discussions and he doesn’t want to hire a lawyer to figure out what line goes where or anything like that. In his opinion, if the cul-de-sac goes away he wouldn’t mind if the City of Manchester just ended up owning that land that is in front of their house and he doesn’t mind mowing their grass if that is what is going to go through. He does not want to be in some sort of battle for how many feet over this goes or does it go to the middle of the cul-de-sac or not. Besides the driveway solutions he said they are very close to the boundary line so they have some concerns about what it will look like. They would like to be part of any good faith discussions concerning vegetation boundaries, any type of creative solutions or a no cut buffer or anything like that. Often times when trees are removed it loosens the root system of some other trees and there are some massive pines by their house so they are a little concerned about the health of those trees.

Kevin Rooney advised he lives across the cul-de-sac from the Smiths. One their concerns as neighbors was the big treed lot that has acted as an informal community park for lots of neighbors and he knows they will miss that. To the extent that they could leave the treed nature of it would be a blessing to everyone. With regard to the swale/drainage, he said they live to the left of the cul-de-sac and what there is now is a small swale. If they were to move all the drainage from the other end that will put a lot of moisture through a pretty small area. Not only would it increase the possibility of erosion it would make it rather difficult to keep it clean because right now where they have it positioned at the top it appears they have a very large area they could use to develop drainage ponds where they could bring in equipment and all the rest. He asked that they not spend too much time
moving that all the way down to the southern end. He asked that they save the trees.

There were no further comments and the Chairman brought the hearing back to the Board.

Alderman Levasseur asked what size houses were planned for this location. Mr. Wichert said they were looking at approximately 2,500 SF and in the $400,000-$450,000 price range.

Mr. Lussier said the shoreland protection should be put on the combined piece of property. He thought the people who will own that jointly need to know where the buffer is and what restrictions are associated with that.

With regard to there being a fence at the top of the pit, Mr. Lussier thought the people who own that pit jointly are going to want to have that fenced off to discourage ATV’s, etc. Chairman Harrington said there may be a chance that could be redesigned and relocated somewhere else on the property with the next submittal.

Mr. Wichert said they met with Pat, Kim and Kevin on Monday and it was put out in the presentation that they are looking at how to reconfigure this and the best way to make that work. There was discussion relative to the trees because the Smith’s house is actually the closest to the lot line. There problem has been, and it may go away based on the earlier discussion, if they put trees on the side of the wall a subsequent owner could always remove those trees. If they put trees on the bottom because of the topography they are not going to serve a purpose until 10-15 years from now when they get taller than the hill. They talked to the Smiths and there is either only one window or no windows on the gable end so they looked at putting some screening. There is a big red pine that they were concerned the construction would disturb and Mr. Welden agreed that could be taken down. They are cognizant of the neighbors having been there long term and having it be a nice neighborhood and they are trying to make this fit in the best they can. When they return to the Board next month they will try to have more detail relative to what this proposal will look like and how they are going to do that. At that time he is hopeful they can come up with at least one or two options they could do for the Smith’s driveway that they would have a chance to look at, review and hopefully approve.

Mr. Wichert said they would look at moving the easement, which would eliminate the easement being next to a longtime homeowner versus in between new owners so it would be less of a burden or impact to them.

Mr. Wichert said they are not trying to cause any erosion or drainage issues and they will try to move carefully with that.

Ms. Goucher asked what percentage of cut and fill they have on the site that they expect and how many truckloads might be coming in with fill or leaving the site if there isn’t the balance of cut and fill. She said that is important for the neighbors to know. Mr. Rokeh said they have an area down below that they could level off and basically use a lot of the fill and try to
balance it out on site. Mr. Wichert said the hope would be that they could minimize the truck traffic.

Mr. Leclerc asked how much higher the top of Felix Circle was compared to Arthur Avenue. Mr. Rokeh said the intersection is actually the highest point of Felix Circle then it actually goes down and away from Arthur Avenue.

Mr. Leclerc asked if Lots 5A through 5E were around the same height of the road or down a little bit. Mr. Rokeh said they would all probably be lower than the road. Mr. Leclerc asked if the driveways would slope into the garage. Mr. Rokeh said they would probably be walkout houses so they will try to fit the grade and have the best driveway into the garage and then try to do the slope off the back of the house with a walkout situation.

Mr. Leclerc asked if they found a lot of water back there in their test pits. Mr. Wichert said they haven’t done test pits because they are serviced by municipal sewer and water. The advantage of the hill is they would be able to drain the foundations and they could shed any water to the back. Mr. Rokeh said all the lots have a terrain break so almost any foundation drain would have a place to daylight.

Mr. Leclerc asked if they had any idea how the digging would be. Mr. Wichert said they were told that the ballfields are all sand. He couldn’t remember if they looked at Water Works’ records but when they walked it they didn’t necessarily see anything and obviously this area was an old gravel pit so they weren’t expecting ledge or anything as an obstacle.

With taking into consideration what some of the neighbors have said, Chairman Harrington asked if they could identify a couple of larger trees between the new subdivision and the neighbors and highlight them on the plan.

With regard to the abutters’ meeting, Mr. Lussier asked how many properties were represented. Mr. Wichert said there 8 or 9 people so probably 5 or 6 properties.

Chairman Harrington kept the hearing open until June 6, 2019. No further notice to abutters.

Mr. Wichert clarified there were 12 residences were represented at the abutters’ meeting.

2. S2019-009
Property located at 932 and 964 Wellington Road (Tax Map 879, Lots 13 and 14), an application to consolidate two lots totaling approximately 5.3 acres and to subdivide them into 11 new lots and a new public street in the R-1A Zoning District. Joseph M. Wichert, LLS, Inc. for J&C Ryder Family Trust and Stanley J. Garczynski.

Mr. Wichert and Mr. Rokeh appeared on behalf of the applicants, J&D Ryder Family Trust and Stanley J. Garczynski. Mr. Wichert advised this property has been in the Garczynski family for many years. Currently as it is configured Lot 13 is a 2.9 acre parcel and has the 932 Wellington Road house on it. Lot 14 has 2.4 acres with the 964 Wellington Road residence on it. On this application they obtained a variance relative to the existing residences and the first two lots. The existing residence 932 and 964 are both two-family dwellings so the two-family dwellings are actually located in the R-1A district, which they are grandfathered. Because they were grandfathered, when they changed the lot lines in order to maintain those they would have had to have increased the side yard setback. They went to the ZBA and were granted variances to maintain the two-families on the lots as configured. They also got a variance to have the driveway for 932 remain off of Wellington Road even though they called for moving it onto the new road on the application.

Mr. Wichert said the applicants each own a property and the intent is to consolidate the properties, construct a new road and develop nine new lots along with the existing two-family dwellings. Other than the variances that they received from the Zoning Board of Adjustment, they are not asking for any waivers of the subdivision regulations. The proposed new road has 472 feet of length, which he believed was from the curb line of Wellington Road to the radius point of the new road, well under the 1,000 feet allowed by the City regulations. The smallest lot is 12,604 SF and runs all the way up to the largest lot of 27,500 SF, which is the northeasterly lot. He said staff advised they will need to renumber the lots so that is something they are aware of and are willing to do.

Mr. Wichert advised they have the property looked at for the presence of wetlands and there are no wetlands on the property per Aaron Wexler from Aspen Environmental Consultants. They provided a copy of the wetlands report in the submission. They are going with underground utilities and curbing and road per the standard DPW details and requirements.

Mr. Wichert advised they are adjacent to the Marsha Stone property, which is 75 Windsong, and the Church of Latter Day Saints. They have allowed for a 10 foot no cut/no disturb buffer. That is a function of two things; one is there are some conflicting surveys in this area and then there is a presence of an existing chain link fence. The abutters have been living to the fence so the intent, so there won’t be any issues with somebody coming in and removing the fence, they are allowing for a no cut buffer on there. Due to the age of the fence, he believed they were looking for a 15 year period. He spoke to Mrs. Stone and she was in agreement with that. They have spoken briefly with the Gorski family who owns 947 Wellington Road. They are working with them to provide some type of buffer such that headlights will not go into the windows of the house. They still have a little bit of discussion
as to what that is, but he thought generically they were probably looking at a row of shrubs. He thought the question would be whether it is closer to the road or closer to the house and if they have a preference.

Because they only have 9 new lots, Mr. Wichert said they did not do a traffic study in accordance with the regulations, but he did not expect there to be any significant impact to Wellington Road. He believed Wellington Road was still under moratorium, but he didn’t think it had a terribly long time to go.

In looking at the grading and drainage plan, Mr. Wichert pointed out the existing driveway for 923 Wellington. They received a variance to maintain it there but Wellington Road is a busy road and they are trying to minimize that so they called for relocating the driveway to come off the new road. He has talked to Mr. Belanger concerning MTA wanting a platform for picking up children for school buses. He advised they are in agreement with a 7x10 or 12 platform. They just need to flush out the details as to the location. MTA would prefer to not pull up into the cul-de-sac and have to turn the bus around.

Mr. Long asked if there was an update on DPW’s comments concerning the drainage report. Mr. Belanger advised Mr. Long was referring to comment #5 on DPW’s letter that says the drainage report was incomplete and could not be reviewed. He thought their concern was the amount of area included within the drainage report was inadequate. Mr. Rokeh didn’t know if this was talking about the lot development as well as the road. When they did the Therrien subdivision on Wellington Road there was a question when you do a design like this whether you account for the disturbed area around of where the houses are going to go, which is more of a function of alteration of terrain but he thought there was something in there about the offsite drainage and making sure they went far enough up for water draining down into the lots. He didn’t realize that was incomplete, but he will take a look at it and get it worked out.

Ms. Goucher said staff’s understanding is that DPW has basically not done a review of the drainage analysis until they provide more information so it would behoove them to get in touch with them quickly so they can do that so if this hearing is kept open they have that information.

Alderman Levasseur asked what the clearance is when you come to the stop sign to look out onto Wellington Road. Mr. Wichert said there is enough clearance and the last sheet in the plan set they provided was a line of sight profile.

Alderman Levasseur asked if it was zoned for two-family homes in that area. Mr. Wichert said all the new houses will be in accordance with the regulations and be single family dwellings. The variance was just to maintain the existing two-families.

Alderman Levasseur asked about the sale price of the house. Mr. Wichert said the applicants are not going to build it. His guess would be for the one next door probably on the low side
mid to high $400,000 range.

Alderman Levasseur asked if street lighting would be typical of the neighborhood. Mr. Wichert said they are using the standard City fixtures, the downward lighting.

Alderman Levasseur asked if there was on street parking. Mr. Wichert believed there would be on street parking allowed on the new road as it is with any road. He didn’t think it was going to be posted no parking.

Alderman Levasseur asked if there was sewer up there and Mr. Rokeh said there was.

Chairman Harrington turned the hearing over to the public with the anticipation that they are going to keep the public hearing open until the June 6th meeting.

Bryant Ragas of 1014 Wellington Road said there is a noted traffic issue and a speeding issue, with data to prove it and nothing has been done there. Originally when he spoke to the applicant, that lot was supposed to run parallel with Wellington Road. That has changed so basically now he has two backyards in his backyard. Privacy is important to him and he has lost it. He can’t even retreat to his front yard because traffic is so bad, so his backyard is all he has. He said the houses will be close and someone will be looking in his back window. He has no problem with the applicant and they get along well but this is important to him because he and his family are losing their privacy. He would like there to be more space between his property and the other two houses. Initially before he knew what was going on he offered to buy part of the land to give himself a buffer and he could plant his own trees so he could have his own space. He is landlocked between a gas line and a sewer easement so there is not a lot he can do with his land. He said the good news is the house would stop the wind from blowing through there because it whips right through that and his kids’ swing set is on the ground now because it is bad. He is not upset about losing a view; he is upset about losing his privacy. Another concern he has is when they repaved the road the center of the road is now 2-3 feet higher than it used to be and he has water running off his driveway so much so that DPW is going to repave his driveway.

Freda Miles of 14 Sky Meadow Way and direct abutter. Said when she looks across the field, the whole thing slopes down to Sky Meadow Way so she is really concerned about drainage. She knew there will be a detention basin and she asked where that will be drained to. She also would like an assurance that the new houses will be single family houses. It was her opinion there were too many houses on that size lot. Five to seven maybe, but nine was really pushing it. She requested a visual barrier be provided at the property line by the builder on the builder’s side of the property line. They have a Tennessee gas pipeline that runs down the entire border of their houses. She said something like an arborvitae wall would be wonderful.

Linda Carter of 20 Sky Meadow Way advised her house was right behind the drainage so she was afraid if that was not redirected she will have water coming into her basement because
that is a hill that comes down and water runs down. She asked how the drainage was going to be composed. If she gets water in her basement she asked what would be her recourse. She was also concerned about there being nine lots on a 5.3 acre parcel of land. She said the letter she received dated 2/28/19 said “an insufficient lot width for distance” and she asked that be explained.

There were no further comments from the public and the Chairman brought the hearing back to the Board and requested that the applicant address the concerns of the neighbors.

Mr. Rokeh believed there was a detention pond off the backside for the Sky Meadow subdivision. He said everything comes down and drains to the corner right now and they are outlet their detention pond right to the same spot and getting it down to the river. They are trying to not have it go into their detention pond at all. It will continue downhill into a brook that runs down through there to Currier Drive.

Ms. Goucher asked if they were going across private property. Mr. Rokeh said all the drainage right now goes down to that corner and across that property. They are still releasing it towards that property but they are balancing the pre and post flows. The Currier Drive subdivision would have done the same thing; the outlet goes onto the next parcel.

Mr. Belanger thought it would be helpful for Mr. Rokeh to describe to the Board and the abutters how they are changing the peak flow. For instance, is that moderated as a result of the detention basin or how they are changing the total volume. Mr. Rokeh advised when you add the impervious surface the total volume of runoff will increase so you put all your drainage into the detention pond to hold it and control the release rate. The rate the flow has to remain the same or less or what it currently is off of the property. It will just occur for a longer time.

Mr. Wichert said there were other comments brought up relative to the buffers. He pointed out the subject property and said currently it is almost 95 percent a field. This one is a little bit different than the previous one where they had a site that was entirely wooded and they weren’t going to be making it wooded. This one is already a field. He pointed out Mr. Ragas’ house and said you could see the row of shrubs adjacent to his house and driveway. One of the other abutters mentioned that she would like a vegetated buffer. The two lots that will abut Mr. Ragas’ property are 21,000 SF and 18,700 SF so as a minimum they are already almost 50 percent larger than what is required by Ordinance. One is probably getting close to 1-2/3 of the size. One of the items they have is the 10 foot wide gas easement, which also applies to the subject so he thought they were really limited as to what they could put there. They obviously can’t plant anything in the right-of-way. He didn’t think they were in a position where they are looking to buffer the entire line. That is not something they would normally do. Because the application is being kept open they could spend a little bit of time during the month and see if there is something they could come up with and try to make some impact that would be helpful, but he wasn’t certain what they could do whether they do fence or shrubs. If something is put up on the applicant’s side of the line there is no
guarantee that will stay when somebody else buys it so even though it is there the next homeowner could either not maintain it and if it dies he didn’t know if they would be obligated to replace it. He said they would take a look at it.

Chairman Harrington confirmed with Mr. Wichert that it is not being planned to be developed by the current owner so they are not exactly sure what the orientation will be. Mr. Wichert said they will be single family residences in accordance with the Ordinance, but other than that they do not have any specifics and as far as he knows they are too early in the process to have a potential buyer.

Mr. Lussier asked if there were comments from Water Works. He asked if there were any requests to make a possible easement connection across to Sky Meadow Way. Mr. Belanger said they had comments from Water Works. Mr. Wichert did not believe they mentioned a connection to Sky Meadow.

With regard to the buffer, Mr. Lussier said it looked like it was presently being mowed all the way over to the limit of the gas line. Mr. Wichert said that property is almost entirely a field so there is nothing there now.

Mr. Lussier asked where the easement was. Mr. Wichert said there was an easement on both properties. There is a 10 foot easement on their property and then there is a larger section that is on the property to the east.

Alderman Levasseur asked if the road was going to go between the two homes. Mr. Wichert said the road would go between the two existing homes and kind of bend to the right a little bit then the pond would be in the back right corner.

Alderman Levasseur asked what they thought the distance would be from where the house would probably go to Mr. Ragas’ lot line. Mr. Wichert said the lot line is almost 200 feet so he guessed the back of the house may be half of that so maybe 100 feet. Alderman Levasseur asked if there was any thought about putting something up in the back such as tall spruces. He asked if they could do the trees or perhaps sell Mr. Ragas some of that footage in the back and he could do it. He said they would still have enough land there to put the house there and still qualify under any zoning issues so he didn’t know if there was any opportunity for some kind of a negotiation there. Mr. Wichert said they would look into that.

Ms. Charlebois said one of the abutters mentioned that two lots were undersized and she asked if those were the two lots that have the exiting two-family houses. Mr. Wichert said that was correct.

Ms. Goucher asked if they were thinking about relocating the driveway for the westerly existing house onto the new road. Mr. Wichert said he did. If they shift it, Ms. Goucher asked if they would be zoning compliant as far as the intersection with the street. Mr.
Wichert said he has a variance to maintain what he has. Ms. Goucher said that wasn’t the same so if they change that she believed it would be viewed as a material change to their variance. Mr. Wichert said they would have to talk to the Building Department to see what they say.

Ms. Goucher asked Mr. Rokeh to address the comment that DPW had about the sewer. It is very flat land so she knew that the plan was to have force mains from the houses closest to the cul-de-sac and some gravity fed sewer for the ones closer to Wellington. From DPW’s comments she said it sounded like they all have to be force main. Mr. Rokeh said they need to get some inverts on the manholes out on Wellington Road. If it is deep enough out on Wellington Road then they could put a little bit of a run of sewer and get the first four houses or something like that then the rest could be force mains. They just have to figure out how much they can gravity out to Wellington.

If more of the houses cannot be served by gravity and they will be by force main, Ms. Goucher asked if it made sense to have a pump station there servicing them instead of individual ejector pumps. Mr. Rokeh said possibly. With the force mains if it is going to be individual they all have to have individual lines down a sidewalk line instead of in the street. He wanted to see how many houses play out.

Much like the last subdivision with the people that are impacted the most and are concerned about their privacy, Ms. Goucher said Mr. Wichert mentioned because there isn’t a developer they are not sure if he could answer for them but she said he could certainly look at putting up a buffer somewhere within that setback in the back and provide it as a no disturb or even just have it for some screening. If it is on the recorded plan then any potential buyer would just know that buying the property that is part of it.

Mr. Hebert said their boundary line in the gas easement looked like it was about three feet over. Mr. Wichert said 10 feet into their property is the limit of the gas easement. If there was any way they could put a buffer they would still have to come back 4-5 feet. Mr. Wichert said they would be at least 10 feet outside of the easement. Mr. Hebert asked what the total width of the easement was about 30 feet. Mr. Wichert said it was somewhere in that area.

Alderman Levasseur asked if the lots were going to be sold individually or sold as one package and one developer would develop all of them. Mr. Wichert said the odds were more conducive to one developer buying everything just because of the development agreement, the posting of the sureties and all the other items that are going to go with it.

Mr. Leclerc asked if the well on Lot 14A was just an old existing well or it was something that would be utilized. Mr. Wichert said both houses are currently serviced by municipal water so he thought it was just an old one. He couldn’t say if they use for irrigation, but as part of this process it will be abandoned because he believed it was just off the road.
Chairman Harrington said this public hearing would be held open until June 6, 2019. No further notice to abutters.

3. **SP2019-010**  
Property located at 252 Willow Street (Tax Map 733, Lot 19), a site plan application for the proposed redevelopment of the existing mill building. The proposal for this mixed use development includes 64 studio and one bedroom residential units/artist studios, seven micro-hotel/short term rental units, retail, artist space, and undefined future tenants. The site improvements include approximately 100 parking spaces, granite curbing, patio and garden space, and closure of one existing curb cut in the RDV Zoning District. *Fuss & O’Neill for The Factory on Willow, LLC.*

**CU2019-008**  
Property located at 252 Willow Street (Tax Map 733, Lot 19), an application for a conditional use permit to allow a reduction in required on-site parking from 292 to 103 spaces in the RDV Zoning District. *Fuss & O’Neill for The Factory on Willow, LLC.*

**IMP2019-002**  
Property located at 252 Willow Street (Tax Map 733, Lot 19), an application to reduce the school impact fees for the residential component in this mixed use development, in the RDV Zoning District. *Fuss & O’Neill for The Factory on Willow, LLC.*

Ms. Trisciani advised that she had worked with Elizabeth Hitchcock, one of the applicants for this, on past projects. She has no involvement in this project to date and she does not feel that would impact her ability to hear or decide on the case. Chairman Harrington said as long as she had no direct interest in this particular project he agreed with Ms. Trisciani’s assessment and she should be able to hear the case and make a ruling on it.

Amy Chhom of The Chhom Group advised she has about 15 years of real estate experience and worked on many projects throughout the City and she has partnered with Liz Hitchcock. Liz Hitchcock advised she was the owner of Bookery Manchester and the McQuade’s Building currently. She is a long time resident of Manchester, a technology entrepreneur and angel investor. She helped start the Millworks Fund to bring more technology to Manchester and New Hampshire and an overall arts and culture enthusiast.

Ms. Chhom said they formed a partnership to help fill a void of what they see in the City as an opportunity to create a community that provides more varied amenities for the City and they are very excited to share with the Board what they have come up with for 252 Willow Street, which they call “The Factory”.

Ms. Chhom advised they have some design and construction partners that are working with them on this project. There is Market Square Architects who are very familiar within the City. They have done quite a bit of the work in the mills off of Sundial Avenue. Eckman Construction will be the general contractor and Fuss & O’Neill is the civil engineer assisting
them. They also have several consultants involved including Lisa Mausolf for historic tax credits and they are working with some organizations that help them on both the environmental and potential financing opportunities, which include new market tax credits.

Ms. Chhom advised the building was built in 1904. It is a four story mill that was added onto sometime before 1915 where they added some additional bays on the east wing. It was originally the McElwain Shoe Factory and it is commonly referred to as The Cohas Shoe Factory. A lot of the other mills that are off Silver Street and other areas are actually sister mills to this mill. It is only about 40 feet wide so it is a very unique layout compared to some of the other structures that are actually in the millyard.

Ms. Chhom said they have met with the Heritage Commission. Although this building does not fall under their purview, they felt it important to meet with them and give them an overview of what they are planning for the project and they received unanimous support.

Ms. Chhom said the property itself is actually not on Elm Street although it is highly visible from Elm Street. It is accessed off of Willow Street, which is a one way road currently. Typically when they give people directions they say “take a left on Hayward and a right on Willow” to get to the property. It used to be occupied by the old Electropac business that closed in the early 2000’s. The lot is about 3-1/2 acres and the building about 105,000 SF.

Ms. Hitchcock said this project is not just about the economy at large but is really about the creative economy of people building things; building software, building art and building businesses. Their innovators are creators and entrepreneurs. They want the folks she used to work with at Dyn and are now members of a “gig economy”. They want architects and anyone who sees themselves as creative to join their community at the factory. The creative economy is the present and will be the future of growth. This project goes along with another drumbeat that she has marched to for many years in the City of Manchester, which is the creating amenities like this is a huge boom for the economy and also for the workforce. Creating amenities that are age and socioeconomically agnostic, like The Bookery, can only help this City. They are building this to draw a workforce and draw people spending more money in the City.

Ms. Chhom said the Board will see there are a lot of questions when they look at this plan that they aren’t identifying particular tenants for the property today. That is mostly because they are getting the approvals and then getting the tenants because they know they will come.

As a quick overview, Ms. Chhom said the first floor will be primarily retail, commercial, gallery space, etc. They have seven micro hotel units that are planned for the first floor. Micro hotel units are similar to Air B&B. They are working with various artists they hope to have commissioned and uniquely design each of those units so they become a place where people who are maybe visiting the property or visiting residents within the property can stay and have a transient type living situation versus having to rent by the month or by the year.
They also plan on having visiting artists. They plan on having some workshops on the property and this will allow a housing opportunity that is onsite for those people conducting the workshops or attending. They are also planning for a micro café, which is similar to what can be seen at The Flats. It is an affordability model so there is very little overhead for the restaurant operator so they can be successful in providing provisions for the businesses in the property, the residents and any guests of the property as well as some catering. On the second floor they have 18 residential units. They are studios and one bedroom units. They also have 2,000 SF of office space planned on the east wing, which is the part that comes out through the middle. Those units are being initially set aside with the idea of the artist community; those that perhaps create things that can then be sold. These units are designed specifically, and are designed through all three floors, to be replicated to be about 125 SF, which is larger than a lot of the competition and other product that has been made in the City. The idea behind that is that gives them a flexible workspace in which to create and make art or create and work within their space. They will initially set aside the second floor for the artists because it is conveniently close to the rest of the artist workspace that they will talk about, but they hope and they are designing all three floors to replicate itself because if the program does begin to grow they want to have the flexibility to move up in the floors. What makes these units also unique is that each unit is constructed with a closet that opens up into the hallway so it then becomes a retail storefront for the artist, elevating their work in such a sense that it is not depreciated by being within the living space when someone comes to view it and potentially hopefully buying it.

Ms. Chhom said they spent a lot of time talking to various organizations throughout the nation who have done programs and projects like this. There are a couple organizations in the Midwest, Colorado, Washington D.C. and as close as Lowell that have successfully taken underutilized properties and making them into these types of communities and the economic impact that these projects bring to an area, which this project is in a severely depressed economic area, is amazing to see within 5, 10-15 years after the project has happened what has happened around that project and that is their main goal.

Ms. Chhom said they have additionally been collaborating with area and State organizations. They have worked with Departments throughout this entire program and they have looked to the City employees as their local experts during the design concepts for the property. What they will talk a lot about is that they are really looking to foster a community here at this property, which is a little bit like what Ms. Hitchcock has done in The Bookery.

Ms. Chhom advised that off the mill is a one single story masonry brick building that is being planned for their craftsmen. This, because it is a single story building, is ideally used for hot work, which could be anything that requires a kiln; it could be metal working, glass blowing or ceramics. They see that off to the side of the property, which is on the north end of the building. What you also see is food trucks kind of off to the right as well as a park area they plan to develop. The idea of having the food trucks is also again an affordability model. It is one of the most affordable ways that a food entrepreneur, who they also consider to be a maker here in this environment, can actually create and start their own food business for
very low capital as compared to having to open up a bricks and mortar environment. It will also provide a way for them to have additional food options within the neighborhood that currently has very limited options within walking distance, except the “delicious Theo’s Restaurant”.

Ms. Chhom showed a side view of what their park area is. One of the things the Board will see in front of them tonight is them asking for a reduction in the parking requirement. Mostly that is because they want to retain the green space on this property. This property is flanked by two significant areas that they could make into parking and pave, but they are actually making a conscientious decision that they want green space at this property. This particular parcel, which will be merged into the main portion of the property, they envision to have patio space, lighting, potentially an amphitheater that performing artists could also be part of. Perhaps they could have yoga in the park or Shakespeare in the park. They don’t have it all worked out exactly yet what that program will be, but the idea is they are bringing people to this environment and they are not just coming attending a store and leaving, they want them to come and stay and spend time. They want this whole property to be “Instagrammable”. They want to be like “Avenue D” and they want to be like areas in Boston where people want to take selfies, want to post on social media and they want to say that they’re in Manchester, which is one of the most important things that needs to happen.

Ms. Chhom showed an upwards view of the property so the Board could get an understanding of how the property is laid out and what they mean by the green space. She pointed out the amphitheater, the decked park area that is serviced by food trucks is located to the north end and along the front portion it is currently grass and they want to make that into a modern English garden, but eventually with benches, sculptures and other things people can just sit and have a little bit of respite within the City.

Ms. Chhom said the other thing they like to say a lot is they want to “green up and clean up the property”. The line that goes along the back of the building is what they refer to as a “ravine”; it is the old B&M railroad tracks that have been decommissioned and are under the control of NHDOT and being preserved for a future railway connection or public transportation corridor between the downtown area and the airport. Fifty percent of that is controlled by NHDOT and fifty percent is controlled by the City of Manchester. Their ultimate goal is to somehow create a connection from this property to Elm Street over this ravine and they have been in talks with the State of New Hampshire about a potential revocable license so should the State or City be successful in creating a public transportation option there they would gladly give up their access. Their main concern is that bus stops are at the Gas Street intersection or at the corner of Silver and Union. They are really looking to create a bike and walkable public transportation friendly environment in this area and right now with the one way road on Willow Street it is a dangerous situation for bicyclists to be able to get to Elm Street and it is a big long circumvented route. They are in discussions and at the very least they are hoping for a pedestrian and bike access to Elm Street for their residents.
Brian Pratt of Fuss & O'Neill advised he was the civil engineer on the project and he is really excited to help Ms. Chhom and Ms. Hitchcock with this fantastic project.

Mr. Pratt referred to the existing conditions plan and pointed out the existing parking area on the north, the existing parking area on the south, the building in the middle, Willow Street and the green space, which is a separate parcel. They will be doing a lot merger and merge the two parcels together. There is a lot of pavement. There isn’t any green space between the parking area and Willow Street. It is just the roadway, sidewalk and then their parking lot.

Mr. Pratt referred to the site plan and said there really isn’t a ton of changes. They are going to restripe the north parking lot to make it come into compliance with the required handicap parking. The biggest change to the site is on the very north end, which is the park area and amphitheater. There will maybe be some sort of patio. He pointed out the food truck parking area. They may have some little short retaining walls that will act as seating for the amphitheater or maybe some sort or natural green amphitheater and then a potential stage down in the corner. They will retain access around the back of the building. He pointed out the existing grass area and said they will add some walkways and maybe some benches and sculptures in the future. In the southern parking area there is no existing green space between Willow Street and their parking lot so they are going to shrink everything in a little bit and gain a 10 foot green buffer for some street trees in that area. On the back of the building an addition was added. That is a steel frame building and is functioning as a warehouse for the current uses. That will be torn down and turned into patio space for some of the residential units.

Mr. Pratt said they are really not changing the grading on the site except in the area of amphitheater. The pavement grades will all remain the same. The drainage patterns will remain the same. They are decreasing the impervious area a little bit so there will be no increase in stormwater off site.

For utilities Mr. Pratt said they will upgrade the water service, which was over 100 years old. There are multiple sewer connects that are pretty old so they will probably end up connecting a new sewer depending on the mechanical, electrical and plumbing requirements once those are designed.

Mr. Pratt said they will be adding full LED lighting that is all dark sky compatible to provide lighting that meets the City ordinances, safe functional usable space.

With regard to landscaping, Mr. Pratt said they will be adding street trees along the existing green space on the north parking lot, along the proposed English garden and then between the parking area and Willow Street. They will also do some landscaping within the park area. They are not 100 percent sure yet, but think maybe some tree wells within that little patio area.
Mr. Pratt said they have about 105 parking spaces on site with this new layout. They don’t know the exact users that will fill the spots so they need a conditional use permit because they are anticipating the Zoning Ordinance will show that this property needs more parking than they have on site. As such, they are requesting a conditional use permit to reduce the parking. Since they really don’t know exactly what tenants will fill the space, they did a proposed parking calculation based on the residential units which they know; the micro hotel units which they know and then they used a conservative estimate for the rest of the space. That way if this Board grants the conditional use permit they will not have to come back in every time a new tenant comes in. They were conservative and went with a high density parking calculation. They also included a number of parking spaces for the outdoor area and assuming the two uses are separate and they did a conservative parking calculation it shows that they require about 292 parking spaces; but they really are going to need much less than that. With this being a mixed use shared development with shared parking, if the people that live there are not working on the site they will leave and then the commercial uses will come. As such, the parking timeframes will be staggered. They also came up with an idea in working with DPW and staff, which is reconfiguring about a half mile of Willow Street. Right now Willow Street is one way, two lanes in the same direction with parallel parking on one side. It is a pretty wide pavement section and the traffic volumes really don’t warrant having two full lanes in each direction. He believed it was brought up by DPW for them to review the possibility of going with some of the same routine they have done in other areas of the City and shrinking it down. What they are proposing is to shrink it down to one lane instead of two, adding parallel parking on both sides and then adding a bike lane with a buffer. They ran that by Traffic and SNHPC and everyone is in agreement that it is a really good layout. It is traffic calming for Willow Street and it provides about 80 more parking spaces offsite. As such, on top of the 105 they have on site they are adding an additional 80 off site. They are working with the Parking Division and will be submitting this to the Board of Mayor and Aldermen for their approval for the signage and the Parking Ordinance changes.

Mr. Pratt advised they received comments from DPW, which was basically housekeeping and related to mostly signage and striping. They have made the changes and resubmitted plans yesterday so they haven’t received final signoff from them but they were really pretty minor comments.

Southern New Hampshire Planning only had minor comments; one of them related to the bike lane as well as some buffering. Mr. Pratt said originally they proposed a 15 foot single travel lane and what they are going to do is reduce that to 12 feet and add a 3 foot striped buffer so the bike lane has a buffer between the cars that are parking so if somebody is parallel parking and they open their door and a bike is going by there is 3 feet so they don’t hit the door. It still leaves plenty of space for the fire trucks to drive through and plenty of safe travel for the bikes.

Mr. Pratt said they went before the Zoning Board and received two variances. One was for the residential use and the artist lofts in the upper stories of commercial properties and they also got a variance for photographic studios because for some reason it is not allowed in the
Mr. Pratt said they have some encroachments that go from the back of the property. He pointed out the rail Ms. Chhom talked about, which is half owned by NHDOT and half by the City of Manchester. They have some existing pavement encroachments that they will memorialize so they will go to the Board of Mayor and Aldermen to get approval to memorialize them and allow them to keep going. They have been there forever and showed up on the 1998 site plan. They just didn’t find any record of it being formally accepted.

With regard to trying to provide some connectivity to Elm Street, Mr. Pratt said they have been reviewing some options. He pointed out Calef Road, which is on the other side of the NHDOT rail corridor and the City rail corridor. They have been trying to work with the abutters to try to get a vehicular, bike and pedestrian access through. They are not really getting a lot of coordination on the vehicular so most likely if there is any connection it will be a bike and pedestrian access that comes over out to Calef. They are exploring other options if those abutters are not willing to work with them, but they really want to try to promote some connectivity because of that one way street they have to go up one of the side streets and come back down Pine Street if somebody is biking because you cannot bike the wrong way down a one way street.

Mr. Pratt said they are also submitting a fee impact waiver for the school impact fees, which is similar to some other requests the Board has received on some other projects. These are smaller units, studios and one bedroom units geared more toward artists. They really do not expect any children at all to live in this area so they are requesting to reduce it from the $3,500 per unit down to the townhouse level of $1,100 per unit and he believed the Board was comfortable in that in other similar situations.

With regard to the units, Mr. O’Donoghue requested a breakdown of one bedroom and studio units. For his purposes, he said studios do not have a bedroom. Ms. Chhom said the breakdown was 37 one bedroom units and 27 studio apartments.

Mr. Long confirmed with Mr. Pratt the property abutting the trail was owned by the City and on the other side it is owned by the NHDOT.

Mr. Long asked where they would propose a crossover if they got permission from everybody. Mr. Pratt pointed out Calef Road where it loops around and they are trying to work with the two property owners to come in that area to come across and it would outlet onto Calef Road somewhere.

Mr. Long thought he read that going directly to Elm Street was problematic due to easements. Mr. Pratt pointed out the red barn, the parking area, an auto sales business, the Sunbeam Mall and Calef Road. He said it is kind of tight through the back of their existing building so ideally it would come in somewhere off the southern parking lot. There is a possibility to work with one of the abutters or perhaps go up the corridor somehow. There is
a lot of coordination with City staff and abutters and everything that needs to happen.

Mr. Long asked what they were going to do at the back of the building to alleviate people from dumping back there. Ms. Chhom pointed out the metal structure building that will be coming down and it will open up the two stories of mill windows and create a patio area with walkout units on that side. They were also intending to help cleanup that area. It is overgrown, full of trash and it is actually wet. The City of Manchester is responsible for maintaining it even though NHDOT controls a portion of it. When this gets cleaned up, with them being there and with the lighting and activity that they intend having on the property they are hoping it will help to prevent some of that damage that is occurring in that area. They are also looking to add some fencing and security to the property and if they can get the pedestrian access, where ever it is, they hope that having people going back and forth through that space will also help. She said they are looking to create better connectivity from this property through that ravine area. They have looked at what it would take if they went all the way up to Elm Street and avoided having to have an easement over any private property and the grade change between where the bridge is located is quite significant and she is not sure that any ramping system would work there.

Mr. Long asked where they wanted to access Calef Road. Ms. Chhom said they have done about six different conceptuals. They show them coming down the drive aisle and coming across to Calef Road. Without them not going for the vehicular and really focusing on pedestrian and bike they have a little bit more flexibility to where it could come into it and they are looking for it to be the safest condition possible for the residents.

Mr. Long confirmed they are working with NHDOT to get the access. Ms. Chhom said Redimix encroaches on the State DOT so they have a license and they are going for the same license.

Alderman Levasseur asked if the windows were going to be black or white and Ms. Chhom advised they will be black with mullions. The Alderman asked if they would be sandblasting or acid washing the brick. Ms. Chhom said the exact methodology they are going to use is not yet defined. There is some abatement that needs to occur within the property and with the historic tax credit program they are very restricted what system they can use to clean that up. From the Elm Street side the Alderman said that building is going to shine a lot more than it does now because it has a lot of problems. He agreed with Mr. Long the biggest problem is that green space down there. He said from Queen City Bridge right up to Crowley Street there was a really bad homeless camp in there and he had the City come in and literally wipe everything out so they couldn’t hide up on the sides. He said he has never walked that far up but he knew that there were homeless camps in there and then it goes under bridge so that goes to another camp, which is pretty bad. He asked if they were able to clear out any of those trees and then put a lot more lighting in there. He said more light in the back would be the best “cleanser”. Ms. Chhom said if the City would provide them with the permission to maintain it they would.
Alderman Levasseur asked if they owned from their frontage over to the middle. Ms. Chhom said 50 percent of the ravine along their property line is first owned by the City of Manchester and then the 50 percent closer to Elm Street is owned by NHDOT. For some reason they believe because of the encroachment that is why the City of Manchester retained ownership of that strip because once you get to Redimix’s property where Alger Avenue is, that is 100 percent owned by NHDOT. As such, they believe with part of the acknowledgement when this got converted over to the State it was known there were encroachments on the property. Alderman Levasseur said the City would be fine to deal with on that side because the most important thing is to clean the old tracks up. Mr. Pratt said it is actually wetlands in there. The Alderman said he always believed it was going to be a continuation of the Rail Trail itself, but is not. Mr. Pratt said they met with NHDOT and asked what their plans were. They have no set plans. It is not on any of their 10 year plans or anything, but their theory is to reserve it in case. It is a transportation corridor and they don’t like to give up any permanent rights. They could get a revocable license that says if NHDOT ever comes in with something they would have to take it out.

Alderman Levasseur asked if they were presenting the Board with a formula for the impact fee tonight. Mr. Pratt said it was submitted. The Alderman asked if it was based like the one they did with Kaman. Mr. Pratt said it was the same thing. These fall under multi-family which are the $3,500 per unit. They are requesting to reduce it down to $1,100 per unit so they are requesting to reduce it from $200,000 down to $70,656. The Alderman asked if there was a different square footage on the studio and the one bedroom units. Ms. Chhom said their units are larger than a lot of the competition because of the work/live aspect of it and the closet retail aspect. She thought they were about 550 SF for a studio and anywhere from 725 to 800 SF for a one bedroom unit. The idea is that people are working and living within the unit.

Alderman Levasseur said most people complain about lighting because there are a lot of residents over there and he did not think they were going to have that problem here so back lighting the back area along that way will go a long ways towards keeping people out of there. Thinning it out may help and then obviously cleaning it up will dramatically change that whole thing. Mr. Pratt said about a year ago DPW went through and cleaned out all the brush and a lot of the trash and everything. It still needs some work and they worked with DPW and they are on board to work with them when they start construction to help them out to coordinate to get that all cleaned up.

Alderman Levasseur asked how far away there were to construction. Ms. Chhom said they hoped to potentially start some demolition and abatement in July because they were working with CDRC on some EPA funds and they would like to be able to utilize those and those have to be utilized by September 1st. In an ideal situation they would start construction in September.

Alderman Levasseur asked if they were on the agenda for the Aldermen for this coming Tuesday meeting or soon. Ms. Chhom said they were not. The Alderman said they could use
Ms. Chhom said they were hoping they could take advantage of that opportunity. The Alderman said he didn’t see any reason why they wouldn’t.

Mr. Pratt said one of the things they are submitting to the BMA is the signage because there are a lot of no parking signs out on Willow and the BMA regulates the signage. They are working with the City Parking Division and DPW and they just finished developing a plan that has all the signage proposed so he thought they now have a plan that is suitable to submit so they will probably get that submittal in for the signage on Willow and the restriping changes, the 79-E and memorializing the encroachments. Because they don’t know exactly where or if a crossing is going to come through he thought they would present it conceptually. That way they have something to work toward getting approval from the abutters and the DOT. Having the BMA support it conceptually would go a long way. The Alderman said it goes in nicely with the Calef Road plan because it curves nicely right there. The gas station is right behind there and it abuts their property. He thought that worked out really well. It’s not a very busy road and there is not a lot of traffic coming in and out of there so he thought it would work out good.

With regard to reconfiguring Willow Street and bike lanes, Ms. Trisciani said it was great and it is easy to just put a bike lane as a lane in the road. She said some communities have the roadway then parking and then a little bit of a designation so there is a safer bike lane and a sidewalk. She was all for bike lanes, but thought there was so much driver training to do with regard to that. Mr. Pratt said that was brought up when they had some of their meetings with DPW and staff and they don’t quite have enough room for that. It is called a protected bike lane. That would only leave them with a 12 foot drive aisle so they would have parallel parking then a 12 foot drive aisle then parallel parking and fire trucks can’t fit through that. That is the biggest concern. The other concern is you need to have some sort of physical barrier. A lot of times they use those removable plastic posts. From what he understands, it is really difficult to maintain. Ms. Trisciani thanked Mr. Pratt for considering it.

Ms. Charlebois asked for clarification on the parking. Ms. Chhom said they have 64 apartments and 7 micro units. The requirements under the parking require 1-1/2 per apartment dwelling and 1.25 per micro hotel unit. In reality she said the chances are that most of these apartments will be occupied by single individuals so that would give them 71 parking spaces for residential purposes. Ms. Charlebois asked if they thought those 30 or so parking spaces would be enough to accommodate the kind of people they would want to come on a regular basis to see the artists, the food trucks or a concert. Ms. Chhom said on site they have 30 additional spaces and they believe with people that will likely be leaving during the day will be able to co-share some of the parking area as well as adding the 84 spaces along Willow Street. She has been in discussions with the Parking Division about creating a residential zone so people can get hang tags creating some timed spaces for four hour parking along the front of their property boundary so they can continue to keep some of that flexibility of transient coming and going type parking. In looking at the parking calculation, 75 parking spaces were set aside specifically for the green space event space and
the chances of them having everybody on the property all at the same time with those 75 spaces would be pretty aggressive.

Mr. Hebert asked why the parking lot was full today. Ms. Chhom believed the business across the street is utilizing that parking lot area. There is Evolve, which is a hair care distribution company working out of that building, who have about 15 employees. Bike Barn has 2 full-time employees and the rest is being used for storage. There are a small portion of those spaces that are rented to Lou's Custom Exhaust. They believe the balance is likely area uses.

Mr. Lussier said the area behind the building in the right-of-way is a wetland. There is a tremendous grade there. All they need to do is clean the trash out of that right-of-way. There is no reason for that to be wetland. If they are going to put a pedestrian crossing on the north end of the building he said they will need a bridge. The right-of-way is at least 8-10 feet below the terrain on the north end of the building. To get an at grade crossing on the south end of the building they are closer to being able to do that. There is a tremendous grade differential there and it just needs to have that junk cleaned out of the right-of-way. It is a horror down in there and it has gotten worse. Mr. Pratt said they intend to work on that.

On the site plan, Mr. Lussier asked that they explain the piece of property to the south. With the acquisition of 252 Willow Ms. Chhom advised they also acquired 222 Willow, which is a two-family property currently occupied by the Boissonneault family, which previously owned the mill so they are kind of their helpers in keeping an eye out on the property currently. They have no plans for that property as it sits today with the exception of maintaining it as a two-family. Mr. Lussier asked if they were going to file for an annexation of the other property on the north end. Ms. Chhom said they will because it is an accessory use to the property.

Ms. Sanuth asked if there were plans for if there is that sort of common area open use to invite folks to the property to utilize the existing businesses on site or events. She asked if there were common area restrooms planned anywhere on site or would people be able to utilize the bathrooms in businesses in which they are visiting. Ms. Chhom said all of this is subject to change because as they are talking to tenants they may move walls or shift square footages and such. She showed the main level as it is now in the building. She pointed out the micro café, which is about 650 SF with the kitchen and counter space. The counter space being out open to the common area so they have the ability to access an area for seating and other things. Most people are probably going to go to the counter, take their food and go up to their apartment or they hope they will go into the courtyard area and sit down or perhaps go out into the English garden or green space. The idea is they are creating a community so people can exchange ideas and information. She pointed out the micro hotel units, the egress out to the back of the building and the gallery flex space and craftsmen space. Underneath that area is where they are planning to have some public bathrooms installed specifically to service the outdoor landscaped area. Those will be locked and within the structure so they can provide a security level to the property. They are also planning to place
some common area bathrooms in the common area somewhere along the retail area so there will be access to bathrooms when people come for the open studios or other events occurring on the property.

Ms. Sanuth asked about signage that will be added to the exterior of the site. Ms. Hitchcock said that was all renderings from the construction company. Ms. Chhom said they will submit separately on that. The construction company, as part of their pitch, created a beautiful video and some renderings to win them over and they absolutely did. They will come back with a comprehensive signage package.

Mr. Leclerc said it looks like there is going to be a lot of public space with people coming in to look at art. He asked if the food trucks will be almost like a permanent staple outside the building or a couple hours a day. He was concerned about in and out traffic. With regard to the food trucks, Ms. Chhom said she was not 100 percent sure. It is really a seasonal type of business. They envisioned them to be when there were events and things happening on the property. That doesn’t rule out the fact that should they want to do something sort of what was done at Exit 11 where there is almost a permanent food truck outside. She doesn’t want to rule that out due to the fact that the affordability model is there for food entrepreneurs and they want to be able to entice that to happen more. Mr. Leclerc agreed and said it was a great thing. He said the traffic and the parking could be two issues and if they are doing events they are talking about overlap for tenants. He said if events were at night when tenants were home a lot of the spaces would be taken up. Mr. Pratt said they did a full traffic study and had a scoping meeting with staff. They studied six intersections in the area including three signalized and in general the estimated impact to the neighborhood was very minor. They didn’t change the level of service of any intersections. He thought they added maybe a one or two second delay to some of the intersections in the area. They did just a split of the trip generations based on all the mixes of possible uses, which was reviewed by DPW and Southern New Hampshire Planning and they didn’t have any concerns with the traffic study or the impact to the neighborhoods. The reduction of the lane width was actually traffic calming. Right now it can be a speedway so by necking that down it will create a safer friendly corridor. Events will probably be off peak hours if there are events there but these are classified as restaurants in the Zoning Ordinance. Restaurants under 5,000 SF are allowed.

Mr. Leclerc asked how much of Willow Street they were contemplating shrinking down to one lane. Mr. Pratt said about a half mile. It would be from Valley Street to almost where the Pine Street turn is. He said it works out really nicely.

Alderman Levasseur asked if shrinking it down to one lane was to slow everyone down. Mr. Pratt explained that the volume doesn’t require two lanes. The volume of traffic traveling on it could easily be supported by one lane. The primary purpose was to add the bike lanes because there are no bike lanes now and to add some parking. The Alderman asked if it would be metered parking and Mr. Pratt said it would not. Alderman Levasseur asked if they had talked to DPW about this. Ms. Chhom said she talked to Denise in the Parking Division
about a bunch of different scenarios. As of right now she doesn’t see that the investment is worthwhile to put in meters. As they monitor the activity if she decides the investment will recoup the cost then they will go forward.

In looking at the rail station, Alderman Levasseur said if they could put a chateau over that or put a nice staircase down and a staircase up with lighting because there are people living in there and the ease of access going over to Fisher Cat Stadium and there is going to be a big dance club going in at Spider Bite so they could walk over that way. He couldn’t imagine that any of the abutters, especially Red Barn because a lot of people would go there for breakfast. He couldn’t imagine they would be upset about having people walking through that way. If they had a bridge or a chateau there they could bike right over it. That to him was going to be the key to this. He asked if they had any idea if they could build a staircase down with railings and lighting to get people up and over. Mr. Pratt said potentially on the south side. He pointed out the delineated wetlands and that is an area with the least amount of elevation change. They would probably build it up and do a paved walkway with a culvert to allow the drainage to flow through. The Alderman said it would be nice if they could own that whole piece. Mr. Pratt said it is really in the hands of the abutters right now, but they are trying. They would love to have that connection.

Chairman Harrington said this was an incredible project. It is ambitious and envisionary. His only concern about it is going to end up for a while being its own little island. They are doing exactly what the Board and the Planning Staff envisioned for the redevelopment area so they couldn’t ask for a better project to kick this off. His concern is that they have a lot of industrial and what he would consider to be heavy gritty industrial around them. He said the City needs heavy and gritty industrial but do they need it in the inner city anymore is really the question. He thought with the rezoning that has happened in the RDV zone as these properties turn over that is going to happen. They are just going to be really early.

Chairman Harrington said the building is 96,000 SF. He asked how much square footage the apartments and the micro hotel would take up. He asked what was not committed yet out of the 96,000 SF. Ms. Chhom said about 10,000 SF is set aside for a nonprofit that will be endowed with the intention of supporting the artist community that is within the property. As such, about 25,000 SF overall is available for lease currently, minus the Bike Barn that currently exists in the property. Chairman Harrington confirmed that office space was not their vision.

As far as the uses, Ms. Chhom said that was why they were coming in with a very conservative ask so that as they start to identify their users they are not having to come back to the Board every single time. They are coming to the Board with the worst case scenario and they are hopeful they will curate this in such a way that the uses are complimentary because they want everybody to be successful there.

Mr. Pratt pointed out they are adding about 80 parking spaces, which doesn’t include the existing on street parking that is already there. There is a lot more on street parking
available than just the 80 spaces. Chairman Harrington said some of those cars never leave.

Chairman Harrington said he just came back from a real estate conference and one of the themes with transportation that is often overlooked is really the biggest means of transportation; walkability. Anyway they could improve those lengths such as connecting the rail trail to sidewalks and having safer sidewalks. He said they are very early and he doesn’t see a lot of people necessarily walking there yet, but he could certainly see as people get to know where they are and what they are they might want to go from the Fisher Cat Stadium take a walk up the hill and go across Elm Street and go to their artist lofts or vice versa. To the extent they can make it safe for pedestrians and create more walkable areas that may happen over time.

Chairman Harrington turned the hearing over to the public. No one came forward either in favor of or in opposition to this project and the Chairman brought the hearing back to the Board.

Ms. Chhom pointed out that the site itself is only a mile from City Hall, a half mile to Market Basket and the SNHU Arena is only ¾ of a mile away. As such, this is absolutely imperative for the success of this project to get the pedestrian access somehow so they are open to any suggestions because they envision that this is walkable to downtown as well as bikeable. They want to add bike share and bring more of that. In summation, Ms. Chhom said someone always have to be first and if it has to be them then let it be them.

Mr. O’Donoghue said they may want to talk to MTA and once they get this place built out have them add that to the Green Dash. Ms. Chhom said they met with MTA yesterday.

Chairman Harrington said there was a letter from XPO. He was sure they were not the only ones replacing window and air conditioning and all that stuff. There are others in the neighborhood that just want to make sure they are aware that they are in an established industrial area. They have concerns about the project because of that. They want them to know there is truck traffic, they make noise loading and unloading early in the morning, late at night. In their mind, even though they are first for this use they were there in the beginning. Noise and light is unavoidable in their opinion. The letter will be made a permanent part of the file.

Mr. Golden advised in the zoning review Mr. Gagne noted loading space size but it appeared they had addressed that. Mr. Pratt said he noticed that on the staff review. That is a fire lane, not a loading zone. Mr. Golden confirmed with Mr. Pratt there is a 12x50 loading zone on the end of the building.

With regard to dumpsters, Mr. Golden said there was no detail in the detail sheets but considering the different types of uses and artists and material he asked if two dumpsters was going to be sufficient. Mr. Pratt said they believe two dumpsters will be fine. Mr. Golden asked about normal trash, steel, metal, glass, etc. Mr. Pratt said they probably won’t
be able to use the dumpster for large things. They would probably have to dispose of that at the dump or something. They will probably write something into the lease. Ms. Chhom said anything related to like metal art would have to get recycled as well as glass and ceramic. That is not something that typically goes into the mainstream trash but it is something she is talking to their trash vendor about to make sure they are properly sizing everything for the uses and having the appropriate amount of pickup.

In looking at the site plan and the dumpsters, Ms. Goucher said is says “concrete block or screen fence” and she knows that is such a minute detail when they have this big project out there but she thought if they were just dumpsters that had some fencing around it that wouldn’t really go with their theme and what they are doing. She said maybe that is where it has to be as far as site location but they may want to think about how that enclosure looks so it is not so “back of a building kind of looking”. Ms. Chhom assured Ms. Goucher it will not just be cinder block by itself.

When they go to the BMA about the encroachments, Ms. Goucher asked if they will actually be asking them for a revocable license. She said they are used to seeing a request go in on the railroad right-of-way that is typically a long-term plan for the Rail Trail, which this is not, but in those scenarios they usually granted 30 day revocable licenses for parking or whatever. She asked if they know what they are asking for when they go to the BMA. Mr. Pratt said he was not sure yet, but they are happy to work with the staff and BMA. Mr. Belanger said it may have been conveyed as part of a railroad right-of-way initially so there may be restrictions on the Deed like in a lot of the right-of-way there are restrictions “this shall only be used for x, y and z” so a fee interest might not be what they are looking for. They might be looking more for a revocable license. Mr. Pratt said it would be some sort of encroachment agreement or license. He said they will reach out to staff to figure out the best way.

With the exception of them having to come back to the Board for signage approval, Chairman Harrington asked if there were any other things the Board was missing so they don’t necessarily have to come back. Ms. Goucher said the Board needs to keep in mind is one of their requests is for a conditional use permit to allow 103-105 parking spaces. She said they have done their best job estimating what the demand would be with some of these unknowns and they are trying very hard to be conservative so if they come in with a tenant for a space and it is an allowed use and it doesn’t require a variance they are going to hope they can just pull a permit for that particular tenant or use or space. She thought as long as they haven’t gone over their maximum representation of 292 then she did not think they would have to come back before the Board other than as they mentioned with the signage. She thinks that is their intent and if the Board is comfortable with it the staff is just going to look at them as they come in with their permits for the uses and keep checking that box to make sure they haven’t gone above 292 spaces for cumulative uses.

Mr. Lussier asked if the Fire Department had signed off and Mr. Pratt said they have.
Mr. Pratt asked if they would come back to the Board with signage at a business meeting. Ms. Goucher said if the Board is comfortable that they give staff a signage package that can be reviewed at a business meeting. Mr. Pratt said they don’t want to have to come back every single time a tenant comes in. Chairman Harrington advised they would take up signage at a business meeting.

Ms. Goucher confirmed that the Board was satisfied with the information presented concerning the impact fee waiver request.

Chairman Harrington closed this public hearing and they will attempt to deliberate it in a business meeting after the full public hearing in two weeks.

4. **CU2019-003**  
Property located at 55 West North Street (Tax Map 165, Lots 13 & 14), a conditional use application to allow a surface parking lot as a principle use in an R-3, Urban Multifamily Zoning District. *Keach-Nordstrom Associates, Inc. for Ole Blue Eyes-Manchester, LLC.*

**SP2019-003**  
Property located at 55 West North Street (Tax Map 165, Lots 13 & 14), a site plan application for a proposed 40 vehicle surface parking lot in the R-3 Zone. *Keach-Nordstrom Associates, Inc. for Ole Blue Eyes-Manchester, LLC.*

Tucker McCarthy of Keach Nordstrom Associates appeared on behalf of Ole Blue Eyes, LLC who owns the two properties they are here to discuss. This property abuts the Courville at Manchester property, which is an elderly living facility off of West Webster Street. This parking lot is off of Chandler Street and the proposal is to build a 40 space parking lot for the adjacent Courville facility.

Mr. McCarthy said currently Courville has an agreement with the Brady Sullivan property across the street for parking for their employees. At the last hearing it was brought up there was a current variance on this property for that agreement. They went to the Zoning Board to get an adjustment or basically a new variance for that agreement to allow for the parking to be adjacent to the Courville property. As part of this application, they are asking for a conditional use permit. This parking lot is on a separate lot from the Courville and it requires a conditional use permit for a surface parking lot in the R-3 zone. The best way to do this would be to merge these two properties but because of the HUD financing they have in place for The Courville property that is not a possible option. If they were able to merge those two properties they would not need a conditional use permit.

Mr. McCarthy said they are also asking for a waiver for light pole heights. They are within the limited activity buffer and they have some abutting residential properties. Nothing has changed since they were before the Board before. Basically it was just a cleanup item to go back to the ZBA to get that variance.
Mr. McCarthy said they are now proposing two 20 foot light poles that will both face in towards the parking lot. They are within the setback for the limited activity buffer. They did a lighting plan to show what they would be required if they were to stay with 10 foot poles. It would increase from two 20 foot poles to eight 10 foot poles. They also felt there are more lights facing the abutting properties so they feel having two 20 foot poles would actually be less of an impact to those abutters. Chairman Harrington confirmed with Mr. McCarthy that they were fed from underground.

Chairman Harrington turned the hearing over to the public and no one came forward either in favor of or in opposition to this application. The Chairman brought the hearing back to the Board and there were no further comments.

The Chairman closed this public hearing and it will be deliberated in two weeks.

Chairman Harrington concluded the May 1, 2019 public hearing of the Manchester Planning Board and called the business meeting to order.

III. BUSINESS MEETING:

(Tabled from April 18, 2019)

Chairman Harrington advised there was a full Board so all six members that were present for the public hearing will vote on these applications.

1. **S2019-007**

Property located at 289 Tory Road (Tax Map 915, Lot 12A), a subdivision application for the creation of two new lots of approximately 14,712 SF (Map 12A) and approximately 16,693 SF (Map 12A-1) in the R-1B Zone. **S&H Land Service for Shawn M. Moreau**

Chairman Harrington advised there was a staff recommendation and the Board took a moment to review that information.

Ms. Trisciani said the applicant mentioned that he was not planning on taking down trees. She would like to see that as an actual condition to confirm that because there was a lot of concern from the abutters and she was concerned about potential water issues. She said Mr. Moreau already agreed to not take down trees so she felt it was the Board’s duty to solidify that agreement in a condition. Mr. Leclerc agreed with Ms. Trisciani. He knew it was a tough spot, but there was plenty of room to keep that little space for the abutters.

Ms. Goucher said if they want to have some kind of either no cut or a restricted area it probably should be shown on the plan so it gets recorded. She knew in general they were talking about the back of the site, but they may want to look at the lot and decide if it is a restriction of certain distance or something like that.
Mr. Long believed Mr. Moreau publicly stated what he would agree to with respect to the trees so he thought the Minutes would reflect that.

Mr. O’Donoghue said would be agreeable to a condition concerning the trees as stated by the applicant during the business meeting. Ms. Trisciani said she would want to rehear what he said at the business meeting. There were some trees towards the front of the lot going north-south and then there was a larger swath that was east-west. She thought it was the larger swath in the back that was the main concern with creating some problems if they started to cut all of those down and clear cut that section.

Ms. Goucher said the back portion drains off to the abutter to the south. From the subdivision activity that occurred a few years ago, some of the abutters did speak to that. The one that’s on Tufts and Hall a block over there were a lot of trees that were taken down there and the existing homeowner on the corner of Hall and Shaw experienced a lot of runoff with the development of the two houses. There is a drainage easement in that general area so there is some potential for some real runoff if the trees in the back portion are taken down. She didn’t think it was anything from the front portion. She said it was the tail part in the back that the neighbors had a concern about. It is not a matter of taking down a tree in the front to build a house or even some of the other ones that are up along Tory and Hall or behind the existing house there is one or two kinds there; it is really the top of the knoll where the ledge outcrop is. Those trees are of most concern to the abutters and she thought there could be some drainage issues if those were taken down.

Chairman Harrington said there seemed to be a consensus that the Board would like to have some of the trees remain as Mr. Moreau stated in his public testimony but the mechanism to do that seemed a little obscure. Ms. Goucher said in the past the Board has asked that no trees were to be cut unless staff had gone out and flagged the trees to be saved. The problem is that there is nothing in perpetuity. Once someone else buys it if there is not something on a plan that is on record it is a lot harder to do much about it. She said a note could be put on the plan that trees in the back portion cannot be removed without review. Ms. Trisciani thought if they could make that specific that would make her more comfortable because one of her concerns also is she doesn’t have a feel if Mr. Moreau is developing or selling the lot off. She thought if they could do the back swath and then maybe follow it with approval by staff.

Mr. Leclerc asked if they could do a no cut zone. Ms. Goucher said they could have an area not to be disturbed and have it shown on the plan in a note and in a condition. She said they can get a house in the front, which is what every other house on that street is and still have room to put a pool or something in the back. It is really just that top part. Mr. Leclerc said there are 6 lots that abut it so cutting down all those trees would affect not just one or two, it would affect a good portion of the neighborhood. Ms. Goucher said it was all the people that signed the petition that was presented to the Board. Mr. Leclerc said he wouldn’t have an issue describing a no cut area just to help protect not only the neighbors but the water or whatever other issues might be back there.
Mr. Long asked Ms. Goucher what she would recommend. Ms. Goucher said she would recommend that the Board add another condition and then she would also recommend that there be a note placed on the plan that will be recorded like “area of no disturbance” so visually someone could see on the plan when they buy the lot and they’ll know they have ¾ of the lot they could do whatever but on the top portion up on the hill they have a restriction on it.

Because it is just going to shift the setback Ms. Goucher said they would still have 140 feet depth. It is a large lot as it is proposed and it doesn’t take away anything from the buildable area whatsoever. If they put it as a condition and it is shown on the plan they have the ability down the road to come back to this Board and request the condition be removed. It is not forever if it is written as a condition.

Ms. Sanuth asked what happens if a tree through the course of its life has an issue where the Board set a restriction that it needs to stay but it needs to be removed because it is not safe. Ms. Goucher said they are not talking about a particular tree; they are talking about the area in general. If in the area in general where they have said they cannot cut there is a tree that becomes compromised, what is the recourse of the property owner by virtue of this particular motion or condition the Board is placing upon them. Chairman Harrington said Ms. Goucher just stated that they would be able to come back to the Board and request the condition be removed.

Mr. Belanger said they can structure this however they want. If they want to put in language that says for reasonable circumstances that require the removal of a tree or they could say no structures and no clear cutting. They could write this in a way that would not require them to come back to the Planning Board for a diseased tree. They also have the authority to place a condition. With regard to private property rights, the Board has the authority to place a condition like this on there but they structure however they want to structure it and draw attention to any reason why they may not need to come to the Planning Board.

Mr. Long asked if do not disturb meant no treehouse. Mr. Belanger said a treehouse is a structure under the Zoning Ordinance so if they say no structures then that would mean no treehouse. Ms. Trisciani clarified that she did not say no structures, she was saying they are not going to clear cut this swath of trees. If a tree is diseased and it needs to come down she did not think the Planning Board should put anything that says they can’t do that. The point she was trying to come across was there was 134.46 feet of length on this lot and 75.08 so that is plenty of space for setbacks and building on that back section. She said Mr. Moreau already said he wasn’t going to cut that section so she felt that should be put in the conditions to make sure that happens because somebody can say something when they come for a hearing and all bets are off when they decide they are going to do what they are going to do. Ms. Goucher thought he was going to sell the lot. Ms. Trisciani said that was an even larger concern because then the Board will lose all control over anything and the poor neighbors who are going to have these issues are not going to have any recourse whatsoever.
and the Board hasn’t protected the neighborhood.

Mr. Belanger said perhaps the language “area to remain vegetated” that way if a tree falls down the area is still vegetated but they are not putting a structure in there. That can be written as a condition and write those few words on a plan and show the area and that should solve it.

Mr. Golden suggested the word “wooded” instead of “vegetated”. Ms. Goucher felt “area of no disturbance” was the simplest.

Mr. Long made a motion, which was seconded by Ms. Trisciani, to approve SP2019-007 per staff recommendation and with the addition of a condition stating that an area of no disturbance shall be shown on the plan to be recorded. (Motion Carried) (Abstained - Levasseur) (Nay: O’Donoghue, Sanuth)

Conditions of Approval:

1. Conditional approval of this plan shall be valid for one year, during which time all conditions precedent to final approval shall be completed and plans shall be submitted for final approval;

2. The applicant shall obtain sign-off from all City reviewing agencies, including the Planning Department, prior to submitting plans for final approval;

3. All new boundary monuments are to be set prior to submitting plans for final approval;

4. New lot numbers shall be secured from the Assessor and shown on the plan prior to final approval;

5. Per the plan represented at hearing, the portions of the existing house/garage and appurtenant structures shall be removed, and the new garage and driveway shall be constructed, prior to submitting plans for signing and recording;

6. The proposed plan submitted for a building permit plan shall indicate proposed grades around the house/foundation/driveway;

7. An excavation permit from the Manchester Department of Public Works is required for all work within the public right-of-way. All work shall conform to the City of Manchester Standard Specifications;

8. The school impact fee of $4,589 per single-family dwelling unit shall be submitted prior to the issuance of a certificate of occupancy;

9. The fire impact fee of $571 per single-family dwelling unit shall be submitted prior to the
issuance of a certificate of occupancy;

10. The plan shall contain a note stating, “No certificate of occupancy for the new house shall be authorized until all required improvements have been completed, unless addressed by the provision of a financial guarantee, pursuant to the requirements of Subsection 4.14 of the Manchester Subdivision and Site Plan Review Regulations.”

11. The plan shall contain a note stating, “All conditions subsequent to approval shall be completed within two years of final approval.”

12. All conditions subsequent to final approval shall be noted on the recorded plan, or the notice of decision shall be recorded simultaneously with the plan, pursuant to RSA 676:3.

13. Prior to final approval, the applicant shall provide to the Highway Department a digital file in AutoCAD, .dwg format with boundary lines and horizontal and vertical features based on N.H. State Plane Coordinate System (NAD83/92-NGVD 88.

14. To submit plans for final approval, the applicant shall submit one set of mylars for recording, one complete set of mylars to remain on file with the Planning Department, and five complete paper sets.

15. Should any condition precedent or subsequent to this approval not be met in the time periods provided for in Subsection 4.13 of the Manchester Subdivision and Site Plan Review Regulations, the Planning Board shall hold a hearing to revoke this approval, pursuant to RSA 676:4-a; and

16. The applicant shall provide the Planning Department with the recorded plan number within 30 days of the final approval.

17. Additionally, during the Board’s deliberation, an additional condition was added regarding tree clearing on proposed Lot 12A-1, which reads as follows:

   An “Area of no disturbance” shall be shown on the plan to be recorded. The area subject to no disturbance shall be identified on the plans as the area in the rear of proposed new Lot 12A-1, defined by extending the southeastern line of the property behind the existing house to the southerly line of the newly created lot.

2. **S2019-008**
Property located at 1200 South Mammoth Road (Tax Map 797, Lots 7 and 8), a subdivision application for the creation of two new buildable lots of approximately 8.1 acres and approximately 0.95 acres in the RS and IND Zones. *S&H Land Services for William Socha Development, LLC*

The Chairman advised there was a staff recommendation and the Board took a moment to review that information.

*Mr. Long made a motion to approve S2019-008 per staff recommendation, which was seconded by Ms. Sanuth. (Motion Carried)*

3. **SP2019-006**
   Property located at 2743 Brown Avenue (Tax Map 750, Lots 20A), a site plan application for a proposed 17,391 SF veterinary emergency hospital with the associated site improvements in the IND Zone. *Bedford Design Consultants, Inc. for the Olga Katrycz Estate.*

The Chairman advised there was a staff recommendation and the Board took a moment to review that information.

Mr. O’Donoghue advised there was a waiver request associated with the width of the driveway. The width proposed is 32 feet where 24 feet is permitted per the Zoning Ordinance.

*Mr. Long made a motion to grant the waiver for driveway width, which was seconded by Mr. O’Donoghue. (Motion Carried)*

*Mr. Long made a motion to approve SP2019-006 per staff recommendation, which was seconded by Alderman Levasseur. (Motion Carried)*

**Conditions of Approval:**

1. Conditional approval of this plan shall be valid for one year, during which time all conditions precedent to final approval shall be completed and seven paper copies of the plan sets shall be submitted for signature and final approval;

2. The applicant shall obtain sign-off from all City reviewing agencies, including Fire Prevention, the Highway Department, and Planning prior to final approval;

3. All material changes from representations made at the public hearing, including changes to signage, shall be reviewed and approved by the Planning Board at a public hearing;

4. The final landscape plan shall be reviewed and approved by planning staff, prior to
signing the plan set;

5. Prior to the issuance of a certificate of occupancy for Phase 1, the area indicated on the plan for the Phase 2 expansion shall be loamed and seeded;

6. Prior to the issuance of permits for the Phase 2 expansion, the existing peak hour traffic counts at the driveway, the projected volume increases with the expansion, and turn lane warrant analyses for vehicles entering the facility shall be submitted to the Traffic Division of DPW;

7. Prior to applying for a certificate of occupancy, a signed and sealed letter from a NH licensed professional engineer shall be submitted to the planning staff certifying that the site improvements, including the underground storm water system, have been constructed in accordance with the approved plans;

8. A statement signed by the owner shall be added to the plan stating, “It is hereby agreed that, as the owner of the property, I will construct the project as approved and as shown on the enclosed set of plans. Further, I agree to maintain the site improvements for the duration of the use”;

9. Should any condition precedent or subsequent to this approval not be met in the time periods provided for in Subsection 4.13 of the Manchester Subdivision and Site Plan Review Regulations, the Planning Board shall hold a hearing to revoke this approval, pursuant to RSA 676:4-a; and

10. A certificate of occupancy shall not be authorized until all site improvements have been completed, unless addressed by the provision of a financial guarantee, pursuant to the requirements of Subsection 4.14 of the Manchester Subdivision and Site Plan Review Regulations.

4. **SP2019-007**

Property located at 289 South Mammoth Road (Tax Map 705, Lot 24), a site plan application to change the use of an existing building from woodworking studio to an online auction office in the R-1B Zone. 

*Joseph M. Wichert, LLS Inc. for Denise A. Ryan*

The Chairman advised there was a staff recommendation and the Board took a moment to review that information.

Ms. Goucher advised there were three waiver requests associated with this application.

*Mr. O’Donoghue made a motion to grant the waiver from Section 8.3(C) to not provide a landscape plan, which was seconded by Mr. Long. (Motion Carried)*

*Mr. O’Donoghue made a motion to grant the waiver from Section 8.4 to not provide a full*
Mr. Long made a motion to approve SP2019-007 per staff recommendation, which was seconded by Mr. Leclerc. (Motion Carried)

Conditions of Approval:

1. Conditional approval of this plan shall be valid for one year, during which time all conditions precedent to final approval shall be completed and plans shall be submitted for final approval;

2. The applicant shall obtain sign-off from all City reviewing agencies, including the Planning staff, prior to submitting plans for final approval;

3. Any new signage, which must comply with the zoning regulations, shall require a sign permit through the Planning and Community Development Department;

4. Prior to the issuance of a Certificate of Occupancy, the property owner shall restripe the front parking lot as represented on the approved plan;

5. The plan shall contain a note stating that “There shall be no outdoor storage of products, or vehicles”;

6. If the Planning Board grants waivers from the Subdivision and Site Plan Review Regulations, the plan shall contain a note to memorialize the waivers, including the section number, description, and date of the approval of the waivers;

7. The plan shall contain the following statement signed by the owner: “It is hereby agreed that, as the owner of the property, I will construct the project as approved and as shown on the enclosed set of plans. Further, I agree to maintain the site improvements for the duration of the use;”

8. The plan shall contain a note stating, “All conditions subsequent to approval shall be completed within two years of final approval”;

9. The plan shall contain a note stating, “No certificate of occupancy shall be authorized until all required improvements have been completed, unless addressed by the provision of a financial guarantee, pursuant to the requirements of Subsection 4.14 of the Manchester Subdivision and Site Plan Review Regulations”;

10. To submit plans for final approval, the applicant shall submit seven paper plan sets to the
Planning and Community Development Department; and

11. Should any condition precedent or subsequent to this approval not be met in the time periods provided for in Subsection 4.13 of the Manchester Subdivision and Site Plan Review Regulations, the Planning Board shall hold a hearing to revoke this approval, pursuant to RSA 676:4-a.

5. **IMP2019-001**

Property located at 67 Central Street (Tax Map 168, Lot 2), an application to reduce the impact fees for the conversion of a 10,500 SF office building to nine dwelling units in the CBD Zone. *Fuss & O’Neill, Inc. for Christos Tsiaras*

*Mr. O’Donoghue made a motion to deny IMP2019-001 as there is nothing unique about the units. They do comply with the Ordinance. Secondly, in addition to the considerations that it does meet the Ordinance, the reduction in the school fees of roughly $15,000 is an amount that could easily be used to offset and increase the budget that the school could use in one time type of funds. The purpose of this debt relief and it is applied against capital expenditures so if they take and apply this amount against capital expenditures they already have that budgeted that money could be reallocated to some other use within the school budget. Along with it not being unique and meeting the Ordinance, the third criteria would be the fact that the $15,000 would be able to be used for the school.*

Ms. Goucher advised that full members should vote unless they did not feel comfortable voting. Ms. Sanuth abstained from voting on this as she has been working with this applicant.

*Ms. Trisciani seconded Mr. O’Donoghue’s motion to deny IMP2019-001. (Motion Carried) (5-3 , 1 abstention)*

Chairman Harrington said the fact that they are full size apartments indicates to him that they have to pay the impact fee.

Mr. Long understood where Mr. O’Donoghue was coming from and agreed with that, however, his idea is until this business district is set up residentially as the Board wants it, he is looking to give whatever help he can give somebody who is going to build business district apartment units.

Alderman Levasseur advised the BMA had a presentation and they are down thousands and thousands of square feet over the last couple of years. They have extra than they didn’t have before. If they were building schools and looking to expand schools he would say they would want to build that nest up but he does not see downtown the way that he sees single family residences like the ones that came before the Board off of Wellington Road. He looks at small apartments where there won’t be any children. He does not think this is going to have any impact anywhere.
Mr. O'Donoghue said the problem he has is the inconsistency that this Board is faced with.

Ms. Sanuth asked if it was the will of this Board to try to create a recommendation that identifies this particular inventory model that they are seeing consistently to appear business friendly and to reduce their time spent as volunteer members of this Board going over and over these requests. Mr. O'Donoghue thought that was probably a better idea than going through this exercise each time. Ms. Sanuth and Chairman Harrington agreed with that.

Even more importantly, Mr. O'Donoghue said builders would know it is not a crap shoot depending on how the Board feels.

Ms. Goucher said it would be a change to the Zoning Ordinance and it would have to go back to the Board of Mayor and Aldermen for a vote. However, what they could do is modify the square footage in the tables.

Alderman Levasseur said the Board doesn’t get to come in and say they want to lower their permit or any kind of fee. He felt they should just take it out of the purview of the Board. It should be “this is the fee, they will know coming in what the fee is and leave the Board out of it. Secondly, the Alderman said the list they have says single room dwelling units of 350-450 SF is $508. He asked if a single room dwelling unit means a studio or a one bedroom. Ms. Goucher said it was a studio. Mr. O’Donoghue said that was an interpretation. With regard to dwellings with one or two units in upper stories, Alderman Levasseur said the big reason they put the civic center in 18-19 years ago was because they wanted everything above the second floors that were empty to be filled and made into residence. He said this guy has an argument that he has a first floor commercial and then he went and made the second and third floors into dwelling units and that would be at $945. They are looking at Liz Hitchcock coming in and having three full stories that are going to go up so she fits within that $945. Some of them are $505, but they don’t say whether they are first floor or second floor. He said this was kind of arbitrary on its own which causes this Board to be arbitrary.

If there have been inconsistencies, Alderman Levasseur thought there have been inconsistencies on the definition on what they have been giving them.

Ms. Goucher asked if the Board would like staff to work on some revisions to run by the Board to see if that is what they are looking for before going back to the Board of Mayor and Aldermen. Mr. Curry said he would like staff to put some suggestions together that they could send to the Board of Mayor and Aldermen.

Ms. Trisciani thought Aldermen Levasseur made a great point about the fact why they are allowing this to come up every time if it is a fee. The Board doesn’t allow them to come to them and say they don’t want to pay a building permit fee.

Chairman Harrington said the only hard fast rule is if they don’t waive at all. If the Board
doesn’t want to even take it up then they could direct staff to just tell every applicant the fees are the fees.

Ms. Trisciani said they have created a precedent now that absolutely everybody comes before the Board is asking. They have had one applicant since she has been on the Board that has not asked about waiving it and people on the Board actually said “don’t you want to do an impact waiver”. She said that feels wrong to her. If it’s a fee it’s a fee and by allowing a waiver, unless it is statutorily defined allowing a waiver for impact fees to her is no different if she wants to come before the Board and ask for a waiver on her permit fees for everything else she is paying.

Ms. Goucher said people make requests to the Board of Mayor and Aldermen to waive certain fees. They have asked to waive building fees but it is the purview of the Board of Mayor and Aldermen to decide if someone is going to have their building permit fees waived or anything else, but they have to go to the BMA. The impact fees are set by the Board of Mayor and Aldermen because it is a fee but the Planning Board by the State statute is who assesses those fees at the time of Planning Board approval. That is why this Board is seeing these as opposed to sending people off to the BMA to make a decision.

Mr. Belanger said maybe staff could be more direct in how they describe the waiver criteria in their staff reports if that would be helpful. There are only three criteria that are used in the Zoning Ordinance that allow for waivers of impact fees. It is directly stated in the Ordinance. Those criteria are:

1. That either there is land or public capital facility improvements that are offered by a fee payer as a total or partial credit. In other words, they say “we don’t want to pay you money instead we will give you land or they will give them something else that is a capital facility.

2. The improvements that normally would be required by the Planning Board under the Subdivision and Site Plan Regulations are not considered eligible. He thought that was an exemption to the first one. Basically, if the Planning Board was going to require some kind of property anyway or something like that then it doesn’t count toward the first one he mentioned where there is a swap of property for money.

3. Where there are legally enforceable mechanisms that are provided to demonstrate to the satisfaction of the Board that a proposed use will impose no or substantially reduced demands on public capital facilities. In other words it is a 60 + year old community and there shall be no children allowed in the community. That would be some type of a legally enforceable way to prevent children and an impact to a school.

Other than the above, there is no criterion in the Zoning Ordinance for a waiver. Those are the factors that the Board may want to be considering as they go forward with these waiver requests if they are worried about what to consider.
After speaking with some of the people doing these projects, Alderman Levasseur said when you look at the amount of fees and the different types of fees such as what the people on 67 Central Street are, in the old days you could come in and didn’t have to put a sprinkler system in or you didn’t have to tie in an alarm system to the Fire Department. There were so many different things that you didn’t have to pay for. The prices of property haven’t gone up to the extent that the fees and the changes they have to do to their buildings have gone up so their profit margins are shrinking. He said it’s not just the impact fees; it’s the other fees that go along with it.

*(Tabled from March 15, 2018)*

6. **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 eight fuel dispensers / 16 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 Zone. *MHF Design Consultants, Inc. and Z-1 Express for Victory Distributors, Inc.*

   Remain on table.

**IV. ADMINISTRATIVE MATTERS:**

1. **Review and approval of the Planning Board Minutes of February 07, 2019.**

   Tabled to the next meeting.

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

   No other business items were brought forward.

   *Ms. Charlebois made a motion to adjourn, which was seconded by Ms. Trisciani. (Motion Carried)*

   ATTEST: _____________________________________________________

   Michael Harrington, Chairman
   Manchester Planning Board

   APPROVED BY THE PLANNING BOARD: July 18, 2019

   ☑ With Amendment
   ☐ Without Amendment

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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*