MANCHESTER PLANNING BOARD
PUBLIC HEARING / BUSINESS MEETING MINUTES
Thursday, June 20, 2019 – 6:00 PM
City Hall, Third Floor – Aldermanic Chambers

Board Members Present: Acting Chairman Michael O’Donoghue, Acting Vice Chairman Dan Leclerc, Alderman Joe Kelly Levasseur, June Trisciani, Ray Hebert, Melanie Sanuth, Patrick Long

Alternates Present: Robb Curry, Barry Lussier, Chris Wellington

Excused: Members: Mike Harrington, Beth Charlebois

Staff Present: Leon Lafreniere, Director of Planning & Zoning; Jeffrey Belanger, Senior Planner; Jonathan Golden, Senior Planner; Jodi Nazaka, Planner

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

II. PUBLIC HEARING:

Chairman O’Donoghue advised that the applications for 2874 Brown Avenue and 9 Willow Street will be postponed to the July 18, 2019, meeting, with no further notification to abutters.

(Continued from May 1, 2019)

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

Joe Wichert appeared along with Attorney John Cronin and Jon Rokeh, the engineer for the project. Mr. Wichert advised they were previously before the Board and the application was tabled to June 6th and then, subsequent to that date, they asked for an extension to June 20th.

Mr. Wichert advised the subject property is Lot 5 on Tax Map 557, which is currently owned by the Derryfield School. It has 87.02 acres. The intent is to subdivide off 15.77 acres from the 87 acre parcel and then subsequent to that, they would subdivide the 15.77 acres into 16 building lots and a large remainder parcel that would have a revised pond up to the top and
then an access road driveway to a possible building site on the bottom. That property would be 7.3 acres.

Mr. Wichert said after the last hearing, they met with DPW and went through some of their comments that resulted in Mr. Rokeh revising some of the drainage. Some of the changes since the last hearing is originally they had a drainage swale that ran along a lot line, which was the north line of an abutter and Ms. Goucher recommended that they swap that up so that drainage pipe has been moved in between the first two new lots so they are not burdening the abutters with a drainage swale next to their property. They reconfigured a couple of drainage easements and the pond as part of that.

Mr. Wichert said when they were before the Board the last time, there was discussion with the Board members regarding the Smith’s property and the abutter to the west on Lot 65 and the possibility of installing some trees. Because they have moved the swale they are instituting a 20 foot no-cut buffer so the area of the building set back would be left in the natural state barring any dead trees blowing down, diseased trees, etc. He believed that would improve the situation for the abutters. They have added in the limits of the shoreland area, which was a request by one of the Board members. They have little improvements inside of that. They are not proposing at this time any cutting, development or any subsequent grading change other than in that small area. In addition, they added the limits of the “no school activity” buffer onto the plans.

Other than the aforementioned changes, Mr. Wichert said the majority of the application is the same. The road length, if measured from the intersection of Arthur Avenue and Coral Avenue to the center of Felix Circle, is about 800 feet. Going from the intersection and going up Arthur Avenue he believed they were slightly shorter than that. There is approximately 200 feet of existing asphalt from the intersection to their lot line. In the interim, they also spoke to the Smiths and proposed reconfiguring their driveway. One of the initial comments from DPW was to remove the asphalt at the bulb of the cul-de-sac. They were looking for the right-of-way to be relinquished back to a straight configuration and not a cul-de-sac. It was his understanding from speaking to staff is that the DPW comment is still going to mention removing the right-of-way but he did not believe that was something that Planning staff was in support of, so he believed they are going to eliminate the asphalt, leave the right-of-way as is, and they are working with the Smiths to reconfigure their driveway. Originally they proposed a layout that had the entryway shifted further north with a bend in it. The Smiths preferred a more straight line approach like they have now, so they have done that. They have not received a response from the Smiths but it was his opinion this was a matter between the applicant and the Smiths and they are stipulating that they are going to rebuild it in a way that is agreeable to the Smiths.

With regard to the engineering changes, Mr. Rokeh said at the last meeting in May they had a different configuration. They always had a pond off the bottom end of Felix Circle but it was pushed all the way to the bottom on the original plan. They reconfigured things and brought the pond back up to the top. It was a 20+ foot driveway down to the bottom where
the pond maintenance was going to be. Now the pond maintenance is basically right at the top of the hill. They have reconfigured it so it is more of a 12 percent grade down to the bottom. That gives them good pond maintenance, a treatment swale down at the bottom and the ability to actually build a house on that lot if they so choose. They had originally pushed the catch basins straight over to the edge and they have now moved them up and put in a drain manhole at the next lot up. In anticipation of their AoT application, they made an infiltration pond to make sure they meet all the regulations for Alteration of Terrain where before they just had a swale.

Mr. Rokeh said after the last meeting, they sat down with Owen of DPW and went through all the engineering comments. They addressed 90 percent of them at the time they met with him in May and they tried to finish everything regarding what they discussed to that plan and they submitted that at the end of May. He spoke to Owen yesterday and there was a question regarding grade capacity because the road is steep, so they added a couple of catch basins. He believed Owen felt they were in a good spot with the plans.

Chairman O’Donoghue brought the hearing back to the Board.

Mr. Lussier asked if Lot 5F will have a large easement on it for an easement pond and the access to maintain it. Mr. Wichert pointed out the area that is encumbered with a drainage easement but in that drainage easement, there is also an access way to the pond. He explained there will be a homeowners association that maintains the pond, which is standard City policy, but DPW generally asks for vehicle access to the pond. He advised that Mr. Rokeh designed it such that the vehicle access would also double as a driveway for the large lot. One of the comments they had last time was they weren’t happy with some of the steepness of the grade so this plan eliminates that problem.

Mr. Lussier confirmed with Mr. Rokeh that all of the lots would be part of the homeowners association that would maintain the two detention ponds.

Alderman Levasseur asked about the pond. Mr. Rokeh said it is a detention pond that will fill up during storm events and will drain out as fast as the release rate is. It will go through a treatment swale at the bottom. The infiltration pond will fill up and hold water. They have to do a test pit to verify how long, but it should drain out within a few days.

Mr. Belanger asked if this was going to be phased. Mr. Wichert said at this point they are just looking to move forward.

Mr. Belanger advised that staff does not have comments back from DPW yet on the engineering changes Mr. Rokeh discussed.

Chairman O’Donoghue turned the hearing over to the public.

Tina Fishow of 55 Arthur Avenue was concerned about removal of the cul-de-sac and traffic
control from Coral Avenue onto Arthur Avenue. She asked about the Heritage Trail as she had not heard any solution regarding that. She hoped the new part of Arthur Avenue would have the same quality of curbing and hoped the streetlight could be changed to match the new lights.

With regard to the traffic control and the signs, Chairman O’Donoghue suggested Ms. Fashow get in touch with her alderman on those items.

Mr. Rokeh said any new curbing would be granite curbing. Mr. Wichert said there is currently concrete curbing along the west and east sides of Arthur Avenue. There is concrete curb up to the Bonin Trust driveway, which they will probably leave because that section of road won’t be altered. He showed the areas where the vertical granite curbing would be installed. With regard to the streetlight, Mr. Wichert said it was located outside the limits of their work so their intent was to leave that as is.

Steven Frink of 602 Coral Avenue said when Derryfield School met with the abutters years ago, they were told that there would be anywhere from 75-600 feet between the abutters and their fields. When they cut down the trees and leveled that field, the noise from the highway increased tremendously and is magnified now with the loss of that buffer. On July 14, 1997 the Planning Board approved the variance with conditions; one of them being there would be a 200-250 foot buffer zone to be established adjacent to the Coral Avenue residences. As such, he said there would be a buffer zone behind his house of 200-250 feet.

Chris Evans, a real estate broker with Berkshire Hathaway Home Services/Verani, said they are working between the developer and the school and also on the future marketing of this project. He said the buffer Mr. Frink spoke of has always been on the forefront of everybody’s attention. In looking at the plan, there is still an existing natural buffer that is maintained behind these homes on Coral Avenue. The area they are proposing was not set up as an existing natural buffer. It was set up as a “no school activity” and certainly houses could not be construed as school activity. One of the things they looked at was the natural buffer of the brook behind this property. It is quite a large stretch and they intentionally, in working this transaction together, left a large area of a buffer to both protect the Derryfield School’s fields from people complaining but also for the benefit of the people of this neighborhood. That buffer is still there and the brook that goes behind this whole property is on their land; they don’t intend to cut it and they will maintain the integrity of the buffer by keeping control of that land.

Mr. Evans advised they had an informational meeting with the neighbors. There were about 17 people there and the school was really forthcoming as far as putting this information out and it was a very positive response from the neighborhood. He thanked the Planning Board for their efforts on this.

Patrick Smith of 69 Arthur Avenue said he attended the informational meeting at the Derryfield School, but the first time they heard about a buffer was regarding the Mosca
buffer back on May 1st, which was a couple of weeks after the Derryfield informational meeting.

There were no further comments from the public and Chairman O’Donoghue brought the hearing back to the Board.

Mr. Wichert said when they presented on May 1st, Attorney Cronin thought they spent close to an hour going through and discussing the buffer issue. He thought they covered that really well and he thought the intent was the way it was listed on the plans was a “no school facilities buffer”. In April, they had a pre-application meeting with the abutters, they had the May 1st Planning Board meeting and now this is their second hearing on June 20th and they have tried to express what their position is on the buffer and if the Board had any questions they will address what they believe the situation of the buffer is.

Mr. Leclerc asked how wide the brook is. Mr. Wichert said depending on where you are on it, it could be anywhere from 2-4 feet to 8-10 feet.

Mr. Leclerc asked about the Heritage Trail. Mr. Wichert said they would have to verify the locations of the rail trail but the intent would be if there is any kind of existing easements or rights through the Heritage Trail through the 15.8 acres, they are not going to do anything to extinguish those. He didn’t believe they could.

Alderman Levasseur said he read the 1997 Minutes and it was the ZBA, not the Planning Board, which made the decision on this. The ZBA granted the variance with the exceptions. He confirmed with Mr. Wichert that they have not gone back and changed any of the original language from the 1997 meeting so it is still the rule or law that they have to follow.

Mr. Hebert confirmed with Mr. Wichert the utilities were underground.

Mr. Hebert asked if the streetlights were lantern style or the typical ones that are used in the City now. Mr. Wichert said the fixtures are in accordance with the current City standards.

Chairman O’Donoghue said he was inclined to close this public hearing. He asked the applicant if they agreed with that even though they do not have the final signoff from DPW. Mr. Wichert advised they are comfortable closing the hearing.

Chairman O’Donoghue closed the public hearing for this application.

(Continued from May 16, 2019)

2. **S2019-011**

Property located at 270 Stanton Street (Tax Map 507, Lot 64A), a subdivision application for the creation of 8 new buildable lots in the Partnership Park Subdivision utilized by the Manchester School of Technology. The proposal also includes a 300’ extension of the
existing dead-end hammerhead roadway, with a new cul-de-sac and granite curbing in the R1-B Zoning District. Fuss & O’Neill for the Vocational Partnership of Region #15

Brian Pratt of Fuss & O’Neill appeared along with Greg Brown who is the surveyor and is also on the Board of VOPAR and Tim Otis, who is the president of VOPAR. Mr. Pratt said they were before the Board about a month ago. They had a pretty good conversation about the project and the majority of the comments were addressed. The one kind or primary outstanding issue was that DPW had not submitted a letter that they were all clear. They have since received a letter from DPW that all their comments have been addressed.

Mr. Pratt said the Planning Board had some specific comments. The first comment was regarding the phasing about how they would do the tree cutting. He reminded the Board this is a 300 foot roadway extension and there are 8 proposed single family residential lots. The way the program works is they building one home per year and the students at the school help build the homes. The concern from the abutters and the Board was they didn’t want the whole property clear cut during the road construction. They have agreed and added to the plan a phasing plan to show that only the road, the detention ponds and the utilities will be cut in the beginning along with the first home. The remainder of the lots will remain wooded until such time that home is ready to be constructed. They show some potential phasing that starts at the north side and works its way counter-clockwise. They think likely the schedule would be Lot 1 and then they would move on to Lot 2, Lot 3, Lot 4 and work their way around to the back. They have also added notes to the plan that requires that they can’t cut the trees until they are ready to construct those homes. The phasing can be altered. Should they decide to go from Lot 1 to Lot 8 and work their way that way then they can do that. They don’t want to restrict that they have to work their way around, but it makes logical sense for them to go around. Included in the roadway will be the driveways up to the wetland crossing. The reason for that is because wetland permits expire after 5 years so it makes sense to get the culvert and those driveways roughed in with the roadway construction because the ponds will be constructed on either side of it.

With regard to overland flow for the stormwater, Mr. Pratt said some of the lots the stormwater will flow from one lot through the backyard before it makes it around. This Board asked that they add notes indicating that the homeowners association will be responsible to maintain those flows. That note has been added.

Trash was a concern due to people dumping trash at the existing end of Stanton Street. Mr. Pratt said there will be a requirement that the homeowners association take care of any trash that accumulates in and around the property, detention basins, etc.

Mr. Pratt said the Board asked that they add a note to the plans that sump pump discharges not be diverted to the pavement so they have added that note to the plan. They were asked to do some test pits to confirm groundwater levels so they did 5 test pits throughout the site to get a good indication of what the lots and roadway groundwater level would be. The test pit logs are on the plans.
Mr. Pratt said one of the biggest concerns was the abutters. He said Mr. Janis and the Pepins were concerned with stormwater and how it would affect their properties. In the meeting they agreed to construct an under drain as Mr. Janis indicated his primary concern was groundwater traveling from this site through his yard. Mr. Pratt met with the abutters and walked the entire property looking at everything, pointing out where the homes would be, where the roads would be and where the proposed under drain would be. He said the proposal is to add an under drain along the entire back of Mr. Janis’ property. That will intercept any groundwater that may be traveling toward Mr. Janis’ property and it would outlet into the existing wetlands. They did the test pit in that area to prove it and agreed that the groundwater was relatively high in that area. This test pit will be down 7 feet, which will be about the level of his basement so it should significantly help. Mr. Pratt said they have granted an easement to Mr. Janis along the back of the two properties so if he decides he may tie in other drainage in there if he wants to tie an under drain from his foundation or from his yard into that. They have also given him an easement in the 50 foot right-of-way between Mr. Janis’ and the Pepin’s properties. They have given them a full easement for the entire width. That allows them to maintain the existing drainage channel that comes from the back of the Pepin’s property. They walked out there and found the existing pipe that captures some runoff from the existing Stanton Street that outlets to the swale and then ultimately the swale outlets to the City drainage system on Huse Road. There is a full municipal utility easement there as well so if they ever wanted to tie their sewer system into the new sewer line out there they are welcome to. Mr. Pratt reiterated that they always planned to provide a swale between their properties to divert any surface water as well. Any surface water from these lots will flow to the wetlands away from their property and with the addition of the 7 foot deep under drain it should significantly help any groundwater issues in the area. Mr. Janis has full easement rights to the properties to the west and to the north so he thinks they have gone above and beyond to address the abutters concerns.

Mr. Pratt advised they received the DES sewer permit after the last meeting. The received signoff from Water Works. All that remains is a sewer permit from DES, which they generally don’t submit that until they get conditional approval from this Board.

Mr. Pratt said they have submitted to the Manchester Water Works Board of Water Commissioners for a petition on the water main extension as well.

Ms. Trisciani asked if the homeowners association would be for the entire Stanton Street development or just the new houses. Mr. Pratt said it was just for the eight new houses.

Ms. Trisciani said she drove by the site earlier in the day and was surprised that nothing had been done to clean up all the junk and trash. She asked when that will be initially cleaned up because they are going to start a homeowners association with one home. Mr. Pratt said there will be eight homes and VOPAR will own the majority share of it so VOPAR will be responsible at the beginning for 100 percent and as they sell off they will be responsible for less.
Mr. Otis said there is some debate whether it is actually some of the abutting land owners right there, but he thought there was some stray junk and some of it looks like it may belong to the adjoining neighbors. He didn’t have a direct answer but he knew they were notified that they were looking at this. He said the trash will be cleaned up as they start construction as it needs to be. Ms. Trisciani said then the trash won’t be picked up until the fall. Mr. Otis said the answer to that question was yes because that is the labor. Ms. Trisciani was disappointed because this was something that was raised and while they had the labor they did nothing and now again the trash will be left. She said it might be nice to figure out a way to get that done and not have to wait until school starts again to clean it up.

Mr. Hebert asked what the drop off was from the center of Stanton Street to the wetland swale. Mr. Pratt said the swale at the culvert is 312 and then it slopes up a little bit to 318 and then the road is sloping down so it is kind of matching. The separation from the center of the road to that swale is about 5-6 feet.

The utility sewer line that goes up through the easement between phase 6 and 7 going out to the center of Stanton Street.

Mr. Hebert asked what the depth of the sewer easement between Lots 6 and 7 to the end of Stanton Street was. Mr. Pratt said it varies from 8-10 feet and then Huse Road sits up a little bit higher so it is a little bit deeper there. Mr. Hebert asked if there was a swale in that easement to catch that water. Mr. Pratt said there is a 3 foot deep ditch that captures the runoff.

Mr. Hebert said they saw some pictures at the last meeting of a yard underwater. He asked if they had given any consideration of building up the swale on the back of the property line to force the water down into that easement way. Mr. Pratt said he had not, but they probably could put a little ditch over it to try to divert some of the water. He said that wasn’t a bad idea. Mr. Hebert said he would hate to see the guy lose his land again.

With regard to the association, Mr. Long asked if there was any responsibility for these owners with this construction going forward. Mr. Pratt explained they will be responsible for stormwater maintenance so they will have to do annual cleanouts of the sediment. There are quarterly inspections and then cleanouts at least once a year for the sediment that accumulates. There will also be a caveat that they will have to clean out any trash that accumulates in and around the development. They will be responsible to maintain drainage issues.

He asked when VOPARS liability ends. Mr. Pratt said VOPAR will own at least a stake in the ownership for 8 years. The first year they will own 100% then it will get lower. Generally how this works when a developer owns a subdivision is once they become less than 50% then they transfer it over to the association and the association handles it and then they just become a member of it until they sell their shares. Once the final home is sold, CO and
people move in then VOPAR will probably be out of it.

Mr. Long asked how long is VOPAR’s relationship with these properties. Mr. Otis said it is generally a typical builder’s one year warranty.

Chairman O’Donoghue thought he heard earlier that they would use school resources to do the maintenance they were talking about. Mr. Otis said typically 10 months out of the year there is someone there working on site as this construction takes hold and starts. It is the two summer months there isn’t somebody actively on site. The teachers and the students participate because the program is set up for them to do the construction. There are contractors hired to build the road and work as such as that. Grading of the lots is generally done by subcontractors. The focus for students and teachers is generally on the house and landscaping.

The Chairman O’Donoghue asked when would the homeowners association become effective and when will the place get cleaned up and maintained. Mr. Pratt said the trash will be cleaned up as soon as possible at least before construction starts. Generally the homeowners association and the maintenance items aren’t started until the road is built, until the contractor that builds it stabilizes it and gets completed with it then the homeowners association would take over maintenance. There would be a transfer between the contractor that built it to the homeowners association. Generally with homeowners associations they sign a maintenance agreement with a landscaping company.

Alderman Levasseur asked when they plan on starting the road. Mr. Otis said it was their hope to get it started by September. The Alderman said he would like the area cleaned up right away.

The Alderman confirmed with Mr. Pratt that the cul-de-sac would have granite curb all around it from the beginning. He asked how many lights would be put in during the first phase. Mr. Pratt said there would be one light. The Alderman asked if there would be a gate after the first house. Mr. Pratt said it would be open for the whole time as the Fire Department and City plows, etc. need to have an adequate turnaround. The Alderman asked what the width of the road is. Mr. Pratt said it was 30 feet curb to curb. The Alderman asked if there was any ledge. Mr. Pratt said he did not expect any blasting.

Mr. Lussier thought the Board requested two additional test pits in the vicinity of where the two detention basins were going to be. He said the information had changed. At first there was no seasonal water observed in any one of the four test pits now there is seasonal water observed. He asked if they re-dug the test pits. Mr. Pratt said he dug the four test pits that they did in the same spot. He explained originally he did them by hand with a shovel and auger. They went back out with a mini excavator and got them down a lot deeper, which is why there is additional information on the same test pit logs. He pointed out the location of the additional test pit they dug. Test pits 2 and 3 were in the detention basins. Test pit 5 was over by the abutter’s property and test pit 1 was in the road just to get an idea of what
the road is going to be. Test pit 4 was up in the area towards the end of the cul-de-sac where there will be a little bit of excavation.

Mr. Curry inquired if they could put a gate at the cul-de-sac. Mr. Pratt said if the Fire Department and DPW wanted a gate they would add a gate, however, he did not think they would want one.

If this application is not approved, Mr. Curry asked what plan B would be. Mr. Pratt said they meet the zoning, they received a variance to get the one lot that was a little shorter, it is zoned properly for this and the lots are adequately sized so they have every right to develop this property in this manner. They don’t have a backup plan right now. This lot was purchased in the early 90’s knowing this would be their plan.

Mr. Curry asked if they could add a summer program, which would move the construction along quicker. Mr. Pratt said that would be a major effort to change the way they have been doing the program as they have it pretty established. He said they are implementing some features to try to minimize the impact to abutters mainly they are not going to cut the trees for the lots that aren’t being developed.

Mr. Otis said they have been discussing this since this plan came forward. The fact that they build a full scale house is very attractive to students. They are one of the few centers in the State that still do that. When they talk about attracting students, he said they are getting students from the four Manchester High Schools, but they are also tuitioning in students from Bedford, Goffstown and Londonderry as well as even a few from other schools that have not been able to get into programs in their area. They are getting that revenue source into the School District. They could get by for a little bit without a house. The way the program works the instructors certainly can do the hands on in the classroom for a good deal of time. Ultimately if there was not a development to develop they would have to completely relook at how they are going to do their program. With regard to the time factor, they are really restricted by the School District because the teachers are the main people that oversee the project and they have a teacher’s contract so they are contracted from September 1st to June 15th or the last day of school. Anything extended into the summer could be looked at but that would have to be an issue that is brought up with the School District and how that would be funded, etc.

Mr. Leclerc asked what would happen if they don’t start a house in September. Mr. Otis discussed that with all four major construction phases (electrical, HVAC, plumbing, construction and landscaping). All the instructors are aware of the possibility this might not start in the fall and they have contingency plans to just do more intense class instruction getting them prepared for whenever they are able to get out onto the job site. Their normal calendar has always been start the house the first day of school and hopefully finish it by the last day of school. As a Board they talked about if it is a little later maybe they have a house that they could carry over for another school year. Mr. Otis said the houses are generally weathertight, roofed, windows and doors about 3-4 months in and then from then on the
Chairman O'Donoghue turned the hearing over to the public.

Steve Janis of 247 Huse Road submitted a letter to the Board outlining his complaints. He had environmental concerns. With regard to the cleanup of the trash, he said they made the same promise to the Conservation Commission several months ago and nothing has been done.

Ann O'Brady came forward with comments not related to this application.

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

Mr. Pratt said most of the comments from Mr. Janis were previously addressed. With regard to homeowners association and if people don’t pay, Mr. Pratt said there is a legal association made up of members. The association would have to enforce payment. With regard to significant environmental impact and significant requirements for maintenance, Mr. Pratt said it is really not very significant. They will hire a landscaper to come in a couple times a year and clean it out.

With regard to why they wouldn’t just put a sewer pump station in, Mr. Pratt said sewer pump stations are expensive and require a lot of maintenance. A gravity sewer is definitely the way to go. There happens to be one home where a gravity sewer will not work due to existing grades. That is not a design flaw it is the topography of the land. One homeowner having one pump that is their responsibility is a lot different than having one large pump station for eight homes to share.

Mr. Pratt believed Mr. Janis wanted them to collect the water and move it to Stanton Street, which is a couple thousand feet away. That is not a feasible alternative because the grades slope up. They are slowing down the stormwater and they are providing detention basins. With regard to Mr. Janis repeatedly stating the water from the end of the road was flooding his yard Mr. Pratt said that was physically impossible. There is a wetland that sits many feet below his property so water coming off the end of Stanton Street runs down past his property. Previously when Mr. Janis addressed the Board he said it was groundwater and now he is complaining that it is surface water. Mr. Pratt said they have done everything they can. They provided an under drain to take care of the surface water. Mr. Hebert’s suggestion to provide a swale over the area where the sewer will be installed will help if there is any stormwater coming off property over toward his property that will help divert it away. In looking at the photos that Mr. Janis provided previously, Mr. Pratt said his driveway and backyard looked flooded. He said Mr. Janis has a very flat lot and there is a lot of land that is not associated with this project that flows toward it.

Mr. Pratt said both abutters talked about when their parents owned the land or that they
had owned it for many decades, they told him that was a swamp. It is about the same elevation as their property. He showed a plan last time that showed the surface topography that showed where all the stormwater went. He thinks they are going above and beyond.

Chairman O’Donoghue closed this public hearing.

(New Items)

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

Mr. Leclerc made a motion, which was seconded by Mr. Long, that the following applications are complete and available for a public hearing: SP2019-016, CU2019-016, SP2019-019, CU2019-017, S2019-013, CU2019-013, CU2019-014, CU2019-015 and SP2019-017. (Motion Carried)

Property located at 2874 Brown Avenue (Tax Map 683, Lot 10), a subdivision application to subdivide one lot of 17,377 square feet into two lots, with one lot to have 8,501 square feet and the other lot to have 8,804 square feet, both in the R-1B Zone. Eric Mitchell and Associates, Inc. for United Investors, LLC

Postponed to July 18, 2019.

4. SP2019-016
Property located at 409 Elm Street (Tax Map 166, Lots 1, 4, 5, 11 & 12), a site plan application to construct a 95,289 SF, 6-story multi-use building with associated site improvements, including a 122-space parking lot in the CBD Zone. Keach-Nordstrom Associates, Inc. for Oak Leaf Homes, LLC

Attorney John Cronin appeared along with Paul Chisholm of Keach-Nordstrom, the project engineer, and Dennis Mires the architect for this project.

Attorney Cronin said this is a project that has been about five years in the making. Oak Leaf Homes acquired these properties with the purpose of redevelopment on South Elm Street. The property is the former Goulet Supply. The proposal is a mixed use project that would have 90 residential units on the upper floors, a co-working space and an office space on the first floor together with a gym and café on the basement level. The property, because of its history and the location of the rail outback is somewhat complex. There were some public streets at one time, Summer and Grove Street, which intersected between Elm and Willow Street and this project started with an analysis of those streets and how they would deal
with them in connection with the development. The decision was made to seek discontinuances, public rights-of-way of those streets that impacted the development. Summer Street to the north had previously been discontinued prior to the acquisition of the properties. Unfortunately, one of the abutters, the Ziozes, objected to that throughout the process complicating things and making it longer but eventually it resulted in a court decision that addressed the rights-of-way and they subsequently came back to the Board of Mayor and Aldermen and discontinued the public status. There are certain provisions in that legal order that they acknowledge, they appreciate and they know they have to abide by that relate to loading and unloading along the back aisle. He thought there was no doubt this project will add tremendously to the South Elm corridor. This enhances and heads down to Queen City Avenue, which would be a nice addition.

Attorney Cronin passed out some photographs as he anticipated that some people will have concerns about the parking. This site plan proposes 122 parking spaces, which is more than is required in the CBD district where you are not required to have any, but less than what would be required if this type of project was in any other zone in the City. The owner is making a big investment in the property and wants the people who live her to have an opportunity to have off street parking and the number of parking spaces is essential to the project.

Attorney Cronin referred to a photograph and said Elm Street back is currently littered with cars, which is kind of on a first come first serve basis. There is really no rhyme or reason to it. Some of them will park parallel to the buildings, others will park at angles and there are some dumpsters out there that have been there for some time. He pointed out the loading in the back of the Zioze property and said it runs parallel to the building. It is not a typical loading dock where you would back up. Most of the delivery trucks he observed have been FedEx and box trucks that pull up parallel, the driver grabs his package hops in does his delivery and off he goes. There is certainly adequate room there. One of the things when they first got engaged was how to address the people who are parking on that road and that back street that goes out to Grove is owned by the applicant, it is not a public street, it has always been part of the fee simple title. The thought was there was no need to cause any disruption now. Those people are doing the best they can do to run their business or their tenants are so “let’s just put them on notice that we are going to give them permission for the time being” so there was no adverse possession type complaint and they could use the street until the development matured and there was a need to try and get a system in place for that parking. If there are some complaints about haphazard parking presently, he said they agree with that. If this project is approved and built it will be incumbent on the owner and the applicant to take action to make sure that parking is in order, not only with the regulations but the safe movements of all the people with respect to the site.

Attorney Cronin gave the Board a letter from one of the tenants in Mr. Zioze’s building. Mr. Dupont, as the building was being razed, made a point to visit those abutters to let them know what was happening and they are enthusiastic and support it. They went to the ZBA and a Notice of Decision came out on March 19th. One of the elements in the criteria that
they need to prove as a variance is if these variances were approved there would be no
diminishment to the value of surrounding properties. They carried that burden on four of
those different applications: Zoning Ordinance Section 10.08(c) Driveway Width; 10.07(g)
Landscaping and 10.07 (k)(13) Loading spaces within ten feet of the property line. They also
had a fourth variance that related to the parking setbacks, the 10 foot perimeter setback.
Over in the back on Willow Street there is a space that fronts right across the street from the
cemetery. They know that perimeter landscaping was to provide some buffer between
residences and the streets and they went back to the ZBA on rehearing and they wanted to
see some architectural detail there to make sure no vehicles would encroach on the
sidewalk. The applicant proposed a design, an architecturally styled bollard with a chain that
sets it off and the ZBA granted that variance. That will accomplish the goal of keeping the
cars from encroaching on the sidewalk. There will be some green space between the
sidewalk and the parking spaces.

Paul Chisholm, a licensed engineer and project manager with Keach-Nordstrom Associates.
The project proposes to redevelop, consolidate and revitalize five parcels along Elm Street
and Willow Street. Those parcels are referenced as Map 166, Lots 1, 4, 5, 11 and 12, all of
which are located in the CBD zoning district as well as the arena overlay. In total these
parcels consolidated will equal just about 1.7 acres in area. As far as what is being proposed,
the proposed building essential fits in where the old building was until it was recently
demolished with the same orientation to Elm Street. It will have a very nice façade on the
exterior. The building itself will be six stories with a full basement, just over 90,000 SF. The
first floor will consist of office space and co-work space with a shared lobby. All floors above
that will be residential. The breakdown in terms of the total units of which there will be 90
will be 20 two bedroom apartments, 40 one bedroom apartments and 30 studio apartments.
In addition to that there is a loading area that is only one story in the northeast corner of the
building. In addition to the building there will be 122 parking spaces throughout. There will
be landscaping islands, a full stormwater management system, a centrally located dumpster
and trash enclosure and a full streetscape that was designed in mind with the arena overlay
goals for pedestrian features along Elm Street. Access from the property will remain
unchanged from what exists today in terms of turning in from Elm Street on the west, Willow
Street on the east and then the property extends to Grove Street along the south end. The
variances Attorney Cronin mentioned included a 40 foot driveway entrance for Willow Street
where 36 feet is allowed by code; a 10 foot pavement setback and perimeter landscape strip
variance for the 11 spaces fronting Willow Street and then the loading space within 10 feet
of the property line.

In addition to the variances, Mr. Chisholm said there was also a waiver request that kind of
piggybacks off the pavement setback. That waiver request is from Section 8.3(b)(4), which
requires a landscape buffer of 10 feet between a residentially zoned property in a mixed use,
which in this case although it is mostly residential the first floor will be office space. The
residential zone line runs through Willow Street so this is all in the CBD zone. The other side
of Willow is in the R-3 zone. There are no residences obviously on that side it is the
cemetery, so therefore there really won’t be a nuisance in terms of light pollution going into
someone’s yard or something like that. The cemetery spans several blocks and is quite expansive in area obviously so the nearest house in that zone or nearest apartment or anything like that is quite some distance away.

Mr. Chisholm said the project proposes decorative bollards and chain to protect vehicles from pulling off into the right-of-way and the sidewalk that exists on Willow Street. That was something that was discussed and approved by the ZBA.

As far as justification of the waiver, Mr. Chisholm said there is really no nuisance that will be caused by allowing a reduction in that buffer. There are no residences on the other side of Willow Street; it just happens to be a residentially zoned property and that is what the requirement specifically states.

With regard to why they need 122 parking spaces, Mr. Chisholm said although the CBD district doesn’t specifically require any, that doesn’t change the actual demand from the building and the property itself. If this property was located across the street in a different zone the parking requirements would equal 163 spaces and they have 122 proposed.

Mr. Chisholm advised they received comments from various departments in the City including the Fire Department, DPW and Water Works which are all extremely minor in nature and things they can easily address in the next plan revision prior to sign-off. They also take no exception to anything that is said within that.

Mr. Chisholm said the staff report mentions discussing construction timeline. It will be about a 16 month process once construction gets going. Obviously that will just depend on how the approval process plays out.

Lastly, Mr. Chisholm said they received overview of the arena overlay review and that was also pretty minor, the only real issue being that the signage, which is unknown at this point in time, will have to basically be run by Planning/Building Department prior to anything being installed, which is part of the normal process anyway.

Dennis Mires of The Architects said in putting together and considering the form of this project they took their cue from the requirements of the arena overlay district. The building sits up front on the street with parking behind. The sidewalk is sensitively designed to have handicap access across the full front of the ground floor and that means they have some minor grade differences, which are articulated with brick. They have black fencing to address that grade and create seating spaces along the sidewalk. Those seats are in the form of granite blocks that site near and adjacent to the trees. The trees march down Elm Street in a street tree fashion that has been established further up north on the road and they are coordinated with the traditional streetlights they are putting across the front of the property.

In terms of the elevation, Mr. Mires said they have articulated the form so that as the form
meets the sky they have different heights. They are basically starting with the two brick forms that in their mind recalls the building that was on the property before as well as the history of the Millyard with brick construction, white windows and they have recessed porches that are articulated in black metal much like the industrial accessories found in the Millyard and on decks and canopies in the Millyard housing. That breaks the building into three other blocks that they are suggesting are three different colors. This is to pick up on the history of Elm Streets development further north where a lot of these were actually separate buildings but they were built right next to each other and you get a rhythm of different buildings, different windows and different details that make the façade much richer and more interesting and he thought they were trying to replicate that feel as they tend to move the center of gravity of Elm Street a little further south.

Mr. Mires said the north form on the right has a sloping parapet to make it different than the south slope, which has a projecting overhang. The reason for that is they are planning for this to be a very sustainable building. They are providing a high performance envelope. They are providing solar access to the roof from the south using solar panels to supplement their power needs and they are also using a smart building system where basically the residents can operate their building and apartment access, their mechanical system, lighting, etc. from their phone and they will have a little dashboard in the foyer where you can see how much energy the PV’s are supplying to the overall energy load. This is not only responsible but it is also appealing to the market millennials and young people who they anticipate will be the primary residents initially. On the south side they have projecting overhangs. They have some sunshades on those south facing windows and a canopy across the lower level at the street. They also have some projecting canopies at the entrance that project over the sidewalk which again gives you a rhythm as you walk along the sidewalk for the length of the building.

Mr. Mires said they are quite proud of the fact this will be an asset for South Elm Street and Manchester in that it will be a green and sustainable smart building as they look to the future.

With regard to the streetscape, Mr. Chisholm said there will be a 10 foot wide pedestrian passageway with some additional areas with some granite seat blocks. There will be street trees and things of that nature to really promote that pedestrian atmosphere out front.

With regard to the stormwater management system, Mr. Chisholm said they will have a bio retention system in the center island that will basically provide treatment for the site as well as attenuate peak rate runoff flows back to Willow Street as well.

Attorney Cronin said Willow Street is one of the split systems, which has been a goal of the City where they divided the sewer and the stormwater drain and that was the reason it was directed there and he thought that was consistent with what DPW’s goal is.

Attorney Cronin said urban living is sweeping not only the country but it is heavy in Boston
and throughout New England people want to live in urban areas where they can walk to restaurants, shops and entertainment. One of the things when Mr. Dupont was looking at that his feeling was not only does this, from a capital improvement point of view, enhance South Elm Street it really enhances the entire downtown and the more people they can put in there that are working and living in new properties that care about their properties they think that has some helpful effect on what happens downtown. They are very excited about the project and think it will be a good addition to the corridor and to the City in general.

Mr. Long asked when they plan on giving out the parking notices. Attorney Cronin said there is no need to disrupt people now. Mr. Long thought it would be better to give people as much advance notice as possible. Attorney Cronin advised that the parties were put on notice five years ago that this property is owned by the applicant and they were given permission to park there for the short term and once the development occurs they will have to take some enforcement action with the parking. He referred to a photograph showing how some people are attempting to lay claim and it is not their property. It has worked for them for a while but not for the prescriptive period so they wanted to give them that permission notice to make sure they knew that something was coming. He suspect as construction starts to develop and there is a need to use that area there will be some enforcement. He thought the primary ingress and egress will be off the middle street and off of Willow Street. He did not suspect, even though the applicant owns that corridor would be the tail of Elm Street back that goes all the way down to Grove, whether that will be used as a secondary access or egress.

Mr. Long asked if there was any intent on leasing parking to businesses or for events. Attorney Cronin said no, this would be dedicated to the tenants in the building; both the commercial, office users and the apartment residents.

Mr. Long asked why there is minimal, if any, landscaping on the Willow side landscaping. Mr. Chisholm showed a fully compliant 10 foot section. Relief was granted by the Zoning Board for just a 3-1/2 foot section. It will be lushly planted as intended and to just to account for the general landscaping requirements that come with a site plan of this nature. He pointed out the street trees, a bio retention system that is a living system that helps with stormwater treatment, there will be a lot of little plantings in there as well as several plantings up on the north end of the building as well as street trees on the Elm Street right-of-way.

Mr. Long asked what is owned by the owner. Mr. Chisholm said there are five parcels existing. Part of this application is to voluntarily merge those properties. He went over the plan pointing out the involved properties.

Alderman Levasseur asked if there will be balconies on the Elm Street side. Mr. Mires said there will be balconies. Alderman Levasseur said it was a stunning looking building. He was concerned about balconies on Elm Street. He confirmed that there would be rules as to what can be out on the balconies.
Alderman Levasseur asked what material they were going to use on the front of the building. Mr. Mires said it was a horizontal metal panel.

The Alderman asked if parking would be in the back, not taking up the front Elm Street side. Mr. Mires said that was the beauty of mixed use. Basically during the day the parking lot thins out as people go to work elsewhere and those spaces will be used by the ground floor tenants.

Alderman Levasseur asked if it would still be a two-way street going from Willow to Elm. Attorney Cronin said it would. The Alderman asked if they thought that would be the tenants main entrance point to get to the back. Attorney Cronin suspected that most of it would come off of Willow. Alderman Levasseur asked if there was ever any discussion about making that a one way. Attorney Cronin thought there had been so much difficulty with respect to the street that their position is “less is more at this point”. Hopefully as this matures there will be more proactive discussions where they can get everyone on the same page. He thought once some of the people see what value this adds to them it may give them some comfort. Attorney Cronin recognized that in any of these development situations if he was an abutter and may have an interest in selling his property it may be an opportunity where I might get a higher price if I push to sell it. Hopefully as it goes everybody will be happy. The tenants Mr. Dupont has spoken to expressed excitement to have that concentration of people next door, which will probably only help their business.

During the design Mr. Hebert asked if there was any consideration for any type of illumination in front of the building. Mr. Mires said they will have streetlights along the street and signage is going to be the light that will highlight the signage but also have overspill that will light the façade.

With the PV system on the roof, Mr. Hebert asked how big the array will be. Mr. Mires said it will be about 12,000 SF. Mr. Hebert asked if the savings would be shared with the tenants. Mr. Mires said what they often do is have a dashboard in the lobby so you can see at any point in time how much the PV's are contributing to the load. Mr. Hebert confirmed with Mr. Mires the savings will go to the common space meter.

With regard to the up lighting, Attorney Cronin said Mr. Dupont is considering possibly some up lighting like at 875 Elm Street with the accent lighting. They will see how that plays out once the building is built. Mr. Hebert thought it would be a great addition.

Mr. Leclerc asked if there would be a deck on the roof. Mr. Mires said the roof will not be occupied; it is strictly for PV’s and there are some pieces of mechanical equipment toward the center. Mr. Leclerc said it was a tall building and would tower over nearby buildings by 30-40 feet. He asked how tall the building is in relation to the SNHU Arena. Mr. Mires did not know. Attorney Cronin said the thought was that other property owners get the bug and do likewise so they can really build up that corridor.
Mr. Leclerc asked about the pricing of the apartments. Mr. Dupont said he is the owner of Oak Leaf as well as Red Oak and they own about 1,200 apartments in Manchester. This is a really good project for them and for Manchester. His sense was rents would be approximately $1,099 for the micro units and somewhere under $1,800 for the two-bedroom units.

Mr. Leclerc asked who was going to be the builder. Mr. Dupont said it will be North Branch Construction.

Mr. Long asked if dogs will be allowed. As a former Alderman, he said he was on dog patrol all summer. That was the majority of the calls he got in the downtown area. Mr. Dupont said they would probably allow small dogs up to 15 pounds. Mr. Long was concerned where dogs would be taken to go the bathroom.

Mr. Lussier said there are basically two points of egress in the back of the building but there are no real walkways. He asked how someone would get from the parking lot to the building. Mr. Chisholm said someone parked in the back they would probably walk around however they can, but realistically there are provisions to get onto a sidewalk out of the parking lot and into the building.

With regard to the offsite improvements between the building line, the property line and the curb, Mr. Lussier said he saw they are going to add benches, a fence and trees. He asked if that would be turned over to the City immediately for them to maintain. Mr. Chisholm said that is actually within the City right-of-way. There will be an agreement that has to be reached with the City. He believed the trees would all be privately maintained as part of the irrigation system. Part of the process they have to go through with this is an approval from the Board of Mayor and Aldermen for the encroachments within the right-of-way with the canopy and things like that. Mr. Dupont said the City might come down with a street plow, but Mr. Dupont said his staff would probably be there first as they are most of the time, and if they are not they would certainly do the cleanup after the sidewalk plow leaves.

Mr. Lussier said there are a lot of trees along Elm Street that are really getting out of control and are not well maintained, which is why he asked who would be responsible for the trees and picking up the leaves, etc. Mr. Dupont promised this will be a very well maintained property because he is going to be there every single day.

Ms. Trisciani asked if the masonry around the dumpster enclosure would match the building. Mr. Mires said in the rear of the building along the lower floor they have a ground and polished concrete block that looks kind of like stone. That will be the same block they enclose the dumpsters with so it will match the finish on the first floor on the rear of the building.

Ms. Trisciani said they are backed up to Pine Grove Cemetery, which has an architectural
fence, so she asked why they are using bollards in the back and not trying to tie everything together rather than putting basic boring bollards up. Mr. Chisholm said they are decorative bollards. Ms. Trisciani asked why not a fence or something that would be a lot more pleasing to look at. Mr. Chisholm said a bollard is also a structural element so this is really meant to act as a safety piece. There will be one in front of every parking space for safety purposes. From a snow and plowing perspective, Mr. Dupont said a fence will not work there.

Ms. Trisciani asked Mr. Dupont if he would be okay with a condition saying they will not use any of their parking spaces for event parking. Mr. Dupont said it would absolutely not be used for event parking. Whether one or two illegally slip in there that is a problem that he will certainly have and he will have to control that and that is a concern of his. He said it “absolutely 100 percent will not be”.

Chairman O’Donoghue turned the hearing over to the public.

Attorney Roy Tilsley who represents 359 Elm Street, LLC. Phyllis Zioze, one of the principals, was present in the audience. The Zioze family has owned the abutting building on Elm Street since about 1976. It is an 11,000 SF building located on an 18,000 SF lot. In general, his client is supportive of this type of mixed use development and the proposal for the applicant’s property. They have concerns about the scope and scale of the proposed project particularly as it relates to parking and internal traffic.

Attorney Tilsley said there were a couple comments today about the history between Mr. Dupont and his client and there was some insinuation that his clients have somehow held up progress and maybe that was for leverage to get Mr. Dupont to buy their building. There was a request back in 2012 or 2013 by Mr. Dupont to discontinue a portion of Elm Street East Back, which was a public way running behind his client’s building running through the proposed project. There was a dispute with Mr. Dupont about the scope of his client’s right in Elm Street East Back; what his client could do, where could they do it, how big was that area. That is why initially his clients were not agreeable to the discontinuance. Mr. Dupont sued his clients to establish the party’s respective rights back there. There was no problem with that, that is how you resolve things but he wanted it to be clear they were not being litigious for no purpose; they were sued. Like any lawsuit like this, each side won a few things and lost a few things. On the issue of Elm Street East Back and the scope of their rights back there, they basically prevailed. The court has said there is 37 feet behind his client’s building where the historic pavement has been that his client has certain rights to both as a private right-of-way and rights to use for loading and unloading. This has not been some futile effort to throw rocks at Mr. Dupont, they fought and established important rights to his client for their building that they have owned for over 40 years. After the litigation was over and they went again to discontinue public rights on Elm Street East Back they did not object because the rights had been established. They are not against this project; they have some concerns because they have rights to use the Elm Street East Back area. They have some concerns because they own the dirt or the fee on the western portion
of Green Street, which is going to provide access to the property. They are the appropriate concerns for this Board to consider.

In terms of what they have, Attorney Tilsley said Elm Street East Back in their opinion is 37 feet wide. There are 33 parking spaces proposed behind his client’s building. Those include the spaces on Willow Street they have a variance for. They believe the 11 spaces closest to the Elm Street East Back corridor actually encroach into the right-of-way that the court provided to them in its decisions. He appreciated that this Board is not the Board to make the determination about property rights and who has rights to do what and if they can’t resolve that directly with Attorney Cronin and Mr. Dupont they may have to go back for more guidance from the court. He wanted this Board to be aware there was an issue and he didn’t want anyone to say he waived it by not raising it. They believe those spaces encroach at least 3 feet into their right-of-way. He said they simply feel there is too much parking on the site and that is evidence that they are just trying to put too much on this property. He understands they got the variance but they are simply trying to squeeze too much parking given what they have and the other users of the property. He said Attorney Cronin pointed out they are not required to have any spaces so this is not a situation where they are trying to get 132 spaces to meet the requirements of the Ordinance, Mr. Dupont would like that amount of spaces because he thinks that will support the project but if he can’t fit the spaces in without encroaching he shouldn’t have that many spaces. There is normally plenty of parking on the street in this neighborhood. Willow Street has head in parking and short of SNHU Arena events those spaces are almost all completely empty so there are other options in this district, which is why the CBD doesn’t require parking for people to have on street parking. He urged the Board to look closely at the parking and determine whether or not they really need to squeeze every single possible space onto this site.

Attorney Tilsley said the other issue that really concerns them, which hasn’t been addressed by the applicant at all, is internal traffic circulation. It appears that all of the access and egress to this property will be via either the Elm Street East Back corridor or the public way that separates Mr. Dupont’s building from his client’s building. He believed Attorney Cronin referred to it as Summer Street a couple times but it is actually Green Street. That is a public way. One of the issues they litigated was the width of that public way as it runs over his client’s property. There was a claim it was 50 feet wide and the court concluded it is 25 feet wide, which is why his client retains those spaces along its building. His client owns the property at least as it gets to the Elm Street Back Corridor and then the 30-35 feet corridor of Green Street going out to Willow Street. Those are public ways, but they aren’t public ways that have gotten much use over the last years. They are not regularly traveled public ways and they have concerns about whether those public ways can support the increase in traffic volume from a 90 unit apartment complex and an office operation on the first floor. There is nothing in the plan that provides the Board any evidence that Green Street can accommodate the traffic it will have safely given the way it exists on the ground, particularly 25 feet from Elm Street to the Elm Street East Back corridor. That is a public way so his client and potentially the building next to it (Lacerte building) have trucks and delivery vehicles who use Green Street to get to the back of his client’s and the Lacerte building so there is
also that complication in addition to the residential and office traffic; none of which has really been looked at in the plans submitted. There is also the access over the Elm Street East Back corridor that will be open to Grove Street. He said Attorney Cronin pointed out and he was absolutely correct that is not a pretty situation right now. They are concerned whether Elm Street East Back can support the additional traffic that will be added when it becomes part of the access and egress to this complex. There is no real information in this plan as to what improvements, if any, will be made and whatever happens out there they have to accommodate his client’s easement rights as established by the court. Those include the right to use the entire 37 foot area from historic loading dock to historic loading dock. If you go to the Lacerte building’s on the right it is all the pavement between the loading docks going straight back for right-of-way purposes. They also have the right to use the loading docks for deliveries. They are going to have trucks potentially doing that under a court order, so they can’t change that, and they are also using that area for egress and access to the complex. He said Mr. Lacerte has certain rights on his property as well. They do not have the right to use the back of their property for regular parking so they can’t park cars up against the building but they can use it for deliveries and those delivery trucks can turn all the way around and use the entire 37 feet to turn around and then back their trucks in and have those trucks sticking out. All of that creates issues regarding the internal traffic flow and he urged the Board to take a close look at that and to get some more information from the applicant as to how that is going to work.

Attorney Tilsley said the traffic report submitted by the applicant does not look at the internal traffic issue. Elm Street East Back isn’t even acknowledged in that report so it is not an internal traffic study. Given the changes here and given the various users they believe there needs to be an internal traffic study and make some determinations to be sure that Green Street and Elm Street East Back can handle the internal traffic that is going to be generated by this project.

Attorney Tilsley reiterated that they do not object to the project. These are important issues to his client. They are not doing this for leverage. They are not trying to get Mr. Dupont to buy the building. They have been there for 40 years. They have tenants and he was sure the tenants are probably happy to have this project come rather than the current hole in the ground, but they will not be happy if they can’t do the things they need to do to get deliveries and customers to their facility.

Attorney Tilsley said they are happy to work with the applicant to see if they can come up with agreements or changes that might satisfy them.

Alderman Levasseur asked if the attorney presented this same argument to the Zoning Board of Adjustment when the variance was granted. Attorney Tilsley advised the variance was granted in two meetings. He was at one meeting and presented an argument. He wouldn’t say it was the same because the issues were a little bit different. He was not at the meeting last week when they granted the variance for the 3-1/2 foot landscape buffer and the bollards. Somebody from his office was there but again it was a slightly different
Alderman Levasseur said that 3-1/2 feet seems very important right now in the Planning Board, but the ZBA still granted. Attorney Tilsley said he wasn’t saying they should change the 3-1/2 feet but he didn’t think as a matter of site plan review in terms of safety and traffic circulation that you have to accept 33 spaces behind the building. They could say it is too many spaces and traffic will not circulate well and it is not going to work in terms of pedestrians getting from the lot to the building and it’s not going to work in terms of trucks coming in here while people are parking.

Chairman O’Donoghue brought the hearing back to the Board.

Alderman Levasseur asked if any improvements will be made on that road from Willow to Elm Street. Attorney Cronin said that would be improved. The street Attorney Tilsley pointed out was Green Street and it is not as bad as Grove Street, which is further to the south and is more in disrepair but he didn’t think that was going to get much use from their project. Green Street is in much better condition but that will all be redone in connection with this project. For an urban area the width of 25 feet is a foot wider than class 5 highways, which have 24 feet of pavement. This is a super low speed and low traffic area. People won’t be coming there for sport, they will be coming there because they have business here and the 25 foot width is plenty of width to make it work taking it from Elm Street all the way out to Willow Street.

Alderman Levasseur confirmed with Attorney Cronin that people would be able to exit the building from the lobby in the front.

Attorney Cronin said the goal is to try to make everybody happy here regardless of what the history has been. As far as the forum to figure out whether those 11 spaces are an issue they have a different view of it and they recognize reasonable minds can differ but they hope they can resolve it.

From Elm Street heading east Mr. Hebert asked if they were going to asphalt from building to building or if they were only going to do their own property. Attorney Cronin said that was a good question and maybe Mr. Zioze would join at the time and they could do it together and it would look much better. That would probably be the best solution of all.

During construction Ms. Trisciani asked what they have for plans to not be working on that side of Green Street. Attorney Cronin thought there was plenty of area on the site to stage construction out in the back in the lot that the applicant owns. Mr. Chisholm said the areas that exist today back there have jersey barriers surrounding them. In looking at aerial photographs you can actually see that they were used as staging areas for construction presumably during the reconstruction of Willow Street. Additionally North Branch Construction, the construction manager for the project, also prepared a couple graphics. He pointed out the area where they are going to be sheet piling so as to avoid disrupting as
much area as possible during construction. There are specific provisions for all of that which have been accounted for already.

Alderman Levasseur asked if they had a rebuttal to Attorney Tilsley’s comment that they are putting too many cars in the lot. Mr. Chisholm said if this wasn’t located in the CBD zone, which does not require any parking so the parking requirement is therefore zero. If this was in any other zone then the parking requirements would apply. There would be a total requirement of 163 spaces. The applicant is proposing 122 spaces. That is a 25 percent reduction, a 41 space reduction from what would be required if this was located elsewhere. Just because it is in a zone that doesn’t require parking there is still an inherent demand for parking. There is a demand for parking for a building of this nature. Alderman Levasseur confirmed with Mr. Chisholm that each parking space meets the minimum requirement as far as the width and length. Mr. Chisholm said the parking stall spaces are all compliant with City code. The relief they asked for was the 10 foot perimeter landscape buffer, which was granted by the ZBA, and now just because of the nature of this property relative to a residentially zoned property across the street they are asking for that waiver request here as well.

Alderman Levasseur asked if he agreed or disagreed that they may be infringing on Mr. Zioze’s property by 3 feet. Attorney Cronin said they disagree. His opinion is based on his read of the court order not the survey. In looking at the plan and where the boundary lines are he is satisfied that the parking is on the fee simple interest and not within the right-of-way. He reiterated that people can differ on that. Their hope is to try and resolve it. They don’t want to go round two into the courthouse if they can avoid it.

Mr. Mires said the program they were given when they started Mr. Dupont has a number of properties all over the City and he does parking counts and tries to monitor what the need is. After counting all his properties and ones with similar occupancies at the Opera Block and others he told them he needed 1.4 cars per unit and that is about where they have ended up.

Ms. Sanuth asked if there was a market name for this project. Mr. Dupont said it will be called “Red Oak at 409 Elm”.

Mr. Leclerc asked what type of framing there would be. Mr. Mires said it would be podium construction to the first floor and then wood for the apartments.

Chairman O’Donoghue closed this public hearing.

5. **CU2019-013**
   Property located at 9 Willow Street (Tax Map 360, Lot 1), an application for a conditional-use permit to provide 7 stacking spaces for a drive-through window, where 10 are required, in the RDV Zone.  *T.F. Moran, Inc. for Tanveer Akhtier*
CU2019-014
Property located at 9 Willow Street (Tax Map 360, Lot 1), an application for a conditional-use permit to allow a restaurant with a drive-through window in the RDV Zone. T.F. Moran, Inc. for Tanveer Akhtier

CU2019-015
Property located at 9 Willow Street (Tax Map 360, Lot 1), an application for a conditional-use permit to provide 6 stacking spaces for fueling stations, where 9 are required, in the RDV Zone. T.F. Moran, Inc. for Tanveer Akhtier

SP2019-017
Property located at 9 Willow Street (Tax Map 360, Lot 1), a site plan application to construct a 2,121 SF convenience store with a drive-through restaurant window and 11 parking spaces in the RDV Zone. T.F. Moran, Inc. for Tanveer Akhtier

Postponed to July 18, 2019.

6. CU2019-016
Property located at 670 North Commercial Street (Tax Map 276, Lot 4), an application for a conditional-use permit to allow residential units in the AMX Zone. Brady Sullivan Properties

SP2019-019
Property located at 670 North Commercial Street (Tax Map 276, Lot 4), a site plan application for a proposed renovation of approximately 40,000 SF on the existing 1st and 2nd floors of the Annex portion of 670 North Commercial Street to create 34 residential units, consisting of 27 – two bedroom units and 7 – one bedroom units, in the AMX Zone. Brady Sullivan Properties

Chris Lewis, an architect with Brady Sullivan Properties, advised the subject property is the Jefferson Mill at 670 North Commercial Street. It is an approximately 350,000 SF historic mill building. They are proposing to convert some of the space to 34 dwelling units on the first and second floors of the annex portion of the building. That is approximately 20,000 SF on each floor. The proposal includes 7 one bedroom units and 27 two bedroom units. He pointed out the clock tower entrance and advised the annex portion is to the left and it is 3 stories where the remaining portion is 4 stories. There is currently a tenant on the top floor. The tenants would enter at the clock tower entrance and then into the apartments. He pointed out a second entrance into the building which tenants who park on the other side could use. There is a mix of one and two bedroom units on each floor. The floor plans are identical for both floors. They range in size from 675 SF to 1,088 SF. Based on the configuration of the structure the larger units have the river views.

Mr. Lewis advised they based their parking plan off the 2014 ALTA survey that was done. All of the parking shown is on their parcel minus one little piece. The existing parking on site is
291 spaces, which is what they have on the property. Off of the property they have 37 parking spaces in MYRNA and 183 green parking tags and 166 yellow parking tags. They have a total of 677 parking spots available to their tenants. They believe that in the current configuration including the additional apartments their need will be in the neighborhood of 622 so they feel they will be able to accomplish their parking needs that will serve the tenants.

Mr. Long asked if the rest of the building is full. Mr. Lewis said with this conversion they will be close to full. There are still a couple vacancies in the main portion of the building as well as some vacancies in the lower level. The lower level is a little bit of a challenge and has been vacant in the annex portion for 10 years. The two floors they are converting have been vacant for 2-5 years.

Mr. Long asked what the hours of operation are for the current tenants. Mr. Lewis said they are typical businesses so it’s a 9:00-5:00 kind of thing. What they see is Monday-Thursday it is full until almost 5:00 PM and it is fairly light on Fridays. They encourage when they sign their leases to have a majority of their parking offsite. Their goal is to try to keep the site itself free for visitors and primary people that use the space.

Mr. Long confirmed with Mr. Lewis there are no second shifts or 24/7 hours of operation.

Alderman Long asked if they were requesting any fee waivers. Mr. Lewis said they were not. They are requesting waivers for drawings for the site, etc.

Ms. Trisciani said on DPW’s response they mentioned there were some parking spots that they are showing on the right hand side of the screen that are in a public way and at the beginning of his presentation they got two other plans that show two different configurations. She asked for clarification on what they are looking at. Mr. Lewis said going through this process they learned there are 10 parking spaces in that location as well as 7 in another location and 3 in a different location that were striped prior to this particular plan in 2014. They went back and tried to research how they got there and what exactly they are for. They want some time to figure that out, but they have also offered an alternate plan as they would like to move forward and if they have to extinguish those 10 spaces until they get the appropriate permissions they will do that. Mark Pinard, General Counsel for the applicant, said the plan is if they can’t determine that the BMA had approved those spaces under license then they are asking that this be granted with the condition that they remove those spaces until such time as they get the BMA to approve the use of those spaces under appropriate license. They did a similar thing at 2 Wall Street over by Spring Street where they had to build into the embankment over at the Bridge Street area and in that case the BMA granted them a license to use some of their land to expand those spaces over there before the property was sold. The plan here is the same. They would apply to the BMA to get permission and they would be happy to have a condition of this approval to be contingent on getting that permission and removing those spaces until such time as they can show that they have permission to use them.
Ms. Nazaka said the reason for the two plans is because in the AMX district a building use development plan (BUDP) is required and must be reviewed and approved by the Planning Board. The alternative plan they presented tonight is if they go before the BMA and the Board denies their request to encroach within the public highway. By providing this alternative plan ahead of time the Planning Board can bless both layouts and the applicant will not need to return to the Planning Board for a second review following any BMA action.

Attorney Pinard said he has been there for 10 years and he typically sees pedestrian traffic through that right-of-way. It is a way for the folks at PSNH to come and go to their building. Occasionally there will be a vehicle through there but it is not as though there is constant vehicular traffic through there. It has definitely been utilized for a pedestrian way historically. Ms. Trisciani said it also looked like it may have been planned as another egress for emergencies if anything were to happen. Notwithstanding those spaces encroaching in that public way there is sufficient room for vehicles to come in and out.

Mr. Leclerc asked if they had addressed the comments from Water Works. Mr. Lewis said they have added those locations to the site plans. There are three water locations in the building; two of which have domestic back flows and they are indicated on the plan provided tonight. Mr. Leclerc asked if it already has fire suppression and Mr. Lewis said it does.

Attorney Pinard said the mixed use in the Millyard is really the best way to make this work. This is the way they are going to be able to maximize the use of this building. They are going to be able to have commercial parking during the day, residential on nights and weekends. It will allow them to bring some residents down into the Millyard, which obviously will add to the ability for downtown businesses to get some more activity from these residents.

Alderman Levasseur asked if they would all be rented by Brady Sullivan or would there be some left over for employers use. Attorney Pinard said it will be based upon what the needs are. They do in some of their other buildings have corporate apartments so if they have a need for some of the businesses in the building to utilize some apartments they would certainly work with them.

Chairman O’Donoghue turned the hearing over to the public. There were no comments from the public and the Chairman brought the hearing back to the Board.

Chairman O’Donoghue closed this public hearing.

7. **CU2019-017**  
Property located at 720 Union St. (Tax Map 12, Lot 27), an application for a conditional use permit for a further reduction in required parking as a result of proposed increased seating, indoors and outdoors, in the R-3 Zone. *To Share Brewing Company for 720 Union St. LLC*
Attorney Matthew Snyder of Sulloway & Hollis appeared on behalf of the applicant, To Share Brewing Company, LLC. Also present was Aaron and Jennifer Share, co-owners of To Share Brewing. They thanked the Board for accommodating their application being heard on a night reserved for a typical business meeting. The attorney stated that it was important to the applicant to get on the Board’s agenda as soon as possible after having received several variances from the ZBA last month, especially because some of those variances affect the applicant’s business operations during the summer months.

Attorney Snyder said the applicant appeared before the ZBA in May and received several variances, two of which are relevant to this conditional use permit application. He said they received a variance to expand the prior use to increase indoor seating from 32 seats to 50 seats. The floor plan submitted with this conditional use permit application shows the existing and proposed new seats with the majority of the new seats being placed along the long bar rail. He referred to the floor plan and pointed out the existing seats and the proposed seats. He said the Fire code permits 102 people but the City limits capacity to 80 due to the single bathroom.

Attorney Snyder said the applicant received a modification of a condition of the prior variance that previously prohibited outdoor seating. Outdoor seating is now allowed so long as it is limited to 15 people, the seating area closes by 8:00 PM and no outdoor games are played. He pointed out the location of the outdoor seating. It is a combination of three 3 tops and three 2 tops. The applicant proposes these tables, which are quite narrow, would be affixed to the existing wooden fence that marks the property line. Those tables would be affixed by hinges and then pulled out from the fence on days when the outdoor area was open. The outdoor seating would be seasonal, open approximately six months of the year from May to October. The seating would also be weather dependent and wouldn’t be open in bad weather. It would also only be open when the brewery was open. The brewery is currently open Thursday through Sunday with limited hours of operation. The applicant received an additional variance to be open seven days per week but his clients, at least right now, aren’t planning on increasing the days of operations because of other obligations such as brewing the beer, which takes place earlier in the week. The one exception to this is special events, which may be held on days of the week that the brewery is otherwise closed.

As a result of variances permitting 33 additional seats; 18 indoor and 15 outdoor, Attorney Snyder said the applicant, which is classified under the Zoning Ordinance as a restaurant of less than 5,000 SF, is required to have an additional 11 parking spaces; one space for every 3 seats. The variances requesting additional seating stemmed from demand of the applicant’s patrons who wanted more indoor seating so they don’t have to stand and drink their beer and also a desire for amenities such as outdoor seating similar to what other nano breweries offer. At the hearing before the ZBA last month they submitted over 60 letters of support from abutters, neighbors and various City officials who were in favor of To Share Brewing and also the proposed variances. Also at that meeting almost 30 people in the community came out and spoke in favor of the brewery and the expansion in use. Additional seating is important to the applicant because without it guests are more likely to leave the
establishment if seats aren’t available. It is important to note with respect to outdoor seating additional parking is required but in reality the seating will only be available for half the year and even then only on days when the brewery is open and the weather is cooperative. The applicant is before the Board tonight seeking a conditional use permit reducing the required number of spaces to the level permitted under the prior conditional use permit it received.

Attorney Snyder reminded the applicant first appeared before the Planning Board in December 2017 to request a conditional use permit to reduce the required number of parking spaces from 17 to 8. The feedback from the Board that night was overwhelmingly positive. The conditional use permit was granted unanimously with one abstention. Some of the information the applicant submitted at that time in support of its original conditional use permit remains relevant to this application.

Attorney Snyder advised that in a letter from DWP on June 13, 2019 they did not offer an opinion on the application; however, there were some comments. Regarding the comment about a 2017 meeting at which his clients represented that they were attempting to secure local offsite parking and working on parking demand calculations, Attorney Snyder said there was a November 30, 2017 walk through of the premises with his clients and various City officials and staff. It was around that time his clients were in the process of reaching out to six different businesses about offsite parking arrangements all of which were rejected. After the November 30th walk through but before the December Planning Board meeting, his clients performed their own parking study that ultimately showed sufficient on street parking in the vicinity of the brewery. Regarding the comment in the DPW letter “DPW traffic division has regularly fielded calls about the limited availability of parking along the street.” His clients contacted DPW to get information about what was meant by that statement and the extent to which it applied to the applicant but did not receive a response. It was unclear to whom this complaint applies. Does it apply to people visiting the brewery? Does it apply to people going to the laundromat, which continues to occupy the same building? Could it be for another reason such as residents with family or friends over to their house or apartment? They don’t even know if it applies to just that general vicinity or the entirety of Union Street. They also feel this is consistent with what his clients’ parking study found. They submitted a study at the time of the original conditional use permit and submitted again with this application. This study was performed in early December 2017 just prior to the Planning Board hearing on the original conditional use permit. To summarize the method his clients used to calculate their data, they used a range finder to determine the lengths of blocks within a one or two block radius of the brewery depending on direction. As such, they are really talking about two blocks east and west and one block north and south from the brewery. They didn’t count any space where parking wouldn’t be permitted for example driveways, designated no parking areas, etc. They used the City’s requirement for length of parallel parking spaces to determine the number of total parking spaces per block. They then surveyed each block on three different days and times; Saturday during the 12:00-2:00 PM hour, Sunday between 2:00-3:00 PM and Monday between 6:00-7:00 PM, to count the number of parked cars. The average number of
available on street parking spaces during those three days was 203 available spaces. Most significantly, the day and time with the fewest number of parked cars was Monday during the 6:00-7:00 PM hour, which is the time one would assume most people are already home from work. Although the study is a year and a half old now there have been no significant developments such as new businesses, new apartment complexes that they are aware of since that time that would put increased demand on parking so the study remains relevant today.

Attorney Snyder said his clients didn’t have the benefit of having been open at the time of performing their parking study but what they found since is also significant to this conditional use permit application. Having been open now for six months, his clients estimate that 60-70 percent of their patrons walk or bike to the brewery further reducing the need for parking. His clients submitted a map of where many of the regulars live. Once his clients realized they would have to go back before the ZBA to obtain several variances they had a signup sheet at the brewery for anyone who was a regular or just someone who stopped in who wanted to support the variances. Based on that information, they then went on Google Maps and identified the location of those people who signed up. He pointed out the largest cluster of those people are people who live in very close proximity to the brewery and surely those are best regulars.

Attorney Snyder said in his client’s application they used the term “third space” to describe the brewery, which is a term that has become associated with craft breweries. It means a place outside of home and work where people, particularly locals, can meet and congregate. To Share has become just that in the six months it has been open.

With regard to the comment Manchester PD has ticketed vehicles parked illegally, Attorney Snyder said his clients contacted Manchester PD and were told that 13 tickets were issued to cars on Union Street in the six months since the brewery has been open. It is important to note that they are not just talking about the immediate vicinity of the brewery; they are actually talking about the entirety of Union Street so in the past six months 13 cars have been ticketed for the entire length of Union Street. They weren’t able to identify which of those actually were in proximity to the brewery.

Attorney Snyder said they acknowledge that initially there was an issue with some signage with regard to parking restrictions. He showed a picture taken from a sidewalk outside the brewery facing northeast. He pointed out Brook Street and a couple no parking signs as they exist right now. He showed a no parking sign that says “No Parking Here To Corner” and then it points to the left (north). He showed a close up of two existing signs. The sign on the left was there from the beginning but the one on the right was not. One said “No Parking Here To Corner” and points north. Apparently what the issue was since one of the signs was never there people, some of whom did visit the brewery, would park in front of the sign to the right and assumed they were safe to park there as long as they weren’t in front of it but had they not seen the first sign they didn’t know that they also could not park to the right of the sign. His clients reached out to DPW about the issue. DPW acted swiftly and put new
signage in place, which says “No Parking Anytime” and points south so hopefully that will make it more clear that parking is not allowed even to the right of that sign. His clients also have signs at the entrance of the brewery and at the register reminding patrons about responsible parking and being respectful to their neighbors in that regard. As such, while maybe some of those 13 tickets did emanate from people visiting the brewery he thought it was unlikely that all 13 did.

With regard to satisfaction of the conditional use permit criteria, Attorney Snyder said the first criteria is the use is specifically authorized by Section 5.10 of the Zoning Ordinance. The applicant obtained a variance to change the use from manufacturing to restaurant, which otherwise is not permitted in the urban family/R-3 zone. The second criteria is that the development will comply with the Zoning Ordinance. The definition of the R-3 district in the Zoning Ordinance includes the following statement regarding intent: “Its primary purpose is to define residential densities appropriate for the inner city neighborhoods while preserving opportunities for some neighborhood-serving businesses to be integrated therein. The development is also consistent with the Master Plan. The Master Plan was adopted by the Planning Board in 2009 with a vision for small business development and even includes its own section on the importance of walkability, which is a consistent theme throughout the plan. The third criteria is that the use will not materially endanger public health or safety. There will be no impact on public health or threat to public safety. What they are talking about here is the reduced need for parking in part because the majority of the patrons already walk to the brewery. It actually increases public safety by having a brewery where people can walk to and from rather than drive. The fourth criteria is that the use will not devalue abutting property. At the ZBA they referenced a study his clients performed using Zillow that found neighborhood properties increased in value an average of over $12,000 since the date of original approvals to April of this year. At the ZBA he also presented a letter from Karen Pelletier, a long time north end resident and realtor from Kanteres Real Estate, a north end based agency specializing in north end properties, opining that expanded use by the applicant would be good for neighborhood property values. At the May ZBA hearing a local patron testified that she has lived in the area for several years and that the less desirables who once congregated near the previously vacant space are now gone since the brewery went in. His clients reference in the CUP application letter that they cleaned up the drug paraphernalia and other waste around the property. Prior to the brewery opening that space sat vacant for 3-4 years. The entire building has a new fresh look including the painted mural that covers the entire building. Vacancy and rundown buildings depress neighborhood property values. Occupancy and spruced up buildings increases values. Since To Share moved in there has been an increased interest in the remaining space at 720 Union Street; the space between the laundromat and the brewery. The fifth criteria is that the use will be compatible with neighborhood and uses in the area. The applicant is a strong addition to local businesses such as Michele’s Bakery, Bunny’s Superette, Angela’s Pasta & Cheese Shop and the Farm & Flower Market to name a few. The sixth criteria is that the use will not have substantial adverse impact on highway or pedestrian safety. Impact on the highway is lessened because most patrons are not reliant on vehicles to get to the brewery, which means less cars on the road. Patrons who walk to the brewery have adequate
sidewalk space along surrounding streets so safety should not be an issue. The seventh criteria is that the use will not have a substantial adverse impact on the City’s natural and environmental resources. There will be no impact on either of these resources. From an environmental standpoint, fewer cars on the road is a good thing for pollution reasons. Finally, the eighth criteria is that adequate public utilities are available to the property to ensure the use will not require excessive expenditures in providing public services. The applicant has access to all the public utilities it needed to receive its original permitting and there will be no significant burden on the City requiring public expenditures for public services. His clients maintain the public space outside the brewery so, if anything, they reduced the maintenance responsibilities on the City.

Attorney Snyder said they know the application is not on the business meeting agenda due to the number of agenda items. If there is not much to deliberate after hearing their presentation and if the Board is inclined to grant the permit, he asked that they please consider adding their application to tonight’s business agenda even if it means putting it at the end of the agenda. A conditional use permit doesn’t require a staff recommendation like other Planning Board permits. The application for the regular June Planning Board meeting was due three days prior to the May ZBA meeting so it wouldn’t have been appropriate for them to apply for the conditional use permit until going before the ZBA for the variances they didn’t know they would even get. The applicant cannot act on the variances for indoor and outdoor seating until the conditional use permit is granted. Due to the July 4^{th} holiday the next Planning Board meeting isn’t until July 18^{th}. If the conditional use permit was granted then his clients still need time to order materials, perform construction as well as the appeals period. By the time mid-August rolls around summer will be almost over and his clients would have lost the opportunity to take advantage of outdoor seating during the prime season.

Chairman O’Donoghue asked if the 28 seats are inclusive of the 17 that were originally presented in 2017. Mr. Golden advised the extra seating they proposed adds the 7 spaces onto the previously required 17.

Ms. Trisciani asked if the parking lot is all used for To Share what happened to other tenants and how would that impact parking requirements down the road. Mr. Golden said the laundromat parking requirement is included in the 25. Whatever tenant occupies the vacant spaces in the future will have to come back for a conditional use permit for a reduction in the required onsite parking. Attorney Snyder said the vacant space is only approximately 3,200 SF.

Alderman Levasseur told Attorney Snyder he gave the most thorough presentation of all time, even for buildings that are 400 feet tall or with 400 units it. He said he was amendable to doing what they requested and getting them moving today. It has been a rainy year and you have to take advantage of whatever sunny days you can get.

Chairman O’Donoghue turned the hearing over to the public.
Theo Groulx of 62 Blodget Street advised he lives three blocks from the brewery. He walks there all the time. He is a regular there so he knows a lot of the other regulars and wanted to vouch for the fact that the vast majority of them also walk there so parking really isn’t an issue.

Margaret Mason of 577 Pine Street agreed with Mr. Groulx, except her walk is only 90 seconds and whenever people go to the brewery with her they just park at her house so they are not taking up any spaces.

Brian Berard of 160 Harrison Street said it was a short walk for him. He thought a lot of the other regulars at the brewery are all walkers too.

David Lee of 103 Brook Street, owner and manager of the LLC that owns the building. He had the building for about 3-1/2 years and he would take exception to the Zillow comment. He said he put hundreds of thousands of dollars into that building to make affordable, attractive five units of living space there and he thought those dollars and properly invested have created a good residential spot and also a feature. If he were a “slum lord” he suspected some of their customers might not want to walk past it and to the brewery. Another point that was overlooked at the ZBA was the point of the continuous noise. There is constant noise. It is either somewhat low it is loud from the condenser/compressor. There were inferences that it was going to be corrected. He suggested a shed roof type with some acoustical insulation and some fence that would help that. He thinks it has devalued two of his units. Certainly their presence there has not caused any appreciation. There is a second story porch that is probably 25 feet from it that when the tenants change he in good faith will not disclose that as an asset or benefit to that unit, hence the devalued comment. There was some comment that it would be corrected but then just before the ZBA meeting the Shares said they would not do anything about it unless they were forced to. He wasn’t sure how much of a good neighbor that was. He had a problem with one of his units back in the winter with some squatters that were inadvertently left behind. He has since corrected that but he advised them as soon as he was concerned about their clients and patrons so he took it upon himself to keep them posted about that situation. He didn’t want any harm to come to them nor any of their customers. He thought that was the neighborly forthright thing to do so he was very upfront that way. He said 103 Brook Street is a non-smoking property. The outside seats are inches away on the other side of a fence so hopefully that smoke will not hover and be an impediment to the renters he has there and in turn cause further devaluation.

Chairman O’Donoghue brought the hearing back to the Board.

Attorney Snyder said although it is not relevant to the parking issue by way of background for the Board, one of the variances they sought before the ZBA was to permit a chiller that had been placed within the limited activity buffer and the concern Mr. Lee raised at the time was the sound issue. The ZBA granted the variance to permit the chiller in that location but
they stipulated that they would agree to a structure around the chiller and they would insulate it with sound deadening blankets to bring the noise within acceptable levels per the Zoning Ordinance. To the extent there are any concerns about noise those will be completely alleviated once the structure is erected. In terms of the smoking issue, smoking will not be permitted in the outdoor seating area.

Mr. Long asked if there is a smoking area now. Mr. Share advised they have an ashtray out toward the front by the corner of Union Street on the other side of the building.

Chairman O’Donoghue polled the Board and it was agreed to deliberate this application tonight at the end of the agenda.

Chairman O’Donoghue closed the June 20, 2019 public hearing of the Manchester Planning Board.

III. BUSINESS MEETING:

Chairman O’Donoghue brought to order the June 20, 2019 business meeting of the Manchester Planning Board.

The Chairman advised that Mr. Wellington left the meeting and, therefore, would not be voting this evening. Mr. Curry will be voting.

(Current Items)

1. **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 Zone. *Joseph M. Wichert, LLS, Inc. for J&C Ryder Family Trust and Stanley J. Garczynski*

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

*Mr. Long made a motion to approve S2019-009 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 applicants 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, excluding those in the proposed right-of-way, are to be set prior to submitting plans for final approval;

4. Figure 2-4 of the Highway Division’s Standard Specifications, showing the construction of mailboxes, shall be included with the plan set prior to final approval;

5. Prior to final approval, the applicants shall remove the patio and fireplace on proposed lot 14;

6. The plan set shall be amended to show the planting of a row of 6-foot Arborvitae or similar evergreens to screen the two houses on Sky Meadow Way nearest to the applicants’ property;

7. Prior to final approval, the applicants shall place the two existing lots in common ownership and merge them, pursuant to the requirements of Appendix F of the Subdivision and Site Plan Review Regulations;

8. A homeowners’ association comprised of the owners of all lots within the subdivision, including proposed lots 13 and 14, shall be created for the purpose of maintaining the detention basin and any other shared utilities. Prior to final approval of the subdivision, the applicants shall submit for review a declaration of covenants and restrictions for the homeowners’ association, which shall be recorded concurrently with the subdivision plan;

9. A development agreement that binds the property owners, their heirs, and their successors to performance in the timing of the construction of public improvements and dwelling units shall be executed prior to final approval. The agreement shall be accompanied by a financial surety that is suitable to guarantee construction of the required public improvements, in accordance with Subsection 4.14 of the Manchester Subdivision and Site Plan Regulations;

10. 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.”;

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

12. The plan shall contain a note stating, “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.”;
13. Easement documents allowing City access to private infrastructure improvements located outside the public right-of-way shall be submitted for review to the Department of Public Works and the Planning and Community Development Department prior to final approval and shall be recorded concurrently with the subdivision plan;

14. 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;

15. 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);

16. 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 four complete paper sets;

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

18. Prior to the issuance of a building permit for lots 13F, 13G, and 13H, the applicant shall submit a grading plan showing the proposed foundation location and proposed grading of the lots;

19. 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;

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

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

2. **SP2019-009**

   Property located at 48 Perimeter Road (Tax Map 721, Lot 7), a site plan application for a 30 space parking lot expansion with a retaining wall and other site related improvements in the IND Zone. **TF Moran for St Mary’s Bank**

   The Chairman advised there was a waiver to forego the requirement for a traffic impact study from subsection 9.1-D on the basis that the proposed project will not have an effect on the internal use of the building.
Alderman Levasseur made a motion to grant the waiver for a traffic impact study, which was seconded by Mr. Long. (Motion Carried)

Alderman Levasseur made a motion to approve SP2019-009 per staff recommendation, which was seconded by Mr. Long. (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. Prior to submitting plans for final signature, the width of the drive-aisles shall be updated to the required width of 22 feet;

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

5. 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;”

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

7. All material changes to the approved plan, including changes to signage and changes to building or site lighting, shall be reviewed and approved by the Planning Board at a business meeting;

8. 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”;

9. Prior to 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 have been constructed in accordance with the approved plans;

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.

3. **CU2019-009**
   Property located at 766 and 778 Gold Street (Tax Map 438, Lots 5A and 5C), an application for a conditional-use permit to allow 135 parking spaces where 215 parking spaces would be required, in the B-2 and IND Zone. *Allen and Major Associates, Inc. for AMR Real Estate Holdings, LLC*

   Mr. Long made a motion to approve CU2019-009, which was seconded by Alderman Levasseur. *(Motion Carried)*

**PDSP2019-002**
Property located at 766 and 778 Gold Street (Tax Map 438, Lots 5A and 5C), an application for site-plan and planned-development approval to construct an approximately 44,875-square-foot automobile dealership and service center and to maintain an approximately 6,000-square-foot building to be used as additional service area, with associated site improvements, in the B-2 and IND Zone. *Allen and Major Associates, Inc. for AMR Real Estate Holdings, LLC*

Chairman O’Donoghue advised there was a staff report and the Board took a moment to review that information.

*Alderman Levasseur made a motion to approve PDSP2019-002 per staff recommendation, which was seconded by Mr. Hebert. *(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. All comments from the Department of Public Works’ May 30 letter shall be addressed prior to final approval, including the evaluation of signal optimization at the intersection of South Willow Street and John E. Devine Drive;

4. The applicant shall obtain all necessary State and Federal approvals, as applicable, prior
5. A Notice of Merger, completed pursuant to the requirements of Appendix G of the Subdivision and Site Plan Review Regulations, shall be recorded prior to final approval;

6. 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;”

7. 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 Section 4.14 of the Manchester Subdivision and Site Plan Review Regulations.”

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

9. A note shall be added to the plan stating, “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;”

10. A note shall be added to the plan stating, “No cars shall be parked on landscaping or otherwise displayed outside of the display spaces shown on the approved plan;”

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

12. 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 have been constructed in accordance with the approved plans

13. All material changes to the approved plan shall be reviewed and approved by the Planning Board at a business meeting;

14. Should any condition precedent or subsequent to this approval not be met in the time periods provided for in Section 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

15. The fire impact fee of $0.35 per gross square foot shall be applied to the construction of the new building and submitted prior to the issuance of a certificate of occupancy. The existing building shall be exempt from the impact fee.
4. **SP2019-018**  
Property located at 785 Goffs Falls Road (Tax Map 871, Lot 1A), a site plan application to amend a previously approved site plan (SP-18-2018), to construct a 3,500 SF convenience store and fuel dispensing area consisting of 12 fuel pumps, with associated site improvements, in the B-2 Zone. **MHF Design Consultants, Inc. for Irving Oil Marketing, Inc.**

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

The Chairman advised there were three waivers requested.

*Mr. Long made a motion to grant the waiver from Section 10.08 Driveway Location and Design Standards, which was seconded by Mr. Curry. (Motion Carried)*

*Mr. Long made a motion to grant the waiver from Section 1 Landscape Strip Width, which was seconded by Alderman Levasseur. (Motion Carried)*

*Mr. Long made a motion to grant the waiver from SSWSP Section 5 Primary Sign Height, which was seconded by Mr. Leclerc. (Motion Carried)*

*Mr. Long made a motion to approve SP2019-018 per staff recommendation, which was seconded by Mr. Hebert. (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. Prior to final approval, the applicant shall pay $9,000 to the City of Manchester for sidewalk construction associated with the Rail Trail and Bridge Reconstruction project on Goffs Falls Road in lieu of sidewalk construction along the project frontage, in accordance with the letter from the Department of Public Works dated May 31, 2018. The use of this money by the City shall comply with applicable State Statutes;

3. Prior to a Certificate of Occupancy, the owner shall pay a fire impact fee of $1,855 for construction of the 3,500 SF commercial building;

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

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

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

8. The plan shall contain a note stating that there shall be “No outdoor display of products”;

9. All material changes to the approved plan, including changes to signage and changes to building or site lighting, shall be reviewed and approved by the Planning Board at a business meeting;

10. 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”;  

11. Prior to 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 have been constructed in accordance with the approved plans;

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

13. 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. **S2019-012**

Properties located at 122 and 200 McGregor Street (Tax Map 180, Lots 1 & 2), a subdivision application to adjust the lot lines of Lot 1 and Lot 2, creating three new lots of 79,712 SF (Lot 1), 56,866 SF (Lot 2) and 110,651 SF (Lot 2A) in the B-2 and C-2 Zones. *TF Moran for St. Mary’s Bank and PJC Manchester Realty, LLC*

Mr. Long asked if an easement plan was submitted. Ms. Nazaka advised it was in the works and she was confident it would be forthcoming.

*Mr. Long made a motion to approve S2019-012 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 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 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. The applicant shall submit an easement plan showing all public and private easements affecting the proposed lots to be recorded at the Hillsborough County Registry of Deeds along with the signed subdivision plan;

5. Where applicable, easement documents allowing City access to private improvements, such as sanitary sewer and storm drains located outside the public right-of-way, shall be submitted for review to the Department of Public Works and the Planning and Community Development Department prior to final approval and shall be recorded concurrently with the subdivision and easement plan;

6. All material changes to the approved plan, shall be reviewed and approved by the Planning Board at a public hearing;

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

8. 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;

9. 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);

10. 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;

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;

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

13. 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.

CU2019-010
Property located at 200 McGregor Street (Tax Map 180, Lot 1), an application for a conditional use permit to allow a reduction in required on-site parking from 69 spaces to 55 spaces in the B-2 Zone. *TF Moran for St Mary’s Bank*

Mr. Hebert made a motion to approve CU2019-010, which was seconded by Mr. Long. (Motion Carried)

SP2019-011
Property located at 200 McGregor Street (Tax Map 180, Lot 1), a site plan application amendment to a previously approved plan (SP-3-2012) for modified parking, access and traffic circulation in the B-2 Zone. *TF Moran for St. Mary’s Bank*

Mr. Long made a motion to grant the waiver from Section 10.09(A) Ten Foot Minimum Buffer To Street Lot Lines, which was seconded by Mr. Hebert. (Motion Carried)

Mr. Long made a motion to grant the waiver from Section 10.09(A) Four Foot Minimum Buffer To Side/Rear Lot Lines, which was seconded by Mr. Hebert. (Motion Carried)

Mr. Long made a motion to approve SP2019-011 per staff recommendation, which was seconded by Mr. Hebert. (Motion Carried)

Conditions of Approval:

1. No permits shall be issued for the St. Mary’s Bank property until the subdivision plan has been recorded;

2. The applicant’s engineer shall obtain official sign-off from all City reviewing agencies, including Public Works, Traffic Division, Planning, Fire, and Water Works. Official sign-off shall be provided to the Planning and Community Development Department prior to submitting plans for final approval;

3. The applicant shall obtain all necessary State and Federal approvals, as applicable (NHDES AOT), and copies shall be provided to the Planning and Community
Development Department prior to submitting plans for final approval;

4. The plan shall contain the following statement signed by the developer (Catholic Medical Center), “It is hereby agreed that, as the developer of the property, I will construct the project as approved and as shown on the enclosed set of plans. Further, it’s agreed that the site improvements shall be maintained for the duration of the use”;

5. All material changes to the approved plan, shall be reviewed and approved by the Planning Board at a subsequent meeting;

6. As the property is subject to cross access and parking on adjacent lots, the appropriate easements shall be submitted to Planning Staff prior to final approval;

7. The entirety of the City sidewalk between the two Amory Street and McGregor Street entrances be paved as part of the development project and the plan shall be updated to contain the following note “Sidewalk to be repaved. Existing pavement to be removed and 3” of new pavement shall be installed on crushed gravel in accordance with City standards”;

8. Prior to submitting plans for final approval, Off-Site Improvement Plans for work within the City of Manchester right-of-way shall be reviewed and approved to the satisfaction of DPW;

9. Prior to final approval, a Developers Agreement, prepared by the Planning Staff, shall be executed that binds the developer, its heirs, and successors to performance in the timing of the construction of public improvements;

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

11. Planning Board approval recognizes this site plan as Phase 1 of the overall development project of 3 Phases: St. Mary’s Bank site improvements, Amory Street off-site improvements, surface parking lot on lot 2A and Mill West Improvements (Phase 1), Rite Aid site improvements (Phase 2), CMC hospital addition (Phase 3) and a potential future parking garage (Phase 4);

12. A preconstruction meeting with city staff shall be held prior to the start of Phase 1;

13. At the completion of Phase 1, a signed and sealed letter from a NH licensed professional engineer shall be submitted to the planning staff certifying that the site improvements have been constructed in accordance with the approved plans;

14. Prior to a Certificate of Occupancy for Phase 1 (St. Mary’s Bank site improvements,
Amory Street off-site improvements, surface lot on lot 2A and Mill West Improvements), the Highway Department shall provide verification to the Planning staff that all off-site improvements/modifications tied to Phase 1 have been constructed per the approved plans;

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

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

17. 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.

**SP2019-012**

Property located at 195 McGregor Street (Tax Map TPK5, Lot 2), a site plan application amendment to previously approved plans (SP-29-2010 and SP-19-2007) for parking, access and traffic circulation in the ACH Overlay and AMX Zone. *TF Moran for Brady Sullivan Millworks, LLC*

*Alderman Levasseur made a motion to approve SP2019-012 per staff recommendation, which was seconded by Ms. Sanuth. (Motion Carried)*

**Conditions of Approval:**

1. The Planning Board approval is specifically for an amendment to previously approved plans (SP-29-2010 and SP-19-2007) for modifications to parking, street access and traffic circulation;

2. Final approval of the site plan amendment shall constitute approval of the BUDP (Building Use and Development Plan) for this property;

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

4. All material changes to the approved plan, including any changes to signage and site lighting, shall be reviewed by the Heritage Commission and reviewed by the Planning Board at a subsequent meeting;

5. The plan shall contain the following statement signed by the property developer (Catholic Medical Center): “It is hereby agreed that, as the developer (Catholic Medical Center) of the property, I will construct the project as approved and as shown on the
enclosed set of plans. Further, it is agreed that the site improvements shall be maintained for the duration of the use;”

6. Conditional approval of this plan shall be valid for one year, during which time all conditions precedent to final approval shall be completed and a building permit secured;

7. 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;

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

9. Prior to submitting plans for final approval, offsite Improvement plans for work within the City of Manchester right-of-way associated with Phase 1 of the overall development shall be reviewed and approved to the satisfaction of DPW;

10. Prior to final approval, a Developers Agreement, prepared by the Planning Staff, shall be executed that binds the developer, its heirs, and successors to performance in the timing of the construction of public improvements;

11. Planning Board approval recognizes this site plans as Phase 1 of the overall development project of 3 Phases: St. Mary’s Bank site improvements, Amory Street off-site improvements, surface parking lot on lot 2A, and Mill West Improvements (Phase 1), Rite Aid site improvements (Phase 2), CMC hospital addition (Phase 3) and a potential future parking garage (Phase 4);

12. A preconstruction meeting with city staff shall be held prior to the start of Phase 1;

13. At the completion of Phase 1, a signed and sealed letter from a NH licensed professional engineer shall be submitted to the planning staff certifying that the site improvements have been constructed in accordance with the approved plans;

14. Prior to a Certificate of Occupancy for Phase 1 (St. Mary’s Bank site improvements, Amory Street off-site improvements, surface parking lot on lot 2A, and Mill West Improvements), the Highway Department shall provide verification to the Planning staff that all off-site improvements/modifications tied to Phase 1 have been constructed per the approved plans;

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

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

17. 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.

CU2019-011
Property located at 122 McGregor Street (Tax Map 180, Lot 2), an application for a conditional use permit to allow a reduction in required on-site parking from 60 spaces to 53 spaces in the B-2 Zone.  

TF Moran for PJC Manchester Realty, LLC

Mr. Hebert made a motion to approve CU2019-011, which was seconded by Ms. Sanuth.  (Motion Carried)

SP2019-013
Property located at 122 McGregor Street (Tax Map 180, Lot 2), a site plan application for construction of a new 1-story, 15,855 SF Rite Aid Pharmacy with associated site improvements in the B-2 Zone.  

TF Moran for PJC Manchester Realty, LLC

Mr. Long made a motion to grant the waiver from Section 10.09 (A) Ten Foot Minimum Buffer To Street Lot Lines, which was seconded by Ms. Sanuth.  (Motion Carried)

Mr. Long made a motion to grant the waiver from Section 10.09(A) Four Foot Minimum Buffer To Side/Rear Lot Lines, which was seconded by Mr. Leclerc.  (Motion Carried)

Mr. Long made a motion to approve SP2019-013 per staff recommendation, which was seconded by Mr. Hebert.  (Motion Carried)

Conditions of Approval:

1. The applicant's engineer shall obtain official sign-off from all City reviewing agencies, including Highway and Traffic Divisions of DPW, Planning, Fire, and Water Works. Which shall be provided to the Planning and Community Development Department prior to submitting plans for final approval;

2. The applicant shall obtain all necessary State and Federal approvals, as applicable (NHDES AOT), and copies shall be provided to the Planning and Community Development Department prior to submitting plans for final approval;

3. The plan shall contain the following statement signed by the developer (Catholic Medical Center), “It is hereby agreed that, as the developer of the property, I will construct the project as approved and as shown on the enclosed set of plans. Further, it’s agreed that the site improvements shall be maintained for the duration of the use”;
4. All material changes to the approved plan, including changes to signage, shall be reviewed and approved by the Planning Board at a subsequent meeting;

5. As the property is subject to cross access and parking on adjacent lots, the appropriate easements shall be submitted to Planning Staff prior to final approval;

6. Prior to final approval, a Developers Agreement, prepared by the Planning Staff, shall be executed that binds the developer, its heirs, and successors to performance in the timing of the construction of public improvements;

7. Prior to submitting plans for final approval, offsite Improvement plans for work within the City of Manchester right-of-way shall be reviewed and approved to the satisfaction of DPW;

8. Per Section 8.13 of the Subdivision and Site Plan Regulations, the plan shall contain the following note “All rooftop equipment shall be screened through the use of parapets or other opaque walls constructed of materials complimentary to the exterior so as to disguise the apparatus”;

9. The plan shall contain a note stating that there shall be “No outdoor display of products allowed on site other than any specific areas illustrated on this approved site plan”;

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

11. Planning Board approval recognizes this site plans as Phase 2 of the overall development project of 3 Phases: St. Mary’s Bank site improvements, Amory Street off-site improvements, surface parking lot on lot 2A and Mill West Improvements (Phase 1), Rite Aid site improvements (Phase 2), CMC hospital addition (Phase 3) and a potential future parking garage (Phase 4);

12. A preconstruction meeting with city staff shall be held prior to the start of Phase 2;

13. At the completion of Phase 2, a signed and sealed letter from a NH licensed professional engineer shall be submitted to the planning staff certifying that the site improvements have been constructed in accordance with the approved plans;

14. Prior to a Certificate of Occupancy for Phase 2 (Rite Aid), the Highway Department shall provide verification to the Planning staff that all off-site improvements/modifications tied to Phase 2 have been constructed per the approved plans;

15. As a condition of a Certificate of Occupancy for Phase 2 (Rite Aid), the former Rite Aid
store shall be closed and nonoperational;

16. Prior to a Certificate of Occupancy for the new Rite Aid, a Fire Impact Fee of $8,403.15 shall be paid;

17. No Certificate of Occupancy shall be authorized until all required site and off-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;

18. Conditional approval of this plan shall be valid for one year, during which time all conditions precedent to final approval shall be completed and a building permit secured. Seven paper copies of the plan sets shall be submitted for final approval;

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

20. The architectural elevations and perspective drawings shall be included as part of the plan set and printed to scale on 22-by-34-inch sheets; and

21. 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.

CU2019-012
Property located at 88 and 100 McGregor Street (Tax Map 180, Lot 2A), an application for a conditional use permit to allow a reduction in required on-site parking from 1,014 spaces to 214 spaces with an alternative parking arrangement in the C-2 and B-2 Zones.

TF Moran for Catholic Medical Center

Mr. Hebert made a motion to approve CU2019-012, which was seconded by Mr. Long. (Motion Carried)

SP2019-014
Property located at 100 McGregor Street (Tax Map 180, Lot 2A), a site plan application for construction of a new 6-story, 220,560 SF hospital addition, 94-space surface parking lot, and a future 4-level, 327 space parking garage, with associated site improvements in the C-2 and B-2 Zones.

TF Moran for Catholic Medical Center

Mr. Long made a motion to grant the waiver from Section 10.09 (A) Ten Foot Minimum Buffer To Street Lot Lines, which was seconded by Ms. Hebert. (Motion Carried)

Mr. Long made a motion to grant the waiver from Section 10.09(A) Four Foot Minimum
Buffer To Side/Rear Lot Lines, which was seconded by Mr. Leclerc. (Motion Carried)

Mr. Leclerc made a motion to approve SP2019-014 per staff recommendation, which was seconded by Mr. Hebert. (Motion Carried)

Conditions of Approval:

1. Prior to any permitting on the Catholic Medical Center Lot (180-2A), a merger with Lot 180-3 is to be submitted to Planning Staff for signature and recording at the Hillsborough County Registry of Deeds;

2. The applicant’s engineer shall obtain official sign-off from all City reviewing agencies, including Highway and Traffic Divisions of DPW, Planning, Fire, and Water Works. Which shall be provided to the Planning and Community Development Department prior to submitting plans for final approval;

3. Prior to submitting plans for a building permit, the applicant must submit a plumbing plan and fire suppression plan for the hospital addition (Phase 3) for review and approval by Manchester Water Works;

4. The applicant shall obtain all necessary State and Federal approvals, as applicable (NHDES AOT), and copies shall be provided to the Planning and Community Development Department prior to submitting plans for final approval;

5. The plan shall contain the following statement signed by the owner, “It is hereby agreed that, as the owner (CMC) 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”;

6. Per Section 8.13 of the Subdivision and Site Plan Regulations, the plan shall contain the following note “All rooftop equipment shall be screened through the use of parapets or other opaque walls constructed of materials complimentary to the exterior so as to disguise the apparatus”;

7. Prior to submitting plans for final approval, Off-Site Improvement Plans for work within the City of Manchester right-of-way shall be reviewed and approved to the satisfaction of DPW;

8. All material changes to the approved plan, including changes to signage, shall be reviewed and approved by the Planning Board at a subsequent meeting;

9. Planning Board approval recognizes this site plans as Phase 3 of the overall development project of 3 Phases: St. Mary’s Bank site improvements, Amory Street off-site improvements, surface parking lot on lot 2A and Mill West Improvements (Phase 1), Rite
Aid site improvements (Phase 2), CMC hospital addition (Phase 3) and a potential future parking garage (Phase 4);

10. A preconstruction meeting with city staff shall be held prior to the start of Phase 2;

11. Prior to a Certificate of Occupancy for Phase 3 (hospital addition), the Highway Department shall provide verification to the Planning staff that all off-site improvements/modifications have been constructed per the approved plans;

12. Prior to a Certificate of Occupancy for Phase 3 (hospital addition), all remaining site/landscaping items associated with Phase 1 and 2 for the adjacent Rite Aid Lot are to be completed;

13. Prior to a Certificate of Occupancy for the hospital addition (Phase 3), a Fire Impact Fee of $77,196 shall be paid;

14. Prior to issuance of a building permit for the “future parking garage” (Phase 4), the applicant shall return to the planning board at a public hearing for a compliance hearing for the final design and approval. The applicant shall provide adequate information necessary for the proper evaluation of the “future parking garage” including but not limited to: engineered drawings, grading, drainage, updated traffic report and elevations;

15. Prior to a Certificate of Occupancy for the “future parking garage” (Phase 4), a Fire Impact Fee of $5,414 shall be paid;

16. As the property is subject to cross access and parking on adjacent lots, the appropriate easements shall be submitted to Planning Staff prior to final approval;

17. Prior to final approval, a Developers Agreement, prepared by the Planning Staff, shall be executed that binds the developer, its heirs, and successors to performance in the timing of the construction of public improvements;

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

19. At the completion of Phase 3, a signed and sealed letter from a NH licensed professional engineer shall be submitted to the planning staff certifying that the site improvements have been constructed in accordance with the approved plans;

20. Prior to submitting plans for final approval, offsite Improvement plans for work within the City of Manchester right-of-way shall be reviewed and approved to the satisfaction of DPW;
21. To submit plans for final approval, the applicant shall submit seven paper plan sets to the Planning and Community Development Department;

22. The architectural elevations and perspective drawings shall be included as part of the plan set and printed to scale on 22-by-34-inch sheets;

23. Conditional approval of this plan shall be valid for one year, during which time all conditions precedent to final approval shall be completed and a building permit secured. Seven paper copies of the plan sets shall be submitted for final approval; and

24. 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.

Ms. Trisciani said the Board owed a huge thank you to staff for moving mountains to make this happen. The amount of work that went on behind the scenes and the amount of work in those recommendations, in particular by Ms. Nazaka, was no short of heroic for answering all of the Board’s questions and keeping them in line.

6. **CU2019-017**
   Property located at 720 Union St. (Tax Map 12, Lot 27), an application for a conditional use permit for a further reduction in required parking as a result of proposed increased seating, indoors and outdoors, in the R-3 Zone. **To Share Brewing Company for 720 Union St. LLC**

   *Alderman Levasseur made a motion to approve CU2019-017, which was seconded by Mr. Long. (Motion Carried) (Abstained: Sanuth)*

   *(Tabled from March 15, 2018)*

7. **SP-01-2019**
   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.

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

1. **S2019-014**
   Property located at 136-152 Oakdale Avenue (Tax Map 370, Lots 48, 50, 51), a subdivision application for the consolidation of Lots 48 & 50, and to adjust a common lot line of consolidated Lot 48 with Lot 51 in an R-2 Zone. *Fieldstone Land Consultants, PLLC for Bob & Linda Properties, LLC*

2. **S2019-015**
   Property located at 71 Whalley Road & River Bank Road (Tax Map 675, Lots 26, 33, 34), a subdivision application for the consolidation of three lots of record, and subsequent re-subdivision for the creation of one new buildable lot in the R1-B Zone. *Joseph M. Wichert, LLS for Linh Ho & Dieu Ngoc Thi Hoang Le*

3. **SP2019-021**
   Property located at 140 Blaine Street (Tax Map 196, Lot 9), a site plan application to change the use of an existing building from a landscape contractor to a machine shop in the B-2 and R-3 Zoning Districts. *S&H Land Services for 254 Rockingham Auburn, LLC*

4. **SP2019-022**
   Property located at 284 Hanover Street (Tax Map 94, Lot 4), a site plan application to change the use of an existing building from professional offices to veterans’ housing in the R-3 Zoning District. *Northpoint Engineering, LLC for the State of New Hampshire Department of Employment Security*

5. **SP2019-023**
   Property located at 61 Beech Street (Tax Map 361, Lot 16), a site plan application to change the use of an existing 3,850 SF building from commercial sales and repairs to a contractor’s yard in the RDV Zone. *Joseph M. Wichert, LLS for Beech Street 61 Realty, LLC*

6. **SP2019-024**
   Property located at 503 Maple Street (Tax Map 413 Lot 12), a site plan application to demolish an existing 4,000 SF building and construct a new 1,133 SF drive-thru restaurant with associated site improvements in the B-1 Zone. *TFMoran Inc. for GC Pizza Hut*

*Ms. Trisciani made a motion, which was seconded by Mr. Leclerc, that the following applications do not have regional impact and do not require review by the Manchester Conservation Commission: S2019-014, S2019-015, SP2019-021, SP2019-022, SP2019-023 and SP2019-024. (Motion Carried)*
IV. **ADMINISTRATIVE MATTERS:**

1. **Review and approval of the Planning Board Minutes of May 1, 2019 and May 16, 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.

   *Alderman Levasseur made a motion to adjourn, which was seconded by Mr. Hebert. (Motion Carried)*

   ATTEST: _____________________________________________________

   Michael Harrington, Chairman
   Manchester Planning Board

   APPROVED BY THE PLANNING BOARD: **August 14, 2019**  ☑ With Amendment  
   [ ] Without Amendment