# *Planning Board*

August 14, 2013 – 6:04 PM - **Minutes**
City Hall, 133 William Street, Room 314

**PRESENT:**
**Chairman Arthur Glassman**
**Kathryn Duff**
**Colleen Dawicki**
**City Planner Jill Maclean**

MEETING CALLED TO ORDER at 6:04p.m.

A motion was made (KD) and seconded to accept the minutes from the July 10th meeting.

Ms. Maclean noted that the board did not have the 7/10/13 minutes.

**Case 16-13** – Proposed zoning change

Tom Davis, Executive Director of Greater New Bedford Industrial Foundation also the manager and marketer of New Bedford Business Park, addressed the board. Since recession started in 2008, we've been the hottest industrial park in Massachusetts. Nine new companies have moved into the park. Seven existing companies have expanded, which has already generated 800 new jobs. As of now, we've become the second largest industrial park in the state in terms of jobs created. Myles Standish in Taunton is number one, but we've jumped ahead of Devans the state park. Explaining the reason for the proposed zoning change, Mr. Davis stated that back in March I did an improvement survey of all the park companies. What they like best about the business park what they would like to see improved, similar questions about the work force, downtown New Bedford, possible new infrastructure amenities like a container loading and unloading facility in the southend, a multi user freight rail loading and unloading facility in the business park, a multiuser truck loading and unloading facility, and more passenger plane service from New Bedford to some of the hubs in the US.

On the questions what do you like best about the business park, it was open ended so they could list up to 4 items. And the second question, what would you most like to see improved about the business park. The results came back and 46% of the companies surveyed said they would most like to me sort of restaurant or food service facility in the park. Almost all the other large industrial parks in the state have these facilities. Also 46% indicated they would like to see a health club or exercise facility. Right now we have an early childhood education center. We also have a bank and a machine shop. This lot at the entrance of the park is an ideal site for attracting a food service facility or restaurant or a health club, which will not only get business from the park but also from Ward 1. Currently under the zoning regulation Industrial C we can't have either. If changed to mixed use, we can have a fast food restaurant with board of appeals approval and also a health club. We currently have several parties potentially interested. One is a food service/restaurant facility, the other is a health club. There has also been recent interest by SouthCoast Hospital Group for a walk-in clinic. It's not spot zoning, because catty-corner across the street is a bank that we consider part of the park and is a member of the park association. Also this lot is mixed use. Mr. Davis stated the applicant was not present to talk about a specific proposal, but the zoning change as companies are not willing to spend any money unless they know it's zoned for restaurant, food service, health club. He then invited questions.

Mr. Glassman commented that he thinks it's a great idea for food service but didn't realize the park was allowing non-industrial type businesses into the park.

Mr. Davis responded the park was previously zoned manufacturing only and a consultant from Providence was hired who identified the top 12 industrial parks in New England and then did a survey. The zoning was much broader. Offices, distribution and the whole list of amenities. For example, AFC cable systems now have a 42% market share of Armin Electric and Telecommunication Cable US. Their headquarters was in RI. They moved their headquarters to the park. Reinhart Foodservice, the largest privately held food distribution company in the US, was headquartered in Chicago. Distribution wasn't allowed, but they came into the park as a way of getting into the New England market. They are currently one of the largest park employers in terms of very high paying jobs. So, it's not just warehousing, they have all their own truck drivers. No amenities were allowed in the park before. We couldn't have the child center or the bank. Also service companies. Lighthouse Masonry has just been nominated for a major state economic development award. When they came to the park they had 50 employees, and after just four years they're up to 130. Service companies were not allowed. Commercial Drywall is another service company that wasn't allowed before. It was manufacturing only. We're not discouraging manufacturing. 80% of the job in the park are for companies that make things. Since I changed the zoning and made a lot of modernization and beautification improvements we've gone from 18 companies to 44; 1500 jobs to 4500 jobs. During the same period, the number of jobs in New Bedford and Dartmouth have grown. Conversely in Fall River in the past twelve years have lost 5500 jobs. The Ward 1 census went from low income to middle income. We won't allow companies in the park that pay minimum or low wages. We want them to be higher than the average so a lot of these workers chose to live in Ward 1, which has upgraded the demographics of that ward.

Ms. Dawicki noted that one of the boards concerns is spot zoning, which the applicant has demonstrated is not applicable here and sounds good.

Ms. Duff wanted clarification on the two parcels being talked about and then the adjacent surrounding parcels, what is the zoning?
Mr. Davis pointed out the parcel and the spot parcels. This was one of the first plants built in the park. The company went bankrupt, and it's in the process now of being torn down.

After inquiry by Ms. Duff, Mr. Davis confirmed the adjacent parcels were both zoned mixed use?

Ms. Duff inquired about the zoning across the street in the park from the parcel that applicant was talking about. Mr. Davis responded that the parcel was really too skinny for any sort of development. Mr. Davis indicated that all others are Industrial C and they are looking for a change in zoning to mixed use for the one corner to provide for a food service restaurant or health club, which would help attract other companies to the business park.

A motion was made (CD) and seconded (KD) to open the public hearing.

There was no response to Mr. Glassman's invitation to speak in favor of the rezoning.
There was no response to Mr. Glassman's invitation to be recorded in favor.
There was no response to Mr. Glassman's invitation to speak in opposition.
There was no response to Mr. Glassman's invitation to be recorded as opposed.

A motion was made (KD) and seconded (CD) to close the public hearing.

Mr. Glassman commented that he thought it makes sense. Ms. Duff agreed, as the parcels across the street are zoned mixed use and the request was not in the middle of the park, as she thinks Industrial C benefits a lot of companies in that park and leaves it open for manufacturing in the future.

Ms. Maclean confirmed the board's vote was for recommendation only.

A motion was made (KD) and seconded (CD) to recommend the zoning change for Plot 136, Lot 322 to be re-zoned from Industrial C to mixed use business.

The motion passed 3-0

**Case #18-13 -** Ordinance Amendment.

Ms. Maclean informed the board that this is being proposed by the administration. We have a company ABC, I believe up on Shawmut Ave. that would like to start using alternative fuels, but it isn't an allowed use in our table of use regulations. I hadn't come up previously, so the administration is proposing that we add the language for alternative motor vehicles. Under the table of uses, it would be in industrial zoned areas of the city. That way it would just be a 'by right use' at that point, because we don't allow use variances in the city. You can't get a variance for use.

Ms. Duff confirmed that use covers consumption not production.
Mr. Glassman commented it was likely because they would be storing alternative fuels.

Ms. Maclean commented that where they're looking to add it it's businesses engaged in the sale, distribution, or storage of grain, petroleum products building materials and industrial machinery.

A motion was made (KD) and seconded (CD) to open the public hearing.

There was no response to Mr. Glassman's invitation to speak in favor.
There was no response to Mr. Glassman's invitation to be recorded in favor.
There was no response to Mr. Glassman's invitation to speak in opposition.
There was no response to Mr. Glassman's invitation to be recorded as opposed.

A motion was made (KD) and seconded (JD) to close the public hearing.

Mr. Glassman expressed that he has absolutely no problem with alternative fuel, as it saves money and natural gas saves emissions. It has to meet all the requirements of safety, which is not our purview. Ms. Maclean confirmed that responsibility lies elsewhere. So, we're just approving the use.

Ms. .Dawicki inquired if where it says inserting a definition does that mean someone else is inserting the definition and we're just recommending its insertion?

Ms. Maclean explained that the city solicitors drafted this and they'll draft the definition of it as well. That will be in the table and then also the definitions, which in the past hasn't always been the case. So, we've had uses or language that occur in the zoning code but there isn't a definition attached to it. So, this is just making it clear that it will be put into both locations.

Ms. Dawicki confirmed that it's not just the words 'alternative motor vehicle fuels, but a definition to clarify.

A motion was made (KD) and seconded (CD) to amend Chapter 9, Article 2, Section 1200 by inserting a definition for alternative motor vehicle fuels and amend Appendix A, Table of Principal Use Regulations, to insert alternative motor vehicle fuels in Section D Number 10.

The motion passed 3-0

**Case #17-13 -** site plan review

Mr. Glassman informed the applicant that he would need a unanimous vote due to absent board members. Ms. Maclean clarified that it being site plan review, the board has to no choice but to approve and could only condition it.

Steve Gioso with Site Tech Engineering representing the applicant addressed the board. With him was Michael Panagakos, the owner and developer of this piece. Mr. Gioso stated that this approximate 8500 sq foot parcel of land is located on the east side of Ashley Blvd. He displayed a locus map that was included with the submittal which depicts the properties within 1,000 feet of the site, noting this site is across the street from Cumberland Farms, just to the south of the new CVS on the corner of Tarklin Hill Rd and Ashley Boulevard. The property was previously a single family residence next to Sixth Bristol Club. Mr. Gioso stated that the proposal is to redevelop the property by constructing a new single story commercial building which would be located on the north side of the property, closest to the CVD side of the property. Additionally to construct an off street parking lot consisting of 12 parking stalls. The stalls and the access aisle would comply with all of the dimensional requirements of the city ordinance. There would be a screened dumpster pad located at the southeast corner of the site. Located in a mixed use business district, this is an allowed use in the district and applicant has the required number of parking spaces based on the square footage of the proposed building, which is right around 2200 feet of building square footage. But because the rear property line, or the easterly boundary line of the site, also happens to abut a residential use and also a residential zone we're obligated to provide a landscaped strip along that easterly boundary of the property. He noted on the proposed plan, included with the landscaping design set, evergreen plantings along that easterly boundary line to provide an evergreen screen to that adjacent property. The property drains in a couple of different directions, so topographically you have water draining a little bit to the east and to the south and you have a small component of flow that flows out into Ashley Boulevard. The applicant has designed an onsite recharge system to contain water onsite. We've done a soil evaluation for the property to determine soil conditions and ground water levels. He stated applicant has designed a drainage system which will collect water onsite both from the roof area and from the parking lot. The roof runoff would run directly into the recharge system, which is relatively clean water in that case. The parking lot runoff would be directed into a deep sump catch basin with an overflow into the recharge system; a system that will contain the water onsite and create recharge. Mr. Gioso informed the board that the plans were reviewed by DPI, and that he met with Mr. LaBelle, Mr. Silva and Mr. Fredette to clarify condition to be addressed. DPI wanted a relocation of the catch basin, and we will put the catch basin in the location recommended by DPI. We are prepared to meet all of the conditions that have been outlined in their comment letter.

Mr. Gioso stated it is a relatively small commercial project and applicant has no specific tenant at this time, but has provided an architectural view of the exterior of the building as it's proposed, not your standard looking commercial building. The applicant highlighted an effort to propose something that's going to fit in with the neighborhood and the residential properties located in proximity to this development in keeping with the quality development in the city of New Bedford.

Mr. Gioso stated there is a proposed pylon sign to be located on the property, included with the application. The sign would comply with all of the zoning requirements of the city, and applicant is not looking for any waivers or variances from the sign bylaw or the sign ordinance. He then invited questions

Ms. Dawicki stated that she liked the buffer on the east side and inquired if it could continue on the north side of the building.
Mr. Gioso stated that part of the problem was they were going to wrap some windows around on that side, and it comes down with the commercial use, the visibility from the public way. He stated they were adding some landscaping in the parking lot and buffering in the rear. He stated that while they are adding a grass strip in that area, adding additional landscaping there creates a visibility issue for the building. Where it is a small lot and they are constrained with signage, and thought that better visibility of the building helps with the marketability of the tenants coming in.

Mr. Gioso, in response to a question from Mr. Dawicki, stated that the sign would probably have standard internal illumination and would know better once a tenant is located.

Ms. Maclean clarified that the board would need to approve whether it can be illuminated or not this evening.

Ms. Duff questioned whether he glazing seen coming right down to grade on the front of the building would carry that through to the north side right down to grade glazing.

Mr. Gioso stated it would be brought around the building but perhaps with a slight deviation to detail, because of the north side retaining wall that separates the two properties. It's actually on the adjacent property, a dental office there. So we're probably not going to run the glazing that far down in that area but there will be a wrapping of the glazing around the building

Mr. Gioso indicated the wall is not a very high wall, probably only a couple of feet differential between their property and the applicant's. But the adjacent property is built up so we're recessed below them in that area a couple of feet I believe. It tapers from the street they kind of match grade, and then as the properties move in their parking lot is elevated a little bit.

Ms. Duff commented that she would like to see some low landscaping on the north side of the property, because of the retaining wall on the adjacent property. You've only got five feet. It's on the north side of a commercial building. You're shading the area. You know loam and seed is going to be difficult to get to sustain itself with very little light. And since the glazing is not being brought down to grade, she'd like to see a low landscape plan for that area.

Mr. Gioso commented that some landscaping could be provided if the first 25 feet could be kept clear of any kind vegetation that would grow up above say 3 feet in height, which would be helpful from a visibility standpoint on the building. Then as we head back, we could actually terrace into a little bit higher vegetation, once the visibility issue becomes less of a problem. He stated he would consult the landscape architect about a shade tolerant plant species. He stated a shade tolerant grass mix could establish a pretty solid coverage. He stated that on a small commercial property, tenants are always concerned about their visibility, and a tenants that can come in and thrive as a business is going to eliminate another empty building sitting in the city.
Ms. Duff commented that with only 2.4 feet in front of the building, it's a really tight width there. She thought the landscape plan was a little ambitious for 24 plus inches. She inquired why the building is placed so close to the property line.

Mr. Gioso stated that the zoning in the area allows a zero set back for commercial buildings. So, technically the set back is zero feet. We thought that putting it right on the street line wouldn't allow us to do any planting so setting back this distance gives us a building that economically will work for the usual tenants that we are trying to attract and still allows us to get some low level vegetation and some screening in the front. We think we're putting an attractive building with landscaping on the street side, instead of just having the building right up against the sidewalk which the zoning allows. I can show you examples of similar plantings in similar sized strips in the town of Dartmouth that we have done for Mr. Panagakos where the plantings are thriving and they help buffer the building a little bit in those areas.

Ms. Duff inquired if the applicant intended to bring the glazing down to grade on that elevation of the building as well, and Mr. Gioso stated it would carry the same depth as the south side of the building.

In response to Mr. Glassman, Mr. Gioso indicated this building is similar to the one
on Rte. 6 in Dartmouth at the end of Hathaway Road. The building on Ashley Blvd. near the cemetery is probably similar in architectural style, but the Hope Yoga studio building is probably a closer architectural style.

Michael Panagakos, the developer on the site, addressed the board. Steve is a little confused. Those two buildings where the Hope Yoga Studio is and the building next to the cemetery are actually just about identical buildings with the exception of dimension. So the architectural look will be the same. With regard to plantings to the north side of the building, he stated part of the problem is the height of the retaining wall. As we do the plantings basically the visual will be blocked by the retaining wall of the abutter. Our property is level with the ground, so we're always beneath that retaining wall. So, the problem even with low shrubs is even if they get to be a couple of feet in height you don't see them. We're going to have a tough time keeping even shade resistant plants alive, but I do put irrigation systems in. Generally you notice our properties are all pretty well landscaped. We maintain them and like them to look good. Just because we don't show, say a tree to the north side. What we're showing you on the landscaping plan is the minimum of what we're going to do. When we're done that will be the best looking building in that area. The dentist office is total asphalt, the Sixth Bristol club is total asphalt. We'll look good.

Mr. Glassman inquired if there were intentions on putting in any type of drive thru
Mr. Gioso confirmed that was correct.

Ms. Maclean read in Mr. Peter Cruz's comments on the application. A similar requirement of the board are to include as a condition the tactile warning strips for the handicap ramps wherever they exist. He noted that there isn't any detail on how the dumpster area will be screened, and he would like some provided and how it would be screened on the westerly side. If the existing perimeter chain link fence is that to stay, applicant would need to replace the gate on the southerly property line with a section of new fencing. On the easterly property line the existing fence should be extended down to the southerly property to meet the existing fence, so it's basically squared off in that corner. And then, just a question of why there wasn't more landscaping along the southerly property line that abuts the Sixth Bristol Club.

Mr. Gioso commented that the detectors for the handicap ramp were not an issue. He noted the fence on the east side is not on the applicant's property and as such they don't have the ability to extend or modify that fencing. The dumpster will have a screen and usually what we've gone with is a slatted chain link fence for the enclosure, which is fairly standard in a commercial setting. Mr. Gioso believes the fence on the Sixth Bristol Club side is the Sixth Bristol's fence but is actually on the applicant's property. There's not a big strip of land there and we thought that it would be a bit tortured to try and get plantings of any substance along that strip. There seems to be a strip of land that goes on either side of the fence that's grass now, it would continue to be grass after.

Ms. Maclean indicated the board has required vinyl screening on chain link fences as well.

Mr. Gioso indicated the applicant is seeking to work out an arrangement with the neighbors to the east to replace the fence at the applicant's expense. We just don't want to be committed to that as a condition of approval just because we don't' know if we can work out an arrangement with the neighbors.

Mr. Glassman indicated he is satisfied with site plan but wants to discuss the sign.
Ms. Duff did not understand approving a sign without a tenant for the building, so we don't know what were approving

Mr. Gioso indicated they have done that probably for every site we have proposed in the city over the last 10-15 years. Once the tenant is there, if they decide the location is not working for them and they're going to move out, once that sign is approved in its generic fashion, my understanding is the applicant would have to come in just to change the panel. Just go to the building department and tell them they're changing the panel, which would not require a new review by the planning board just because the graphics on the sign were being revised. We're not proposing flashing lights or moving text. It's a fixed sign, which would be specific to the tenant. What we're committing to at this point is the location and dimensions. We believe that in the analysis that we did provide it does comply with the city ordinance for a pylon sign.

Ms. Duff inquired if the board typically allows the sign of owner, the developer on the sign for buildings? She indicated she had not seen that before, indicating the applicant was asking for approval for two signs basically; a Panagakos sign and then a tenant sign above it.
Ms. Gioso explained it's a single pylon, the applicant including the square footage of the Panagakos Development sign in the overall sign area. Just as you would have multiple tenants on a sign in some locations where you have a larger facility, the sign regulations stipulate an overall square footage. You'd be 100% correct if we weren't including that square footage in our sign square footage. You could argue that maybe that's going beyond the code. But the code says we can have up to 25 square feet, and the dimensions here are 24.5 square feet overall, including the Panagakos sign and the tenants sign. Applicant thinks it complies dimensionally with the requirements. Applicant is not aware of a code requirement that because Panagakos Development isn't physically located there that their logo couldn't be included.

Ms. Maclean indicated that has been allowed but not enforced unfortunately. It can be enforced to be taken down. It's off site signage. Because the applicant isn't there. The other thing is I agree that we do have signs with multiple posts, but that's typically a strip of buildings and you have one for each use within that building. This is not that either. This is different, which is why I had suggested that since we don't know who the tenant will be or what the sign might be with the brightness or anything and there are residences around here, I offered the compromise that we allow the Panagakos sign to be the top sign and not have a second sign, and then when they do have a tenant they simply have to apply for a permit, reface the sign removing the Panagakos. Ms. Dawicki agreed with that compromise.

Ms. Duff indicating that it appeared the eave was about 12 ½ feet, putting the sign above the eave of the building. It seems more reasonable to put the sign within the fascia space of the building in terms of the aesthetics aligning with the scale of the building.

Mr. Gioso stated that because of the fact that Panagakos Development manages the property and is very active in making sure that if there is a problem with the property someone is able to contact them, there is a benefit to having the developers name and phone number on the sign for both. This addresses problems where police or fire are not chasing down a phone number for the owner. This sign is identical to what the planning board approved within the last two years for the Mt. Pleasant St. facility that Mr. Panagakos has over by King's Highway. This is not a change from what has previously been proposed in the city or previously approved by this board. Once you have a lease in place, the tenants want to move quickly. To wait to get it on a public hearing, advertise, notify abutters, and start the process over again to get a sign approval usually has a negative impact on the tenants and their ability to move forward. That's why we put this in place at this time. Again I go back to the sign ordinance. There is not a specific criteria for the lettering size or color. Those are generic things. It comes down to the sign company understanding and following the code when they pull the building permit to install the sign. This complies with the limitations.

Ms. Maclean clarified that she is not suggesting that once the applicant has a tenant they must come back to the planning board. If the sign is of the same brightness and lumens as the Panagakos sign then it's simply a refacing, and we do that on almost a daily basis and planning board never sees them. So, that wouldn't require another public hearing, etc. It's just a permit as they would have to do regardless. The second thing is it's quite easy to find the owner of a property. We have parcel look up right online. You put in the address and there's the owner right there. It's not a difficult process if for police/fire. If someone had a complaint, if they called the city we could figure out who the owner is.

Mr. Gioso stated that in an emergency situation someone is not going to run back and check their computer to get that information. The average citizen does not know that they can chase down by a street address the ownership information of a particular party. And that's not going to give them a phone number necessarily.

Mr. Panagakos indicated that with 25 buildings in the City of New Bedford every week people call on the properties. On the AT & T building on Tarklin Hill Road last month I got a call at 3:00 a.m. at my home that they had a fire alarm and couldn't get access to the fire room. We get calls all the time. Frankly it's not only the police or the fire department, but a lot of times it's a customer who says there's a problem. It's not a benefit to us to have people call us with problems, but we get to solve the problems before they are big problems and that's the key.

Mr. Glassman inquired if there was an ordinance on the books saying we cannot put a second sign on there? Do we have something in our policy?

Ms. Maclean stated that she believed it says off site signage.

Mr. Glassman noted that every time we have a sign issue it always becomes a debate because we really don't have a set policy. I'm not saying I'm for the second sign but I'm not saying I'm against it. The other alternative would be to have Jane Freedman write a letter to us as to what she perceives would be the correct way to go about this.

Ms. Duff stated that if every parcel that was developed we allowed the developer to put their sign on every single parcel, the city becomes a city of advertising. We become streets of advertising for people. Not advertising tenants and buildings, which is the intention of a sign. So, my inclination is to not allow off site signage. I understand why you would not want it, but where do you stop? The understanding to me is you don't want a sign to become an advertisement for anything not related to that property that's not specifically on that site

Ms. Dawicki summarized that the board's job is to uphold the prohibition of off site signage as required by the city, and regardless of what's been done before us I think Kathryn's point makes perfect sense. If we can find the compromise suggested of having the developers name on the sign for now and then replace that information with the tenants, so that the tenant doesn't have to go through the process, I think that benefits everyone.

Mr. Gioso stated that the applicant obviously is looking to get the overall sign position and dimensions approved if the board can be comfortable with that aspect of it. He suggests leaving the issue of the developer name off the sign, so the board is not specifically approving that under this particular approval, but is merely approving the location and dimensions outlined. With this building, who knows? We may end up with two tenants in the building. If this board is comfortable with the dimensions and the internal illumination issue does meet the code requirements then conditioning an approval of the sign based on it's location and dimensions but not specifically on wording or who is listed, which really falls under the purview of the inspectional services department, because we do have to pull a building permit to erect the sign. So, at that point there will be a review by the building department for code enforcement and code compliance, and at that point a determination will be made if the sign does comply or doesn't comply from a tech standpoint or a tenant identification standpoint. We would still be locked into the overall dimensions shown on the graphic that we have provided, if the board would be comfortable with that approach.

Ms. Dawicki, inquired if the applicant had two tenants wouldn't they want the sign sizes to be identical.

Mr. Gioso indicated that sometimes they do and sometimes they don't. Sign dimensions would have to be adjusted. We're proposing it as two panels. If you approve it in the fashion that we have it, we may have to come back to you if the building department or the inspectional services department believes that when we file for a building permit we're not in compliance with your approval. That may put us back to square one but at least we can move forward with a panel for a tenant without worrying about having to come back before this board.

Ms. Dawicki asked what was the minimum the applicant would need to move forward, as it doesn't appear there enough information to approve it as it is.

Mr. Gioso disagreed, stating he believed there was enough information. By code the applicant could've just shown two panels and no words in it at all. What I'm suggesting is just like in the upper panel we don't have a tenant name or particular logo the lower one which could be whited out to show just a block that's 5 feet by 1 foot six inches and that's what we would be looking for approval on. There's no requirements for planning board submittal that we have to provide that information. It would be nice if we had the tenant ahead of time, but unfortunately we don't.

Ms. Maclean pointed out to the board that the application is for a commercial use; a being singular not two.

Ms. Duff stated that the sign isn't drawn to proportions and is a little difficult to see. She would like to see the sign a single panel and would like to see the maximum height of the sign at the height of the eave of the building, which is not given to me on these drawings but from my judgment I would say it looks like it's about 12 feet, 12.5. My inclination is to allow the sign to be 12 foot maximum height to allow one panel 6 foot wide. And then if you have two tenants you can come back and modify that sign. That would be my inclination. The way it's proposed to be consistent with the application would be as a single use building. That's my inclination to my colleagues. I think if the conditions change, they'd come before the planning board for a modification for that.

Mr. Gioso, stated that the applicant would voluntarily take the sign off the table for this evening. That will allow us time to revisit our detail, provide you with something with a little more clarity, probably go to the city zoning enforcement people and make sure that we're in compliance with the zoning code. We can come back with something that hopefully you'll be a little more comfortable with, and then just file it as a separate application. It's not our preferred option but it sounds like we're going to go back and forth and end up with something that you're not going to be 100% comfortable with and we're not going to be 100% comfortable with. We'd rather pull the application for the pylon sign for this evening. It will give us a little more time to re-evaluate the ordinance and come back with something that I think hopefully will keep you comfortable.

Ms. Maclean requested the applicant add a request that the zoning enforcement officer work with the city planner and the city solicitor or their staff when reviewing that.

A motion was made (CD) and seconded (KD) to open the public hearing.

There was no response to Mr. Glassman's invitation to speak in favor of the project.
There was no response to Mr. Glassman's invitation to be recorded in favor.
There was no response to Mr. Glassman's invitation to speak in opposition.
There was no response to Mr. Glassman's invitation to be recorded as opposed.

A motion was made (KD) and seconded (CD) to close the public hearing.

Mr. Glassman stated that with the sign out of the equation, everything else looks good. We have the conditions that, subject to DPI, some north side landscaping, the tactile handicap strip and the dumpster screening.

Ms. Duff indicated she was revisiting Mr. Cruz's comment about the narrow landscaping on the south side of the property. It's a 2 ½ foot buffer around that existing chain link fence. I was looking at the parking. It's got a 22 foot aisle and a 20 foot parking bay.

Ms. Maclean indicated that that's required. If they do anything less they would be required to go to the zoning board for a variance for both the space dimensions and/or the aisle. The department of public infrastructure submitted comments on July 19th. There are 9 of them. Ms. Maclean read the comments into the record.

Mr. Glassman noted that the applicant has already agreed to all those terms

Mr. Duff clarified that DPI's comments indicate that one proposed maple would need to be two trees in that grass strip. She also clarified that a comment from DPI; that what they're saying is to replace all the hot mix asphalt sidewalks within the project limits.

Mr. Gioso indicated there's no sidewalks right now, it's just blacktop.

Ms. Duff suggested encouraging a little bit more of a landscape buffer within that 30 inches on the south side, as opposed to just loam and seed. She also commented on the fence on the south which is on the applicant's property, or at least appears to be.

Mr. Glassman corrected that applicant stated it belonged to the Sixth Bristol Club. None of the fences actually belong to him. The one on the back belongs to a neighbor and the one on the south side belongs to the Sixth Bristol. He mentioned he was going to try to approach the neighbor to do something with it if they're receptive. We can't really enforce that.

Ms. Maclean indicated any motion for approval should not include the sign which will be refiled by the applicant.

Ms. Maclean in answer to Ms. Duff's inquiry indicated there aren't currently any requirements in terms of timing on illumination on any signage. Ms. Maclean read into the record the conditions.

Mr. Gioso sought clarification on the black vinyl dumpster screening. He indicated the applicant wanted the condition to be for slatted screening but not pick the color so that the applicant could pick a color that's going to blend in. Color to be determined.

Ms. Maclean suggested that the board include DPI comments as well.

A motion was made (KD) and seconded (CD) to approve the proposed site plan for the proposed construction of a commercial retail development at 776 Ashley Blvd., Plot 126 Lot 63 on behalf of the owner Michael Panagakos, and this proposal is not to include the approval of the proposed signage which is being taken away from the proposed site plan review. It does not include the approval of the pylon sign. In addition, to include Number 1, the north edge of the property is to include a landscaped area with a maximum 3 foot high and a depth of 20 feet into the property and past 20 feet over 3 feet high landscaped hedge along the northern property line; that it include tactile warning strips at all handicap ramps; that it include a vinyl slatted fencing screening around the dumpster area, the color to be determined; that it include a landscaped area on the south side of the property; and that it include all nine DPI comments.

Motion passed 3-0.

**Case #11-13** - preliminary subdivision

Ms. Maclean advised that in light of the applicant's wish to continue the matter, the board open the public hearing and continue to September 18th.

A motion was made (KD) and seconded (CD) to open the public hearing.

Mr. Glassman noted that the applicant is postponing till September 18th. He asked Ms. Maclean how long the board had to continue these; was it indefinitely or was there a time limit.

Ms. Maclean indicated as long as the applicant requests a continuance in writing, the hearing can be continued indefinitely.

A motion was made (KD) and seconded (CD) to continue Case 11-13 to the September 18th planning board hearing.

Motion passed 3-0

**New business**
A request for release of the last lot remaining under their covenant in the Zuckerman Farms subdivision. The owner wishes to have released Lot 16, Assessors Lot 150, 65 Joy Road. Request by Jose Desouza on behalf of J&T Homebuilders LLC. Will you state your name and address for the record please.

Joe Desouza of J&T Homebuilders addressed the board. He is requesting the last lot in the subdivision to be released, Lot 150.

Ms. Maclean stated that at one point Zuckman Farms was actually owned by a previous developer. When several of us went out this time to review this, as it is the last lot remaining under covenant, some questions had come up and most of our concerns are from the previous developer and on roads that have been accepted by the city. For the most part Peter Cruz, the engineer on the planning board, took a look at this as well as DPI. DPI has submitted their comments and the cost estimate to complete the work, which is $14,000. We're comfortable that even if there are a couple of items we have questions on that we can work that out with DPI and that that would be enough to cover what remains for the work in this piece of the subdivision.

Ms. Dawicki confirmed that the board would be releasing the lot with the $14,000 in cash. Ms. Maclean answered that the board releases the lot when the city receives the $14,000 from the developer in exchange for releasing the covenant.

Mr. Glassman confirmed that that is the last lot and that the $14.000 is all we're holding onto and DPI feels that's more than adequate.

Ms. Maclean added that the $14,000 includes a 10% contingency.

Mr. Glassman indicated he was relying on DPI's estimate.

Ms. Maclean added that there were a few lights that needed replacing and other small items. The other items that DPI mentioned are the street acceptance, sewer and drain, water and light, etc., for those to be submitted by the applicant. And that's also before the street will be accepted by the city. So there's the $14,000 they feel they're comfortable with for the work remaining and then we also would have to accept the street. And until we do so, the developer must still continue to plow, collect the trash, the recycling, etc., for that development.

Mr. Desouza indicated they were hoping to be done within the month. The economy has kept us there way to long.

Mr. Glassman commented that they have one of the better subdivisions as far as other developers. You've done a nice job in there.

A motion was made (KD) and seconded (CD) to release the last lot remaining under covenant in the Zuckerman Farms Subdivision, Lot 16 on Assessors Lot 150 and to receive $14,000 from the developer Jose T. Desouza on behalf of J&T Homebuilders LLC.

Motion passed 3-0.

Ms. Maclean added that the only other item of new business is brought by Mr. Cruz. He would like to have staff look at the sign ordinances as soon as possible and try to make it more clear, as well as looking at the size of the lumens. Ms. Maclean commented that they've had more and more signs coming in that are LED, so they are awfully bright but they don't always come before the planning board, as they sometimes only need a permit. So it would be good to have in the sign ordinance the exact lumens, the size, the number of signs allowed, very clearly stated so that there is no ambiguity.

Mr. Glassman indicated the board has been discussing this for a while. He stated that he was glad tonight that the sign was withdrawn on one petition because it isn't 100% clear.
He commented that it seemed there were some gray areas there so it was better that they withdrew. It put an end to it for now but it is going to come back up.

Ms. Duff stated that she thought when looking at the sign ordinance the obvious could be restated in that the signs are for tenants occupying the premises, and they're not intended for advertising. It's very difficult to limit on large developments all people associated with developments. It's difficult to limit the advertising.

Mr. Glassman fully agreed and commented that what made it a little awkward is every one of Mr. Panagakos' properties has that little sign under it.

Ms. Maclean stated that just because something has always been, doesn't mean that it's correct.

Mr. Glassman reiterated that the board was going to have to come up with precedent and start enforcing it. And that's another reason he didn't want to deal with the sign tonight. Because even in Fairhaven, Dartmouth, everywhere you go that you see one of his buildings he has that little sign that says Panagakos Developments with the phone number. And if we're not going to allow that that's fine, but we've got to be consistent. I didn't feel real comfortable voting on that tonight, so I'm glad that the applicant withdrew. But I agree with you, we shouldn't be advertising somebody that's not even there, but it's been going on and we need to deal with that because this will come back before us within the next six months, and hopefully by then we'll have a set procedure of how we're going to do it and there's no back and forth. This is how it is, this is what we're going to do, take the vote and if they don't like it they don't like it.

Ms. Duff commented that relative to the L.E.D. we might want to consider with L.E.D. and fluorescent lights are some guidelines in terms of color. Because with L.E.D we want to encourage it because it's high efficiency light, the same with fluorescent. But now we can give guidelines for the coloring of the light, which does help quite a bit so you don't get a bright daylight color on it and you can get a softer color on the same amount of lumens.

Ms. Dawicki noted that Ms. Maclean had already look at other cities ordinances and is sure there's some precedent in more forward thinking communities who are considering how signs affect the aesthetics of a neighborhood. I'm sure that there is a lot that we can borrow from those.

Ms. Maclean indicated that they now have a staff planner who was approved last night by city council. She has talked to Patrick Sullivan and stressed the need that this be one of the priorities. Pat will be staffing up planning board and permitting moving forward, but there's obviously some time to adjust and acclimate and certainly get used to Mass General Law which is quite different. But the sign ordinance is a priority.

Ms. Duff added that the other thing she really wants to think about is when we have internally illuminated signage do we want to put time limits on those, especially in abutting residential neighborhoods.

Ms. Maclean reminded the board that the next board meeting is not the second Wednesday of the month, but the third. I believe a holiday fell in there somehow and we had to push it out one week.

Mr. Glassman confirmed the date would be September 18, 2013.

Upon request by Mr. Glassman, a motion was made (KD) and seconded (CD) to adjourn.
Motion passed unopposed.

Meeting is adjourned at 7:31 p.m.