Planning Board

November 13, 2013 – 6:08 PM - **Minutes**
City Hall, 133 William Street, Room 314

MEMBERS PRESENT:
Chairman Arthur Glassman
Janine DaSilva
Kathryn Duff
Peter Cruz
Colleen Dawicki

ALSO IN ATTENDANCE:
Jill Maclean, City Planner
Patrick Day, Staff Planner
Kreg Espinola, City Solicitor

Chairman Glassman called the meeting to order at 6:08 p.m. and called the roll.

Public Hearings:

Case 34-13

Kenneth Ferreira land surveyor & professional engineer with offices at 46 Foster Street New Bedford, MA, representing Albert J. Santos addressed the Board. He stated the project is down on Pier 4. The building formerly housed Harbor Development Commission and prior to that a restaurant/lounge. Mr. Santos is also proposing a restaurant called the Black Whale. He has negotiated a license with the city to acquire a portion of Lot 255, using that as a deck for outdoor seating. The deck will be fully ADA compliant as well as the main entrance. The sidewalk will be brick to match sidewalks in the area. G. Bourne Knowles will landscape the front of the building. Applicant is requesting a special permit to reduce the number of spaces needed. The lower floor will be storage. After measurement of both floors by the building commissioner, it has been determined that 41 spaces are required. It appears the restaurant and outdoor patio require 30 spaces. As part of the licensing agreement with the City of New Bedford, the applicant is paying for the use of 15 full-time and 15 part-time spaces which are undesignated. He has unrestricted use of parking throughout the pier. We are applying for the reduction from the 41 spaces under Section 31.20. We are eager to be part of the revitalized waterfront. A small addition will allow handicap access and bathrooms, and a handicap ramp will come off the brick sidewalk. Applicant is seeking a drainage requirement waiver. DPI will be installing new manhole and relocating the sewer. Here tonight are the future manager and Att. Walter Faria, as well as Albert Santos. Mr. Ferreira invited questions from board.

In response to an inquiry from Ms. Dawicki, Mr. Ferreira indicated the seating capacity to be 53 inside and 45 outside. Ms. Dawicki inquired regarding signage for parking on the pier and was told there would be none. Ms. Maclean added that was an HDC preference for the property.

Mr. Cruz inquired as to a designated accessible spot for restaurant. Mr. Ferreira indicated they would likely use 3 spaces closest to the entrance, two with an 8 foot strip between them. Mr. Cruz inquired as to erosion control. Mr. Ferreira indicated applicant did not feel it necessary with the scope of construction. With regard to silk sacks, Mr. Ferreira stated that one catch basin is to be repaired by DPI. An IDA is to be filed with the

Conservation Commission along with a Chapter 91 license. Mr. Cruz inquired if the sidewalk would extended all the way to site drive? Mr. Ferreira indicated the brick sidewalk would be built from the license line to the building, the remainder being cobblestone. There is an existing cobblestone walk from Mccarther Drive. They will pick up from the front an 8 foot brick sidewalk. Mr. Cruz would like the sidewalk extended to Mccarther drive for accessibility. Mr. Ferreira indicated the applicant would need city permission to do that. After inquiry from Mr. Cruz, Mr. Ferreira indicated there has been no railroad review of plans. Mr. Cruz wants the plans reviewed by Mass Coastal. Mr. Ferreira indicated he would have Bill Lockwood address that. Mr. Cruz expressed concern with support of excavation along railroad and advised that contractors must attend training.

Ms. Duff inquired of any review of parking agreement and lease. Ms. Maclean indicated the license and agreement between applicant and HDC was drafted by city solicitors and harbor development commission attorney. Ms. Duff indicated that with a seating capacity of 98 plus staff parking, the parking seems short. Mr. Ferreira indicated the pier contains 101 spots, and that parking requirements are one per five seats. Ms. Duff also agrees a designated handicap space is needed. Mr. Ferreira indicated HDC will be contacted for designation of 3 spaces closest to entrance. Ms. Duff inquired about whether there was going to be excavating under deck and what will be there? Mr. Ferreira indicated there would be a gravel area and excavating was for sonitude installation. There is lattice work planned on Macarthur Drive and plantings on pier side. Ms. Duff would like screening, since it appears applicant is right on the property line, and with railroad plans the applicant would need to exercise great care in construction and excavation. She stated the landscape plan was not clear. Mr. Ferreira indicated the plan was not prepared by his office, but by G. Bourne Knowles. He believed the landscaping was to be next to the enclosed porch and behind the 8 foot brick walk. Screened along the ramp to the north side would be plantings. Additional land to the south side of proposed deck would have plantings also. There are trees to come down along Macarther Drive and 5 new trees to be planted on Harbor Master Office per Department of Public Infrastructure. Ms. Maclean indicated shade trees must be replaced 1-3 ratio as close to property where tree was removed. Ms. Duff wants them approved by Mary Raposo. Ms. Duff addressed coastal plantings. She felt it important on the waterfront's on most public access pier. She indicated that rhododendrons are not good in salt water. She suggested vernacular plantings are preferred. Applicant would agree to a condition for G. Bourne Knowles to meet city planner.

Ms. Maclean suggested the 2 transformers be concealed. Mr. Ferreira stated N-Star wants a 5 foot clear access area around transformers. Ms. Duff believes something could be planted. She inquired where trash is going. Mr. Ferreira indicated there is not a dumpster location currently, but downtown businesses have daily pick up; trash daily, cardboard weekly. He indicated that north of building there is a ten foot wide strip along the property line that could be screened for a dumpster unit. Ms. Duff indicated she would like that done.

Ms. DaSilva inquired that A2 shows cedar shingles and clapboards, the property being in the historic district. Mr. Ferriera expects it to remain clapboard. Luis DaSilva indicated that the project would be clapboard and cedar shingles with natural stain. Mr. Ferreira indicated in response to an inquiry by Ms. DaSilva that lighting is to be security lighting on building around stairs and sign, and that there are no plans for pole lighting, since pier is well lit. Ms. DaSilva suggested decorative security lighting. Mr. Ferriera represented the applicant's desire to match other revitalization and Mr. Lockwood will be consulted to avoid simple flood lights.

Addressing Ms. Dawicki's inquiry about pier event parking, Att. Faria stated that on the 3 pier events, the applicant has contracted with Sea Fuels next door to use parking on the 3 events. He indicated tents are present a day prior and day after event. The Applicant is seeking a quicker take down of tents. Att. Faria indicated events are encouraged and additional events would result in similar parking arrangements.

Ms. DaSilva inquired about signs, being freestanding or on building. Mr. Ferreira indicated that they would be on building and perhaps freestanding/hanging on Mcarther since no sign is allowed on a roof. Mr. Cruz suggested the applicant run it by railroad to avoid encroachment.

Mr. Glassman confirmed that 41 spaces were required, but applicant had only 30. Mr. Ferreira indicated they lack 11 spaces for the storage area. He reiterated the Applicant is paying for 30 spaces, but the pier has 100 unrestricted spaces.

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

Upon inquiry by Mr. Glassman if anyone wished to be heard in favor, Derek Santos of New Bedford Economic Development Council of Purchase Street, New Bedford addressed the board. He agreed this was a complex project that they supported, working with HDC, the Solicitor's Office and the engineers and architects working on Chapter 91, because the Rte. 18 vision calling for activity on both sides of water is moving fast. He commented on the impact of filling a 3 year vacant building, the 20-25 jobs created, and the importance to the life and vitality of downtown. He appreciated the thoughtful comments on building details and landscaping to assure a project of excellence for downtown and the waterfront. He expressed support for the project.

Upon inquiry by Mr. Glassman if anyone wished to be heard in favor, Jeff Pontiff, New Bedford resident and owner of Whaling City Expeditions/New Bedford Harbor Tours on Pier 3, and owner of E.J. Pontiff Real Estate, broker of the sale to the applicant, addressed the board. As a neighbor, he thinks it's a great addition and is compatible with city waterfront efforts.

Mr. Glassman inquired if anyone wished to be recorded in favor of the project.

Christian Farland, resident 555 Lantern Lane and business owner of 398 County Street.

Henry Bousquet, Councilor Ward 3 and culinary instructor at Greater New Bedford Voke Tech.

There was no response to Mr. Glassman's inquiry to be heard in opposition

There was no response to Mr. Glassman's inquiry to be recorded as opposed.

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

Ms. DaSilva read the conditions discussed by the board.

- Require applicant to place a designated accessible parking spot
- Applicant coordinate with Mass Coastal Railroad and submit plans to planning board and forward to DPI
- Applicant abide by DPI conditions
- Applicant coordinate with DPI on accessible striped van parking
- Applicant install a curb cut crosswalk to Macarthur Drive
- Applicant have G. Bourne Knowles consult city planner on planting plan
- Applicant screen transformers with plantings as much as possible
- Applicant add a screened dumpster or trash receptacle area
- Applicant not install flood but down lights
- Applicant to consult NEW BEDFORD planning staff on signage

Ms.Maclean added the lattice work on all 3 sides of deck with landscaping, comments from DPI, Conservation Commission, and agreements with Harbor Development Commission, and that the special permit for reduction of parking is dependent upon the license with Harbor Development Commission remaining in good standing.

A motion was made (JD) and seconded (KD) to approve Case 34-13, Site Plan Review for a proposed Restaurant at 104-106 Co-Op Wharf & ES Macarthur Drive (Plot 53, Lots 252, 255) with the following conditions:

- That applicant coordinate with DPI to strip an accessible van parking spot
- That applicant replace all sidewalk to Macarthur Dr. with curb cut crosswalk
- That applicant coordinate with Operator Mass Coastal Railroad and submit plans for review and comment to the planning board and forward to DPI
- That applicant submit sign to Mass Coastal for review, especially sign on the back of building
- Applicant abide by any conditions stipulated by DPI or Conservation Commission and HDC comments and decisions
- Applicant landscaper G. Bourne Knowles work with the city planner on more appropriate planting plans
- Applicant screen transformers with plantings as possible
- Applicant assure that lighting is not flood but down lighting
- Applicant work with New Bedford Planning staff on signage on building
- Applicant install lattice work on 3 sides of deck and ensure planting screening on deck

Motion passed 5-0

A motion was made (JD) and seconded (CD) to approve the special permit to reduce parking for Case 34-13 from 41 to 30 and that the reduction be dependent upon the license between the applicant and HDC remaining in good standing.

Motion passed 5-0.

Case 33-13 - Special Permit Review

Michael Kehoe, with a law office at 128 Union Street, New Bedford, on behalf of applicant, along with Christian Farland with Thompson Farland Engineering. This project is before the board for a special permit for a reduction in parking. The project at the Candleworks building is a small piece of a much bigger project, the applicant already having received a parking reduction regarding the hotel. Applicant needs to negotiate spaces from city at Elm Street garage or Whale's Tooth open air parking. 238 spaces needed to handle normal traffic at the facilities. Under zoning there is a 91 parking space requirement. With Candleworks on its own lot in order to not alter historic façade there is one space. In order for a viable project the applicant needs the spaces to come from the city. Applicant proposes no changes in sq footage of building or its footprint or use. The 1st floor restaurant remains at 161 seating with 3 floors office space at 9,840 sq feet. Applicant represents the projects work together or don't work. Applicant represents he has no viable economic plan without the spaces

Mr. Farland, principal engineer Thompson Farland, representing Candleworks Hotel addressed the board and stated that engineering, landscaping, etc, has been previously approved, and is seeking approval on the last piece. Mr. Farland invited questions.

In answer to a question from Mr. Cruz on the location of the one dedicated spot, Mr. Farland indicated it was the handicap spot out front with an easement to use the parking lot for access. Ms. Duff confirmed that no agreement for off-site parking yet exists.

Mr. Kehoe expressed they have been in discussion with city solicitors and bid requests will go out. The project cannot go forward without the spaces. Applicant intends for facility to have parking offsite which is valet parked.

In response to Ms. Duff, Mr. Farland noted the easement is not on Form A plans. Mr. Farland expressed it would be negotiated with owners who are the same owner in this case and will be included in the deed and recorded. Applicant could submit it to planning board as well.

Ms. Maclean indicated that zoning and planning have waived parked for various downtown restaurants. Because parking was in existence planning required the written agreement.

Ms. Duff indicated that a property subdivided should trigger review.

Chairman Glassman indicated that since it has not been required for other restaurants, he is fine with allowing this.

After brief discussion, a motion was made (KD) and seconded (CD) to open the public hearing.

Upon inquiry by Mr. Glassman if anyone wished to be heard in favor, Mr. Santos of the EDC stated they are in favor of the project. He stated that EDC's work with mass development in a market analysis of downtown has shown a reduction in 1st floor vacancy from 50% to 9%, with the biggest market opportunity to gain being full service restaurants. EDC looks forward to coming back over and over. He noted that the Elm Street and Zeiterion Garages were built to accommodate the issue and that policy issues will catch up.

Upon inquiry by Mr. Glassman if anyone wished to be heard in favor Jeff Pontiff, who brokered the sale to the applicant, addressed the board. As an abutter to the property, he expressed that the development downtown outshines parking problems. He looks forward to seeing more valet parking and shuttle busses as our downtown becoming walking downtown. He feels it's like working in a museum. He is hopeful the board will find a way around parking problems.

There was no response to Mr. Glassman's invitation to be recorded in favor.

There was no response to Mr. Glassman's invitation to be heard in opposition

There was no response to Mr. Glassman's invitation to be recorded as opposed.

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

The board confirmed that a condition would apply that applicant secure a city agreement for off-site parking and that they submit a plan showing the easement and deed regarding the accessible space, as well as the decisions of the Zoning Board regarding the existing building. Ms. Maclean suggested a finding that per 31.20 the special permit reduction is not inconsistent with public health and safety and 31.24 that nearby parking is available.

A motion was made (JD) and seconded (KD) to approve case 33-13 for a proposed reduction in parking for a mixed use project (Restaurant and Office) at the Candleworks Building located at 72 North Water Street (Plot 53, Lots 68 & 291) with the following conditions: that applicant submit a recordable grant of easement recorded with the registry of deeds showing the easement and one designated parking spot; that the applicant submit a written agreement for offsite parking; that the zoning board decisions be included in the decision; and that we find that the reduction meets Sections 31.20 and 31.24; and that we approve the reduction in parking from 91 spaces to 1.

Motion passed 5-0

Case 35-13 – Site Plan Review

Michael Kehoe with law offices at 128 Union Street, along with engineer Christian Farland, from the Development Team Tracey Robeer, and Walter Watson on behalf of Cumberland Farms addressed the board on behalf of the applicant. Mr. Kehoe proposed that the existing diner will be moved to a different location for the

erection of a convenience store on the site, which in addition to gasoline will have a full service convenience store. The proposal has offsite amenities for repair of structures not on the property.

Christian Farland, principal engineer with Thompson Farland, presented plans to the Board.

A motion was made (PC) and seconded (JD) to accept the plan.

Mr. Farland indicated applicant seeking site plan approval of a 4,650 sq foot store at the Shawmut Diner site, a current mixed use business district occupying 1.23 acres. The site topography slopes southwesterly corner at 86 to a lower elevation at intersection of 76. The property abuts residential property on the south and west. To the east is the NEW BEDFORD housing development and to the north is a retail shopping center and commercial use. The presentation plan today shows the proposed Cumberland Farms convenience store and 6 fueling stations. The site will be serviced by municipal water. Storm water from the roof and canopy area will be recharged. Remaining storm water will be directed to catch basins and eventually to a water quality inlet which then discharges to the city's drainage system. This is a significant drainage improvement to site. The lighting plan demonstrates foot candles from 3 LED light poles on site with no light shining onto abutting properties. They have a fully screened dumpster on the southern portion with a 6 foot stockade fence and 36 parking spaces exceeding the requirement. An ADA parking spot is provided in front. Overall traffic circulation will be significantly improved. The existing use has two curb cuts. The proposed circulation design has aisle widths wider than required for fuel delivery. Pedestrian access has concrete sidewalks in accordance with DPI requirements. Applicant will provide brand new sidewalks to Upton Street and the intersection will have accessible ramps. The landscape plan provided shows over 100 trees and shrubs in spite of a 0 green space requirement. Applicant notes plantings in back to screen abutting residential properties, the 5-6 foot trees being larger than typically seen for commercial project. Though sad to see the diner go, Cumberland Farms, a family owned company, will beautify the site, create jobs and increase the tax base.

In response to Ms. Dawicki's inquiry of the height of the wall separating abutters, Mr. Farland indicated 10 feet.

Ms. Maclean clarified that the ground sign is in front of the Zoning Board and not under Planning Board purview.

Ms. Dawicki inquired about the purpose of the northwest curb cut with pedestrian access and 7 vehicular lanes. Mr. Farland indicated it was to try to keep traffic from circulating around. He stated applicant had met with DPI and Manny Silva, also on the traffic commission, who had no concerns. Mr. Farland indicated the distance from intersection is further than the existing curb cut. Mr. Farland stated the issue is not a deal breaker.

Ms.Dawicki inquired if any entrances or exits will be limited in terms of turning? Mr. Farland indicated in the negative.

Ms.Dawicki inquired about the buffer along wall without any screening and lighting spill over to abutters. Mr. Farland indicated landscaping would not benefit the abutters. Ms. Dawick questioned parking spaces 20 and 21 in front of loading dock. Mr. Farland indicated they are employee spaces and dumpster pick up is early in morning and should not be a problem. Spaces will be painted.

Mr. Cruz inquired about the drainage water quality structure, which Mr. Farland indicated was located on the last manhole, water quality inlet #1 which runoff to the recharge area is all clean water. The structure is detailed on plans.

Mr. Cruz noted a waiver would be needed from the MAV board on the intersection curb cut apex.

Mr. Cruz raised that the accessible curb spot has doors that swing out and encroach on the level landing needed for ADA. Mr. Farland stated it may easily be relocated if necessary.

Mr. Cruz addressed erosion control in the construction site, inquiring if it would be fenced with hay bales and silk sacks in city catch basins.

Ms. Farland in answer to Ms. Duff noted there are handicap ramp at the intersection. He stated that crosswalks will be improved but current apex intersection waiver is needed. Ms. Duff noted a southwest corner ramp and two additional trees also required from DPI. She stated she too would like to see the additional curb cut eliminated. Ms. Duff wondered if the concrete wall could be dressed up with hydrangea. She would prefer the corner at the sign to have a perennial bed instead of just grass. Mass AA versus International requirements differ on handicap dimensions.

Ms. DaSilva asked about hours of operation, which are proposed for 24 hours. She expressed residential concerns. Mr. Farland explained that 24 hour operations are important for trucker diesel fuel. He stated lights are self-dimming. In answer to Ms. Duff question, Mr. Farland noted the canopy height at 14'3". Walter Watson of Cumberland Farms indicated the material is a white paint baked steel product, similar to Dartmouth Street. Looking down all abutters would see is fire suppression equipment and perhaps the satellite.

Mr. Glassman indicated Cumberland Farms is "stepping it up" on their building look, but he saw no purpose for the one way in curb cut and would like to see it eliminated. His concern was the left turn curb cut on Hathaway Road. He noted the traffic problem negotiating that turn and crossing three lanes of traffic. Mr. Cruz indicated that it would facilitate moves and that restricting may hurt the site and will force traffic into a lesser queue. Mr. Glassman mentioned a traffic study might be requested. Mr. Farland stated that overall this site would not trigger a traffic study. The majority of traffic is cars already passing by. He felt the flow would be similar to the breakfast service currently at the site. He indicated the egress is far enough away and a change would send cars onto Shawmut Ave and will cause more of a problem. He stated the proposal with regard to public safety was a significant improvement. Mr. Cruz estimated the drive to be 150 feet from the intersection. Ms. Duff expects more pedestrian traffic on Shawmut and as such is reluctant to throw more traffic on Shawmut Ave.

Mr. Glassman mentioned that between the two entrances on Shawmut Ave is a school bus stop with kids running back and forth. He inquired if a pedestrian crosswalk could be installed. Mr. Farland felt it would promote crossing in an area that should not be crossed in.

Ms. Maclean indicated that foot traffic along the southerly entrance needs pedestrian access. Mr. Farland has considered a cross walk and indicated its potential location on the plans. Ms. Maclean noted the parking space labeled 1 will be tricky and suggested bike racks in that space instead. Additionally, the café seating on south side of site could have an operational time limit. Mr. Farland wanted to note the outdoor seating has a security camera on it to be monitored by employees.

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

Upon inquiry by Mr. Glassman if anyone wished to be heard in favor, Councilor Henry Bousquet stated he came to support the project and saw it as a significant improvement to the intersection. Hoping DPI will fix waviness in the road. He saw it as a marked improvement in very busy city intersection.

Upon inquiry by Mr. Glassman if anyone wished to be heard in favor Herbert LePage of 32 Pier Street, Rochester, owner of the old Adams Oil building, an abutter on opposite side of street. He also owns a two family on Rockdale Avenue, a block away from another Cumberland Farms. His employees have no complaints and he feels Cumberland Farms are good neighbors who have beautified the area.

Phil Paleogos, 368 Whitlow Street, the current property owner, expressed the sale of the diner as a heart wrenching decision and assured the diner will be preserved. He feels the property will be significantly improved by Cumberland Farms, a good neighbor who will widen tax coffers. He and his wife encourage the board to consider the project favorably.

There was no response to Mr. Glassman's further invitation to speak in favor.

There was no response to Mr. Glassman's invitation to be recorded in favor.

Upon inquiry by Mr. Glassman if anyone wished to be speak in opposition, Matt Thomas, an attorney with offices at 4 Park Place New Bedford, representing some neighbors, addressed the Board. He wanted to express concerns. His main issue is traffic and noted the development impact statement has a conclusory statement. He stated that Site Plan Review looks at internal circulation, and under 54.72 maximizing pedestrian and vehicle safety. Mr. Thomas found 10 traffic studies by VHP, and each study states Cumberland Farms will increase vehicle traffic by 30-40 vehicles in peak hours. Mass DOT notes 10 accidents within 100 feet of site. He noted this is a busy intersection with large public housing across the street. He suggested this should be measured twice and cut once. He requested the board have a traffic study done. He compared the intensity of use akin to drinking from a garden hose and a fire hose. He noted the Kempton and Rockdale Store intersection causes major traffic impacts on the neighborhood. Traffic at Slocum Road and Rte. 6 always has issue of pulling out. Rockdale is a larger intersection and has lees problems. He intimated even a no left turn sign would be ignored. He suggests the study will allow the board to impose any needed special conditions for safety. He questioned any traffic control agreements with Mass DOT impacted by the project. He noted the applicant represents there are 36 spaces when only 25 are needed, but 10 spaces are at gas pumps. He mentioned possible queuing issues created from people leaving pumps and going into store, the cars could spill onto two major arteries. A study will tell how many left turns, how many right turns. He stated the site plan has lots 235 and 303 and the lot line runs through the building. He noted the need for a Form A. He stated the issue of the top of canopy should not be minimized. People are going to see vapor recovery and fire suppression, normally screened. In this case you will be looking down into it and it could affect property values negatively. He stated that while the lighting is designed to not spill over, the diner slept at night and this stays open around the clock. Going from no lighting to dim lighting is a major impact on the surrounding neighborhood. The development impact statement says under 53.53 that circulation systems provide data on additional traffic. The decision to file the development impact statement requires looking at traffic to make an informed decision and the current one does not do that. He noted the diner is on the National Historic Register and the Shawmut Diner is an icon which speaks to the diner and surrounding site. In order to stay on the register, the site must be approved. A Cumberland Farms site is a shift. He suggest a traffic study be done and is a minimal impact on Cumberland Farms

In response to Mr. Glassman's invitation to speak in opposition, Adonis Ferreira of 82 Chestnut Street, and property owner of 28 Liberia Lane across from proposed site, addressed the board wanting to express opposition and concern. His family home of 17 years was bought because of the safe, quiet, attractive neighborhood in which to raise a family. He described good neighbors invested in the community and commented that Shawmut Diner has always been an attentive good neighbor. He felt Cumberland Farms will negatively impact quality of life for the residents of this area. A store operating 24 hours, 7 days, adds to constant traffic and noise, and exposure to other trouble. Bright lights are a nuisance in a 24 hour operation and contribute to light pollution. He expressed concerns about gas stations contributing to air contamination and airborne chemicals affecting health. The more pumps, the more contamination, including benzene, a known carcinogen. Prolonged exposure to benzene causes brain damage and leukemia. Current and future generations will be affected because these sites are not easily converted to other uses. He expressed health risk concerns. These companies stay in an area 30-40 years and stop development of more community friendly project. He felt it negatively impacts property value and strongly opposes the project. People invested in the neighborhood have kids who hopefully will stay in neighborhood. Businesses stay when business is good. This will affect generations of families.

Mr. Glassman explained that the planning board does Site Plan Review. Zoning allows businesses to exist or not exist. The planning board cannot deny a project. The Board will consider improvements and enhancements, but cannot deny a project.

In response to Mr. Glassman's invitation to speak in opposition, Victor Faria of 7 Upton Street, who lives directly behind the proposed site, addressed the board. He expressed that his concerns have been addressed by speakers before him, but wanted to reiterate some of them. He noted his environmental concerns with gas tanks near his property and contamination to the water supply; sound and light pollution; property value and a criminal element that does not currently exist; traffic increase. He expressed that a business that was rarely frequented will now be continuously frequented. This busy corner is compounded with the left turn concern. The current business proximity now has sound and light protection which will change dramatically to a high traffic area with lots of lighting.

In response to Mr. Glassman's invitation to speak in opposition, Mr. Ferreira felt the proposed project is an environmental blight. He feels there are enough gas stations in the area and the proposal is not a significant improvement. Who wants to live near a gas station? He believes this will pollute and build on a fossil fuel industry that is destroying the planet. He shares safety concerns with children crossing bike ramps and feels children should be protected from Cumberland farms since there is no healthy food. Who is going to have a picnic at Cumberland Farms? He feels it's a bad idea and does not help surrounding residents. He feels this is the opposite of progress and that the neighbors have not asked for more gas stations. He encouraged the board to can see the problems and do what they can to stop the project from going forward.

Mr. Glassman again reiterated the planning board cannot stop a project.

Mr. Ferreira stated yes, the board can.

Mr. Glassman again stated that the board does Site Plan Review and would entertain anything that would make it more neighborhood friendly for residents.

In response to Mr. Glassman's invitation to speak in opposition, Jose Almeida of 22 Liberia Lane addressed the board. He expressed concern about the impact on the quality of the neighborhood and health impacts. He feels the area is already too busy, even when the diner is closed. He is concerned about a 24 hour operation bringing even more traffic and kids hanging out. When he purchased his property he expressed concern about anything being built behind the diner lot. He is concerned about light issues and environmental issues. He stated the value of his house will come down and urged the board to consider the concerns of the neighbors.

In response to Mr. Glassman's invitation to be recorded as opposed, Cladius Ferreira responded.

There was no response to Mr. Glassman's final invitation to be recorded as opposed.

At Mr. Glassman's request for a motion, Ms. Maclean urged that if the Board were considering continuation, the public hearing should not be closed as it cannot be re-opened.

Ms. Duff expressed appreciation for abutters' input but reiterated that the board does not have purview on what type of business goes there. She feels the board has raised concerns that were expressed by abutters, including the vehicular and pedestrian traffic next to a residential area and the issue of the canopy to neighbors. She reassured that fuel tank safety is much improved and any leak is caught well in advance of a spill, as we have learned from past mistakes.

Ms. Dawicki would like to see traffic study and have the board consider limiting operating hours.

Mr. Glassman welcomes discussion on that issue in consideration of the number of close abutters around the site.

Mr. Cruz agrees a traffic study should be done and would support more plantings on the back of property. He would also like to look into whether any Mass Dot traffic control agreement exists.

Ms. Duff inquired of what tools the board has to assess hours of operation. She wondered what Cumberland's peak hours of operation are.

Ms. DaSilva agreed with traffic study and is interested in the impact on the bus stop. She also inquired of any proposed site for the diner.

Mr. Glassman advised that a new site is being worked on. He too felt the matter should be continued. Ms. Maclean suggested a traffic study, a Mass DOT traffic control study and impact report and investigation of any Mass DOT agreement, and a revised landscaping plan. Ms. Maclean expressed that a Form A process can address the property lots issue raised by Att. Thomas as a condition of final approval.

A public participant inquired if the board could set conditions on hours of operation, and Mr. Glassman said the board was going to look into that.

A motion was made (JD) and seconded (PC) to continue Case 35-13 and the public hearing to next the meeting on 12/11/13, and to require applicant to provide the board a Mass DOT traffic control study and impact report, to submit revised landscaping plans, to work with planning board and solicitor for hours of operation, to have applicant examine the gas canopy and what can be seen from the residential area. Mr. Cruz amended to state Mass DOT traffic control agreement for intersection.

Motion to continue passed 5-0

Case 36-13 –Site Plan Review

Drew Drummond from Clean Energy Fuels of New Hampshire with corporate offices in Newport Beach, California addressed the board with regard to ABC Disposal's proposed alternative fuel station; namely compressed natural gas. Clean Energy, founded in the late '90's, operates 400 stations throughout country. He noted that this vehicle fuel reduces greenhouse gas emissions, reduces noise pollution by 90%, and that one trash truck using this fuel is the equivalent of taking 325 cars off the road, a community benefit. Clean Energy has four stations in Massachusetts. The proposal contains time flow posts as well as a fleet accessible pump out front for Mr. Camara's trucks. The proposed site is located at the former Agway/Beacon Rental facility. Applicant seeks continue the lot and add a CNG station and time fill posts.

Troy Paionk with Atwell representing Clean Energy addressed the board. He noted the proposed scope of work over the next few months is a conversion of existing diesel trucks to compressed natural gas. Currently there are the 36 trucks on-site. He stated there are 13parking spaces and 1 loading space; 7 proposed spaces on the northern side building and a loading space, and the remaining spaces are along the easterly side of building. The 36 time fill spaces are on the southerly and westerly boundaries of the site and the fast fill dispenser is near right of way to Shawmut Ave. between two driveways. Functionality is such that they would connect to the exiting gas line. Gas is then routed through a meter area and routed through a filter, then to a compressor. The gas is compressed to 3600 PSI and routed through a panel which determines routing to time fill, fast fill or storage vessel. In the time fill operation, trucks pull in, connect, and over six to ten hours the trucks are filled. Fast fill is like filling at a gas station and takes approximately 6-10 minutes. Time fill posts are essentially a jersey barrier with a fuel hose mounted as shows in plans. With regard to safety, the system is monitored 24/7 with emergency shut downs and sensors in the equipment compound. There is a shut down of the entire system in the event of a leak with a manual rest. He indicated the trucks would enter the southerly most entrance and leave at the northerly entrance where there will be a security gate.

Upon inquiry from Mr. Glassman, Troy stated there is no change to the building proposed and the current plan would provide for additional fleet vehicles.

Mr. Drummond stated the primary intent is for ABC trash trucks. Mass DOT, N-Star are capable to enter site and fuel up. The general public consumer will also have an ability, but it is limited. In other stations the vehicle traffic is 8 visits per day for consumer use. Currently only Honda has the capability.

Mr. Drummond noted cost effectiveness, the fact that it is a domestic fuel. It is quieter and provide a community benefit. So, clean, green, and less expensive. Mr. Drummond stated that one benefit in the compound is no below ground storage of fuel. They tap into N'Star's line and use above ground storage tanks in the compressor compound.

Mr. Cruz inquired as to the security fence, which the applicant stated is planned to be an eight foot high chain-link as driven by local codes. Applicant assured any tampering would result in an inconvenience not a safety concern. They confirmed that any tampering on-site results in a shut down. Mr. Cruz noted no landscaping was shown. The applicant stated that the southern and northern end will continue as gates to be blocked. Applicant stated lighting will be on the canopy, in the equipment compound, and along parking spaces at time fill pumps, and the fast fill dispenser has some lighting. Hours of operation on the fast fill or potential public pump is proposed as 24/7 and activation requires a credit card. Applicant noted that fire suppression is not needed. Mr. Cruz inquired about operational system checks/tests, which the applicant could not answer, but assured NFP 52 regulations would be followed. He stated that there are no other stations in a 20 mile area.

Ms. Duff feels the area is a nomad's land and is looking for street trees in front. Upon inquiry, applicant stated there is no increase on lot coverage, it being nearly paved to the property line. The site is already paved so there is no expansion of paving areas.

Ms. Maclean adds this site is along the airport entrance, an area which the board is seeking to improve.

Mr. Glassman welcomes the new technology and Mr. Camara's efforts.

Mr. Camara, of ABC Disposal, addressed the board and expressed his gratitude for the new contract. He stated that he is automating the cart program which will make the city cleaner. He stated he currently plans for 13 trucks to be natural gas and eventually seeks to convert his entire fleet to natural gas. He informed the board he is currently in the permitting process for the most advanced waste facility in Rochester, the building to contain 9,000 sq feet of solar panels. He represented his company is very green and he is happy to look into making property look nicer.

A motion was made (JD) and seconded (CD) 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 of the project.

There was no response to Mr. Glassman's invitation to speak in opposition to the project.

There was no response to Mr. Glassman's invitation to be recorded in opposition to the project.

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

The DPI requirements containing 8 conditions were read into the record by Ms. Maclean.

The applicant sought clarification on Items 1 and 2 of requirements because there is already curb and sidewalk. Mr. Glassman clarified.

A motion was made (JD) and seconded (CD) to approve Site Plan Review for Case 36-13 for a proposed fueling station (Compressed Natural Gas) at 1069 Shawmut Avenue & NS Route 140 (Plot 121, Lots 60, 96) with the

following conditions: that the applicant include and address all of the DPI regulation and that the applicant modify landscape to include plantings with the planning board staff to oversee modifications.

Motion passed 5-0

Case 26-13

A motion was made (JD) and seconded (PC) to open the hearing.

A motion was made (JD) and seconded (KD) to continue hearing on this matter.

Motion passed without opposition

Case 11-13 – Preliminary subdivision

Ms. Maclean stated the applicant will present the plan, with the board to open and continue the hearing to December so that board can review plans and abutters can hear board comments

Rich Rheaume of Prime Engineering stated the plan has been submitted in the past. He stated that the soil cover was listed as a Soil D, the hardest soil with the most runoff and applicant based their drainage designs on that. Conservation and DPI requested test pits, which showed that but for the end of Sharon St. everywhere else is sand or Soil A and highly infiltrative. Due to the permeability, the applicant will now infiltrate roof water on each lot and connect the storm system to an infiltration basin and the back area near the wetlands will be left natural wooded. Applicant raised a small component of a grade problem where storm water treatment will be directed into tree boxes which overflows to leeching pits avoiding discharge. Applicant is looking to submit to all department and get feedback from DPI and Conservation and come back in December.

DPI has requested the applicant eliminate the landscaped item in the cul de sac which the planning board is requiring, so applicant is looking for guidance.

Ms. Maclean was concerned with fire truck maneuverability and applicant assured that fire could make the corner.

Ms. Duff inquired as to the wetlands and the buffer line. Applicant stated an average of 25 feet no disturb. Ms. Duff noted that all houses then are constructed within the buffer zone.

Ms. Maclean says meeting was posted but abutters have commented that they would like an opportunity to attend.

Applicant expects it will be a publically accepted road. The Access road requires the applicant make improvements. Applicant stated the proposal is for an 8 inch cement water line on Sassaquin with an auto flusing unit. The other side of the road will have a 2.5 inch force main to the sewer with an injector system. DPI is seeking a rebuild of the public road and replacement of an existing hydrant by the applicant. Applicant would like the city to supply the hydrant for installation, but does not believe they are responsible for a rebuild of the road. Applicant stated that due to house lots being low, pumps will be used. Applicant reports E-1 pumps are acceptable in the city.

A motion to continue this matter to the December meeting was made (JD) and seconded (PC).

Motion passed unopposed.

The board addressed no old business

New Business

With regard to the Bismark subdivision, Ms. Maclean states applicant is requesting a partial release of funds. The DPI cost estimate for remaining work is $23,000. Applicant has $50,000 left in account and is looking to release the difference. There is cement work, streetlights, deficiencies in cleaning structures, detention basin takeover, and miscellaneous title searches, etc., yet to be completed.

Mr. Glassman expressed that the project looks fairly complete. Ms. Maclean expressed that the City is looking for completion prior to winter. Ms. Maclean informed the Board that conduits were not installed to subdivision regulations and will require a waiver, as it is an item DPI will not fix. Mr. Cruz expressed concern about the estimate concerning cement work in cold weather where hot water must be used and will incur a surcharge. He suggested perhaps leaving additional money in the account. Ms. Maclean inquired if the Board wished to issue a waiver this evening, stating that DPI Item 2 requires waiver from the Planning Board regarding the conduits.

A motion was made (JD) and seconded (KD) to release $27,000 of the bond.

Motion passed 5-0.

Ms. Maclean reminded the board that meeting dates need to be reviewed and voted on for approval at December meeting.

Ms. Maclean informed the Board that with regard to Kia, the Department of Inspectional Services has informed her that the parcel triggers Site Plan Review. Kia would like to be waived from an engineered stamped plan - lighting, landscaping, etc. - as his plan is to use the parcel for parking of cars. Kia is up for an annex lot before the Licensing Board. She is inquiring whether the Board will waive site plan so that she can inform the Licensing Board as well as the owner of what he needs to do. It is located in a redevelopment area, but adjacent lots were made to redo their parking lots with street trees, lighting, etc.

The Board members indicated they want a stamped site plan and a definitive survey plan. Mr. Cruz is concerned that the board be assured of an appropriate drainage system.

Ms. Maclean informed the board that a Site Plan Review application checklist revision has been prepared and is to be reviewed by Board with changes to be e-mailed for inclusion and approval at the December meeting.

Chairman Glassman recused himself and Jan DaSilva took over chairing the matter. Ms. Maclean addressed the Dutton Street matter. Mr. Goyette came to a permitting task force meeting seeking to do a subdivision on Church Street but wants to be informed of what Board will entertain waiving. The two lots fronting Chaffee Street and the corner lot on the north side of Church and Dutton are Form A lots and would be approved without subdivision. Mr. Goyette does not want to install sidewalks, streetlights or street trees and is not proposing a turnaround. Ms. Maclean stated that hammerheads not allowed in New Bedford. Mr. Goyette has represented that if necessary he will put sidewalks on Church Street between Chaffe and Dutton. The Board's policy has not been to waive sidewalks or trees. Mr. Goyette does not want to proceed with plans if waivers were a no go.

Board indicates they are not willing to waive all items on a subdivision and there are fire department and public safety issues.

Ms. Maclean suggests the Board may consider not allowing dog leg or pork chop lots on subdivisions in the future, as many other towns do. Ms. Duff added that regulations regarding percentage of lot coverage should be put in place. Ms. Maclean noted the drafts presented show the driveway in the front of house, which is not allowed and may require a variance for setback purposes.

Training sessions for board members were discussed.

Next meeting scheduled for December 11, 2013.

Meeting adjourned at 9:47 pm.