



Planning Board

September 10, 2014 – 6:00 PM - **Minutes**
New Bedford Free Public Library, 613 Pleasant Street

MEMBERS PRESENT:

Colleen Dawicki, Chairperson
Janine DaSilva, Vice Chairperson
Kathryn Duff, Clerk
Peter Cruz
Arthur Glassman

ALSO IN ATTENDANCE:

Jill Maclean, City Planner
Jane Medeiros-Freidman, City Solicitor

Chairperson Dawicki called the meeting to order at 6:07 p.m.

CASE # 29-14 - Proposed zoning change

Att. Matthew Thomas addressed the board on behalf of the Martins, who are out of state but are requesting a zoning change for Map 16, Lots 140/141 and Map 14, 223 currently zoned Residential C. The applicant is seeking a mixed use business zoning for the Cleveland Street properties. The corner property is currently operating industrially. In addition to the two vacant properties being discussed tonight, there is a garage on Roosevelt Street and a house next door, with the corner property in foreclosure with the FDIC. There is a mill across the street. The property was formerly industrial property and was rezoned. The applicants have potential purchasers for the property, and he noted any future use would have to pass regulations. Att. Thomas stated that it is not spot zoning because it is using the property in conjunction with surrounding uses and would allow for the property to be developed, increasing city revenue. Such a change would not be detrimental to the neighborhood. He invited questions from the board.

Ms. Duff expressed that her only concern was this being an insert into a surrounding heavily residential neighborhood and area. She questioned transitional zoning in an effort to protect the residential neighborhood and honor the industrial use.

Ms. Dawicki noted that any development on the parcels would come before the board again for site plan review.

Mr. Thomas agreed that it was a transitional street with the business on the corner, and reiterated the board's site plan review abilities and the screening by-law in the city would provide the board an opportunity to ensure it was not detrimental to the neighbors. He noted this was Residential C not really consisting of single family homes, with a mill across the street.

Councilor Alves stated he was raised on Cleveland Street and has not seen much improvement in the street in the last fifty years. As a real estate agent, he described the street as commercial at one end with houses at the other end; one under foreclosure, one previously under foreclosure. He stated this property would not do well as a residential property, having a 4-5 story mill across the street. He stated the property has been for sale for some time with no interest being expressed in it as a residential property, but has had some interest as a commercial property. He endorses the transfer to a mixed use, allowing for a greater potential for the property

and revenue for the city. He noted the applicants are paying taxes on property they cannot use, and is currently an empty lot collecting trash.

A motion was made (JD) and seconded (KD) to open the public hearing. Motion passed unopposed.

In response to Ms. Dawicki's invitation to be heard in favor of the application, Councilor Joseph Lopes addressed the board and asked to be recorded in favor of the change for the same reasons as those expressed by Councilor Alves.

There was no response to Ms. Dawicki's further invitation to be heard or recorded in favor.
There was no response to Ms. Dawicki's invitation to be heard or recorded in opposition.

A motion was made (JD) and seconded (AG) to close the public hearing. Motion passed unopposed.

There being no further discussion on the petition, a motion was made (JD) and seconded (AG) that the planning board make a recommendation in favor of rezoning Assessor Map 16, Lots 140/141 and Map Plot 14, Lot 223 on the west side of Cleveland Street from Residential C to mixed use business.
Motion passed 5-0

CASE #34-13 - Proposed zoning change

Ms. Mclean stated that property owners along Shawmut Ave were seeking a zoning change from Residential B to Mixed Use Business for several properties, noting the south side of Shawmut Avenue is already Residential B in the area. Ms. Mclean stated that not all lots were included and there is already a motion before the city council to include five additional streets, and will be referred back to planning board. She stated because it is one lot, it would be spot zoning. She suggested the board may want to indicate they would be in favor with wording that will not result in prejudice against it. She expects the ordinance committee to table this motion.

A motion was made (JD) and seconded (AG) to open the public hearing without opposition.

There was no response to Ms. Dawicki's further invitation to be heard in favor.
There was no response to Ms. Dawicki's invitation to be heard or recorded in opposition.

A motion was made (JD) and seconded (AG) to close the public hearing without opposition.

After discussion on the contents of the any approval, a motion was made (JD) and seconded (AG) that the planning board made a recommendation to city council that the north side of Shawmut Avenue Plot 124, Lot 162 be rezoned from mixed use business to Residential B with the stipulation that this rezoning be considered in a larger grouping of lots.

After clarification and consultation with the assistant city solicitor, an amended motion was made (JD) and seconded (AG) that the planning board send a negative recommendation to the city council regarding the proposed zoning change for the north side of Shawmut Avenue, Plot 124, Lot 162 with the condition that the planning board will reconsider said application if the lot is combined with other parcels on the north side of Shawmut Avenue for consideration. Motion passed 5-0

At the Chairperson's request, a motion was made (JD) and seconded (PC) to take Case #36-14 out of order. Motion passed unopposed.

Arthur Glassman excused himself from sitting on case 36-14.

CASE #36-14 - Site plan review

Nathan Mahonon of Bohler Engineering and Doug Lunar of BKA Architects addressed the board with regard to site plan modification for the Dollar General, namely the roof design condition of a white rubber roof.

Mr. Lunar noted that the previous conditions had the rubber roof to reduce the solar heat gain effect and increase reflectivity. He stated the EPA had developed a worksheet that quantifies how much solar reflectivity can be gotten from roof design. He stated the applicant has determined that a rubber roof and a painted metal roof have essentially the same solar reflectivity, and as such is proposing to change to a painted white roof as opposed to the rubber roof. He presented documentation to the board.

Mr. Lunar could not answer Ms. Dawicki's question on what "SRG" stood for.

Ms. Duff noted that she found interesting the variables depending on the color chosen, even amongst the whites. She appreciated the documentation and noted for the applicant that the board also allows white PVC, not only rubber.

Ms. Dawicki suggested the board consider using the worksheet in the future and setting a minimum value.

A motion was made (JD) and seconded (KD) to open the public hearing. Motion was unopposed.

In response to Ms. Dawicki's invitation to be heard in favor, Councilor James Oliveira addressed the board and asked to be recorded in favor.

There was no response to Ms. Dawicki's further invitation to be heard or recorded in favor of the application.

There was no response to Ms. Dawicki's invitation to be heard or recorded in opposition

A motion was made (JD) and seconded (PC) to close the public hearing. Motion was unopposed.

After brief discussion on the matter, a motion was made (JD) and seconded (KD) that the planning board approve site plan review for proposed modifications to a previously approved site plan for new construction of a 9,100 sf building, the Dollar General Retail, at property known as the west side of Church Street, Map Plot 130F, Lot 16, in an Industrial A zoned district, which is a modification to a previously approved site plan with new case number of 36-14.

Motion passed 4-0

Arthur Glassman rejoined the sitting board members for the next case.

CASE #35-14 - Site plan review

Ms. Duff disclosed that she had done work for the Wainers, the last time being in April of 2000.

Thomas Hardman of Site Design Engineering addressed the board on behalf of Friends Realty and Sid Wainer & Sons. He noted the board had a current conditions plan with the existing buildings and structures displayed in yellow. He stated the applicant is proposing additional parking, mainly for employees and trucks, across the street on a vacant lot. He displayed the proposed project with a 50,000 sf refrigeration/storage off the north side of the existing building with loading bays. He also indicated the landscaping and upgraded parking, consisting of an additional 90 spots. He invited questions.

In response to an inquiry by Mr. Cruz, Mr. Hardman stated there are currently 196 spaces, with 286 proposed.

Ms. Duff noted that Page 4 of the application indicated in Section 5 total gross floor area existing is 148,028 with 50% coverage allowed, and proposed is 199,928. She stated six lines down, in lot coverage by building, it states that existing is 24.4%, allowed 50%, proposed 38.9% with a lot area listed as 7.2 acres or 313,632 sf. She stated the 199,928 sf listed as the proposed building is not 38.9% of the existing 7.2 acres. She requested the applicant clarify how he arrived at his figures.

The applicant explained that the total gross floor area is all of the buildings, not just the addition.

Ms. Duff clarified that it was all the buildings on the 7.2 acres, so if lot coverage is 50%, one must look at all buildings on the lot. On a 7.2 acre lot with total lot coverage of buildings at 199,928 represents 63.8% of the total lot, which is greater than the 50% allowed. The applicant explained that some of the square footage is affected by the fact that there are five stories in one of the buildings, and gross floor area includes all the floors.

In response to Ms. Duff, the applicant stated the size of the proposed building is 51,904 sf and added he will recalculate the numbers. After brief examination, Mr. Hardman stated it can be found on the zoning table on Sheet 6, showing lot coverage at 24.4% currently and proposed at 38%. Ms. Duff noted the green space is currently at 11%, proposed to be 12.7%, and required is 20%.

Ms. Dawicki inquired whether there was a crosswalk for pedestrians going across the street. The applicant expressed they were waiting for input from DPI as to where they should be located, but assured the board there would be one, in addition to other DPI conditions.

Ms. Dawicki read through the DPI comments.

Mr. Cruz inquired if crosswalks would be on both streets, to which the applicant indicated there were existing crosswalks on Purchase Street with an existing light system, and that the accessible ramps line up with the crosswalks.

Ms. Maclean suggested that while the boards could require crosswalk (s) from the parking lot to the business, their location should be left to the traffic commission's discretion.

Ms. Duff noted the large increase of parking for a cold storage facility. The applicant indicated there would be some trucks and other business vehicles parked in the area. Ms. Duff then confirmed the existence of a bike rack, as it is an issue the board is trying to promote. The applicant agreed to add an additional bike rack.

Mr. Cruz inquired if the 15 proposed loading docks were for tractor trailers, due to the length shown, and inquired if turning movements had been looked at. Applicant indicated they had and that the lanes were for 34' box trucks.

Mr. Cruz confirmed if the driveways/curb cuts were ramped down and accessible. Applicant noted some adjustments may have to be made.

Mr. Cruz inquired of the need for a 63' curb cut at the loading location and whether there could be a shared use

for parking. The applicant indicated the purpose was to keep truck traffic separate. Mr. Cruz indicated he felt there were a lot of curb cuts for one facility. He suggested eliminating or decreasing a curb cut, adding that 63' for someone in a wheelchair is a long open driveway crossing that presents a concern to him. He added that he was not trying to limit the applicant's future plans, if any. The applicant indicated they would look into it.

Ms. Duff agreed, indicating that might make available some landscape area to get closer to the 20% green coverage required.

Ms. Dawicki suggested adding islands on the north side of the parking. Mr. Wainer indicated that there are six acres of protected wetlands on the south side of the property.

Ms. Duff suggested the applicant look into porous asphalt for low impact paving on the proposed adjacent parking parcel. Mrs. Wainer indicated there would be trucks on that parcel as well. In response to an inquiry by Mr. Cruz, the applicant indicated they had looked into some low impact drainage and subsurface leeching, and felt that they had done as much as they could do given the industrial nature of the property. They noted they had segregated out a lot of the relatively clean roof runoff, discharging it below grade, which will significantly increase the quality of the runoff leaving the site.

Ms. Dawicki noted the DPI was requiring street trees on the grass ribbon area.

Ms. Duff noted that closing off one curb cut and installing the street trees every 40' would make the area nicely defined. She noted appreciation for the Sid Wainer business in the city.

Ms. Dawicki inquired as to the addition roof. Andrew Tillet, of DRW construction, noted the final designs had not yet been put together. He stated he had met with the Undersecretary of Energy to talk about what might be available, including solar.

Ms. Duff stated they would love to see an integrated solar green roof as a precedent that could be showcased. Mr. Hardman stated that Mr. Wainer had directed that energy saving concepts be incorporated into the entire project.

Ms. Dawicki and Ms. Duff commented that the architectural plans may want to address a reflectivity value on the roof and one that does not contribute to the heat effect, and discussed inserting some conditional language on the same.

Ms. Maclean suggested that architectural roof reflectivity could be reviewed by staff.

Mr. Cruz confirmed the presence of an oil/water separator on only one parcel, and inquired if one could be added to the truck storage parcel as a precaution. The applicant agreed.

Mr. Cruz noted that the plans show five proposed loading docks on the existing building, and inquired if the applicant was seeking a total of 20 loading docks. The applicant clarified that the five are existing loading docks.

In response to Mr. Cruz, Ms. Maclean stated the building commissioner had not required any additional parking spots per loading dock.

Mr. Glassman inquired if anything was being changed on the Purchase Street side of the building. The applicant indicated all changes were off the north side of the building, noting the front parking lot and building front stay the same.

With regard to lighting, the applicant directed the board to Sheet 12, with proposed lighting in the north parking

area on the east and west sides next to the islands, up against the bays, in addition to the existing lighting off one of the buildings near Purchase Street.

In response to Ms. Duff, the applicant indicated the parking lot lights are on all night long.

Mr. Cruz inquired if there would be a dedicated dumpster for the proposed building. The applicant indicated there is a dedicated dumpster on the south side of the building and they do not anticipate much additional refuse, and as such will use the existing dumpster.

Ms. Dawicki requested more detailed lighting be submitted with the architectural. Mr. Cruz and Ms. DaSilva noted the foot candles were missing from the plans. Applicant agreed to submit the photometric plan.

A motion was made (JD) and seconded (KD) to open the public hearing. Motion was unopposed.

In response to Ms. Dawicki's invitation to be heard in favor of the application, Councilor David Alves addressed the board. He stated he is in support of the proposal, noting Sid Wainer and Company is a major tax payer and major employer to the city, giving the city major recognition up and down the east coast and nationally. He stated they are an outstanding business and he is proud that they are sited here and looking to expand in the city. He stated Sid Wainer and Company should be given credit for the 6.5 acres of wetlands they pay taxes on, for which they have not sought a tax reduction. He mentioned there is also additional green space on a parcel they own on Church Street where they have their greenhouse. He noted this is an opportunity to ensure that employment in the city goes up and the tax base is maintained. He noted that visiting chefs take back that New Bedford is a food capitol for the present. He fully endorses the applicant. He stated with New Bedford having the highest unemployment in the state, he requests the board endorse the plans of a company willing to expand, invest and employ in New Bedford.

In response to Ms. Dawicki's invitation to be heard in favor of the application, Councilor Jim Oliveira echoed Mr. Alves' comments and expressed his support. As a Workforce Development professional and former Economic Development director in New Bedford he found it refreshing to have Mr. Wainer here along with his strong commitment to the city. He noted this project will retain jobs in our city.

In response to Ms. Dawicki's invitation to be heard in favor of the application, Councilor Linda Morad spoke on behalf of the project. She noted this company has not requested any financing from the city or requested any tax abatements or TIF. She stated this good company which finances itself and employs people in the City of New Bedford, and requested the board endorse the project.

In response to Ms. Dawicki's invitation to be heard in favor of the application, Councilor Joseph Lopes noted he was in full support of Sid Wainer & Son. He noted they are one of the city's largest employers and private taxpayers, mentioning the excise taxes collected as Mr. Wainer's trucks are registered here as well. He noted in addition to his commitment to the city and his investment of millions of dollars in our city, he is one of the city's most philanthropic residents, always giving to the zoo and other groups without recognition.

In response to Ms. Dawicki's invitation to be heard in favor of the application, Ms. Maclean read into the record a correspondence from Councilor Steve Martins.

There was no response to Ms. Dawicki's further invitation to speak or be recorded in favor.

In response to Ms. Dawicki's invitation to speak or be recorded in opposition, Larry Rock expressed a concern about the potential flow of drainage onto his property.

The applicant expressed the parcel (s) indicated by Mr. Rock are considerably uphill and no drainage or roof runoff will be added to Beacon Street. The applicant corrected Mr. Rock with regard to what Mr. Rock believed

was a paper street, indicating the applicant believes it to be a Board of Survey street. He assured Mr. Rock that no new water would go into his property.

Ms. Maclean stated that the DPI had submitted comments, including #8 mentioning Beacon Street, which she read into the record.

Ms. Duff commented that a large building now allows the applicant to collect water to be sent into a subsurface drainage system away from Beacon Street, so Mr. Rock may actually see an improvement.

There was no response to Ms. Dawicki's further invitation to speak or be recorded in opposition.

Ms. Dawicki suspended the public hearing and resumed board discussion on included conditions.

Mr. Cruz requested the applicant look into a guardrail for the existing building near parking.

Mr. Tillet clarified that they were investigating solar panels, but had not committed to them. Ms. Dawicki noted that final details should be included for planning staff to review.

A motion was made (JD) and seconded (PC) to close the public hearing. Motion was unopposed.

A motion was made (JD) and seconded (KD) that the planning board approve site plan review for proposed new construction of an approximately 51,900 square foot addition to an existing Sid Wainer & Son, Inc. building known as 2301 Purchase Street, Map Plot 97, Lots 9, 151, 152, 153, 176, 180, and installation of an off-street parking area at the adjacent property known as 2343 Purchase Street, Map Plot 97, Lot 164, all in New Bedford, in a Mixed Use Business zoned district with the following conditions:

- That the applicant include all conditions submitted by the DPI;
- That the applicant include any conditions set forth by the traffic commission, as well as speak with the traffic commission on the inclusion of crosswalk (s) from the parking lot to the business;
- That the applicant look into the installation of a bicycle rack or racks;
- That the applicant reconfigure the curb cuts and investigate installing a guardrail at the building directly east of the parking lot of the new proposed structure;
- That the applicant add planting islands on the north parking lot;
- That the applicant submit architectural plans including installation of any proposed solar panels, and investigate high solar reflectivity roofing to planning staff, and also submit a lighting plan with the architectural plans;
- That the applicant install oil/water separators to the drainage system in the north parking lot.

Motion passed 5-0

CASE # 30-14/31-14 – Site plan review

Steve Gioso of Site Tech Engineering addressed the board on behalf of the applicant. Also in attendance were Mr. Panagakos and legal counsel for Mr. Panagakos. Mr. Gioso noted the application is for redevelopment of an existing commercial property on the north side of Cove Street at the northwest corner of Cove and South Second Streets. He displayed the location on an aerial photo.

He stated the existing structure is adjacent to South Second Street on the east side of the subject property and consists of a multi-story commercial building that was formerly a funeral home and then a boarding house. The property is currently unoccupied. He indicated two garage structures on the subject property.

Mr. Gioso stated the proposal is to redevelop the property with the elimination of existing parking and structures, and then reverse the configuration and get the building away from the intersection and create a new

parking area for the proposed retail use of a new 1800 sf retail building on the western portion of the property. He stated the eastern portion would consist of a new parking lot, with 17 parking spaces proposed, which were designed to comply with zoning requirements for a commercial parking lot. He indicated the applicant proposes access with an entrance and exit along South Second Street. Mr. Gioso noted an existing South Second Street curb cut located on the north end of the site which will be eliminated. He indicated an existing curb cut on Cove Street would be relocated and reconstructed. Mr. Gioso pointed out a drive-thru lane that will access a dumpster pad on the northwest corner of the site with an exit back onto Cove Street.

Mr. Gioso reiterated the proposal is for a retail building with ADA compliant parking. He stated the applicant will bring a sidewalk along the face of the building with a pedestrian link back to Cove Street for pedestrian circulation.

Mr. Gioso stated the current site is building and pavement occupying some 90% of the site. The redevelopment of the site will reduce lot coverage to 77%, essentially creating a 19% increase of open space on this property. He noted the increase of green space reduces surface runoff.

Addressing drainage control, Mr. Gioso stated the project has been designed with two extensive on-site recharge systems. One system will pick up storm water runoff from the roof drains and the front parking area in a deep sump catch basin equipped with an oil/water screen and an insert for 80% TSS and oil and grease removal for sensitive areas and protection districts. It was most recently used in a Dartmouth project located in the aquifer protective district. A similar catch basin will be located at the exit of the most westerly driveway with a second proposed recharge area to the back.

Mr. Gioso noted that the reduction of lot coverage along with providing recharge on a site that has no present drainage is going to have a significant beneficial impact on the surrounding area and the city's storm water collection system. He noted grades will be set to keep the drainage contained on-site as required by DPI.

Mr. Gioso stated the design includes parking lot lights as shown in the lighting plan, along with a separate cut sheet for the particular proposed lights.

He stated architectural plans have been submitted and provide for a nice roof design with peaks, as opposed to the typical flat roof found on commercial buildings, with a screened in area for HDHC equipment.

Mr. Gioso stated they have no specific tenant for the proposed building and are restricting their application to a retail commercial use. He noted the applicant meets the required number of spaces under zoning.

He stated the proposed pylon sign for the site is proposed to be located adjacent to the entrance off Cove Street, believing this will be the primary entrance for the site. He stated after extensive review, the zoning enforcement officer has determined that location of the sign in this position requires zoning relief by way of variance for street line setback, as 6' is required. He referred to a document he believed was submitted by Mr. Romanowicz approval would be conditional subject to the granting of the variance by the ZBA. He stated the applicant feels it is a good location that will not obstruct the intersection with South Second Street or traffic flow on the main road, and the sign does not exceed any dimensional requirements of the zoning ordinance.

Mr. Gioso reiterated this will be an improved site with regard to green space. He noted the DPI comment letter seeks minor modifications, such as reconstruction of sidewalks, and the applicant is agreeable to all the conditions outlined by DPI. With that overview, he welcomed questions.

Ms. Dawicki noted the board had received a Conservation Commission letter, which the applicant stated he had not yet seen, citing the southwest corner of the site is in an A Zone flood plain and any proposed work requires their permitting. The applicant stated they had redone elevations per the national mapping, putting them in compliance with NADD and FEMA regulations.

Ms. Dawicki asked the applicant to clarify where in the application it is indicated that this is a retail use. Applicant responded that “proposed retail building” is on all the plans, but acknowledged that the application says commercial.

Ms. Maclean clarified that the zoning code category is commercial not retail. The application and plan set says commercial. Ms. Dawicki clarified that the board should treat this as a commercial plan, which encompasses a broader use than simply retail. Mr. Cruz concurred and expressed concern about other uses, especially with a drive-thru window.

Ms. Maclean indicated that commercial use in mixed use business include public uses, educational uses, adult daycare, family daycare, large family daycare, non-profit, funeral home, dog cleaning establishment, bed and breakfast, retail stores and services, motor vehicle sales and rental, motor vehicle repairs, restaurant, fast food restaurant, business/medical offices, centers or clinic, banks, et cetera, many of which need special permits from the zoning board and/or city council.

Mr. Cruz reiterated that under general commercial are banks and fast food. He stated it makes it tough to make a decision as a board and presents complications when a project is simply labeled as a commercial building without knowing what the use will be. Though labeled retail, the application says commercial, so down the road it could become a fast food restaurant.

Mr. Glassman interjected that that would have to be approved by the building department.

Ms. Maclean suggested the board condition it to require all other permits per the zoning enforcement officer’s purview once an actual project comes in.

The applicant reiterated that they had clearly shown on the plan a proposed retail building. He stated there is no gray area, it is definitely that. He stated a commercial strip plaza can have multiple uses within that building. He stated the applicant has 1,800 sf clearly labeled retail and action by the board is on these specific plans submitted with the application. He noted the parking ratio is not calculated on a restaurant use and the board is not approving that use.

Mr. Cruz asked for an example of a retail building with a drive through and what it would be used for. The applicant responded drug store and dry cleaner. The applicant stated they are limiting themselves to retail, but are maximizing the leasing potential of the property.

Ms. Dawicki noted the applicant listed proposed use as commercial on the site summary page. The applicant responded they had gone on the record clearly that this is a proposed retail use and invited the conditioning of approval. He stated a retail building is a commercial use and presents no conflict. He stated this commercial use has been specifically identified as retail.

In response to Ms. Dawicki’s inquiry about such a condition being valid, Ms. Maclean responded the zoning enforcement officer would also review any use and the permit necessary.

Ms. Duff inquired if a special permit was required for the demolition of the existing building. Ms. Maclean noted the demolition permit had gone through the historical commission and city council.

In response to Ms. Dawicki’s invitation for further questions or issues, Ms. DaSilva requested a lighting plan. The applicant stated the photo metrics were on Page 4. Ms. DaSilva and Mr. Cruz noted that did not include any specification as to the type of lights to be used. The applicant directed the board to the cut plan containing the model.

After consultation with Mr. Panagakos, Mr. Gioso stated that his client had raised a concern that without a specific tenant they would ask the board consider the plan as a commercial use, which has certain requirements under zoning. The board's concern seems to be a restaurant type use, which is allowed within the zoning district, meeting certain standards such as parking, which is a building commissioner determination. If it became a fast food use with a drive through, zoning also has a provision that the applicant must go to the zoning board of appeals for special permit. Mr. Gioso stated the applicant is looking to have a maximum amount of flexibility on leasing the building and would ask the board consider this a commercial building with a probable retail tenant, but may end up being something other than retail. As long as parking code requirements are met and no other changes after your review are required to comply with zoning, they should be allowed to have that type of tenant occupy the building. So to back up from what was indicated earlier, Mr. Gioso requested more latitude on the use.

Ms. Dawicki reiterated the board is now being asked to treat the application as commercial use.

A motion was made (PC) and seconded (JD) to accept the cut sheet for the lighting. Motion was unopposed.

In response to an inquiry by Ms. DaSilva, the applicant indicated the location of light poles.

Mr. Cruz inquired about a dark spot at the site entrance at Cove Street. The applicant indicated there was spill over lighting and there would not be a dark spot. Mr. Cruz asked the applicant to incorporate spill over lighting into the plan. The applicant agreed to provide the same.

In response to an inquiry by Ms. DaSilva with regard to lighting on the building, the applicant indicated there would be sconces on the building entrance.

Mr. Cruz requested a cut sheet on that as well. He then asked about lighting coverage on the South Second Street side. The applicant again stated that once into the public way they were trying not to create a spillover effect of lighting. He stated the property has great visibility and an abundance of ambient light in the area, and they are trying to limit light pollution and feel comfortable from a security and public safety standpoint that they had adequate illumination.

Mr. Cruz indicated that was a pretty dark area at South Second and that the nearest utility light pole was the corner of South Second with the next pole on the north property line abutting the paved parking. The applicant did not agree with a need for additional light, but indicated they could slide one pole east to pull lighting closer to that intersection. Mr. Cruz indicated he was merely concerned from a public safety standpoint about anyone getting hit at the site drive.

Ms. Duff asked if DPW had recommended any street trees, with the concrete sidewalks in the area being so deep. Ms. Dawicki pointed out that five trees had been recommended. Ms. Duff indicated that the strips of lawn shown on the north edge of the property line are difficult to maintain and stated she would prefer to see shrubbery planted, to avoid uncut lawn turning into weed patches. The applicant stated they would look into adding plantings, but advised the board that the applicant has multiple area properties and maintenance contracts to address that.

In response to Ms. Duff's inquiry, the applicant confirmed there was an existing fence on the eastern edge of the existing building to the north side.

In response to Ms. Maclean, the applicant indicated they had intentionally put no plantings in the proposed snow removal area so that snow would not have to be pushed out onto the street. In response to Mr. Cruz, Mr. Gioso indicated that snow from the drive through would be put over in the particular location.

With regard to the sign, Ms. Duff asked if the sign was too close to the street, why it could not be moved back.

The applicant responded that based on commercial use experience, the sign should be as close as possible to the entrance so that vehicles don't have to make a last minute decision. Moving it further back would interfere with a proposed tree. He noted without ZBA relief, the applicant would have to revisit this board for an alternate location.

Ms. Duff noted there was no hardship, as the applicant has plenty of space. She stated the reason the applicant wants it on the street is exactly why the board does not; the board does not want people coming down the streets of New Bedford seeing signs rather than an urban scape.

The applicant responded that they have tried to keep the building away from the corner and give the best green value to the property. He noted that zoning would allow for a building to be placed on the property line. He felt the consideration used to locate the sign was to make it blend better with the street scape.

Mr. Cruz did not want to set a precedent that no sign waiver needed to be sought on a post demolition development when there is enough available space to meet criteria. He stated he would like to see the sign meet the criteria set.

Ms. Maclean suggested the board could make it a condition to meet the zoning requirement. However, the applicant would have to submit a permit to the building inspector, and if denied they would have to go to the zoning board regardless.

Ms. Duff again reiterated the applicant has the space to meet the requirement and again stated this is an urban setting.

Ms. Dawicki inquired as to sign illumination times, such as an hour after closing.

Mr. Glassman acknowledged that without a tenant the applicant cannot provide hours of operation. After conferring with his client, Mr. Gioso stated that the applicant would be agreeable to setting a condition on the illumination of the signage to an hour after the close of business.

Ms. Dawicki stated the normal hours are 9:00 to 5:00. The applicant was hesitant to give specific hours without a tenant. He noted Wendy's is open till 1:00 am. Mr. Gioso stated he is in his office till 10:00 or 11:00 pm at times. He stated an hour after close is fine, but asked for latitude to the applicant for potential tenants.

Ms. Maclean, assuming a Panagakos development sign would initially be used until a tenant is found, suggested that for now the sign be allowed a 9:00 to 9:00 lighting with a condition for staff to approve new timing once a tenant is found to the usual one hour before opening and one hour after closing.

Ms. DaSilva suggested an initial time of 9:00am to 6:00pm because of the surrounding residential area. The applicant noted there is a police station across the street, a used car dealership, and the area of the proposed sign really isn't a residential area at that spot. Noting the sign is being moved further into the site, he felt the planner's original recommendation is helpful in trying to get a tenant into the space. He stated that 9:00pm is not an unreasonable time in a mixed use business district and illumination discourages vandalism and provides safety.

Ms. Dawicki sought to discuss operating hours, as the applicant had mentioned commercial use establishments can be open until 1:00 or 2:00am.

Ms. Duff expressed a concern about any 24 hour operation with nearby residents.

With regard to drainage, Mr. Cruz expressed that in addition to DPI comments, nothing stuck out to him in the drainage report. With regard to maintenance of the deep sump basins, the applicant stated that it is usually a quarterly inspection and yearly charcoal replacement and accumulation cleaning.

With regard to traffic, Ms. Dawicki inquired of the existing northeast curb cut. The applicant indicated where curb cuts would be closed off and where the modified curb cut would be. Ms. Dawicki requested new granite curbing.

Ms. Duff noted how busy Cove Street is and mentioned she had nearly been hit on her bicycle recently. She expressed that the proposed egress site on Cove Street has people crossing two lanes of traffic and potentially creates a real safety hazard. She stated the applicant has a small building and is asking for three curb cuts to access the small parking lot on a street that is already busy, has many traffic challenges, and is in close proximity to a very difficult intersection. She did not feel it would work from a safety standpoint.

Mr. Gioso indicated he lives in the area. He stated this small commercial building will not generate large volumes of traffic. He stated good sight lines exist in both directions on a straight section of Cove Street, and reminded Ms. Duff that there was an existing parking lot on this property. He stated he felt the restriping of Cove Street had confused many drivers approaching County Street, but notes the intersection is now signaled, as is the intersection at Rte. 18.

Mr. Gioso stated with one curb cut on Cove Street and one on South Second, customers and employees have options for exiting and entering the site, which diffuses the flow of traffic. He noted the property also has 160' of stacking ability with the drive through.

Ms. Duff expressed a concern about a car coming out onto Cove Street, with an egress in front of two lanes of traffic queuing for the intersection.

Ms. Dawicki expressed concern about people exiting to go east on Cove Street and inquired of the possibility of a right turn only out onto Cove Street. This was not acceptable to the applicant who felt that would make the property unleasable.

Ms. Duff again stated the applicant was asking the board to approve an eastbound exit that has a driver crossing two lanes of queuing traffic at an intersection.

Mr. Cruz suggested the need for a traffic report on how this establishment will effect that intersection. The applicant responded that stacking occurs at every intersection and as such this is not unique. Mr. Gioso stated that for an 1,800 sf building there is zero impact on level of service for the intersections; that this building is not large enough to generate enough traffic for ITE standards. He stated the applicant will agree to a right turn only during the peak times of 4:00-6:00pm. He stated the study requested will not demonstrate anything with regard to safety issues.

Mr. Cruz indicated he would still like to see a traffic study. Ms. Duff agreed. Ms. Dawicki indicated any study, absent a tenant, would need to consider a variety of uses.

Mr. Cruz stated the pedestrian traffic from the corner of South Second and Cove to the existing curb cut on the other side would be non-compliant as shown, and should be perpendicular to the roadway. The applicant clarified the curb cuts pointed out are existing, not proposed. He noted that DPI had said the applicant must reconstruct one of the curb cuts, with wheel chair ramps on the northwest and northeast corners of Cove Street and South Second.

Mr. Cruz also noted that South Second is a one-way north, and he felt a sign would be necessary for motorists to visually note that it is a one way; either a no right turn on one-way sign. The applicant acknowledged there is a left turn only sign in existence at that driveway. Mr. Cruz stated it would be more appropriate installed across the street. The applicant agreed.

In response to Mr. Cruz, the applicant acknowledged the van accessible handicapped spot would be labeled.

A motion was made (JD) and seconded (AG) to open the public hearing. Motion was unopposed.

In response to Ms. Dawicki's invitation to speak in favor, Michael Panagakos addressed the board. He stated that he would put carpet roses in the area where grass is proposed, as the grass seems to have raised maintenance concerns. He stated they often add shrubs after approval as they work on developing the site. He noted an example of a north end property the board had approved for him, where even though approval was for five feet from the sidewalk, the building was actually setback ten feet from the sidewalk, providing more area for shrubs. He stated that he gets better tenants when the sites look better. He stated the existing fence in the back will be taken down and replaced with a new fence, just as was done on his Ashley Boulevard site.

Mr. Panagakos stated he is from the southend of New Bedford and knows that site better than anyone. He stated he is constantly on the site and the heavy traffic is from 4:00 to 6:00pm, and that is why he agreed to a time specific right turn only limitation. He stated when exiting the site between 4:00 and 6:00 pm he goes right, but has an easy exit during other hours. He stated limitations reduce the leaseability. He stated he too felt the bicycle lane was dangerous and confusing, and suggested the city stripe the lane in a different color, noting that many of the drivers in that area have licenses from other countries. He stated most of his tenants are closed by 11:00pm and close their signs at that time.

In response to Ms. Dawicki's invitation to speak in favor, Ward Councilor Joseph Lopes noted that Mr. Panagakos was taking a parcel that has either been vacant or had a poor use, noting that as ward councilor he has had endless issues with that parcel over the last four years. He stated he supported this project on the Historical Commission, as the applicant had changed designs in order to be more aesthetically pleasing. He noted Mr. Panagakos' city properties are always well maintained, and his leases have a snow removal and maintenance clause. With regard to parking and traffic, Councilor Lopes agreed the busiest times are 4:00 – 6:00pm, as is the first half of the month, with the property being located between two banks. He noted there is a log jam at the corner convenience store which has no parking, and although a no parking posting was suggested at the time of the installation of the bike path, the property owner pleaded with former Mayor Lang. He noted his four years of work to get the traffic lights installed, which has reduced the number of accidents at that intersection. He expressed his support for the plan and felt it would take an eyesore property and rehab it and put it back on the tax rolls. He requested the board's favorable recommendation.

Mr. Glassman acknowledged that Mr. Panagakos has stepped up and improved his project design.

In response to a question from Mr. Dawicki regarding operating hours, Councilor Lopes stated the convenience store closes at 10:00pm, but the banks close early. He noted the restaurant/bar behind this property has had issues. He noted most retail businesses have a ten o'clock closing. He noted the 7 eleven two blocks away is a 24 hour operation, and the Cumberland Farms nine blocks away closes at 10:00 pm.

In response to Ms. Dawicki's further invitation to speak in favor, Councilor Linda Morad stated she had known Mr. Panagakos for forty years, and during her tenure as a Ward 1 Councilor Mr. Panagakos had constructed and maintained many north end properties in New Bedford. She stated she found his properties maintained in a beautiful manner and found him to be responsive to neighbor concerns. She noted he had come before this board many times in similar circumstances where he was constructing a building for retail use prior to having a tenant, and every one of those properties is fully tenanted without issues. She stated the man was true to his word and has maintained neighborhood conditions and been respectful to his neighbors. She did not feel the board should be concerned about this type of project. In addition Mr. Panagakos has been a city business owner for many years and pays an awful lot of property tax and employs many people. He has demonstrated he wants the city to move forward and has made a commitment to and investment in New Bedford. She felt it was a good use for a property that has not had any use for some time. She felt the applicant had stepped up to work with the board's concerns. She requested approval for the plan as the board protects the city.

There was no response to Ms. Dawicki's further invitation to speak or be recorded in favor.

In response to Ms. Dawicki's invitation to speak or be recorded in opposition, Jessica DeCosta of 608 South Second Street addressed the board. She stated she is concerned and objects to the project. She stated other neighbors had come to meetings, but she is now a lone wolf. She stated she is concerned about traffic, and asked if there would be two driveways coming into South Second Street.

Ms. Maclean clarified that one would be closed and one curb cut would be on south Second Street.

Ms. DeCosta expressed her concern regarding parking on South Second and Cove Streets. She stated there is a hydrant at the corner and even policemen park right in front of the hydrant. She was also concerned about lighting and did not feel that much lighting was needed, as the site is surrounded by three deckers. She felt shrubbery would be better than trees and she felt there would be a lot of litter. She also wanted to know how many businesses would be in the lot. Ms. DeCosta also mentioned how bad the traffic on Cove Street is, as she has lived there all her life 24/7. She noted that traffic starts at 2:30 with the buses and can run to 5:00 pm. Ms. DeCosta asked about the hours of operation, stating this was a residential neighborhood. She stated commercial and retail are looking for money and she is looking for a good life. She stated she was hoping it would have a close time of six o'clock. She stated she has had to call police numerous times for the nearby barroom. Ms. DeCosta expressed a concern about noise and whether trucks would be coming in. She stated she is really opposed, even though money talks and you can't fight city hall. She stated there will be an ugly building now compared to the beautiful building.

There was no response to Ms. Dawicki's further invitation to speak or be recorded in opposition. The public hearing was suspended.

Mr. Pangokos made comments from his seat.

Ms. Duff found resident comments and concerns about too much light interesting.

Ms. DaSilva stated she would prefer a right turn only sign to accommodate school buses.

Ms. Dawicki suggested the traffic study could look at school bus traffic.

Ms. Maclean suggested that the board could have the traffic commission look into the curb cuts and stipulate hours, rather than a full traffic study.

Ms. Duff stated that she felt people were still adjusting to the new lanes at the intersection, and felt the city would have a good handle on conditions, as they have been dealing with them.

Ms. Dawicki expressed concern about the light at Rte. 18 and the resulting vehicle backups and commented that the project may be victim to that design, and suggested the traffic commission look at that aspect as well.

Mr. Hardman noted that the Phase 2 redesign of Rte. 18 will alter the design of the intersection, with timed lights for lefts onto Rte. 18, and will alleviate some traffic.

Ms. Maclean noted that project is likely not to be completed for some two years.

In response to Ms. Dawicki, she suggested the traffic commission and DPI look at least into the timing of the lights. Mr. Hardman noted the Rte. 18 lights are so old that the timing cannot be altered.

Ms. Dawicki sought consensus on whether to have a full traffic study or have the traffic commission exam the issues, to include times for a restricted right turn only on egress. Mr. Cruz suggested starting with the traffic commission and see if they see fit that a full blown traffic study is needed.

With regard to hours of operation for the sign, Mr. Cruz stated he was in favor of the 9:00am to 9:00pm. Mr. Glassman thought hours of operation could not be determine until a tenant had been acquired. Mr. Cruz suggested 7:00 am to 8:00pm for hours of operation for the potential business. Ms. Duff reminded the board that hours of 10:00pm were mentioned by Councilor Lopes. Mr. Cruz stated a tenant would be required come back before the board for a change in those hours.

Ms. Dawicki felt it somewhat difficult to decide on such little information, and the board would have to try to balance the applicant's desire for later hours against the neighbor's desire for earlier hours. Mr. Cruz felt 9:00pm was sufficient. Mr. Glassman felt 10:00pm was appropriate.

Mr. Gioso asked for hours of operation to be extended to 11:00 pm and the sign turned off at the same time. He stated this would provide flexibility, and he did not believe any use would exceed that hour. He felt that hour would assure potential tenants that they could be competitive with the neighborhood businesses.

With regard to an opening time, the applicant initially suggested 7:00 am and then requested a 5:00 am opening time.

Mr. Cruz opposed a 5:00 am opening due to the residential nature of the neighborhood. He again expressed that he was in favor of an opening hour of 7:00 am. Mr. Glassman expressed favor for a closing time of 11:00 pm., and suggested that if a tenant is found who needs alternative hours, they can return to the board.

A motion was made (KD) and seconded (PC) to close the public hearing. Motion passed unopposed.

The board reviewed conditions to be included in any motion.

Mr. Hardman attempted to again address the board on hours of operation and was stopped by Chairperson Dawicki.

A motion was made (KD) and seconded (AG) that the planning board approve the site plan review for the proposed new construction of an 1,800sf single-story building for an undisclosed commercial use with a drive-through and 17 space off-street parking area and a proposed new ground sign at the property known as 177 Cove Street, New Bedford, MA, Map Plot 20, Lot 346, by Panagakos Development, with the following conditions:

- Inclusion of any conditions stipulated by the Conservation Commission;
- Inclusion of the DPI conditions;
- All other permits per review of the zoning commissioner's purview;
- Cut sheet lighting scones to be submitted and reviewed by planning staff;
- Work with staff on placement of site lighting;
- Replacement of lawn on northern edge with shrubbery and/or carpet roses;
- Ground sign to meet requirements and initially be lit from 9:00 am to 9:00pm.;
- Applicant to work with staff once tenant is within building and adjust site lighting times;
- Hours of operation to be from 7:00am to 11:00pm;
- Installation of granite curbing on all areas where curbing is to be replaced;
- That the New Bedford Traffic Commission review curb cuts/exits onto Cove Street and intersections at Rte. 18 and County Street, and if determined that a traffic study is needed applicant to pursue and secure a traffic study of the area;
- That traffic Commission review the location of the one way sign as exiting property onto South Second Street;
- That the lighting plan be submitted to reflect all foot candles of the site lighting surrounding the property.

Motion passes 4-1.

Ms. Maclean noted for the board the library closing time of 9:00 pm and requested the board act as expeditiously as possible.

CASE #32-14 –Site plan review

Steve Gioso addressed the board on behalf of the applicant. He stated the subject property, a current Laundromat and parking lot, is located in close proximity to the last property addressed by the board. He stated the applicant seeks to locate a sign at the southwest corner of the site. He stated the building commissioner has determined it would not comply with setback requirements as depicted. Applicant is seeking the board require Zoning Board action on the application.

Mr. Gioso stated the applicant is not proposing any modifications. He noted the applicant, per the last hearing, could slide the sign up to get the 6 foot setback and get it further off the intersection, but that would still require a variance to allow the sign be 3 feet on Welcome Street.

In response to an inquiry by Ms. Dawicki, the applicant stated the sign is illuminated internally. He stated the current closing time for the Laundromat is 11:00 pm.

In response to Ms. Dawicki, Ms. Maclean explained that a rejection would require the applicant to go to the Zoning Board.

Ms. Dawicki clarified that the sign will be lit from 5:00am to 11:00pm with a condition that the sign meets all requirements with regard to position.

Mr. Cruz again noted there are residents directly across the street, and that 5:00 am seems early. He suggested a lighting time of 7:00 am. The applicant indicated that they would agree with a 6:00am lighting restriction and confirmed for Mr. Cruz that there was already signage on the building.

The applicant, in response to Ms. Maclean and Ms. Dawicki, stated the sign would need to be oriented as depicted and that any other location would interfere with parking.

A motion was made (JD) and seconded (AG) to open the public hearing. Motion passed unopposed.

There was no response to Ms. Dawicki's invitation to speak or be recorded in favor or opposition.

A motion was made (JD) and seconded (AG) to open the public hearing. Motion passed unopposed.

A motion was made (JD) and seconded (AG) to approve site plan review for a proposed new ground sign (14 feet tall, 24 square feet) at the property known as 2 West Rodney French Boulevard, Map Plot 15, Lot 196, in a mixed use business zoned district with the conditions that the light be illuminated between 6:00am and 11:00pm and that the ground sign meet all zoning requirements per New Bedford regulations.

Motion passed 5-0.

CASE #33-14 – Site plan review

Steve Gioso addressed the board on behalf of the applicant. He stated this is a newly constructed Ashley Boulevard building. He noted there was original approval from the planning board for the building to be 5' back from the layout line Ashley Boulevard, and after evaluating the site decided to move the building back and actually reduce its size by 5' creating a 10' separation. The applicant is proposing to locate the ground sign within this 10 strip of land, away from the two adjacent property owners. He stated that based on the building

commissioner, it would require a zoning variance for Ashley Boulevard setback and the applicant is looking to move forward with that process.

Mr. Gioso stated the applicant would like the same hours of operation limits of 6:00am to 11:00pm as there is no present tenant in the building and the property is within a highly commercial zone. He noted the residential properties are screened from the proposed location of the sign and as such has not impact.

A motion was made (JD) and seconded (KD) to open the public hearing. Motion passed unopposed.

There was no response to Ms. Dawicki's invitation to speak or be recorded in favor or opposition.

A motion was made (JD) and seconded (KD) to open the public hearing. Motion passed unopposed.

A motion was made (JD) and seconded (AG) to approve site plan review for a proposed new ground sign at 776 Ashley Boulevard, Map Plot 126, Lot 63, in a mixed use business zoned district with the condition that the ground sign meet all zoning requirements per New Bedford regulations and that the sign is to be lit no earlier than 6:00 am and to be turned off at 11:00 pm.

Motion passed 5-0.

There being no old or new business, a motion was made (KD) and seconded (PC) to adjourn. Motion passed unopposed.

Whereupon meeting adjourned at 9:37 pm.