



STAFF COMMENTS

FROM: Connie Brawders, Staff Planner *CB*

TO: Jill Maclean, City Planner

DATE: August 4, 2015

Subject: **Case #30 – 14 Case and #31-14: Request for Site Plan Approval Modification**

Request by applicant, Panagakos Development, to amend the Site Plan Review and Ground Sign approval granted on September 10, 2014 to 1. Extend hours of operation of 7:00 a.m.-11:00 p.m. to 5:00 a.m.-12:00 a.m., 2. Extend outdoor lighting hours of operation to 12:30 p.m. for employee security, and 3. Extend sign illumination for additional business hours of operation at 177 Cove Street (Map 20, Lot 346), in the Mixed Use Business zoning district. Applicant's Agent: SITEC, Inc., 449 Faunce Corner Road, Dartmouth, MA 02747.

Applicant: Panagakos Development

Owner: Michael W. Panagakos, 133 Faunce Corner Road, Dartmouth, MA 02747

Applicant's agent: Steven D. Gioiosa, P.E., SITEC, Inc., 449 Faunce Corner Road, Dartmouth, MA 02747

Case Overview

The City of New Bedford Planning Board held a public hearing on September 10, 2014 for site plan review for redevelopment of site which included demolition of an existing structure and new construction of a +/- 1800 SF one-story unit for commercial use as to be determined, with drive – thru lane providing 17 off-street parking spaces, and new ground sign. The locus map is included for the Planning Board's reference (Attachment 1).

The applicant's agent provided a letter to the Planning Board dated June 11, 2015 respectfully requesting proposed amendments to the Site Plan Approval granted for 177 Cove Street. He cites challenges securing a tenant lease for the proposed development and petitions the Board to consider modifications to lighting and hours of operation (Attachment 2).

1. Site Layout

As stipulated in the September 22, 2014 Decision by the Planning Board (Attachment 3), the Site Layout plan (dated May 27, 2014, revised thru October 29, 2015) describes the parking lot lighting specifications at Plan Note No. 1 (Attachment 4).

Item three of the June 11 letter respectfully requests that signage be illuminated during business hours, in response to item number four of the Planning Board Decision, whereby the applicant was restricted to illuminating signage between the hours of 9:00 a.m. and 9:00 p.m.

The generic sign plan with overall dimensions meeting City of New Bedford zoning code is included as Attachment 5 for the Planning Board's reference.

2. Landscape & Lighting Plan

The applicant has provided Board with a tear sheet for pole lighting (Attachment 6). In response to item one of the Decision, the applicant has decided he will not incorporate wall sconces in the overall lighting design as stated in the Memorandum dated June 9, 2015 from Sitec (Attachment 7).

The applicant's agent requests at item number two of letter dated June 11 that Lighting Hours be extended to 12:30 a.m. for the security of employees. The applicant, at item number one in the June 11 letter, asks the Board to consider modifying the business hours of operation from 7:00 a.m. - 11:00 p.m. to 5:00 a.m. - 12:00 a.m.

Landscape and Lighting plan illustrates the Foot Candle Line (Attachment 8). The applicant's agent respectfully informs the Board at item two of Memorandum dated July 21, 2015 (Attachment 10) and letter dated June 9, 2015 that the grass strip along the north side of the site with the addition of low plantings.

Summary

The Memorandum from the applicant's agent dated July 21, 2015 states that plans have been modified in accordance with conditions of approval set forth by the Planning Board (Attachment 10).

A copy of the September 10, 2014 approved Planning Board meeting minutes are included as Attachment 11 for the Planning Boards review.

The Planning Board may consider the requests for modification for lighting and hours of operation by separate motion and vote for clarification and historical reference purposes.

1. Hours of operation – 5:00 a.m. to 12:00 a.m.
2. Lighting Hours - During hours of operation and extending to 12:30 a.m. for employee security
3. Sign Illumination – Illuminated during business hours

Respectfully submitted.

Attachments

1. Locus Map of Site
2. Applicant's Agent Letter to the Planning Board Dated June 11, 2015
3. September 22, 2014 Decision by the Planning Board

4. Site Layout
5. Generic Sign Plan
6. Tear sheet for Pole Lighting
7. Memorandum dated June 9, 2015 from Sitec
8. Landscape and Lighting Plan
9. Memorandum Dated July 21, 2015 from Sitec
10. Minutes of the September 10, 2014 Planning Board

SITEC

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Land Use Planning

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June 11, 2015

Planning Board
City of New Bedford
133 William Street
Room 303
New Bedford, MA 02740

**REFERENCE: CASE #30-14
PANAGAKOS DEVELOPMENT
177 COVE ROAD STREET**

Dear Board Members:

On behalf of the Applicant, Panagakos Development, we hereby request the setting of a Public Hearing with the Planning Board for the purpose of reviewing a proposed amendment to the Site Plan Review approval that was granted for the 177 Cove Road project on September 10, 2014. *STREET*

The Applicant has been discussing lease options with a number of commercial tenants and the hours of operation for this site has been a problem for some of the businesses. The approval granted by the Planning Board limits the hours of operation for the business from 7AM until 11PM.

At this time, the Applicant respectfully requests the Board's consideration of the following:

1. Hours of Operation – 5:00AM to 12:00 AM;
2. Lighting Hours – During hours of operation and extending to 12:30AM for employee security; and
3. Sign Illumination – Illuminated during business hours.

FILE COPY

**PLANNING
JUN 12 2015
DEPARTMENT**

*Case 30-14
31-14*

ATTACHMENT 2

New Bedford Planning Board
Re: Panagakos Development
June 11, 2015
Page 2

Attached please find a Certified Abutters list and advertising fee as requested. A signed Department distribution list will also be provided.

Sincerely,
For SITEC, Inc.

A handwritten signature in black ink, appearing to read "Steven D. Gioiosa". The signature is fluid and cursive, with a large initial "S" and "G".

Steven D. Gioiosa, P.E.
President

cc: Panagakos Development



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

PLANNING BOARD

CITY CLERKS OFFICE
NEW BEDFORD, MA
2014 SEP 24 A 8:39
CITY CLERK

September 22, 2014

Mr. Dennis Farias, City Clerk
133 William Street
New Bedford, MA 02740

RE: Site Plan Review & Site Plan Review (Ground Sign)
Case # 30-14 and Case # 31-14, 177 Cove Road (Map Plot 20 Lot 346)

Dear Mr. Farias,

Please be advised that the New Bedford Planning Board held a public hearing on September 10, 2014 to discuss an application for Site Plan Review for proposed New Construction of a ~ 1,800 Square Foot Single-Story Building for an Undisclosed Commercial Use with 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, 02740, Map Plot 20 Lot 346, in a Mixed Use Business zoned district.

Plans submitted with the application were stamped by City Clerk on July 28, 2014, submitted by Sitec, Inc. on behalf of the applicant: Panagakos Development, 133 Faunce Corner Mall Road, Dartmouth, MA, 02747.

Board Members Colleen Dawicki, Arthur Glassman, Janine Da Silva, Kathryn Duff and Peter Cruz were present on the evening of the public hearing.

Mr. Steven Gioiosa, of Sitec, Inc. (449 Faunce Corner Road, Dartmouth MA 02747) presented information on the proposed project on behalf of the applicant. Mr. Gioiosa described the proposed sitework and provided some detail on the proposed operations at the property and impacts on the surrounding community.

Chairman Dawicki then called for a motion to open the public hearing. A motion was made by J. Da Silva, seconded by K. Duff, to open the public hearing. Chairman Dawicki then invited to the podium anyone wishing to speak in favor of the application. Michael Panagakos (the applicant) and City Councilors Linda Morad and Joseph Lopes spoke in favor of the petition.

Chairman Dawicki then invited to the podium anyone wishing to speak in opposition of the petition. Jessica DaCosta spoke in opposition, stating concerns regarding lighting, traffic, on-street parking lot, litter and hours of operation. No additional persons wished to be recorded in opposition of the petition. On a motion by J. Da Silva, seconded by A. Glassman, the public hearing was closed.

ATTACHMENT 3

After further deliberation and consideration of all testimony, the Planning Board considered a motion by K. Duff, seconded by J. Da Silva, to approve the Site Plan Review and Site Plan Review for a Ground Sign, based on the plans dated May 27, 2014, with conditions:

1. That a revised lighting plan, including a cut sheet for sconces, be submitted with revised plans, to be reviewed by Planning staff;
2. That landscaping consisting of low plantings be added to the north side of the site, replacing grass strip;
3. That the existing fence along the north side of the site be removed and replaced with new fencing;
4. That the internally illuminated sign shall be turned on only between 9:00am and 9:00pm, until a tenant for the subject site is found, at which time Planning staff may review and approve alternate allowable lighting hours;
5. That the proposed ground sign shall meet all zoning requirements;
6. That hours of operation for the business shall not exceed 7:00am to 11:00pm;
7. That all DPI Comments, as detailed in their memorandum to Planning Board dated August 22, 2014, be accepted/completed by the applicant;
8. That all Conservation Commission and any applicable Zoning Board of Appeals conditions of approval for on-site uses be accepted/completed by the applicant;
9. That new granite curb be installed at the location of the S. Second Street existing curb cut that is being removed (northeast corner);
10. That a one-way sign be installed to clarify the traffic flow direction for S. Second Street, with placement to be determined at the discretion of Traffic Commission, that the applicant's requested curb cuts shall be allowed only with Traffic Commission approval, and that the applicant shall abide by all conditions of the Traffic Commission's review;
11. That Traffic Commission shall, as part of their respective review of the proposed curb cuts, address Planning Board's concerns regarding traffic safety impacts on Cove Street resulting from installation of a drive-thru and the potential introduction of conflicts with traffic & bicyclist safety with the proposed curb cut locations and allowable turn movements, and that Commission should require a Traffic Impact Study be submitted if needed to review the potential impacts of these concerns.

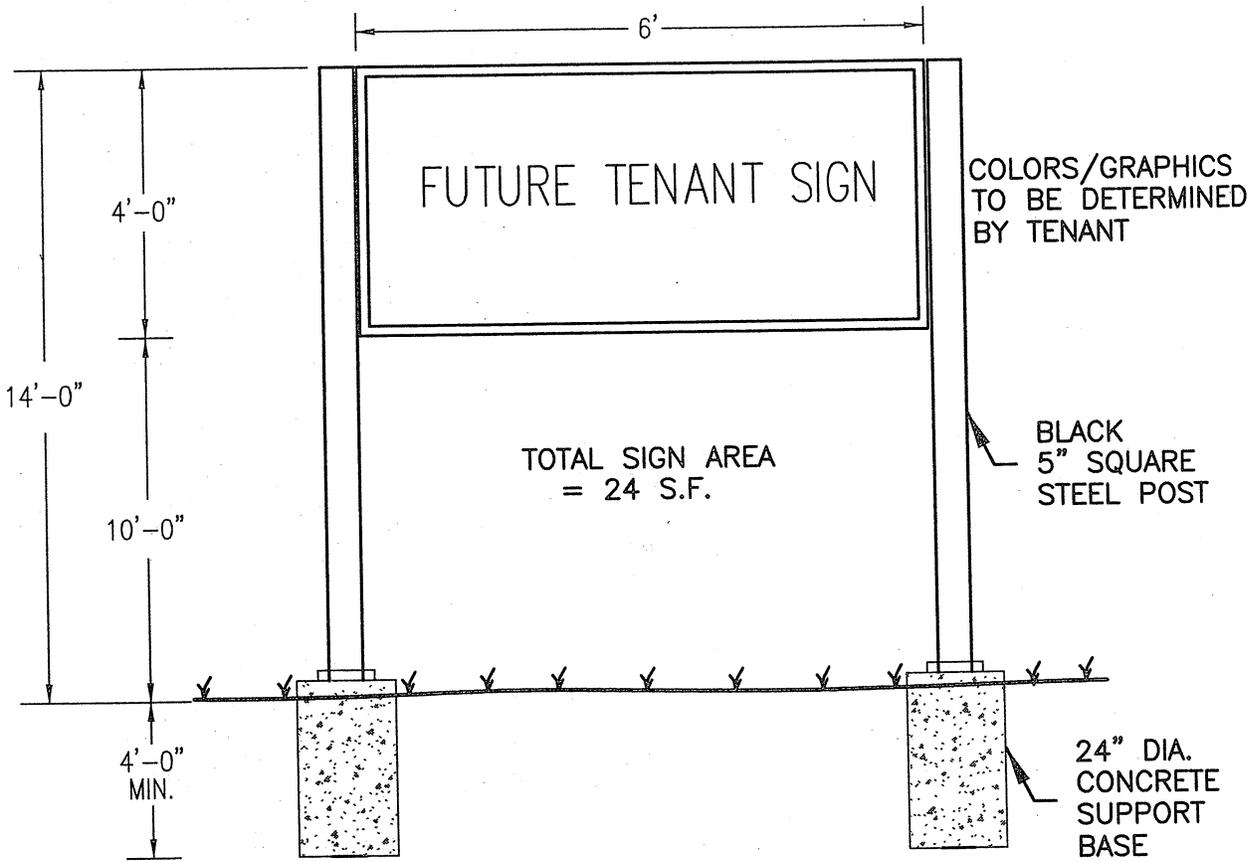
This motion carried 4-1. (CD, PC, AG, KD) (JD voted against)

Sincerely,



Jill Maclean, City Planner
Agent for the Planning Board

Cc: Danny Romanowicz, Commissioner DIS
S. Gioiosa, Sitec, Inc.
Ronald Labelle, Commissioner DPI
Scott Downing, Executive Secretary, Traffic Commission
Joseph Lopes, Ward Six City Councilor



PROPOSED DOUBLE FACED
INTERNALLY ILLUMINATED PYLON SIGN DETAIL

NOT TO SCALE

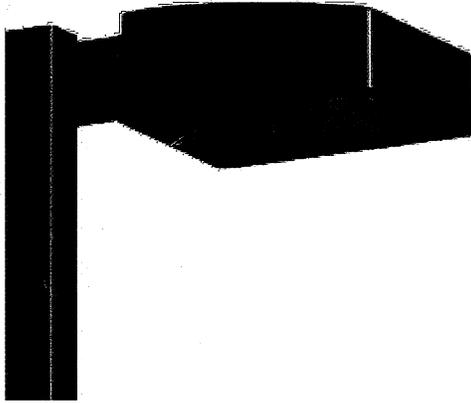
PANAGAKOS DEVELOPMENT

30.14

30.14

ATTACHMENT 5

ALXH200PSQ



Performance Area Light for drilled poles. Fixed mounting @ 90 ft to pole. Drilled 2" on center. Factory wired for 277V. Lamp supplied.

Color: Bronze

Weight: 39.8 lbs

Project:	Type:
Prepared By:	Date:

Lamp Info		Ballast Info	
Type:	ED28	Type:	CWA HPF QT
Watts:	200W	120V:	1.4/2.1A
Shape/Size:	N/A	208V:	.8/1.2A
Base:	N/A	240V:	.7/1.0A
ANSI:	N/A	277V:	.6/.9A
Hours:	15,000	Input Watts:	232W
Lamp Lumens:	19,000	Efficiency:	86%
Efficacy:	82 LPW		

Technical Specifications

Listings

UL Listing:

Suitable for wet locations. Suitable for mounting within 1.2m (4ft) of the ground.

Construction

Lens Gasket:

EPDM gasket seals optical chamber preventing dirt and rust.

Housing:

One-piece precision die cast aluminum with die cast door frame.

Reflector:

Hydroformed reflector.

Finish:

Our environmentally friendly polyester powder coatings are formulated for high-durability and long-lasting color, and contains no VOC or toxic heavy metals.

Lens:

Thermal, tempered shock resistant glass, 5/32" thick.

Mounting Arm:

Mounts with two 3/8 threaded rods at 2" on center.

EPA:

1.8.

Electrical

Socket:

Porcelain socket pulse rated 4kv, 1500 watts and 600 volts, reinforced with cat's eyes for added durability. Silicone and fiberglass #14 gauge socket leads rated for 200°C. Plated screw shell designed to resist corrosion with spring loaded center contact.

Other

Patents:

The design of the ALX Area Light is protected by U.S. patent D591,445, Canada Patent D127,045, Mexico Patent 28577 and patents pending in the U.S., China and Taiwan.

Country of Origin:

Designed by RAB in New Jersey and assembled in the USA by RAB's IBEW Local 3 workers.

Buy American Act Compliant:

This product is a COTS item manufactured in the United States, and is compliant with the Buy American Act.

Recovery Act (ARRA) Compliant:

This product complies with the 52.225-21 "Required Use of American Iron, Steel, and Manufactured Goods— Buy American Act— Construction Materials (October 2010).

Trade Agreements Act Compliant:

This product is a COTS item manufactured in the United States, and is compliant with the Trade Agreements Act.

GSA Schedule:

Suitable in accordance with FAR Subpart 25.4.

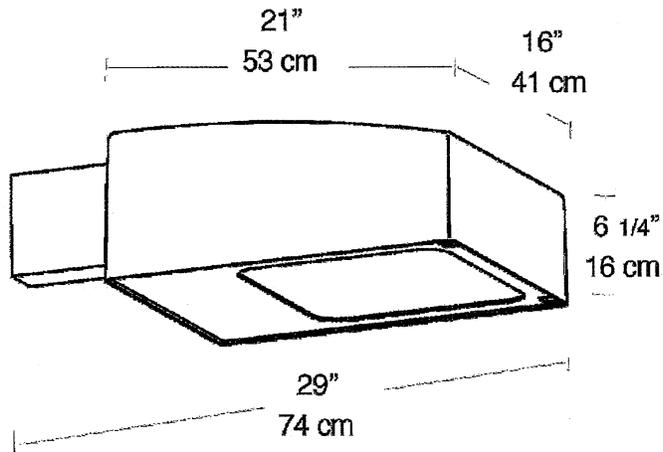
PLANNING
JUL 28 2015
DEPARTMENT

THE COPY
CASE 30-14
31-14

ALXH200PSQ



Dimensions



Features

- Field rotatable optics
- Custom Hydroformed reflector
- Sleek smaller volume design lowers EPA
- Sealed optical chamber
- Stainless steel external hardware
- Silicone lamp retainer keeps lamp in socket
- Lamp supplied

PLANNING
JUL 28 2015
DEPARTMENT

FILED

SITEC

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MEMORANDUM

TO: JILL MACLEAN
CITY PLANNER

FROM: STEVEN D. GIOIOSA, P.E. 

DATE: JUNE 9, 2015

SUBJECT: PANAGAKOS DEVELOPMENT
177 COVE STREET

PLANNING
JUN 09 2016
DEPARTMENT

Attached please find a revised landscape design plan for the 177 Cove Street property. After reviewing the issue of wall sconces with the developer, it was decided that these items would not be incorporated into the overall lighting design. Since we are not adding any additional lighting, the lighting diagram remains unchanged (Note #1 on September 22, 2014 decision).

The plan has been modified in accordance with Item #2 of the September decision to include the elimination of the grass strip along the north side of the site with the addition of low plantings.

Please feel free to contact me should you require any additional information.

cc: Panagakos Development

ATTACHMENT 7

CASE 30.14
31.14

SITEC

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Land Use Planning

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Marshfield, MA 02050
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MEMORANDUM

TO: CONSTANCE BRAWDERS
STAFF PLANNER

FROM: ALISON CESAR
PROJECT ENGINEER



DATE: JULY 21, 2015

SUBJECT: PANAGAKOS DEVELOPMENT
177 COVE STREET

PLANNING

JUL 28 2015

DEPARTMENT

Attached please find the revised set of plans for the 177 Cove Street property. The plans have been modified in accordance with the Planning Board conditions:

1. After reviewing the issue of wall sconces with the developer, it was decided that these items would not be incorporated into the overall lighting design. Since we are not adding any additional lighting, the lighting diagram remains unchanged.
2. The plan has been modified in accordance with Item #2 of the Decision to include the elimination of the grass strip along the north side of the site with the addition of low plantings.
3. The existing fence along the north side of the site has been removed and replaced with new fencing.
4. The internally illuminated sign shall be lit only during normal business hours.
5. The proposed ground sign meets all zoning requirements.
6. The hours of operation for the business are requested to be between 5:00am and 12:00am.
7. All Department of Public Infrastructure (DPI) comments, as detailed in their memorandum to the Planning Board and dated August 22, 2014, have been addressed.
8. All Conservation Commission and applicable Zoning Board of Appeals conditions for approval for on-site uses are not applicable to this site.
9. The new granite curb shall be installed at the location of the South Second Street existing curb cut that is being removed (northeast corner).
10. A one-way sign has been added to the plan as requested.
11. The Traffic Commission has approved the revised site plans.

The plans have also been revised in accordance with the Department of Public Infrastructure conditions.

FILE COPY

CASE 30-14
31-14

ATTACHMENT 9

Please feel free to contact me should you require any additional information.

cc: Panagakos Development

NEW BEDFORD PLANNING BOARD

New Bedford Public Library

September 10, 2014

133 Williams 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

30.14
31.14

ATTACHMENT 10

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.

←
OK
AS PBC
SALAH
YOUTER

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 unleaseable.

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.