

City of Keene
New Hampshire

PLANNING BOARD
MEETING MINUTES

Monday, September 25, 2023

6:30 PM

**Council Chambers,
City Hall**

Members Present:

Harold Farrington, Chair
David Orgaz, Vice Chair
Emily Lavigne-Bernier
Roberta Mastrogiovanni
Armando Rangel
Ryan Clancy

Staff Present:

Mari Brunner, Senior Planner
Evan Clements, Planner

Members Not Present:

Mayor George S. Hansel
Councilor Michael Remy
Randyn Markelon, Alternate
Kenneth Kost, Alternate
Gail Somers, Alternate
Tammy Adams, Alternate

I) Call to Order – Roll Call

Chair Farrington called the meeting to order at 6:30 PM and a roll call was taken.

II) Minutes of Previous Meeting – July 24, 2023

Chair Farrington offered the following notation:

He indicated during the discussion of 0 Walpole Road subdivision there was suggested language for one of the conditions by the applicant, who handed a note to staff and staff handed that note to the Mayor. This was read as a recommended condition; the Board discussed that language before approving it. Mr. Clancy in response felt the Board was not aware of the contents of the note and asked what the contents of the note were.

Chair Farrington stated it was language for the wording of the motion, specifically regarding the narrowing of the scope of the water study from the entire property to just the parts that were going to be developed. Mr. Clancy stated the recommended motion from city staff was the paved driveway which is the part the Mayor chose to omit from the motion he read. Chair Farrington stated the issue was not paved or unpaved – it was the water study. Mr. Clancy asked for further clarification.

Ms. Brunner added to the discussion by saying it was language proposed by Attorney Hanna, one of the applicants. They were concerned the language for the motion staff was proposing was a little too vague, this was specific to the condition to require a drainage study, and when the applicant was presenting to the Board, they questioned whether the study was being required for the entire site or just the portion being developed. The Board discussed and it was decided it would be just for the area that is being developed. Following that discussion, the applicant gave a marked-up version of the recommended motion to staff to clarify that and this is the note that was given to the Mayor. Ms. Brunner stated staff do not have the note anymore but could see what was originally proposed and what was finally read, and those differences would be the proposed changes; this was discussed by the Board before it was read.

Mr. Clancy asked whether it is procedural for an applicant to hand in a note regarding their wishes and not speak publicly. Chair Farrington noted that the Board was already deliberating, and it was Councilor Remy he believes who suggested that the motion be changed to clarify the intent. Mr. Clancy said he felt the Board should be encouraging conversation and debate, so the Board is more informed, and the public is more aware. He stated he would approve the minutes but expressed concern as to what happened.

The Chair offered additional corrections:

Line 232 – after the words “...no one knew add the “who”

Line 237 – The correct term should be “City Hall” not City Hill

A motion was made by David Orgaz that the Planning Board approve the July 24, 2023 meeting minutes as amended. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

III) Extension Request

- 1. SPR-02-23 & SWP-CUP-01-23 – Site Plan & Surface Water Conditional Use Permit – Contractor Bays, 0 Black Brook Rd – Applicant Patriot Holdings LLC, on behalf of owner New England Interconnect Systems Inc., requests an extension to the deadline to satisfy the precedent conditions of approval for the Site Plan & Surface Water CUP applications, SPR-02-23 & SWP-CUP-01-23, for the proposed construction of two buildings ~36,000 sf and ~25,200 sf in size for use as rental units for contractors and associated site modifications on the properties at 0 Black Brook Rd (TMP #s 221-023-000 & 221-024- 000). The combined parcels are 12.57 ac and are located in the Corporate Park District.**

Ms. Brunner stated this is an extension request for an application that did meet the conditions of approval prior to expiry. Because the August meeting was not held the applicant agreed to submit the extension request and wait to receive final approval. The extension request is to extend the deadline for the applicant to receive final approval.

A motion was made by David Orgaz to extend the deadline to meeting the conditions of approval by 180 days. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

IV) Final Vote on Conditional Approvals

This is a new standing agenda item in response to the recent “City of Dover” decision issued by the NH Supreme Court. As a matter of practice, the Board will now issue a final vote on all conditionally approved plans after all of the “conditions precedent” have been met. This final vote will be the final approval and will start the 30-day appeal clock.

Ms. Brunner stated there are four items ready for a final vote.

(1) *SPR-02-23 & SWP-CUP-01-23 Site Plan & Surface Water Conditional Use Permit – Contractor Bays, 0 Black Brook Rd.* There were three conditions of approval:

1. Submittal of security for sedimentation and erosion control landscaping and as built plans.
2. Owner’s signature and the inclusion of the alteration of terrain permit number on the plan set.
3. Submittal of five full size paper copies and one digital copy.

All conditions have been met except for one that was not met, and that was the inclusion of the alteration of terrain permit number on the final plan set and that is because it has not been approved yet. Ms. Brunner stated staff recommend that the Board issue a final approval with a condition subsequent that the alteration of terrain permit be submitted after final approval.

A motion was made by David Orgaz that the Planning Board issue final site plan approval for SPR-02-23 & SWP-CUP-01-23 with the following condition subsequent to final approval:

1. Submittal of alteration of terrain permit.

The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

(2) *S-05-23 – 2-lot Subdivision on 86 Nims Road.*

The conditions for approval for this application are as follows:

1. Owners signature on the plan set.
2. Revised plan that removes the Parcel ID number for the new lot.
3. Lot monuments be inspected by the Public Works Director or their designee.
4. Submittal of four full size paper copies – two mylar and a digital copy of the final plan set.
5. Submittal of a check in the amount of \$51 made out to the City of Keene to cover recording fees.

All these conditions have been met. A motion was made by David Orgaz that the Planning Board issue final site plan approval for S-05-23. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

(3) *S-10-22 and SWP-CUP-03-23 Subdivision and Surface Water Conditional Use Permit for 0 Old Walpole Road.*

This application had the following conditions precedent:

1. Owner's signature on the plan
2. Submittal of revised plans with the following changes: (a) Parcel ID number for the new lot to be removed from the plan (b) A note be added to the stating a street access permit shall be required for the new lot (c) proposed easement area be more clearly defined.
3. Lot monuments be inspected by the Public Works Director or their designee.
4. Submittal of four full size paper copies – two mylar and a digital copy of the final plan set.
5. Submittal of a check in the amount of \$51 made out to the City of Keene to cover recording fees.

All these conditions have been met.

A motion was made by David Orgaz that the Planning Board issue final site plan approval for S-10-22 and SWP-CUP-03-23. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

(4) Site Plan application for SPR 967, Modification #7A for 0 Cypress Street – Landscaping Modifications to the Railroad Condominium Land.

There were three conditions precedent:

1. Owner's signature on the plan.
2. Submittal of five full size paper copies and a digital copy of the final plan set.
3. Submittal of security to cover landscaping.

All these conditions have been met.

A motion was made by David Orgaz that the Planning Board issue final site plan approval for SPR 967, Modification #7A. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

V) Boundary Line Adjustment

1. **S-07-23 – Boundary Line Adjustment: Applicant BCM Environmental & Land Law PLLC, on behalf of owners Tilden Properties, LLC & the James A. Putnam Trust, proposes a Boundary Line Adjustment between the properties located at 168 & 180 Court St (TMP #s 554-010-000 & 554-011-000). Both properties are in the Medium Density District.**

A. Board Determination of Completeness

Ms. Brunner stated staff recommends the Board accept this application as complete. A motion was made by David Orgaz to accept Application S-07-23 as complete. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

B. Public Hearing

Tara Kessler Planner/Paralegal for BCM Environmental & Land Law stated she is representing owners of properties located at 168 and 180 Court Street. Both parcels contain single family homes. The request is to transfer .03 acres of land along the common boundary line which belongs to 180 Court Street. The proposal is to transfer that portion to 168 Court Street to create a straight line and to revert back to the original conditions. Ms. Kessler stated both properties are in the medium density district and conform to requirements of that district and the proposed adjustment won't affect that.

Ms. Kessler added it was just brought to their attention that City staff had discovered a buried clay storm drain underneath both properties for which there is no easement. The City would like to discuss easement options for possible maintenance in the future. Ms. Kessler stated they would like that to be separate from the boundary line adjustment.

Staff comments were next. Ms. Brunner addressed the Board and stated that staff conducted a preliminary review and have determined this boundary line adjustment would have no potential for regional impact, but the Board would have to make that final determination.

With respect to the application Ms. Brunner stated there is not much more to address than what has already been described by the applicant. Both lots were conforming before the boundary line adjustment and would remain same after this adjustment.

With respect to sewer and water both lots are currently serviced by City water and sewer.

There is no change to access and there is no surface waters or wetlands present on either lot. Ms. Brunner stated staff did not have any conditions to recommend tonight and hence the applicant is hoping to receive final approval tonight. They have submitted plans signed by the owners and meet all Board requirements. Staff have everything they need to process final approval.

Chair Farrington asked for clarification about the storm drain and whether there were any comments from the City Engineer. Ms. Brunner stated there is a ten-inch clay drainage pipe, which the City Engineer was not even aware of until another staff member brought it to his attention. Engineering staff wanted to make sure the property owners were aware of the pipe's existence and would like to discuss easement options with the owners.

The Chair asked for public comment next. With no comments from the public the Chairman closed the public hearing.

C. Board Discussion and Action

A motion was made by David Orgaz that the Planning Board approve S-07-23 for a Boundary Line Adjustment between the properties at 168 & 180 Court St, as shown on the plan identified as "Boundary Line Adjustment Plan of Lands of James A. Putnam Trust & Judith H. Putnam Trust, 168 Court Street, Parcel # 554 - 10 and Tilden Properties, LLC, 180 Court Street, Parcel # 554 - 11, City of Keene, Cheshire County, New Hampshire" prepared by Edward C. Goodrich, Jr. at a

scale of 1 inch = 20 feet on August 1, 2023 and last revised on September 7, 2023 with no conditions.”

The motion was seconded by Robert Mastrogiovanni and was unanimously approved.

The Chair stated because this is just a boundary line adjustment between two properties, he sees no regional impact.

VI. Public Hearings

- 2. S-08-23 – Subdivision & SPR-04-13, Mod. 1 – Site Plan: Applicant and Owner Markem Corporation proposes to subdivide 150 Congress St (TMP #598-002-000) into two lots and remove pavement and portions of an existing tunnel structure. A waiver from Sec. 20.7.3.C of the Land Development Code has been requested. The parcel is located in the Industrial Park District.**

A. Board Determination of Completeness

Planner Evan Clements addressed the Board and stated the Applicant has requested exemptions from providing a drainage report, traffic analysis, soil analysis, grading plan, elevations, historic evaluation, screening analysis, architectural and visual appearance analysis, and other technical reports. Staff have determined that the requested exemptions would have no bearing on the merits of the application and recommend that the Board accept the application as complete.

A motion was made by David Orgaz to accept Application S-08-23 as complete. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

B. Public Hearing

Mr. John Lefebvre with Fieldstone Land Consultants addressed Board on behalf of Markem Imaje. He indicated they have two applications before the Board – one is for a subdivision and one is for a site plan. He indicated that, in order to subdivide the property, there is some pavement and a tunnel that need to be removed. Staff felt the applicant should come before the Board with a site plan, make the proposal and have that be part of the conditions toward a subdivision plan.

He indicated portions of pavement are being removed to meet the setback requirements for parking. A portion of the tunnel is being removed to bring that into compliance for building setback requirements.

Staff comments were next. Mr. Clements stated the subject parcel is an existing, 31.82-acre industrial site owned and occupied by the Markem-Imaje Corporation. The site consists of three existing buildings and associated improvements including drive aisles, parking spaces, and landscaping. The parcel is located to the west of Optical Avenue and north of NH Route 101 with frontage on Congress Street, Tiffin Street, and Brown Street. As the applicant indicated this is two applications in one and the main purpose of this application is to subdivide a new 4.02-acre parcel that includes the building located directly adjacent to Tiffin Street. The existing 21,130 square foot

building referred to as the INF Building, is a two-story brick building with an attached one-story steel warehouse. The applicant intends to sell the new lot and building to a prospective buyer.

In order to meet pavement and building setback requirements, a Site Plan modification has been submitted which depicts the removal of two drive aisles to the west of the INF Building and the removal of a tunnel structure between the INF Building and the main Markem-Imaje building. This is to make the subdivision comply with zoning.

Mr. Clements went on to say that if the Board decides to move forward this evening with the application, the site plan is ready with no conditions for final approval. The application will then be able to remove the impervious surface and a portion of the tunnel to allow the new lot to meet set back requirements. The applicant will then come back before the Board for final approval on the subdivision.

Mr. Clements stated the applicant is also requesting a waiver from section 20.7.3.C of the Land Development Code which refers to light level trespass which exceed .1-footcandle on to an adjacent property. This waiver is requested to accommodate light trespass that may be caused due to the new common lot line created by the subdivision.

With respect to regional impact, staff has performed a preliminary review of regional impact and does not believe this project rises to the threshold of regional impact.

With respect to character of land for subdivision. The subject parcel is an existing industrial development with multiple buildings, drive aisles, and parking areas. The proposed alterations to the site are to make the new lots comply with zoning regulations. Staff feels the character is suitable for subdivision.

Special Flood Hazard Areas - A portion of the parent lot is located within the 100-year flood plain. No new development is proposed with this application and the flood plain will not be altered or impacted with new development. It appears that this standard has been met.

Utilities – This site is served by existing water and sewer lines and will continue to be utilized. A new underground electric service will be installed by the applicant to separate the INF building from the Markem-Imaje site. The applicant notes that a blanket utility cross easement will be granted for the utilities for the Markem-Imaje facility that cross the proposed lot. One of the conditions of approval for tonight is the submittal of the proposed easement for review by the City Attorney and an executed copy subsequent to final approval.

With respect to other standards such as drainage, sediment and erosion control, snow storage and removal, landscaping – there are no significant alterations to the site and hence these standards don't apply.

Lighting Waiver - the Board should find by a majority vote that the criteria outlined in Section 25.10.14 of the LDC have been met:

1. Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations;

2. *Granting the waiver will not increase the potential for creating adverse impacts to abutters, the community or the environment;*
3. *Consideration will also be given as to whether strict conformity with the regulations would pose an unnecessary hardship to the applicant.*

Traffic and Access Management - There are no proposed changes to the existing building use. No increase in traffic is expected with this proposal. The removal of the two drive aisles will prevent traffic circulation between the new lot and the remaining Markem-Imaje campus. It appears that this standard has been met.

Noise – This is an existing industrial use of the property and no change of use is being proposed. The noise generated from the site will not change due to this application. It appears that this standard has been met.

Mr. Clements asked that the Board address the waiver request separately from the proposed motion.

Chair Farrington asked whether anyone from staff had any concerns about the tunnel. Mr. Clements stated there will be a requirement for a demolition permit to remove the tunnel which is a surface level tunnel.

Mr. Lefebvre stated the tunnel at the present time provides a connection between the two buildings, the portion being removed is next to the property line to bring that building into compliance.

Ms. Lavigne-Bernier asked for clarification on the light trespass issue. Mr. Clements stated the waiver will allow the proposed site plan to meet the current Board standards for the existing lighting on the site. When the new owner comes in there will be a change of use and depending on their light requirement, it could trigger a site plan review.

The Chair asked for public comment, with no comment from the public the Chair closed the public hearing.

C. Board Discussion and Action

A motion was made by David Orgaz that the Planning Board approve the waiver from Section 20.7.3 of the Land Development Code to allow light trespass in excess of 0.1 footcandles across the newly proposed property line. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

A motion was made by David Orgaz that the Planning Board approve SPR-04-13, Mod. 1 as shown on the plan set identified as “Site Development Plans Markem-Imaje 2 Lot Subdivision” prepared by Fieldstone Land Consultants, PLLC at a scale of 1” = 50’ and 1” = 100’ dated August 17, 2023 and last revised August 31, 2023 with no conditions. The motion was seconded by Roberta Mastrogiovanni.

Vice-Chair Orgaz did not feel this item will have any regional impact.

The motion for the site plan was unanimously approved.

A motion was made by David Orgaz regarding the subdivision plan that the Planning Board approve S-08-23 as shown on the plan set identified as “Site Development Plans Markem-Imaje 2 Lot Subdivision” prepared by Fieldstone Land Consultants, PLLC at a scale of 1” = 50’ and 1”-100’ dated August 17, 2023 and last revised August 31, 2023 with the following conditions:

1. Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:

- A. Owner’s signature appears on the plan.
- B. Inspection of lot monuments by the Public Works Director or their designee following their installation or the submittal of a security in an amount deemed satisfactory to the Public Works Director to ensure that the monuments will be set.
- C. A copy of the draft Utility Easement document shall be submitted for review and approval by the City Attorney.
- D. Submittal of four (4) full sized paper copies, two (2) mylar copies, and a digital copy of the final plan set.
- E. Submittal of a check in the amount of \$51.00 made out to the City of Keene to cover recording fees.

2. Subsequent to final approval and signature by the Planning Board Chair, the following condition shall be met:

- A. A copy of the recorded Utility Easement document shall be submitted to the Community Development Department.

The motion was seconded by Roberta Mastrogiovanni.

Vice-Chair Orgaz did not feel the subdivision plan will have any regional impact.

The motion for the subdivision plan was unanimously approved.

- 2. S-06-23 – Subdivision: Applicant Brickstone Land Use Consultants LLC, on behalf of owner Carlisle Park Avenue LLC, proposes to subdivide the existing ~5.66 ac lot at 800 Park Ave (TMP #227-002-000) into two lots that are ~2.64 ac and ~3.02 ac. The parcel is located in the Commerce District.**

- A. Board Determination of Completeness

Mr. Clements stated the applicant has requested exemptions from providing a drainage report, traffic analysis, soil analysis, and other technical reports. Staff have determined that the requested exemptions would have no bearing on the merits of the application and recommend that the Board accept the application as complete.

A motion was made by David Orgaz to accept the subdivision application, S-04-23, as complete. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

B. Public Hearing

Mr. Jim Phippard of Brickstone Land Use Consultants addressed the Board on behalf of Carlisle Park Avenue LLC. Mr. Phippard stated the applicant is the owner of 800 Park Ave, which a 5.66-acre lot. This is an existing developed commercial property with two existing buildings on the lot. The 1,935 square foot building is currently occupied by an ice cream shop and a bakery. The larger building, which is approximately 17,800 square feet in size, is a two-story, mixed-use building.

Mr. Phippard stated the only thing they are proposing to do is create an interior lot line to separate the two buildings, so that they are each on their own lot. No other changes are being proposed. There are currently 100 parking spaces on the site and 21 more spaces in the easement area. This parking was created prior to the current zoning regulations (which dictate that there must be certain parking setbacks, that parking must be located at the side and rear of the building, etc.). Mr. Phippard stated that the proposed new lot line will pass through the existing parking area. This required a variance from the Zoning Board of Adjustment to allow for a reduction in the pavement setbacks along that line, which was granted.

The 17,800 square foot building is sprinkled and hence has adequate fire protection. This property is within the 100-year floodplain. The flood elevation is 510' on the south and rises across the property to 513' adjacent to Maple Avenue – Mr. Phippard noted that this will not be impacted by the proposed subdivision.

Staff comments were next. Mr. Clements addressed the Board and began by saying that staff has performed a preliminary regional impact analysis and does not believe this application has the potential for regional impact, but noted that ultimately the Board would have to make the final determination.

Mr. Clements went on to say that subject parcel is an existing 5.66-acre lot located between Summit Road, Maple Avenue, and Park Avenue, and approximately 600 feet south of Cheshire Medical Center. Black Brook runs north-south through the western portion of the parcel. The property contains two existing commercial buildings and 100 on-site parking spaces. An additional 21 parking spaces are located in an existing easement area along the southern portion of the property. Mr. Clements stated this is a very straightforward subdivision application. A waiver was applied for and approved. The majority of the Board's standards don't apply as the site is already developed and there are no other changes being proposed.

As far as the character of land for subdivision – both lots meet zoning and are suitable for a subdivision.

With respect to lighting, there are no pole lights on site, there are wall packs on the building, but there is no light trespass across this new property line because the parking lot is not illuminated – this standard has been met.

The site is served by City water and sewer and this will not change.

With respect to traffic and access management, there are no proposed changes to the existing building uses and no increase in traffic is expected with this proposal. It appears that this standard has been met. There are no changes being proposed to surface waters & wetlands, hazardous & toxic materials, noise, or architecture and visual appearance on the property.

Mr. Clements went over the proposed motion as outlined in the Board packet.

Mr. Clancy asked for clarification of the waiver and confirmed that no pavement would need to be dug up. Mr. Clements answered in the affirmative and added that the applicant received relief from the Zoning Board to allow this pavement to remain.

The Chair asked for public comment. With no public comment, the Chair closed public hearing.

C. Board Discussion and Action

A motion was made by David Orgaz that the Planning Board approve S-06-23 as shown on the plan set identified as “Subdivision Plan prepared for Carlisle Park Ave. LLC” prepared by David A. Mann, Land Surveyor at a scale of 1” = 50’ dated July 14, 2023 with the following conditions:

1. Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:
 - A. Owner’s signature appears on the plan.
 - B. Inspection of lot monuments by the Public Works Director or their designee following their installation or the submittal of a security in an amount deemed satisfactory to the Public Works Director to ensure that the monuments will be set.
 - C. A copy of the draft Pass & Repass Easement document shall be submitted to the City Attorney for review and approval.
 - D. Submittal of four (4) full sized paper copies, two (2) mylar copies, and a digital copy of the final plan set.
 - E. Submittal of a check in the amount of \$51.00 made out to the City of Keene to cover recording fees.

3. Subsequent to final approval and signature by the Planning Board Chair, the following conditions shall be met:
 - A. A copy of the recorded Pass & Repass Easement document shall be submitted to the Community Development Department.

The motion was seconded by Roberta Mastrogiovanni.

Armando Rangel did not feel this application would have any regional impact.

The motion was unanimously approved.

VII. Advice & Comment

- 1. Aroma Joe's Site Modifications – 348 West St – Applicant Brickstone Land Use Consultants, on behalf of owner West Street AJ's LLC, is seeking input from the Planning Board regarding proposed modifications to the existing queuing layout on the Aroma Joe's property at 348 West St (TMP #577-025-000). The parcel is 0.23 ac and is located in the Commerce District.**

Mr. Phippard addressed the Board. Mr. Phippard stated in that 2022 the Planning Board approved a site plan to allow Aroma Joe's to operate on this site. The Zoning Board approved a variance to allow for development on a property with a sub-standard lot size in the Commerce District.

He explained that this is a drive-thru restaurant. The opening was in April 2023 and the traffic that resulted was a little overwhelming. There is space for queuing for ten cars around the building and this number was based on 106 other Aroma Joe's locations throughout the country. Mr. Phippard went on to explain that at the Keene location, there have been issues two to three times a day where cars are blocking traffic on West Street due to the high volume of customers. Police have been called to the property several times and the tension of certain customers seems to be rising and the traffic problems have not gone away.

The police are looking for the applicant to find a solution. Mr. Phippard stated he has met with the owners and since that time they have also purchased the former gas station property next door at 364 West St, which they plan to redevelop into a carwash. The solution the applicant has is to create a second entry lane at the Aroma Joe's site. Mr. Phippard stated they are hoping this new entrance could be constructed before the winter and was asking that this approval be completed administratively.

He noted that there is a site plan approved for the car wash next door. The current proposal is a boundary line adjustment that would transfer an 8'-wide strip of land from the carwash site at 364 West St to the Aroma Joe's site at 348 West St. This BLA would have no impact on the car wash site, except for reducing the pavement setback. Mr. Phippard stated he applied to the Zoning Board of Adjustment for a variance to allow for a pavement setback of less than eight feet on both sides of the property line, which was granted. This variance will allow the property owner to create a second entry lane onto the Aroma Joe's site, which will add capacity for five more cars to que and allow for a total of 15 cars in the queue at any given time.

Vice-Chair Orgaz asked whether the exit out of the site only permits one car at a time and whether a car trying to make left turn is what could be causing the traffic back up. Mr. Phippard did not feel vehicles exiting the site were causing the traffic issues.

Ms. Lavigne-Bernier stated she has come very close to having a couple of accidents due to the queuing issues. She asked whether customers on foot order at the same window. Mr. Phippard answered in the negative and stated there is a walk-up window at the west side of the building for pedestrian traffic.

Ms. Phippard stated this type of queuing is surprising to the applicant and noted that the owners have had to order extra shipments of a certain flavor of energy drink that seems to be very popular

amongst young people. He feels this will be a permanent solution to the traffic issues and is hoping that they can move as quickly as possible to get this completed.

Ms. Lavigne-Bernier stated she supports any improvement with the traffic issues before anything serious happens.

Ms. Mastrogiovanni felt a right turn only or a double exit lane could also be a solution. Ms. Brunner stated staff could certainly work with the applicant on a right turn only option, but if there is a change to the curb cut it can only be reviewed by the Planning Board through a site plan modification.

Mr. Clancy asked how snow removal will be addressed. Mr. Phippard stated the plan is to push the snow back towards the parking spaces and the snow would then be hauled off-site.

Mr. Rangel asked Mr. Phippard to explain how the second lane will help with the queuing. Mr. Phippard stated when the first queueing lane is full of cars, cars that are approaching will see that and start using the second queueing area, which will then allow traffic to merge at the rear of the site. He added the applicant has done this with three other sites where they had issues and it seemed to be an effective solution.

Vice-Chair Orgaz added that Panera moving could also be adding to the traffic issue.

Ms. Mastrogiovanni stated her observation is that all coffee places have traffic backing up during the AM hour.

Mr. Clancy felt the proposed solution might add to the possibility for accidents and asked whether there is way to create a connector with the other property. Mr. Phippard felt there could be a conflict with traffic from both properties, if a connector was created between the sites. He noted that the drive-thru lanes for the car wash travel counterclockwise, which would cause a conflict. Mr. Phippard noted Aroma Joes shuts down for 15 minutes every day for deliveries. Ms. Lavigne-Bernier asked what happens to traffic during a delivery. Mr. Phippard stated deliveries have been planned during the slowest times, but if there is a vehicle trying to enter the site during that time, an employee would come out and take the customer's order.

The Chair asked for staff comment on the request from the applicant regarding administrative approval. Ms. Brunner began by saying this is Advice & Comment and anything the Board or the applicant presents here is non-binding. What staff is looking for is how comfortable the Board is with this proposal. Staff also felt this would be a good time for the community to listen in on this discussion because the administrative process is less accessible to the public and there is a short timeframe for appealing an administrative decision.

Ms. Brunner added staff doesn't necessarily have any issues with this proposal, but this particular application has been controversial to the public and there have been abutters who have come to the City with concerns. This is a project that is being closely watched by the community. She indicated staff would like to know if the Board would like to see this come back as a formal application or not.

Chair Farrington felt this is an item that is important to the community and the abutters would probably not feel comfortable having it handled administratively.

Ms. Mastrogiovanni asked if because both properties are owned by the same party, other than the double-lane solution, if there was any possibility of redesigning the carwash entry to meet the needs of Aroma Joe's. Mr. Phippard did not feel that this would be an appropriate solution because there is already not that much room on the car wash site.

Mr. Phippard noted he has missed the deadline for the October meeting and asked whether there was any way he could make that agenda. Ms. Brunner stated if the applicant could submit a complete application with no waiver requests, then City Staff could accept the application by the revision deadline on October 6th. Mr. Phippard stated he could meet this deadline. Ms. Brunner reminded Mr. Phippard he would also need to submit a Boundary Line Adjustment application at that time.

VIII. Nomination of City Representative to SWRPC Commissioners

Chair Farrington stated Planning Board Alternate, Kenneth Kost, has expressed interest in serving as a representative for Keene on the Southwest Region Planning Commission Commissioners. He indicated the nomination has to come from this Board and the confirmation will come from City Council.

A motion was made by David Orgaz that the Planning Board nominate Kenneth Kost to serve as a Commissioner on the SWRPC Commissioners. The motion was seconded by Roberta Mastrogiovanni. Mr. Clancy felt Mr. Kost would be a great representative for the City. The motion was unanimously approved.

IX. Staff Updates

Ms. Brunner explained that the only staff updates were related to the item listed under the "New Business" section of the agenda, which was called "Request for Planning Board Comments on Route 101 Improvements Project." She explained that a consultant working on this project will be presenting to the MSFI Committee on Wednesday, September 27th at City Hall in the 2nd floor Council Chambers. Because a number of Boards and Committees have been asked to provide comments, the consultant will not be able to attend every Board meeting to present, so this will be a good opportunity to hear the consultant's presentation. The meeting will also be streamed on the City's YouTube channel and the recording of the MSFI meeting will be available on the City's website.

The Chair asked for the name of the consultant. Ms. Brunner stated it is Comprehensive Environmental Inc. and they are assisting the NH Department of Transportation with this project. One of the goals of this project is to improve safety at the intersection of Swanzey Factory Road.

X. New Business

- a. Request for Planning Board Comments on Route 101 Improvements Project

This item was discussed during the “Staff Updates” portion of the meeting.

Mr. Clancy addressed another item for New Business. Mr. Clancy stated he would like to see a formal update on the concern he raised during the approval of the minutes earlier in the meeting and referred to language from the July 24th meeting minutes, “...*Mayor Hansel stated he was going to read the motion from the staff report without a condition requiring that the driveway be paved...*” With this language included in the minutes, he stated he wanted to make sure the Board is being transparent with the public as to what the Board was doing at its last meeting. Without the Mayor here to explain what happened and without the note, the Board is circling back to this item. He stated he would like to see a staff update on this issue for the next meeting.

Ms. Brunner stated she wasn’t sure staff would be able to provide any more information than has already been presented. She indicated she saw the note Tom Hanna passed to staff, which was then given to the Mayor. She stated the note included specific language for the condition of approval related to the drainage report. The note did not refer to the driveway being paved or unpaved. The applicant is the one who requested that the Board not include that condition. That condition was recommended by staff, but the applicant did not want to pave the driveway because of the added expense. The applicant did request this at the meeting, but it was not included in the note.

Mr. Clancy stated the Board was unaware of the contents of the note when it was deliberating the matter. He stated he wanted to be as transparent as possible not only to the public, but to the Board as well. With the Mayor choosing to make that comment and the unknown contents of the note, it disenfranchises the Board and the public when proper discussions cannot be undertaken. Mr. Clancy stated he hoped he could have more clarity about what happened.

Chair Farrington felt that these are two separate issues. It was clear staff were recommending a paved driveway and the applicant did not want that and gave their reasons for it. He stated that the Board discussed this issue and agreed they were not going to include this as a condition of approval. The second item was how much of the site the drainage study should include – would it be the entire property or just the area being developed. This issue was also discussed at length.

Ms. Lavigne-Bernier asked Mr. Clancy if something like this were to happen again, if it would be better if the Mayor read the note or explained its contents. Mr. Clancy felt the applicant or their representative should not be handing staff notes and then passing them along to a member of the Board without an explanation. He indicated the Board’s by-laws refer to this session as a hearing and a note is not a hearing. Ms. Lavigne-Bernier agreed with Mr. Clancy’s concern. Ms. Mastrogiovanni agreed this should not be a practice of the Board.

XI. Upcoming Dates of Interest

- Joint Committee of the Planning Board and PLD – Tuesday, October 10th, 6:30 PM
- Planning Board Steering Committee – October 10th, 11:00 AM
- Planning Board Site Visit – October 18th, 8:00 AM – To Be Confirmed
- Planning Board Meeting – October 23rd, 6:30 PM

There being no further business, Chair Farrington adjourned the meeting at 8:06 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Mari Brunner, Senior Planner
Megan Fortson, Planning Technician