

New Castle City Planning Commission Meeting  
Minutes  
February 24, 2020 -- 6:30 p.m.  
City of New Castle Town Hall

Members Present: David Baldini, Chair  
William Walters, Vice Chair  
Jonathan Justice  
Gail Seitz  
John Lafferty  
Brenda Antonio

Members Absent: Vera Worthy  
Erin Sabatella  
Marco Boyce

Also Present: Jeff Bergstrom, City Building Inspector

Mr. Baldini called the meeting to order at 6:34 p.m. Roll call followed and a quorum to conduct business was declared.

**MINUTES**

**A Motion to approve the Minutes of the January 27, 2020, meeting as presented was made, seconded and unanimously approved.**

**NEW APPLICATIONS**

**Brandywine Valley SPCA – 520 South Street (Parcel #21-014.00-409)**

Review for recommendation of Special Exception application to construct a proposed vinyl fence structure pursuant to Ordinance No. 520 amending Zoning Code 230.21.1(E)(1), permitting new fence structures by special exception on properties formerly zoned Industrial or Service Commercial, but now zoned Downtown Gateway.

Mr. Baldini invited Shawn Tucker, Esquire, of Drinker, Biddle & Reath to come forward as counsel for the SPCA. Mr. Tucker explained that the Application is for a Special Exception that will ultimately go before the Board of Adjustment for a final decision. Mr. Tucker stated that Mr. Mark Ziegler from McBride & Ziegler and Ms. Julie Landy, Chief Financial Officer of the Brandywine Valley SPCA, were both in attendance and would testify. Mr. Tucker noted that the Application was previously on the January 27, 2020 Agenda but was removed due to an incorrect parcel number being advertised, which was corrected in subsequent advertising. He explained that the confusion stemmed from the fact that the proposed fence is on a different parcel than the SPCA building itself.

Mr. Tucker invited Mr. Ziegler to approach to testify. Mr. Ziegler stated that his firm of McBride & Ziegler prepared a site plan for the Application and the address of the SPCA building is 508 South Street, New Castle, DE.

A site plan was displayed and Mr. Ziegler identified the office of the Brandywine Valley SPCA building. Through further questioning, Mr. Ziegler explained that the firm of McBride & Ziegler prepared a survey and located buildings and property lines. There are two parcels involved in the application: the SPCA office building at 508 South Street and a partially fenced-in area located at 520 South Street. Mr. Ziegler identified the fence line and the parcel line of 520 South Street, and noted that the area is approximately 3/4-1 acre and is controlled by the Medori's, 508 South Street LLC, who also own the parcel where the SPCA office is located.

Mr. Ziegler outlined the existing chain-link fence on the Survey and identified the proposed fence-line that would connect to the chain link fence to create an enclosed area of approximately 15,000 square feet. The proposed fence will be a 6' vinyl fence. Mr. Tucker asked Mr. Ziegler to state for the record the material of the proposed new fence, and Mr. Ziegler restated it would be a vinyl fence. The new fence will be visible to adjoining properties, and Mr. Ziegler identified on the Survey what the finished side of the fence will face. Mr. Tucker noted that the finished side could face the opposite way, depending on a recommendation of the Planning Commission and/or Board of Adjustment. Mr. Tucker added that the Ordinance states the fence height must not exceed 6' and any fence must be constructed so that the finished side faces adjacent streets and/or properties; and the Applicant has no preference as to which direction the finished side of the fence faces. Mr. Baldini asked that a photo of the area be displayed to better view the area. Mr. Walters stated that the finished side of the fence should face South Street, and Mr. Tucker stated that would be acceptable to the SPCA.

Mr. Ziegler outlined the entire area to be enclosed on the aerial photo. Mr. Tucker asked Mr. Ziegler to reiterate the size of the enclosed area, and Mr. Ziegler restated that it is approximately 15,000 square feet and the fence would be 6' high. Through further questioning, Mr. Ziegler stated his opinion that: the proposed fence will not distract from the use of neighboring properties or harm neighboring properties; the proposed fence will not have any impact on public services or facilities; and the proposed fence will not have any impact on highway or pedestrian traffic.

Mr. Tucker asked if the Commissioners had any questions. Ms. Antonio clarified that the existing fence is chain-link. Ms. Seitz asked how the vinyl fencing would seamlessly tie-in to the chain-link fence, and Mr. Ziegler suggested that it would be seamed professionally with no gaps. Mr. Tucker asked Mr. Ziegler if, as an engineer, the vinyl fence could be mated to the chain-link fence in such a way that a dog could not escape the enclosure, and Mr. Ziegler stated that it could. Ms. Antonio asked how the area is used by the SPCA at the current time, and Mr. Tucker explained that currently dogs are walked around the area on leashes; and the enclosure would allow a certain number of dogs to be supervised off-leash

in the area at the same time, with different groups being in the enclosure throughout the day. Ms. Seitz asked who owns the existing chain-link fencing, and Mr. Ziegler explained it is on the Medori property.

Ms. Seitz asked what the surrounding buildings are, and Mr. Baldini identified Mr. DiMondi's garage, the Sailing Club, and the automotive mechanics building.

Mr. Tucker invited Ms. Landy to approach and testify. Through questioning by Mr. Tucker, Ms. Landy explained that the SPCA houses between 60-80 dogs. She noted that they try to walk the dogs three times a day for a healthy balance; however typically they are walked one time. The SPCA has a team of between 8-16 staff members on site and 150 active volunteers who all can walk the dogs. Each walking session is approximately 5-10 minutes, and all the dogs are currently walked through the grassy area that is proposed to be enclosed.

Ms. Landy explained that the SPCA is proposing the installation of the 6' vinyl fence to create an enclosure, and that the SPCA had a national group called Dogs Playing For Life inspect the facility and they recommended that the SPCA have an outdoor play area. Dogs Playing For Life conducted a three-week training in a very specific program at the beginning of 2019 for the SPCA staff. At least one trained staff member will be inside the play area, with runners bringing the dogs on-leash to and from the play area from the facility. Play groups would consist of 10-15 dogs in the play area at a time for approximately 20-30 minutes, and single dogs will also use the enclosure accompanied by a volunteer. Ms. Landy explained that the dogs usually get pretty tired after 20-30 minutes of play. Dog waste in the enclosed area will be cleaned daily, which is what is currently being done in the area when dogs are walked on-leash. Ms. Landy explained that Dogs Playing For Life is a nationally recognized organization for animal shelters lead by Aimee Sadler. It is endorsed by the ASPCA, Petco Foundations and the Humane Society of the United States. The premise is that dogs do not do well in cages, and the program was developed to help get dogs out and in play groups for a number of reasons: animal health, socialization, and for potential adopters to see what the dog's behavior is. The Brandywine Valley SPCA is seeking to have an outdoor play area based on a recommendation from Dogs Playing For Life.

Health advantages for dogs in play groups include releasing pent-up energy, it is a more natural environment than being in a kennel, understanding how the dog interacts with other dogs, improving the dog's kennel presence, and helping staff members recognize a dog's personality. Having outdoor play groups also help with maintenance of the kennels, which also aids in the impression of the kennel for adopters. Mr. Tucker asked Ms. Landy if, to the best of her knowledge, the Brandywine Valley SPCA had received any complaints about the dogs walking in the same area today, and she stated that to her knowledge, no complaints have been received. Mr. Tucker distributed copies of the Dogs Playing For Life brochure.

During further questioning by Mr. Tucker, Ms. Landy explained the hours of the shelter are 8 am to 7 pm Monday through Friday and 7 am to 5 pm Saturday and Sunday; and the dogs would not be using the enclosure in the evening after the shelter closes.

Ms. Seitz asked if a dog would ever be removed from the play group, and Ms. Landy explained that a dog will be removed if there is a scuffle or if a dog is not in a play group with an appropriate play style. She added that some dogs do not play well in a group and those dogs will use the enclosure alone with a volunteer. Ms. Landy also noted that having a play group would help the staff know if a dog can play successfully with other dogs, which is important to adopters who want to visit a dog park.

Mr. Tucker asked if Dogs Playing For Life distinguishes between the impact of walking a dog on a leash versus a dog being able to run loose, and Ms. Landy explained that the organization recognizes that on-leash behavior can be different than play group behavior.

Mr. Christopher Rogers, Principal Planner of AECOM, presented his findings from his letter of January 16, 2020. He noted that the role of the Planning Commission is to review the Application and make a recommendation to the Board of Adjustment. Their recommendation can include suggestions for the Board of Adjustment to consider in their review for the Special Exception. Mr. Tucker spoke to the criteria specific to Ordinance 520 that allows fences in the DG Zone and some of the overall special exception criteria for any special exception in the DG Zone. Mr. Rogers noted that his letter offered some different types of conditions that the Planning Commission could set in their recommendation.

Mr. Rogers asked how many times each day a play group of 10 or more dogs would be in the play area, and Ms. Landy explained that typically the play groups are conducted outside the regular shelter hours. During the week the shelter opens at noon and on the weekends the shelter opens at 10 am. Mr. Rogers clarified that play groups would run from 8 am to noon weekdays and 7 am to 10 am on weekends. Ms. Landy added that one or two individual dogs might use the play yard in the afternoon.

Mr. Rogers asked if excessive barking would be criteria for removing a dog from the play group, and Ms. Landy noted that the dogs do not usually bark excessively. Mr. Tucker asked Ms. Landy if a dog was unruly, disruptive or excessively loud would the SPCA take steps to remove the dog from the play group or play yard. Ms. Landy responded that if a dog is overly disruptive he would be removed from the play group. Mr. Baldini clarified that for the Application if a dog is not suitable for the play or disruptive, the dog would be removed from the play group and returned to the kennel.

Mr. Rogers noted that some of the conditions suggested may be difficult to enforce; and, he recommended that those conditions be deferred to the Board of Adjustment if, in their judgment, it is a condition that is unenforceable and therefore, not a condition they would set on the Special Exception Application. Mr. Baldini noted that those conditions were not

within the purview of the Planning Commission. Mr. Rogers added that the Planning Commission could set conditions on the timing, duration and number of play groups conducted each day; and let the Board of Adjustment determine enforceability.

Mr. Tucker stated that the SPCA does plan to be a good neighbor and no night-time play groups would be conducted; however he asked that flexibility be granted for day-time play groups during regular hours.

Mr. Walters noted that the first Special Exception has to do with the ability to build the fence, and opined the criteria to do that have been met. The second issue with regard to the Planning Commission's recommendation and the overall granting of a Special Exception has a burden; and opined that between the written materials and the Applicant's presentation, those criteria have also been met.

Mr. Baldini invited Mr. DiMondi to approach and testify.

Mr. Tucker asked for an opportunity for rebuttal after Mr. DiMondi's testimony.

Mr. DiMondi explained that his property is immediately adjacent to the dog run. Mr. DiMondi referenced the packet he sent to the Planning Commission for the January 27, 2020 meeting. He noted that approximately 1-1/2 years ago the Brandywine Valley SPCA submitted an application to build an addition to their facility. Because of the empathy felt for the animals, a consensus was reached to allow the building of an addition under certain conditions: the addition was supposed to be sound-proof, and there was to be a run to exercise the dogs. He added that numerous complaints have been made. He added that he did not know why a dog run was allowed in a residential area.

Mr. DiMondi read from the Minutes:

“Solicitor Losco noted that the subject property formerly was industrial prior to the adoption of the downtown gateway zoning ordinance and as such is subject to a savings clause founded in 230-21-1 of the Zoning Code permitting industrial uses but not in a downtown gateway zone except when granted by the savings clause.”

He added that the savings provision has a life of 10 years, and the SPCA has 2 years left. Mr. DiMondi opined that Mr. Losco misconstrued reading the zoning map because Brosius & Elliason was always Service/Commercial, not Industrial, and the SPCA should never have been allowed to be there. Mr. Baldini stated that regardless, eight years ago it was permitted and that circumstance cannot be altered.

Mr. DiMondi stated that the wrong done should not be compounded by allowing the play yard. He added that he would not suggest that the SPCA move at the end of two years; however, he opposed allowing a play yard to be created thereby giving the SPCA a legal standing they do not currently have.

Mr. Baldini stated that the Planning Commission is reviewing the current Application and the issue is not what happened eight years ago.

Mr. DiMondi also stated that residential areas are all around the SPCA and there is no buffer between the facility and the residential areas. Mr. Baldini explained that the issue at hand is that it is in the Downtown Gateway. Mr. DiMondi reiterated that it should only have been permitted in an Industrial area.

Mr. Tucker came forward to rebut Mr. DiMondi's testimony, and stated that for the record, he has a copy of the January 10, 2017, Board of Adjustment Decision and he distributed copies of that Decision to the Commissioners. On the last page, the play yard was part of the initial hearing before the Board of Adjustment, and the Decision states:

After discussion, the Applicant (SPCA) offered the voluntary assurances that (1) no window would face a residentially occupied property specifically, on the west end of the building, and only one, rear facing window would be installed in the play yard at the west end of the building; (2) any exhaust fan ductwork would terminate at the roof and be curbed or damped at the top to minimize noise; and (3) the SPCA will commit to apply deodorizer to the grassy area behind the building to address smells from any lingering animal waste remaining after ordinary cleanup.

Mr. Tucker stated that there were no conditions that said the dogs could not go outside or be walked outside. Mr. Tucker also noted that he is not aware of any complaints that were made during that time. He also noted for the Record that in terms of the legal standard, the Decision was rendered and no Appeal was filed within the 30-day Appeal period. Therefore, the Decision is the law under which they are allowed to operate.

Mr. Baldini asked for comments from the Commissioners.

Mr. Walters stated that he inspected the site and has meticulously reviewed the requirements of granting a Special Exception and he believed the Applicant met all criteria and for that reason he would be in favor of granting the Special Exception.

Mr. Lafferty stated he agreed with Mr. Walters.

Mr. Justice stated he had nothing to offer against the Application.

Ms. Seitz stated she came to the meeting wanting to understand the program, the staff to dog ratio, the hours the dogs would be allowed outside and the number of dogs allowed at one time, and based on testimony she would be in favor of granting the Special Exception.

Ms. Antonio stated if no laws are being broken, the SPCA has been there eight years, there are fences already in place and the dogs already walk there, and she had no objection to creating an enclosure for the dogs. She noted that if there is a problem with deodorizing

the area, she felt that needs to be enforced. Ms. Antonio stated that she would be in favor of granting the Special Exception.

Mr. Baldini stated that he has inspected the property and the current fencing; the vinyl fence will be erected between the back sides of non-residential buildings; the dogs are already using the area; and all criteria had been met with regard to a Special Exception. He noted that he is concerned about the noise of 10-15 dogs in the play yard at one time and deodorizing the area, and those are control issues for the SPCA; and those issues will be handled at the Board of Adjustment level. Mr. Baldini stated he is inclined to grant the Special Exception.

**A Motion was made to recommend the Applicant's request to construct a vinyl fence on the property by Special Exception pursuant to City Code 230-21.1 Paragraph E, Section 1, is forwarded to the Board of Adjustment for Special Exception. The purpose of the Application is to provide additional fencing so that unleashed dogs can have supervised exercise in an area currently used by leashed dogs. The Motion was seconded. On vote, the Motion was unanimously approved.**

#### **Bowling Alley Parcel (Tax Parcel 21-015.30-194) – Proposed Parking Lot Site Plan Review**

The Application is for recommendation regarding proposed modification of the Special Exception Approval by the Board of Adjustment per Section 230-28.1 of the City Code to replace concrete surfaces with asphalt.

Mr. Baldini invited Andrew P. Taylor, Esquire, of Copeland Taylor, LLC, and counsel for the Applicant, to come forward.

Mr. Taylor introduced himself as counsel for the Trustees of the New Castle Common and stated the Applicant is seeking approval of two matters (1) to make a recommendation of material change from concrete to blacktop macadam, and (2) to review the final site plan for Code compliance and compliance with HAC and Board of Adjustment conditions imposed in connection with the Special Exception granted in January 2019. He added that assuming that the Planning Commission makes positive recommendations on these issues such approval would be expressly conditioned on the Board of Adjustment approval of modifying the Special Exception to allow the material change from concrete to blacktop. He stated he understood the meeting was not to discuss the pros and cons of a parking lot in the subject location because the use as a parking lot has already been approved.

Mr. Taylor noted that the Commissioners were presented with the revised Site Plan reducing the number of parking spaces from 42 to 32 spaces and showing the change from concrete to blacktop as well as other changes resulting from various hearings with the Planning Commission, HAC and the Board of Adjustment. The Commissioners also have the comprehensive review of the submission by Mr. Christopher Rogers of AECOM including a point-by-point analysis of the compliance with all conditions from the Planning

Commission, HAC and the Board of Adjustment. Mr. Taylor confirmed that Mr. Rogers' letter dated February 18, 2020, and the letter from Mr. Drew Hayes of ForeSite Associates dated February 10, 2020, are both in the package and are part of the Record. Mr. Taylor also confirmed with Mr. Bergstrom the proper posting of the meeting.

Mr. Taylor stated he felt the letters from Mr. Rogers and Mr. Hayes did an excellent job outlined the pertinent points. Mr. Baldini asked Mr. Rogers if he had any comments to make, and Mr. Rogers said he did not have any comments but would answer any questions the Commissioners had. Mr. Rogers added that the two items before the Commission are (1) make a recommendation to the Board of Adjustment regarding the modification to the Special Exception to allow the change from concrete and brick to asphalt, and (2) the Planning Commission decision to consider approval or disapproval of the by right Site Plan. He also noted that the Site Plan before the Planning Commission is technically consistent with the Plan that was before the Board of Adjustment when it approved the Special Exception with regard to landscaping, fencing, lighting, and the movement of light poles inward as a result of the reduction in the number of parking spaces.

Mr. Rogers stated that AECOM proposes minor conditions if the Planning Commission does decide to recommend approval of the Site Plan:

1. Planning Commission approval of the Site Plan with asphalt is conditioned on approval by the Board of Adjustment.
2. That a "No Right Turn" sign or its equivalent be placed at the egress of the property prior to the issuance of the Certificate of Occupancy.
3. That an official letter of approval of the revised Sediment and Stormwater Plans be received from the County Conservation District prior to the issuance of a Building Permit.
4. That the City Building Official approve the Lines and Grades Plans prior to the issuance of a Building Permit.

Mr. Taylor stated that those conditions are all acceptable to the Applicant.

Ms. Seitz noted that there was also a point about the location of the security cameras to the satisfaction of the Building Official. Mr. Bergstrom confirmed that the conduits have been laid. Mr. Taylor stated that condition is acceptable to the Applicant as well.

Mr. Walters noted that on the Plan the entrance to the parking lot was previously brick and confirmed that would remain the same and would just transition to asphalt.

Mr. Justice asked why the materials changed from concrete to asphalt, and Mr. Taylor stated asphalt is more consistent with other parking lots in the City and in the area.

Mr. Justice asked for clarification of the stormwater management area, and Mr. Taylor explained that area was handling the stormwater runoff from the parking lot and other

areas as well. Mr. Rogers added that review of the stormwater plan was not within AECOM's purview, and the plans are reviewed and approved by the Conservation District; however his understanding is that it is a combination of infiltration bio-retention and some of the larger storms will not be able to be infiltrated. He added that he understood that the size of the stormwater facilities are larger than what is needed for the impervious surfaces of the parking lot and they do treat offsite impervious surfaces that are in the drainage area of the stormwater facility. Mr. Justice asked why an open pit is being used rather than a dry well or underground facility, and Mr. Bergstrom explained that the water table is high and an underground facility is not an option. Mr. Bergstrom added that the proposed bio-retention area should remarkably decrease stormwater ponding in residential yards in the area.

Mr. Justice asked who will use the parking facility, and Mr. Taylor explained it will be open to the public, people going to the park, and people going to shop, as well as local residents for overnight parking. Mr. Justice confirmed that there is a path for people going to the park. Ms. Seitz noted that there is a future sidewalk connection shown on the Site Plan. Mr. Baldini noted that a letter from Mr. Roderick Gillespie was delivered at 3:00 pm raising a question about the parking lot that he felt was answered regarding people walking across the parking lot.

Mr. Baldini clarified that if the Site Plan moves forward to the Board of Adjustment, and assuming it is passed by the Board of Adjustment, it will go to the Building Official for issuance of a Building Permit. Mr. Rogers explained that a Building Permit would have to be issued prior to the start of construction, and a Certificate of Occupancy will have to be issued prior to the actual use of the parking lot.

There being no further questions from the Commissioners, Mr. Baldini opened the floor to Public Comment. He clarified that public comment should be regarding to Site Plan only.

**Karen Whalen – 17 West 3<sup>rd</sup> Street**

Ms. Whalen stated that with regard to the Site Plan materials, the Historic Area Commission agreed that concrete was more historic than asphalt. She noted that she had not seen the Bowling Alley Parking Lot on any HAC Agenda nor heard of any HAC passage for this change in material since that time. She asked why the process set up by the Ordinance is being changed, and she asked if the Application went through HAC and, if so, why they approve the change since they originally agreed that asphalt was not historically appropriate. She added that asphalt is a historically inappropriate material for a plan that is inappropriate for a residential neighborhood.

**Roderick Gillespie – 24 West 4<sup>th</sup> Street**

Mr. Gillespie referenced his letter and his concern with pedestrian safety within the parking lot and suggested that the Trustees need to reexamine that issue. He noted that the parking lot as it is shown will almost completely block the northeastern end of the park. There is currently a 90' wide expanse available to enter the park, and nearly 100 cars can

be parked in that area. Mr. Gillespie added that the new Plan will block pedestrian traffic into the park from that location. He further noted that there are a number of private parking lots bracketing the proposed new lot that cannot be utilized by private individuals. There is a small 6' wide walkway entrance to the park toward the river, but pedestrians will have to traverse the entire length of the new parking lot because there is no sidewalk in the lot. He added that a parking lot should minimize the exposure of pedestrians to traffic by making right angle crossings; however, the current plan does not include this. Mr. Gillespie reiterated his suggestion that the Trustees reexamine the Site Plan to include a sidewalk for pedestrian access to the park. Mr. Gillespie referenced the AECOM study dated October 26, 2015, in which it was stated that new lots should not be built in the Town, but existing lots should be improved. Also, the AECOM study suggested that the owners merge the M&T lane with the parking lot lane.

**A Motion was made to recommend that the Applicant's Site Plan be returned to the Board of Adjustment for a change in material modification from concrete to asphalt, that it is consistent with Resolution 2020-06 while all other Site Plan conditions of the Application Board of Adjustment Decision of January 24, 2019, remain the same and as presented to the Planning Commission February 24, 2020. The Motion was seconded.**

On discussion, Ms. Seitz commented that many historic locations in the State have blacktop parking lots, and she was not sure where concrete was being utilized in historic areas. Mr. Walters added it was very unusual to have a concrete parking lot. Mr. Lafferty concurred and noted that concrete is typically used in high traffic areas but is not an appropriate choice in a parking lot.

Mr. Rogers clarified that the Motion before the Commission is solely on whether to recommend the Site Plan move on to the Board of Adjustment for modification of materials only.

**On vote the Motion was approved by a vote of five in favor and one abstain.**

**Mr. Walters - Aye  
Ms. Seitz - Aye  
Ms. Antonio - Aye  
Mr. Baldini - Aye  
John Lafferty - Aye  
Mr. Justice - Abstain**

**A Motion was made for acceptance of the Applicant's Site Plan requesting Special Exception under the Zoning Code 230-21.1 expressly conditioned on the Board of Adjustment's approval of asphalt consistent with Resolution 2020-06 and with the incorporation of the Historic Area Commission conditions and with the Board of Adjustment conditions imposed in connection with the Applicant's Special Exception granted on January 24, 2019.**

Mr. Rogers stated that the Site Plan decision before the Commission is what is being decided and the HAC and Board of Adjustment conditions are not necessary in the Motion. He suggested if the Commission's intent is to approve the Site Plan with the condition that the Board of Adjustment allows the change of material to asphalt, and conditioned upon the other administrative items referenced earlier, i.e., a No Right Turn sign being installed to the satisfaction of the Building Official prior to issuance of the Certificate of Occupancy; revised stormwater plan being approved by the Conservation District prior to the issuance of a Building Permit; Lines and Grades Plans being approved by the Building Official prior to the issuance of a Building Permit; and security cameras being placed to the satisfaction of the Building Official prior to the issuance of a Certificate of Occupancy.

Mr. Walters noted that the Motion has been made to recommend the change of materials that will be forwarded to the Board of Adjustment, and he opined that the Commission should either attach the conditions Mr. Rogers noted, or place the burden on the Board of Adjustment to do the same, and asked what the process is. Mr. Rogers explained that the Site Plan is the decision of the Planning Commission. Mr. Justice asked if the Commission is making a decision or a recommendation. Mr. Rogers noted that there are two decisions: (1) make a recommendation regarding the change in materials, and (2) to approve, disapprove, or table the Site Plan. He added that if the Site Plan is approved it has to be tied to the Board of Adjustment and the Special Exception has to be modified by the Board of Adjustment and all special conditions should be attached to the Site Plan. Mr. Baldini clarified that the Site Plan has all of the HAC and Board of Adjustments conditions in it, and the Commission is adding recommendations for additional conditions noted by Mr. Rogers' letter, and the Site Plan is conditioned on the approval of the Board of Adjustment of the change of materials.

Mr. Walters noted that the additional conditions should be part of the packet going to the Board of Adjustment. Mr. Rogers added that the Board of Adjustment will only make a decision of the change in material, and it is up to the Planning Commission to include the additional conditions to the Site Plan. Mr. Rogers clarified that the Commission made its recommendation regarding the Special Exception modification, and the decision before the Commission is to review and approve or disapprove the by right Site Plan as presented plus the addition of the recommendations.

Ms. Seitz stated her understanding that the Planning Commission received the Site Plan and recommendations were made by them; it went before HAC, who made recommendations; and it went before the Board of Adjustment and they made their recommendations. The job before the Planning Commission is to make sure all those recommendations are covered in the Site Plan with the exception of the additional conditions previously noted.

The Motion was revised to read:

**A Motion to accept the Applicant's Site Plan as presented requesting Special Exception under Zoning Code 230-21.1 expressly conditioned on the Board of**

**Adjustment's approval of asphalt consistent with Resolution 2020-06, with the following additional conditions presented by AECOM to be included in the Site Plan:**

- **Board of Adjustment approval of the modification to the Special Exception to allow the change from concrete and brick to asphalt.**
- **A "No Right Turn" sign or equivalent to be installed to the satisfaction of the Building Official prior to issuance of the Certificate of Occupancy.**
- **The Revised Sediment and Stormwater Plans to be approved by the Conservation District prior to the issuance of a Building Permit.**
- **The Lines and Grades Plans to be approved by the Building Official prior to the issuance of a Building Permit.**
- **Security cameras to be installed to the satisfaction of the Building Official prior to the issuance of the Certificate of Occupancy.**

**The Motion was seconded.**

Mr. Justice asked how difficult it would be to provide a pedestrian walkway within the parking lot. Mr. Rogers stated that he did not know and added that decision had already been made by virtue of the Board of Adjustment's acceptance of the Plan before the Planning Commission. Mr. Walters added that the parking lot at 3<sup>rd</sup> street does not have a sidewalk, and adding a sidewalk to the proposed parking lot would decrease the distance between the rear of parked cars on either side of the lot to the point of creating a hazard of vehicles backing into each other. Mr. Justice clarified that it is not possible to build the number of parking spaces approved by the Board of Adjustment and provide a sidewalk. Mr. Walters reiterated that there is not enough room. Mr. Baldini added that it is a parking lot and there are certain expectations that go with that.

**On vote, the Motion was unanimously approved.**

### **2019 Comprehensive Plan**

Mr. Baldini noted that he forward calendars to each of the Commissioners. They should receive a draft by February 25, and Commissioner's comments should be returned to him within one week in order to present the draft to City Council for their comments. Thereafter it will be pushed out to the public and the State in order to stay on schedule for April 1, 2020. Ms. Seitz asked if the Future Land Use Map is included, and Mr. Baldini noted that there are still five or six issues that have zoning questions. That list will be formalized and those issues will be resolved in the same draft period.

There being no further comments and no further business to discuss, Mr. Baldini called for a Motion to Adjourn.

**A Motion to adjourn the meeting at 8:11 pm was made, seconded and unanimously approved.**

Kathy Weirich  
Stenographer