



## PLANNING BOARD

City Hall, Room 303  
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[www.newbedford-ma.gov](http://www.newbedford-ma.gov)

Registry of Deeds/City Clerk Use Only:

**CITY OF NEW BEDFORD**  
JONATHAN F. MITCHELL, MAYOR

### NOTICE OF DECISION

Case Number:	18-13			
Request Type:	Site Plan			
Address:	956-958 Brock Avenue			
Zoning:	Mixed Use Business (MUB) Zoned District			
Recorded Owners:	Humberto Martinez			
Owner Address:	163 Query Street #2 New Bedford, MA 02745			
Applicant:	Humberto Martinez			
Applicant Address:	163 Query Street #2 New Bedford, MA 02745			
<b>Application Submittal Date</b>	<b>Public Hearing Date(s)</b>	<b>Decision Date</b>		
February 16, 2018	March 14, 2018, April 11, 2018	April 11, 2018		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
15	56	11532	30	

**Application:** Request by Humberto Martinez (163 Query Street #2 New Bedford, MA) for Site Plan approval for the rehabilitation and conversion of a 2,300 SF commercial building into a tire repair facility with associated site improvements, located at 956-958 Brock Avenue (Map: 15, Lot: 56) in a Mixed Use Business [MUB] zoning district.

**Action:** GRANTED, WITH CONDITIONS, as described in section four (4).

A copy of this decision was filed with the City Clerk of the City of New Bedford on April 25, 2018. Any person aggrieved by this decision for Site Plan Approval has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 8 of Chapter 40A of the General Laws of Massachusetts and Section 5490B of the City of New Bedford Site Plan Review Ordinance.

4/25/2018

Date

Kathryn Duff, Chair  
City of New Bedford Planning Board

## **1) APPLICATION SUMMARY**

Humberto Martinez (163 Query Street #2 New Bedford, MA) for Site Plan approval for the rehabilitation and conversion of a 2,300 SF commercial building into a tire repair facility with associated site improvements, located at 956-958 Brock Avenue (Map: 15, Lot: 56) in a Mixed Use Business [MUB] zoning district.

## **2) MATERIALS REVIEWED BY THE PLANNING BOARD**

### **Plans Considered to be Part of the Application**

- ❑ Plan Set – Tire Repair Facility 956-958 Brock Avenue New Bedford, MA , prepared by SITEC, Inc., in Dartmouth, MA and stamped by Steven Gioiosa, dated January 26, 2018, latest revision dated March 26, 2018, date stamped received by City Clerk's Office April 4, 2018, including:
  - Cover Sheet
  - Sheet 1 Site Layout
  - Sheet 2 Locus Map
  - Sheet 3 Site Grading & Utilities
  - Sheet 4 Landscaping/Lighting Plan
  - Sheet 5 Existing Conditions
  - Sheet 8 Detail Sheet

### **Other Documents and Supporting Materials**

- ❑ Site Plan Review Application, stamped received by City Clerk's Office February 16, 2018
- ❑ Application for Waivers from Site Plan Review, dated February 15, 2018
- ❑ Certified Abutters List
- ❑ Bristol County (S.D) Registry of Deeds Book 11532, Page 30
- ❑ Department of Planning, Housing & Community Development Staff Report dated March 9, 2018
- ❑ Department of Planning, Housing & Community Development Supplemental Staff Report dated April 5, 2018
- ❑ Letter from James W. Marsh dated March 28, 2018
- ❑ Conservation Agent Comments, dated March 8, 2018
- ❑ Department of Public Infrastructure (DPI) Comments dated March 7, 2018
- ❑ Department of Public Infrastructure (DPI) Comments dated April 9, 2018
- ❑ Letter from Tomas B. Rivera dated April 11, 2018

## **3) DISCUSSION**

### **March 14, 2018**

Board Members Kathryn Duff, Arthur Glassman, Peter Cruz, and Alexander Kalife were in attendance at the March 14, 2018 meeting. Acting City Planner Kirsten Bryan and Staff Planner Jennifer Carloni were present during the discussion.

Steven Gioiosa, SITEC Engineering (449 Faunce Corner Road Dartmouth, MA) presented the project along with Humberto Martinez (163 Query Street New Bedford, MA), Emmanuel Martinez (163 Query Street New Bedford, MA), and Attorney Jim Marsh (628 Pleasant Street New Bedford, MA).

Mr. Gioiosa oriented the board to the site using an aerial photo. He described the area as having mixed uses with commercial and multifamily properties present. He explained since the site is located in a mixed use business district, the proposed tire repair facility use is an allowed use subject to Site Plan Review and a Special Permit for Auto-Repair from City Council.

Mr. Gioiosa explained the existing building has an overhead garage door leading into the building. He informed the board the applicant has installed floor drains with an oil water separator vented through the roof, per DPI requirements. Additionally, Mr. Gioiosa noted that the existing curb cut and paved driveway area in front of the garage door would provide access to the garage. He explained that the parking on-site would be stacked. The employee parking would be inside of the building, with customer parking outside. He described the proposal as a low intensity use.

Mr. Gioiosa went over plans for removal of a walkway in the rear and existing rubble from a previously demolished building on the west side of the site. He described the plan for a fenced storage area and landscape screening.

Mr. Gioiosa stated the only proposed change to the existing building would include widening a single pedestrian door. He described the plans for the demolished building area; which included a paved storage area graded to direct runoff to a two foot (2') wide crushed stone filter strip and a landscaped strip beyond that. The landscaped strip was proposed for the area near the perimeter in front of the proposed fence.

As he continued, Mr. Gioiosa explained that wall pack lighting would be added on-site. It would be installed on the adjacent property, also owned by Mr. Martinez, to illuminate the parking area off Brock Avenue and over the west side storage area. He noted ½ foot-candles at the street line and that lighting is off set on the west side to reduce the foot-candles on the abutting north property.

Mr. Gioiosa stated that the proposed business is a low intensity use for a mixed use business district. He explained that DPI has reviewed the plan, and recommended reconstruction of the sidewalks, which the applicant is agreeable to. Furthermore, Mr. Gioiosa added that the applicant has no objections to the remaining DPI comments. In response to the Planning office staff comments regarding circulation, Mr. Gioiosa noted that the low intensity use and width of Brock Avenue, with its single lanes of traffic, provided great visibility. Mr. Gioiosa acknowledged that Brock Avenue becomes a two lane roadway after the site, as the avenue approaches the intersection of Rodney French Boulevard. Mr. Gioiosa noted his observations of limited parking in the project area. He argued the current proposal offers a safer traffic circulation solution. He stated no vehicles will be stored overnight on-site and emphasized that the project would improve the underutilized corner.

In response to Chair Duff, Mr. Gioiosa explained this would be a drop-in service and detailed how the process would work. He noted mechanical lifts would not be used or installed inside the building, as work would be completed with floor-jacks. In regards to questions about storage, Mr. Gioiosa explained that excess tire products would be stored in a storage area. Mr. Emmanuel Martinez explained that storage space in the basement of the building will be utilized for temporary storage of the used tires until the contractor can pick them up. Used tires would be taken away by a hired contractor, as early as one day after accumulation. It was noted that an old coal shoot into the basement would be sealed. The board expressed a concern regarding tires being stored outdoors in the yard area. Mr. Gioiosa explained that the applicant would be amenable to a condition on the number of tires to be stored, or a stipulation stating that the location of the storage area must be away from neighboring properties. He noted the applicant anticipates storing less than 5-10 tires before having them hauled away.

The board noted that a vehicle would not be able to turn around and exit the site facing the street. They expressed concern for vehicles backing out onto Brock Avenue. Mr. Gioiosa stated that the businesses peak point is mid-day; the traffic is far less than the morning and end of the day.

The board briefly discussed what was allowed under the City Council special permit for an auto-repair shop. Mr. Glassman inquired about whether the applicant would be using an electric or pneumatic tire changer. Mr. Glassman explained that while the type of equipment used on-site was not under the board's purview, he was curious because of the difference in noise levels of the two types of equipment. He also inquired about the hours of operation, and questioned whether the tires stored outside would be enclosed. Mr. Glassman explained that tires can become mosquito traps when water gets inside them.

Mr. Emmanuel Martinez responded to Mr. Glassman's comments and inquiries. Mr. Martinez stated that the hours of operation would be from 8am-5:30pm Monday through Friday, from 8am-4:30pm on Saturday, and closed on Sunday. Mr. Martinez had not yet purchased equipment but he expressed concern for his neighbors regarding noise. He confirmed tires will be protected from the elements and from theft by being stored in locked containers after hours.

Mr. Cruz inquired if the petitioner would be amenable to replace the ADA ramp at the corner with two separate ramps, shortening pedestrian travel across Brock Avenue. Mr. Gioiosa concurred that Mr. Cruz's suggestion was logical.

Mr. Glassman made a motion, seconded by Mr. Cruz to open the public hearing. Motion passed unopposed.

The following were recorded in response to Chairperson Duff's invitation to speak or be recorded in favor:

Ms. Adalgisa Laureano (16 Harmony Street New Bedford, MA), owner of the property in rear, stated there is a lot of illegal activity and illegal parking in the empty lot now. She felt this business would stop the foot traffic and noise she experiences there now. The project would provide privacy from her property and clean up the corner. She also was grateful that the applicant spoke with her about the project. She also stated a late start would work better to avoid kids making their way to school, and approved of the storage containers.

The following were recorded in response to Chairperson Duff's invitation to speak or be recorded in opposition:

Ms. Celine Saraiva (126 Fern Street New Bedford, MA) stated that Brock Avenue is too congested for this project, and it is dangerous. Particularly she expressed concerns for children getting out of school. She said vehicles backing out of the site would be too dangerous.

Ward 6 City Councilor Joseph Lopes (133 William Street New Bedford, MA) informed the board that this project had previously failed at City Council. He noted the applicant made some changes to the proposed plans since the initial application. However, Councilor Lopes said that he had concerns about cars backing out of the site, and cars being repaired inside and outside without lifts. He also questioned the ability to enforce a limit on the number of tires stored. Councilor Lopes also noted the a potential Public Safety Center at the old St. Anne's Church, which would further congest the area with fire trucks, police cruisers, and ambulances leaving for emergency calls. He detailed that there were challenges at an auto repair facility nearby the site.

Chair Duff offered an opportunity for rebuttal to the applicants. Mr. Gioiosa provided that the storage of tires would be in containers and explained that the immediate abutter is in favor of the proposal. Any tow truck would have to pull up along the street, unload the vehicle, which would then be brought onto the site

and serviced. No vehicles would be serviced in the public way. Mr. Gioiosa stated this the proposed business would not be a large operation, but a neighborhood business providing a service.

The board noted that the project was scheduled before City Council for March 19 for a light motor vehicle permit. In response to the board's inquiry about what that entailed, Attorney Jim Marsh stated the permit being sought is light repair, which tire repair falls under. Attorney Marsh stated that the applicant has already stated that the business will only have the tire repair operation, and the applicant would not expand the business. Any expansion to something more intensive would require the applicant to return to City Council. Light repair includes does not include auto body type repair he explained. Councilor Lopes stated "light repair" includes minor repairs, such as replacing a car battery, oil changes, brakes and tune-ups.

Mr. Cruz inquired if there were any OSHA requirement related to fixing cars positioned back to back. Mr. Gioiosa stated that he has worked on other garage projects like this in the past and it has been allowed as designed.

Chair Duff noted any board action this evening would be contingent upon the City Council's approval of the project. She added that the case could be continued to next month after the City Council's decision. Board members Cruz and Glassman agreed to continuing the case.

Mr. Martinez stated he was amenable to continuing the matter to next month.

Mr. Glassman made a motion, seconded by Mr. Cruz, to continue Case #18-13 to April 11, 2018. The motion passed unopposed.

#### **April 11, 2018**

Board Members Kathryn Duff, Arthur Glassman, Peter Cruz, George Smith, and Alexander Kalife were in attendance at the April 11, 2018 meeting. Acting City Planner Kirsten Bryan and Staff Planner Jennifer Carloni were present during the discussion.

Steven Gioiosa, SITEC Engineering (449 Faunce Corner Road Dartmouth, MA) presented the project along with Humberto Martinez (163 Query Street New Bedford, MA), Emmanuel Martinez (163 Query Street New Bedford, MA), and Attorney Jim Marsh (628 Pleasant Street New Bedford, MA).

Mr. Gioiosa reoriented the board to the site, offered details from the last meeting, and gave an overview of the modifications made to the plan since the previous meeting. He explained that the proposal would be for a limited use on the lot and the site is in some existing disrepair. The proposal requires a Special Permit for Auto-Repair, which he informed the board, was voted on favorably by Council Committee on Monday (April 9, 2018), with the full Council to address the permit the following day (April 12, 2018).

Mr. Gioiosa explained that the original plan had vehicles' backing out onto Brock Avenue, and noted the board's concerns about traffic safety. As such, the applicant and agent made revisions to the plans to include an overhead garage door on the west side of the building, and a drive exit onto Harmony Street. A "do not enter" sign would be installed to prevent vehicles from entering the "exit only" onto Harmony Street; this would create a one-way traffic pattern throughout the site. Mr. Gioiosa explained that a typical tire repair service job takes about fifteen (15) minutes; the first vehicle to enter would be routed to the spot nearest the exit garage door.

Mr. Gioiosa also informed the board that he and the applicant met with Councilor Lopes on-site to review the revised plans, and review the sight distance exiting the site and the one-way flow proposed. It was noted that Councilor Lopes made the motion to approve at the Council Committee meeting.

Mr. Gioiosa also explained that the revised plans incorporated DPI comments; which included the ribbon sidewalks. He noted that he had inadvertently left off two street trees, however, those trees would be added to the revised plans once again. Mr. Gioiosa, in response to Chair Duff's inquiry about street tree placement, showed possible locations, yet proposed to defer to DPI for final location choice. He pointed out the new crosswalk alignment and addition of curb breaks with ADA detector plates. He reviewed the site plan again in detail. Mr. Gioiosa explained that the fence would delineate the storage area, and a one foot wide planting area would be in front of the gate. A trench drain would be added where the driveway exits the site and drain to the crushed stone filter strip. He acknowledged that the revised plans submitted showed a one foot (1') wide filter strip and explained that it was considered and altered on the plan to regain some storage space lost due to the added drive. However, Mr. Gioiosa noted that due to the drainage calculations, it would have to remain at the two foot (2') wide as initially proposed and would accept a condition as such.

Mr. Gioiosa explained that tires would be stored in sealed containers. He also noted that the fence would feature a security gate. The gate would be open during operating hours for vehicles to drive out but would be locked at night to secure the site.

Mr. Gioiosa indicated that the applicant spoke with neighbors of the site. One neighbor was unable to attend but provided a letter of support, which he provided to the board. Mr. Smith made a motion, seconded by Mr. Glassman, to receive and place on file the letter of support. Chair Duff read the letter of support from Mr. Tomas B. Rivera of 14 Harmony Street.

After the letter was read, the board asked whether the hours of operation proposed were as noted in the support letter, and if the business would be closed on Saturdays. Mr. Martinez confirmed the hours of operation would be Monday-Friday 7:30am-5:30pm, Sunday 10am-4pm, and the business would be closed on Saturdays.

Mr. Gioiosa confirmed a ground sign was not proposed for the site. He said a permit will likely be submitted for a wall sign in the future. All work would be done inside the building as required and materials would be stored inside of containers.

Mr. Martinez explained that the storage containers would remain outside and would be closed and locked. Other storage would be placed inside in the containers overnight as well. He explained that he did not select the containers yet but confirmed they would be new. It was confirmed the fence would be black vinyl chain link.

There was also confirmation that there were no columns in the building that would restrict vehicular movements, and that drainage was pitched away from doors. Mr. Gioiosa explained that the ADA parking spot would always be open and not used for repairs. Handicapped access to the office would be through an interior door to the office from the garage. He confirmed the project would seek Traffic Commission approval for the sidewalks, curb cuts, and new crosswalk.

Mr. Gioiosa confirmed the applicant agreed to all DPI comments. He noted that the metal grate described within the DPI comments was likely a coal shoot. The coal shoot would be removed and filled when the redo the sidewalks are redone.

Mr. Glassman made a motion, seconded by Mr. Cruz to reopen the public hearing. Motion passed unopposed.

The following were recorded in response to Chairperson Duff's invitation to speak or be recorded in favor:

Ms. Adalgisa Laureano (16 Harmony Street New Bedford, MA), direct abutter in the rear (north), reminded the board she had spoke at the last meeting and was in favor. She noted that she initially had concerns about time and noise, but found the applicant to be very respectful. Ms. Laureano explained that the proposed use would be an improvement to the area given the existing illicit activity, trespassing, and illegal car repairs occurring on-site presently. Additionally, the proposed lighting would serve as an improvement to the area, as the corner is currently dark.

In response to Chairperson Duff's invitation to speak or be recorded in opposition, no one spoke or was recorded in opposition.

Mr. Glassman made a motion, seconded by Mr. Cruz to close the public hearing. Motion passed unopposed.

The board briefly discussed the case. They noted the revised plans addressed the traffic flow concerns, made improvements to the sidewalk, and would meet all DPI comments. They noted the street trees need to be added and the filter strip be revised to two feet (2'). The board briefly discussed conditions before voting.

#### **4) DECISION**

Board Member A. Glassman made the motion, seconded by A. Kalife, to approve Case #18-13, for Site Plan approval for the rehabilitation and conversion of a 2,300 SF commercial building into a tire repair facility with associated site improvements, located at 956-958 Brock Avenue (Map: 15, Lot: 56) in a Mixed Use Business [MUB] zoning district. Applicant: Humberto Martinez (163 Query Street #2 New Bedford, MA). The approval is subject to:

##### **Specific conditions:**

1. Subject to Traffic Commission approval.
2. DPI Comments dated March 7, 2018 and April 9, 2018.
3. Tires are stored in sealed containers.
4. The hours of operation are as agreed and in the application.
5. All repairs are done inside.
6. A two foot (2') wide drainage strip as opposed to the one foot (1') shown.

##### **General Conditions:**

7. The project shall be completed according to the plans, notes, reports, and specifications submitted for consideration and final approval by the Planning Board.

8. The project shall be undertaken in a manner consistent with the Memorandum from the Department of Public Infrastructure received and placed on file and the Planning Board incorporates the DPI memo as part of these conditions.
9. The applicant shall submit final plan revisions to the Planning Division in the following formats: one (1) -11" x 17" Plan Set and one (1) CD or USB with Plan Set in PDF format and shall ensure that these same plans are properly submitted to the Department of Inspectional Services.
10. The applicant shall ensure that a copy of the Notice of Decision, bearing the certification of the New Bedford City Clerk signifying no appeal has been made against the project's approval, be provided for the Planning Division Case file folder.
11. The applicant shall present any proposed modification from the approved plans for consideration to the City Planner for determination as to whether the modified plan must return before this Board for further review.
12. The rights authorized by the granted approval must be exercised by issuance of a Building Permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

As a result of such consideration, the Board moves approval on the subject application with the conditions so noted. The motion being properly made and seconded, the Chair called for a roll call vote which was taken and unanimously approved five (5) to zero (0).

Board Chair Duff -- Yes

Board Member Glassman -- Yes

Board Member Kalife-Yes

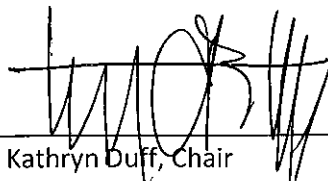
Board Member Smith -- Yes

Board Member Cruz -- Yes

Filed with the City Clerk on:

4/25/2018

Date



Kathryn Duff, Chair  
City of New Bedford Planning Board