

The regular monthly meeting of the City Planning Board was held on February 18, 2009 in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Dolcino, Foss, Gross, Harrington, Hicks, Meyer, McClure (who was present as the alternate representative from the City Council), and Alternate Member Kenison who was seated for absent Member Swope. Messrs. Woodward and Henninger, Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Ms. Aibel, the City's Associate Engineer.

At 7:01 PM a quorum was present and the Chair called the meeting to order and seated Alternate Member Kenison for absent Member Swope who was not expected.

APPLICATIONS

Minor Subdivisions

1. Application by **the City of Concord, on behalf of David and Margaret Emmons** for approval of a re-subdivision at **32 Lakeview Drive. (#2009-07)**

Determination of Completeness

Ms. Hebert explained this proposal to adjust the lot lines between two parcels in order to create a 2.05 acre parcel for the existing house at 32 Lake View Drive, and a 45.99-acre lot to be conveyed to the City for conservation purposes.

She reported that the application was complete and ready for public hearing.

Mr. Gross moved that the Planning Board determine this application to be complete and open the public hearing. Ms. Meyer seconded. Motion carried.

Public Hearing

Ms. Hebert explained that Margaret and David Emmons own two parcels of land off Lake View Drive. One lot containing approximately 46.1 acres, is considered landlocked, and lacks road frontage along Lake View Drive. The Emmons house, garage and related improvements are located on this parcel. The Emmons also own a second lot which contains approximately 1.94 acres and fronts Lake View Drive. Although the parcels are listed as separate properties, they are both owned by the Emmons and are considered merged for the purpose of the interpretation of the Zoning Ordinance. The City proposes to adjust the property lines between the two parcels in order to create a 2.05 acre parcel for the existing house at 32 Lake View Drive, and a 45.99-acre lot to be conveyed to the City for conservation purposes.

She reported the Zoning Board of Adjustment had granted variances to permit the creation of a new lot that does not maintain the minimum lot width within the lot to a depth of 50 feet; to permit the creation of a lot with a residential density of one dwelling

per two acres where a maximum density of one dwelling per four acres is permitted; and to permit the creation of a lot with 91 feet of frontage where 200 feet are required.

She reported that Margaret and David Emmons contacted the Conservation Commission regarding the conservation of the property adjacent to their home. The land is situated within the Penacook Lake watershed, which has been identified by the Conservation Commission as a priority location for the acquisition of open space. The Commission applied for a New Hampshire Department of Environmental Services Water Supply Land Grant, which is a grant program specifically for the protection of land within close proximity to sources of public drinking water. The City was advised that it was selected to receive \$47,500 from the Program, and the City Council authorized the acceptance of the grant funds and the acquisition of the 45.99 acre parcel. The open space parcel exceeds the lot size requirements for NHDES subdivision approval, and will be constrained from future development with a conservation deed restriction.

She explained that the subdivision is configured to provide adequate building setbacks for the existing house and garage, while also providing some road frontage along Lake View Drive for the future development of a trailhead to provide public access to the open space.

She reported that the well that serves the existing house is located on city-owned land to the south of Lake View Drive. The City should convey an easement to the Emmons for the use of the well as their primary water supply. However, if the well were to become unusable as a primary water supply, the easement should be extinguished.

Ms. Hebert explained that the applicant proposes a logging access easement across the 2.03 acres parcel to provide access to an existing skidder trail that will facilitate the management of the property for forestry resources in the future.

The proposed subdivision satisfies the City's requirements for buildable land area. However, a small portion of the usable area rectangle contains steep slopes. The applicant has requested a waiver to the Section 9.03(3)(b)(i) of the Subdivision Regulations to permit a small inclusion of steep slopes within the buildable area rectangle. Staff believes this waiver request is reasonable considering the house, garage, and driveway all exist on the property, and there is no new construction proposed.

There was no one present on behalf of the applicants.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:09 PM.

Deliberations and Action on Application

Mr. Gross moved that the Planning Board grant a waiver to Section 9.03(3)(b)(i) of the City's Subdivision Regulations to allow a small inclusion of land with slopes greater than 15% within the usable area rectangle. He noted that there is no new construction

proposed, and the house, garage and driveway are already developed. Ms. Meyer seconded. Motion carried.

Ms. Meyer moved that the Planning Board grant conditional final subdivision approval for the "Resubdivision Plat of the land of David and Margaret Emmons" as submitted by Richard D. Bartlett & Associates subject to the following standard conditions:

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:
 - a. Conveyance of an easement for the use of the existing well on City-owned property with a provision that the easement will be extinguished at such time as the well no longer functions as the primary water supply to parcel 103/1/15.
 - b. Conveyance of a logging access easement for the benefit of lot 103/1/14.

Ms. Dolcino seconded. Motion carried.

2. Application by **Susan Taylor** for approval of a subdivision of property on the easterly side of **Shaker Road**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-5-46, Single-family Dwellings in a Standard (Noncluster) Subdivision, of the Zoning Ordinance. (#2009-06)

Determination of Completeness

Ms. Hebert explained this proposal to subdivide an existing 11.12-acre parcel of land on the easterly side of Shaker Road, into two residential lots.

She reported that the application was complete and ready for public hearing.

Mr. Gross moved that the Planning Board determine this application to be complete and open the public hearing. Ms. Meyer seconded. Motion carried.

Public Hearing

Ms. Hebert explained this proposal to subdivide an existing 11.12-acre parcel of land on the easterly side of Shaker Road into two residential lots. The property is located in the Open Space Residential District. The applicant has also applied for a Conditional Use Permit to allow for the development of a conventional subdivision in the Open Space Residential District. Article 28-5-46 permits the development of conventional subdivisions within the RO District with the condition that a comparable amount of

open space be protected on the property by deed or easement as would otherwise be required by the Cluster Development standards. The cluster development standards require that 6.67 acres be set aside as open space. The applicant proposes to place 6.88 acres within a conservation easement. The subdivision layout contains relatively small areas of buildable land, surrounded by open space.

She reported that this subdivision was previously approved as a conventional subdivision by the Planning Board on February 1, 2006 but the plat was never recorded at the Registry of Deeds. The applicant now needs to reapply under the new mandatory cluster subdivision regulations for subdivisions within the Open Space Residential District.

She reported that the proposed subdivision satisfies the City's requirements for buildable land area. However, a small portion of the usable area rectangle contains steep slopes. The applicant has requested a waiver to the Section 9.03(3)(b)(i) of the Subdivision Regulations to permit a small inclusion of steep slopes within the buildable area rectangle. The proposed lots contain the amount of buildable land required by the City's regulations, but the proposed driveway easement and wetland buffers provide minor constraints to the actual configuration of the buildable area rectangle. With minimal site grading, the applicant could meet the usable area rectangle requirement.

Ms. Hebert explained that the applicant proposes to construct a common private driveway on proposed lot 2, and a portion of the private driveway serving proposed lot 1 will cross over proposed lot 2. The applicant will need to provide an agreement to convey a driveway easement for the private driveway and the common private driveway easement.

She reported that the Conservation Commission had reviewed the layout of the subdivision and proposed open space, and recommended that the boundary of the conservation easement be blazed with paint and marked with the conservation discs to identify the limits of the easement.

She reported that the Fire Department has requested that residential sprinkler systems be installed in the new dwellings, due to the remoteness, access and lack of adequate water supply. The City does not currently have regulations that require the installation of residential sprinkler systems, and has not required them to be installed as a condition of minor subdivision approval in the past.

Ms. McClure asked if the Board's regulations require sprinklers in major subdivisions and Ms. Hebert responded that in recent years it has been the practice of the Planning Board to require sprinklers as a condition of approval of major subdivisions in outlying areas but that regulations have not been adopted requiring sprinklers.

Dan Mullen from Richard D. Bartlett & Associates was present on behalf of the applicant to answer questions from the Board.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:20 PM.

Deliberations and Action on Application

Ms. Meyer moved that the Planning Board grant a waiver to Section 9.03(3)(b)(i) of the City's Subdivision Regulations to allow a small inclusion of land, with slopes greater than 15%, within the usable area rectangle. She noted that the property contains the required amount of buildable land, but the proposed driveway easement and wetland buffers provide minor constraints to the actual configuration of the buildable area rectangle (with a minimum dimension of 60 feet). With minimal site grading, the applicant could meet the usable area rectangle requirement. Mr. Gross seconded. Motion carried.

Ms. Meyer moved that the Planning Board approve the Conditional Use Permit pursuant to Article 28-5-46 of the Zoning Ordinance; Conditional Use Permit required for the approval of a conventional subdivision within the Open Space Residential District. The applicant is proposing to conserve more than 60% of the original lot as open space. The plan also resembles a cluster subdivision; the buildable land area on the proposed lots is relatively small; and the applicant has proposed a common private driveway to access both proposed lot 1 and lot 2. Ms. Dolcino seconded. Motion carried.

Ms. Meyer moved that the Planning Board grant conditional final subdivision approval for the "Subdivision Plat of Susan Taylor" as submitted by Richard D. Bartlett & Associates, subject to the following standard and special conditions:

Standard Conditions

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:
 - a. An agreement to convey an easement for the benefit of proposed lot 1 for the common private drive, and the portion of the private driveway that passes through proposed lot 2, in order to provide access to proposed lot 1, including the maintenance and operation for the same.
 - b. Conveyance of a conservation easement for the 6.88 acres of open space land identified on the subdivision plat.

3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following State and federal permits shall be obtained and copies provided to the Planning Division:
 - a. NH Department of Environmental Services, Subsurface Systems Bureau, Subdivision Approval

4. Traffic, recreation and school impact fees shall be assessed for any construction on the new lots contained within this approved subdivision. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 1, School Facilities Impact Fee per variable unit; and Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.
 - a. School Facilities – Single Family Residence
 - b. Recreational Facilities – Single Family Residence
 - c. Transportation Facilities - Single Family Residence

Special Conditions:

5. Prior to the final plat being signed by the Planning Board Chair and Clerk, the boundary of the conservation easement shall be marked with conservation discs and blazed with paint.

6. The wetland buffers shall be clearly and permanently marked before, during, and after construction; building permits will not be issued until the buffers are marked.

Mr. Gross seconded. Motion carried.

Minor Site Plans

3. Application by **81 Hall Street, LLC** for modifications to a site plan of property located at **81 Hall Street**. Along with this application is a request for a Conditional Use Permit (CUP) pursuant to Section 28-7-11(b), Construction of Fewer Parking Spaces, of the Concord Zoning Ordinance. (#2009-08)

Determination of Completeness

Mr. Henninger explained this proposal to reduce the proposed number of parking spaces on site by twenty four spaces, and to make minor changes to the site plan including revisions to an outdoor sport court and to add a flagpole to the site.

He reported that the application was complete and ready for public hearing.

Mr. Gross moved that the Planning Board determine this application to be complete and open the public hearing. Ms. Meyer seconded. Motion carried.

Public Hearing

Mr. Henninger explained that the applicant received approval from the Planning Board on July 18, 2007, to construct a 92-room Residence Inn and to make site plan modifications for an existing office building at 81-91 Hall Street. A building permit has been issued for the hotel foundation and for the demolition of a house and garage building on site. The applicant has now requested site plan approval to reduce the proposed number of parking spaces on site by twenty four spaces and to make minor changes to the site plan including revisions to an outdoor sport court and to add a flagpole to the site. The applicant has also requested a Conditional Use Permit to show but not construct nine of the parking spaces. A condominium subdivision for the hotel and office building has been approved and recorded.

He reported that the original site plan contained 207 parking spaces where 192 spaces were required. The applicant, at the request of the principal office building tenant, has proposed that the total number of parking spaces be reduced to 183 spaces. The revised site plan also involves the relocation of two catch basin and changes to the curbing next to the office building.

He reported that the applicant has advised that the existing parking utilization for the office building is well below what is provided. Planning staff has requested available information on parking utilization in support of the Conditional Use Permit application.

Jonathan Chorlian was present representing Residence Inn, and Carol Tate was present on behalf of the Center for Integrated Medicine, the first floor tenant of the existing office building.

Mr. Chorlian explained that the reduction is actually nine parking spaces because the originally approved site plan showed fifteen parking spaces over the amount required by the Zoning Ordinance. He explained that they had done a parking study and found that actual usage is typically 30 spaces, which is significantly less than the number required. He felt the two uses (office building and hotel) will not be competing for parking spaces because their peak parking demands are not at the same time. There will be a little bit of overlap but not much. He reported they are asking to be allowed to create green space to set the office building apart from the hotel space.

Ms. Meyer had questions about landscaping. Mr. Chorlian responded that, for the most part, existing vegetation that would have been removed under the previously approved plan will remain under the revised plan.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:37 PM.

Deliberations and Action on Application

Ms. McClure felt there was too much parking on the previously approved plan and she asked if the Planning Board could work with the property owner to reduce even more of the parking in order to provide more green space. She thought it would be interesting to see how they could utilize more green space on the property.

Mr. Gross felt this was an interesting suggestion to pursue but he would like to see more information regarding parking use and building use.

The Chair asked the Clerk for his opinion regarding the suggestion for further decreasing the number of parking spaces in favor of more green space. Mr. Woodward suggested that since this is what the applicants had requested, it would be appropriate to grant this plan as requested and to issue an invitation to the property owner to consider submitting another application to further reduce the number of parking spaces.

Mr. Gross moved that the Planning Board grant a Conditional Use Permit pursuant to Article 28-7-11 (b) Construction of Fewer Parking Spaces to construct 183 parking spaces where 192 spaces are required for 81 Hall Street, LLC at 81-91 Hall Street. The CUP site plan shows the location of the nine spaces to be constructed if the Zoning Administrator determines that parking demand warrants the additional spaces. Ms. Meyer seconded. Motion carried.

Ms. Meyer moved that the Planning Board grant conditional site plan approval for revisions to a site plan at 81-91 Hall Street proposed by 81 Hall Street, LLC subject to the following standard conditions:

1. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions. No construction activity may commence prior to the preconstruction conference.
2. Traffic impact fees shall be assessed for any non-residential construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 3, Transportation Facilities Impact Fee per Variable Unit.
 - a. Transportation Facilities - Hotel/Motel

She further moved that the Planning Board invite the applicant to consult with the City staff about the submission of an additional Conditional Use Permit application to further

reduce the number of parking spaces to be constructed in order to preserve additional green space on the site.

Ms. McClure seconded. Motion carried.

4. Application by the **Penacook Assisted Living Facility, Inc.** for a site plan of property located at **30 Borough Road**. Along with this application is a request for a Conditional Use Permit (CUP) pursuant to Section 28-7-11(b), Construction of Fewer Parking Spaces, of the Concord Zoning Ordinance. (#2009-09)

Determination of Completeness

Ms. Hebert explained this proposal to convert approximately 2,500 square feet of existing accessory office space within the Penacook Assisted Living Facility to four additional assisted care dwelling units.

She reported that the application was complete and ready for public hearing.

Mr. Gross moved that the Planning Board determine this application to be complete and open the public hearing. Ms. Meyer seconded. Motion carried.

Public Hearing

Ms. Hebert explained this proposal to convert approximately 2,500 square feet of existing accessory office space within the Penacook Assisted Living Facility to four additional assisted care dwelling units. Each unit will be 600 square feet and will bring the total number of units within the building to 54. There are no changes proposed to the exterior of the building.

She reported that the applicant has requested a Conditional Use Permit to construct fewer parking spaces than would typically be required by the Zoning Ordinance. With the addition of the four new residential units, the site plan would need to provide 54 parking spaces. However, the applicant proposes to show where the ten additional spaces could be constructed, but not actually build the additional parking. The applicant has monitored the use of the parking lot, and feels it is more than sufficient for the existing and proposed residential units. The average age of a resident is 86, and most do not have vehicles. If at some point in the future the site does require the additional spaces, the Code Administrator may require the additional parking area to be paved.

She reported that the Penacook Assisted Living project was granted approval by the Planning Board on November 18, 1998, for a 50-unit assisted living facility with 40 parking spaces. The building contains 46,250 square feet.

She reported that the project may qualify for a waiver to the School Facilities Impact Fee, inasmuch as the average resident age is 86. The Impact Fee Ordinance provides for a waiver of the school impact fees when a project is restricted solely to residents age 62

and older. The applicant will need to submit documentation demonstrating that the units are restricted to residents 62 and older.

Attorney Dan Luker was present on behalf of Riverbend, which manages the facility, as was Joyce Fisk, executive director of Whittaker Place.

Mr. Luker reported that the amount of parking on the site now is more than adequate. Generally, residents do not own automobiles and have few visitors. He reported that they would provide documentation of their age restrictions in order to request a reduction of the school impact fees.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:54 PM.

Deliberations and Action on Application

Ms. Meyer moved that the Planning Board approve the Conditional Use Permit to allow for the construction of fewer parking spaces pursuant to Section 28-7-11(b) of the Zoning Ordinance. The CUP will allow for the conversion of 2,500 square feet of accessory office space to four additional residential units, without constructing the additional required parking spaces. If at some point in the future the site does require the ten additional spaces, the Code Administrator may require that the additional parking area be paved. Ms. McClure seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional site plan approval for the site plan application of Penacook Assisted Living Facility, Inc. for the conversion of 2,500 square feet of accessory office space to four additional residential units at 30 Borough Road as submitted by the H.L. Turner Group, Inc. subject to the following standard conditions:

1. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the drawings to address the minor corrections and omissions noted by City staff.
2. Traffic, recreation and school impact fees shall be assessed for any construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 1, School Facilities Impact Fee per variable unit; and Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.

- a. School Facilities - Multi-unit/Apartment (*4 units*)

- b. Recreational Facilities - Multi-unit/Apartment (4 units)
- c. Transportation Facilities - Multi-unit/Apartment (4 units)

Ms. Meyer seconded. Motion carried.

Major Site Plans

- 5. Application by the **LAT Holding Company** for approval of a site plan for property at **20 Break O'Day Drive**. Along with this application are requests for Conditional Use Permits pursuant to Section 28-4-3(d), Disturbance to a Wetland Buffer, Section 28-7-11(b), Construction of Fewer Parking Spaces, and Section 28-7-11(d), Additional Compact Spaces, of the Zoning Ordinance. (#2008-62)

The Chair announced that the public hearing on this application had been postponed until March 18, 2009 at the request of the applicant.

- 6. Application by **Tropic Star on behalf of Burger King Corporation, the Hall 2001 Family Revocable Trust, Jean B. Chase, and Dale G. Fifield** for approval of a site plan of property at **36 Burns Avenue, 9 East Side Drive, and 155 and 157 Loudon Road**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(b), Construction of Fewer Parking Spaces, of the Zoning Ordinance. (#2009-04)

Determination of Completeness

Mr. Henninger explained this proposal to demolish an existing auto service building at 155 Loudon Road and an existing Burger King Restaurant at 157 Loudon Road, and to construct a new 13,225 square-foot CVS Pharmacy and a new 2,598 square-foot Burger King. A drive-up window is proposed for both the Burger King and the CVS. A total of 101 new parking spaces are proposed.

He reported that the application was complete and ready to set for public hearing.

Mr. Gross moved that the Planning Board determine this application to be complete and set it for public hearing on March 18, 2009. Ms. Meyer seconded. Motion carried, 8-1, with Ms. McClure voting against.

- 7. Application by **McCarthy Properties on behalf of Capital Regional Development Council** for approval of a site plan of property at **12 Chenell Drive**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the Zoning Ordinance. (#2009-05)

Determination of Completeness

Mr. Henninger explained this proposal to construct a 9,140 square-foot industrial building on the east side of Chenell Drive just south of Regional Drive. The applicant proposes to construct accessory parking with loading areas at the rear of the site.

He reported that the application was complete and ready to set for public hearing.

Mr. Gross moved that the Planning Board determine this application to be complete and set it for public hearing on March 18, 2009. Ms. Meyer seconded. Motion carried.

Architectural Design Review

8. Applications by the following for approval of signs at the following locations under the provisions of Section 28-9-4(f), Architectural Design Review, of the Code of Ordinances.

- **Averill's Martial Arts Academy** at 3 North Main Street (2 signs)
- **Bona Fide Tattoo** at 19 Warren Street (1 sign)
- **Circle K/Irving** at 190 Pleasant Street (3 signs)
- **Circle K/Irving** at 114 Fisherville Road (2 signs)
- **Circle K/Irving** at 163 North State Street (2 signs)
- **Circle K/Irving** at 231 Loudon Road (2 signs)
- **Men's Wearhouse and Tux** at 89 Storrs Street (2 signs)

The Chair opened the hearings on all of the above sign applications.

- **Averill's Martial Arts Academy** at 3 North Main Street (2 signs)

Mr. Henninger explained this proposal for replacement of an existing hanging sign and retroactive approval of the affixed sign. He explained that this building housed three business units and that the martial arts academy currently leases two of the units. He reported that the Design Review Committee suggested minimizing the size of the telephone number on the hanging sign, and centering the affixed sign in the space available.

He reported that the Design Review Committee found the design and placement of the proposed signage to be appropriate for the use and location, and recommended approval as submitted.

Paul and Chris Averill from Averill's Martial Arts Academy were present to answer questions from the Board.

Ms. Meyer noted that there are very few telephone numbers on signs on Main Street. She felt there should not be a telephone number on the hanging sign at all. Mr. Averill responded that the telephone number is an important factor in attracting customers. They want people to see the telephone number so that prospective students know how to contact them because they do not keep regular hours during the day.

Ms. McClure agreed that the telephone number should not be a part of the sign. It is not just a matter of what the business is trying to advertise but also the character of signs on Main Street. Signage is intended to be identification and to create a sense of community.

Ms. Foss suggested that putting the telephone number on the door or window at eye level would be more appropriate for the purpose of providing information to pedestrians. Mr. Henninger responded that identification signage less than two square feet is not usually regulated by the City.

Ms. Averill indicated that having the telephone number on their affixed sign would be confusing for customers of the abutting business.

Members expressed concern about distracting drivers trying to read the telephone number on the hanging sign.

Ms. Meyer moved approval of the affixed sign as submitted and approval of the hanging sign without the telephone number. Ms. McClure seconded. Motion carried, 8-1, with Mr. Gross voting against.

- **Bona Fide Tattoo** at 19 Warren Street (1 sign)

Mr. Henninger explained this application for a new hanging sign. He reported that the Design Review Committee found the design and placement of the proposed sign to be appropriate for the use and location, and recommended approval as submitted.

Douglas Mendoza was present as applicant and reported that two existing signs will be removed and replaced with this sign.

Ms. Meyer moved approval as submitted and Ms. McClure seconded. Motion carried.

- **Circle K/Irving** at 190 Pleasant Street (3 signs)

Mr. Henninger reported he has been promised a complete new submittal for the Irving signage but has not received it yet.

He reported that the Design Review Committee found the design and placement of the proposed signage to be appropriate for the use and location, and recommended approval as submitted subject to compliance with the Zoning Ordinance.

There was no one present on behalf of the applicant.

Mr. Gross moved approval as submitted and Ms. Meyer seconded. Motion carried, 7-2, with Mr. Hicks and Ms. McClure voting against.

- **Circle K/Irving** at 114 Fisherville Road (2 signs)

Mr. Henninger explained that the Design Review Committee found there was no relationship between the yellow building and the proposed red and white sign, and that the signs on the pump canopy and the building needed to relate better to each other.

He reported that the Design Review Committee recommended tabling action to allow the applicant the opportunity to redesign the signage for this site to better coordinate the colors, and further recommended that the applicant prepare a more clear presentation of the proposal.

There was no one present on behalf of the applicant.

Mr. Gross moved that the Planning Board adopt the Design Review Committee recommendation and table action to allow the applicant the opportunity to redesign the signage for this site to better coordinate the colors, and to prepare a more clear presentation of the proposal. Ms. McClure seconded. Motion carried.

- **Circle K/Irving** at 163 North State Street (2 signs)

Mr. Henninger explained that the Design Review Committee found the design and placement of the proposed signage to be appropriate for the use and location, and recommended approval as submitted subject to the background color of the building behind the affixed sign remaining as shown.

There was no one present on behalf of the applicant.

Mr. Gross moved approval as submitted subject to the background color of the building behind the affixed sign remaining as shown. Ms. Meyer seconded. Motion carried.

- **Circle K/Irving** at 231 Loudon Road (2 signs)

Mr. Henninger explained that the Design Review Committee had found that there was no relationship between the yellow building and the proposed red and white sign, and suggested that they remove the red stripes and the yellow band and find colors that work with both the Circle K emblem and the Irving colors. The Design Review Committee felt that the proposed signage and façade changes were incompatible with the existing architectural design and commented extremely unfavorably on the proposal. The Committee felt that the applicant needed to reevaluate the changes and return with a different plan.

He reported that the Design Review Committee recommended tabling action to allow the applicant the opportunity to redesign the signage for this site to better coordinate the colors, and to prepare a more clear presentation of the proposal.

There was no one present on behalf of the applicant.

Mr. Gross moved that the Planning Board adopt the Design Review Committee recommendation and table action to allow the applicant the opportunity to redesign the signage for this site to better coordinate the colors, and to prepare a more clear presentation of the proposal. Ms. Meyer seconded. Motion carried.

- **Men's Wearhouse and Tux** at 89 Storrs Street (2 signs)

Mr. Henninger explained this is replacement signage because they have changed their logo. He reported that the Design Review Committee found the design and placement of the proposed signage to be appropriate for the use and location, and recommended approval as submitted.

Mr. Gross moved approval as submitted and Ms. Meyer seconded. Motion carried.

REGULAR MEETING

Minutes

Mr. Gross moved approval of the minutes of the meeting of January 21, 2009, as submitted and Ms. Meyer seconded. Motion carried.

City Council Referrals

12. Consideration of a proposed amendment to Section 28-4-2, **Buffer Requirements for Residential District Boundaries**, of the Zoning Ordinance together with a report from the Zoning Administrator.

Mr. Woodward explained that the Zoning Administrator had submitted a report to the City Council together with a proposed amendment to Section 28-4-2, Buffer Requirements for Residential District Boundaries, of the Zoning Ordinance, with regard to the Buffer Width Standards in Section 28-4-2(b). The City Council voted to refer this matter to the Planning Board and to the Zoning Board of Adjustment. He reported that the Zoning Administrator had forwarded the report and draft ordinance to resolve what he termed a contradiction between two sections of the Zoning Ordinance with regard to lots transected by zoning boundary and the applicability of the buffer requirements for residential district boundaries to such transected lots.

He explained that Section 28-2-3(e), Lots Transected by a District Boundary, addresses the situation wherein a district boundary runs through a lot so that portions of the lot are in different districts. The Zoning Administrator noted that while this section allowed the regulations of the predominant district to apply to an area 40 feet in depth beyond the boundary line, it did not change the boundary line.

Section 28-4-2(b)(1), Buffer Width Standards, requires buffers to be placed on lots that abut or are transected by a boundary between residential and non-residential districts. The Zoning Administrator's concern was that in the case of a lot transected by the district boundary, where the non-residential district predominates, the non-residential use can move up to 40 feet into the adjacent residential district but the buffer must remain within the non-residential district along the district boundary, leaving the 40-foot strip of extended non-residential district isolated by the buffer.

He reported that the Zoning Administrator proposes to amend the wording of Section 28-4-2(b)(1) to add the following language:

“When a property owner of a lot transected by a zoning boundary exercises its option to extend the area of land governed by those regulations applicable to the portion of its lot in the adjoining zoning district under Article 28-2-3(e), the buffer shall be placed along the edge of the extended area.”

He explained that the issue of concern to Councilor McClure in moving the referral of this matter to the Board’s attention relates to the circumstance wherein a lot is not transected by a boundary, but is adjacent to a boundary, and an adjacent lot is acquired by the same owner with the two lots being merged. This then establishes a self-created situation of a lot transected by a boundary and the potential movement of a more intensive use 40 feet into a less intensive district. As it turns out, the Zoning Ordinance once had language that limited the applicability of the extension of a district to those transected lots that were created by the ordinance at the time when the ordinance was adopted, thereby eliminating any self-created circumstances for 40-foot extensions. This language was modified in 1967, but retained wording that referred to a lot which was transected at the time of the adoption of the ordinance; however, that wording was left out of the comparable section of the 1977 ordinance, which has been carried forward to the current Zoning Ordinance.

Mr. Woodward explained that, historically, zoning maps were drawn with many district boundaries noted as a setback at a specified distance from a street, with the boundaries transecting properties that did not neatly conform to the setback dimension. However, the maps for the 2001 Zoning Ordinance were drawn so as to minimize to the greatest extent reasonable the number of lots transected by zoning lines. In this case, where the maps for the Zoning Ordinance were prepared so as to use existing property lines to the greatest extent possible and limit the use of dimensioned setbacks, it seems appropriate to return to the language which limits the applicability of the 40-foot extension to those transected lots which were originally affected by the passage of the ordinance.

He explained that the buffer issue was far simpler to resolve. Section 28-4-2(a) contains a purpose statement for the buffer requirements, as follows:

“These buffer requirements are intended to mitigate the impacts of light, noise, odor, vibration, and visual blight from non-residential development in non-residential districts on adjacent residential districts. These requirements are intended to preserve, protect, and restore the quality of life and property values for residential neighborhoods which share a boundary with a non-residential district. The requirements of this section shall be incumbent upon both residential and non-residential uses on both sides of the boundary between residential and non-residential districts.”

In accordance with the purposes of the buffers, they should be established at the 40-foot extension line for transected lots, and as is alluded to in the purpose statement, there are requirements for buffers on both sides of the line, and all requirements should apply to that same 40-foot extension line.

He reported that Section 28-2-3(e), Lots Transected by a District Boundary, should be amended to eliminate the applicability of this Section to self-created transected lots, as follows:

When an existing lot of record is transected by a zoning district boundary which was established at the effective date of this Ordinance, the regulations of this Ordinance that are applicable to the larger part by area of such lot may, at the option of the owner, be deemed to govern the smaller part of the lot beyond such district boundary but only to an extent of not more than forty (40) linear feet in depth beyond such zoning district boundary.

Section 28-4-2(b), Buffer Width Standards, should be amended to include a new subsection 28-4-2(b)(4) which will pertain to buffers from both the non-residential as well as the residential side of the boundary, as follows:

When a property owner of a lot transected by a zoning boundary exercises the option available under Section 28-2-3(e) to extend the district regulations applicable to the larger portion of the lot into the smaller portion of the lot which is in the adjoining zoning district, the buffer shall be located immediately adjacent to the line which is at the limit of the regulations as extended.

Mr. Gross moved that the Planning Board adopt the staff's report and forward it to the City Council with a favorable recommendation, and Ms. Dolcino seconded. Motion carried.

OLD BUSINESS

12. Further consideration of **Transfer of Development Rights (TDR)** and introduction of a report on **Traditional Neighborhood Development (TND)**.

Mr. Woodward explained that a public workshop on Transfer of Development Rights was conducted at a special meeting of the Planning Board on July 23, 2008. Roger Hawk of Hawk Planning Resources, LLC made a presentation based on a report entitled, "Transfer of Development Rights, Evaluating the Options for the City of Concord, NH" that he had prepared and submitted to the Board. In setting the public workshop, the Board had directed that in addition to the standard public notification, the Municipal Housing Commission, the Conservation Commission, and the Economic Development Advisory Committee all be notified of the workshop. The report and workshop presentation focused on two alternatives, one being the actual transfer of the development rights (TDR) to build dwelling units on a parcel outside of the Urban Growth Boundary (UGB) to a parcel inside of the UGB, and the other being a development transfer credit (DTC) whereby the right to build additional units inside of the UGB could be purchased for a fee, and the proceeds of the fees would be dedicated to a fund for acquiring open space outside of the UGB. It was also noted that these alternatives are not necessarily mutually exclusive.

He reported that the Board had several conclusions and directives arising from the workshop. The Planning Division was asked to identify areas that could be receiving areas for transferred units or where purchased credits could be utilized. In addition to issues related to densities, it was noted that design guidelines needed to be addressed for development that would incorporate transferred or purchased rights for additional units. The Board considered the control of sprawl as much a reason to adopt a TDR or DTC program as protecting open space. It was suggested that an existing neighborhood might find it more palatable to be designated as a receiving area if the neighborhood would benefit from improved infrastructure or the dedication of a new park. It was noted that existing density standards allowed within the UGB may have to be reduced in order to encourage the market for the purchase or transfer of units.

He reported that the Board had received another report from Hawk Planning Resources, LLC entitled, "Reinforcing Traditional Neighborhood Character through Density Bonuses" which set forth a proposal for a Traditional Neighborhood Development option for Concord based on Concord neighborhood characteristics. While it was not just limited to being a vehicle for transferred rights and credits, as it could be used as a design option for infill development in higher density districts, it offered another development format which could be used to facilitate receipt of transferred units or credits.

He suggested that, prior to the Board deciding on whether to have a TDR Ordinance prepared, and what the content of such an ordinance should be, the Board should set a time for a public workshop on Traditional Neighborhood Development (TND) at which the consultant would make a presentation and respond to questions from the Board and the public. Once TND is more fully understood, then it would be appropriate for the Board to decide if it wishes to have ordinances prepared for both TDR and TND.

Members agreed to schedule a special meeting for March 25, 2009 for a public workshop on Traditional Neighborhood Development (TND).

INFORMATION

- Copy of **Master Plan 2030** as adopted by the Planning Board in June 2008

The Chair noted that copies of the Master Plan 2030 had been provided to Planning Board members.

Mr. Gross mentioned that he felt the Master Plan needed a component strictly related to telecommunications. He felt the City needed to move forward to try to develop a coherent plan for the development of communications facilities. Mr. Woodward responded there is an intent to include a utilities chapter in which telecommunications would be addressed.

OTHER BUSINESS

The Clerk announced that the Heritage Commission will be holding a forum on March 12, 2009 relative to the City's historic agricultural resources, with a focus on historic barns in particular.

There was no further business to come before the Board and the meeting adjourned at 8:55 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

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