

The regular monthly meeting of the City Planning Board was held on May 18, 2011, in the Second Floor Conference Room in City Hall at 7:00 PM.

Present at the meeting were Members Drypolcher, Swope, Foss, Gross, Hicks, and Alternate Member Kenison (who was seated for Member Meyer). 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 7:00 PM a quorum was present, and the Chair called the meeting to order and seated Alternate Member Kenison for Member Meyer who was not expected.

APPLICATIONS

1. Application by **Matthew S. and Allyson T. Hicks, and Douglas W. Hicks, Trustee of the Douglas W. Hicks 2000 Trust**, for approval of a subdivision of property located at **126 Mountain Road and 95 Shaker Road. (#2011-20)**

Determination of Completeness

(Mr. Hicks recused himself and left the table.)

Ms. Hebert explained this proposal to annex 0.73 acres from the parcel at 126 Mountain Road to the parcel at 95 Shaker Road.

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

Mr. Gross moved and Mr. Swope seconded that the Planning Board determine this application to be complete and open the public hearing. Motion carried with Mr. Hicks abstaining from discussion and vote.

Public Hearing

Ms. Hebert explained this proposal to adjust a property line between the properties at 95 Shaker Road and 126 Mountain Road in order to annex 0.73 acres from the parcel at 126 Mountain Road to the parcel at 95 Shaker Road.

She reported that the applicant had requested a waiver to Section 15.03(4), Topography, of the Subdivision Regulations to not provide the topographic information on the subdivision plat, and a second waiver to Section 15.03(2) of the City's Subdivision Regulations to not provide the boundary line information for the entire parcel at 95 Shaker Road. The bearing and dimensions of the property have been shown on the location plan at a scale of 1" = 200' and the boundary line information relevant to the lot line adjustment with 126 Mountain Road has been shown on the plan at a scale of 1" = 50'. There is no new construction proposed as part of this application and the topography and boundary information has been shown on the portion of the Shaker Road property affected by the lot line adjustment.

She reported that there is an existing house at 126 Mountain Road, and the property at 95 Shaker Road includes the Shaker Road School.

The driveway to the existing house on 126 Mountain Road will cross over a proposed access easement on land that is to be annexed to the Shaker Road School parcel.

Mark Sargent, from Richard D. Bartlett & Associates LLC, was present to answer question on behalf of the applicant.

There was no one else present who wished to speak for or against the application and the Chair declared the hearing closed at 7:05 PM.

Deliberations and Action on Application

Mr. Gross moved that the Planning Board grant a waiver to Section 15.03(4), Topography, of the Subdivision Regulations to not provide topographic information. The Board found that this information is not needed in order for the Board to review and act on this lot line adjustment. Mr. Kenison seconded. Motion carried with Mr. Hicks abstaining from discussion and vote.

Mr. Swope moved that the Planning Board grant a waiver to Section 15.03(2), Dimensions, of the Subdivision Regulations to not provide the boundary line information for the entire parcel at 95 Shaker Road. The bearing and dimensions of this property have been shown on the location plan at a scale of 1" = 200' and the information relevant to the lot line adjustment with 126 Mountain Road has been shown on the plan at a scale of 1" = 50'. The Board found that this information is not needed in order for the Board to review and act on this lot line adjustment. Ms. Foss seconded. Motion carried with Mr. Hicks abstaining from discussion and vote.

Mr. Gross moved that the Planning Board grant final subdivision approval for the minor subdivision application of Matthew S. & Allyson T. Hicks and the Douglas W. Hicks 2000 Trust, as prepared by Richard D. Bartlett & Associates LLC, and entitled "Resubdivision Plat of Matthew S. & Allyson T. Hicks and the Douglas W. Hicks 2000 Trust" 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 document, 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 access easement for the benefit of the property at 126 Mountain Road (parcel 121A/2/9)

Mr. Kenison seconded. Motion carried with Mr. Hicks abstaining from discussion and vote.

Major Subdivisions

2. Application by **Lorna Gagnon** for approval of a Major Subdivision of property located at **121 Portsmouth Street. (#2011-22)**

Determination of Completeness

Ms. Hebert explained this proposal to subdivide an existing residential lot on which there is a single family residence into five additional building lots.

She reported that the application is complete and ready to be scheduled for public hearing.

Mr. Swope moved and Mr. Gross seconded that the Planning Board determine this application to be complete and set it for public hearing at the next regular meeting of the Board on June 15, 2011. Motion carried.

3. Application by **B & D Houston Enterprises LLC** for approval of a Major Subdivision of property on **15 Integra Drive. (#2011-23)**

Determination of Completeness

Mr. Henninger explained this proposal to subdivide a 21.97 acre parcel from an existing lot of 54.98 acres and to construct an 800-foot extension of Integra Drive as a collector street.

He reported that the application is complete and ready to be scheduled for public hearing.

Mr. Swope moved and Ms. Foss seconded that the Planning Board determine this application to be complete and set it for public hearing at the next regular meeting of the Board on June 15, 2011. Motion carried.

Minor Site Plan and Conditional Use Permit Applications

4. Application by **Tracy Nabstedt, Trustee of the Tracy S. Nabstedt Jr., Revocable Trust**, for approval of a Conditional Use Permit pursuant to Section 28-4-3(d), Conditional Use Permit Required for Certain Disturbance of Wetland Buffers, of the Zoning Ordinance, located at **188 Hopkinton Road.. (#2011-25)**

Determination of Completeness

Mr. Woodward explained this proposal to construct a two-car garage connected by a new deck to the existing house, and to expand the existing driveway to serve the two bays of the proposed garage. Both the garage and driveway will encroach into a wetland buffer.

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

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

Public Hearing

Mr. Woodward explained this proposal to construct a two-car garage connected by a new deck to the existing house, and to expand the existing driveway to serve the two bays of the proposed garage. Both the garage and driveway will encroach into a wetland buffer. The applicant submitted two options for site layout indicating a preference for Option 2. In conjunction with this encroachment, the applicant is seeking a Conditional Use Permit under terms of Section 28-4-3(d), Conditional Use Permit Required for Disturbance to Wetland Buffers, of the Zoning Ordinance to disturb 1,194 square feet of a wetland buffer as part of site Option 2. Option 1 as presented indicates that 2,185 square feet of wetland buffer would be impacted. The home on the site was built prior to the establishment of wetland buffers, so that the effect of the wetland buffers, yard setbacks, and required setbacks from the septic system is to leave a minimal buildable envelope.

He reported that the site lies across Hopkinton Road from Little Turkey Pond at a low point in Hopkinton Road. A small area of open water as well as two wetland areas located on the site drain under Hopkinton Road into Little Turkey Pond. The front half of the lot is in the Shoreland Protection District related to Little Turkey Pond. The existing house is located at the northerly end of the parcel on a high point on the lot, and the existing driveway runs from Hopkinton Road through the wetland buffers to reach the house. Option 2 includes a retaining wall to facilitate the widened driveway in front of the garage, whereas Option 1 indicates a proposed re-grading for the same purpose.

He reported that the Conservation Commission had reviewed the proposal and concluded that there were options that should be considered to further minimize the impact to the wetland buffer, including moving the garage closer to the house, applying for a variance to construct the garage within the rear yard setback, and reducing the size of the garage, which will also reduce the need to widen the driveway to access the proposed garage. The Commission recommended that the Planning Board not approve the plan as submitted, and to encourage the applicant to work with the land to reduce the wetland buffer impact. They also asked to see more details of the proposed re-grading on the plan as well as the details of the retaining wall, the construction of which may cause additional impact to the buffer during construction.

Timothy Golde, from Golde Planning & Design, was present to answer questions on behalf of the applicant and introduced Anthony Mento from Sheerr McCrystal Palson Architecture Inc. as well as Tracy Nabstedt, the applicant.

Mr. Golde explained that they have reduced the size of the proposed building at the suggestion of the Conservation Commission. They have also proposed moving the existing shed and small parking area and restoring the area disturbed by their placement. He reported that they have carefully considered the orientation of the proposed garage specifically to accommodate some photovoltaic panels they plan to place on the building. The area behind the house is considerably higher and construction there would create a greater impact on the wetlands. He reported there is a 15-foot setback from the septic field as required by Department of Environmental Services. He reported that the placement of the building was at the limits of all of the setbacks that they needed to satisfy.

Mr. Swope moved that the Planning Board recess the hearing on the Conditional Use Permit under terms of Section 28-4-3(d), Conditional Use Permit Required for Disturbance to Wetland Buffers, of the City's Zoning Ordinance, to allow the applicant time to meet with the Conservation Commission to confer about the plans and related wetland buffer impacts, and to allow the Commission to report their findings to the Planning Board for the next regular meeting on June 15, 2011. Ms. Foss seconded. Motion carried.

Major Site Plan Applications

5. Application by **Concord Housing Authority** for a site plan of property located at **15 Pitman Street. (#2011-12)**

Public Hearing

Mr. Woodward explained this proposal to create eleven new dwelling units at the Crutchfield Apartment building. Originally designed and occupied as housing for the elderly, the apartments are now available to handicapped persons of any age. Ground floor space formerly used as the executive offices of the Housing Authority will be converted to dwelling units with other units being created from existing ancillary storage space on several floors. Exterior changes to the building are limited to the installation of a number of wall ventilation units and a new window. No improvements are proposed to the site nor is any additional parking proposed.

He reported that the Zoning Board of Adjustment had granted the following variances to the sections of the Zoning Ordinance:

- 1) Article 28-4-5(e)(2), Maximum Floor Area Ratio (FAR), to permit a FAR of 1.3 where a ratio of 1.0 is required,
- 2) Article 28-4-5(i), Parking Requirements, requiring compliance with Article 28-7-1, Access, Circulation, Parking, & Loading requirements,

- 3) Article 28-7-2(e), Table of Off-Street Parking, to provide no additional parking spaces when 22 new spaces would be required (maintain provision of 25 spaces when 105 spaces originally required for elderly housing, 232 spaces required by today's multi-family use),
- 4) Article 28-7-10(a), Parking lot Perimeter Landscaping, requiring a 5 foot wide landscaped strip of hedges or other dense plantings at least 4 feet in height along the perimeter of the parking lot,
- 5) Article 28-7-10(d), Landscape Materials Standards, to maintain the provision of 2 ornamental shade trees where 7 would be provided,
- 6) Article 28-7-12(b)(3), to maintain existing parking configuration with a portion of the parking located within the front yard, where all parking is required to be located in the side or rear yard,
- 7) Article, 28-7-13(a) & (c), Off-Street Loading Requirements, to waive the requirement for the provision of two separately dedicated 1,000 SF loading spaces,
- 8) Article 28-7-14(d), Setbacks for Refuse Containers, to maintain existing location of the dumpster within 10 feet of the property line, and
- 9) Article 28-7-10 (b), Parking Lot Interior Landscaping Required, to waive the requirement of providing interior parking lot landscaping of at least 5% of the gross parking lot area when the requirement for parking spaces is greater than 50 spaces.

He reported that the Architectural Design Review Committee had reviewed the site and building plans and recommended approval of the application as submitted.

School, recreation, and transportation impact fees will need to be assessed for all new units with a credit on the transportation impact fees for the area previously used as office space.

John Hoyt was present as applicant to answer questions from the Board.

There was no one else present who wished to speak for or against the application and the Chair declared the hearing closed at 7:25 PM.

Deliberations and Action on Application

Mr. Swope moved that the Planning Board grant Architectural Design Review approval for the site and building at 15 Pitman Street. Mr. Gross seconded. Motion carried.

Mr. Swope moved that the Planning Board grant conditional Site Plan approval for eleven new dwelling units in the Crutchfield Apartments subject to the following standard condition:

1. 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. Recreational Facilities - 11 units - Multi-unit / Apartment
 - b. School Facilities - 11 units - Multi-unit / Apartment
 - c. Transportation Facilities - 11 units - Multi-unit / Apartment

A credit against the Transportation Impact Fee shall be issued for the floor area formerly occupied by the executive offices of the CHA.

Ms. Foss seconded. Motion carried.

6. Application of **Kevin Long and Johanne Holmes** for a site plan of property located at **8 Integra Drive. (#2011-14)**

Public Hearing

Ms. Hebert explained this proposal to construct a 7,480 square foot light industrial building at 8 Integra Drive. The site plan includes the construction of the manufacturing facility, loading area, parking lot, and related infrastructure. The building will be a wood framed structure with gray vinyl siding, white trim and black asphalt shingles. The Architectural Design Review Committee reviewed the architecture and landscaping and found the design to be acceptable as submitted and made a few minor suggestions.

She reported that a landscape plan had been provided that complied with the City's requirements for parking lot landscaping. The plan included 19 shade trees and 12 evergreen trees around the perimeter of the parking area.

She explained that the traffic impact fees for the property were determined at the time the Legend Industrial Center Subdivision was approved and an impact fee agreement was recorded at the Merrimack County Registry of Deeds stating the amount of the impact fee that would be paid for each lot. This project will need to pay an impact fee of \$2,491.95.

She explained that when the Integra Drive subdivision was constructed, the stormwater drainage system was designed to contain up to 35% impervious surface on each

individual lot. The proposed impervious coverage on this site is approximately 19.6%, and the stormwater runoff will be directed into the City's existing drainage system on Integra Drive.

There was no one present on behalf of the applicant and no one who wished to speak for or against the application and the Chair declared the hearing closed at 7:32 PM.

Deliberations and Action on Application

Mr. Swope moved that the Planning Board grant Architectural Design Review approval for the site and landscaping plans and building elevations for the Major Site Plan application of Kevin Long and Johanne Holmes at 8 Integra Drive as submitted by RJB Engineering, LLC and A&B Lumber Company. Ms. Foss seconded. Motion carried.

Mr. Swope moved that the Planning Board grant conditional Site Plan approval for the Major Site Plan application of Kevin Long and Johanne Holmes at 8 Integra Drive 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. No certificate of occupancy for any building or use shall be issued until all site improvements have been substantially completed to the satisfaction of the City Engineer.
3. 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. \$2,491.95 per pre-existing impact fee agreement

Mr. Gross seconded. Motion carried.

Kevin Long had now arrived and Mr. Gross asked his reaction to the suggestions made by the Design Review Committee for improvement to the design of the proposed building. Mr. Long responded that he took offense at the Committee wanting to change anything about the proposed building and would not be making the revisions suggested.

7. Application of **St. Paul's School** for a Major Site Plan of property located on **Dunbarton Road at Pleasant Street**. Along with this application is a request for Conditional Use Permit pursuant to Section 28-4-3(d), Disturbance to a Wetland Buffer, of the Zoning Ordinance. (#2011-19)

Determination of Completeness

Ms. Hebert explained this proposal to reconstruct approximately 400 linear feet of Dunbarton Road beginning at the Dunbarton Road/Pleasant Street intersection, and to realign approximately 200 linear feet of Rectory Road beginning at the intersection with Dunbarton Road.

She reported that the application is complete and ready to be scheduled for public hearing.

Mr. Kenison moved and Mr. Gross seconded that the Planning Board determine this application to be complete and set it for public hearing at the next regular meeting of the Board on June 15, 2011. Motion carried.

8. Application of **St. Paul's School** for a Major Site Plan of property located on **Silk Farm Road at Dunbarton Road**. Along with this application are requests for Conditional Use Permits pursuant to Section 28-4-3(d), Disturbance to a Wetland Buffer, and Section 28-7-11(b), Construction of Fewer Parking Spaces, of the Zoning Ordinance. (#2011-24)

Determination of Completeness

Mr. Henninger explained this proposal to construct a 420-foot x 380-foot lighted, synthetic turf field near the intersection of Dunbarton Road and Silk Farm Road.

He reported that the application is complete and ready to schedule for public hearing.

Mr. Swope moved and Mr. Kenison seconded that the Planning Board determine this application to be complete and set it for public hearing at the next regular meeting of the Board on June 15, 2011. Motion carried.

9. Application of **Venezia Realty Associates LLC** for a site plan of property located at **60 D'Amante Drive**. (#2011-21)

Determination of Completeness

Mr. Henninger explained this proposal to construct an 8,250 square foot multi-tenant retail building on a land unit in the condominium development anchored by Target and Michael's.

He reported that the application is complete and ready to be scheduled for public hearing.

Mr. Gross moved and Ms. Foss seconded that the Planning Board determine this application to be complete and set it for public hearing at the next regular meeting of the Board on June 15, 2011. Motion carried.

Architectural Design Review

10. 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.

- **Dollar Store** for one new panel in an existing freestanding sign, a new affixed sign, and two internally illuminated awnings at **321 Loudon Road**
- **Concord Lincoln** for one replacement panel in an existing freestanding sign at **158 Manchester Street**
- **Pizza Hut** for one replacement panel in an existing freestanding sign at **148 Loudon Road**
- **Saymore Trophy** for four affixed signs at **64 Old Suncook Road**
- **Tire Warehouse** for one replacement freestanding sign at **39 Fisherville Road**
- **UNH School of Law** for one affixed and two freestanding signs at **2 White Street**, together with adjacent landscaping

The Chair opened the hearings on all of the above signs.

- **Dollar Store** for one new panel in an existing freestanding sign, a new affixed sign, and two internally illuminated awnings at **321 Loudon Road**

Mr. Henninger explained that the proposal included a new panel in half of the lower panel of the existing freestanding sign. There is no tenant for the remaining retail space yet since the other tenant space had not yet been constructed, and the remaining space was being reserved for the eventual tenant. He reported that the Design Review Committee members had suggested filling the entire space with the Dollar Tree sign until another tenant space is constructed and filled. The two internally illuminated awnings will not face the residential neighborhood.

He reported the Design Review Committee had found the proposed signage to be appropriate for the location and use, and recommended approval subject to the entire lower panel of the freestanding sign being used for the current tenant.

Rick Donnelly from NH Signs was present on behalf of the applicant and indicated that the applicant had agreed to the Design Review Committee's recommendation.

Mr. Swope moved approval subject to the entire lower panel of the freestanding sign being used for the current tenant. Ms. Foss seconded. Motion carried.

- **Concord Lincoln** for one replacement panel in an existing freestanding sign at **158 Manchester Street**

Mr. Henninger explained that there had been a question by the Design Review Committee as to the proposed colors for the sign since the colors had not been noted on the plan but had determined that it was intended to be a black and grey sign. There will be no change to the base of the sign.

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

The applicant was present to answer questions from the Board.

Mr. Swope moved approval as submitted and Ms. Foss seconded. Motion carried.

- **Pizza Hut** for one replacement panel in an existing freestanding sign at **148 Loudon Road**

Mr. Henninger explained this change in the corporate logo as part of their rebranding. The existing variable message panel will remain unchanged.

He reported that the Design Review Committee had found the proposed replacement panel to be appropriate for the location and use, and recommended approval as submitted.

The applicant was present to answer questions from the Board.

Mr. Swope moved approval as submitted and Ms. Foss seconded. Motion carried.

- **Saymore Trophy** for four affixed signs at **64 Old Suncook Road**

Mr. Henninger pointed out that this property is located at the corner of Old Suncook Road and Airport Road, and that Saymore Trophy is the only occupant of the building.

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

Greg Slossar was present as applicant to answer questions from the Board.

Mr. Swope moved approval as submitted and Mr. Gross seconded. Motion carried.

- **Tire Warehouse** for one replacement freestanding sign at **39 Fisherville Road**

Mr. Henninger noted that the new panel is actually smaller than the existing sign.

He reported that the Design Review Committee had found the new sign to be an improvement over the current design and recommended approval as submitted.

Rick Donnelly from NH Signs was present on behalf of the applicant.

Mr. Swope moved approval as submitted and Mr. Kenison seconded. Motion carried.

- **UNH School of Law** for one affixed and two freestanding signs at **2 White Street**, together with adjacent landscaping

Mr. Henninger explained that the building panel is a champagne color and they propose either aluminum or bronze individual letters with halo lighting. The individual letters will be placed on the building as well as on the stone wall at the property entrance. The freestanding sign at the building entrance will be a granite cube that will be etched.

He reported that the Design Review Committee had found the proposed signage to be appropriate for the location and use, and recommended approval as submitted using either the aluminum or the bronze for the affixed lettering.

He reported that in conjunction with the entry sign application, the applicants had presented a related landscape plan to the Design Review Committee, which showed substantial modifications at the corner of Washington and White Streets. The new plan proposes that all existing trees be removed and replaced with a series of smaller trees. They also propose to add walkways and a circular wall at the sidewalk as well as the installation of concrete pavers in the sidewalks and walkways. These were changes that the staff had not previously seen or reviewed. The modifications to the City sidewalks will require a license from the City Council.

Eric Norman and Peter Husack, from the UNH School of Law, and Karen Fitzgerald, from Nobis Engineering, were present to answer questions from the Board.

Mr. Norman explained that this is a significant improvement to the site plan.

Mr. Hicks reported that last year when the School came before the Board for approval of the addition he was impressed with the School's reaching out to the neighborhood. He asked if they had approached the neighborhood about these changes to the site plan. Mr. Norman responded that they had approached the neighbors most directly affected and those neighbors responded favorably.

Ms. Fitzgerald noted that the pavement to green ratio had not changed significantly.

Mr. Gross asked what input they had received from the neighborhood regarding the signage. Mr. Norman responded that the neighbors had been approached about the new signage. They had seen the signage since the beginning so the only thing that they had not seen is the sign on the wall in the new landscape area.

There was no one else who wished to speak.

Mr. Swope moved approval of all three signs as submitted but not the changes proposed to the site plan at this time as it was not formally before the Board in the form of an application. Mr. Kenison seconded. Motion carried.

The Planning Board advised the applicant to contact Planning Division to determine how to proceed toward obtaining Planning Board action on the changes to the site plan as well as requesting a license for the sidewalk alterations from the City Council.

REGULAR MEETING

Minutes

Mr. Gross moved approval of the minutes of the meetings of April 20, 2011 and May 4, 2011 as submitted. Mr. Swope seconded. Motion carried.

New Business

12. Consideration of a request by **Oxbow Realty Trust** for an extension of the period of validity of the conditional approval of phases 2 and 3 of the Major Subdivision application for the **Oxbow Bluff Cluster Subdivision on Manor Road. (#2005-67)**

Mr. Woodward explained that Northpoint Engineering LLC had forwarded requests for extensions of the conditional subdivision approval of Phases 2 and 3 of the Major Subdivision Application for the Oxbow Bluff Cluster Subdivision on Manor Road. The request is to extend the period of validity for Phase 2 for four more years and Phase 3 for two more beyond that.

He explained that the Planning Board, at a meeting on May 31, 2006, granted conditional final approval of the major subdivision known as the Oxbow Bluff Cluster Subdivision on Manor Road. The original approvals were valid for a period of one year or until May 31, 2007, and included a schedule for three phases of development as follows: Phase 1 consisting of 26 units was to commence within two years, Phase 2 consisting of an additional 19 units was to commence within four years assuming Phase 1 was underway, and Phase 3 consisting of the final 18 units was to commence within six years provided all of the site improvements for Phases 1 and 2 had been completed. There were also three off-site improvement projects tied to the project, including a sidewalk along Manor Road and improvements to the intersection of Manor Road at Sewalls Falls Road. The last off-site improvement is a roundabout at Manor and Abbott Roads to be done at the conclusion of Phase 1. The plat was recorded on March 16, 2007 and the work of Phase 1 was initiated. Before the first two-year period was up, the housing market had dried up and the lending institution had actually taken over the project. The bank and the applicant were able to restructure their agreements and Oxbow Realty Trust resumed control of the project. At present, 15 units of the initial Phase of 26 units have been constructed.

He explained that, upon request of the applicant, extensions of a final subdivision approval may be granted by the Board pursuant to Section 10.09(9) of the Subdivision Regulations. Extensions are limited to two years, with a phased project being allowed two years per phase, pursuant to Section 10.10.

While the plat is recorded for the subdivision as a whole, only some limited clearing and a small portion of the infrastructure has been installed for Phase 2, which should have been substantially underway by now. However, there have been no changes in regulations which affect this development, and the off-site improvements tied to the initiation of Phase 1 have been completed. Market conditions have slowed the rate of absorption of the units.

Mr. Gross moved that the Planning Board, pursuant to Section 10.09(9) of the Subdivision Regulations, approve an extension of Phase 2 for an additional two years from the sixth anniversary of the approval of the subdivision, which will be May 31, 2012, which represents the end of the time frame originally approved by the Board for all three phases, so that with this action Phase 2 would be valid until May 31, 2014. He further moved that the Planning Board approve an extension of Phase 3 for four years from May 31, 2012, so that with this action Phase 3 will be valid until May 31, 2016. As part of this action, all conditions of the original subdivision approvals shall remain in full force and effect.

Mr. Kenison seconded. Motion carried.

13. Consideration of a request by **Sabbow and Company, Inc.**, for a discontinuance of a segment of **Regional Drive westerly of Industrial Park Drive**.

Mr. Woodward explained a request for the discontinuance of a segment of Regional Drive westerly of Industrial Park Drive had been submitted by Sabbow and Company, Inc. He explained that when the new section of Regional Drive between Industrial Park Drive and Sheep Davis Road was constructed several years ago, an existing section of Regional Drive just westerly of Industrial Park Drive was realigned to shift the Regional Drive/Industrial Park Drive intersection southerly of the intersection that had existed since Regional Drive was begun more than 30 years ago. As a result, a short segment of the right-of-way on the northwesterly corner of the intersection ceased to be used as the traveled way of Regional Drive. This is the segment for which discontinuance is sought.

He reported that Sabbow and Company, Inc. owns the property to the north of this segment of right-of-way, and as such, upon discontinuance, would typically come to own the northerly half of the land over which the right-of-way was laid out, and the abutter to the south, the Linda D. McLaren Trust 2007, would have come to own the southerly side of the segment of right-of-way. Sabbow and Company has acquired the rights to the southerly side of the right-of-way from the McLaren Trust 2007, thereby assembling all rights of reversion of the segment of right-of-way upon discontinuance.

He reported that the right-of-way to be discontinued contains a number of utility lines and mains. Municipal water is located in the segment proposed to be discontinued as is natural gas, and the overhead distribution lines of Unitil and Fairpoint. Overhead transmission lines of PSNH running parallel to Industrial Park Drive cross over the segment. RSA 231:46, Authority to Reserve Existing Utility Easements, indicates that any utility easements, permits, or licenses previously established "shall be presumed to be reserved and shall remain in effect as an encumbrance upon the underlying land for so

long as they remain in active use". The City Solicitor has advised that the retention of these easement rights should be specified as a condition of discontinuance.

Mr. Woodward explained that Sabbow and Company manufactures concrete products and they want to use the segment of right-of-way to store these products. As such, the City was concerned that if there was a water main break, it would not be possible to move these products quickly enough to repair the break, and larger sections of the water main would have to be shut down for periods of time to allow for the products to be moved, affecting customer service and fire suppression/protection capabilities. An approach to allow for the storage of products over the water main has been developed whereby Sabbow would pay to install valves at each end of the segment so that this section of main can be shut down or isolated from the rest of the system until stored products can be moved and repairs can be made.

He reported that the discontinuance is appropriate as the public no longer travels over this segment of road. However, the discontinuance should be made subject to easements for all of the existing utility services therein, to the installation at the petitioner's expense of isolation valves at each end of the municipal water main in the area to be discontinued, and to the preparation of an easement that will allow Sabbow and Company, Inc. to store products over the City's water main upon installation of the isolation valves.

Mr. Gross moved that the Planning Board recommend that the City Council grant the request to discontinue a segment of Regional Drive westerly of Industrial Park Drive subject to the following conditions:

1. Retention of easement rights for all existing municipal and public utilities in, under and over the segment of right-of-way to be discontinued.
2. The installation, at the petitioner's expense, of isolation valves at each end of the municipal water main in the area to be discontinued.
3. Preparation of an easement that will allow Sabbow and Company, Inc. to store products over the City's water main subject to the installation of the isolation valves.

Ms. Foss seconded. Motion carried.

Old Business

14. Further consideration of a report from the Deputy City Manager - Development relative to proposed **changes to the City's Land Use Regulations and Development Review Procedures- Part 1**, with attention to the proposed changes to the text of the Zoning Ordinance.

The Chair explained that at the last meeting the Planning Board had reviewed proposed revisions to the City's zoning map. He explained that tonight the Board will review a series of revisions to the text of the Zoning Ordinance and then determine whether to

schedule a public hearing for the text changes and the map revisions prior to forwarding recommendations to the City Council.

Mr. Gross felt that there were a number of privately owned properties that would be placed into non-conformity by the zoning map changes to the Central Business Performance District as proposed. He felt those property owners should have an opportunity to express their feelings at a public hearing before the Planning Board makes a recommendation to the City Council.

The Board then discussed the text changes as proposed in response to the suggestions of Concord 2020 and EDAC.

Ordinance defining access through less dense neighborhood – Mr. Woodward explained the proposed revision would provide standards for providing access for a development of attached or multi-family dwellings, or for a Planned Unit Development, where the access is not directly from an arterial or collector street. Language from proposed ordinance resulted from discussions by the Planning Board several years ago. The current ordinance language focused on density and created difficulties with interpretation when trying to apply it. The real point of the current ordinance was to mitigate the impacts of increases in traffic from a new development in existing residential neighborhoods.

Ms. Foss asked Mr. Henninger if this language would address issues that had arisen as a result of Cherry Street development. Mr. Henninger responded that the proposed language employs a typical street volume standard and would allow for concerns regarding traffic to be addressed with traffic calming measures.

Mr. Gross indicated that he was ready to forward this amendment to the City Council because it was consistent with the goals of the Master Plan with regard to increased density within the Urban Growth Boundary. He felt this revision respected the legitimate concerns of a neighborhood to make certain that infrastructure not be overtaxed by a new development. The job of the Planning Board is to see that existing neighborhoods change harmoniously.

Mr. Swope agreed with Mr. Gross.

Ordinance addressing removal and replacement of manufactured homes – Mr. Woodward explained that this revision had been suggested by the Zoning Administrator to address the recurrent issue of the replacement of older mobile homes, which get caught up with non-conformities and end up before the ZBA as variance actions. The proposed changes will provide some flexibility to the Code Division to address this issue directly and generally without need for ZBA action.

Ordinance addressing non-conforming features of a structure – Mr. Woodward explained this is another ordinance suggested by the Zoning Administrator to provide flexibility in addressing certain non-conformities of buildings where porches or steps are located in yard setbacks and these building features need to be replaced..

Mr. Gross had a concern about the phrase “in kind”. He felt it could have a number of different meanings and was not a great phrase to use if precision was necessary. He suggested removing “in kind” so that the sentence reads “...may be removed and replaced.” He also suggested changing the order of the last two sentences in the paragraph. The Board members agreed with Mr. Gross.

Ordinance deleting threshold for major site plan review in performance districts – Mr. Woodward explained to the Board that this would delete the requirement for major site plan review for any project in a Performance District. Projects that would qualify as minor site plan applications could be dealt with accordingly. The primary benefit would be a reduction in the length of time for the process if a project qualifies as a minor site plan.

Ordinance providing for Planning Board oversight of driveway widths – Mr. Woodward explained to the Board that occasionally, there have been requests to reduce the width of a driveway below the standards contained in the Ordinance. In older neighborhoods where there is a conversion of use, there is not necessarily space for the full width required for driveways. The proposal is to add the option for driveway width reduction as a Conditional Use Permit under Section 28-7-11 which contains a number of parking and circulation options by Conditional Use Permit. The proposed language would allow a reduction in driveway width from 24 feet to 18 feet in cases where the proposed use would not exceed a specified level of trip generation.

Ordinance providing for changes to off-street parking requirements – Mr. Woodward explained to the Board that the current parking standards were adopted with the current zoning ordinance in 2001. Those standards were prepared after an extensive review of nationally recommended parking standards as well as a review of parking standards in use by communities across the country. The Board has noted in its review of non-residential developments in the last three or four years that the required parking standards may be excessive for small to medium scale retail uses, office uses, and industrial and/or warehousing establishments. A number of Conditional Use Permits have been issued by the Planning Board for developers to show a reserved area for additional parking on the approved site plan, but to not construct these parking spaces until deemed necessary by the Zoning Administrator, and to date the City has not had to require the construction of any of the spaces deferred by a Conditional Use Permit.

He explained that staff had undertaken a comprehensive study parking standards and had also contracted with the Regional Planning Commission to do field parking counts for specific uses. What emerged from this review was that while the majority of parking standards remain valid, there are a number of uses which appear to warrant a change in the related parking standard. There was also a need to create a new use category (Office/Warehousing/Industrial Flex Building) to be added to the Table of Off-Street Parking Requirements. The Board noted that most new standards were for fewer parking spaces than are currently required.

Mr. Henninger explained the addition of the Office/Warehouse/Industrial Flex use was recommended because both staff and developers struggle with calculating parking needs for this kind of building.

Ms. Foss was curious about the increase in parking requirements for health and fitness centers. Mr. Henninger responded that observation showed that these facilities needed more parking than currently required.

Ordinance providing for parking lots to be located to side or rear – Mr. Woodward indicated to the Board that this is a topic referred to in the Master Plan as well as the Concord 2020 report of about ten years ago. This would simply provide an addition to an existing section to address parking in certain specified commercial districts in order to not have buildings separated from the street by a parking lot and to provide a better relationship to pedestrian. The parking would be required to be located to the side and rear of buildings.

Ordinance providing for new definition of “floor area ratio” – Mr. Woodward explained to the Board that this is the term used in the Zoning Ordinance in a limited setting as a way of conveying density. He explained that there may be situations where there is a large parcel with a lot of non-buildable land. This definition would clarify that the ratio would apply only to the buildable land.

Code language providing for living suites/accessory kitchens – Mr. Woodward explained this is not really change for the Zoning Ordinance but is actually proposed for inclusion in the Building Code. There has been a concern expressed about an accessory apartment eventually becoming an additional dwelling unit in a single family home. In response to those concerns, Code Administrator has found that under the Building Code, accessory kitchens could be constructed without dividing the house into an additional dwelling unit. Basically, the idea was to retain a single family home as a single family home but provide quarters for someone such as an aging relative to live in those quarters without converting the existing dwelling unit into a duplex.

Ordinance incorporating “form-based code” language in CBP zoning district – Mr. Woodward explained to the Board that this proposal provides a new section with references to all existing performance standards for the Central Business Performance District contained within the Zoning Ordinance and adding several new performance standards related to “build to lines”, ground floor occupancy standards, and “transparency” for new development and redevelopment. These include new performance standards are drawn from concepts embedded in so-called “form based codes” and which are designed to reinforce and enhance the traditional pedestrian oriented downtown streetscape.

Mr. Gross recalled the concern expressed when Capital Commons was proposed regarding the possibility that the height of the building would obstruct the view of the State House dome from I-93. Mr. Woodward responded that there was quite a debate about this when the Zoning Ordinance was adopted and, as a result, it was spelled out in the Zoning Ordinance that the views of the State House dome were protected from

Exits 12 to 15 of I-93 to the extent that these views exist within the changes in elevation of I-93 itself in relation to the City's topography in the Downtown area.

Mr. Gross moved to transmit these ordinances amending the text of the Zoning Ordinance to the City Council with the Planning Board's recommendation for adoption. He further moved that the Planning Board schedule public hearings on the proposed revisions to the Zoning Map prior to forwarding recommendations to the City Council. Mr. Kenison seconded. Motion carried.

The Chair suggested holding the public hearings on the mapping changes at the special meeting on June 22, 2011. The Board concurred.

15. Continuation of the review of the draft **Site Plan Regulations with a focus on Chapter 5**, in general, and Sections 31-36, in particular.

The Board continued its review of the draft Site Plan Regulations with a focus on Chapter 5.

Section 31 Special Investigative Studies - Third Party Review

Section 32 Traffic Impacts and Traffic Studies

Section 33 Architectural Design Review

There were no comments on Sections 31, 32 and 33.

Board members then agreed to continue review of Chapter 5, with a focus of Sections 34, 35 and 36 at the special meeting on June 22, 2011.

Mr. Woodward noted that the Heritage Commission was developing comments to forward to the Planning Board. He will urge them to have their comments available for the meeting on June 22.

16. Further consideration of a report from the Deputy City Manager - Development relative to proposed **changes to the City's Land Use Regulations and Development Review Procedures- Part 1**, with attention to the proposed changes to the text of the Zoning Ordinance.

The Chair returned to the report from the Deputy City Manager for Development relative to proposed changes to the Board's development review procedures. He explained that the Board had been asked to specifically consider several items in the report with regard to EDAC's recommendations that the Design Review Committee be formalized as a committee with a member of the committee serving as chairperson, and that the Board not be able to overrule the Design Review Committee except in the case of an appeal from an applicant. He reported that the Planning Board had discussed the matter at its last meeting and concluded that a joint meeting with the Design Review Committee might be fruitful to share thoughts about the design review process and criticisms.

Mr. Woodward reported he had approached the Design Review Committee which was unaware of the issues that had been raised. The Committee wanted to better understand the problem and had asked if copies of the various reports starting with Concord 2020, as well as EDAC, and then the Deputy Manager's report were available online. Mr. Woodward indicated he would gather those pertinent parts of the reports for distribution to Design Review Committee members.

He reported that the general opinion of the Design Review Committee was that other communities are much more rigorous in their review and that Concord's was a much more helpful process. One of the Committee members suggested designing a survey of applicants to the Design Review Committee over the past five years or so to gain more information on the complaints. They felt a brief introduction explaining the purpose would make it more readily accepted and answered, providing there were no leading questions in the survey.

Mr. Drypolcher reported that the Planning Board's Clerk had also consulted with the City Solicitor regarding the Design Review Committee being the final action. The bottom line was that the Design Review Committee is empowered by the Board to advise the Planning Board and there is no statute that allows the Planning Board to delegate its powers. The Board holds the legal hearing and takes the legal vote on applications.

Mr. Drypolcher felt the Planning Board needed to bring closure where it could by acting on these open items and by responding with an explanation of its actions. He suggested that the Clerk be directed to provide a written communication to the Deputy City Manager summarizing the Board's thoughts relative to the order of presentation at a public hearing as well as the response from the City Solicitor relative to the legal status of the Design Review Committee. The communication should also explain that the Planning Board was continuing to work with the Design Review Committee to try to resolve the remaining issues.

Mr. Swope noted that EDAC has provided solutions without explaining the problem. He was also of the opinion that when the Planning Board has modified a Design Review Committee decision, it has almost invariably been in favor of the applicant.

Mr. Gross also felt that allowing the Design Review Committee to make binding decisions would require that the Committee adopt the same review and action process used by the Planning Board, including a provision for appeal, thereby lengthening the application process.

Mr. Gross wondered what EDAC was trying to accomplish with these suggestions.

Mr. Swope felt applicants should be informed at the start of Design Review Committee meetings that the Committee is advisory to the Planning Board. He felt the present system worked pretty well as long as people understood the process.

Mr. Gross was of the opinion that the problem might be that the function and purpose of the Design Review Committee was not clear. A clear understanding of the Planning Board's expectations of the Design Review Committee might be helpful to applicants. He suggested that a one or two page document be handed out to each applicant describing the design review process and the function of the Design Review Committee.

There was a discussion regarding creating design guidelines to make clear to applicants as to the Planning Board's expectations.

Mr. Kenison indicated he had a hard time understanding what was wrong with the current process.

Mr. Hicks suggested adding the word "advisory" to the Committee title.

As a result of these discussions, Mr. Woodward suggested members review Section 33, Architectural Design Review, of the draft Site Plan Review Regulations and consider adding details and explanations that would clarify the function of the Design Review Committee as well as the Board's expectations.

Mr. Gross suggested that in its response to the Deputy City Manager, the Planning Board report that the Planning Division has been directed to develop an informational memorandum to be handed out to applicants. He felt that would take the mystery out of the process.

Mr. Drypolcher summarized the Board's discussion relative to the order of presentation before the Planning Board, and noted that the Board found it very useful to have an initial staff presentation preceded by receipt of the written report. Staff presentation crystallized the issues so that the Board did not waste time. Board members had expressed concern about efficient use of its time as well as the time of other applicants and members of the public waiting to be heard relative to subsequent agenda items. Members had also noted that there had been a number of times when the Planning Board had not agreed with staff recommendation and had taken action accordingly. Board members concurred with conveying this to the Deputy City Manager.

There was no further business to come before the Board and the meeting adjourned at 10:20 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

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