

The regular monthly meeting of the City Planning Board was held on July 20, 2011, in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher, Hicks, Shurtleff (City Council Representative), Foss, Smith Myer, Dolcino, and Alternate Member Kenison. Messrs. Woodward and Henninger, Ms. Hebert and Ms. Muir of the City Planning Division were also present, as was Ms. Aibel, the City's Associate Engineer.

At 7:02 PM a quorum was present, and the Chair called the meeting to order and seated Alternate Member Kenison for Member Swope, who was not expected.

APPLICATIONS

Review of Governmental Land Uses Pursuant to RSA 674:54

1. The **New Hampshire Technical Institute** proposal to construct a 295-space parking lot on the campus on **Institute Drive. (2011-0031)**

Public Hearing

[Ms. Smith Myer recused herself and left the table]

Ms. Hebert explained this is a public hearing under RSA 674:54. The proposal from the New Hampshire Technical Institute (NHTI) is to construct a new parking area containing 295 spaces off of Institute Drive. The project is located in the Institutional District (IS) and Open Space Residential District (RO) and the Shoreland Overlay Protection District and Flood Hazard Overlay District.

She reported the parking lot also includes the construction of a detention pond and related infrastructure, as well as the installation of lighting and landscaping. The parking lot has been reconfigured to reduce impacts to the wetland buffer. The buffer impacts include a small area of pavement and minor grading associated with the construction of the detention pond. The limit of work is located approximately 368 feet from the reference line of the Merrimack River, and the project does not impact the NHDES 250-foot shoreland buffer.

Ms. Hebert stated NHTI considered using a pervious pavement in the parking area, but the soils were not suitable. The project includes the construction of a 3-foot wide stonedust path on the northerly side of Institute Drive for the Heritage Trail, and also proposes to relocate the Heritage Trail markers. This project will require an Alteration of Terrain permit from the NHDES.

She reported that the lighting fixtures have been replaced, based on staff recommendations, with LED fixtures which are dark sky friendly, and the plan conforms to the City of Concord requirements for parking lot lighting.

The Landscape Plan proposes planting 46 trees and 14 shrubs within the new parking lot. The parking lot contains approximately two acres of impervious surface. A parking lot of this size would typically be required to contain approximately 87 trees.

Ms. Foss asked whether the parking lot interfered with the route of the Heritage Trail. She suggested that it would be better for the trail to follow the outer boundary of the parking lot. Ms. Hebert outlined where the trail runs and reconnects to the parking lot. Mr. Woodward stated that he believes

that the trail does hug the treed border. Ms. Foss strongly recommends that NHTI move the trail to the outer boundary of the parking lot.

Ms. Dolcino asked the purpose of the parking lot. Ms. Hebert said that it was to be used as an overflow lot. Mr. Kenison suggested that if not all the spaces are needed, the parking lot could be reconfigured. Ms. Hebert stated that she believed that all the spaces would be utilized.

Brian Vincent from Nobis Engineering and Michael Therrien, Facilities Director for NHTI were present to answer questions from the Board.

Mr. Drypolcher asked if there were any obstacles to moving the Heritage Trail along the outer edge of the parking lot. Mr. Vincent stated that it was something they could look at and didn't seem to think that there would be a problem moving the trail.

Mr. Drypolcher asked whether the student population was growing enough to create the need for overflow parking. Mr. Therrien stated that the parking would be used for overflow, dormitory, and overnight parking. To the right of the proposed parking lot are the soccer fields, and NHTI would require that parking for the fields and overnight parking would be designated in the new parking lot. This would reduce parking on the side of the road.

Mr. Shurtleff stated that 87 trees would be required, but only 46 are proposed. Mr. Therrien stated that NHTI would prefer to build the lot and add the landscaping after the lot is constructed. Mr. Shurtleff asked if there were current plans to add additional landscaping. Mr. Therrien stated that they would take the suggestion under consideration. Ms. Foss stated that it is important that the plans reflect the future construction of landscape islands, so that when the landscaping was added, the parking lot would already be configured.

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

Deliberations and Action on Application

Mr. Shurtleff moved to submit a letter to NHTI with the following recommendations:

1. NHTI should reconfigure the Heritage Trail so that follows the outer edge of the parking lot.
2. NHTI should consider increasing the number of trees within the parking lot and around the perimeter of the pavement. It was suggested that the islands be enlarged at the time the parking lot is constructed for the future planting of trees.

Ms. Foss seconded. Motion carried with Ms. Smith Meyer abstaining from discussion and vote.

Minor Subdivisions

2. Application by **John Dapergolas** for approval of a subdivision by virtue of conversion to a condominium for property located at **12 Integra Drive. (2011-0030)**

Determination of Completeness

Ms. Hebert reported that the application is complete and ready for public hearing.

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

Public Hearing

Ms. Hebert reported the applicant is proposing to convert the two existing light industrial buildings at 12 Integra Drive to 13 condominium units. The property is located in the Industrial District, and the primary tenant occupying the site is the John's Wrecker Service towing company. The condominium would include 12 units within the two buildings, with the 13th unit being a land unit, which houses an existing a cell tower on the property.

Each building will have a water meter, and the condominium association will assume the responsibility of water billing for each unit. Revised plans and condominium documents have been received by the Planning staff, and the revised plans have been reviewed and all concerns have been addressed. The condominium documents are in the process of being reviewed by the City's Legal Department.

Mark Sargent from Richard D. Bartlett & Associates, LLC, was present to answer questions 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.

Deliberations and Action on Application

Ms. Dolcino moved that the Planning Board grant conditional final subdivision approval for the condominium conversion of John Dapergolas at 12 Integra Drive, as prepared by Richard D. Bartlett & Associates, subject to the following standard condition:

Standard Condition:

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings and condominium documents to address the concerns, minor corrections, and omissions noted by City staff.

Ms. Foss seconded. Motion carried.

Major Subdivision

3. Application by **B & D Houston Enterprises, LLC** for approval of a major subdivision of property on **15 Integra Drive. (2011-0023)**

Tabled Public Hearing

Mr. Henninger reported that the hearing on this application was recessed at the June 2011 Planning Board meeting to provide the applicant time to revise the subdivision plan. Previously, the applicant was proposing to extend Integra Drive more than 800 feet to the south to a future road from Manchester Street to Garvins Falls Road. The revision the applicant is now proposing is to subdivide a 21.97 acre parcel from an existing lot of 54.98 acres and constructing a 450' extension of Integra Drive as a collector street. Integra Drive will be terminated at a temporary turnaround.

He reported that other improvements include a dry sewer line in Integra Drive, the extension of city water in the extended street, and drainage improvements. The future street shown on the plan is

intended to extend from the terminus of Integra Drive to Manchester Street on the north and Garvins Falls Road to the south. The proposed extension of Integra Drive is consistent with the 2030 Master Plan and the adopted Garvins Falls Study. The easement language has been developed that automatically terminates the hammerheads, when the road is extended and accepted, so that the four existing hammerhead easements will be terminated automatically.

Mr. Henninger stated the 21.97 acre lot can be served by a sewer force main in Integra Drive. The remaining lot cannot be served until the dry sewer line is extended northerly to Manchester Street and this line is brought into service. The applicant has added a note to the plan that indicates the remnant 32.62 acre lot on Integra Drive will not be developable until functioning sewer service is provided. The applicant is intending to extend municipal water and sewer lines along the extension of Integra Drive. The existing sewer line along Integra Drive is not in operation, but is designed to extend north and westerly through this property ultimately to Manchester Street. Existing development on Integra Drive is connected to the Manchester Street gravity sewer line by individual sewer force mains. All utilities are required to be underground in the OFP District including the power and telecommunication lines. The extended utility lines are shown as being installed underground.

He reported that Integra Drive is a collector roadway and pursuant to Table 21-2 Non-residential Street Standards of the Subdivision Regulations, sidewalks are required on both sides of the street for an arterial or collector road and would require 22 street trees to be planted. The applicant has requested a waiver to defer the construction of the sidewalk and installation of the trees, until future lot development occurs.

He reported that the applicant has requested the following waivers:

1. To submit a location plan at a scale of 1" = 800'.
2. To defer installation of the street trees until future lot development occurs. The applicant has revised the subdivision plan to show the 22 required street trees.
3. To defer the construction of the sidewalk until future lot development occurs. The future construction of the sidewalk may be guaranteed by the applicant by either providing the funding for the sidewalk improvement which would be retained in a dedicated fund or by providing a financial guarantee to ensure the future completion of the sidewalk. The engineering cost estimate for the sidewalk would need to be approved by the City Engineer.

Ms. Smith Meyer asked whether the deferment of the installation of the street trees was also covered by a financial guarantee. Mr. Henninger stated that that requirement could be added to the conditions.

Mr. Henninger stated that the applicant is also proposing a treatment swale at the end of the street, a retention pond, and an outlet. This retention pond is designed to handle the runoff of 100 year flood. With the sandy soils in the area, the outlet should only be needed in the most extreme storms.

Ms. Foss asked whether the detention pond would remain in place and undisturbed. Mr. Henninger responded that the current detention pond would be filled in and a new detention pond would be constructed at a later date, when the road is extended.

David Collier from Richard D. Bartlett & Associates, LLC, and Chris Bowler from McFarland Johnson, were present to answer questions on behalf of the applicant.

Deliberations and Action on Application

Ms. Smith Meyer moved to grant a waiver to Section 16.01(01) and Section 12.04 of the City of Concord Subdivision Regulations to allow the location plan to be submitted at a scale of 1"= 800'. Ms. Dolcino seconded. Motion carried.

Ms. Smith Meyer moved to grant a waiver to Section 28.04(6) of the Subdivision Regulations deferring the planting of twenty-two (22) street trees along the subdivision frontage, until future lot development occurs. Ms. Dolcino seconded. Motion carried.

Mr. Shurtleff asked if the requirement to require a financial guarantee for the deferment of the street tree plantings should be added at this point. He suggested that a motion to reconsider the previous vote be made.

Ms. Smith Meyer moved to reconsider the Board's previous vote on the deferment of the planting of the street trees to include a requirement for a guarantee by the applicant by either providing the funding for the street trees which would be retained in a dedicated fund or by providing a financial guarantee to ensure the future planting of the street trees. Mr. Shurtleff seconded. Motion carried.

Mr. Shurtleff moved to grant a waiver to Table 21-2 Non-residential Street Standards of the Subdivision Regulations to defer construction of a sidewalk on both sides of Integra Drive along the subdivision frontage until future lot development occurs. The applicant may make either a contribution for the sidewalk improvements to be retained in a dedicated fund in an amount acceptable to the City Engineer, or may provide a financial guarantee to ensure the future completion of the sidewalk in an amount acceptable to the City Engineer and in a form acceptable to the City Solicitor. Ms. Dolcino seconded. Motion carried.

Ms. Smith Meyer moved to grant conditional major subdivision approval of the "Subdivision Plat prepared for B&D Houston Enterprises, LLC" 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, approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions.
3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following easement documents and/or agreements, 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) A deed of easement for the extension of Integra Drive,
 - b) A drainage easement,
 - c) Two (2) temporary easements for turnarounds at the proposed terminus of Integra Drive.
4. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer and in a form acceptable to the City Solicitor.
 5. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall provide digital information from the plat to the City Engineering Division, as set forth in Section 12.08 of the City of Concord Subdivision Regulations.
 6. Approvals shall be obtained for the construction drawings and specifications for all public improvements from the Engineering Division prior to the commencement of any of the public improvements. No construction activity on the public facilities may commence prior to the pre-construction conference.
 7. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall obtain approval of private utility plans from Unitil, Fairpoint Communications, and National Grid.
 8. No certificate of occupancy for any building or use shall be issued until all public improvements have been conditionally accepted by the City of Concord, in accordance with Section 31 of the City of Concord Subdivision Regulations.
 9. Prior to the final acceptance of the public improvements by the City of Concord, the applicant shall provide to the City Solicitor a two year maintenance guarantee in an amount approved by the City Engineer and in a form acceptable to the City Solicitor.
 10. Prior to the release of a financial guarantee for any public improvement, an as built plan shall be provided to the City Engineer in form and content acceptable to the City Engineer.

Ms. Dolcino seconded. Motion carried.

Minor Site Plan and Conditional Use Permit Applications

4. Application by **Banks Chevrolet-Cadillac, Inc.**, for approval of a revision to a previously approved site plan of property located at **137 Manchester Street**. Along with this application is a request for Condition Use Permit pursuant to Section 28-3-6(d)(4), Conditional Use Permit required for Certain Uses in the AP District, of the Zoning Ordinance. **(2010-0031)**

Determination of Regional Impact

Mr. Henninger explained that the application is for an underground waste oil storage tank within the Aquifer Protection District for the Pembroke municipal well field in the City's Community Water Systems Protection Area - APD-5. It is requested that the Board make a determination as to whether this is a Development of Regional Impact pursuant to RSA 36:54. Notices were sent to the Town of

Pembroke and the Central New Hampshire Regional Planning Commission in anticipation that the Board would determine the applicant to be of Regional Impact.

Ms. Foss moved that the application is of regional impact. Mr. Shurtleff seconded. Motion carried.

Determination of Completeness

Mr. Henninger stated that the site plan and the Conditional Use Permit are complete and ready for public hearing.

Ms. Smith Meyer moved and Ms. Dolcino seconded that the Planning Board determine the application to be complete and open for public hearing. Motion carried.

Public Hearing

Mr. Henninger reported that the application is a revision to the site plan and a Conditional Use Permit which proposes to add a 25,000 gallon underground storage tank for waste oil to be used for heating of the new car dealership building currently under construction. The proposed underground waste oil storage tank is proposed within the Aquifer Protection District for the Pembroke municipal well field in the City's Community Water Systems Protection Area - APD-5.

Mr. Henninger stated that the tank is located in the north corner of the site and waste oil will be pumped into the tank from the collection systems from the service area of the dealership. The waste will then be pumped out of the 25,000 gallon tank to be used to heat the building. On the surface there will be no change, other than access man-holes, everything will be underground and underneath the proposed pavement and will not be visible from the ground level.

The applicant obtained a variance from the Zoning Board of Adjustment on June, 1, 2011, to allow this underground storage for petroleum products to be located where they are otherwise prohibited. The allowance of this use by variance requires the applicant to seek a Conditional Use Permit pursuant to Article 28-3-6(e)(4) of the Zoning Ordinance, for the storage of more than 100 gallons of regulated substances which includes petroleum products.

No other changes are proposed to the previously approved site plan.

The Conditional Use Permit is required for the storage, handling, and use of regulated substances (petroleum products) exceeding one hundred (100) gallons per Article 28-3-6(e)(4)a.1, subject to the provision of an adequate Spill Prevention, Control and Countermeasure (SPCC) Plan, in accordance with the provisions of Article 28-3-6(d)(2), Spill Prevention, Control and Countermeasure (SPCC) Plan. The SPCC is normally submitted upon the completion of the installation of the tank, but the applicant has prepared and submitted a draft SPCC at this time, which will be finalized upon installation of the tanks and submitted to the NH Department of Environmental Services.

Mr. Henninger reported that the proposed tank is a double walled facility with interspatial sensors between the walls, and the piping into and out of the building is also double walled. A NH Department of Environmental Services permit for the underground storage facility was issued on May 2, 2011.

Mr. Henninger stated that the Town of Pembroke's Water Works recommended to the Zoning Board of Adjustment that, if a variance was to be granted, that a concrete tertiary containment structure be

created to house the tank as an added means of protection. The City Engineering Division is recommending the installation of a tertiary containment system for the underground tank and piping to reduce the likelihood of future groundwater contamination. There are other ways to achieve tertiary containment other than a concrete containment structure.

The applicant had considered placing the tank outside the Aquifer Protection District and piping the waste oil the distance to the building. If it was to be installed this way, the NH Department of Environmental Services stated that the proposed location would be preferable over the use of the long run of piping, as the piping would be invisible to Dig Safe. In the future there would be no entity to contact, such as exists with utilities, to identify or mark out the area for Dig Safe, therefore rendering the piping and tank virtually invisible.

The Chair questioned how the tank would be contained within the concrete. Mr. Henninger responded that there are a couple of ways that tertiary containment could be achieved. He suggested that Ms. Aibel address the Planning Board, as she has practical experience with the various methods of tertiary containment. The Chair invited Ms. Aibel to address the containment.

Ms. Aibel reported that in speaking with the applicant's attorney and the welding representative of the tank manufacturer about various methods to achieve tertiary containment. There are triple wall fiberglass tanks, composite tanks that have a combination of steel wall and fiberglass walls, and the use of a double wall fiberglass tank within a steel containment structure, to create the three layers of protection. At each level you have the monitors or probes, which monitor the tank, inserted within each wall and wired back to an open space in the building and to the alarm company.

She stated that there is no standard process for these types of tanks. Gas stations have double wall containment. The Clean Water Act requires secondary containment for the tanks and piping. In sensitive areas the use of tertiary containment is recommended, especially in the aquifer protection areas.

She reported that the City's Engineering Division continues to discuss alternatives with the applicant, working to come up with a plan either with the use of a double fiberglass wall tank enclosed in a concrete vault or with a triple wall fiberglass tank. The Chair stated that he is partial to the use of a concrete containment structure and that is what Pembroke is requesting as well. Ms. Aibel asked if the Engineering Division spoke with Pembroke and they agreed with the plan that was developed for tertiary containment, would the Planning Board be amendable to that plan. The Chair stated he would like to have subsequent discussions with the applicant and to have the Town of Pembroke Water Works sign off on the plan. The Chair reported that he heard that the tank has also been purchased, and he felt that it was wrong, as the project hasn't been approved by the Planning Board. Ms. Aibel stated that the tank was purchased and is a double wall fiberglass and steel tank, and the discussions with the applicant have centered on how to achieve tertiary containment with that tank.

Ms. Foss suggested that as part of the approval of the Conditional Use Permit, under condition # 1, that the Town of Pembroke Water Works be included, as well as the NH Department of Environmental Services and the City Engineer, in the discussions with the applicant and requires that the three entities sign off on the agreement.

Attorney Richard Uchida from Orr & Reno was present to answer questions on behalf of the applicant.

Mr. Uchida stated that the site plan was previously approved. He explained that as the applicant decided to put the waste oil tank in the current location, which required a variance, and in March 2011, the applicant went to the Zoning Board of Adjustment to obtain that variance, which was tabled at the time because of some of the same questions and concerns that the Planning Board has regarding the tank. As a result, the applicant decided to move the tank outside of the Aquifer Protection District, which doesn't require a variance. The applicant would then pipe the waste oil across the site and into the building. Because a variance was not needed, the double wall tank was purchased. A new NH Department of Environmental Services approval was sought. The NH Department of Environmental Services stated that this proposal was not the best way to do this, and would prefer to have the tank at the other location, with shorter runs of piping. The applicant then went back to the Zoning Board of Adjustment with the recommendation by the Town of Pembroke Water Works to move the tank back into the Aquifer Protection District. In June 2011, the Zoning Board of Adjustment approved the variance for the current proposal and the applicant is now working to obtain Planning Board approval for the Conditional Use Permit and the modification to the site plan.

Mr. Uchida explained that the Planning staff has recommended approval with tertiary containment, subject to approval by the NH Department of Environmental Services and the City Engineer. There are varying ways of achieving tertiary containment; however, concrete is not the best method, because concrete is porous. He stated that there isn't a disagreement with the City Engineering Division; it is that the applicant is working to obtain the specifications, and this work only began about 48 hours ago. He is hoping that the applicant will ultimately obtain and submit a specification that will be approved by the City Engineer. Once the specification is acceptable to the City Engineer, the applicant will need to go back to the NH Department of Environmental Services for approval. He is agreeable to have the Town of Pembroke Water Works review and accept the specification as well.

The Chair asked if the applicant would be agreeable to tabling the application until the design and specification agreements are complete. Mr. Uchida responded that he didn't feel it was necessary to table the application if there was evidence from the City Engineering Division that the agreements were achieved, along with the NH Department of Environmental Services permit, and agreement by the Town of Pembroke Water Works.

Ms. Foss stated that her understanding of this system is that on a year round basis, the oil will be flowing into the tank from the various bays within the service center. The heating will take place during the cold months in the year. The oil level in the tank will fluctuate during the course of the year. What is the anticipated maximum level of oil that will occur within this tank, based on full use of the oil changing bays in the service center?

Chris Williams, working on the tank permitting application with NH Department of Environmental Services was present to answer questions.

Mr. Williams reported that when the tank reaches 90 percent volume, an audible and visual alarm is triggered inside the building. As an added measure, if that first alarm is not acted on, and the tank reaches 95 percent volume, the power to the pump that is pumping oil into the tank is shut off automatically restricting flow to the tank.

The Chair asked what happens when the oil can no longer be pumped into the tank. Mr. Williams responded that the oil would remain inside the building in the individual 30-gallon portable drums. He stated that the 25,000 gallon tank to be installed, which is a very large capacity tank, is consistent

with the type of volume that the applicant amasses. The Chair stated that the tank will at some point get full, what happens at that point. Mr. Williams stated that there are two ways to deal with the full tank. The first is that the waste oil is burned off in the boiler system to heat the dealership. The second way is to have a liquid extraction done, which includes having a truck pump the waste oil out of the tank. The Chair asked whether this procedure is spelt out in the SPCC plan.

Fred Booth from Banks Chevrolet-Cadillac was present to answer questions.

Mr. Booth stated that Banks currently deals with this issue and that they have contracts to have the oil removed, when the storage capacity is reached. He believes that the procedure for the liquid extraction of excess oil should be in the SPCC plan.

Ms. Foss asked to get information on the current rate of oil changes and the maximum amount of oil that is currently collected. Mr. Booth responded that approximately 34,000 gallons of oil is purchased each year for heating. It is the applicant's anticipation that the waste oil will be used to heat water for all buildings, including the water used for car washes, as well as heating the building.

The Chair asked how the piping from the tank into the building would be designed. His concern was for a possible leak in the pipe. Mr. Williams stated that the pipes are double walled with sensors inserted between the walls.

Mr. Henninger added that the burning and removal of waste oil is commonly done in this manner, including at the City's Public Works facility.

Deliberations and Action on Application

The Chair explained that he was not sure about modifying the condition of the Conditional Use Permit. He stated that the applicant is willing to include the Town of Pembroke Water Works in the discussions.

Ms. Smith Meyer said she felt comfortable with making reference to requiring signoff by the Town of Pembroke Water Works and doesn't think it is necessary to have the applicant come back before the Planning Board, as long as the City Engineering Division and the NH Department of Environmental Services are in agreement with the design.

Mr. Hicks stated that he is in agreement with Ms. Smith Meyer, as long as the tertiary requirement is met and that the Town of Pembroke Water Works is part of the decision making.

Mr. Woodward suggested that the Planning Board require the City Engineering Division to file a report with the Planning Board once an agreement is reached.

Mr. Shurtleff stated that he agrees that the Town of Pembroke Water Works be included.

Ms. Smith Meyer moved to grant a Conditional Use Permit pursuant to Article 28-3-6(e)(4)a1, for a 25,000 gallon waste oil tank at 137 Manchester Street for Banks Chevrolet-Cadillac, Inc., located within the Aquifer Protection District for the Pembroke Municipal well field in Community Water Systems Protection Area - APD-5, subject to the following conditions:

1. Tertiary containment and controls shall be installed for the proposed tank acceptable to the City Engineer, the NH Department of Environmental Services, and the Town of Pembroke Water Works.
2. The City Engineering Division will provide a report to the Planning Board regarding the final design of the tertiary tank.
3. The Spill Prevention, Control and Countermeasure (SPCC) Plan as finalized shall be found to be acceptable to the City Engineer, the NH Department of Environmental Services, and the Town of Pembroke Water Works. The SPCC Plan shall be updated every five (5) years, as well as when any significant modifications to the proposed UST and associated piping.

Ms. Dolcino seconded. Motion carried.

Ms. Dolcino moved to grant Conditional Site Plan approval for modification of a previous site plan approval to allow the installation of a 25,000 gallon waste oil tank at 137 Manchester Street for Banks Chevrolet-Cadillac, Inc. The terms and conditions of the previous site plan approval on September 15, 2010, are otherwise unchanged.

Ms. Dolcino seconded. Motion carried.

5. Application by **David and Deborah Newell on behalf of Dr. Serdar Ayan**, for a minor site plan of property at **125 Fisherville Road**. Along with this application is a request for Conditional Use Permit pursuant to Section 28-7-11(d), Additional Compact Spaces, of the Zoning Ordinance. **(2011-0027)**

Determination of Completeness

Mr. Henninger explained this proposal to convert an existing office building of 1,075 square feet to a sit-down restaurant and to construct an addition of 240 square feet. He reported that the application was complete and ready for public hearing.

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

Public Hearing

Mr. Henninger reported that the applicant requests to convert an existing office building of 1,075 SF to a sit-down restaurant and to construct an addition of 240 square feet. Originally, the applicant applied for a Conditional Use Permit, but the applicant has been able to provide the required number of parking spaces, including the handicapped space, therefore, no Conditional Use Permit is required for parking.

He explained that the application was for site plan approval, and the companion architectural design review for the alterations to the building, landscaping, and signage will be presented next month. The landscape plan is currently under review. There are a number of large and mid-size trees located on the site. One tree needs to be planted to conform to the Zoning Ordinance.

The applicant's design is for a 240 square foot addition that would maximize the amount of building space that would fit on the site. The existing parking lot will be reconfigured to provide 17 parking

spaces, a new handicapped ramp will be constructed to the building, a screen fence will be constructed along the west property line adjacent to an existing mobile home, and an enclosed dumpster will be located on site.

The Zoning Board of Adjustment on May 4, 2011, granted a variance to permit a restaurant of less than 5,000 square feet of gross floor area with no drive-thru service or entertainment (Use I-1) where such restaurant use is not permitted.

Mr. Henninger added that the site is currently served by City water and sewer, which are adequate to meet the proposed use.

Mr. Henninger reported that the Architectural Design Review Committee suggested that the applicant request a Conditional Use Permit not to provide the parking space in the front of the building. The Committee's recommendation was to remove the parking space and landscape that area in front of the building. A Conditional Use Permit to defer this parking can be considered with the architectural elevations when they are received.

Mr. David Collier from Richard D. Bartlett & Associates, LLC, was present to answer questions on behalf of the applicant.

Ms. Smith Meyer requested that the landscaping plan be updated to have the current and accepted planting details included.

Deliberations and Action on Application

Ms. Smith Meyer moved to grant Architectural Design Review approval for the modifications to the site plan and landscaping at 125 Fisherville Road for a restaurant use proposed by David & Deborah Newell. The architectural design approval does not include the building elevations, handicapped ramp and signage.

Mr. Shurtleff seconded. Motion carried.

Ms. Smith Meyer moved to grant conditional Site Plan approval for a change of use to a restaurant use proposed by David & Deborah Newell at 125 Fisherville Road subject to the following standard conditions:

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 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 - High-turnover restaurant.

Mr. Shurtleff seconded. Motion carried.

Major Site Plan Applications

6. Application of **Dr. Rodney G. Sigua, DDS, on behalf of the Otto Family, LLC** for a site plan of property located at **10 Commercial Street**. Along with this application is a request for Conditional Use Permit pursuant to Section 28-7-11(b), Construction of Fewer Parking Spaces, of the Zoning Ordinance. **[CUP application subsequently withdrawn]. (2011-0026)**

Public Hearing

Mr. Henninger reported that the applicant wishes to convert a portion of an existing office building to a medical office use. The applicant is initially proposing to convert 3,000 square feet of a 7,417 square foot single story office building to medical office use. The application is a major site plan because it is located in the Opportunity Corridor Performance District. There is no proposed increase in floor area.

The applicant also requested a Conditional Use Permit pursuant to Article 28-7-11 (b) Construction of Fewer Parking Spaces to revise an existing parking lot to provide 33 parking spaces where 42 are required. In the subsequent time between the application being submitted and the Planning Board hearing, the City Council amended the parking standards, upon the Planning Board's recommendation. Consequently, the applicant no longer needs the Conditional Use Permit for the deferred parking, and the applicant has withdrawn the request.

He explained that a small amount of pavement on the east side of the parking lot needs to be removed in order to conform to the minimum five (5) foot landscape setback from the property line.

He reported that an alternative plan sheet has been submitted for Planning Board approval, requesting a small parking lot expansion with 42 parking spaces, which will allow the full conversion of the entire building to be medical office use or other commercial uses, with the required number of parking spaces.

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

Ms. Smith Meyers asked whether Ms. Hebert was able to review the landscaping plan for tree plantings for this project. Ms. Hebert stated that she hadn't reviewed the plan, but would. Mr. Henninger stated that the landscaping plan was developed using the recommended planting list.

Deliberations and Action on Application

Ms. Smith Meyer moved to grant Architectural Design Review approval for the modifications to the site and landscaping at 10 Commercial Street as submitted for Dr. Rodney Sigua, DDS, on behalf of the Otto Family, LLC, with the condition that Ms. Hebert reviews and approves the landscaping plan.

Ms. Dolcino seconded. Motion carried.

Ms. Smith Meyer moved to grant conditional Site Plan approval for a change of use to medical office at 10 Commercial Street subject to the following standard and special conditions:

Standard Conditions:

1. No construction activity may commence prior to the Engineering Division's preconstruction conference and payment of inspection fees.

Special Conditions:

2. Prior to the issuance of a Certificate of Occupancy for the medical office use, the minor paving, parking lot restriping, and site landscaping shall be complete and acceptable to the Engineering and Planning Divisions for the 32 space parking lot.
3. The approved change of use by the Board will allow the entire building to be converted to medical office use at the discretion of the applicant.
4. Approval is also granted for the expanded 42 space parking lot. No construction activity may commence on this expanded parking prior to the City Engineering Division's preconstruction conference and payment of inspection fees.

Mr. Shurtleff seconded. Motion carried.

Architectural Design Review

7. 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.
 - **Banks Chevrolet-Buick-GMC-Cadillac** for a master sign plan consisting of five new affixed signs and one new freestanding sign, together with removal of one existing freestanding sign, at **137 Manchester Street**.
 - **City of Concord** for one new freestanding sign with the message Welcome to Historic Penacook Village, at **4 Crescent Street**.
 - **OutFITters Thrift Store** for one new hanging sign at **32 North Main Street**.
 - **The Friends Program** for one new freestanding sign at **202 North State Street**.
 - **Sam's Club** for one replacement freestanding sign at **304 Sheep Davis Road**.

Public Hearings

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

- **Banks Chevrolet-Buick-GMC-Cadillac** for a master sign plan consisting of five new affixed signs and one new freestanding sign, together with removal of one existing freestanding sign, at **137 Manchester Street**.

Mr. Henninger reported that the application is for a master sign plan consisting of five new affixed signs and one new freestanding sign, together with the removal of one existing freestanding sign at 137 Manchester Street.

The Architectural Design Review Committee reviewed the design of the affixed signs and the freestanding sign and recommended approval of the master sign plan and the graphics as submitted by the applicant.

No one was present to represent the applicant.

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

- **City of Concord** for one new freestanding sign with the message Welcome to Historic Penacook Village, at **4 Crescent Street**.

Mr. Henninger explained that this is a new "Welcome to Historic Penacook Village" sign to be located at the town line on East Street, which will soon be renamed Canal Street. The sign will be immediately adjacent to the new medical office building currently under construction. This is a City project, and it is being funded through the Tax Increment Financing District (TIF) for the improvements being undertaking on East and Crescent Streets. The City is looking at this sign as a model for additional signage for Penacook Village. The City has advised the Planning staff that the design may be tweaked a bit, such as having the trees on the sign green instead of white.

The Chair inquired as to whether the bottom panel of the sign will be changeable. Mr. Henninger replied that it would have a few different panels, such as the "Tree Lighting Ceremony" or "Farmers' Market".

No one was present to represent the applicant.

Mr. Shurtleff moved approval as submitted and Ms. Dolcino seconded. Motion carried.

- **OutFITters Thrift Store** for one new hanging sign at **32 North Main Street**.

Mr. Henninger reported that the application for this sign had been withdrawn by the applicant.

- **The Friends Program** for one new freestanding sign at **202 North State Street**.

Mr. Henninger stated that there was a revised elevation, which was in response to the Architectural Design Review Committee recommendation. The street name and phone number were removed; the street number and the logo were enlarged.

No one was present to represent the applicant.

Ms. Smith Meyer stated that she was pleased with the changes, as it made the sign much clearer and easier to read.

Ms. Smith Meyer moved approval as submitted with the changes and Mr. Shurtleff seconded. Motion carried.

- **Sam's Club** for one replacement freestanding sign at **304 Sheep Davis Road**.

Mr. Henninger reported that this application is for one replacement freestanding sign. The existing freestanding sign blew down in September 2010, during a windstorm, and this is a replacement of that sign; however, it will be placed in a different location. It will be located near the main entrance by the gas pump islands.

No one was present to represent the applicant.

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

REGULAR MEETING

8. Minutes

Mr. Shurtleff moved to approve the minutes of the meetings of June 15, 2011, June 22, 2011, and June 28, 2011, as submitted. Ms. Foss seconded. Motion carried.

New Business

9. Request for a one-year extension of the period of validity of the conditional approvals of the Minor Subdivision Application of **Sandy Brook Corporation, Dwight Keeler, and Leslie Keeler**, as well as the Major Subdivision Application of the **Sandy Brook Corporation** known as **Glen Ellen Cluster Subdivision**, both at **153 Hoit Road. (2008-0008 and 2008-0021)**

Mr. Woodward stated that this project, which is located northerly of Hoit and Graham Road, was approved in 2008. Extensions were approved by the Planning Board in 2009 and again in 2010. Due to the current economic conditions, the applicant is asking for another extension. There are no zoning changes which would otherwise affect this property.

The Chair asked if there is a policy regarding the number of extensions granted. Mr. Woodward replied that the Planning Board tracks whether any State permits are in place and whether there are any changes to Zoning Ordinances. He also said that the Planning Board has on occasion indicated to applicants that a requested extension will be the final one, as the passage of time alone creates an issue in terms of new abutters having no means of learning of the existence of the application and the pending change in their neighborhood, since the plat has not been recorded.

Ms. Smith Meyer moved to grant the request pursuant to Section 10.09(9), Extension of Approvals, of the Subdivision Regulations for a one-year extension for these applications, extending the period of validity through August 20, 2012, and indicate that all conditions of the original subdivision approvals shall remain in full force and effect.

Mr. Shurtleff seconded. Motion carried.

10. Request for a six-month extension of the period of validity of the conditional approvals of the Major Cluster Subdivision Application of **Scott Bussiere**, formerly known as the **Emerald Abode Subdivision**, on **Graham Road. (2010-0024)**

Mr. Woodward stated that the applicant had Planning Board approval and the plans were recorded at the Merrimack County Registry of Deeds, but lost their vesting status because of the change that required mandatory cluster subdivisions in the rural area. Mr. Bussiere, the owner, decided to convert to a cluster subdivision and worked with the Planning staff to make the necessary changes. On September 15, 2010, the Planning Board granted a new conditional approval to a major cluster subdivision. Mr. Bussiere has obtained a new NH Department of Environmental Services Alteration of Terrain Permit for the project. He also obtained a new subsurface disposal permit from the State.

Mr. Woodward stated that there are still some legal documents that need to be modified to achieve some of the Planning Board conditions. Mr. Bussiere indicated that once these changes are completed, he intends to record the plat.

Mr. Kenison moved to grant the request pursuant to Section 10.09(9), Extension of Approvals, of the Subdivision Regulations for a six-month extension for this application, extending the period of validity through March 15, 2012, and indicate that all conditions of the original subdivision approval shall remain in full force and effect.

Ms. Foss seconded. Motion carried.

11. Request of **Delta Dental on behalf of the Angwin Revocable Trust** for a partial rezoning of property at **107 Commercial Street** from an Open Space Residential (RO) District to an Institutional (IS) District.

Mr. Henninger reported that this is a request from Delta Dental on behalf of the Angwin Revocable Trust to rezone the last remaining single family residence on Commercial Street, which is located between Commercial Street and Wattanummon's Brook from Open Space Residential District (RO) to Institutional District (IS). The property is across Commercial Street and the Concord-to-Lincoln Railroad line from the main office of Northeast Delta Dental. The eastern portion of the property is occupied by an existing single family residence, detached garage, paved driveway, and lawn area. The site is bisected by Wattanummon's Brook and wetlands; the west side of the site has been used for agricultural purposes and is currently a grass field, except for wooded wetlands adjacent to Wattanummon's Brook and Horseshoe Pond. The land use to the north and west abutting the area requested for rezoning is either wetlands or agricultural use.

Mr. Henninger explained that the applicant intends to develop a small office building with associated parking and to possibly develop a playing field in the western part of the site. He stated that the property is entirely located within the floodplain of the Merrimack River and the Flood Hazard Overlay Zoning District (FH). On the western portion of the site, not proposed for rezoning, standing water was present in April of 2000 and 2010 on City aerial photos. The eastern portion of the site where the house is located sits on a plateau of about 240 feet in elevation. The City's 100 year flood elevation is just over 239 feet.

Mr. Henninger reported that the property is bisected by the Shoreland Protection District for Wattanummon's Brook and is within the 250' Shoreland Protection District around Horseshoe Pond. A portion of the existing house, driveway, and yard encroaches into the 75' Natural Vegetative Buffer for Wattanummon's Brook. The existing development area does not encroach into the 75' Natural Vegetative Buffer for Horseshoe Pond, nor does it encroach into the 150' Woodland Buffer.

Mr. Henninger stated the site is served by municipal water and sewer service. The main sewer interceptor is located in Commercial Street and two (2) water lines providing service to East Concord are also located in Commercial Street.

Mr. Henninger reported the area proposed for rezoning is located approximately 300' north of the intersection of Commercial Street and Delta Drive, two collector streets. This section of Commercial Street is classified as a local street. There is no sidewalk from the intersection of Commercial Street and Delta Drive; all other commercial uses to the south and east along said streets are provided with pedestrian sidewalks. The condition of Commercial Street is excellent to the southern property line which was reconstructed as part of the Commercial Street reconstruction just over 10 years ago. The

remainder of Commercial Street is in fair to poor condition, except at the bridge over Wattanummon's Brook which was reconstructed by the State of NH about five years ago.

Mr. Henninger explained that the Development is constrained on the site by wetlands and regulatory buffers along Wattanummon's Brook. The reuse of the site will likely require a Conditional Use Permit from the Planning Board for disturbance to a wetland buffer. The buffer area has already been disturbed for the existing house and yard area. The existing use and its reuse is vested where disturbances already exist in the 75' Natural Vegetative Buffer along Wattanummon's Brook, pursuant to Article 28-8-1(b) of the Zoning Ordinance. To remove and construct a new structure and parking within a portion of the buffer may require Zoning Board action. The single family residential use is a non-conforming use in the FH - Flood Hazard District and is the last remaining single family residence in the area. While development constraints do exist on the area proposed for rezoning, an institutional land use would be more in keeping with the overall character of the area, while preserving sensitive environmental areas.

Mr. Henninger reported that abutting property is under a conservation easement north and west of this property. The applicant proposes converting that portion into a ball field.

Ms. Smith Meyer stated that this area is part of the Natural Resource Protection land use umbrella; the intensity of use of that parcel will be significantly different than the current residential use. The area to be developed will probably be impervious. How will that impact the brook and the wetlands? She stated that the area seems to be more sensitive on that side of the property than on the other side of the railroad tracks, and was concerned as to how that will affect the property leading up to the Brochu property.

Mr. Henninger responded that the wetland buffer is cleared almost to the wetland. This will provide an opportunity to restore the wetland buffer on both sides of the brook to strengthen the corridor. There is an option to do mitigation for the impacts associated with the project.

Ms. Hebert inquired as to whether the buffer and the shoreland setback included in the rezoning request. She stated that there appears to be an inconsistency between the rezoning to the brook and the Master Plan amendment only changes the land that is outside of the shoreland setback. The Chair asked why the Master Plan amendment wouldn't be moved back to the brook. Mr. Henninger advised that we have consistently not designated undevelopable land as commercial or industrial.

Ms. Smith Meyer asked if the intent was to maintain the agricultural use of the property, as agricultural use is better than highly maintained turf fields. Mr. Henninger responded that at least initially that the plan was to continue agricultural use of the property.

Ms. Dolcino asked whether the lot would be split into two zones and stated that the Planning Board normally does not like to split a parcel into two zones. Mr. Henninger replied that this is avoided if the area is consistent; this property is not consistent in character due to the flood elevations.

Mr. Hicks stated his concern about that when the Natural Resource Protection was placed on this parcel, it was zoned to be preserved. He is very concerned about the creeping into the protected area. He stated that the purpose of the rezoning was for the expansion of Delta Dental, so why not just change the entire parcel to the Institutional District (IS) and then restrict certain areas.

Mr. Woodward stated that all the land at Horseshoe Pond has been protected. While working on the Master Plan, the Conservation Commission weighed in because of the location adjacent to the protected land and the flood plain. He suggested that Ms. Hebert's comment regarding moving the zoning line back to the brook was appropriate.

Ms. Foss said that the change of zoning to this intensity of use within what is currently a Natural Resources Protection area seems inappropriate, and that it will also create an island of an intact agricultural use. The road and the railroad create a natural barrier between the Natural Resources Protection and more intensive uses. It does not seem appropriate to her to violate that natural barrier.

Mr. Henninger stated that the eastern portion of the site is already developed and where developed has existing non-conforming status under Section 28-8-1(b) Applicability within the Shoreland Protection (SP) District. The single family residential use is a non-conforming use in the FH - Flood Hazard District and is the last remaining single family residence in the area. While development constraints do exist on the area proposed for rezoning, an alternative institutional land use would be more in keeping with the overall character of the area, while preserving sensitive environmental areas. If the land use plan amendment is approved by the Planning Board, the Board should then act to recommend a compatible Zoning Classification of Institutional (IS) Zoning District to the City Council.

Ms. Foss asked whether there were any right-of-ways from Commercial Street over that portion of the property, adjacent to the Brochu property into the agricultural land. Mr. Henninger stated that there is a non-utilized 100 feet wide easement to construct transmission lines. He believes the applicant is reviewing this easement and working to address any issues that arise from this easement.

Ms. Smith Meyer moved to set for public hearing on September 21, 2011, an amendment to the Future Land Use Plan to convert the area of the property at 107 Commercial Street located easterly of Watanummon's Brook from Natural Resource Protection (NRP) to Institutional (IS), and to notify the Conservation Commission, the Economic Development Advisory Committee, and the Heritage Commission.

Ms. Dolcino seconded. Motion carried.

12. Revisions to the Subdivision Regulations to address omissions, oversights, and other minor modifications.

Mr. Henninger stated that the City has had approximately seven months to work with the newly adopted regulations and City staff has identified a number of minor amendments which need to be made, such as typing errors, omissions, and corrections. These are listed with a description, page number and subsection in the existing Subdivision Regulations. He stated that when the changes were made, it altered the page numbering.

The Chair noted that the way the changes were presented in the report was confusing and suggested that the Planning Staff revise the report.

Ms. Smith Meyer moved to table the discussion to the August 17, 2011, meeting. Ms. Dolcino seconded. Motion carried.

13. Consideration of a report on future park development on Concord Heights (Recreational Facilities Impact Fee District 4) as part of CIP #381, Old Landfill Reuse.

Mr. Woodward explained that this report is for consideration to convert the landfill on Old Suncook Road into a City park. The Recreation Master Plan recommends a new park in the southerly part of Heights. The use of the landfill was terminated and the landfill was not properly closed. About two years ago, the City Council suggested that other areas be looked at for a park instead of the landfill on Old Suncook Road. There have been some concerns about the hazards of having a park built over a landfill. Mr. Woodward explained that his report indicates that the reuse of the old landfill is possible and further that a need exists for a park.

Mr. Shurtleff moved to forward this report to the City Council and the Recreation and Park Advisory Committee for their consideration with the Planning Board's endorsement together with a finding of consistency with the recommendations of Master Plan 2030.

Ms. Smith Meyer seconded. Motion carried.

Old Business

14. Continuation of the review of the draft Site Plan Regulations including a communication from the Heritage Commission with regard to the draft Regulations, and a response to the Heritage Commission's comments from the Deputy City Manager - Development; together with excerpts from the draft regulations related to historic preservation.

Mr. Woodward stated that this review was previously set aside. He reported that this was one of the last issues to be discussed prior to having a public hearing on the Site Plan Regulations.

There was a consensus of the Planning Board to take this item up at the August 17, 2011, meeting of the Planning Board.

INFORMATION

- Copy of a memorandum dated July 8, 2011, from the City Manager and the Deputy City Manager - Development, to the Planning Board relative to the City Planner.

The Chair stated that it is the Planning Board's hope that this will move forward constructively.

- Copy of a draft Architectural Design Review informational brochure prepared by the staff and submitted to the Architectural Design Review Committee for comments.

Mr. Woodward stated that this draft brochure was a work in progress, and the Architectural Design Review Committee is in the process of reviewing the brochure and a finalized product would be brought before the Planning Board.

- Retirement of City Planner Doug Woodward.

The Chair expressed his and the Planning Board's thanks to Mr. Woodward for his service to the Planning Board. Mr. Woodward stated that he appreciated the diligence and integrity of the Planning Board and expressed his thanks to all of the members of the Planning Board.

There was no further business to come before the Board and the meeting adjourned at 10:30 PM.

A TRUE RECORD ATTEST:

Stephen Henninger
Acting Clerk

djm