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

Present at the meeting were Members Drypolcher (who as Chair presided), Swope, Dolcino, Foss, Hicks, and Shurtleff (representing the City Council). Mr. Woodward, Mr. Henninger, Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Laura Aibel, the City's Associate Engineer.

At 7:00 PM a quorum was present and the Chair called the meeting to order.

1. Invitation from Mayor James Bouley to the Planning Board to participate in the review process of the Concord Zoning Ordinance to be facilitated by a consultant to Concord 2020.

The Chair introduced Mayor James Bouley and Carlos Baia, Deputy City Manager for Development.

The Mayor explained that now that the Master Plan has been adopted, the Zoning Ordinance needs to be reviewed to determine what needs to be done to implement the Master Plan. Concord 2020 has offered to contract with a consultant to conduct three forums to get as much participation as possible from citizens. The consultant hired by Concord 2020, Jeff Taylor, will reach out to all the organizations in the city to try to gather as much information as possible and then submit a report to the City to pass on to the Planning Board. He made it clear this process is not intended to bypass the role of the Planning Board in long-range planning for the city. The City Council will then hold public hearings on the Planning Board's recommendations and act accordingly.

He explained that the City Council was aware that the Site Plan Review Regulations and the Subdivision Regulations are not within the purview of the City Council and he offered whatever resources the Planning Board needed for help to get those updated. Since there appears to be a lull in development activity, this would be a good time to get some of this done.

Mr. Bouley also thanked members of the Planning Board for the time and effort they put in and reported that he sees positive results from all of their hard work.

The Chair indicated that the Board appreciated the invitation to participate in the process and looked forward to doing so.

APPLICATIONS

Minor Subdivision Applications

2. Application by **Kenneth J. Smith** for a subdivision of property located at **227 Mountain Road. (#2009-41)**

Determination of Completeness

Ms. Hebert explained this proposal to subdivide an existing 5.615 acre parcel on which there is an existing residential dwelling to create one additional building lot.

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

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

Public Hearing

Ms. Hebert explained this proposal to subdivide an existing 5.615 acre parcel on which there is an existing residential dwelling to create one additional building lot.

She explained that the Zoning Ordinance provides two sets of dimensional standards for land in the Medium Density Residential District, one for properties with municipal sewer service and one for properties with private septic systems. The existing home is currently served by a private well and septic system, but the subdivision proposal relies on the dimensional standards for properties with municipal sewer connections. Therefore, both properties will need to be connected to the municipal sewer system.

In May 2006, Planning Board denied (without prejudice) a subdivision plan for this property because the proposal involved installing a private force main within the public right-of-way, which was not recommended by the City. The current proposal provides a connection to the existing public sewer line within the abutting Blye Farm development, through a private easement which will be granted in exchange for a view easement across the property at 227 Mountain Road. The applicant has worked with the City's Engineering Division and General Services Department to develop a way for the properties to tie into the City's sewer system and is in agreement with the proposal submitted. The City does not anticipate extending the municipal sewer line farther to the north and the property at 227 Mountain Road is at the limit of service for this part of Concord.

She reported that the existing house currently has a U-shaped driveway. The applicant proposes removing a portion of the existing driveway, and using the second entrance as the driveway to the proposed lot. There will be no new curb cuts as part of this subdivision application.

Timothy Golde from Golde Planning Consultants and Kenneth Smith, applicant, were present to answer questions from the Board.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:15 PM.

Deliberations and Action on Application

Mr. Swope moved that the Planning Board grant conditional final subdivision approval for the "Subdivision Plan of Kenneth J. Smith" as prepared by T. F. Bernier, Inc. and Golde Planning & Design, Inc. 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 issuance of a building permit, the applicant shall obtain a driveway permit from the New Hampshire Department of Transportation.

3. 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 the extension of and connection to the municipal sewer system in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.

4. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:

    a. An agreement to convey an easement for the benefit lot 121B/2/3-2 for a 25 foot wide utility easement.

    b. Conveyance of a utility easement from the Blye Farm development for the benefit of lots 121B/2/3-1 and 121B/2/3-2.

    c. Conveyance of a view easement for the benefit of the Blye Farm development

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

    a. School Facilities – Single Family Residence
    b. Recreational Facilities – Single Family Residence
    c. Transportation Facilities - Single Family Residence

Mr. Hicks seconded. Motion carried.

Minor Site Plan and Conditional Use Permit Applications

3. Application of **Scandia Hall LLC, on behalf of the City of Concord,** for a site plan of property located at **14 Knight Street.** Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the Zoning Ordinance. **(#2009-36)**

Determination of Completeness

Ms. Hebert explained this proposal to convert the existing building known as Scandia Hall into four residential units.

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

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

Public Hearing

Ms. Hebert explained this proposal to convert the existing building known as Scandia Hall into four residential units. Each unit will have two bedrooms and will be between 1200 and 1300 square feet in area. The structure was built in 1862 as a school house and then became a community center in the late 1960's. The building was closed by the City in 1994 and has been vacant for the past fifteen years. The City would like to see the building preserved and has entered into an agreement to sell the property.

She reported that the applicant has also applied for a Conditional Use Permit to allow for the construction of more than one driveway on the property and to allow for a driveway separation that is less than what is required by the Zoning Ordinance, between the proposed driveways and the driveways on the adjacent lots. The layout of the building on the lot presents a challenge for parking on the site. The applicant proposes to construct eight angled parking spaces off Knight Street, and the arrangement creates three driveways or curb cuts. Knight Street is one-way and has a relatively low volume of traffic. Staff supports the proposed parking layout and views this as the best solution for providing adequate parking for the redevelopment of the property.

The applicant plans to convert the property to a condominium form of ownership, which will be reviewed as a minor subdivision application at a later date.

She reported that the Zoning Board of Adjustment granted variances to permit the application of Use A-14, "conversion of a non-residential building to accommodate 1 or more dwelling unit" in an RN Residential Neighborhood District; to permit the creation of four residential units on a lot with an area of 12,300 square feet where a lot size of 13,500 square feet is required; to permit changes in use without complying with all requirements of Article 28-7; to permit the provision of one car accessible space when one van accessible space is required; and to permit a parking layout that does not

provide room for maneuvering so that vehicles do not need to back into a street, as well as use/area variances to Article 28-7-7, Parking Area Design Standards as follows:

- 28-7-7(a), Standard Parking Spaces, to permit parking spaces other than the standard 9 feet x 19 feet;
- 28-7-7(e), Minimum Aisle Width, to provide parking areas with no driving aisles, where driving aisles of 24 feet are required;
- 28-7-7(f), Driveway Widths, to permit driveway widths of 36 feet when 28 feet is the maximum width allowed;
- 28-7-7(g), Setbacks and Restrictions, to permit parking along a property line when parking is not permitted within 5 feet of any property line; and
- 28-7-7(g), Setbacks and Restrictions to permit parking to be located within the required front yard when parking within the required front yard is prohibited for multi family uses.

She explained that the applicant proposes to renovate the building to preserve the historical character of the structure. The roof will be repaired and furnished with architectural shingles; the applicant will replace the windows and install porch entrances to accommodate each unit. Overall the exterior of the building will remain the same.

She reported that the Architectural Design Review Committee had reviewed the site and building plans and recommended approval with the recommendation that the applicant preserve the rounded windows and transoms above the doors.

Ms. Hebert explained that the proposed parking layout will decrease the availability of on-street parking along Knight Street for the Second Start facility. However, additional on-street public parking is located on Garrison Street across from the West Congregational Church.

The improvements within the Knight Street right-of-way need to be coordinated with the city. Knight Street is scheduled to be reconstructed this spring as part of the Fisherville Road/Route 3 Capital Improvement Project. The applicant will need to provide a financial guarantee for the Knight Street improvements. Although the improvements within the right-of-way may be constructed as part of the CIP, if the timing of the road construction does not coincide with the timing of the Scandia Hall renovations, the applicant will be responsible for completing this work.

She reported that the proposal increases the amount of impervious surface on the property by 1,879 square feet. The Engineering Division has asked the applicant to construct a small swale along the southeast property line to contain any additional runoff on the property.

The landscape plan provides shrub and perennial plantings at the entrances to the units, along the front of the building, and along the northern property line. The existing trees along the northern and eastern property boundaries will remain as a buffer to the

adjacent properties. Staff is recommending that at least two trees be installed along Knight Street to improve the streetscape and shade the parking area.

Mr. Hicks asked about snow storage and Ms. Hebert responded that there is a note on the plan that they will be responsible for removing snow from the site.

John Jordan, architect, was present as applicant to answer questions from the Board.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:31 PM.

Deliberations and Action on Application
Deliberations and Action on Architectural Design Review

Mr. Swope noted it was great to see this building re-used.

Mr. Swope moved that the Planning Board grant Architectural Design Review approval for the site and landscaping plans, and building design, of Scandia Hall at 14 Knight Street as submitted by Jordan Design, Randy Knowles, The Turner Group, and Steve Luger subject to the recommendations of the Architectural Design Review Committee at their November 10, 2009 meeting which included the preservation of the rounded windows and transoms. Ms. Foss seconded. Motion carried.

Mr. Swope moved that the Planning Board grant a Conditional Use Permit pursuant to Section Article 28-7-11(f) of the Zoning Ordinance to permit a driveway separation that is less than what is required by the City's regulations and to allow three driveways on the property as shown on the site plan. Ms. Foss seconded. Motion carried.

Mr. Swope moved that the Planning Board grant conditional site plan approval for the application to convert Scandia Hall to four residential units, as prepared by Jordan Design, Randy Knowles, The Turner Group, and Steve Luger subject to the following standard and special 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), the applicant shall revise the site plan drawings to address the minor corrections and omissions noted by city staff.

2. 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), approval shall be obtained for the construction drawings and specifications for all public and private improvements from the Engineering and Planning Divisions. No construction activity may commence prior to the preconstruction conference.

3. No certificate of occupancy shall be issued until all public and private improvements have been substantially completed to the satisfaction of the City Engineer.

4. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall obtain approval of private utility plans from Unitil, Fairpoint, and National Grid.

5. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant 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.

6. 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 – 4 units – Multi-unit/Apartment
   b. School Facilities - 4 units – Multi-unit/Apartment
   c. Transportation Facilities - 4 units – Multi-unit/Apartment

Special Conditions:

7. If, upon inspection of the existing water and sewer utilities, the City Engineer determines that the existing condition of the sewer or water line within the public right-of-way and on the site is inadequate to serve the proposed residential development, the applicant shall replace and upgrade the utility line to meet the City of Concord construction standards.

8. The applicant shall construct a shallow depression along the southeastern lot line to contain stormwater runoff as suggested by the Engineering Division.

9. The applicant shall add a note to the plan indicating that the existing trees along the property line shall remain as a buffer to the adjacent properties and the applicant shall add two shade trees along the Knight Street frontage.

Ms. Foss seconded. Motion carried.

4. Application of **Stella Zervoudis** for a Conditional Use Permit pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the Zoning Ordinance at **43 South Spring Street. (#2009-39)**

Determination of Completeness

Ms. Hebert explained this proposal to add a second driveway to the property at 43 South Spring Street, where only one driveway would otherwise be allowed.

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

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

Public Hearing

Ms. Hebert explained this proposal to add a second driveway to the property at 43 South Spring Street, where only one driveway would otherwise be allowed. The property contains a two-family building and the owner would like to have one driveway for each residential unit. The Conditional Use Permit is necessary for the additional driveway and also to permit a driveway separation less than what is allowed by the Zoning Ordinance, between the proposed driveway and the driveway on the adjacent property. The applicant proposes to pave the new driveway to a width of 28 feet and a depth of 39 feet, which would provide parking for more than two cars.

She reported that the Zoning Board of Adjustment granted a variance to allow for the expansion of the existing driveway on the north side of the property to a width of 16 feet with no setback for off street parking from the northern property line. The ZBA denied a variance request to permit a 35 foot wide driveway when 28 feet is the maximum width allowed and also denied a request to construct a driveway on the south side of the property with no setback to the property line, when a 5-foot setback is required.

Typically a two family structure needs to provide only four parking spaces. The additional pavement to the south of the building, along with recent improvements made to the existing driveway on the north side of the property, provide a surplus of parking for the current use.

She reported that the additional pavement will impact the sidewalk along South Spring Street. This may have an adverse effect on the pedestrian safety along South Spring Street. The applicant has been asked to provide a written explanation of the need for the additional parking and/or pavement. Staff has also asked the applicant to explain how the proposed driveway and/or additional pavement are compatible with the surrounding neighborhood and the abutting uses.

The applicant submitted a communication in which they explain that the property currently needs four parking spaces. Two cars park on the north driveway without impeding each other's entrance or exit. The third car squeezes on a little spot between

the north driveway, the front entrance and the sidewalk. They cannot park behind each other because they have variable schedules and so the third car impacts the sidewalk along South Spring Street. The fourth car has to park on the street. The additional proposed parking on the south side will provide two parking spaces for tenants. It will be the same width as the driveway on the north side but, at 39 feet long, will be eight feet shorter than the existing driveway. With the same width the driveways will be symmetrical with respect to the house.

Ms. Hebert explained that the original submittal was for a driveway on the south side of the building to be paved to a width of 28 feet and a depth of 39 feet, maintaining a five foot setback to the adjacent property. Essentially the entire side yard would be paved. This seemed excessive for the two family building. The applicant has revised the width of the proposed second driveway to 20 feet. A recently submitted revised plan illustrates where four cars would park without blocking the sidewalk. However, the City staff has recommended that the driveway width be limited to 15 feet.

Elias Zervoudis was present on behalf of his mother, the applicant, to answer questions from the Board. He explained he would like the second driveway to be 20 feet wide because he felt it would look better from the street for both of them to be the same width.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:40 PM.

Deliberations and Action on Application

Mr. Swope expressed concern about paving everything. He did not want to set a precedent that everyone can have a separate driveway. For that reason, he would be agreeable to the staff recommendation but no more.

Mr. Swope moved that the Planning Board grant a Conditional Use Permit to allow for the construction of the additional driveway and for the driveway separation as presented in accordance with Article 28-7-11(f) of the Zoning Ordinance with the condition that the driveway be only 15 feet in width. Mr. Shurtleff seconded. Motion carried, 5-1, with Mr. Hicks voting against the motion.

Major Site Plan Applications

5. Application by the **Duprey Acquisitions, LLC, on behalf of the City of Concord**, for a site plan of property located at **6 Theatre Street. (#2009-40)**

Determination of Completeness

Mr. Henninger explained this proposal to clear a wooded strip along the west side of Storrs Street and construct 104 compact parking spaces for private use. The City Council has an agreement with Duprey Acquisitions, LLC for the purchase the above referenced parcels extending along the west side of Storrs Street from Theatre Street southerly to

the curve of Storrs Street where it turns to meet South Main Street. An existing 24-car municipal parking lot is located at 6 Theatre Street and is included in the acquisition, resulting in a total of 128 private spaces proposed for this property.

He reported the application was complete and ready to set for public hearing on December 16, 2009.

Mr. Swope moved that the Planning Board determine this application to be complete and set the public hearing for December 16, 2009. Ms. Dolcino seconded. Motion carried.

Architectural Design Review

6. 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.

- **Big Al's Brew** at 58 North Main Street (1 hanging sign)
- **Checkmate Pizza** at 41 Washington Street (2 affixed signs)
- **Danais Realty** at 48 Pleasant Street (free standing sign)
- **Exit 1st Realty** at 2 South State Street (freestanding sign)
- **Irving Oil** at 414 South Main Street (replacement panel in freestanding sign)
- **Parable Bible Book Store** at 85 Manchester Street (free standing sign)
- **Wok Inn Buffet** at 94 Fort Eddy Road (affixed sign)

The Chair opened the public hearing for all of the above signs.

- **Big Al's Brew** at 58 North Main Street (1 hanging sign)

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

There was no one present who wished to speak on behalf of the applicant.

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

- **Checkmate Pizza** at 41 Washington Street (2 affixed signs)

Mr. Henninger explained that these signs were erected without benefit of permit and were now being brought into compliance with City regulations. He reported that Committee members felt the sign was inappropriate and did not blend in with the architecture of the building and the neighborhood. Members felt that it would be difficult for someone passing by to read the name of the business. There are too many elements to the sign and the color scheme in general is jarring. The Committee was of

the opinion that the sign needed to be reduced in size and integrated better into the building.

He reported that the Design Review Committee recommended that the Planning Board not approve this sign at this time and encourage the applicant to revise the design to reduce its size and integrate the design more appropriately into the building and neighborhood.

James Roy was present as owner of Checkmate and explained that he had just renovated the building and the colors are part of his logo. He is just trying to make the building more presentable in that area.

Mr. Swope suggested referring this back to the Design Review Committee to see if the applicant could work out a compromise.

Mr. Swope moved that the Planning Board table action on this application, refer it back to the Design Review Committee, and ask the applicant to attend the meeting with the Committee and work out a compromise. Ms. Foss seconded. Motion carried.

- **Danais Realty** at 48 Pleasant Street (free standing sign)

Mr. Henninger explained this is a completely new sign for three prospective tenants of the existing building. He reported that the Design Review Committee found the design and placement of the proposed sign to be appropriate for the location and use, and recommended approval as submitted.

There was no one present who wished to speak on behalf of the applicant.

Mr. Swope moved approval as submitted. Mr. Shurtleff seconded. Motion carried.

- **Exit 1st Realty** at 2 South State Street (freestanding sign)

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

There was no one present who wished to speak on behalf of the applicant.

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

- **Irving Oil** at 414 South Main Street (replacement panel in freestanding sign)

Mr. Henninger explained this is a replacement panel consistent with the Circle K signage approved for their other locations in the city. He reported that the Design Review Committee found the design and placement of the proposed replacement panel to be appropriate for the location and use, and recommended approval as submitted.

There was no one present who wished to speak on behalf of the applicant.

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

- **Parable Bible Book Store** at 85 Manchester Street (free standing sign)

Mr. Henninger reported that Design Review Committee members felt the proposed sign looked like the signage for all of the car dealerships along that strip, and suggested that there be fewer words on the sign. If the applicants were selective about what they highlighted on the sign, they could then increase the font size for the remaining words. Members felt the applicants were missing out on an opportunity to properly promote the business because the sign as proposed is too cluttered. He reported that the Design Review Committee found the design and placement of the proposed sign to be appropriate for the location and use, and recommended approval as submitted.

There was no one present who wished to speak on behalf of the applicant.

Ms. Foss moved approval and asked that City staff forward the Design Review Committee's comments to the applicant for consideration. Mr. Shurtleff seconded. Motion carried.

- **Wok Inn Buffet** at 94 Fort Eddy Road (affixed sign)

Mr. Henninger explained this is a replacement for some of the existing words on the panel in the same style as existing. The letters spelling "Buffet" will remain and "Wok Inn" will replace the other existing words in the current style. He reported that the Design Review Committee found the design and placement of the proposed sign to be appropriate for the location and use, and recommended approval as submitted.

Ruby Fogg, manager of the restaurant, was present on behalf of the applicant to answer questions from the Board.

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

7. Application by **Friendly Ice Cream Corporation, on behalf of O Ice LLC**, for approval of the replacement of the existing fire-damaged restaurant at **147 Loudon Road. (#2009-42)**

Public Hearing

Mr. Henninger explained this proposal to construct a new restaurant building to replace a fire-damaged restaurant destroyed earlier this year. The applicant proposes to construct a 4,585 square foot restaurant with a small outside seating area within the footprint of the prior restaurant structure. The floor area will be slightly less than the previous restaurant building. The applicant proposes to reconstruct the building, loading area, and parking immediately around the building. The perimeter parking and landscaping, including the fencing, will remain unchanged. The Zoning Administrator

has ruled the owner only has to receive Architectural Design Review approval from the Planning Board. The architectural design review was limited to the building and signage, as well as parking, landscaping and lighting immediately adjacent to the building. The applicant will resurface the parking lot and address the mulch piled up against the inside of the existing perimeter fence.

He reported that the applicant proposes to reduce the non-conforming front setback and to reduce the non-conformity in the amount of required parking. The two existing driveways will remain unchanged on Loudon Road.

He reported that large trees are located around the perimeter and will remain. Planning staff has requested that the applicant provide two additional ornamental trees along the Loudon Road frontage and the applicant has revised the plans accordingly. Large shade trees are not appropriate at this location due to the presence of the overhead utility lines along the north side of Loudon Road. An existing opaque six foot fence located along the rear and sides of the site is in good condition and will remain. The existing site lighting is 20 feet in height with cutoff fixtures, which will also remain in place.

He reported that the City's Engineering Division has required the applicant upgrade their sewer service to the site and this work is underway. The Engineering Division has also requested that the applicant connect the new roof drain to an underground infiltration system rather than directly to the existing drainage system. No other changes are proposed to the existing site drainage.

Mr. Henninger reported that the Architectural Design Review Committee reviewed the site and building plans and recommended approval of the building elevations subject to the applicant adding architectural details on the west wall of the building to break up this blank wall, and to the shortening of the elliptical overhang proposed over the front entrance so that the quoins on each corner can continue to the cornice. The applicant concurred with these recommendations. The Committee also suggested that the red vinyl application to the front door be reshaped to be less art deco and more rectangular to match the other colonial revival architectural features on the building. The applicant agreed to explore this option.

John Ineson from EDM Architects was present on behalf of the applicant and explained the revisions made to the elevations as a result of recommendations from the Design Review Committee. He explained they have modified and reduced the sign band over the entry. They will add a gable element for both east and west elevations and add a column element on the westerly elevation to break up the mass of the wall. Regarding the entry doors, the shape on the doors is part of the branding for Friendly's. Right now there is a little bit of traditional design and a little bit of transitional design on the building. That was the reason for the door design and they have decided they would either keep it as proposed or eliminate the red vinyl completely and keep the doors a clear glass.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 8:15 PM.

Deliberations and Action on Application

Ms. Dolcino moved that the Planning Board grant Architectural Design Review approval for a 4,585 square foot restaurant with a small outside seating area and modifications to the site plan at 147 Loudon Road subject to the following 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.

Special Conditions

2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the architectural elevations shall be revised to add architectural details on the west wall of the building to break up this blank wall, and to shorten the elliptical overhang proposed over the front entrance so the vertical quoins can continue unblocked to the cornice. The revisions shall be approved by the City Planner prior to the issuance of a building permit.

3. The red vinyl application to the front door shall be removed.

Mr. Shurtleff seconded. Motion carried.

REGULAR MEETING

Minutes

Mr. Swope moved approval of the minutes of the meetings of October 21, 2009 and November 4, 2009 as submitted. Ms. Foss seconded. Motion carried.

9. Further consideration of applications for approval of developments on which public hearings have previously been held:

    a. Application by **26 Centre Street LLC** for approval of a site plan of property located at **26 & 26 ½ Centre Street** in the Civic Performance (CVP) District. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the Zoning Ordinance. **(#2009-18)**

Mr. Woodward explained that Twenty-Six Centre Street, LLC proposed to renovate the existing mixed use building to professional office space. There is an existing residential structure at 26 ½ Centre Street which, together with an adjacent garage, is proposed to be removed in order to facilitate the construction of a parking area to serve the

renovated office building. The parking area was to include 17 spaces, with one-way circulation through the property, both entering and exiting on Centre Street, with the exit movement restricted to right turn out movements only. While the property includes rights to travel on Cedar Court, which is a private way off North State Street, the narrowness of that passway has caused the applicant to focus on access and egress to and from Centre Street.

He reported that at the regular meeting on October 21, 2009, after receiving testimony from the applicant and abutters, the Planning Board tabled this matter until the next regular meeting to allow time for the applicant and the abutters to finalize an agreement relative to the access and egress issues of mutual concern. The Board indicated that should the parties not be able to come to an agreement during that time period, then the Board would be prepared to take action on the application at the November meeting. Since the October meeting, the owner of 28 Centre Street has retained Attorney Raymond P. D'Amante to represent her interests in this matter.

He reported that a revised site layout was submitted earlier today showing a 21-space parking area, with six spaces indicated as being for 28 Centre Street, together with a shared exit drive, and a note about three potential compact spaces along the exit drive. The status of the sharing of the driveway with the easterly neighbor at 65-69 North State Street is unknown.

Mr. Woodward reported that he had received a communication on the Board's behalf from Attorney D'Amante indicating that the owners of the properties at 26 and 28 Centre Street had entered into a Memorandum of Understanding (MOU) which called for up to ten parking spaces to be available to serve 28 Centre Street, with three of the spaces located in the parking area on 26 Centre Street adjacent to 28 Centre Street. The applicant is to provide the abutter with a perpetual easement for those spaces. One parallel handicapped parking space at 28 Centre Street would be intended to be entered from 26 Centre Street with the counterclockwise flow of all the traffic. Only this vehicle would exit through the existing 28 Centre Street curb cut to Centre Street with a right turn out only which would eliminate concerns about a vehicle backing into Centre Street from that space.

Mr. D'Amante's communication requested that Planning Board approval be conditioned on the execution of a reciprocal easement agreement as well as on the terms of the MOU. He also asked that Planning Board approval extend to both 26 and 28 Centre Street in light of the joint access and development plan.

Mr. Woodward reported that the sketches referred to in Mr. D'Amante's communication had been received late this afternoon and no staff review of these had taken place. The proposal appeared reasonable; however, there were a few details that still remained to be clarified, including whether it would be possible for the vehicle using the proposed handicapped parking space to back into the exit lane at 26 Centre Street and exit with the rest of the site related traffic onto Centre Street. He noted that the MOU was not an appropriate document for the Board to incorporate as a condition of approval, that the

MOU represented an agreement between the private parties. However, the reciprocal easements would be appropriate to require as a condition of any approval.

He reminded the Board that a Conditional Use Permit application pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the Concord Zoning Ordinance has been filed to allow for two driveways where only one would be permitted on a lot with less than 350 feet of frontage on a collector street. The CUP application also requests permission to have less than a 200-foot separation between the driveways and the nearest street intersections (North State and Green Streets), and less than a 200-foot separation from driveways on the same lot and on adjacent parcels (28 Centre Street and 65-69 North State Street). He noted that the plans as submitted did not provide any detail of the shared entry and exit within the right-of-way of Centre Street.

Mr. Swope felt the applicant had tried to address all the issues that had been presented, but he did not think the Planning Board should act on this without staff review of the newly submitted revised plan. They have gone a long way in the direction the Board asked.

Timothy Golde from Golde Planning Consultants was present on behalf of the applicants to answer questions from the Board, as was Attorney Peter McGrath.

Mr. McGrath asked that the Board grant conditional approval this evening for the Conditional Use Permit, the criteria having been met for 26 Centre Street.

Marian Sagona, property owner at 28 Centre Street, explained that she and the applicant had come to an agreement regarding her access, and there were three issues she would like addressed in the Board's approval of this application. Those issues were that the reciprocal easement be incorporated into the Board's decision, that the terms of the Memorandum of Agreement be part of the conditional approval, and that the Planning Board approval extend to both 26 and 28 Centre Street in light of the agreed upon plan.

In answer to questions by Ms. Dolcino and Mr. Shurtleff, Mr. McGrath and Ms. Sagona explained that there will be no egress to Centre Street from the area currently paved as part of the driveway and proposed to be the 8-foot wide access portion of the proposed handicapped parking space. Mr. Golde explained that the curb will extend in front of that 8-foot wide access portion to eliminate egress to Centre Street from the parking space. There was a lengthy discussion relative to the design of the proposed handicapped parking space.

Mr. Swope felt that there were so many details and questions relative to the most recent plan submitted that he did not feel the Planning Board was in a position to approve this application this evening.

Mr. Swope moved to table action on the application to allow the applicant and the abutter to finalize the site plan and the legal documents as discussed, and Mr. Shurtleff seconded. Motion carried, 5-1, with Mr. Hicks voting against.

b. Application by **St. Paul's School** for a site plan of property located on **Dunbarton Road.** Along with this application is a request for 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. **(#2009-29)**

Mr. Henninger explained this proposal to demolish a 24,802 square foot classroom building and to construct a new 77,596 square foot Math and Science Classroom building. The application includes the removal of 46 parking spaces and the construction of 48 new parking spaces, the relocation of a part of Dunbarton Road, significant drainage improvements, and shifting of an existing recreation field located easterly of Dunbarton Road. A Conditional Use Permit has been requested to disturb wetland buffers for the drainage improvements, and for encroachment into a portion of the buffer for the relocated recreational field being shifted easterly towards Miller's Brook.

He reported that the Planning Board granted Architectural Design Review approval for the building and site plans at its October 16, 2009, regular meeting. The Board also granted a waiver to Section 7.03(B) of the Site Plan Regulations to not show the entire parcel with property line bearings and dimensions, and granted a waiver to Section 7.03(B) of the Site Plan Regulations to not show building setbacks and dimensions.

He explained that a 900-foot long section of Dunbarton Road will be relocated easterly to allow for the construction of the new building and parking. Fifteen parallel parking spaces are to be constructed along the east side of Dunbarton Road. The current section of Dunbarton Road is 26 feet wide with no curbing and sidewalk. The applicant proposes to reconstruct the new section of Dunbarton Road with a travel way of 24 feet with curbing and parking bays along the east side of the road. The applicant advised that their intent is to reconstruct the rest of the Dunbarton Road through the main campus to the same standard over time. The Planning Board, after hearing testimony from the applicant and the City Engineering Division, advised the applicant that the 24-foot travel way was acceptable.

He reported that utility reconstruction to facilitate service to the new building is complete and the property has been restored for the winter. An as-built plan has been provided to the City for the new utility construction.

He reported that the Conservation Commission had reviewed the request for a Conditional Use Permit for the disturbances to the wetland buffers and recommended approval. The Commission observed that buffers are for small areas at the end of linear wetlands located significantly distant from the main wetland systems along Woods Brook. The Commission did recommend that the applicant reduce the length of the outfall pipe so as to minimize the amount of wetland buffer impact. In a letter to the Conservation Commission, the applicant's engineer explained that the relocation of Dunbarton Road required the existing soccer fields to be moved west which resulted in minor impacts to the jurisdictional wetland and wetland buffers. The detention pond was located east of the athletic fields and south of the transformer station so as to

capture runoff from all new or altered impervious areas created by the new building as well as the relocated section of Dunbarton Road. This area had enough open area to properly design the required volume of the detention pond for peak runoff attenuation, with mild side slopes, sediment forebay, aquatic bench and maintenance access around the pond. Pipe lengths leading to the pond and outlet pipe from the pond were kept to a minimum so as not to lower the final discharge location of the pond which would create a larger wetland impact.

Mr. Henninger explained that additional stormwater runoff into the Turkey River Basin is a concern given the flooding that has occurred in recent years. The total amount of runoff from the subject area is proposed to increase by a little less than 0.2 acre feet for the ten (10) year design storm. The wet extended detention basin and the underground (subsurface) infiltration basin appeared to address this concern. At a minimum, this development should manage both the rate and the amount of runoff to existing levels. Any additional runoff will impact a small watershed, which is already subject to significant flooding during storm events. The Engineering Division will complete its review of the proposed drainage plan once the plan has been updated with as-built information.

Theodore Kupper from Provan and Lorber explained the wetland buffer request. He explained that they kept the pipe slope as flat as possible to the proposed detention pond. They will treat and detain the water in the pond and use 212 feet of pipe to transport the treated water out of the pond to the point where it sees daylight. The pipe goes through a wetland area, giving rise to this request. They need the 212 feet of pipe because the terrain is so flat.

Mr. Swope moved that the Planning Board grant a Conditional Use Permit for St. Paul's School for the disturbance to a wetland buffer pursuant to Article 28-4-3(d) of the Zoning Ordinance for the construction of drainage facilities and for the relocation of a ball field. The Board finds these impacts to be minimal in nature and necessary to construct the expanded drainage system proposed by the applicant, and for the shifting of a ball field westerly to accommodate the relocation of Dunbarton Road. Mr. Shurtleff seconded. Motion carried.

Mr. Swope moved that the Planning Board grant conditional site plan approval for St. Paul's School to construct a new 77,596 square foot Math and Science Classroom building, to relocate Dunbarton Road, and for associated site improvements subject to the following standard and special 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 and the Fire Department. No construction activity may commence prior to the preconstruction conference.

2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the

applicant shall obtain approval of private utility plans from Unitil, Fairpoint Communications and National Grid.

3. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division.

    a. An easement deed for public pedestrian, bicycle and emergency access shall be provided for Dunbarton Road and the discontinued portion of Silk Farm Road acceptable to the City Solicitor and City Planner, consistent with the recorded agreements between the City of Concord and St. Paul's School related to the discontinuance of Dunbarton Road and Silk Farm Road.

4. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following State and federal permits shall be obtained and copies provided to the Planning Division:

    a. NH Wetlands Bureau (wetland alterations)
    b. NH Department of Environmental Services Alteration of Terrain Permit (RSA 485-A:17)

5. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following local approvals and permits shall be obtained and copies provided to the Planning Division:

    a. Driveway Alteration Permit from the Engineering Division

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

Mr. Shurtleff seconded. Motion carried.

10. Request for an extension of the period of validity of a conditional approval previously granted to the major subdivision application of **B & D Houston Enterprises, LLC** for property on **Integra Drive and Garvins Falls Road. (#2008-49)**

Mr. Woodward explained that Attorney Richard Uchida had forwarded a request on behalf of B & D Houston Enterprises for a six-month extension of the conditional subdivision approval of the above referenced application seeking to extend the period of validity through May 19, 2010. Mr. Uchida explained that although the applicant has been diligently pursuing the conditions of its approval, due to economic reasons it has

not yet secured a financial guarantee for the public improvements. The applicant does not anticipate problems in obtaining the financial guarantee but will not be able to do so prior to the expiration of the subdivision approval.

Mr. Woodward explained that the Planning Board, at a meeting on November 19, 2008, granted conditional final approval of the major subdivision application. The original approval was valid for a period of one year or until November 19, 2009.

He explained that any extensions of a final subdivision approval may be granted by the Board as a waiver of the Subdivision Regulations, and the Board has often granted one-year extensions, but has generally required that an applicant present requests for anything more than that at the end of the one year extension. The Board has evaluated the request at that time to determine if conditions related to the subdivision have changed or otherwise warrant another one-year extension. If conditions have changed, the Board has denied the waiver for a further extension, and after several extensions, the Board has also 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 recorded plat as a means of learning of the existence of the application and the pending change in their neighborhood.

In this case, the applicant has indicated that economic conditions have prevented them from obtaining a financial guarantee for the public improvements. Given the current market and economic conditions, a six-month extension appears to be reasonable for the Board to grant.

Mr. Swope moved that the Planning Board grant a waiver of the Subdivision Regulations for a six-month extension for this application, extending the period of validity through May 19, 2010.

New Business

11. Consideration of a review of **a Development of Regional Impact in Pembroke** adjacent to the City's wellfield (Concord Sand and Gravel Excavation Expansion).

Mr. Woodward explained that a notice for a Development of Regional Impact has been received from the Pembroke Planning Board for an expansion of an excavation by Concord Sand and Gravel Company on land northerly of North Pembroke Road adjacent to the City's well field and the Soucook River. Access and egress to and from the excavation site in Pembroke are via a private bridge over the Soucook River and through the inactive gravel pit also owned by Concord Sand and Gravel in Concord. The haul road then accesses Route 106 in Concord just south of the Loudon Road intersection.

He explained that Concord Sand and Gravel owns some 200 acres in this area of Pembroke and has been operating for mineral extraction purposes since that time. The Concord site on Route 106 was acquired in 1977 and was operated until a few years ago. In the late 1980's a Bailey Bridge was placed across the Soucook River to join the sites

and a haul road established so that trucks could be loaded in the Pembroke pit and weighed on the scales on the Concord side before exiting the site onto Route 106.

Under State law (RSA 155-E) excavations in operation prior to August 24, 1979, were deemed grandfathered and did not have to seek permits under local regulations. While the Concord excavation was clearly grandfathered, other post 1979 excavations in Concord were subject to the granting of a special exception by the Zoning Board of Adjustment up until 2001 when the excavation of earth materials became subject to the granting of a Conditional Use Permit by the Planning Board.

He reported that there are several ZBA actions related to the Concord pit related to establishing office, storage, and maintenance facilities as well as a proposal for an asphalt plant. However, due to the grandfathered status of the excavation, and the lack of any contemporary State regulation, the bridge which was installed over the Soucook River to establish the truck road to Route 106 received no State or local approvals. The Planning Board has conditionally approved one CUP for some wetland buffer alterations in conjunction with an attempt to market the Concord site for commercial use as the City had rezoned it to a Gateway Performance District. No action was taken pursuant to that CUP, and no reclamation has been done on the site despite the pit apparently being abandoned as defined under RSA 155-E:2 II.

Despite the acquisition date in the mid-1980s, the Town of Pembroke deems the excavation in Pembroke as grandfathered based on an opinion from a former Town counsel. Pembroke has not allowed access to North Pembroke Road from the excavation, and the North Pembroke Road Bridge over the Soucook River would not support the weight of the loaded gravel trucks. Also, North Pembroke Road is quite steep as it approaches Route 106 in Concord, making it difficult to drive a fully loaded truck up to the Route 106 intersection. The current pit is being regulated by the Town as an expansion of an existing excavation, and the focus is on an area of 17 acres to the east of previous areas of excavations, and further from the well field. The life expectancy of the operation may range up to 100 years. The applicants have proposed to install monitoring wells between the new excavation area and the well field.

He reported that the Pembroke excavation has been depleted in the area closest to the City's well field, and that area has been partially reclaimed. The applicants have noted that the City's well field has had no adverse impacts from the excavation to date.

Three issues of concern for Concord have been identified by City staff:

1. The protection of the volume and quality of public water supply from the City's well field
2. The traffic implications of continued access and egress through Concord to Route 106.
3. The reclamation of the Concord excavation to allow for redevelopment.

Mr. Woodward reported that the City's General Services Department has suggested that an outside expert be retained to review the potential impact of the excavation, and the Town has offered to facilitate that.

Relative to traffic, while the volume is consistent with past volumes, the character of Route 106 will continue to change as development occurs and related traffic volumes increase such that the curb cut now used by Concord Sand and Gravel may eventually be limited to right turns in and right turns out by the NHDOT. There may well be a need for the empty trucks to return to the site in Pembroke via North Pembroke Road.

The reclamation of the Concord pit is something the Board may wish to consider under the statutory provisions of RSA 155-E:2 II, Abandoned Excavations. As the applicant has begun reclamation in Pembroke, it appears reasonable to consider the same for the older and depleted Concord site.

Christopher Nadeau and Brett Kay from Nobis Engineering were present to answer questions from the Board on behalf of the applicant. Mr. Nadeau explained that they did a full hydrogeologic study of the site and have a full operations plan. It is a very neat and orderly site. Mr. Kay also noted that they had reviewed the City's data for the City's wells back to 2004. During that period of time there were no exceedances of any water quality standards. This construction will be further away from the wellfields than that study covered.

Mr. Swope moved that the Board request the Pembroke Planning Board to consider a requirement for the retention of a consultant at the applicant's expense to review the plans and studies as submitted by the applicant as they relate to the impact on the City of Concord's well fields on North Pembroke Road. He continued the motion to include that the Board wanted to make the Pembroke Board aware that the access to the operations of Concord Sand and Gravel Inc. on Route 106 may be restricted by NHDOT in the future to a right turn in and out, which may create a need for the empty trucks to return to the site via North Pembroke Road. Mr. Shurtleff seconded. Motion carried.

Old Business

12. Further consideration of a review of **a Development of Regional Impact on North Pembroke Road in Pembroke** across from the City's wellfield (Silver Hills Business Park).

The Chair recognized Timothy Bernier from TF Bernier, Inc. on behalf of the applicant, and asked if Mr. Bernier had received copies of all the communications between the City and Pembroke. Mr. Bernier responded that he felt he had a pretty good handle on the correspondence. The Chair particularly noted the covenants the Planning Board had placed on the CRDC subdivision application on Henniker Street at the request of the Pembroke Water Department.

Mr. Bernier explained that Pembroke has a very active Water Department and very strict aquifer ordinance. Any application in the aquifer district is sent to the Water Department for review. It is an overlay district with numerous restrictions and requirements. Whenever there is a site plan in the aquifer district, the Water Department has been very active in its review.

The Chair reminded Mr. Bernier that the Pembroke Water Department has been tenacious in coming before the Planning Board and the Planning Board has taken their comments to heart.

Mr. Bernier then explained this proposal for two existing lots to be subdivided into five lots with a new 1200 foot road on a portion of the property that is not adjacent to the City's wellfield area. Presently there is an active gravel pit on the property. The applicant has received a variance to allow these to be commercial lots. The Pembroke Planning Board has asked for a number of additional studies and public hearings were held in July, August and September as additional information was submitted. At this point, there is a proposed subdivision that will be commercial and, as the gravel pit gets depleted, it will also become commercial. He explained that in 2006 the initial subdivision proposal was to have included a lot to be used for the relocation of a maintenance facility. At that time, they received a variance for the use. The Pembroke Water Department was asked for their input and, after extensive review, they eventually saw it as an opportunity to get involved. The Pembroke Planning Board then considered the application and had real concerns about the use in the aquifer district. Another site completely outside the aquifer area was eventually found on which to locate the maintenance facility. The only part of the facility that will be in the aquifer is a separate building that will be for office use only and application for that building is pending the approval of the subdivision application. Essentially they are now taking a maintenance facility that is in an aquifer area and relocating it outside the aquifer area. That change in the plan was driven by input by the Water Department. There is no site plan application before the Pembroke Planning Board at this time but when it is submitted it will be thoroughly reviewed. As the road extends north and comes into Pembroke's commercial district, sewer and water service can be extended almost all the way through this property.

Mr. Bernier thanked the Planning Board for sending a representative to attend the public hearing relative to this application before the Pembroke Planning Board meeting next week. He felt it will be important to have a good dialogue between the two Boards.

There was no further business to come before the Board and the meeting adjourned at 10:16 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward

Douglas G. Woodward
Clerk
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