

City of Concord Planning Board
May 15, 2019
Minutes

The regular monthly meeting of the City Planning Board was held on May 15, 2019, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Attendees: Chairman Richard Woodfin, Councilor Byron Champlin, Teresa Rosenberger (Ex-Officio for City Manager), Members, David Fox, Erle Pierce, John Regan, and Alternate Frank Kenison.

Absent: Vice-Chair Carol Foss, Matthew Hicks, Susanne Smith-Meyer, and Alternate Chiara Dolcino

Staff: Heather Shank (City Planner), Beth Fenstermacher (Assistant City Planner), Sam Durfee (Senior Planner), Lisa Fellows-Weaver (Administrative Specialist), and Bryant Anderson (Associate Engineer).

1. Call to Order

Chairman Woodfin called the meeting to order at 7:00 pm.

2. Roll Call

Chairman Richard Woodfin, Councilor Byron Champlin, Teresa Rosenberger (Ex-Officio for City Manager), Members, David Fox, Erle Pierce, John Regan, and Alternate Frank Kenison.

3. Approval of April 17, 2019 Planning Board Meeting Minutes

On a motion made by Councilor Champlin, and seconded by Mr. Regan, the Board voted unanimously to approve the April 17, 2019 Planning Board Meeting Minutes, as written.

4. Planning Board Chair Overview

Chairman Woodfin announced that item 5A has requested a continuance to August 21, 2019 and no additional notification will be sent out. Item 8C has requested a continuance to June 19, 2019. Item 8A, has been withdrawn by the applicant.

5. **Determination of Completeness Items by Consent**

Mr. Woodfin explained that every new application would need to be determined whether it is a Development of Regional Impact to comply with state statutes.

5A. Sanel/NAPA, on behalf of Daval Realty Associates, requests Major Site Plan approval to construct a new 36,200 sf building for wholesale storage, distribution, retail, and office uses and associated site improvements at 108 Old Turnpike Road in the Industrial (IN) District.

Mr. Woodfin stated that the applicant requested to postpone the public hearing to August 21, 2019, no additional notification will go out.

On a motion made by Councilor Champlin, and seconded by Mr. Regan, the Board voted unanimously to determine that this application does not meet the criteria for a Development of Regional Impact, and to determine the application complete and set the public hearing for August 21, 2019.

5C. Jonathan Chorlian request Major Site Plan approval for the construction of eight (8) attached residential dwelling units and the redevelopment of the two (2) existing structures to accommodate four (4) dwelling units at 135 North State Street in the Neighborhood Residential (RN) District.

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On a motion made by Councilor Champlin, and seconded by Mr. Pierce, the Board voted unanimously to determine that this application does not meet the criteria for a Development of Regional Impact, and to determine the application complete and set the public hearing for June 19, 2019.

- 5B. CATCH Neighborhood Housing, on behalf of Penacook Community Center and the City of Concord, requests Major Site Plan approval for construction of six (6) new residential buildings accommodating 42, 1, 2, and 3 bedroom nit 95-97 Village Street.

Councilor Champlin stated that he has been elected to the CATCH board and therefore, recused himself from the project and left the room, as required per state statute.

On a motion made by Mr. Regan, and seconded by Mr. Pierce, the Board voted to determine that this application does not meet the criteria for a Development of Regional Impact, and to determine the application complete and set the public hearing for June 19, 2019. The motion passed; 6/0.

6. **Design Review Applications by Consent**

Councilor Champlin returned to the Board as a voting member.

On a motion made by Mr. Pierce, and second by Mr. Regan, the Board voted unanimously to approve the sign applications for Items 6A-6G by consent, subject to the recommendations of the Architectural Design Review Committee (ADR) as conditions of approval, as noted below.

- 6A. Nikoliya Muyakovic requests ADR approval to install two (2) new wall signs at 49 Hall Street in the Opportunity Corridor Performance (OCP) District.

On a motion made by Mr. Pierce, and second by Mr. Regan, the Board voted unanimously to approve the design as submitted by consent.

- 6B. Ross Mingarelli, on behalf of Ciborowski Trust, requests ADR approval to install a new externally illuminated wall sign at 44 N. Main Street in the Central Business Performance (CBP) District.

On a motion made by Mr. Pierce, and second by Mr. Regan, the Board voted unanimously to approve the design as submitted by consent.

- 6C. Crisis Center of Central NH requests ADR approval to install a new freestanding sign at 79 S. State Street in the Urban Transitional (UT) District.

On a motion made by Mr. Pierce, and second by Mr. Regan, the Board voted unanimously to approve the design as submitted by consent.

- 6D. Maddie Cole, on behalf of Oakstream Properties, requests ADR approval to replace an externally illuminated projecting sign at 25 N. Main Street in the Central Business Performance (CBP) District.

On a motion made by Mr. Pierce, and second by Mr. Regan, the Board voted unanimously to approve the design as submitted by consent.

- 6E. Helen Dionne, on behalf of Jake Ciborowski Trust, requests ADR approval to install a new internally illuminated wall sign at 1 N. Main Street in the Central Business Performance (CBP) District.

On a motion made by Mr. Pierce, and second by Mr. Regan, the Board voted unanimously to approve the design as submitted by consent.

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- 6D. Lashing Out Studio, LLC, on behalf of Alexander Constant, requests ADR approval to install a new externally illuminated wall sign at 35 S. Main Street in the Central Business Performance (CBP) District.

On a motion made by Mr. Pierce, and second by Mr. Regan, the Board voted unanimously to approve the design as submitted by consent.

- 6F. Stonex, on behalf of FourKPH, LLC, requests ADR approval to install a new wall sign at 54 Regional Drive in the Office Park Performance (OFP) District.

On a motion made by Mr. Pierce, and second by Mr. Regan, the Board voted unanimously to approve the design as submitted by consent.

Public Hearings

7. **Design Review Applications**

- 7A. Prolerized New England Company, LLC, requests ADR approval to install new equipment at 25 Sandquist Street in the Opportunity Corridor Performance (OCP) District.

Eric Steinhauser of Sanborn, Head and Associates along with Ira Gross of Schnitzer Northeast, represented the application.

Ms. Shank gave an overview of the proposal explaining that the project is an industrial site in the OCP District. Equipment will be installed outside the existing building but will be completely surrounded by a high fence and not visible to the public. A site plan was not required. The proposal is to add new processing equipment to allow further processing of metals at the existing scrap yard. There will be little opportunity for the public to view the equipment.

Chairman Woodfin opened the public hearing. There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Champlin, and seconded by Mr. Pierce, the Board voted unanimously to grant approval of the proposed design to install new equipment, as submitted.

- 7B. Liberty Utilities, on behalf of the City of Concord, requests ADR approval to construct a new 128 sf utility building to accommodate natural gas regulation at the corner of Black Hill Road and Manchester Street in the Gateway Performance (GWP) District.

Chairman Woodfin opened the public hearing.

No one was present to represent the application.

Ms. Shank stated that the proposal is to install an above ground 8 foot by 16 foot regulator building, on an 8 foot by 6 inch foundation. She stated that the ADRC has a discussion regarding the color of the building and felt that forest green would be appropriate.

Chairman Woodfin opened the public hearing. There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Champlin, and seconded by Mr. Pierce, the Board voted unanimously to grant approval of the proposed design to install the new building, as submitted, subject to the conditions of the Architectural Design Review Committee to change the color to forest green.

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8. **Site Plan, Subdivision, and Conditional Use Permit Applications**

- 8A. Northpoint Engineering, LLC, on behalf of Concord Orthopaedics, requesting an extension of a Major Site Plan approval for expansion of an existing parking lot at 264 Pleasant Street in the Institutional (IS) District. MBL: 95/3/1 & 95/3/2.

This application was withdrawn by the applicant.

- 8B. Gary LeBlanc, on behalf of Northern Railroad, request Minor Site Plan approval to construct a new parking lot at 188 Sewall's Falls Road and a Conditional Use Permit (CUP) to allow rail bikes for recreational use in the Residential Open Space (RO) District along the Pan Am rail line between Commercial Street, Abbott Road, and Penacook Street, and a second CUP to allow the parking lot not to be paved for a seasonal use.

Mr. Durfee stated that the applicant appeared before the Town of Boscawen Technical Review Committee on May 2, 2019 where it was determined that the proposed project was not considered to have a regional impact even though the proposed use would cross town lines. He added that The Central New Hampshire Regional Planning Commission has been notified of this project and that they did not have any comments.

Mr. Durfee provided an overview of the project. He stated that the applicant has requested four waivers, two of which staff does not support, which are for grading of the parking spaces to be at 10% where 5% is required and for tabulated information to be provided. He noted that the applicant received staff's comments and plans to address all of the comments.

Ms. Shank noted that there is an additional item that will need to be addressed, which is for the decking within the setback. The applicant will need to remove the deck or obtain a variance. Additional discussion was held regarding the erosion due to the steep slope. It was noted that the proposed slope in excess of 5% slope may make it more difficult to get in or out of a parked car and may increase erosion, especially on a gravel parking lot.

Gary Leblanc provided an overview of the project explaining that the rail bikes are a four-wheeled, pedal bike, with either two or four seats. There are seatbelts. One person controls brakes. The wheels are polyurethane wheels and stay on the railroad tracks as a train would. The bikes weigh about 150 pounds. The round trip travel totals 6.2 miles. He stated that there will be multiple vehicles on the tracks at one time; the bikes are staggered. There is a turntable design for the turn around. He stated that he will bring visitors down the southern route first. He plans to add picnic tables at the southern end.

Mr. LeBlanc explained that he has worked with engineering and the grading will be changed to meet the requirement of 5%. The tabulations will be added to the plans as well. He stated that he believes that everything else has been addressed with Planning and Engineering. He requested that the two waivers be rescinded.

Chairman Woodfin opened the public hearing.

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Abutter Rob Morrill of Morrill Dairy Farm expressed concern with both ends of the project. He explained that he owns the right of way across the property. He is concerned with safety of the bikes and farm equipment and road crossings. He stated that there are crossings for cattle and equipment on both sides. He also noted the placement of picnic tables being located on private property at Horseshoe Pond. He added that there is some concern with the homeless population gathering near this location. He stated that he does want to work with the applicant; however, there are some concerns.

Ms. Shank asked if the crossings were at trails or the road access point. Mr. Morrill replied that two are crossings on private property that go through the Penacook treatment plant, south of the farm stand. He explained that this is the crossing that is used most of the time as it is used every day to feed the cattle. It was approved by the RR for the crossing. Another crossing that is used is located by Horseshoe Pond and it is an abandoned road. Ms. Shank stated that the road would stop at the prison property so there would not be issues with Horseshoe Pond.

Mr. LeBlanc stated that he is aware of the crossings and he plans to add yield signs at the crossings. All customers will be instructed to yield to farm equipment or operations at the crossings. At the treatment plant, stop signs for the rail bikes will be added at the driveway. He will also add a sign on the treatment plant driveway indicating that there are rail bikes crossing. He further explained the unloading process and waiting at the picnic tables. Crossing guards will be located at the road for unloading. He will have trash receptacles on site and he will be disposing of the trash. He plans to have the business open from Memorial Day to the end of October. This year he would like to open by June 21.

Discussion ensued regarding the protection of the road. Engineering staff will assess the need for a bond for any potential damage to the road after staff has the opportunity to look at the bikes and determine their potential impact to the pavement.

Mr. Durfee stated that the applicant would like to do some brush clearing; no tree clearing is proposed. Ms. Shank stated that brush removal would be permitted; however, any tree cutting would not be permitted until the limit of clearing is identified on revised landscape plans. If the applicant can get revised plans in quickly, staff will just sign off on them so he can get started.

There being no further comment, the public hearing was closed.

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board voted unanimously to **grant conditional use permits** to Article 28-7-11(e) Alternative Surfacing for Parking Lots and Article 28-2-4(j) Principal Use for Privately Owned Outdoor Recreation Facilities.

On a motion made by Councilor Champlin, and seconded by Mr. Kenison, the Board voted unanimously to **grant the following waivers** from the site plan regulations utilizing the criteria of RSA 674:44 III (e) (1), which states that specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver(s) will properly carry out the spirit and intent of the regulations:

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- 1) Section 15.03 Existing Conditions Plan;
- 2) Section 16.02(15) Site Plan Requirements: Landscape Plan..

On a motion made by Mr. Pierce, and seconded by Councilor Champlin, the Board voted unanimously to **grant Minor Site Plan approval** for the proposed at 190 Sewall's Falls Road subject to the following precedent and subsequent conditions noted below:

- a) Precedent Conditions – to be fulfilled within one (1) year and prior to issuance of any building permits, or the commencement of site construction, unless otherwise specified:
 - (1) Address Technical Review Comments noted in in the May 15, 2019 staff report.
 - (2) Address Review Comments from Bryant Anderson, P.E., dated May 6, 2019 to the satisfaction of the Engineering Division.
 - (3) The applicant shall either receive variance relief for the decking within the side setback or shall redesign the decking so that it does not encroach on the setback.
 - (4) A Professional Engineer shall sign and seal final plans.
 - (5) A New Hampshire Licensed Land Surveyor will sign and seal the Existing Conditions Plan.
 - (6) Waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), applicant shall comply with said submission requirement(s).
 - (7) Conditional Use Permit(s) granted are to be noted and fully described on the plan including date granted and applicable Article number(s) of the Zoning Ordinance. Should the Board vote to deny the CUP(s), applicant shall comply with said submission requirement(s).
 - (8) Submit 3 sets of final plans to be signed by the Clerk and Chair of the Planning Board, prior to issuance of any permits or commencement of construction activities.
- b) Subsequent Conditions – to be fulfilled as specified:
 - (1) Planning Board approval is based upon the applicant's representation that the access easement is valid for the proposed use in accordance with applicable law.
 - (2) Prior to commencement of construction activity, payment of any required inspection fees in an amount approved by the City Engineer shall be made.
 - (3) A pre-construction meeting shall be required prior to the start of any construction activities onsite if requested by the City Engineer.

- 8C. Nobis Group, on behalf of 125 North State Street, LLC, requests Major Site Plan approval for the construction of a three-story office addition, a one-story conference room, and a carriage house at 125 North State Street in the Neighborhood Residential (RN) District.

At the request of the applicant, this application was postponed to June 19, 2019.

- 8D. Rokeh Consulting, LLC, on behalf of Whittemore Holdings, LLC, requests Major Site Plan approval for a previously constructed parking lot at 45 Chenell Drive in the Industrial (IN) District.

Mr. Durfee stated that the application was determined complete at the April 17, 2019 meeting. The applicant is requesting major site plan approval for a previously constructed 15,300 sf, parking lot

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for vehicle storage and proposed security and drainage improvements. The parking lot was constructed in the fall of 2018 without site plan approval. The application has gone before the Architectural Design Review Committee. The ADRC requested that the applicant provided details to staff for the fencing and gate as well as drainage improvements. In addition, the ADRC also observed that the plan lacks the required landscaping and recommended that the applicant work with staff to ensure compliance with the regulations. The applicant has since submitted a new landscape plan that addresses several of these issues.

John Rokeh represented the application. He explained that he thought the property was approved for the parking lot. There was an original site plan for this site that called for a future 55 space parking lot where this gravel storage yard is now. Drainage was set up for that yard. A detention pond was built in 1987.

After the applicant realized that the project was more than 10,000 square feet, plans were resubmitted and the application was re-noticed. A revised landscaped plan was submitted. Mr. Rokeh stated that they are trying to bring the project into compliance so they can start using the property legally.

Chairman Woodfin noted that the lot is being used by the Police Department as an impound lot with a security fence.

There being no further comments or concerns, the public hearing was closed.

On a motion made by Councilor Champlin, and seconded by Mr. Pierce, the Board voted unanimously to **grant Major Site Plan approval** for the development at 45 Chenell Drive subject to the following precedent and subsequent conditions noted below:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building permits, or the commencement of site construction, unless otherwise specified:
 - (1) Address Technical Review and Landscape comments to the satisfaction of the Planning Division.
 - (2) Address Engineering review comments to the satisfaction of the Engineering Division.
 - (3) Submit three (3) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.
- (b) Subsequent Conditions – to be fulfilled as specified:
 - (1) Prior to commencement of construction activity, payment of inspection fees in an amount approved by the City Engineer shall be made.
 - (2) A pre-construction meeting shall be required prior to the start of any construction activities onsite. The applicant shall pick up one (1) set of signed plans at the Planning Office to make copies for the pre-construction meeting. A total of five (5) copies of the signed plan set shall be provided by the applicant at the pre-construction meeting.
 - (3) Prior to a Certificate of Occupancy or final construction sign-off, as-built drawings shall be provided to the City Engineer in accordance with Section 12.09 of the Site Plan

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Regulations. The as-built drawings shall be surveyed on NH State Plane coordinates and NAVD 88 Datum.

- (4) Prior to the issuance of a Certificate of Occupancy or final construction sign-off, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.08 of the Site Plan Review Regulations and all information shall be converted to a vertical datum of NAVD 88.

9. **Other Business**

Laura Hartz, on behalf of Capital Hotel Company VI, requests an amendment to a Major Site Plan approval that was granted at the April 17, 2019 Planning Board meeting for construction of a T-Bones Restaurant at 406 South Main Street in the General Commercial (CG) District.

Mr. Durfee explained that the applicant has requested to amend the approval granted at the April 17, 2019 Planning Board meeting. The amended approval will supersede the approval granted on January 16, 2018 for the Tru Hilton Hotel Major Site Plan application, since the T-Bones application encompasses all aspects of the previously approved hotel application. City Staff was processing the two applications separately. This amendment will consolidate the site plan, conditional use permit, and waiver approvals for both site plan applications into one approval. Mr. Durfee stated that Staff supports the amendment because the approved site plan for the restaurant contains all the information on the previously approved hotel site plan, effectively making the plans approved for the restaurant the master set for the entire site. The CUP per Article 28-7-11(a), Alternative Parking Arrangements and waiver to Section 22.07(2) granted for the restaurant at the April 17, 2019 Planning Board meeting would now also be applicable to the hotel. This amendment will supersede any and all prior approvals for the site.

On a motion made by Councilor Champlin, and seconded by Mr. Pierce, the Board voted unanimously to **amend the prior Major Site Plan approval** granted on April 17, 2019, for the proposed redevelopment at 406 South Main Street to read as follows:

Grant Major Site Plan approval for the proposed redevelopment at 406 South Main Street **of a 4-story, 85-room hotel, 9,900 sf restaurant with a 547 sf patio, and associated site improvements** subject to the following precedent and subsequent conditions noted below, including all previous conditions associated with the original hotel approval:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building foundation permits, or the commencement of site construction, unless otherwise specified:
 - (1) Address Technical Review and Landscape comments to the satisfaction of the Planning Division as outline din the staff report dated April 17, 2019.
 - (2) Address Engineering review comments to the satisfaction of the Engineering Division as outlined in the memo dated April 10, 2019.
 - (3) Return to the April 30, 2019 ADR meeting to present material and color samples of building materials and screening materials and colors for the dumpster area.
 - (4) The minor subdivision shall be recorded at the Merrimack County Registry of Deeds.
 - (5) Notice of lease for the three leases providing off-site parking shall be submitted for review by City staff, and recorded at the Merrimack County Registry of Deeds.

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- (6) Conditional Use Permit(s) granted are to be noted and fully described on the plan including date granted and applicable Article number(s) of the Zoning Ordinance. Should the Board vote to deny the Conditional Use Permit(s), the applicant shall comply with said submission requirement(s).
 - (7) Waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), the applicant shall comply with said submission requirement(s).
 - (8) Submit three (3) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.
- (b) Subsequent Conditions – to be fulfilled as specified:
- (1) Prior to the issuance of any building permits, the applicant must receive variance relief to the requirement set forth in Article 28-7-11(a) Off-site Parking, whereas the off-site parking must be permanently related to the principal use by easement, or other recordable binding legal instrument that co-terminates with the principal use, in order to enter into three lease agreements with maximum terms of 10, 25, and 30 years.
 - (2) Prior to issuance of any permit for construction of a building, a fully executed easement or lease agreement documenting permission for the use of the I-93 right of way to meet parking requirements in accordance with the zoning ordinance shall be submitted and reviewed by the City Solicitor’s office for acceptance.
 - (3) Prior to commencement of construction activity, payment of inspection fees in an amount approved by the City Engineer shall be made.
 - (4) A pre-construction meeting shall be required prior to the start of any construction activities onsite. The applicant shall pick up one (1) set of signed plans at the Planning Office to make copies for the pre-construction meeting. A total of five (5) copies of the signed plan set shall be provided by the applicant at the pre-construction meeting.
 - (5) Prior to a Certificate of Occupancy or final construction sign-off, as-built drawings shall be provided to the City Engineer in accordance with Section 12.09 of the Site Plan Regulations. The as-built drawings shall be surveyed on NH State Plane coordinates and NAVD 88 Datum.
 - (6) Prior to the issuance of a Certificate of Occupancy or final construction sign-off, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.08 of the Site Plan Review Regulations and all information shall be converted to a vertical datum of NAVD 88.
10. Ron King, on behalf of Ciborowski Jacob S. Family Trust, requests ADR approval for a new storage structure at 90 Low Ave. in the Central Business Performance (CBP) District.

The applicant was not present. Ms. Shank explained that the Board tabled the application last month. No new information has been received from the applicant. She stated that the applicant has not returned to the ADRC for approval and never came before the Planning Board. She asked the Code Department to follow up with the applicant and is waiting for an update.

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11. **Any other business**

Zoning Update

Ms. Shank stated that she received an update from Code Studio regarding the new zoning update and shared a few prototype districts for R40 and R6. She explained unit values, and requirements that still would need to be met such as setback, and lot coverage. She stated that this would allow more flexibility to property owners. Scenarios and examples were discussed for different areas of the City. Ms. Shank stated that there is a great variable in lot size in the downtown area and the goal is to come up with districts that more accurately reflect existing development and avoid subdivisions.

Councilor Champlin stated that there is a real need for workforce housing. Many people in City Administration are thinking about this. Workforce housing has to be there for new businesses to move in to the City; it is important that there be options. Ms. Shank stated that the proposal is intended to address these issues by giving more options to property owners.

Ms. Shank asked the Board for feedback and encouraged them to reach out her with questions or comments so that she could pass them along to the consultants. She is anticipating a more comprehensive draft shortly.

Abbott House Update

Ms. Fenstermacher provided an update as to the status of the Abbott House project. She stated that the applicant has hired a law firm. A right to know request has been received for the project records. There is nothing else to report.

Councilor Champlin stated that the house continues to deteriorate. He expressed concern with the continued delays and added that this is a way to circumvent the covenant of the project. He added that the more delays there are, the less effective the City is being with due diligence to make sure the covenant is supported. He stated that he will not support issuing any Certificate of Occupancies.

Ms. Shank stated that she has asked the Code Department to check to see if anything can be done for protection in the meantime such as adding a tarp to cover the roof. She stated that she will follow up with Code.

Adjournment

At the request of Chair Woodfin, Mr. Fox made a motion to adjourn at 8:40 PM, seconded by Mr. Pierce. Motion carried unanimously.

A TRUE RECORD ATTEST:

Lisa Fellows-Weaver,
Administrative Specialist