

**MINUTES  
CITY OF CONCORD PLANNING BOARD  
January 20, 2016**

The regular monthly meeting of the City Planning Board was held on January 20, 2016, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Present at the meeting were Jerry Drypolcher (Chairman), Byron Champlin, (City Council), Carol Foss (Vice-Chair), Matt Hicks, Rich Woodfin, Frank Kenison (Alternate), and Chiara Dolcino (Alternate). Also present were Nancy Larson (City Planner), Heather Shank (Assistant City Planner), Beth Fenstermacher (Senior Planner), and Kate Kindel (Administrative Specialist, *pro-tem*) of the City's Planning Division.

At 7:00 p.m., a quorum was present and the Chairman called the meeting to order.

**PUBLIC HEARINGS**

**Architectural Design Review Applications**

**Consideration of requests for Architectural Design Review Approval by the following applicants, for signs, buildings and/or site plans at the noted locations, under the provisions of Section 28-9-4(f), Architectural Design Review, of the Code of Ordinances:**

**1. Signs (Consent Agenda Items)**

The Chair asked if members of the public had any comments or questions. There were no comments from the audience.

- a. Application by Alexander Constant on behalf of YoYo Heaven, requesting ADR approval to install one (1) new 20 sf non-illuminated wall sign at 35 S. Main Street in the Central Business Performance (CBP) District. MBL: 34/4/1**

This consent item was approved subject to the following ADR recommendations: reduce the size of letters such that additional space can be provided between the letters and the border; change the colors to those that read easier than the blue/yellow combination, or tone down the shade of yellow; position the sign to align with the lower edge of the adjacent signs; and delete the 3D graphics.

- b. Application by Desert Brook Enterprises, LLC requesting ADR approval to install one (1) 90 sf internally illuminated replacement freestanding sign (including three lines of changeable copy), two (2) new 36 sf internally illuminated roof signs, and one (1) new 25 sf internally illuminated wall sign at 204 Fisherville Road in the General Commercial (CG) District. MBL: 201/P142**

This consent item was approved subject to the following ADR recommendations: add the street address on the pylon; reduce the circled “24” such that it does not touch the border on each sign; and remove the lower word “wash” from the Truck/Boat/RV sign.

- c. **Application by ROI Irrev. Trust, John R. Monson Trustee, on behalf of Re-Petes New and Used Goods, requesting ADR approval to install one (1) replacement 32 sf internally illuminated freestanding sign at 32 Manchester Street in the Gateway Performance (GWP) District. MBL: 110/H2/9**

This consent item was approved as submitted.

- d. **Application by 81 Hall Street, LLC requesting ADR approval to install one (1) new 101.3 sf internally illuminated affixed sign at 81 Hall Street in the Opportunity Corridor Performance (OCP) District. MBL: 14/3/7**

This consent item was approved as submitted.

- e. **Application by 158 Manchester St., Inc., on behalf of Team Kia, requesting ADR approval to install one (1) replacement 29.9 sf internally illuminated freestanding sign at 158 Manchester Street in the Highway Commercial (CH) District. MBL: 110/K1/5**

This consent item was approved subject to the ADR recommendation that landscaping be provided around the base of the sign.

In order to achieve a quorum, Mr. Kenison, Alternate, was seated for Mr. Regan; Ms. Dolcino, Alternate, was seated for Ms. Smith-Meyer.

**The Board voted 7-0 to approve the consent agenda on a motion made by Councilor Champlin, seconded by Ms. Foss.**

.

*\*\*End of Consent Agenda\*\**

**Conditional Use Permit Applications**

- 2. **Application by Michael Lambert, Environmental Scientist, on behalf of Roy Philbrick, requesting a Conditional Use Permit approval to allow for temporary impacts to the 50 ft. wetland buffer. A Conditional Use Permit approval is also requested to allow for impacts to the City’s 75 ft. Shoreland Protection Buffer for purposes of constructing a driveway at 92 Runnells Road, within the Open Space Residential (RO) District. Map/Block/Lot: 36/Z4 [CUP] (2016-01)**

The Board voted 7-0 to accept the application as complete and open the public hearing, on a motion made by Councilor Champlin, seconded by Mr. Kenison.

Applicant was represented by Michael Lambert, who brought site plan copies of the revisions, based on recommendations made earlier by the Conservation Commission. Ms. Shank summarized the project: two Conditional Use Permits are requested for the building of a single family home at 92 Runnells Road: one for disturbance of the wetland buffer, and the second for the construction of a driveway.

Mr. Lambert summarized the history of the property, and the proposed construction. The property is less than 2 acres, located beside the Contoocook River. At time of purchase, its primary use was for recreational purposes and roadside parking. He described previous Code Enforcement Issues, and intermittent police surveillance. A Land Surveyor was hired to delineate the wetland area and determine setbacks. To date, three (3) variances have been granted by the Zoning Board of Adjustment, including one development within the 100-year Floodplain.

One goal of the plan is to limit the impact on the wetland buffer. Minimal disturbance will occur as a result of the area needed for grading of the site, access for a well-drilling truck, and establishment of a septic system. A permeable driveway and restoration within the Shoreland Protection District is proposed to replace approximately 4,000 sf of area currently considered to be impermeable by DES.

Mr. Lambert stated that another part of the survey addressed the elevation of the proposed driveway, and it was found to be at elevation 357 ft., thus, above the flood plain elevation. Vegetation alongside may include high bush blueberry plants, placed in containers at 10 ft. intervals. He noted that it is his preference to use State Nursery bare wood stock, and dogwoods. Ms. Shank noted that Staff may want to discuss the Restoration Plan with the applicant in more detail.

There were no further questions.

**A motion was made by Mr. Kenison to grant Conditional Use Permit approval to Section 28-3-3 (f) (ZO), and seconded by Ms. Dolcino. The Board voted 7-0 to grant approval.**

**A motion was made by Councilor Champlin to grant Conditional Use Permit approval to Section 28-4-3 (d) (ZO), and seconded by Mr. Kenison. The Board voted 7-0 to grant approval, subject to the following precedent and subsequent conditions:**

- (a) **Precedent Conditions** – to be fulfilled within two years and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:
- (1) Any waiver(s) or variances granted are to be noted and fully described on the plan including date granted and applicable Section number(s). Should the Board vote to deny any waiver request, the applicant shall comply with said submission requirement.
  - (2) Address to the satisfaction of the Engineering Division, review comments from Laura Aibel, P.E., and Jeff Warner, P.E. dated 1/13/16
  - (3) Address Technical Review Comments, noted in Section 3 above to the satisfaction of the Planning Division.
  - (4) Demonstrate that best practices are being used in the disturbance and re-vegetation of wetland buffers and the Shoreland Protection District, to the satisfaction of Planning Staff.
  - (5) The Licensed Land Surveyor and Certified Wetland Scientist shall sign and seal final plans.
  - (6) Provide documentation that all required NHDES Shoreland Protection Act permits and approvals have been received, including ISDS approval of the septic system.

(b) **Subsequent Conditions** – to be fulfilled as specified:

- (1) Prior to issuance of a Certificate of Occupancy, the limits of the wetland buffers shall be flagged with Conservation Easement disks provided by the Planning Division. The disks may be located on the stone monuments proposed by the applicant.
- (2) The Applicant shall deliver to Planning, one plan set for endorsement by the Planning Board Chairman & Clerk. Applicant shall then make three (3) copies of the endorsed plan set to be returned to Planning.
- (3) Traffic, recreation and school impact fees shall be assessed for construction of the new home. 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. 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; Table 2, Recreational Facilities; and Table 3, Transportation Facilities.

**Site Plan Applications**

3. **Application by Northpoint Engineering on behalf of Morrill Mill Pond LLC for the construction of a 13,800 sf warehouse/office building consisting of 1,800 sf of office and 12,000 sf of warehouse with a 42’x32’ covered loading/unloading area at Whitney Road within the Industrial (IN) District. Proposed site improvements include construction of 14 parking spaces and installation of drainage, lighting, and utility improvements. Applicant also requests Architectural Design Review approval for the proposed site plan and building elevations as well as a CUP to allow for the construction of 14 parking spaces whereas 35 spaces are required. Map/Block/Lot: 6/P12 [SPR/CUP] (2015-51)**

Chairman Drypolcher opened the public hearing.

Present at the hearing was the applicant, Mr. Eric Foster, owner of Lakes Region Tent & Event; Mr. Jeff Lewis, Northpoint Engineering; and Mr. Dan Hall, The Turner Group.

Ms. Fenstermacher noted that the Waiver Request from the Electronic Submission requirements has been withdrawn. According to Mr. Lewis, the subdivision application was approved last month. This application is for the construction of a building with a 12,000 sf warehouse, and an 1800 sf office building on Whitney Road. Access will be off the existing driveway on Whitney Road. There will be a covered loading dock in order to access supplies. The office will have little customer traffic; primarily, employees will use the parking. Thirty-five parking spaces are required per zoning ordinance, which are more than the applicant identified for their needs, so they have requested a Conditional Use Permit to construct 14 spaces, and have designated the 21 future spaces on the plan, if needed.

Mr. Woodfin asked for clarification as to the location of the parking spaces proposed for construction versus future parking spaces. Mr. Lewis stated that they will be located at the front of the building; 8 spaces to the left of the entrance, including two handicapped spaces; and the remaining number to the right. Trash will be relegated to the back of the building. Drainage for the property will be to the west, away from the wetlands to a proposed storm water basin adjacent to Hannah Dustin Drive. Landscaping will include effective screening for the houses on Hannah Dustin Drive as a vegetative buffer already exists along Hannah Dustin Drive; further, there will be a 6-ft fence erected.

Ms. Larson asked if a detail for the proposed stockade fence had been provided. Mr. Lewis said that the type of materials will be submitted, and they will incorporate the ADR's recommendation for a darker color.

Ms. Foss asked if there was a need for an agreement about driveway maintenance, as it will be shared with the businesses on the adjacent lot. Mr. Foster said this would be integrated into the purchasing agreement. Ms. Larson commented that Mr. Lewis should reference the existing easement agreement, which may need to be amended, and this should be added to the precedent conditions.

Mr. Woodfin inquired about the ADR recommendations to resolve the masonry wall. Mr. Hall indicated that the masonry units will be extended an addition 4 feet on the southern wall to address the comments made at the prior ADR meeting.

There was general discussion about signage; Mr. Lewis indicated that they will submit a sign application at a later date.

There were no questions from the audience. Chairman Drypolcher closed the public hearing.

**The Board voted 7-0 to grant a Conditional Use Permit pursuant to Section 28-7-11 (b) (ZO) on a motion made by Ms. Dolcino, and seconded by Councilor Champlin.**

**The Board voted 7-0 to grant ADR approval for the proposed site plan, with the ADRC recommendations, on a motion made by Councilor Champlin and seconded by Mr. Hicks.**

**The Board voted 7-0 to grant Major Site Approval with the addition of precedent condition number 6 to address the driveway access easement on a motion made by Mr. Hicks and seconded by Ms. Foss, subject to the following precedent and subsequent conditions:**

- (a) **Precedent Conditions** – to be fulfilled prior to endorsement of the final plan by the Planning Board Chairman and Clerk, and prior to issuance of any building permits or the commencement of site construction, unless otherwise specified:
  - (1) The Professional Engineer, Land Surveyor and Certified Wetland Scientist shall sign and seal final plans.
  - (2) Address to the satisfaction of the Engineering Division, forthcoming review comments from Laura Aibel, P.E. and Jeff Warner, P.E.
  - (3) Address Technical Review Comments, noted in Section 5 above to the satisfaction of the Planning Division.
  - (4) Any 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 request(s), applicant shall comply with said submission requirement(s).
  - (5) Any Conditional Use Permit(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 Conditional Use Permit(s), applicant shall comply with said submission requirement(s).

- (6) If necessary, the existing Access Easement shall be revised to address maintenance responsibilities and any changes to accommodate the proposed development and use.

(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) Prior to commencement of construction activity, the applicant shall provide to the City Solicitor a financial guarantee for the site stabilization in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.
- (3) The Applicant shall deliver to Planning, one plan set for endorsement by the Planning Board Chair & Clerk. Applicant shall then make three copies of the endorsed plan to be returned to Planning and an additional seven (minimum) plan sets that they will bring to the pre-construction meeting.
- (4) A pre-construction meeting shall be required prior to the start of any construction activity onsite.
- (5) Prior to issuance of a Certificate of Occupancy, Planning staff shall inspect existing trees that were counted towards the Landscape Requirement under ZO 28-7-8(b). Any trees damaged or in poor condition following site construction shall be replaced to the satisfaction of Planning.
- (6) Prior to the issuance of a Certificate of Occupancy, as-built drawings shall be provided to the City Engineer in accordance with Section 12.09 of the Site Plan Review Regulations. The as-built drawings shall be surveyed on NH State Plane coordinates and NAVD 88 Datum.
- (7) Prior to the issuance of a Certificate of Occupancy, 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.
- (8) Traffic impact fees shall be assessed for any non-residential construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 3, Transportation Facilities Impact Fee per Variable Unit. A credit will be issued for the previous tenant use (see attached impact fee worksheet).
- (9) No certificate of occupancy for any building or use shall be issued until all public and private improvements have been substantially completed to the satisfaction of the City Engineer and City Planner.

**Requests for Amendments to Conditions of Approval**

4. **Application by Ashwood Development Companies requesting an amendment to the extension of the period of validity granted by the Planning Board on May 18, 2011 for the Major Subdivision application of the Oxbow Bluff Cluster Subdivision such that all three phases would need to be completed no later than November 15, 2018. Also requested is a modification to the phasing plan to allow Phase 3 construction to begin prior to completion of Phase 1 & 2 site improvements and; elimination of the requirement to construct a recreation trail. The subdivision is located off of Manor Road, within the Single-family Residential (RS) District. Map/Block/Lot: 202/Z6. [MAS] (2005-67)**

Chairman Drypolcher opened the public hearing.

Applicant Mike Tancreti, developer and owner of Ashwood Development Companies, and agent Jeff Lewis, Northpoint Engineering, were present.

Mr. Lewis reported that construction on this project began in 2006, and several extension requests have previously been approved. The developer would like to modify the current phasing plan to be allowed to begin Phase 3, although Phases 1 and 2 have not yet been completed. Also he would like to request the removal of a final end date, so as to avoid having to appear again before the Planning Board in November 2018.

Chair Drypolcher noted that traditionally, no more than two extensions have been allowed by the Planning Board, although he acknowledged that a lengthy period of development may occur because of economic or financial reasons.

Mr. Lewis also discussed the proposed trail, and requested that this requirement be removed.

With regard to the re-design of the roundabout at the intersection of Manor and Abbott Roads, Mr. Lewis stated that it is taking far longer to design than anticipated. Twenty-six Certificates of Occupancy (CO) have been issued, one of which was issued as a temporary CO (with the understanding that no more CO's will be issued until the condition regarding the round-about design is satisfied). Another final CO request will likely be made in the next week; thus, he asks that the modification requiring the roundabout design to be completed prior to the issuing of the 26th Certificate of Occupancy be further modified.

Chair Drypolcher requested further examination of Items 2 and 4, under "Remaining Approved Subdivision Plan Conditions," and strongly urged that no further delays by the Applicant take place. He reminded the Applicant that once the design is approved, the roundabout construction must be completed prior to the issuance of the 43<sup>rd</sup> unit. Mr. Lewis indicated that at the current rate, they would likely be at that point this summer. Chair Drypolcher requested further input from Laura Aibel, Associate Engineer, Engineering Services Division, who stated that the revised roundabout plans which have not yet been submitted, are a necessity because the original 2007 plans no longer meet City design standards. According to Ms. Aibel, the Deputy City Manager and the City Engineer are insistent that the roundabout plans must be submitted prior to the issuing of another CO. Ms. Larson stated that the Planning Staff concur. Chair Drypolcher reiterated that this must be accomplished before another home is sold.

Mr. Woodfin asked about the delay in finishing the paving. Ms. Larson added that Dempsey Dr. and Richmond Dr. need a finish coat, but this cannot be achieved until the completion of Phase 3 because of impacts from construction vehicles.

As there were no further questions, Chair Drypolcher closed the public hearing.

**Chair Drypolcher made a motion for discussion of final approval, and it was seconded by Mr. Kenison.** Discussion ensued, which reiterated the delay in the construction process, its current stage of completion, and the upcoming deadlines. Ms. Foss expressed concern with regard to commencing Phase 3 and impacting the area before Phases 1 and 2 are even complete. Chair Drypolcher expressed his opinion that the cash flow not be restricted for the satisfactory completion of this project.

**The Board voted 7-0 to grant final approval to modification of the Phasing Plan (Item 3.1)**

**The Board voted 7-0 to grant final approval, pursuant to Section 10.09 (9) of the Subdivision Regulations (Item 3.2), on a motion made by Chair Drypolcher, and seconded by Ms. Dolcino.**

Ms. Foss expressed concern about the abandonment of the trail construction requirement, and asked if the Board could require funds be paid by the applicant based on estimated cost of the original trail proposal and used towards the Heritage Trail in Penacook,. Ms. Larson responded that legal consultation would be required. Ms. Aibel explained that this is often done when an Applicant is required to construct a sidewalk, but the City requests that the construction be delayed to coincide with road paving , and the funds are put into an escrow account. Mr. Hicks was of the opinion that a community fund raiser for trail development might better serve this need, and that the developer should not be required to put money aside for a different city trail.

**The Board voted 7-0 to grant relief to the applicant from the requirement to construct the trail (Item 3.3), on a motion made by Mr. Hicks, and seconded by Mr. Woodfin.**

#### REGULAR MEETING

5. Approval of the minutes of the December 16, 2015 Planning Board Meeting.

The Board voted 7-0 to approve the December 6, 2015 Minutes as written, on a motion made by Mr. Kenison, and seconded by Mr. Woodfin.

6. Annual Organization Meeting

**a. Election of Chair for 2016:**

After Chair Drypolcher ceded the floor to Ms. Larson, the Board voted 7-0 for Mr. Drypolcher, on a motion made by Mr. Kenison, and seconded by Ms. Dolcino.

**b. Election of Vice Chair for 2016:**

The Board voted 7-0 for Ms. Foss, on a motion made by Mr. Woodfin, and seconded by Ms. Dolcino.

**c. Designation of two representatives to the Central New Hampshire Regional Planning Commission (CNHRPC):**

Mr. Kenison and Ms. Foss volunteered and were designated for these positions.

**d. Designation of a representative to the Heritage Commission:**

Mr. Woodfin volunteered and was designated for this position.

7. Nomination to the Architectural Design Review Committee:

A second application had recently arrived (1/19/2016), and the Board voted to defer this matter until the February meeting, as they had not yet had the opportunity to study the newest application.

8. Any other business which may legally come before the Board.

**INFORMATION**

9. Minutes of the January 12, 2016 Design Review Committee meeting.

10. Next regular monthly meeting on Wednesday, February 17, 2016

There was no further business to come before the Planning Board. On a motion made by Councilor Champlin and seconded by Mr. Kenison, the Chair adjourned the meeting at 8:30 pm.

A TRUE RECORD ATTEST:

Nancy Larson  
City Planner