

The regular monthly meeting of the City Planning Board was held on January 16, 2008 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), Dolcino, Foss, Gross (who arrived at 7:05 PM), McClure, McGonagle, Swope (who arrived at 7:05 PM). Messrs. Woodward and Henninger, and Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Ms. Aibel, the City's Associate Engineer.

At 7:02 PM a quorum was present and the Chair called the meeting to order. The Chair noted that the applicant for Item #7 (Building plans related to an application by **Jimmie's Seafood Restaurant Inc. at 388 Loudon Road.**) had asked that this matter be postponed so that the Board would not hold a hearing this evening.

APPLICATIONS

Major Subdivision

1. Application by **Judith and Emmanuel R. Brochu, Jr.** for approval of a subdivision of property at **8 Parmenter Road.** (#2008-01)

Determination of Completeness

Mr. Henninger explained that the applicant has submitted a three lot subdivision associated with a twenty five unit planned unit development. The subdivision involves the reconstruction and extension of Parmenter Road and a new north-south connecting street. The plan includes utility extensions and drainage improvements. The public improvements result in this being classified as a major subdivision.

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

(Messrs. Swope and Gross arrived at 7:05 PM.)

Mr. Woodward then explained that the Planning Division is recommending that the Board consider setting a date for a recessed meeting, either during the week of February 25-28 or during the week of March 3-6 to hold hearings on both the subdivision application and the revised site plan application for the planned unit development at 8 Parmenter Road.

The regular meeting on February 20 could have at least three major site plan hearings together with new applications that will be received on January 18, as well as any Council referrals, Master Plan follow-up, and any other Planning Board business.

Mr. Gross moved and Ms. McClure seconded that the Planning Board find this application to be complete and schedule a public hearing for Tuesday, March 4, 2008 at 7:00 PM in City Council Chambers. Motion carried.

Major Site Plan

2. Application by **The Concord National Little League**, as agent for the **City of Concord**, for approval of a site plan for property at **Russell F. Martin Athletic Field on Iron Works Road**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-4-3(d), Conditional Use Permits Required for Certain Disturbance of Wetland Buffers, of the Zoning Ordinance. (#2008-02)

Determination of Completeness

Ms. Hebert explained that the Concord National Little League proposes to construct a new Little League baseball field at Russell Martin Park. In addition to the ball field, the League is also proposing to construct a parking area with 65 spaces, a concession stand, bathrooms, and bleachers. There is a large wetland area located along the western portion of the property. The proposal involves filling of approximately 9,950 square feet of this jurisdictional wetland area to construct the ball field. Portions of the playing field as well as a small corner of the parking area will be located within the wetland buffer. The applicant has applied for a Conditional Use Permit for the approval of these impacts to the wetland buffer.

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

Mr. McGonagle moved and Ms. McClure seconded that the Board determine this application to be complete and set it for public hearing on February 20, 2008. Motion carried.

3. Application by **Haynes Management Inc. and Bradley Realty Investment Group LLC** for approval of a site plan for property at **34 & 38 Locke Road**. (#2007-87)

Determination of Completeness

Ms. Hebert explained this proposal to construct a 30,496 square foot multi-tenant industrial building at 34 Locke Road. The owners of 38 Locke Road contribute to this site plan application by providing a shared driveway access to these two properties. The parking area on the southeast side of the existing building at 38 Locke Road will also be reconfigured to accommodate the shared driveway access. The application includes the construction of the building at 34 Locke as well as the associated parking, drainage, landscaping, and utility improvements.

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

Mr. Gross moved and Ms. Foss seconded that the Board determine this application to be complete and set it for public hearing on February 20, 2008. Motion carried.

4. Application by **The Thomas A. Moon 1988 Trust** for approval of a site plan for property at **208 Loudon Road. (#2007-94)**

Determination of Completeness

Ms. Hebert explained this proposal to construct a 6,467 square foot building for Town Fair Tire at 208 Loudon Road. The proposal involves demolition of the existing veterinary clinic structure and the construction of a new building along with the associated parking, utility, and landscape improvements.

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

Mr. Gross moved and Ms. McClure seconded that the Board determine this application to be complete and set it for public hearing on February 20, 2008. Motion carried.

Mr. McGonagle asked that before the public hearing the Planning Board receive notes from the Zoning Board of Adjustment relative to the variances granted for this development. Ms. Hebert explained that the site plan had been revised and there was no longer a need for variances, and Mr. McGonagle withdrew his request.

Determination of an Impact Fee

5. Request for Review of the Determination of the Impact Fee for **Legal Land Company Ltd at 41 Centre Street.**

Public Hearing

Mr. Woodward explained that pursuant to the terms of the Public Capital Facilities Impact Fees Ordinance, Legal Land Company Ltd. has requested a hearing by the Planning Board on the impact fee as determined by the Clerk, and is seeking to have the Board make a determination of the fee as provided in the Ordinance.

He explained that on November 1, 2006, Legal Land Company received several variances to enable the conversion of a former law office at 41 Centre Street to three multi-family dwelling units, and a building permit was issued for the creation of two apartments. Transportation, recreation, and school impact fees were paid for one unit. When the permit was posted on the City's permit tracking program, the Planning Division added a note that this was in the Civic District and, while two dwelling units were not subject to Site Plan Review, exterior changes in the Civic District were subject to review by the Board pursuant to Architectural Design Review. In the spring of 2007, the prior use of the premises was discontinued and the discussion of replacement with three apartments was reopened. This represented a use threshold that required Minor Site Plan Review by the Technical Review Committee. A conditional Minor Site Plan Approval was granted in July of 2007. One condition was for the payment of transportation, recreation, and school impact fees for three multi-family dwelling units.

On November 8, 2007, the applicant filed information related to compliance with the conditions set forth by the Technical Review Committee. The submittal indicated that the transportation, recreation, and school impact fees were paid for one unit in December 2006, but that the prior law office use generated a transportation fee credit because the law office had a greater trip generation rate than the three dwelling units. However, the applicant sought to have the amount by which the transportation impact credit exceeded the transportation fee for the dwelling units applied to the balance due for recreation and school impact fees. On December 5, 2007 a letter was sent by the Clerk of the Planning Board to the applicant with the impact fee worksheet and an explanation that credits for one type of fee cannot be applied against a fee due for another type.

He reported that the applicant then filed a request for a hearing by the Board, indicating that they disagreed with the Clerk's interpretation that the credits from one type of fee could not be transferred to a fee due under another category of public capital facilities. The substance of the request for the hearing is to have the Planning Board make a determination on the impact fee and whether a credit from one type of impact fee can be applied against a balance due on another type of impact fee.

While the ordinance allows for applicants to request hearings on determinations of fees or adjudication of credits, it does not give direct guidance on the process for hearings. In the past, the City Solicitor has advised that the Board should use the subdivision and site plan requirements with regard to notice and hearings, so that in the event that the applicant is aggrieved of a decision of the Planning Board, then an appeal may be made to the Superior Court as provided in RSA 677:15. This notification process has been employed in previous requests for hearings by the Board.

Mr. Woodward explained that the Public Capital Facilities Impact Fees Ordinance clearly differentiates among impact fees in the transportation, schools, and recreation categories. Each of these categories of public capital facilities are separately defined in the Ordinance, there are separate impact fee tables, each category has a cited separate source for updating the respective impact table, the three categories are differentiated in terms of the provision of credits, the funds collected in one fee category can only be expended for public capital facilities in the same fee category, and redevelopment incentives which give rise to impact fee reductions are applied by category. It is also important to note that the fees collected for schools are separated by the local district (Concord and Merrimack Valley) and the proceeds are turned over to the respective districts for expenditure. Furthermore, credits cannot exceed the amount paid or payable in any fee category. All of these features providing for separate collection and use of impact fees by category are specified by the related statute, RSA 674:21, V(c).

He reported that the case under contention involved the conversion of a law office, which is a non-residential use and subject only to transportation impact fees, to a three unit multifamily residential use, which is subject to transportation, recreation, and school impact fees. There are no credits generated for any recreation and school impact fees from the law office to apply to the recreation and school impact fees due for the residential units. The applicant contends that the excess transportation impact fee credit should be applied to reduce the recreation and school impact fees; however, that is

contradictory to the requirements and intent of the ordinance and statute that the impact fees are to be segregated and used solely for the class of improvements for which it was collected. If the transportation credits were allowed to reduce the school impact fees, then the Concord School District would be deprived of the fees to be used for school capital facilities because of credits for transportation capital facilities which would otherwise be due to the City for street and road improvements.

He explained that, under the general principle of law that an ordinance or statute should not be read or interpreted piecemeal, but must be viewed and understood as an entity with all sections being consistent and inter-related, there can be no other interpretation than one that holds that each category of impact fee is discrete and not to be intermingled in any manner. The credit for a fee related to street improvements cannot be applied to fees due for parks and schools.

There was no one present on behalf of the applicant and no one present who wished to speak for or against this request and the Chair declared the hearing closed at 7:17 PM.

Deliberations and Action

Mr. Swope commented that if the Planning Board agreed with the argument made by the petitioner, it would make a mockery of the Impact Fee Ordinance.

Attorney Friedrich Moeckel arrived on behalf of the petitioner at 7:21 PM.

Mr. Gross moved and Mr. McGonagle seconded that the hearing be reopened in order to allow the petitioner's representative to speak on his behalf. Motion carried.

Mr. Moeckel was then recognized and handed out a package of information relative to the request. He explained that this case was about the assessment of an impact fee. The property in question has for a long-time been a law office and is being converted to a multi-family residential building. The point being disagreed upon is the ability to apply credits to the impact fee. It was his opinion that the language of the impact fee ordinance requires that the impact fees be looked at as a group for the entire site. He reported that the petitioner had relied on Article 29.2, Section 1-2(b)(4) of the Impact Fee Ordinance in which no distinction was made between the types of impact fees and had calculated that a refund of \$1785.32 was owed. He indicated that the dispute is not with the classification of the new or prior use of the property or with the trip generation figures, but rather whether a surplus in one impact fee category can be applied to another impact fee category. Consequently, he felt that this does not fit into any of the situations contemplated in Article 29.2, Section 1-2(b)(5)-(9) because those sections involve the submittal of an independent fee calculation which is a calculation in lieu of those provided for in the impact fee tables. The petitioner does not dispute the figures provided in the impact fee tables.

Mr. Moeckel explained that they are not requesting credit against the impact fees, but a refund that is due the petitioner. He felt it is very clear that if you apply the impact fee ordinance as it is written, the petitioner is due a refund.

There was no one else wishing to speak and the Chair declared the hearing closed at 7:43 PM.

Mr. Gross moved to deny the impact fee determination as requested, thereby affirming the impact as determined by the Clerk, inasmuch as the three types of impact fees – recreation, schools, and transportation – cannot be merged or intermingled. In this case, the past use of the property had only one type of impact fee (transportation) associated with it as a non-residential use, while the proposed use of the property is residential and has all three types of impact fees associated with it. The petitioner's proposal would apply a transportation impact fee related balance against recreation and school impact fees that are due, thereby violating the prohibition against intermingling fee categories.

Mr. Swope 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.

- **Applebees** at 260 Loudon Road (2 signs)
- **Fanthings Sports** at 51 South Main Street (2 signs)
- **Olivia's A Fine Salon and Day Spa** at 126 Loudon Road (2 signs)

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

- **Applebees** at 260 Loudon Road (2 signs)

Mr. Henninger explained that these are replacement signs with an updated logo for the restaurant. He reported that the Design Review Committee found the proposed design and placement of the replacement signs to be appropriate for the location and use, and recommended approval as submitted.

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

- **Fanthings Sports** at 51 South Main Street (2 signs)

Mr. Henninger explained that the Design Review Committee had questioned whether the affixed sign would be necessary once the hanging sign is in place. Committee members felt the graphics were not unattractive but it does not fit the architecture of the building. Committee members suggested lowering the sign six inches so that it would be centered on the lintel over the existing air conditioner and the applicant concurred with the compromise suggested.

He reported that the Design Review Committee found the design and placement of the signage to be appropriate and recommended approval of the hanging sign as submitted and the affixed sign provided it is lowered to the top of the pilaster capital, and they

further recommended approval of both signs being lighted with gooseneck fixtures as shown on the information provided by the applicant.

Fred Maloney was present as applicant and explained that he had initially agreed with the recommendations made by the Design Review Committee. However, after he had looked at this a little more carefully, he was concerned about the appearance of the affixed sign if it was installed as recommended. He felt placing it as recommended would hide some of the architectural features of the building. He also did not like the idea of creating a space behind the sign that would allow bees and birds to build nests.

Mr. Swope moved approval subject to the recommendations by the Design Review Committee. There was no second and the motion died.

Mr. McGonagle moved approval as submitted and Ms. Foss seconded. Motion carried, 6-1, with Mr. Swope voting against the motion.

- **Olivia's A Fine Salon and Day Spa** at 126 Loudon Road (2 signs)

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

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

7. Building plans related to an application by **Jimmie's Seafood Restaurant Inc.** at **388 Loudon Road.**

The Chair reminded the Board and the audience that the applicant's agent had requested that consideration of this application be postponed.

REGULAR MEETING

Minutes

Mr. Swope moved approval of the minutes of the meeting of December 19, 2007 as submitted. Mr. Gross seconded. Motion carried.

Further Consideration

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

9. Application by **Walter W. and Christine Griffin** for approval of a subdivision of property at **27 Hot Hole Pond Road.** (#2007-95)

Ms. Hebert explained this proposal to subdivide an existing parcel of land off Hot Hole Pond Road on which there is an existing single family residence in order to create two

additional residential building lots. The subdivision has been designed to satisfy the recent revisions to the Zoning Ordinance that mandate the Cluster Subdivision standards for proposed subdivisions within the RO Zoning District. The applicant has requested a waiver to Section 8.04 (2)(a)(ii) of the Subdivision Regulations to allow the plat to be drawn at a scale of 1"= 40' instead of 1"=50'.

She reported that the applicant has requested a Conditional Use Permit to allow for the development of a conventional subdivision in the Open Space Residential District. Article 28-5-46 permits the development of conventional subdivisions within the RO District with the condition that a comparable amount of open space be protected on the property by deed or easement as would otherwise be required by the Cluster Development standards. The applicant is proposing to place 5.3 acres within the conservation easement. The subdivision layout contains relatively small areas of buildable land that are surrounded by open space.

She reported that the applicant has also applied for a Conditional Use Permit for impacts to a wetland buffer. There is a large wetland complex located in the center of the property. The previous plan proposed a driveway crossing through this wetland complex to access proposed Lot #3. The applicant has revised the subdivision plan to provide a common private driveway to serve both Lots #2 and 3. This new layout eliminates the previously proposed wetland impact and reduces the overall impact to the wetland buffers.

Ms. Hebert reported that the Conservation Commission had reviewed a concept plan of the proposed subdivision. Commission members recommended that the applicant consider a shared driveway arrangement to reduce the wetland impact and also suggested that reducing the density of the subdivision by one lot would eliminate the need for a wetland crossing and Conditional Use Permit. The revised plan addresses the Commission's concerns.

She reported that during the public hearing on December 19, 2007, the Board voiced concerns regarding the Conditional Use Permit for disturbance to the wetland buffer and the Conditional Use Permit for the conventional subdivision layout. The Board voted to table action on this application to allow the applicant time to reconsider the option of providing a shared driveway to serve proposed Lot #3 in order to eliminate the wetland impact on proposed Lot #3 and to further reduce the proposed impacts to the wetland buffers. The Board also suggested that Lot #3 be eliminated if a shared driveway was something the owner did not want to consider. The Planning Division received revised plans for the design of the common private driveway on January 15, 2007.

Mark DeGrace from Holden Engineering & Surveying, Inc. was present to answer questions from the Board as was Walter Griffin as applicant.

In answer to a question from Ms. Dolcino, Mr. Griffin explained they had limited the common driveway to the least amount of shared length as possible inasmuch as he had received an opinion from a realtor that a shared driveway would not produce the most valuable building lots on the market.

Mr. Gross moved that the Planning Board grant a waiver to Section 8.04 (2)(a)(ii) of the City's Subdivision Regulations to allow the subdivision plat to be submitted at a scale of 1"=40' instead of 1"=50'. Mr. McGonagle seconded. Motion carried.

Mr. Gross moved that the Planning Board grant a Conditional Use Permit pursuant to Article 28-5-46 of the Zoning Ordinance, Conditional Use Permit required for the approval of a conventional subdivision within the Open Space Residential District. The applicant proposes to conserve more than 60% of the original lot as open space. The plan also resembles a cluster subdivision, the buildable land area on the proposed lots is relatively small, and the applicant has proposed a common private driveway to access both Lot 2 and Lot 3. Mr. Swope seconded. Motion carried.

Mr. Gross moved that the Planning Board grant a Conditional Use Permit pursuant to Article 28-4-3(D) of the Zoning Ordinance, Conditional Use Permit required for certain disturbances of wetland buffers, for the construction of the driveway access to proposed Lots 2 and 3. The applicant has reduced the overall impact to the wetlands by providing a common private driveway. Mr. McGonagle seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional approval for the subdivision of Walter W. and Christine Griffin at 27 Hot Hole Pond Road subject to the following standard and special conditions:

Standard Conditions:

1. Traffic, recreation and school impact fees shall be assessed for any construction on the new lots 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
2. 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 including but not limited to the following:
 - a. The applicant shall submit an open space plan with a metes and bounds description of the conservation easement area, suitable for recording at the Merrimack County Registry of Deeds.

- b. The applicant shall add a paving detail for the construction of the common private driveway.
3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the Engineering Division and Fire Department shall review the design of the proposed common private driveway. The applicant shall address any minor corrections and omissions noted by Staff.
4. 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.
5. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following State and federal permits shall be obtained and copies provided to the Planning Division:
 - a. NH Department of Environmental Services, Water Supply and Pollution Control Division, subdivision approval for on-site septic systems.
6. Prior to issuance of a building permit for construction, a Driveway Permit shall be obtained from the Engineering Division.
7. 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. Agreement to convey an easement for common private driveway including the maintenance and operation for the same.
 - b. Conveyance of a conservation easement for the 5.3 acres of open space land identified on the subdivision plat.

Special Conditions:

8. The homes on proposed Lot 1 and proposed Lot 3 shall be equipped with a sprinkler system for fire suppression per the applicant's testimony on December 19, 2007.
9. No certificate of occupancy for any building or use on proposed Lot 3 shall be issued until the common private driveway has been substantially completed to the satisfaction of the City Engineer.

Mr. Swope seconded. Motion carried.

CITY COUNCIL REFERRALS

10. Consideration of a communication from Attorney Richard Uchida, agent for Susan Whitney, relative to a **rezoning of the corner of Whitney and Hoit Roads.**

The Clerk mentioned that Items 10 and 11 related to the Master Plan and he suggested that an option available to the Planning Board was to postpone action until the Master Plan hearings scheduled for next week.

Mr. Henninger explained this request for the rezoning of land at the southeast corner of Whitney Road and Hoit Road. The requested rezoning includes most of the parcel at the southeast corner of Whitney Road and a five acre portion of an abutting parcel. This property is currently undeveloped and the larger of the two parcels surrounds on two sides the SES - Waste to Energy Plant. The land use to the west is a mixed use office/service/industrial building known as Concord Crossing. Hoit Road is a major arterial road leading to the I-93 Exit 17 interchange to the east. A small single family residential area exists to the north across Hoit Road. The Hoit Road right-of-way at this location is exceptionally wide ranging from approximately 260 feet to more than 300 feet along the frontage of the property to be rezoned. A substantial wooded buffer exists within the right-of-way along the north side of Hoit Road across from the site under consideration. The Hoit Road frontage from Exit 17 to the Merrimack River is a limited access highway with no curb cuts permitted. All access to the existing parcels along Hoit Road is from Whitney Road, Hannah Dustin Drive and from Old Boyce Road in the town of Canterbury.

He explained that the applicant has requested the rezoning of 9.4 acres of property for commercial development in a partially developed industrial park near I-93 Exit 17. The location is ideally located to provide convenience service to the industrial park area, residents of northeast Concord and commuters on NH 4 from points north and west. The intent is not to provide for large scale retail development at the detriment of one of the City's few remaining large appropriately sited industrial development areas nor is it intended as competition to downtown Penacook for local services including grocery, medical and pharmacy services.

He explained that the Year 2010 Master Plan categorizes this area as Industrial Service, characterized by intense commercial and industrial activity including wholesale sales and services, industrial activities and vehicular maintenance and service, and outside materials storage. The draft 2030 Master Plan has identified this area as Neighborhood Commercial for the immediate corner lot at approximately five acres and the remainder of the area as Industrial suitable for industrial development that includes offices, manufacturing, research and development facilities, warehousing, and vehicular maintenance and services, with activities primarily within enclosed buildings and any bulk material storage and processing as clearly limited and accessory to the principal uses.

He explained that the proposed zoning change affects an area larger in size (9.4 acres) than the 2-5 acres designated in the draft 2030 Master Plan. The proposed range of use

with retail facilities up to 75,000 square feet in floor area is well beyond that intended by the Neighborhood Commercial classification in the proposed 2030 Master Plan . Once the wetlands and wetland buffers are subtracted, the applicants are requesting a net 6.9 acre area to be rezoned to Urban Commercial. This zoning district was established to recognize areas adjacent to downtown Concord and Penacook as well as proximate to downtown residential districts. It was intended as a high density mixed use, residential, office and retail commercial district in an urban setting and was not intended to be applied to a suburban or industrial park location as requested by the applicant.

He reported that the applicants have completed a wetland survey of the two properties in question. The western portion of the site is constrained by both wetlands and wetland buffers. The east side of the area requested for rezoning abuts, but does not include, a wetland area and wetland buffers.

Municipal water and sewer services are available to the site in Whitney Road. There is no indication of capacity concerns with either the water distribution system or sewer collection system. The Penacook incinerator takes water from the Merrimack River for its cooling needs.

Whitney Road is intended to be extended southerly to Sewalls Falls Road near the Concord Monitor. An existing municipal water main extends from Whitney Road to the Concord Monitor in the bed of the future road and the entrance drive to the Concord Monitor has been constructed to City standards and an easement provided for this section of the road. It is expected Whitney Road will be extended incrementally from both ends as development proceeds.

Mr. Henninger explained that access to the property proposed for rezoning is restricted to Whitney Road. This intersection has been developed with turning lanes and signal conduit to facilitate a future traffic signal. The timing of this improvement is contingent on the timing of development along Whitney Road and Old Boyce Road in Canterbury. To date traffic volumes have not increased to the extent that any traffic signal warrants would be met. The full development of the 6.9 acres proposed for rezoning to convenience retail will not alone be sufficient to require signalization of the intersection of Whitney Road and Hoit Road. The location of the driveway off Whitney Road will be an issue to be resolved at the time of first site plan submittal to insure that this common drive or street will function adequately to serve both the commercial area and the remainder of the industrial zoned property north of the Penacook incinerator, and will not adversely impact the operation of the future traffic signal at the intersection of Whitney Road and Hoit Road.

Mr. Gross asked for an explanation of what uses would be permitted as well as those that would be voluntarily prohibited through covenants. He also asked the impact on traffic coming from the Interstate.

Mr. Swope asked the total gross area of developable area if approved. Mr. Henninger responded it would be about 70,000 square feet if it was completely retail. Most other uses would reduce that amount.

Mr. Swope felt that 70,000 square feet of retail space was a little more than he would expect for this site. He felt this was a good proposal except for that.

Ms. McClure had trouble considering a zoning change so close to prospective adoption of the Master Plan.

The Clerk suggested considering this during the public hearings scheduled for next week relative to adoption of an updated Master Plan.

Ms. McClure moved to table action for consideration during the public hearings and deliberations relative to the updated Master Plan. Mr. Swope seconded. Motion carried.

11. Consideration of a communication from Attorney Raymond P. D'Amante relative to a request for **rezoning** or property located on **Bog Road**.

Ms. McClure moved and Ms. Foss seconded to table action for consideration during the public hearings and deliberations relative to the updated Master Plan. Motion carried.

12. Consideration of a communication from Attorney Richard Uchida, agent for LAT Holding Company LLC, relative to a request for a **rezoning of property off Loudon Road adjacent to Exit 3 of I-393**.

Mr. Woodward explained that this request was different from the above two items because this is a request to move the boundary line between zoning districts.

He explained that the property of LAT Holding Company LLC was formerly part of the land taken for I-393 by the NH Department of Transportation. It was declared surplus by NHDOT, offered for sale, and subsequently sold on July 31, 2001. At the time of the adoption of the current Zoning Ordinance, there were no property boundaries for this parcel in the City's GIS mapping system so the zoning district boundary line between the GWP District and the RM District was set as a best estimate of the property line and the new edge of the I-393 right-of-way. It turned out that the property line of the parcel sold by NHDOT, which is the revised edge of the I-393 right-of-way, was somewhat northeasterly of the zoning boundary line, and the petitioner is now seeking to move the zoning boundary line to coincide with the actual property line and right-of way line so that the entire parcel is in the GWP District.

The petitioner is also seeking to shift the Open Space Residential District boundary westerly from Route 106 to include the right-of-way of I-393 northerly of the GWP District so as to avoid a common boundary between the GWP District and the RM District. This request has been submitted because Section 28-4-2 of the Zoning Ordinance establishes residential district boundary buffers but exempts property adjacent to an RO District from providing a buffer if the land is non-buildable, and the I-393 right-of way is non-buildable as defined in the Ordinance.

He reported that the proposal by the petitioner not only makes sense in terms of having the entire LAT Holdings parcel located within one district, that being the GWP District,

but the proposal to have the RO District encompass the I-393 corridor is consistent with the current Master Plan which indicates a separation by means of a rural open space land use category between the commercial use on Loudon Road and the low density residential use on Josiah Bartlett Road.

The Planning Board first considered the consistency of the request with the current Master Plan and noted that it was generally consistent with the Master Plan which indicates the land southerly of I-393 being in a general commercial land use category, and the land to the north in a low density residential category. As such, the Board did not need to consider an amendment to the Master Plan prior to considering a zoning change.

The Board considered the proposal by the petitioner to have the entirety of the parcel located within one district as a logical request and consistent with the intended zoning boundary. However, members felt that a simpler solution for new zoning boundaries would be to move the GWP/RM District boundary to the centerline of I-393, which would be consistent with other district boundaries to the west, and would resolve the issue with regard to the residential district boundary buffers as the lot line would not be coincidental with the boundary line.

Mr. Gross moved that the Planning Board recommend to the City Council that the Zoning Map of the Zoning Ordinance be amended by adjusting the existing boundary line between the Gateway Performance (GWP) District and the Medium Density Residential (RM) District by moving the boundary northerly to the centerline of the right-of-way of I-393 so that the entirety of the parcel owned by LAT Holding Company LLC is located in the GWP District, and that the southerly boundary of the RM District is relocated to the centerline of the I-393 right-of-way. Mr. Swope seconded. Motion carried.

13. Consideration of a communication relative to an **amendment to Article 28-4-5 and Article 28-4-8** of the City's Zoning Ordinance.

Mr. Woodward explained that at the November 14, 2007 meeting, the Planning Board discussed a communication from residents in the Parmenter Road neighborhood requesting amendments to Article 28-4-5 and Article 28-4-8 of the City's Zoning Ordinance and tabled action to give the Planning Division the opportunity to provide another draft ordinance for further consideration. The Board had some additional discussion at its December 19, 2007 meeting, further clarifying its views. The Board expressed concern that the existing Section 28-4-5(m) is contradictory to the Master Plan focus on infill housing and increasing density within the Urban Growth Boundary. One suggestion was to relate the access over local streets to traffic impacts. The Planning Division was directed to revise the proposed wording of Section 28-4-5(m) relative to access to be more circumscribed.

He suggested that one approach is to delete the current wording altogether, thereby eliminating the problems associated with defining neighborhood density. A new Section could be focused on requirements for proper access and mitigation of potential

traffic concerns as well as vehicular and pedestrian safety problems arising from a new development of attached or multi-family dwellings in an existing neighborhood.

A Section with the same language could also be inserted into Section 28-4-8 in relation to planned unit developments.

Mr. Swope indicated his initial reaction is that this suggestion makes sense and gives the Board a standard to apply. Mr. McGonagle agreed and indicated that he would like to give this concept some thought.

Mr. Gross felt this was the right direction inasmuch as the existing ordinance is unadministerable.

Members agreed to review the proposal submitted this evening and discuss it at the February meeting.

INFORMATION

15. Reminder of upcoming meetings

- Wednesday, January 23, 2008 and Thursday, January 24, 2008 –
7:00-10:00 PM in the City Council Chambers
Public Hearings on the Master Plan 2030

Mr. Woodward distributed copies of the insert in the Concord Monitor relative to the Master Plan update and reminded members of the public hearings scheduled for January 23 and 24, 2008 at 7:00 PM in the City Council Chambers.

Annual Organizational Meeting

A. Election of *Chair* for 2008

The Clerk presided over the election and called for nominations for Chair for the ensuing year.

Mr. Swope nominated Gerard Drypolcher for another term as Chair. Ms. McClure seconded. There were no other nominations.

Mr. Gross moved that nominations be closed and the Clerk be instructed to cast one ballot for Gerard Drypolcher for Chair for 2008. Ms. McClure seconded. Motion carried.

Mr. Drypolcher again presided.

B. Election of *Vice Chair* for 2008

Mr. McGonagle nominated John Swope for another term as Vice Chair. Mr. Gross seconded.

There were no other nominations.

Mr. Gross moved that nominations be closed and the Clerk be instructed to cast one ballot for John Swope for Vice Chair for 2008. Mr. McGonagle seconded. Motion carried.

C. Appointment of representative to the *Heritage Commission*

Mr. McGonagle volunteered to again be the Planning Board's representative to the Heritage Commission.

Ms. McClure moved and Mr. Swope seconded that Mr. McGonagle be reappointed as the Planning Board's representative to the Heritage Commission. Motion carried.

D. Appointment of representative to the *Central New Hampshire Regional Planning Commission*

Ms. McClure moved and Mr. McGonagle seconded that Ms. Foss be re-appointed as representative to Central New Hampshire Regional Planning Commission with Mr. Swope serving as alternate. Motion carried.

Mr. Gross suggested that in preparing for the hearings relative to the Master Plan, the presentation focus on differences from the current Master Plan.

There was no further business to come before the Board and the meeting adjourned at 9:15 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

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