

The regular meeting of the City Planning Board was held on April 16, 2008 in the City Council Chambers at the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Dolcino, Foss, Gross, Meyer, Shurtleff, and Alternate Member Kenison (who was seated for absent Member Swope). 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 7:00 PM a quorum was present, and the Chair called the meeting to order and seated Alternate Member Kenison for absent Member Swope who was not expected.

APPLICATIONS

Minor Subdivisions and Site Plans

1. Applications by **Mart Management Inc.** for approval of revisions to a previously approved site plan and subdivision by virtue of conversion to condominium of property at **the Village at Thirty Pines at 11 Borough Road.** (#2007-04)

Determination of Completeness

Mr. Woodward explained that the Board had received applications for revisions to a previously approved site plan and to a subdivision by virtue of conversion to condominium for The Village at Thirty Pines.

He reported both applications were complete and ready for public hearing.

Mr. Gross moved that the Planning Board determine both applications to be complete and open public hearings on both applications. Ms. Meyer seconded. Motion carried.

Public Hearing

Mr. Woodward explained that The Village at Thirty Pines is the multi-family portion of the development that has come to be known as Sandwood Crossing and was included in a phased approval of single family house lots and multi-family dwelling units that was first approved on March 21, 2001 under the prior Zoning Ordinance. The Village at Thirty Pines was to have included three multi-family buildings with a total of 108 units. On February 15, 2006, the Planning Board approved a reduction of the number of units from 108 to 90, and the addition of carports, a recreation building, and an outdoor pool. On May 3, 2007, the Board approved the conversion of the 90 multi-family units to condominiums. Currently, one building is almost ready for certificates of occupancy, a second is at the interior fit-up stage, and the third is under construction.

He reported that the applicant is now seeking to revise the site plan by deleting the outdoor swimming pool, adding a patio outside of the recreation building, adding screening for utility meters, adding handicapped accessible walkways for each building,

and replacing removable bollards with a gate for the fire lane off Alice Drive. The applicant is also seeking approval of the same revisions to the condominium plan.

He reported that the Design Review Committee had reviewed the proposed revisions and recommended approval of the changes to the site plan as presented.

He reported that any proposed lock for the fire access gate off Alice Drive will need to be approved by the Life Safety Officer prior to installation.

Robert Pollock from Pollock Land Planning was present to answer questions from the Board on behalf of the applicant.

Mr. Gross asked if the fire access gate was intended to be locked and Mr. Pollock responded that if the Board wished for the gate to be locked, they would arrange with the Life Safety Officer for an appropriate locking mechanism with locks approved by the Fire Department.

Ms. Foss asked, with the elimination of the swimming pool, whether there is any provision for a replacement amenity such as a playground. Mr. Pollock responded that once the buildings and carports are constructed, there will not be enough space for construction of play equipment.

There was no one who wished to speak for or against these applications and the Chair declared the hearings closed at 7:10 PM.

Deliberations and Action on Applications
Deliberations and Action on Architectural Design Review

Mr. Gross moved that the Planning Board grant approval of the proposed revisions to the site plan, pursuant to Section 28-9-4(f), Architectural Design Review, of the Concord Zoning Ordinance. Mr. Kenison seconded. Motion carried.

Mr. Gross moved approval of the proposed revisions to the site plan subject to the following conditions:

1. All conditions of approval of the Site Plan Application, and the approval pursuant to Architectural Design Review, as granted by the Board on March 21, 2001, and modified on February 15, 2006, June 20, 2007, and February 20, 2008, shall remain in full force and effect.
2. Prior to the Certificate of Approval being signed by the Planning Board Chair, the applicant shall revise the plans to address the minor corrections and omissions noted by City staff.
3. Any proposed lock for the fire access gate off Alice Drive shall be approved by the Life Safety Officer prior to installation.

Ms. Meyer seconded. Motion carried.

Mr. Gross moved approval that the Planning Board grant conditional final subdivision approval subject to the following condition:

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

Ms. Meyer seconded. Motion carried.

2. Applications by **Sorrento Investments LLC** for approval of a site plan and a revision to a previously approved subdivision by virtue of conversion to condominium of property at **9 Triangle Park Drive.** (#2008-14 & 2008-15)

Determination of Completeness

Mr. Henninger explained that the Board had received applications for a 4,977 square foot office addition with a 1,008 square foot basement storage area and for revisions to a previously approved subdivision by virtue of conversion to condominium.

He reported both applications were complete and ready for public hearing.

Mr. Gross moved that the Planning Board determine both applications to be complete and open a public hearing on both applications. Ms. Meyer seconded. Motion carried.

Public Hearing

Mr. Henninger explained this proposal involving Phase 3 of the Sorrento Condominium Development. Phase 1 consisted of an 8,376 square foot office building known as Unit 1. Phase 2 consisted of a 7,000 square foot Laconia Bank branch with two drive-up teller lanes and one ATM drive-up lane. Phase 3 approval for a 5,000 square foot office building with a 5,000 square foot basement expired on February 19, 2007.

He explained that the applicant has now requested approval for a 4,977 square foot office addition with a 1,008 square foot basement storage area. A companion application for condominium subdivision has also been submitted. This project involves the relocation of the boundary between two condominium land units. Unit 1 will be enlarged and the remainder of convertible land will become Unit 3. Unit 1 is a law office which is proposed to be expanded. Unit 3 is a proposed dental office to be constructed and will share a common wall with Unit 1. No changes are proposed to Unit 2, which is a branch bank. Unit 3 has been reduced in size, and the common parking and landscaped areas expanded. No convertible land remains in the condominium.

He reported that the existing access drive and most of the required parking has already been constructed. A dumpster with pad and enclosure has already been placed on site. The applicant is proposing to add a double bay of parking behind the office building for

25 additional parking spaces. The applicant has already constructed a sidewalk along the Triangle Park Drive frontage.

He reported that the Fire Department finds the site plan to be acceptable with the provision of the fire suppression sprinkler system.

He reported the Design Review Committee had reviewed the site and building plans and recommended approval as submitted. Plans for signs have not yet been submitted for review. A panel has been reserved on the existing free standing sign for the third phase.

He reported that the Planning Division has asked that as many existing trees as possible remaining along the east and south property line be retained after construction.

Michael D'Amante, from Sorrento Investments LLC, and Dr. Binder, the prospective tenant, were present to answer questions from the Board.

There was no one who wished to speak for or against these applications and the Chair declared the hearings closed at 7:20 PM.

Deliberations and Action on Applications
Deliberations and Action on Architectural Design Review

Mr. Gross moved that the Planning Board grant conditional final subdivision approval of revisions to the "Sorrento Land Condominium Plat" subject to the following standard and special conditions:

Standard Conditions:

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

Special Conditions:

2. Prior to the final plat being signed by the Planning Board Chair and Clerk, the condominium documents shall be reviewed and approved by the City Solicitor.

Ms. Foss seconded. Motion carried.

Mr. Gross moved that the Planning Board grant Architectural Design Review approval for the proposed office building addition (Phase 3) by Sorrento Investments, LLC at 9 Triangle Park Drive. Ms. Foss seconded. Motion carried.

Ms. Dolcino moved that the Planning Board grant conditional site plan approval for the proposed office building addition (Phase 3) by Sorrento Investments, LLC at 9 Triangle Park Drive subject to the following standard and special conditions:

Standard Conditions

1. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals of construction drawings for on-site and off-site improvements shall be obtained from the Engineering and Planning Divisions.
2. 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. Transportation Facilities - Single Tenant Office - 3,969 square foot dental office
 - b. Transportation Facilities - General Office - 2,016 square foot office addition

Special Conditions

3. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the landscaping plan to the satisfaction of the City Planner.

Ms. Foss seconded. Motion carried.

Major Site Plans

3. Application by **The Concord Congregation of Jehovah's Witnesses** for approval of a site plan for property at **199 East Side Drive**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(b) & (e), Alternative Parking Arrangements, of the Zoning Ordinance. (#2008-10)

Public Hearing

Ms. Hebert explained this proposal to demolish an existing 4,820 square foot place of worship and parsonage at 199 East Side Drive and to construct a new, 5,377 square foot congregational center. The applicant also proposes to reconstruct the existing parking lot and eliminate one of the driveway entrances along East Side Drive, and to construct drainage, landscaping, and utility improvements.

She reported that the applicant has also applied for a Conditional Use Permit to construct fewer parking spaces than would typically be required by the Zoning Ordinance. The Congregational Center would require 80 parking spaces and the

applicant proposes to build 63 paved spaces, with 21 additional spaces available in a grassed overflow parking area. If in the future the site does require the additional spaces, the Code Administrator may require the overflow parking area to be paved.

She reported that the Zoning Board of Adjustment had granted a Special Exception to remove the existing place of worship and replace it with a new congregational facility with the condition that evergreen trees need to be provided to screen the parking lot from the adjacent residential properties.

Ms. Hebert reported that the resident at 205 East Side Drive had filed a request for rehearing with the Zoning Board of Adjustment. The Zoning Board denied the request for rehearing and the neighbor has filed an appeal with the NH Superior Court. At this time the Court has not taken any actions that would prevent the Planning Board from acting on this application.

She reported that a landscape plan has been provided that complies with the City's requirements for parking lot landscaping. The plan includes a number of shade trees and shrubs throughout the site, and also includes evergreen trees to screen the residential property to the west. There is a fifty foot buffer to the bluff located along the back portion of the property which will not be impacted during construction and has been designated as an "area of no disturbance" on the plan.

She reported that a driveway access easement for the benefit of the residence at 197 1/2 East Side Drive encumbers the Jehovah's Witness property. Access to this property is currently achieved by driving through the existing parking area to a small driveway located near the rear of the parking lot. The applicant proposes to improve access to the house by constructing a separate driveway off East Side Drive.

She explained that the building façade consists of a red brick finish, black architectural shingles, and granite lintels and sills adorning the windows. The Design Review Committee reviewed the proposed site and building plans and recommended approval with a few minor alterations to the building. The changes have been made and revised plans were submitted.

She reported that the proposed lighting plan includes "dark sky friendly" fixtures. The existing parking lot is lit, and the proposed lighting plan does cause the spill over of additional light onto the adjacent properties.

Dennis Rialland and Karen O'Rourke from Brown Engineering and Russell Allard from the Concord Congregation of Jehovah's Witnesses were present to answer questions from the Board.

Mr. Gross asked the status of the zoning appeal and Mr. Allard introduced Barry Mulhern, attorney for the applicant, who answered that it is scheduled for a fifteen minute hearing some time in July.

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

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

Ms. Meyer moved that the Planning Board grant a Conditional Use Permit to allow the construction of fewer parking spaces pursuant to Section 28-7-11(b) of the Zoning Ordinance. The Conditional Use Permit will allow for the construction of 63 paved parking spaces, rather than the 80 spaces that are required by the Zoning Ordinance. The applicant will also be constructing an area for 21 grassed overflow parking spaces. Ms. Dolcino seconded. Motion carried.

Mr. Kenison moved that the Planning Board grant Architectural Design Review approval for the site plan, landscape plan, and building elevations for the Jehovah's Witness Congregational Center at 199 East Side Drive as submitted by Brown Engineering. Ms. Meyer seconded. Motion carried.

Mr. Gross suggested adding a condition to the site plan approval that it is subject to final affirmation of the Zoning Board of Adjustment's action granting a special exception. He noted that the only reason the Planning Board can proceed on any application is if it complies with the Zoning Ordinance. Since the applicant needs a special exception from the Zoning Board of Adjustment granting the ability to construct this facility in a single family neighborhood, he felt it was important that the Planning Board be assured that a special exception will be in place before activity starts on this site.

Mr. Woodward responded that in the past the Board has operated under the presumption that the applicant is going forward at its own risk, given any pending litigation.

Mr. Gross moved that the Planning Board grant Conditional Site Plan approval for the Site Plan Application of Concord Congregation of Jehovah's Witnesses at 199 East Side Drive as submitted by Brown Engineering subject to the following standard conditions:

Standard Conditions:

1. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the drawings to address the minor corrections and omissions noted by City staff including but not limited to the following:
 - a. The mounting height of the proposed parking lights need to be lowered from 22 feet to 20 feet.
 - b. The snow storage areas need to be adjusted so as not to conflict with the proposed landscaping.

- c. The location of the proposed level spreader along the westerly property line needs to be adjusted so as not to conflict with the proposed landscape buffer.
2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions. No construction activity may commence prior to the preconstruction conference.
3. No certificate of occupancy for any building or use shall be issued until all improvements have been substantially completed to the satisfaction of the City Engineer.
4. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall obtain approval of private utility plans from Unitil, Fair Point Communications, and Energy North.
5. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.
6. Traffic 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. Transportation Facilities (As calculated for the incremental increase in the floor area of a church)
7. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:
 - a. Driveway easement for the benefit of 197½ East Side Drive
8. The site plan approval is subject to the Special Exception (for the construction of a place of worship in the Single Family Residential District) as granted by the

Zoning Board of Adjustment becoming final either through confirming action of the courts or withdrawal of the appeal to overturn the action of the Zoning Board of Adjustment.

Ms. Meyer seconded. Motion carried.

Messrs. Allard and Mulhern asked for clarification of the last condition and Mr. Gross explained that the Planning Board approval would not become final until the Court had ruled or the appeal had been withdrawn.

4. Application by **P & M Realty of Concord LLC** for approval of a site plan for property on **South Main Street and Langdon Avenue**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-4-1(f), Maximum Height of Buildings or Structures, of the Zoning Ordinance. (#2008-07)

Recessed Public Hearing

Mr. Henninger explained this proposal to demolish 66,625 square feet of industrial buildings on property located southerly of Langdon Avenue and to construct a 22,980 square foot wood chip fueled power plant and steam generator on a 35.93 acre parcel. The existing buildings to be demolished are largely derelict and abandoned. The applicants propose to retain three historic industrial buildings containing a total of 37,963 square feet on the north side of the site for future reuse. The steam/power plant will be constructed on the southerly end of the site near the South End Marsh. Approximately 16 acres of the site is developable and the northerly two thirds of the developed area will remain for future redevelopment. The applicant proposes to construct a 26 foot wide private access drive south from Langdon Avenue to the steam plant. This road will serve to access future development and redevelopment on either side of the road.

He reported that the main building will be 75 feet tall, two wood chip silos are proposed which are also 75 feet tall, and a 110 foot tall smokestack is proposed. A variance for the building height has been granted by the Zoning Board of Adjustment. A Conditional Use Permit for the height of the silo and the stack is being requested from the Planning Board. This seems to be a very reasonable request for a major industrial operation.

He reported that the Zoning Board of Adjustment had granted variances for this development to permit a building structure with a height of 70 feet where a 45 foot maximum height is allowed, to permit a development with a floor area ratio of 0.045 where a minimum FAR of 0.3 is required, and to permit outdoor storage of materials and inventory.

He reported that the Planning Board opened the hearing on this application last month, heard testimony on the application, and voted to recess the public hearing on the site plan and one of the Conditional Use Permits. At that time the Board directed Planning staff to expand the notice relative to the requested Conditional Use Permit pursuant to

Article 28-4-1(f)(3), Maximum Height of Buildings and Structures, to include the second smokestack in the list of structures for which the CUP has been requested.

He reported that the Planning Board unanimously voted on March 19, 2008 to grant a Conditional Use Permit pursuant to Article 28-7(2)(e) Table of Uses for a determination of the required parking for an "Unmanned utility equipment structure" inasmuch as the required parking count is three for the unmanned power generation facility which includes the boiler hall, turbine hall, and water treatment hall, two smokestacks, two wood chip silos and associated conveyors, and mechanical pollution control equipment. The proposed total of 32 parking spaces on the site exceeds the total employment for the site. City staff had expressed the opinion that this parking determination is reasonable. Construction parking will be significantly more than the average peak demand. However, paved locations are available on the site for temporary parking during major shut downs and renovations.

Mr. Henninger reported that the applicant proposes to construct a cooling pond for recycling coolant water. Discharge water from the City's Hall Street Waste Water Treatment Plant will be the primary water supply for the site. The proposed plant will require 500,000 gallons per day. The Hall Street plant discharges on an average day 4.5 million gallons into the Merrimack River. Secondary water supply sources will include both on-site and municipal storm drainage across the site, and a well.

He reported that the source of cooling water will be an issue that will extend beyond site plan review. These concerns are not associated with fire suppression and domestic service, but industrial processes. Issues include design details for tapping into the municipal storm water drain lines across the site, potential impacts of any ground water removal on the South End Marsh, and the construction of a cooling (grey) water line from the Hall Street Waste Water Treatment Plan. Water supply permitting for the well at the NH Department of Environmental Services may take up to two years. The well would likely be classified as a major ground water withdrawal well for this proposal.

He reported that the site is a Brownfield's site due to its historical use as a railroad maintenance complex and subsequent industrial activities. There is soil contamination including petroleum products and PCB's in the north end of the property away from this phase of construction. The southern portion of the site will require soil remediation in some areas, based on initial evaluation prepared by the owner's consultants. An application for a "Covenant Not to Sue" has been made to the NH Department of Environmental Services which involves testing and clean up provisions and possibly monitoring. At least eight petroleum storage tanks have been removed from the site. Soil testing and borings are underway and it is anticipated that some soils in the foundation area will need to be treated after excavation and soils around one or more of the storage tanks may need to be treated as well.

He reported that the applicant requested a Conditional Use Permit for disturbances to the woodland buffer area between 75 feet and 150 feet of the edge of the South End Marsh. The Ordinance allows up to a 50% disturbance in this buffer by right. No disturbance is proposed in the 75 foot natural vegetative buffer except to remove

existing debris piles. A Conditional Use Permit is not needed for the proposed disturbance of 11,200 square feet which is substantially below what is allowed.

He reported that this development is anticipated to generate 156 average daily weekday trips based on the applicant's traffic study. The applicant's traffic study noted that this project would generally increase traffic by approximately 1% during the peak hour or one additional car per every five minutes along South Main Street during the PM peak hour.

The site is currently accessed exclusively from Langdon Avenue by way of South Main Street. The applicant has evaluated this intersection and the intersection of South Main Street and Water Street at Kelly Square. The applicant is proposing a 26 foot wide paved access road from Langdon Avenue southerly approximately 1000 feet. This drive will serve future development on both sides of the road.

He reported that the applicant's traffic study recommends larger turning radii for Langdon Avenue at South Main Street and a short right turn taper for northbound traffic on South Main Street at Langdon Avenue to facilitate truck access. The City's traffic consultant concurs with this recommendation.

Mr. Henninger reported that the protection of the South End Marsh is a prime consideration. The applicant has submitted a proposed trail plan around a portion of the South End Marsh leading to South Main Street. It appears that a location on South Main Street on this site's frontage would make an ideal trailhead. A conservation easement has also been proposed by the applicant. Staff is recommending that the area of the conservation easement be expanded slightly to include the wetland buffer area and trails at the far southeast corner of the site, and the bluffs, steep slopes and trailhead adjacent to South Main Street. The applicant has indicated a willingness to provide financial assistance in the construction of the potential trails shown on the plan. The Conservation Commission has requested that the applicant construct the proposed trails but wishes to review and approve the trails.. City staff has suggested that this would be an ideal collaborative between the applicant and Groundworks Concord.

The applicant has provided a conservation easement plan which protects all the wetlands, most of the wetland buffer areas next to the marsh and most of the bluff and steep slope areas adjacent to South Main Street. A portion of the conservation easement is already encumbered by a power line easement and this use would continue to be allowed and the corridor kept clear of trees.

The City has scheduled the extension of a sidewalk on the west side of South Main Street southerly to Broadway for 2009. This would allow pedestrian access in a timely manner to the proposed trailhead for the potential trail.

Mr. Henninger reported that the three existing buildings on the site have been secured and the roofs will be repaired this spring.

He reported that existing overhead utility corridors will be used on site. A new transmission line will be constructed from the plant to the existing utility substation. The route of the power line has been relocated to the east side of the cooling pond between the pond and the private drive. City staff is recommending that the applicant utilize a higher quality transmission line pole down the proposed drive for aesthetic reasons. The poles will need to be tall to reduce the possibility of the conductors being iced during winter conditions resulting from mist and fog from the adjacent cooling pond.

He reported that the Design Review Committee had reviewed the proposed site and building plans and recommended approval subject to the stipulation that the outside mechanical equipment be a dark color, preferably a close color match to the building. The Committee noted that this equipment varies in height from 20'-65' and would be visible from abutting property. A standard unfinished metal surface would detract from the overall presentation of the project. The applicant subsequently revised the plan to show the pollution control equipment to be painted a dark grey color.

He explained that existing public storm drainage lines exist across the site which drain a significant area of the South End to the west, and the applicant has shown a proposed 30 foot storm water drainage easement across the site for these existing lines. A municipal sewer line exists along Langdon Avenue but does not lie within the existing easement. A number of municipal water lines, gas lines, electrical lines exist in Langdon Avenue without or partially outside existing easements. The location and layout of Langdon Avenue and southerly extension of Storrs Street to Langdon Avenue have not been finalized. City staff is recommending that an agreement to convey a future right-of-way for Langdon Avenue be prepared and recorded so that the future developers of the northerly portion of this property will be formally committed to convey a fair share of the future public right-of-way for Langdon Avenue. There is no intention or need for Langdon Avenue to become a City street for this phase of the development. However, it will be essential for the next significant redevelopment of this area and will need to be improved and utilities replaced and/or extended.

The Fire Department, with additional clearance and the provision of fire alarm conduit, a widened path around the truck dumping station and an additional fire hydrant as well as the building being provided with sprinkler and other fire suppression and alarm systems, believe the plan to be acceptable.

Mr. Henninger reported that the construction of a steam transmission line from the site to Pleasant Street along South Main Street and South State Street is a concern to the City and the other utility companies. While not part of this site plan application, it will require close cooperation among Concord Steam, the City and the utility companies sharing this corridor.

Mr. Gross had questions relative to the gray water being removed from the City's Wastewater Treatment Plant for use in the cooling function.

Timothy Golde, from Golde Planning Consultants, and Peter Bloomfield, from Concord Steam, were present to answer questions from the Board.

Mr. Bloomfield explained that the space they have available now is inadequate and not workable for the growth they want to undertake. He also answered a question from Mr. Gross relative to debris that will be removed from the site. He explained that some of the concrete will be crushed and reused on site. They will take the miscellaneous debris to a licensed landfill as needed. He also addressed the existing building that is partially burnt. He indicated they need to have that building analyzed to determine whether it can be redeveloped. It is a handsome building that they would like to save but they need to bring in engineers to examine the building and make suggestions about whether to save the building or to demolish all or part of it.

Relative to the water being sprayed from the cooling pond, Mr. Bloomfield reported that they expected to be using less water in the fountains in the winter so there will not be much water available to turn to ice or fog.

Attorney Richard Uchida also spoke on behalf of the applicant and asked to have some of the proposed conditions of approval modified. In reference to proposed Condition #12 he asked that it be modified to allow for the ability to either salvage or demolish the rectangular building. Regarding proposed Condition 2B, relative to street excavation permits for the steam lines, he reported that the question is not whether they can get the steam lines constructed but how much it will cost. Their problem is that although they are hoping to get approval from the Planning Board tonight, there are a number of other permits they will also need from many other agencies and they may need to get underway before those permits are in hand, so they asked that the condition be modified to allow the ability to provide a financial guarantee so that they can break ground before getting all the permits, if necessary.

Also, regarding Condition #13 he asked that they be allowed to provide a financial guarantee for the trails construction. They are hoping to partner with Groundwork Concord for the construction of the trails and volunteers may not be available to construct the trails when Concord Stream is ready so he asked for the option to provide a financial guarantee.

Ray Kelm, resident of South Main Street, expressed concern about traffic on South Main Street and about 80 truck trips in and out of South Main Street. He wondered if there was a different route that could be accessed from Hall Street, something that would take the traffic off the residential South Main Street and put it on some more commercial street like Hall Street. It would seem to be better to get that truck traffic off South Main Street and onto a more road.

Mr. Henninger responded that US Department of Transportation had advised the City that there will be no further at-grade crossings in this location as this has been designated a major rail corridor. The first level of study of that corridor was completed and they ran into funding complications with New Hampshire's match. Mr. Gross

found that information baffling because so much of the corridor has been abandoned and in some instances re-used.

Mr. Kelm would prefer for Concord Steam to not locate at this site at all. This is not the view he expected when he bought his house. He would rather see this than the retail development proposed a number of years ago but they are not happy about seeing the two stacks and seven story building.

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

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

Mr. Gross moved to that the Planning Board grant a Conditional Use Permit pursuant to Article 28-4-1(f)(3) Maximum Height of Buildings and Structures, to allow the construction of a 110 foot tall smokestack, a 90 foot tall smokestack, two 75 foot tall silos and associated conveyors, and a 65 foot tall mechanical pollution control device. The Planning Board noted that the Conditional Use Permit is consistent with the intent of the section, the facilities are not designed for human occupancy and are essential to the proposed use. Ms. Meyer seconded.

Mr. Shurtleff asked if the City could request a bridge for the railroad. Mr. Drypolcher suggested that might be something to be considered in long-range planning by the State and perhaps requested by the City Council in the future.

Motion carried.

Mr. Gross moved approval of the site, building and signage under terms of Section 28-9-4(f), Architectural Design Review, of the City of Concord Zoning Ordinance as revised. Ms. Meyer seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional site plan approval for P&M Realty of Concord LLC for a electrical generation facility and co-located steam plant at Langdon Avenue and South Main Street subject to the following conditions:

Standard Conditions

1. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following State and federal permits shall be obtained and copies provided to the Planning Division:
 - a. NH Department of Environmental Services Water Quality and Sewer Discharge Permits
 - b. NH Department of Environmental Services Alteration of Terrain Permit (RSA 485-A:17)

- c. NH Department of Environmental Services Large Ground Water Withdrawal Permit if required.
 - d. Enrollment in the NH Brownfield's Program and obtaining a covenant not to sue.
 2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following local approvals and permits shall be obtained and copies provided to the Planning Division:
 - a. Driveway Alteration Permit from the Engineering Division
 - b. Street Excavation Permit for South Main Street and South State Street for the steam line extension. If this permit is not in hand at the time of first building permit, the applicant may provide a financial guarantee to address site restoration in the event that the project does not proceed. The guarantee shall be sufficient to complete the approved demolition on the site, removal of debris, and the stabilization of the site including the removal of any new construction. This approval recognizes that the actual route of the steam line may be altered during the design and permitting process.
 - c. Street Excavation Permit for Hall Street and Poplar Street for the cooling water supply line. This approval recognizes that the actual route of the water supply line may be altered during the design and permitting process.
3. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions. No construction activity may commence prior to the preconstruction conference.
4. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall obtain approval of private utility plans from Until (Concord Electric), Fairpoint (Verizon), and Continental Grid (KeySpan).
5. 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. Transportation Facilities in the amount of \$16,208 (Using trip generation data from the applicant's traffic study)

6. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.
7. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:
 - a. Stormwater drainage easement across the site for the two (2) existing stormwater lines across the site.
 - b. Conservation easement for the South End Marsh, including the wetland buffer area and trails at the far southeast corner of the site, and the bluffs steep slopes and trailhead adjacent to South Main Street.
 - c. An agreement to provide a public right-of-way easement for Langdon Avenue.
8. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals shall be obtained for the construction drawings and specifications for all public improvements from the Engineering Division. No construction activity may commence prior to the preconstruction conference.
9. No certificate of occupancy for any building or use shall be issued until all public improvements have been substantially completed to the satisfaction of the City Engineer.
10. Prior to the release of a financial guarantee for any public improvement, an as built plan shall be provided to the City Engineer in form and content acceptable to the City Engineer.

Special Conditions

11. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approval shall be obtained from the City Council for a license to construct a cooling water supply line from the Hall Street treatment plant to the site by way of Hall Street and Poplar Avenue.
12. No certificate of occupancy for any building or use shall be issued until the site debris, foundations and buildings identified for demolition on the approved demolition plan are removed from the site and the ground restored and stabilized with vegetation.

13. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall secure and make weather tight two (2) of the three (3) buildings at the north end of the site to be preserved. These buildings were referred to as the L-shaped building and the small rectangular building. This condition is not intended to inhibit refurbishment of these buildings for interim uses allowable under City of Concord Zoning Regulations. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall complete an assessment of the third (3) building which was partially destroyed by fire, referred to as the larger rectangular building, to determine if all or part of the building can be preserved.
14. No certificate of occupancy for any building or use shall be issued until the trails shown on the trails plan are complete. The trails shall be inspected and approved by the City Conservation Commission. As an alternative, the applicant may provide a financial guarantee to ensure that the trails are completed within one year of the issuance of a Certificate of Occupancy.
15. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall obtain approval from the City Engineer for the design of the connection from the City's municipal storm drainage system to the cooling pond.
16. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals pursuant to Table of Principal Uses: K.11 - Essential public utilities and appurtenances, of the Zoning Ordinance shall be obtained for the cooling water lines across private property from Hall Street to the site.

Ms. Meyer seconded. Motion carried.

5. Application by **The United Church of Christ Retirement Community, Inc.** for approval of a site plan for property at **33 Christian Avenue.** (#2008-11)

Public Hearing

Ms. Hebert explained this proposal to construct six new duplex buildings at the Havenwood/Heritage Heights elderly housing complex. She explained that the applicant received Planning Board approval for the site plan application to construct the new duplex buildings in 2001. However, the units were never constructed and the previous approval expired.

She reported that the site is accessed by a driveway off Ormond Street Extension which terminates at a cul-de-sac. A 30-foot wide utility easement in favor of the City crosses through the site in the bed of Ormond Street Extension. A 40-foot wide access easement in favor of the abutting property owners crosses through the property and there is also a

turn around easement to the north of the Ormond Street and Christian Avenue intersection. She explained that Ormond Street currently terminates at the Christian Avenue intersection. There is a City-owned parcel north of the intersection that has never been formally laid out as a street, although a paved road extends north through this lot to the Havenwood/Heritage Heights property. This northerly section of the road is known as the Ormond Street Extension and has been classified as one of the City's "Courts and Lanes of Uncertain Status" and is considered a private road.

She reported that the applicant proposes to improve Ormond Street Extension by widening the pavement to 22 feet. The existing pavement will be removed, and a new sub base and base material will be constructed. The proposed roadway improvements cross through the City-owned parcel and will require a license from the City Council prior to construction.

The site will be serviced by municipal water and sewer. However the applicant will be required to extend a new sewer force main to the corner of Christian Avenue and Ormond Street, from the project site, to serve the proposed units. The extension of the force main will require a license from the City Council prior to construction.

She reported that the Havenwood/Heritage Heights project will provide housing under a state and federal program that is specifically designated for seniors (one resident needs to be 62 or older and one resident needs to be 55 or older) and will need to satisfy the State's requirements under RSA 354-A:15 for age restricted housing. As a condition of approval United Church of Christ Retirement Community, Inc. will be required to submit documentation that will ensure that the housing development will be restricted to residents 55 and older.

Ms. Hebert explained that the applicant proposes to remove trees within the perimeter buffer and also includes grading for the construction of the units and the installation of drainage pipes and outfalls within the buffer. Article 28-4-d(5) of the Zoning Ordinance describes the requirements of the perimeter buffer and also states that significant existing trees should be preserved and that the Planning Board may require that additional landscape materials be incorporated into the buffer to provide a more effective screen. The applicant has provided a landscape plan for the restoration and revegetation of the perimeter buffer, but the impacts represent a more significant impact than the Planning Board has allowed in the past. The 2001 site plan application proposed the construction of a retaining wall to limit the grading impacts to the buffer on the southwest side of the property. However, the retaining wall has been removed from this application to minimize project costs.

She reported that the applicant has provided a minimum of 300 square feet of private yard space for each unit. Some of the areas identified on the plan are amorphous in shape and do not represent a realistic, usable outdoor space. The Zoning Ordinance requires that each unit with access to the outdoors contain a minimum 300 square foot private yard area. The plan needs to be revised to provide a more functional private yard area. The 300 square foot private yard area cannot be located within the perimeter

buffer. The private yard for unit # 601 is located partially within the perimeter buffer and needs to be revised.

She reported that the applicant proposed to provide a pedestrian crosswalk across Ormond Street Extension to connect the residents with the larger Havenwood/Heritage Heights campus. However, the site plan application does not provide a pedestrian sidewalk along Ormond Street Extension to connect with the Christian Avenue and Ormond Street sidewalks. The construction of a sidewalk would provide residents with a more pedestrian friendly route to access the services along Loudon Road.

She reported that the proposed duplex buildings are single story structures with a basement and single car garage for each unit. The building façade consists of a vinyl siding with architectural shingles in black, and shutters adorning the windows. The Design Review Committee reviewed the architecture and landscaping and did not object to the design of the building or the revised landscape plan.

Theodore Kupper, from Provan & Lorber, was present on behalf of the applicant and explained that they recognized that they were impacting the buffer so they are providing a significant landscaping plan. He noted that there is significant vegetation in the area as well. He reported they had submitted plans late this afternoon complying with the requirements for private yard areas. In addition, he noted that, while they do provide the 300 square foot private yard area, there is also a significant amount of the site that is available for the residents to enjoy.

He also discussed the requested sidewalk connection toward Loudon Road. He explained that this is essentially a large community that provides services for all of its residents. This is a safe environment for the residents and they are providing a sidewalk/crosswalk connecting directly to the Havenwood/Heritage Heights sidewalk system. They would prefer to provide access through the community than to construct a sidewalk along Ormond Street.

Mr. Gross asked the problem with the retaining wall approved in 2001 and Mr. Kupper responded it was the cost.

Mr. Gross asked if it was their suggestion that the existing sidewalk system provide adequate access to Loudon Road for these new units. Mr. Kupper responded that they maintain about 10 miles of sidewalks through their complex all through the winter. Also, it was their opinion that Ormond Street and a portion of Christian Avenue do not provide the safest feeling to elderly people who might be inclined to walk them. East Side Drive is a much better traveled road with better sidewalks. These are elderly residents. They are active but they will want to take a route where they feel safer. There is no sidewalk on Christian Avenue. It makes more sense for them to access the internal sidewalk system.

Ms. Meyer felt it was ludicrous to think that the residents trying to get to services at the westerly end of Loudon Road will walk to East Side Drive and then down Loudon Road. She also felt strongly about not compromising the buffer.

Michael Palmieri, from Havenwood/Heritage Heights, noted that they also provide a bus service for their residents.

Carl Sargent, landscape consultant for the project, discussed the proposed landscape plan. He explained that there will be evergreens all along the top of the bluff providing more year round screening than is there now. Elderly people do not like a lot of tall pines around them because they like the light provided by the lower vegetation.

Ms. Meyer did not feel that the buffer is being properly revegetated.

Mr. Sargent indicated they are also trying to provide wildlife habitat.

Deborah Naylor, vice president of housing services at Havenwood/Heritage Heights, explained the age requirements at the Heritage Heights campus, which falls under the definition of a continuing care retirement community. She explained that people need to be 62 years of age or older to reside there, but a second person of at least 55 years of age is allowed in the household. It has been their experience that the average person moving into the community is over 70 years old.

Mr. Woodward explained that the impact fee ordinance as adopted by the City Council specifies that school impact fees can be waived for projects where residents are all 62 years or older. There is no provision for waivers for units where there is a resident of 55 years of age.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 9:02 PM.

Deliberations and Action on Application

Deliberations and Action on Architectural Design Review

Mr. Gross felt that tabling action would allow staff time to review the vegetation plan and to further discuss with the applicant issues related to the construction of a sidewalk connection to Ormond Street.

Mr. Gross moved to table action on this application to allow the Planning Division additional time to review the newly submitted plans with regard to the private yard areas and the proposed landscaping, and to further discuss with the applicant concerns related to the construction of a sidewalk connection to Ormond Street. Ms. Meyer 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.

- **Jiffy Lube** at 150 Loudon Road (3 signs)
- **83 Law Offices** at 83 Clinton Street
- **NH Republican Party and Loginov Associates** at 10 Water Street

The Chair opened the hearings on all of the signs.

- **Jiffy Lube** at 150 Loudon Road (3 signs)

Mr. Henninger explained this proposal for the replacement of two affixed signs and a freestanding sign. He reported that the Design Review Committee had expressed concern about the orange color shown around the entry area of the building. There was a question as to whether the color shown on the plan was the true color. The Committee felt that if the orange is actually a burnt orange, then it would be appropriate.

He reported that the Design Review Committee found the design and placement of the revised signage to be appropriate for the location and use, and recommended approval as submitted with the suggestion that the orange color shown on the building be toned down.

He reported that the building has already been painted red to match the color of the signs.

There was no one present on behalf of the applicant.

Ms. Meyer moved approval as submitted and Ms. Dolcino seconded. Motion carried.

- **83 Law Offices** at 83 Clinton Street

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

There was no one present on behalf of the applicant.

Ms. Meyer moved approval as submitted and Ms. Dolcino seconded. Motion carried.

- **NH Republican Party and Loginov Associates** at 10 Water Street

Mr. Henninger explained that this is a replacement panel in an existing sign.

He reported that the Design Review Committee found the design and placement of the replacement panel to be appropriate for the location and use, and recommended approval as submitted.

Jeff Newman was present on behalf of Loginov Associates to answer questions from the Board.

Ms. Meyer moved approval as submitted and Ms. Dolcino seconded. Motion carried.

7. Master signage plan for **Foundry Business Center at 16-20 Foundry Street.**

Public Hearing

Mr. Henninger explained this proposed master sign plan for eleven signs for a condominium office building complex on Foundry Street. Two of the three approved buildings have been completed with a third building planned in the near future. The signs included in the master sign plan include a free standing sign in the median of Foundry Street at the project entrance, a free standing monument directory sign located near the main entrance, three building number signs, two existing affixed signs for Sanborn Head at 20 Foundry Street, and three affixed signs for medical offices at 18 Foundry Street. No affixed signs are included at this time for the future tenants at 16 Foundry Street. The signs as proposed conform to the Zoning Regulations.

He reported that the Design Review Committee reviewed the proposed master sign plan and recommended approval as submitted.

Jonathan Halle from Warrenstreet Architects was present to answer questions on behalf of the applicant.

Mr. Gross moved that the Planning Board grant Architectural Design Review approval for the proposed Master Sign Plan for the Foundry Business Center with the stipulation that the master sign plan will need to be amended to address the signage for 16 Foundry Street once tenancy is known. Ms. Meyer seconded. Motion carried.

8. Building plans related to renovations by **Evangelos D. Lillios at 2 North Main Street.**

Public Hearing

Mr. Henninger explained the Design Review Committee had met with Mr. Lillios and provided him with a number of options for the store front at the corner of North Main Street and Pleasant Street Extension. The suggestions included restoring the store front to original condition, using the granite tile for a portion of the sign band, replacing the blue metal panels with a black or burgundy color, using a metal panel to cover the damaged belt course below the second story window, using a metal panel under the steel beam, and painting the store front window system, among others.

He reported that, after lengthy discussion with the Commission, it was agreed that the brick will be cleaned and a metal panel will be placed over the damaged belt course below the second story window. The blue metal panels will be replaced with black or burgundy metal panels. The exposed bricks will be cleaned and patched where necessary. A matching black or burgundy metal panel will be installed between the steel beam and the top of the storefront.

There was no one present on behalf of the applicant.

Mr. Gross moved that the Planning Board adopt the agreement with the Design Review Committee that the exposed brick will be cleaned and patched where necessary. A brick colored metal panel will be placed over the damaged brick belt course below the second story window. The blue panels will be replaced with burgundy or black panels, a matching black or burgundy metal panel, a matching black or burgundy metal panel will be installed between the steel beam and the top of the storefront, and the metal beam painted to match. Mr. Shurtleff seconded. Motion carried.

REGULAR MEETING

Minutes

Mr. Kenison moved approval of the minutes of the meetings of March 4, 2008 and March 19, 2008 as submitted. Ms. Dolcino seconded. Motion carried.

Further Consideration

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

10. Application by **Judith and Emmanuel R. Brochu, Jr.** for approval of a subdivision of property at **8 Parmenter Road.** (#2008-01)
11. Application by **Judith and Emmanuel R. Brochu, Jr.** for approval of a site plan for a Planned Unit Development of property at 8 Parmenter Road. (#2006-86)

Mr. Henninger explained that the Planning Board closed the public hearing on these application on March 4, 2008, and subsequently tabled action to allow the applicant to address the following concerns:

1. The Board wanted to know with reasonable assurance that existing basements at both 6 Parmenter Road and 7 Parmenter Road will not be impacted by changes in the direction of groundwater flow and the amount of the flow. The Board indicated that this information needed to be prepared by a hydrogeologist and reviewed by the City Engineering Division prior to further consideration by the Board.
2. The Board asked the applicant to specifically address the before and after delay for turning movements at the intersection of Parmenter Road and North State Street, and Roger Avenue at North State Street.
3. The Board asked the applicant to specifically outline findings for the four statutory criteria for the granting of waivers as outlined in the City's Subdivision Regulations and state statutes for the four requests for waivers.

He explained that the Planning Board also requested that staff address the following issues:

1. A determination that the development meets the intent of the PUD purpose statement in Article 28-4-8(b) which states that this development promotes "choice in tenure".
2. That the information submitted by Mr. Chapman on March 4, 2008 in his Table 6 in regard to residential density is correct.
3. To review the adequacy of the information on the existing conditions plan.

He reported that in response to the Board's concerns the applicant has proposed the installation of underdrains west of both 7 Parmenter Road and 6 Parmenter Road as part of the drainage plans. The City Engineering Division feels that these underdrains will positively impact the basement flooding issues at 7 Parmenter Road and should address any concerns with increased ground water flow to 6 Parmenter Road.

He reported that the applicant's traffic engineer has submitted a report outlining delays to be expected at both Parmenter Road and Roger Avenue intersections with North State Street. The engineer's analysis indicates that the delays at Roger Avenue are negligible due to the proposed development. Delays for turning movements out of Parmenter Road will increase by 10 to 12 seconds during the peak hours and will lower the level of service for these movements. Neither the applicant's or the City's consulting traffic engineer have recommended any additional improvements. The delays are typical of all side streets along North State Street. The City's Engineering Division's traffic engineer has also reviewed the analysis and concurs.

In response to the Board's request that Planning staff make a determination as to whether the development meets the intent of the Planned Unit Development purpose statement in Article 28-4-8(b) which states that this development promotes "choice in tenure", Mr. Henninger reported that the development is small for a PUD and is offering a single tenure choice. However, that tenure choice of apartment rental, possibly assisted, is not heavily represented in this neighborhood. It is the Planning Division's interpretation that the intent statement of the PUD is to promote choice of tenure within the community as a whole, not exclusively within each PUD development. There is no requirement in the ordinance, nor was one ever proposed, to require multiple forms of tenure in PUD's. Many of the PUD's in the past have involved multiple forms of tenure, but not all, including the most recent PUD, The Vineyards which is entirely condominium townhouses and duplexes.

He reported that the Planning Division has looked at neighborhood density in the area. Mr. Chapman's submittal to the Planning Board reports density ranges running from 0.47 units per acre to 3.48 units per acre. The Planning Division has prepared three different density estimates for the neighborhoods, one east of North State Street and two west of North State Street. The Planning Division's estimates excluded unbuildable slopes, and large tracts of undeveloped land. A few large lots are not included in their

entirety because the back land could see further development over time, including Mr. Chapman's property. The City's density estimates vary from between 2.53 & 2.78 dwelling units per acre west of North State Street and are calculated as 2.54 dwelling units per acre on the east side of North State Street centered on Roger Avenue. The Planning Division notes that the density for the proposed Parmenter Road development is 4.91 units per acre versus the density of 3.79 noted by Mr. Chapman. The proposed development is almost twice as dense as the rest of the neighborhood based on the calculations of the Planning Division.

In response to the concern expressed at the public hearing relative to the existing condition plan, Mr. Henninger reported that the overall existing condition plan (sheet 2 of 27) is complete. Sheet 3 of 27 was requested by City staff as a supplement to the overall existing condition plan to show at a more useful scale existing conditions in Parmenter Road. Sheet 3 of 27 does not include all the information shown on the abutting parcels in the overall existing condition plan. The Engineering Division has sufficient detail to complete its review of the application. City staff has found the existing condition plans acceptable.

Mr. Henninger reported that Attorney Friedrich K. Moeckel, on behalf of his clients who abut the development, has requested that the Planning Board conduct an official viewing of the site. This would be a on-site public meeting and would need to be advertised and held accordingly.

Mr. Gross referred to the Board's concern that the existing basements will not be impacted by changes in the direction of groundwater flow and the amount of the flow and asked if a hydrogeologist had been hired by the applicant to review this question. Mr. Henninger responded that the Board had received a letter from Sanborn, Head & Associates in which they stated their opinion that the underdrains should perform as intended and provide the benefits described for the project site and the off-site properties at 6 and 7 Parmenter Road provided the drains are constructed in accordance with the plans and specifications.

Ms. Aibel described the proposed underdrain system that is intended to protect the basements at 6 and 7 Parmenter Road. She reported that this is construction that is over and above anything that has been required of anyone else in the city. She reported the applicant is lining the perimeters of their property with underdrains to divert groundwater from the basements at 6 and 7 Parmenter Road.

Mr. Gross then asked how the applicant had responded to the Board's request to specifically address the before and after delay for turning movements at the intersection of Parmenter Road and North State Street and Roger Avenue at North State Street. Mr. Henninger responded that the City had recently hired Robert Mack as its full-time traffic engineer and he had reviewed the updated information presented by the applicant's traffic engineer. Mr. Mack was of the opinion that the Roger Avenue approach to North State Street was computed to operate with long delays during peak hours with or without the proposed development. He felt proposed site traffic will not have a material effect on traffic operations at the North State Street/Roger Avenue intersection.

Mr. Gross asked for a staff response to the findings presented by the applicant for the four statutory criteria for granting the four requests for waivers. Mr. Henninger responded that staff feels the requests are reasonable and recommends approval. The applicant has clearly articulated grounds for granting the waivers.

Mr. Gross asked if the abutter's assertions regarding density were correct and Mr. Henninger responded that depends completely on where the neighborhood boundary is drawn. He indicated that he felt the estimates were within the range of what exists there today.

Mr. Shurtleff referred to the traffic reports submitted for North State Street and questioned the turning movements at the intersections. He reported he had read the numbers but he travels that street and finds the information hard to believe. He was particularly referring to the left turn onto Parmenter Road.

Mr. Kenison asked for an explanation of the discussion relative to water supply. Mr. Henninger responded that there are two issues in water supply. One is maintaining water supply and pressure for normal use. The second issue is maintaining supply and pressure for fire protection requirements.

Ms. Foss expressed a concern relative to emergency access to the new development. She thought it was typical to have an alternate access to a development for emergency purposes. Compound that with the fact that there is a substandard access to the development and she was concerned about access to the new units.

Mr. Henninger responded that the required sprinkler system would mitigate the life safety concerns. He also mentioned that the street is not over the 1000 foot length set as a maximum length under the Board's regulations. They have also provided for future connectivity to abutting parcels.

Mr. Gross felt the material presented provided adequate responses to the questions the Planning Board had asked.

The Chair suggested that if the Board was concerned about access, it could table action and ask a representative from the fire department to attend the next meeting to discuss life safety concerns.

Mr. Gross moved to keep this item on the table and asked staff to invite a representative of the City's Fire Department to attend the next meeting and advise the Board on access to the development if an emergency situation occurred along the existing section of Parmenter Road.

Ms. Dolcino asked for staff clarification as to whether the criteria for the requests for waivers have been adequately met. Mr. Henninger responded that staff feels that all the criteria for the waiver requests have been adequately met.

Mr. Shurtleff seconded the motion. Motion carried.

12. Application by **Links Realty Trust, Lucille P. Bollinger Trust, Robert & Lucille Bollinger Trustees, and Mark and Carolyn Blasko** for final approval of a previously approved preliminary plat for a cluster subdivision of property on **Portsmouth Street and Curtisville Road. (#2005-10)**

Mr. Henninger explained this proposal to create a cluster subdivision of 87 lots on 271.52 acres in the Broken Ground area, with access from both Curtisville Road and Portsmouth Street. The applicants propose to construct approximately 11,747 feet of new public street and to set aside 178.54 acres of the property as open space. The applicants propose to construct the development in eight phases with Phase 1 being split into two phases.

He reported that the Planning Board granted conditional preliminary subdivision approval of this project on January 31, 2007 and granted a one year extension of the approval on December 19, 2007. The approval also included three waivers, including a waiver for block lengths in excess of 1200 feet, a waiver not to install sidewalks on the dead end cul-de-sacs in the development, and a waiver for lot 49 which met the useable area requirement but not the 60 foot required dimension through the entire useable area rectangle. The applicant also received a Conditional Use Permit to allow wetland buffer disturbances along Whispering Way associated with construction of the road.

He reported that, at its regular meeting on March 19, 2008, the Planning Board approved a waiver to allow Phase 1 to be split into two phases and to allow a temporary dead end approximately 3,600 feet where a maximum 1,000 foot dead end is allowed. The applicant has proposed, and the Planning Board conditionally approved, the waiver request for a period not to exceed three years from the date the first phase of Whispering Way is accepted by the City. The action by the Board also required Whispering Way to be constructed as a gravel road and maintained by the applicant until the remainder of Whispering Way is completed and accepted by the City Council. A financial guarantee is to be provided to ensure that the City could complete the road on a default by the applicant, and a second guarantee was required to insure interim maintenance by the applicant. At the same meeting the Board also amended Conditions 14 and 15 of the preliminary subdivision approval and added a new special condition associated with the timing of street tree plantings.

Mr. Gross moved that the Planning Board grant a conditional final subdivision approval for the Whispering Heights Cluster Subdivision subject to the following standard and special conditions:

Standard Conditions

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following State and federal permits shall be obtained and copies provided to the Planning Division:

- a. NH Wetlands Bureau (wetland alterations)
 - b. NH Department of Environmental Services Site Specific Permit (RSA 485-A:17)
 - c. NH Department of Environmental Services, Water Supply and Pollution Control Division, subdivision approval for on-site septic systems.
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions.
 3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.
 4. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:
 - a. Right-of-way easements for Whispering Way, Abenaki Way, Silent Road, Moccasin Court, and Nebik Circle.
 - b. Deeds for Open Space Areas "A", "B", "C", "D", "E" and "F" to the City of Concord with Conservation Restrictions containing at a minimum 174.08 acres.
 - c. Conservation Easements for wetlands, wetland buffers and perimeter buffers on Lots 2, 3, 7, 10, 11, 16, 22, 23, 47, 48, 49, 63, 64, 71, 72, 81, 82, and 86 containing a minimum of 3.6 acres.
 - d. Slope easements as shown on the plans on the properties shown needed for the construction and maintenance of the proposed public streets.
 - e. Drainage easements as shown on individual lots shown on the plans.
 - f. Agreement to convey an easement for a "sight distance easement" on lots 65 and 66, as well as lots 56 and 57 for proposed driveways serving these lots.
 5. Prior to the final plat being signed by the Planning Board Chair and Clerk, approval shall be obtained for the construction drawings and specifications for all public improvements from the Engineering Division. No construction activity may commence prior to the pre-construction conference.
 6. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall obtain approval of private utility plans from Unitil (Concord Electric), Fairpoint (Verizon), and Continental Grid (KeySpan).
 7. Prior to the release of a financial guarantee for any public improvement, an as built plan shall be provided to the City Engineer in form and content acceptable to the City Engineer.

8. 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.
9. 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.
10. Traffic, recreation and school impact fees shall be assessed for any construction on 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, 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
11. The following improvements to be constructed are deemed to be eligible for credits against the assessed traffic impact fees. The procedures for determining the eligibility and the calculation of the credit 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.
 - a. The construction of an offsite sidewalk northwesterly along Portsmouth Street (an urban collector) from Whispering Way to its current terminus near Broken Ground Drive for a distance of approximately 3,000 feet. Said construction shall include curbing and drainage improvements where necessary to allow for the construction of the sidewalk within the existing public right-of-way. As an option, the applicant may provide a cash contribution in the amount of said improvements

Special Conditions

12. Phase 1 approval shall be valid for a period of two years from the date of the Planning Board's final resolution. The Planning Board's approval for Phases 2 and 3 shall be valid for a four year period provided that the Phase 1 plat including all of Whispering Way is recorded and a financial guarantee is in place and maintained. The Planning Board's approval for Phases 4, 5 and 6 shall be valid for a six year period provided that after four years Whispering Way has been completed and accepted by the City of Concord.

13. The phasing of off-site improvements shall be as follows:
 - a. The reconstruction of Curtisville Road from the project entrance to Broken Ground School shall be complete prior to the first Certificate of Occupancy in the subdivision.
 - b. The offsite sidewalk northwesterly along Portsmouth Street (an urban collector) from Whispering Way to its current terminus near Broken Ground Drive shall be complete prior to the first Certificate of Occupancy in either Phase 2 or Phase 3.
14. The applicant shall reconstruct Curtisville Road from the Broken Ground School entrance easterly to the project entrance to a 22 foot paved cross section without curbing and sidewalk with two foot gravel shoulders. The applicant shall, however, construct a sidewalk along their frontage along Curtisville Road easterly to the beaver pond.
15. The applicant shall construct an offsite sidewalk northwesterly along Portsmouth Street (an urban collector) from Whispering Way to its current terminus near Broken Ground Drive for a distance of approximately 3,000 feet linking this development to the existing sidewalk system. Said construction shall include curbing and drainage improvements where necessary to allow for the construction of the sidewalk within the existing public right-of-way. As an option, the applicant may provide a cash contribution in the amount of said improvements prior to the issuance of Certificates of Occupancy for either Phase 2 or 3, or June 1, 2012, whichever occurs first. Said cash contribution estimates shall be adjusted for construction cost inflation based on the anticipated construction year at the time of receipt.
16. Prior to the final plat being signed by the Planning Board Chair and Clerk, approval shall be obtained for the construction drawings and specifications for all off-site public improvements from the Engineering Division. No construction activity may commence prior to the pre-construction conference.
17. No Certificate of Occupancy shall be issued in each phase until all the public improvements for that phase have been completed to the satisfaction of the City Engineer and accepted by the City Council.
18. No construction, clearing or grading may take place on the site until the final plat has been recorded in the Merrimack County Registry of Deeds for Phase 1 of the subdivision, inspection fees paid, and a pre-construction conference is held.
19. If the proposed power line easements are recorded over the lots in Phase 7 (Lots 86 and 87), said lots are not buildable lots and no improvements may be constructed on said lots except as allowed for the construction and operation of the electrical transmission line (s) and poles proposed by Unitil.

20. Each residence within the development shall be provided with a residential sprinkler system acceptable to the City Fire Marshal.
21. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall fully document the historic stone foundation located on a development lot within the subdivision acceptable to the NH Division of Historical Resources and the Heritage Commission.
22. The Planning Board specifically grants final subdivision approval to allow Phase 1 to be split into two phases as set forth in the Sheet PH 1 - Phasing Plan - Alternative A with a date of February 26, 2008. This waiver of the Subdivision Regulations is conditioned as follows:
 - a. The temporary dead end shall not exceed three years from the date the City Council authorizes the acceptance of Phase 1 of Whispering Way as a City street allowing for a Certificate of Occupancy to be issued for any lot in Phase 1.
 - b. The remainder of Whispering Way in Phase 1A shall be completed to a gravel base acceptable to the City Engineering Division prior to the City Council authorizing the acceptance of Phase 1 of Whispering Way as a City street.
 - c. A separate financial guarantee shall be provided to the City Solicitor for the remainder of Whispering Way including all related drainage, sidewalk and curbing in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.
 - d. The applicant shall be responsible for the interim maintenance of Whispering Way in Phase 1A including grading, drainage, erosion control and snow plowing until the remainder of Whispering Way is accepted by the City Council.
 - e. A separate financial guarantee shall be provided to ensure that maintenance as defined in (d) above will be undertaken on the interim gravel road portion of Whispering Way in Phase 1A in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.
23. Street tree plantings shall be installed at the time of Certificate of Occupancy for each unit or, if planting is inadvisable due to weather conditions, the street tree shall be planted as soon as weather conditions warrant.

Ms. Meyer seconded. Motion carried.

CITY COUNCIL REFERRALS

13. Consideration of communication from Attorney Richard Uchida relative to the discontinuance of **Old Sheep Davis Road**.

Mr. Henninger explained this request to discontinue Old Sheep Davis Road. He explained that Old Sheep Davis Road was left in its current configuration as a result of the realignment of Loudon Road and Sheep Davis Road by the NH Department of

Transportation as part of the I-393 construction completed in 1990. At that time I -393 was extended to its current terminus in Chichester and Exit 3 was created at Route 106. Old Sheep Davis Road was made a two way dead end road, and access to Route 106 was eliminated. This portion of Route 106 is a limited access highway with access controlled by takings as a part of the interstate project. Any discontinuance of right-of-way will by necessity involve both the NH Department of Transportation and the Federal Highway Administration.

He reported that one parcel and one segment of a land locked parcel obtain their sole access by way of Sheep Davis Road. The north end of Old Sheep Davis Road where it intersects with Loudon Road and Break O Day Drive is proposed for future signalization. This is the last phase of the Loudon Road corridor improvement plan approved by both the Planning Board and the City Council. Break O Day Drive is the primary access to land zoned for retail purposes north of Loudon Road. The southerly end of Old Loudon Road lies opposite a planned signalization for a site zoned for retail development. It is envisioned that at that time the fourth leg of the signal serving the properties north of Sheep Davis Road would align with the current right-of-way for Old Sheep Davis Road.

He reported that two parcels at the northerly end of Old Sheep Davis Road are corner lots at the intersection of Old Sheep Davis Road and Loudon Road. Both lots have medians along their frontage along Loudon Road. Left turn movements into and out of these corner lots is obtained by utilizing the Old Sheep Davis Road intersection.

He explained that Sheep Davis Road transitions from a 200 foot to a 150 foot right-of-way at the right-of-way of Old Sheep Davis Road. The NH Department of Transportation and the Federal Highway Administration would need to determine what portions of the right-of-way at this location that the City may abandon. A decision on this matter would not be made until an access plan for any major retail development is finalized and permitted by NH Department of Transportation.

Mr. Henninger reported that the existing right-of-way for Old Sheep Davis Road is encumbered by water, gas, electrical and telecommunication utilities. An abandoned sewer force main is also present in the right-of-way. Provisions for retaining easements for these uses would be necessary. Replacement public access to City conservation land along Old Sheep Davis Road would also need to be provided.

Alternatively, with a planned traffic signal at either end of Old Sheep Davis Road, it can be envisioned that a cross connection may be desirable at this location between Sheep Davis Road and Loudon Road. This cross section could be either private or could be converted to a common private drive.

Attorney Richard Uchida was present on behalf of the petitioner to answer questions from the Board.

Mr. Gross moved and Ms. Dolcino seconded that the Planning Board advise the City Council that discontinuance of Old Sheep Davis Road is premature at this time. The

future discontinuance of this road, either in its entirety or in part, is dependent on the development of large tracts of commercially zoned land at opposite ends of this road. The petitioners, when presented with the issues, have indicated their intent to withdraw their petition to discontinue Old Sheep Davis Road at this time. Motion carried.

Non-Agenda Item

Reappointment of members to the **Design Review Committee**

- F. Duene Cowan
- Claude Gentilhomme

Mr. Woodward explained that the Planning Board voted in 1978 to establish the Design Review Committee, and in 1990 adopted an amendment to the Site Plan Review Regulations which specified that the Committee should consist of at least five and no more than seven members with training or experience in architectural design, landscape architecture, or historic preservation. The terms of membership are the same as those for Planning Board members, which is three years, and the members must be local residents.

He reported that Mr. Cowan is a native of Penacook who now resides on Mountain Road in East Concord. He is a NH Registered Architect who worked for the local architectural firms of Dudley, Walsh and Moyer, and McGowan Brook Reno, prior to forming his own firm, DC Designs at 5 Eagle Square, in 1989. He has served on the Design Review Committee for the past twelve years.

Mr. Gentilhomme moved to Concord in the mid-1990s to join a local architectural firm. He resides on North State Street and is a NH Registered Architect who has had his own architectural practice, Gentilhomme Design Associates, for a number of years. He has served on the Design Review Committee for the past six years.

Mr. Gross moved and Mr. Kenison seconded that the Planning Board re-appoint F. Duene Cowan and Claude P. Gentilhomme to the Design Review Committee. Motion carried.

There was no further business to come before the Board and the meeting adjourned at 10:44 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

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