

The regular monthly meeting of the City Planning Board was held on July 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 (who arrived at 7:24 PM), Meyer, and Shurtleff. Messrs. Woodward and Henninger, and Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Mr. Roberge, the City Engineer.

At 7:07 PM a quorum was present and the Chair called the meeting to order.

The Chair announced that the applicants for Item #9 (Applications by **Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints** for approval of a site plan of property at **90 Clinton Street**) and Item #14 (Master Signage Plan for **2 Pillsbury Street LLC at 2 Pillsbury Street**) had requested postponement and these applications will not be considered by the Board this evening.

## APPLICATIONS

### Minor Subdivisions

1. Application by **Scott L. and Maureen P. Herrick, and Mark G. Wagner and Joanne Fadale-Wagner** for approval of a subdivision and resubdivision of properties at **51 and 63 Portsmouth Street** . (#2008-09)

### Determination of Completeness

Ms. Hebert explained this proposal to subdivide an existing 2.11 acre lot at 63 Portsmouth Street to create two new residential building lots and to annex a 7,949 square foot parcel to the existing lot at 51 Portsmouth Street.

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

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

### Public Hearing

Ms. Hebert explained this proposal to subdivide an existing 2.11 acre lot at 63 Portsmouth Street to create two new residential building lots and to annex a 7,949 square foot parcel to the existing lot at 51 Portsmouth Street. She reported that the existing homes are serviced by municipal water but not sewer. It is a requirement of the Zoning Ordinance that new homes within the Single Family Residential District connect to the municipal sewer system. The applicant has received a variance to allow for the new lots to not be connected to the municipal sewer system. This is also a requirement of the Subdivision Regulations and will need a waiver from the Planning Board. The extension of the sewer

line would require the establishment of a new sewer service area with a pump station to connect the new homes to the existing sewer line along East Side Drive. The two existing homes at 51 and 63 Portsmouth Street have onsite septic systems. City staff is not recommending the construction of a pump station to serve only two homes.

Web Stout from FWS Land Surveying was present on behalf of the applicant and reported they have received subdivision approval from NH Department of Environmental Services, Water Supply and Pollution Control Division, for on-site septic systems.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 7:12 PM.

#### Deliberations and Action on Application

Ms. Foss moved that the Planning Board grant a waiver to Section 9.04(2(a) of the City's Subdivision Regulations to allow the new parcels not to be connected to the municipal sewer system because the extension of the sewer line would require a new sewer service area along with the construction of a pump station, which is impractical for only two homes. Mr. Shurtleff seconded. Motion carried.

Ms. Foss moved that the Planning Board grant conditional final subdivision approval for the "Resubdivision & Subdivision Plat of Scott L. & Maureen P. Herrick and Joanne Fadale & Mark Wagner" as prepared by FWS Land Surveying, PLLC subject to the following standard conditions:

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City Staff.
2. Prior to the 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.
3. Traffic, recreation and school impact fees shall be assessed for any construction on the new lot contained within this approved subdivision. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, and Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 1, School Facilities Impact Fee per variable unit; and Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.

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

Ms. Meyer seconded. Motion carried.

- 2. Application by **NEEBCO Limited Partnership** for approval of a subdivision by virtue of a conversion to condominium of property located at **13 to 19 Chenell Drive.** (#2008-31)

#### Determination of Completeness

Mr. Woodward explained this proposal to convert to condominium ownership four existing commercial buildings with each building becoming a unit, and the site and all of the improvements other than the buildings becoming common area.

He reported this application was complete and ready for public hearing.

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

#### Public Hearing

Mr. Woodward explained this proposal to convert to condominium ownership four existing commercial buildings with each building becoming a unit, and the site and all of the improvements other than the buildings becoming common area. Portions of utility systems serving individual units are to be considered limited common areas. Separate water metering for each unit needs to be confirmed or the condominium documents need to make provision for metering, as the documents indicate that each unit owner will be responsible for paying for utility services used in each unit.

He reported that the Planning Board approved site plans for the development of this site in 1994 and 1999. Adjacent parcels were consolidated to form the current lot in 1999.

He reported that the applicant has requested a waiver to have the plat shown at a scale of 1"=20' where 1"=50' is required. The applicant's agents indicate that the proposed scale will provide greater clarity for representation of the lot and improvements.

Attorney Richard Uchida from Orr & Reno was present on behalf of the applicant to answer questions from the Board.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 7:19 PM.

#### Deliberations and Action on Application

Ms. Foss 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 to be submitted at a scale of 1"=20' instead of 1"=50'. Ms. Dolcino seconded. Motion carried.

Ms. Foss moved that the Planning Board grant final subdivision approval subject to the following standard conditions:

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings to address minor corrections and omissions noted by the City Staff.
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall confirm that each unit has separate water metering or amend the Condominium Documents to require that separate meters be installed as a prerequisite to the operation of the condominium.
3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the Condominium Documents shall be approved by the City Planner and the City Solicitor.

Ms. Meyer seconded. Motion carried.

3. Application by **Praxair Surface Technologies** for approval of a subdivision of property located at **146 Pembroke Road.** (#2008-33)

#### Determination of Completeness

Ms. Hebert explained this proposal to subdivide an existing lot at 146 Pembroke Road to create a 14.46-acre nonbuildable parcel which will be donated to the State of New Hampshire to be managed by the New Hampshire Fish and Game for the Karner Blue butterfly habitat.

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

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

#### Public Hearing

Ms. Hebert explained this proposal to subdivide an existing lot at 146 Pembroke Road to create a 14.46-acre nonbuildable parcel which will be donated to the State of New Hampshire to be managed by the New Hampshire Fish and Game for the Karner Blue butterfly habitat. The existing building and associated parking will remain on a six-acre parcel. The existing detention pond and drainage pipes are located on the new 14.46-acre nonbuildable parcel. The application includes a proposed a drainage easement for the benefit of Praxair Surface Technologies on the new parcel.

She reported that the property is encumbered by a 265 foot wide PSNH right-of-way.

She reported that the applicant has requested waivers from the Subdivision Regulations relative to Section 8.04 (2)(b)(v) for the provision of invert elevations of the existing utilities, to Section 8.04 (2)(b)(x) for the provision of two-foot contours for the existing topography, and to Section 8.03(2)iii to allow the subdivision plat to be submitted without identifying the location of steep slopes and wetlands, all because the lot to remain is already developed and the proposed lot will be a nonbuildable lot restricted from future development: To ensure the proposed lot will remain nonbuildable, the Planning Division is recommending that an agreement to convey the property to the State of New Hampshire for the protection of the Karner Blue habitat be submitted to the City as a condition of approval.

(Mr. Gross arrived at 7:24 PM and was seated.)

David Collier from Richard D. Bartlett & Associates was present on behalf of the applicant to answer questions from the Board.

Ms. Foss had questions relative to the State's involvement with the proposed conservation area and Ms. Hebert responded that they had been contacted by the applicant's agent.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 7:26 PM.

#### Deliberations and Action on Application

Ms. Foss moved that the Planning Board grant a waiver to Section 8.04 (2)(b)(v) of the City's Subdivision Regulations to allow the subdivision plat to be submitted without identifying the invert elevations of the existing utilities. Ms. Meyer seconded. Motion carried.

Ms. Meyer moved that the Planning Board grant a waiver to Section 8.04 (2)(b)(x) of the City's Subdivision Regulations to allow the subdivision plat to be submitted without identifying the existing topography of the property at two-foot intervals. Ms. Foss seconded. Motion carried.

Ms. Meyer moved that the Planning Board grant a waiver to Section 8.03 (2)(iii) of the City's Subdivision Regulations to allow the subdivision plat to be submitted without identifying the location of steep slopes and wetlands. Ms. Foss seconded. Motion carried.

Ms. Meyer moved that the Planning Board grant conditional final subdivision approval for the "Minor Subdivision Plat for Praxair Surface Technologies" as prepared by Richard D. Bartlett Associates subject to the following standard conditions:

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

2. Prior to the 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 the proposed parcel lot 1 to the State of New Hampshire for the purposes of maintaining wildlife habitat for the Karner Blue butterfly.
  - b. Agreement to convey a drainage easement for the benefit of parcel 111G/1/5

Ms. Foss seconded. Motion carried.

4. Application by **Sandy Brook Corporation, Dwight Keeler and Leslie Keeler** for approval of a minor subdivision of property on **Hoit Road**. (#2008-21)

#### Major Subdivisions

5. Application by **Sandy Brook Corporation, on behalf of Silver Leaf Properties**, for approval of a cluster subdivision of property on **Hoit Road**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-5-46, Single Family Dwellings in a Standard (non-cluster) Subdivision, and 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. (#2008-08)

The Chair recalled that at the time of the original public hearing on June 18th, the Board had held concurrent public hearings regarding the application for minor subdivision as well as the related major subdivision application and suggested that the Board continue the recessed public hearings in the same manner.

#### Recessed Public Hearings

Mr. Henninger explained that the Planning Board had determined both applications to be complete on May 21, 2008, and opened both public hearings on June 18, 2008. After hearing testimony on June 18<sup>th</sup>, the Board recessed the public hearings on these applications to allow the applicant to address the suitability of the new access to a compliant building site on the parcel owned by Leslie Keeler and to demonstrate a permissible driveway access to a compliant building site on the parcel owned by Dwight Keeler, and to allow for staff review to be completed on recently submitted plans.

He explained this proposal to convey 8.99 acres from a 114.35-acre parcel owned by Sandy Brook Corporation to an existing 106.61-acre landlocked parcel north of Hoit Road owned by Dwight Keeler. The resubdivision application also involves the conveyance of a 5.98 acre parcel from an 85.9-acre parcel owned by Leslie Keeler to the Sandy Brook Corporation property. This resubdivision will create road frontage for the Keeler parcel

where none exists, making this 115.60 acre parcel a potentially buildable lot. The 8.99-acre parcel is almost entirely encumbered by wetlands, wetland buffers, and the Shoreland Protection District along Hackett Brook, as well as the floodplain of Hackett Brook. The City's Master Plan recommends the protection of significant environmental features by the conveyance of conservation easements. Hackett Brook is just such a sensitive area. Sandy Brook Corporation has agreed to convey a conservation easement on the parcel being conveyed to Dwight Keeler. This easement would effectively include this area into the Open Space associated with the Glen Ellen cluster subdivision.

Access to the developable area of the Keeler parcel is located over a private easement over property owned by Paul and Jennifer Bofinger following the discontinued right-of-way of Tioga Road north from Hoit Road. The length of the driveway would be about 2000 feet and its construction will require wetland and wetland buffer disturbances. Buildable and useable land areas need to be shown for this lot. The private easement allows access for only one single family house.

He reported that a companion subdivision has also been submitted to create a 30-unit cluster subdivision and five new residential lots. The 5.98-acre parcel being conveyed from the Leslie Keeler property is needed to provide enough buildable land for the cluster subdivision. As part of the companion cluster subdivision a private right-of-way is being conveyed to Leslie Keeler to allow for the construction of a house on that lot which has frontage and a building site on Hoit Road. Access to the Leslie Keeler property is in an area of steep slope and a layout for an acceptable driveway from the Sandy Brook property north to a building site has not yet been demonstrated

He reported that in review of a prior application for this property, the Board asked that the applicant document that sufficient buildable and useable land exists on the Keeler properties and that access could be provided to each of the building sites. He reported that the applicant has not yet demonstrated that the Dwight Keeler parcel has sufficient buildable and useable land area to meet the Zoning Ordinance and Subdivision Regulations in an accessible location. The main issue for this subdivision is the suitability of the Dwight Keeler property for development with a driveway at least 2000 feet long with wetland impacts. The applicant has not yet demonstrated that they have wetland permits necessary to construct a driveway to the buildable area of the property along or immediately adjacent to the discontinued Tioga Road on the private easement granted by the abutter. Mr. Keeler has verbally discussed interest in placing a restriction on the plan that this lot will not be buildable until it is demonstrated that access can be permitted to this parcel. The plan has not been modified accordingly.

Mr. Henninger reported that the Conservation Commission is interested in protecting all or most of both Keeler properties. The Commission advised the previous owners of its interest in protecting the property as conservation land. This property has been identified as an area of regional significance in the State of New Hampshire Wildlife Action Plan. The Conservation Commission has indicated it would like to acquire this property for conservation purposes and trail access. Mr. Keeler has verbally indicated that it is his intent to create a single large estate lot and possibly convey a conservation easement on the rest of the property.

He reported that the Conservation Commission has indicated its opposition to this subdivision and the companion Glen Ellen Cluster Subdivision. The Commission voted to recommend to the Planning Board that the applicant reduce the density of the development to eliminate the wetland buffer impacts. If the density is not reduced, the Commission stated that they prefer the use of the compost blanket and silt sox rather than a retaining wall to stabilize the slopes adjacent to the wetland. The Commission also noted its concerns regarding the proposed lot line adjustment and recommended that the lot line adjustment be denied because the applicant has not demonstrated that the parcel adjacent to Tioga Road meets the City's requirements for a building lot. The Commission also disagrees with the lot line adjustment because it provides the project with the required amount of buildable land to achieve the proposed residential density. If the additional units were eliminated, impacts to the wetland buffer could be eliminated.

He reported that the applicant wants to allow for the maintenance of the open fields on the site and this is something best left to the property owners association or a private land trust rather than the City.

Mr. Henninger then explained the companion application for approval of a 30-unit single family, no lot, cluster subdivision and five conventional lots including a 2.07 acre lot for the existing house on the property. A Conditional Use Permit has been submitted requesting approval for a conventional subdivision to allow these five conventional, two-acre lots to be created. The applicant is required to set aside a total of 66.78 acres of open space for both the cluster and conventional subdivisions and proposes to set aside a total of 77.04 acres of open space. The applicant meets the buildable area requirements for the open space.

He reported that the four new lots on Hoit Road will have two common drives to reduce the number of curb cuts along this difficult section of roadway. The existing home will retain its existing drive. The applicant proposes to construct two common private drives off Hoit Road. One drive (Taft Way) is proposed as an emergency drive and is intended to be one-way into the development due to sight distance concerns on Hoit Road. No driveways are proposed on Taft Way. The main access from Hoit Road will be Gorham Drive which terminates at a cul-de-sac. A second cul-de-sac (Shelburne Lane) is located off Gorham Drive south of the first cluster units.

He reported that the applicant has requested a Conditional Use Permit for disturbances to Wetland Buffers - Article 28-4-3(d) of the Zoning Ordinance for drainage outfalls at two locations and side slopes for fill required for lot development at two other locations. The applicant proposes three drainage swales/outfalls within the required 100-foot perimeter buffer yard. Two drainage outfalls are located near Hoit Road and one outfall is located partially in the perimeter buffer on the north side of the site.

Municipal water and sewer services are not available and this area is not in any planned expansion area. Each unit will be provided with an individual well and an individual septic system. Many of the individual wells and septic systems will be either partially or

entirely in the condominium common area. None of the wells and septic systems is proposed in the open space areas.

He reported that a traffic study has been submitted which evaluates the impact of this development and the companion subdivision on the intersections of Graham Road/Hoit Road, Sanborn Road/Hoit Road, and Hoit Road/Mountain Road. The City's traffic consultant has reviewed the traffic study and concurs with the findings that the project will not have any adverse impacts on the capacity of any of the intersections. The traffic study noted a number of accidents at the intersection of Hoit Road and Mountain Road which resulted in personal injury but noted no obvious deficiencies and made no recommendations for this intersection. The Planning Division asked the City's traffic consultant to review the geometry of this intersection and advise relative to recommendations to improve safety at this intersection. The existing intersection has a warning blinker at the intersection and advance warning signs. VHB did not observe any safety deficiencies at this intersection.

Mr. Henninger reported that the Fire Department has requested that the Planning Board require residential sprinklers for homes in this development, and the applicant has noted this requirement on the subdivision plan.

He reported that the applicant has requested a waiver to allow Taft Way to be constructed with less than a 22-foot paved driveway. Taft Way is proposed as one way drive. The plans currently call for an 18-foot wide common private driveway with two-foot shoulders. The cross section of the road box will be 22 feet, which will address the requirements of the Fire Department. The City does not have a standard for a one-way common private drive. City staff is supportive of the concept and is reviewing whether the pavement can be reduced to 16 feet with 4-foot shoulders on each side.

He reported that a landscape plan which provides for substantially more than a minimum of two trees per unit as well as plantings in the wetland buffer areas has been submitted.

A divided median has been proposed for the first 150 feet of Gorham Drive at Hoit Road. An extensive landscape package has been provided along the entrance road and within the median.

He reported that the applicant proposes to construct a drainage retention basin partially within the 100-foot perimeter buffer at the end of Shelburne Lane. This buffer area is currently an open pasture, is located to discharge into Hayward Brook, and is located over 350 feet from the nearest residence. The 100-foot buffer area is maintained intact between any of the proposed units and the nearest residential houses and lots. In addition, the disturbance does not affect the entire buffer area. The Board has approved a similar disturbance for the Whispering Heights development. City staff believes the proposed disturbance is acceptable and will not adversely affect any abutting properties.

Mr. Henninger explained the applicant proposes to construct two outlet swales through the perimeter buffer near Hoit Road. Both locations are necessary to drain the property as well as for Hoit Road drainage. No clearing is required at either location, the disturbance

does not affect the entire buffer, and plantings are being proposed to strengthen the buffer. A third outlet swale involves a small area of clearing on the north side of the property located far away from any proposed residential development. City staff believes the proposed disturbances are acceptable and will not adversely affect any abutting properties.

The applicant is requesting a Conditional Use Permit for one wetland buffer disturbance of 1,196 square feet for a drainage outfall for the Hoit Road drainage swale improvements. The applicant has eliminated two other buffer disturbances and substantially reduced the impacts for the drainage outfalls. City staff is recommending approval for this disturbance for the drainage outfall since this is the only feasible location for the outfall from Hoit Road.

He reported that the applicant had reduced his requests for disturbances to the wetland buffer to 830 square feet and 5,594 square feet for the grading of the proposed development sites. The applicant has reduced the request to impacts within already cleared areas. The disturbance could be largely or entirely eliminated by reducing the number of units by one along Gorham drive. The areas of fill in the buffer are currently a grassed field.

He reported that the applicant is creating a flat development area along Gorham Drive and Spofford Lane for most of the units. Between Spofford Lane and Gorham Drive a central green is being created which is also being used for the leach field for six of the homes.

Mr. Gross asked the point of the one-way access to the development and Mr. Henninger responded that it was to provide a second means of egress and to provide the means for the 1000-foot dead end road to start at the end of the one-way access road instead of Hoit Road.

Ms. Meyer had questions regarding the number of street trees proposed per lot and Mr. Henninger responded that they had two trees per unit. He also noted that these will be private streets.

Matthew Peterson from Woodland Design was present on behalf of the applicant and explained that the one-way access road was also designed to make the view of the development from Hoit Road less invasive. They believe there will be only two homes visible from Hoit Road under this design. There will be no wetland impacts but they have also tried to minimize impacts to the wetland buffer under this design. They tried very hard to design a project that fits into the environment and to maintain the existing view.

Mr. Peterson responded to the concern expressed by the Conservation Commission relative to the rear parcel owned by Mr. Keeler and explained that the plan is to construct a single home on the parcel, possibly using the Tioga Road easement. However, they will need to get approvals from the Army Corps of Engineers and the NH Department of Environmental Services because there are wetlands near that easement.

Jennifer Parrott, 161 Hoit Road, had a question regarding the open field and whether it would be maintained as an open field. She asked if it would be prudent of her to request a view easement. She asked if the open field could be developed for more homes in the future. She was told that was not possible at this time and that the Conservation Commission would actually prefer two fewer homes in this development.

Ms. Parrott noted that the one-way access road is a real problem for her and asked if there was a way to provide a waiver to the 1000-foot road length requirement. She was told that a waiver was not likely to happen, given the Board's history of denying waivers for dead-end roads.

Ms. Parrott also indicated that she was still not comfortable with the well situation. They are proposing 30 additional wells within a few acres of her artesian well. She asked what would happen if she ran out of water or her well started to bring up sediment. She asked if there was any testing that could provide clear information that so many wells near her would be appropriate.

Mr. Peterson responded to the concerns expressed by Ms. Parrott and explained that all the open space will be set aside in a conservation easement and will stay in its natural state. Regarding the one-way access, one of the reasons they made it one-way was to minimize the impact of traffic along Hoit road. He did not expect it would be very well travelled. He explained that 85-90% of the water that they pull out of the ground for wells will go back into the ground through septic systems. This is a 111-acre site for 30 units and they have never had a problem with a development of that size impacting abutting wells.

Mr. Gross asked if there could be a vegetative buffer along the access road to provide screening for Ms. Parrott's house. Mr. Peterson responded that they have added that as part of the proposed plan already.

Mr. Gross explained that it is part of the Planning Board's responsibility to look at the impact of the project on neighbor's wells, so he asked if the applicant would be willing to discuss with Ms. Parrott an agreement to provide assurances regarding her well. Mr. Peterson responded that State regulations are becoming much stricter regarding drainage. Mr. Gross noted that Ms. Parrott has raised a legitimate concern and he hoped that they would work to resolve it before they return to the Board.

Dave Lauze, prospective developer, explained that they are currently constructing The Reserve at Stone Haven on Sanborn Road, a development similar to this and have been very successful with the thirteen wells they have drilled so far. He explained that it is hard to tell what wells are going to do and he will address the issue with the abutter.

There was no one else present who wished to speak for or against these applications and the Chair declared the hearings closed at 8:08 PM.

#### Deliberations and Action on Applications

Mr. Gross moved that the Planning Board table action on both applications to provide the opportunity for staff review of recently submitted revised plans and for the applicant to work with the owner of 161 Hoit Road to address her concerns about potential impacts to her existing well. Ms. Meyer seconded. Motion carried.

6. Application by **Judith & Emmanuel T. Brochu Jr.** for waivers to the Subdivision Regulations related to a subdivision of property located at **8 Parmenter Road.** (#2008-01)

#### Public Hearing

The Clerk pointed out that Attorney Jed Z. Callen, representing a number of the abutters, has submitted a letter of opposition to the application. Mr. Callen correctly identified a waiver request which the Board needs to address in regard to the proposed development. This is a waiver to Section 9.04(3)(d) and Table 9-2 (Sidewalks) to waive the requirement for a sidewalk on both sides of a minor street and provide a sidewalk on one side of the street.

Mr. Henninger explained that the Planning Board on May 21, 2008, granted conditional preliminary subdivision approval for a three lot major subdivision subject to a number of standard and special conditions. He reported the Board also granted waivers to the City's Concord Subdivision Regulations to Section 9.04(3) Streets, Table 9-1 to allow a maximum grade of 9.2% for an existing section of Parmenter Road to be reconstructed where a maximum of 8% is allowed, to Section 9.04(3) Streets, Figure 9-B to allow a 2:1 side slope and short retaining walls where a 3:1 side slope is required in an existing 40-foot wide right-of way, and to Section 9.03(3)(b)(i) to allow for the creation of a lot not for development purposes which does not have the useable area rectangle with a minimum 60-foot horizontal dimension. The first two waivers were supported by the limited existing right-of-way for Parmenter Road (40 feet in width) and the existing slope of Parmenter Road in excess of 9%. The subdivision was in support of a twenty five unit planned unit development which was also granted conditional approval on May 21<sup>st</sup>.

The Planning Board did not approve a requested waiver to the City's Subdivision Regulations to Section 9.04(3) Streets, Table 9-1 to allow a 26-foot wide paved traveled way where 30 feet is required. A motion to approve the waiver failed on a tie vote with those voting against the motion indicating their concern with a substandard width on Parmenter Road at North State Street becoming a bottleneck for traffic, particularly during winter conditions.

He reported that an appeal of the site plan and subdivision approvals was filed in the Merrimack County Superior Court. The applicant's attorney provided the City staff with a copy but the City had not yet been officially served as of July 9, 2008. Upon review, the appeal appears to be focused on the subdivision application and the waivers needed for the reconstruction of Parmenter Road. Based on a recent NH Supreme Court decision in regard to a Concord case, a Board's action on a subdivision application is not ripe for appeal until the Board takes a final vote; therefore it is appropriate for the Board to proceed to consider the applicant's request for waivers this evening.

He reported that the applicant has submitted a revised plan which shows a 30-foot wide pavement width for Parmenter Road except for a 170-foot section along the existing Parmenter Road which is intended to be reconstructed to a 26-foot pavement width. The applicant has requested the Planning Board consider the following waivers:

1. A waiver to Section 9.04(3)(d) and Table 9-2 (Sidewalks) relative to the requirement for a sidewalk on both sides of a minor street in order to provide a sidewalk on one side of the street.
2. A waiver request to Section 9.04(3)(f)(ii) and Table 9-1 and Figures 9A and 9B (Intersection Radius) relative to the requirement for a 30-foot radius for the curb line at the intersection of Parmenter Road at North State Street in favor of a 20-foot radius.
3. To reconsider the waiver request to Section 9.04(3) Streets, Table 9-1 to allow a 26-foot wide paved traveled way where 30 feet is required due to the restricted 40-foot right-of-way and to continue the short section of new road at the same standard where no development is located.

Mr. Henninger reported that City staff's opinion is that the proposed conceptual plan is marginally less safe than the original 26-foot road cross section. The Engineering Division has the following comment about the 'hour glass' design: "The proposed layout introduces a constriction in the road, on an 8% grade, on the outside of a curve, in advance of an intersection. As a minimum, the length of the taper should be designed per AASHTO standards ( $w_s/60$ ) with some recognition given to the above conditions through the use of longer than minimum tapers. Further, should Parmenter Road be extended to the north as a residential street, this constriction puts cyclists in conflict with vehicles as they merge with little opportunity for the operator of either vehicle to adjust their speed or path due to the proposed geometry. Regardless of the proposed width, 26' to 30', the street should be designed to one consistent width."

He reported that the Engineering Division questioned the ability to construct the 30-foot section within the existing right-of-way without impacting the abutter's property at least on a temporary basis. City staff reviewed the extra road width at North State Street for Parmenter Rd ( 30 feet in width for approximately 45 feet tapering back to 26 feet) and noted that the extra width might have a marginal impact on safety at this location.

He reported that City staff was of the opinion that a 26-foot pavement width is more than acceptable for two -way vehicular movement on a local street and would safely support bicycle movement as well. The 30-foot pavement width for minor streets in medium and high density local streets is set as a standard in order to accommodate on-street parking on one or both sides of the street. It has historically been observed that the higher the abutting residential density in conventional neighborhoods the greater the demand for on-street parking.

Mr. Henninger reported that City staff is in favor of approving the waiver to allow a continuous 26-foot pavement width on Parmenter Road. The pavement width would be wider than most of the minor streets in the nearby residential neighborhoods and would

be sufficient for the existing and future traffic volumes.

He reported that City staff is in favor of the requested waiver to install a sidewalk on only one side of the street. The relatively low volume of traffic proposed is less than 300 ADT, and the two undeveloped lots between the existing residential neighborhood and the 25-unit planned unit development support this consideration.

He reported that City staff is also supportive of the 20-foot curb radius at the intersection of North State Street and Parmenter Road. The limited right of way and the need to maintain sidewalk slopes for the handicapped ramps support the reduced radii at this intersection. A reduced curb radius is common in older sections of the community and reduced curb radii are routinely used on City street reconstruction projects in older areas due to right-of-way constraints.

Mr. Henninger also pointed out a graphic received from the applicant showing a comparison of the existing Parmenter Road with Parmenter Road with a 30-foot pavement section superimposed on the photograph.

Mr. Drypolcher felt the graphic showing the superimposed 30-foot pavement was not very helpful in considering a 26-foot pavement width. He noted that there is a telephone pole shown on the existing conditions photograph that disappears in the photo simulation.

In answer to a question by Mr. Drypolcher, Mr. Henninger indicated that if the pavement was 26 feet wide, it would be four feet farther away from the existing house on the south side of the road.

Mr. Drypolcher then asked what would happen to the north side of the road as far as the slope concerns that were expressed in earlier public hearings, and Mr. Henninger responded that the photo simulation was not a designed plan and was only intended to be conceptual in nature at this time.

Ms. Meyer asked the current width of Parmenter Road as it enters North State Street and Mr. Henninger responded it is about 15 feet.

Mr. Shurtleff asked the distance between the proposed pavement and the existing house to the south. He expressed concern about vehicles stopped at the intersection and waiting to access North State Street generating exhaust fumes toward that house.

Mr. Drypolcher asked if the three waivers previously granted would still be necessary if the Planning Board granted the 30-foot width. Mr. Henninger felt they would be.

Mr. Drypolcher asked what kind of impact there would be on Parmenter Road if the north access ever became developed. Mr. Henninger responded that there would be multiple points of access, possibly signalized, to minimize traffic onto Parmenter Road.

Ms. Meyer was of the opinion that reducing the paving to 26 feet would slow traffic and make it a little safer.

Attorney Richard Uchida from Orr & Reno and Michael Garrepy from Parmenter Realty Investments were present on behalf of the applicants.

Mr. Uchida explained that the photo simulation was intended to give the Board a sense of what the new pavement would look like and not to provide it as a designed plan. He explained that the utility line is planned to be relocated and its proposed location is shown on the plans previously submitted.

He explained they are seeking three waivers this evening. They are here to see if the Planning Board is willing to grant these waivers. There are no fully engineered plans at this time but, should the Board indicate a willingness to grant the waivers, they would then develop and submit fully engineered plans based on the Board's wishes.

He indicated that there was an earlier question as to whether the waivers are even needed for this project since this is an existing public street. He explained that the three waiver requests deal with the upgrade and improvement of the Parmenter Road right-of-way. For the most part the requests deal with design issues that do not lie within the project site. This is significant because a careful reading of the applicable subdivision regulations indicates that they pertain to the required design standards for roads within a subdivision and not to roads outside the subdivision. The standards from which the waivers are sought may be inapplicable. This submittal assumes that the road design standards in the regulations do apply to existing streets. The City's Subdivision Regulations state that in granting waivers the Planning Board must find that there are extraordinary hardships or practical difficulties and/or the purposes of these regulations may be served to a greater extent by an alternative proposal. In determining hardship, New Hampshire law requires an examination of the reasonableness of a proposal in light of the unique setting of the land, the reasonableness of adhering to the strict letter of the law, and the benefit/harm to the public or private interests. It must also find that "substantial justice is done and the public interest secured" and that the waivers do not have the effect of nullifying the intent of or purpose of the Subdivision Regulations.

He also noted that they are now a medium density project in a high density zoning district.

Mr. Uchida noted that the Planning Board had granted preliminary subdivision approval but denied a waiver permitting the establishment of a 26-foot wide pavement width in spite of testimony by the City's Acting Fire Chief that he believed the 26-foot roadway width would not cause a safety problem. Both the City Engineering and Planning staffs also noted that they felt the proposed pavement width and sidewalk waivers were justified and adequate given the physical constraints of the Parmenter Road right-of-way and the vast improvement over current conditions.

He reported they had talked with the abutter's attorney about acquiring additional right-of-way and have been told they are not interested. He also acknowledged that there is not much land available to give.

He reported that in the new design a pavement width of thirty feet has been maintained wherever possible so that, except for portions of a 170-foot stretch of the existing road, a pavement width of thirty feet will be constructed for Parmenter Road. This is in contrast to the existing pavement width of approximately 15 feet. At the throat of Parmenter Road and in the approach to the project, which were particular areas of concern identified by some Board members in terms of emergency vehicle access, a thirty-foot pavement width will be established. He explained that the 170-foot length of road where a thirty-foot pavement width is not proposed will contain a minimum of 26 feet of pavement because of the topography of the area, most notably the slopes and the lack of willingness on the part of neighbors to provide land for slope and embankment easements. He also noted that even within the 170-foot stretch there are tapers which widen the pavement back to thirty feet. There are also two existing driveway throats within that stretch which will widen the pavement to over thirty feet. Thus, when the adjacent five-foot sidewalk panel is considered, there are ample areas for emergency and other vehicular traffic to pass, even if some impediment should occur on the street.

Mr. Uchida reported that, because the City has only forty feet of right-of-way within which to create a paved road rather than the traditional fifty feet, the applicant has requested a waiver to construct a sidewalk on only one side of the street. The applicant has also requested a waiver to hold a twenty foot radius on the curb line at the North State Street intersection with Parmenter Road to accommodate the wider roadway at the entrance to Parmenter Road.

He reported that the waiver will result in a better roadway than the existing Parmenter Road design provides and there will be a sidewalk where none exists today. The width of the paved surface will be twice as wide in most places as the existing width, helping to provide accessibility to the properties along the street. Because access to existing properties will be enhanced by a roadway that is wider than the existing roadway, no injury to other property as a result of the widened pavement width is expected.

He indicated that the creation of a sidewalk on only one side of the street represents a substantial upgrade over a fifteen-foot paved street with no sidewalks at all. It also makes sense, given the grades in the area and the width of the existing Parmenter Road, to keep pedestrian traffic to one side of the street. The reduction of the radius at the intersection from a thirty-foot to a twenty-foot radius simply creates a shallower but wider roadway mouth at the intersection in order to address concerns about pavement width at the intersection. He also noted that the Subdivision Regulations allow the Planning Board to vary the radius based on a recommendation by the Director of Public Works.

He felt that, to the extent that the neighborhood is more accessible and certain illegal parking spaces and driveways are eliminated, the waivers will not be injurious to other property.

Mr. Uchida then addressed the requirement that the conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and not applicable generally to other property. He felt this goes to the issue of hardship. In this case the property which the waivers affect is the Parmenter Road right-of-way. The property is unique in that the existing right-of-way and the existing pavement width are smaller than most in the city. It is also a short, dead-end street, established before the current City standards were created. The road has existing homes on it, many of which sit reasonably close to the travelled way, as well as existing driveways. The proximity of the homes to the right-of-way makes it impossible for the applicant to build a standard road. Some of the City's design requirements could be accommodated if these homes and driveways were not placed close to the travelled way. All of these features create a unique property setting in this instance.

He reported that hardships would occur to not only the applicant but also to abutting property owners and to users of Parmenter Road if strict enforcement of the Regulations were to occur. If the Board were to require sidewalks on both sides of the street and a thirty-foot wide paved street for the entire Parmenter Road, the design could not be accommodated since the right-of-way is only forty feet wide and no additional land is available to widen that right-of-way. Given the existing conditions, it made sense to provide a safe means of pedestrian access through the creation of a sidewalk on one side of the street and to create thirty feet of pavement where possible. Strict enforcement of the road standards would create numerous problems for homes and existing driveways on the current right-of-way for Parmenter Road. Without the needed right-of-way width for which the standards were designed, it is impossible to improve the entire Parmenter Road to City road specifications as set forth in the Subdivision Regulations. Thus, the waiver requests were not made for mere convenience but are driven by the limitations in and around the property on which a City street can be improved.

Mr. Uchida also responded to the communication from Attorney Jed Callen on behalf of some of the abutters to this development. In particular, he discussed the claim that there is evidence that the location of the existing portion of Parmenter Road on the applicant's plans is incorrect and that the entire right-of-way should be shifted five to seven feet to the south of its current location on the plans. Mr. Uchida referred to a memorandum written by the City's surveyor in August of 2002 addressing that concern. That communication described the surveyor's research in detail and resulted in the surveyor's belief that the road would be as indicated in the layout of the road in 1892. Mr. Uchida also indicated he had conferred with David Collier of Richard D. Bartlett & Associates, and Timothy Bernier of TF Bernier, Inc., who had been retained by the abutters, and they also agreed with the City's surveyor.

Mr. Gross felt that there were two different standards that the Planning Board needed to consider, those that apply to the existing Parmenter Road and those that apply to the new portion of Parmenter Road.

Attorney Jed Callen from Baldwin & Callen was present on behalf of Andrew Chapman, Steve Frost, Daniel Afflick, and Nicole Fortune, all abutters to the proposed development. He reminded the Board that site plan approval was granted in May and the requests for

waivers now under consideration relate to the subdivision application. From his perspective, the existing waivers are not in effect and what is before the Planning Board tonight is subdivision approval with some waiver requests along with other waivers that are needed and have not been requested. Those waivers that have not been requested cannot be granted because abutters have not received proper notification. He felt the Board cannot approve the application this evening without waivers that the applicant has not requested.

He reported it was his opinion that the applicants have misconstrued the legal standard for waivers and have failed to meet the required criteria. The Planning Board should not grant site plan or subdivision approval because the applicants have failed to request waivers from several of the required standards contained in the City's Subdivision Regulations. In addition, he felt that the waivers previously granted to the applicants should no longer be considered as valid. The applicants have materially altered their plan and the waivers previously granted by the Planning Board are null and void and have no legal bearing on the current revised plan. He urged the Board to acknowledge that the waivers previously issued were void and further asked the Board to refrain from considering any waiver requests that have not been specifically made in writing in conjunction with the revised plan currently under consideration.

He noted that the applicant's proposal for Parmenter Road within the development does not comply with the required right-of-way width as it provides a width of only about 40 feet along the first 50 feet of the extension of Parmenter Road. The applicants have not requested nor should they be granted a waiver from the right-of-way width requirement in the Subdivision Regulations. The proposal for Parmenter Road within the development does not comply with the required traveled way width requirement. The applicant's waiver request is for the existing 170-foot portion of Parmenter Road and does not include the proposed extension of Parmenter Road onto the development site. He felt the applicant's proposal is illegal and for that reason alone the Planning Board should not grant site plan or subdivision approval.

Mr. Callen noted that much of the applicant's rationale for their request for a waiver to allow a sidewalk on only one side of Parmenter Road focuses on the existing section of Parmenter Road and they do not address why they require a waiver from the sidewalk requirements as applied to their own property and the extension of Parmenter Road. The justifications offered for the sidewalk waiver for the existing portion of Parmenter Road are inapplicable to the extension because the limitations faced on the existing portion of the street are not present on the development property. The extension of Parmenter Road in the development would be a new street and should meet the Board's standards which include a sidewalk on both sides. The applicant's proposal does not offer a satisfactory explanation for why a waiver is required on their own property and there is ample room on their property to construct a road in compliance with the Regulations. Therefore, he felt the Planning Board should deny the waiver request.

He reported that the applicants have misconstrued the legal standard for granting a waiver. The Planning Board cannot grant the waivers for the reduced travel way width and the sidewalk on only one side of Parmenter Road merely because the proposal is

better than what presently exists. In order to qualify for a waiver, the applicant must meet the criteria when comparing the proposed development to the legal standards expressed in the Regulations rather than what presently exists. If the Board followed the applicant's argument, then the standards would be reduced to aspirational goals rather than legal standards to protect the public health, safety and welfare of the City's residents. No development would ever have to meet the standards if the Board granted waivers based on substandard proposals being better than existing conditions. He felt this was contrary to what the Subdivision Regulations are meant to ensure, namely that developments meet legal standards or their functional equivalent and do not create a danger to public health, safety and welfare.

Mr. Callen urged the Board to apply the correct legal standard and deny the waiver requests. He indicated that, while the revised plan may provide more room than what exists, it cannot provide the same amount of room that the Regulations intended to provide, nor does it alleviate the legitimate safety concerns of the residents of Parmenter Road. If the location of the obstacles in the street does not coincide with the location of the driveway throats or the sidewalk, then the 26-foot width poses a real danger to current residents and traffic travelling on Parmenter Road. In addition, there are four residential properties that have driveway access within the existing Parmenter Road that would have the 26-foot traveled way width. Granting the waiver would still create a bottleneck and pose a danger to traffic entering and exiting these residences due to the narrowness of the road. The absence of a sidewalk along the southerly right-of-way also poses a danger to area residents and traffic as pedestrians are forced to cross the street to travel safely on foot.

He also noted that the applicant's revised plans do not provide for a planting strip nor are the required street trees represented. They have not requested, nor should the Planning Board grant, a waiver from the planting strip and street tree requirement.

Mr. Callen further noted that the Planning Board had previously granted a waiver to allow a grade of 9.2%. He felt this waiver is now null and void and has no legal affect upon the current revised application. He felt the Board should never have granted this waiver in the first place due to the unsafe conditions such a substantial increase in grade would create. This application will add 25 residential units to the five residential properties currently served by Parmenter Road. The Planning Board has required the applicant to include a north and south connector stub so that even more residences may be served by this steep road in the future. The increase in traffic and steep grade requested by the applicant present unsafe conditions to those traveling on Parmenter Road, living adjacent to it, or passing on North State Street. If the Board chooses to consider such a waiver request for the revised application, he urged the Board to deny the request.

He then brought up the subject of the location of the existing portion of Parmenter Road and indicated that there is evidence the location shown on the applicant's plans is incorrect. He felt the entire 40-foot right-of-way should be shifted 5-7 feet to the south of its current location as shown on the applicant's plans at the boundary with Parmenter Road. This shift results in a reduction of the possible right-of-way and traveled way

width distances that they can achieve at their property boundary with the existing Parmenter Road. The applicant's proposed right-of-way and traveled way width distances may therefore be more non-conforming than is presently shown on the revised plans. For this reason the Planning Board should not grant site plan or subdivision approval.

Mr. Callen suggested that this is an attempt to fit too much on too small a road. This all comes down to the fact that this is an existing 40-foot right-of-way with an 18-foot road which does not comply with City regulations and is steeper than the City's standards. Putting that all together creates a road that is not safe when 25 units are added to the neighborhood.

Mr. Drypolcher asked Mr. Callen what expertise he had based his arguments on and Mr. Callen responded it was the observation and experience of his clients living on this road. The combination of steepness coming down to a busy intersection with North State Street and the addition of traffic from 25 homes will make this neighborhood less safe and the City's regulations were established for good reason.

Mr. Drypolcher asked for the citations from the Zoning Ordinance regulating the standards and the waivers needed. Mr. Callen did not have them at hand but indicated he would provide those if the Board recesses this hearing to a later date.

Mr. Gross asked Mr. Callen what his clients want. He reported he had been under the impression that the abutters were not interested in the development being constructed but now Mr. Callen is raising points relative to the details of approving the project. Mr. Callen responded that he had been hired to be certain that the Planning Board has followed all the requirements of its Regulations. He did not know the motivations of his four clients.

Mr. Gross expressed some confusion about some of the arguments Mr. Callen had made. Mr. Callen responded that his clients would prefer the peace, serenity, and lack of traffic they currently enjoy and if the applicant cannot engineer and legally provide a plan that accommodates that, then the Planning Board must deny it.

Steve Frost, a direct abutter, indicated they are not opposed to a reasonable development on that property. However, he saw no change to the plan they came in with. It is still a 26-foot road that the Planning Board has already denied. They have not done anything new.

Albert F. Raine III, 28 Roger Avenue, felt that the photo simulation was an intentional misrepresentation by the applicant to mislead the Planning Board. He also reminded the Board of the bad weather we can get at times, particularly in the winter. Whether this is a 26-foot or 30-foot wide road, the neighborhood can probably not depend on the sidewalk being clear in the winter. Children walking to school will have to share the roadway with vehicles and that is a significant safety issue that the Board should consider.

The Chair indicated arguments had been made by both attorneys that he felt needed to be sorted out by staff.

Mr. Gross agreed and indicated that he would like guidance from the professional staff regarding what is before the Board, what should be before the Board, and exactly what actions the Planning Board should be taking.

Mr. Woodward reminded the Planning Board of its prior actions on the applications. He noted that in May, the Board had granted conditional approval of the site plan and preliminary approval of the subdivision along with a number of waivers. The Board has not revoked any of those decisions and therefore they stand as the official actions of the Board. In granting a preliminary approval to the subdivision while denying one of the requested waivers, some modification of the plans was anticipated in order to present a plan for final approval. This is substantially the same subdivision plan and application; the applicant is now seeking additional waivers prior to seeking final approval. Nothing in the current request for waivers affects the conditional site plan approval, and that is final and open to appeal. However, based on the decision of the NH Supreme Court in the on-going Juniper Fells litigation, the subdivision approval is not ripe for appeal until the Board takes final action.

Mr. Woodward noted he agreed with Attorney Uchida that the Subdivision Regulations do not appear to require waivers in conjunction with off-site improvements. He also noted he agreed with Attorney Callen that there are additional waivers necessitated by the proposed plans that have not been requested. He suggested that the Board table action to allow the applicant to either present a conforming plan or the necessary requests for waivers.

Mr. Uchida explained that the waiver requests related to the subdivision application and the subdivision has been given preliminary approval. They are now working toward preparing plans for final approval and are now requesting further waivers. He indicated they can provide the 50-foot right-of-way on their property but it did not make sense to pave in the configuration that it would allow. He also explained they had tried to take into account the early request of Mr. Frost to stay as far away from his property as possible so they have pushed as much of the improvements as possible to the opposite side of the road.

Mr. Gross suggested that Mr. Uchida clarify in writing all the things they want the Planning Board to do. Mr. Uchida agreed to submit that to staff.

There was no one else present who wished to speak for or against this application and the Chair declared the hearing closed at 10:05 PM.

The Chair asked for a sense of the Board regarding the width of the road 26 feet versus 30 feet.

Mr. Gross suggested requesting that the applicant provide the Planning Board with fully descriptive requests for everything that they would like from the Board in order to go

forward with final subdivision approval. When that is before the Board, there should be an opportunity for the public to comment on what is there to the extent they have not commented on it before. If there are any requests for new waivers, they should be posted for public hearing.

Mr. Gross moved that the Planning Board table consideration of the proposed waivers and ask the applicant to clarify the subdivision plan for which approval is sought and, where waivers are requested, that each waiver be complete, accurate and supported by appropriate justification. He further moved that prior waivers and any new waivers be submitted as a complete package and staff review and provide comments on each waiver request prior to the Board considering any additional waivers. Any revised waiver requests, when received, will be advertised for a new public hearing with appropriate abutter notices. Mr. Shurtleff seconded. Motion carried.

#### Minor Site Plans

7. Application by **125 North State Street LLC** for approval of a site plan for property at **125 North State Street**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(b), Construction of Fewer Parking Spaces, of the Zoning Ordinance. (#2008-29) (ref. #2007-55)

#### Determination of Completeness

Mr. Woodward explained this proposal to construct a new addition for a conference room, as well as a small vestibule to provide for a handicapped lift.

He reported this application was complete and ready for public hearing.

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

#### Public Hearing

Mr. Woodward explained that in June of 2007, the Planning Board granted site plan approval for the re-use of an existing building that had previously been converted to office use through a series of use variances, and to convert the garage and basement of the existing building to office use, for which a variance had also been granted. The Board also voted to grant a Conditional Use Permit (CUP) pursuant to Section 28-7-11(b), Construction of Fewer Parking Spaces, of the Zoning Ordinance for the provision of 24 parking spaces for the proposed use of the building as a single tenant office where 37 spaces are otherwise required, subject to construction of the full requirement of 37 parking spaces upon determination of the Code Administrator that the actual parking demand for the use of the site has exceeded the number of existing spaces and that the additional spaces are necessary to support the use of the building. It was further stipulated by vote of the Board that this CUP shall expire upon the sale or lease of the premises to any party other than Brazilian Resources, Inc.

He reported that site improvements have not been completed on this project and, during this past winter, the garage collapsed. The applicant now wishes to construct a new addition for a conference room as well as a small vestibule to provide for a handicapped lift. The current exterior handicapped ramp will then be removed. The applicant also proposes to amend the Conditional Use Permit as 39 spaces will now be required, and they propose to provide 29 of the 39 spaces in the short term while providing a plan for up to 45 total parking spaces that could be constructed in the future if it becomes necessary.

He reported that reciprocal rights of passage and rights for use of overflow parking exist between this property and the adjacent St. Peter's Church; however, the parking rights are not sufficient to alleviate the need for the requested CUP. Mr. Woodward reported that the Design Review Committee had reviewed the site and building plans and recommended approval of the building additions as well as the site plan and CUP future parking plan, subject to the submittal of a landscape plan for the Committee's consideration.

He reported that since the Planning Board's last action, the City Council has authorized the construction of a roundabout at Franklin and North State Streets which has resulted in a taking of some land from this parcel. The taking has not affected either the building or parking lot.

He reported that since 1980, the Zoning Board of Adjustment has granted a number of variances to establish an office use in the former residential structure at 125 North State Street as well as to expand such use over the years. The ZBA also allowed for some of the parking to be accommodated by shared parking arrangements with the adjacent St. Peter's Church. On June 11, 2008, the ZBA granted a request for a variance to permit expansion of an office use into a proposed new addition for a 700 square foot conference room. The applicant noted that the existing garage that was originally going to be converted to a conference room collapsed this past winter due to snow load and has been removed.

He reported that the refuse container has yet to be relocated in accordance with the previously approved plans, and the parking lot landscaped island has yet to be constructed in accordance with the previously approved plans.

Mr. Gross asked for clarification of the proposed condition relative to the expiration of the Conditional Use Permit at the time of sale of the property. He was told that the CUP would expire upon the sale of the property, at which time a new owner would have to either construct the additional parking spaces as approved by the Planning Board with this application or apply for recertification of the Conditional Use Permit.

Richard Uchida was present on behalf of the applicant and explained that the history of the condition of the Conditional Use Permit is that there is an easement allowing overflow parking on abutting property which would also expire with the sale of the property.

Jonathan Halle from Warrenstreet Architects and David Collier from Richard D. Bartlett & Associates were also present to answer questions from the Board. There was no one else

present who wished to speak for or against this application and the Chair declared the hearing closed at 10:35 PM.

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

Mr. Shurtleff moved that the Planning Board grant Architectural Design Review approval for the building additions consisting of a new conference room and a vestibule for a handicapped lift, for the site plan, and for the Conditional Use Permit future parking plan, subject to the submittal of a landscape plan and approval of the same by the Design Review Committee. Ms. Meyer seconded. Motion carried.

Ms. Meyer moved that the Planning Board grant a Conditional Use Permit pursuant to Section 28-7-11(b), Construction of Fewer Parking Spaces, of the Concord Zoning Ordinance for the provision of 29 parking spaces for the proposed use of the building as a single tenant office where 39 spaces are otherwise required, and accept the proposed plan for providing the full requirement of 39 parking spaces (with 45 being shown) subject to the full complement of parking being constructed upon determination of the Code Administrator that the actual parking demand has exceeded the number of existing spaces and that the additional spaces are necessary to support the use of the building; and that the CUP shall expire upon the sale or lease of the premises to any party other than Brazilian Resources, Inc. Mr. Gross seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional minor site plan approval subject to the following conditions:

1. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the site plan to address minor corrections and omissions noted by City staff.
2. Traffic impact fees shall be assessed for the additional 3,172 square feet of single tenant office space as contained within this 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

Ms. Dolcino seconded. Motion carried.

8. Application by **Child and Family Services Realty Corporation** for approval of a site plan for property at **125 River Road and 210 Bog Road**. Along with this application is

a request for a Conditional Use Permit pursuant to Section 28-2-4(j), Table of Principal Uses, C-7, Campgrounds and Youth Camps, of the Zoning Ordinance. (#2008-37) (ref. 1997-59)

#### Determination of Completeness

Ms. Woodward explained this proposal to construct a 3,200 square foot pavilion and an 822 square-foot bathhouse at Camp Spaulding.

He reported this application was complete and ready for public hearing.

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

#### Public Hearing

Mr. Woodward explained this proposal to construct a 3,200 square foot pavilion and an 822 square-foot bathhouse at Camp Spaulding. The camp has been located on two parcels, one at 125 River Road and the other at 210 Bog Road, which were joined by a voluntary merger recorded on June 30, 2008. A Conditional Use Permit is also being requested under Section 28-2-4(j), Table of Principal Uses, C-7, Campgrounds and Youth Camps, of the Zoning Ordinance, to expand the existing youth camp. The application also includes a new well and septic system with new water distribution system and sanitary waste collection system for the older, northerly portion of Camp Spaulding.

He reported that the Planning Board approved a site plan in December of 1997 for the expansion of Camp Spaulding onto the Bog Road property. This action was taken under the former Zoning Ordinance which did not allow youth camps, and the applicants were granted variances by the Zoning Board of Adjustment at that time. Also at that time, as part of a commitment to abutting property owners, a two-hundred foot "no clear cut, no development buffer strip" was provided along the westerly side of the Bog Road parcel adjacent to the abutting properties facing River Road.

He reported that there are two existing wells on the property. One is to be abandoned and filled in, while a new one is proposed. A water distribution system is proposed from the new well to serve all existing facilities in the older, northerly portion of Camp Spaulding as well as to serve the proposed bathhouse which is to be located within that area. There are two existing septic systems. One is to be abandoned and the leach field removed, while a new one is proposed. A new sanitary waste collection system is proposed to serve all existing facilities in the older, northerly portion of Camp Spaulding as well as to serve the proposed bathhouse which is to be located within that area.

He reported that the new well is proposed to be located in the 200-foot setback that was agreed to between Child and Family Services and the neighboring property owners in 1997. The extent of removal of vegetation for the well, water line, and electrical conduit, as well as for an access way for drilling equipment has not been noted on the plans as to where it will impinge upon the 200-foot buffer. The applicant has indicated that they

have adjusted the location of the well to minimize disturbance. However, specific large trees that will be removed in this area should be designated on the plan.

He reported that a widened and improved gravel access way for emergency purposes is proposed from the loop at the end of the current gravel drive from Bog Road to reach the proposed pavilion site.

Mr. Woodward reported that the Design Review Committee reviewed the proposed site and building plans and found the plans to be acceptable as submitted.

With regard to the proposed pavilion, he reported that the applicant had indicated that the proposed halide fixtures would not hang below the edge of the roof line of the pavilion building so that the light fixtures themselves will not be directly visible to someone outside of the building. The landscaping plan was revised to indicate that some additional larger trees would be relocated or added to the west side of the pavilion to shield the glow of the halide fixtures from the neighbors to the west. A new plan was submitted this evening to indicate that westerly gable end of the pavilion was to be enclosed, providing additional shielding from glare to the abutters.

He reported that the Fire Department has indicated a need for review of the usage of the pavilion pursuant to Building, Fire, and Life Safety Codes.

Chris Adams from Nobis Engineering and Ed Orłowski from Child and Family Services were present to answer questions from the Board. Mr. Adams reported that they are working with the Fire Department to address their concerns regarding the pavilion walls.

Leon Lafreniere, abutter on River Road, spoke in support of the applicant's efforts. He indicated they do a wonderful job and are wonderful neighbors. However, there were some things that were of concern to him. He reported that the 1997 improvements were undertaken with certain agreements and understandings with the abutters that they have relied on over the years. The current proposal conflicts with some of those agreements.

He reported the well is proposed to be constructed within the 200 foot buffer area. He is not concerned about the operation of the well but with what will happen in the drilling of the well. He felt it would be appropriate to identify the limits of cutting for the well and to apply restraints to maintain those limits during the construction of the well.

Mr. Lafreniere reported that he will be looking up at the pavilion through the woods from his property so he felt some care is warranted in the lighting design. The applicants have indicated to him that they will keep his concerns in mind regarding spillage of the lighting.

He also hoped that there would be a renewal of the prior commitment made that there would be no outside public address system, music or other noise that will be disruptive to the abutters. He has spoken with the applicant in this regard and they were reluctant to adopt that agreement. Mr. Lafreniere felt that was a critical issue for the neighborhood.

Mr. Adams responded that they have located the well in an area that is devoid of trees and they are not opposed to marking trees that might have to be taken down for construction. Also, they have reduced the number of lighting fixtures from six to four and are also amenable to researching other types of lighting for the pavilion.

Mr. Orłowski indicated they would be willing to work with the abutters to work out something regarding the concern about noise. He reported that it is their intent to use this building primarily for sports and theatre productions.

There was no one else present who wished to speak for or against this application and the Chair declared the hearing closed at 11:03 PM.

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

Mr. Gross asked if Mr. Lafreniere has seen the plan showing the well location and he responded that he has. The only thing that has not been defined is identification of how much cutting will have to take place for construction of the well.

Ms. Meyer moved that the Planning Board grant a Conditional Use Permit pursuant to Section 28-2-4(j), Table of Principal Uses, C-7, Campgrounds and Youth Camps, of the Zoning Ordinance, to expand the existing youth camp subject to the following condition:

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. NHDES Subsurface Disposal Permit, and
  - b. NHDES Transient/Non-community Water Supply Permit.

Mr. Gross seconded. Motion carried.

Ms. Meyer moved that the Planning Board grant Architectural Design Review approval for the pavilion as amended with the enclosed gable, and the bathhouse as well as the related site and landscaping improvements as submitted. . Mr. Gross seconded. Motion carried.

Mr. Gross moved that the Planning Board grant Conditional Site Plan Approval to expand the existing youth camp subject to the following 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 plat drawings to address the minor corrections and omissions noted by City staff.

2. Prior to the issuance of a Certificate of Occupancy, the applicant shall establish standards for usage of the pavilion to the satisfaction of the Life Safety Officer.
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 plans to indicate the extent of cutting within the 200-foot buffer in order to accommodate the new well, and shall review the same with the owners of the properties along River Road abutting Camp Spaulding to the west.

Ms. Meyer seconded. Motion carried.

9. Applications by **Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints** for approval of a site plan of property at **90 Clinton Street.** (#2008-25)

The Chair reminded the Board and members of the audience that the applicant requested postponement of consideration of this matter.

#### Major Site Plan

12. Application by **Concord-Merrimack County SPCA** for approval of a site plan for property at **3 Silk Farm Road.** (#2008-35)

#### Determination of Completeness

Mr. Henninger explained this proposal to construct a new two-story animal shelter at the corner of Silk Farm Road and Clinton Street on a lot to be subdivided from the Audubon Society of New Hampshire.

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

Mr. Shurtleff moved that the Planning Board determine this application to be complete and schedule a public hearing for August 20, 1008. Ms. Dolcino seconded. Motion carried.

#### Minor Site Plans

10. Application by **the Friends of Concord Crew** for approval of a site plan for property at **15 Loudon Road.** Along with this application are requests for Conditional Use Permits pursuant Section 28-2-4(k), Table of Accessory Uses, C-3, Dock or Pier; Section 28-3-2(e), Conditional Use Permit Required for Encroachments in the Floodway and the F2 District; and Section 28-3-3(f), Conditional Use Permit Required for Disturbance of Buffers in the SP District, of the Zoning Ordinance. (#2008-36)

#### Determination of Completeness

Ms. Hebert explained this proposal for the installation of a dock, gangway, and boathouse at the Kiwanis Waterfront Park. The improvement will be located adjacent to the skateboard park and the outdoor fire training facility.

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

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

### Public Hearing

Ms. Hebert explained that the applicant is seeking approval of a site plan as well as three Conditional Use Permits under terms of Article 28-2-4(k) & (j), Table of Accessory Uses C-3, Dock or Pier & Table of Principal Uses C-5, Construction of a Privately Owned Recreational Facility in the Open Space Residential District; Article 28-3-2(e), Conditional Use Permit Required for Encroachments in the Floodway and the F2 District; and Article 28-3-3(f), Conditional Use Permit Required for Disturbance of Buffers in the SP District, and Article 28-3-3(i), Additional Requirements for Applications and Permits in the SP District, of the Zoning Ordinance for the installation of a dock, gangway, and boathouse at the Kiwanis Waterfront Park. The improvement will be located adjacent to the skateboard park and the outdoor fire training facility.

She reported that the proposed boathouse will be 3,200 square feet with room for a future 1,920 square foot expansion. The building will be a barn-like structure designed to withstand flooding. During periods of high water the doors on either side of the building can be opened to allow water to flow through the structure. There will also be a 2½" gap between the foundation and the walls to allow water to flow under the building. The dock is a floating aluminum type, 10' x 60' in size with a future 30-foot section for expansion. The dock will be accessed by aluminum gangways attached to the shoreline. The proposed location for the dock along the river was previously used a dump and contains a deteriorating granite block retaining wall. The proposal involves reconstructing the retaining wall and stabilizing the embankment with stone. If vegetation needs to be removed, the plan provides for the revegetation of the embankment with native shrubs. The boathouse will be accessed from an existing paved area and the plan provides for the addition of a small area of pavement to connect the new building to the existing pavement.

She reported that the Conservation Commission had discussed this project and did not have any objections to the proposed Conditional Use Permits.

Ms. Hebert reported that the boathouse will have a vertical rough cut board and batten siding painted gray, and the roof will be a red standing seam metal roof. The Architectural Design Review Committee reviewed the proposed boathouse and recommended approval of the design as submitted with the suggestion that the trim around the windows be red.

She reported that the City granted a lease to the Friends of Concord Crew for the construction and operation of the private recreational facility on City-owned property. The City's lease agreement contains a requirement that the Friends of Concord Crew will verify with the Governor's Commission on Disability that the Riverfront Park meets ADA requirements in regards to the construction of the boathouse and dock. The applicant should submit a letter stating that the proposed improvements at the park are in compliance with ADA.

She reported that the survey indicates that the eastern boundary of the property is approximate. This boundary line should be located by a surveyor prior to the issuance of a building permit to ensure that the building is not located within the 25 foot setback.

Warren Billings, president of the Friends of Concord Crew, was present on behalf of the applicant to answer questions from the Board.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 11:26 PM.

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

Ms. Foss moved that the Planning Board grant the Conditional Use Permit pursuant to Article 28-2-4(k) & (v), Table of Accessory Uses, C-3, Dock or Pier, and C-5, Construction of a Privately Owned Recreational Facility in the Open Space Residential District of the Concord Zoning Ordinance to allow for the installation of a boathouse, dock and gangway at the Kiwanis Riverfront Park. Mr. Gross seconded. Motion carried.

Mr. Gross moved that the Planning Board grant the Conditional Use Permit pursuant to Article 28-3-2(e), Conditional Use Permit Required for Encroachments in the Floodway and the F2 District, of the Concord Zoning Ordinance for the installation of a boathouse, dock and gangway that are located within the floodway portion of the Flood Hazard (FH) District of the Merrimack River. Ms. Meyer seconded. Motion carried.

Mr. Gross moved that the Planning Board grant the Conditional Use Permit pursuant to Sections 28-3-3(f), Conditional Use Permit Required for Disturbance of Buffers in the SP District, and 28-3-3(i), Additional Requirements for Applications and Permits in the SP District, of the Concord Zoning Ordinance for the installation of a boathouse, dock and gangway that are located within the Shoreland Protection (SP) District. Ms. Meyer seconded. Motion carried.

Ms. Meyer moved that the Planning Board grant Architectural Design Review approval for the site and landscaping plans, and building design for the Friends of Concord Crew boathouse and dock at the Riverfront Park as submitted by Goldē Planning and Design Inc. Mr. Gross seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional site plan approval for the Friends of Concord Crew boathouse and dock at the Riverfront Park as submitted by Goldē Planning and Design Inc. subject to the following standards and special conditions:

1. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the site plan drawings to address the minor corrections and omissions noted by City staff.
2. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approval shall be obtained for the construction drawings and specifications for all public & private improvements from the Engineering & Planning Divisions. No construction activity may commence prior to the preconstruction conference.
3. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following State and federal permits shall be obtained and copies provided to the Planning Division:
  - a. NHDES Shoreland Protection Permit
4. Prior to the construction of the dock and improvements within the NHDES jurisdictional area along the river, the following State permits shall be obtained and copies provided to the Planning Division:
  - a. NH Wetlands Bureau Dredge and Fill Permit (wetland alterations)
5. Prior to the issuance of a certificate of approval (and issuance of any building permits for construction activity on the site), the applicant shall provide supporting documentation to the Planning Division that details how the design of the boathouse has been designed to allow water to flow through the building. The Code Division will also need to review and approve the anchoring mechanism that will secure the building to the ground.
6. Prior to the issuance of a certificate of approval (and issuance of any building permits for construction activity on the site), the Friends of Concord Crew will verify with the Governor's Commission on Disability that the Riverfront Park meets ADA requirements.
7. Prior to the issuance of a certificate of approval (and issuance of any building permits for construction activity on the site), the Friends of Concord Crew shall submit a financial guarantee to ensure that if the work is stopped prior to completion of the project the City can restore and stabilize the site.

Ms. Meyer seconded. Motion carried.

11. Application by **Jennifer and Shawn Young** for approval of Conditional Use Permits for property located at **26 Rosewood Drive**, pursuant to Section 28-4-3(d) Disturbance to a Wetland Buffer, and Section 28-3-3(f), Disturbances of a Buffer in a Shoreland Protection District, of the Zoning Ordinance. (#2008-32)

#### Determination of Completeness

Ms. Hebert explained this request for a Conditional Use Permit for encroachments into the wetland buffer associated with Hoyt Brook.

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

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

#### Public Hearing

Ms. Hebert explained this request for a Conditional Use Permit for encroachments into the wetland buffer associated with Hoyt Brook. The existing house, driveway, shed, and deck were constructed partially within the 50-foot wetland buffer setback. The violations were discovered while the owners were trying to sell their house and they are now seeking approvals after the fact to bring the property into compliance with the City's land use regulations. She reported that a conservation easement also encumbers the property; a corner of the deck, along with a small portion of the shed and the driveway, also encroach into the conservation easement.

She reported that the Conservation Commission discussed the encroachment into the conservation easement and recommended that the shed be removed from the easement area, but the corner of the deck and driveway remain provided the owners clearly mark the limits of the conservation easement on their property and the adjacent parcels and provide additional plantings to restore the area impacted by the shed.

Jennifer Young was present as applicant and asked what she was expected to do about the shed. She indicated there was no other level area in the back yard for the shed. Ms. Hebert responded with some suggestions for relocation of the shed.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 11:38 PM.

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

Ms. Meyer moved that the Planning Board grant the Conditional Use Permit to allow the portions of the existing driveway, deck, and house to encroach into the wetland buffer as shown on the plot plan prepared by T.F. Bernier, Inc. subject to the following conditions:

1. The shed shall be relocated outside of the wetland buffer and the impacted area shall be replanted with four native shrubs to restore the vegetation within the buffer.
2. The applicant shall clearly mark the limits of the conservation easement on their property and the adjacent parcels, including lot P025/1/95, P025/1/96, P025/1/90, & P025/1/91.

Mr. Shurtleff seconded. Motion carried.

### Architectural Design Review

13. 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.

- **APP Advantage Plastic Products, Inc.** at 38 Henniker Street
- **Pool B. Partners Inc.** at 4 Chenell Drive
- **Vianor** at 63 Hall Street
- **Vintner's Cellar Winery** at 133 Loudon Road
- The following commercial tenants at **204 Fisherville Road**:
  - **Cooper Tires**
  - **First Impressions Custom Cars**
  - **All Tune Motor Lube**

The Chair opened the hearings on all of the above sign applications.

- **Vianor** at 63 Hall Street

Mr. Henninger reported that members of the Design Review Committee felt that the sign on the Hall Street frontage was too large.

He reported that the Design Review Committee recommended approval of the sign on the Hall Street frontage provided the lettering is reduced in size from four feet in height to three feet, and approval of the sign on the Interstate frontage increased in size from four feet in height to five square feet with the proportions being adjusted accordingly.

Rob McIntyre from New England Signs was present on behalf of the applicant and indicated that they concurred with the Committee's recommendation.

Mr. Gross moved approval of the sign on the Hall Street frontage provided the lettering is reduced in size from four feet in height to three feet, and approval of the sign on the Interstate frontage increased in size from four feet in height to five square feet with the proportions being adjusted accordingly. Ms. Dolcino seconded. Motion carried.

- **Vintner's Cellar Winery** at 133 Loudon Road

Mr. Henninger reported that the Design Review Committee had noted that there are a number of illegal signs on the Loudon Road frontage and asked that those be removed.

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

Larry Crossland was present as applicant to answer questions from the Board.

Mr. Gross moved approval as submitted. Ms. Meyer seconded. Motion carried.

- **APP Advantage Plastic Products, Inc.** at 38 Henniker Street

Mr. Henninger reported the location for this sign had been approved as part of the site plan approval.

He reported that the Design Review Committee found the proposed design and placement of the sign to be appropriate for the location and use, and recommended approval as submitted subject to the addition of landscaping at the base of the sign.

Mr. Gross moved approval as submitted subject to the addition of landscaping at the base of the sign. Ms. Foss seconded. Motion carried.

- **Pool B. Partners Inc.** at 4 Chenell Drive

Mr. Henninger reported that this is a replacement sign.

He reported that the Design Review Committee found the proposed design and placement of the sign to be appropriate for the location and use, and recommended approval as submitted subject to the addition of landscaping at the base of the sign.

Mr. Gross moved approval as submitted subject to the addition of landscaping at the base of the sign. Ms. Meyer seconded. Motion carried.

- The following commercial tenants at **204 Fisherville Road**:
  - **Cooper Tires**
  - **First Impressions Custom Cars**
  - **All Tune Motor Lube**

Mr. Henninger reported that the Design Review Committee recommended tabling action on this signage to allow the applicant to reconsider the sign package.

Mr. Gross moved to table action on this signage to allow the applicant to reconsider the sign package. Ms. Meyer seconded. Motion carried.

**REGULAR MEETING**

**Minutes**

Mr. Gross moved approval of the minutes of the meeting of June 18, 2008 as submitted and Ms. Dolcino seconded. Motion carried.

**INFORMATION**

The Chair reminded members of the Public Workshop on **Transfer of Development Rights** scheduled for Wednesday, July 23, 2008 at 7:00 PM in the City Council Chambers.

There was no further business to come before the Board and the meeting adjourned at 11:48 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward  
Clerk

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