

The regular monthly meeting of the City Planning Board was held on November 19, 2008 in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Swope, Dolcino, Foss, Gross, Harrington, Hicks, Meyer, and Shurtleff. Messrs. Woodward and Henninger, Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Ms. Aibel, the City's Associate Engineer.

At 7:00 PM a quorum was present and the Chair called the meeting to order.

APPLICATIONS

Minor Site Plans and Conditional Use Permits

1. Application by **Faith Tabernacle** for approval of a site plan of property at **164 East Side Drive. (#2008-60)**

Determination of Completeness

Mr. Henninger explained this proposal to construct a freestanding canopy for two small buses at the existing facility.

He reported that the 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. Henninger explained this proposal to construct a freestanding canopy for two small buses at the existing facility. The buses are already parked at the site. A small paved area will be expanded to provide access to the covered storage. The applicants have removed two parking spaces to construct the drive to the carport area. The carport will replace the two lost spaces and will be open on all sides. No other changes to the site and buildings are requested at this time. A minor entry modification has recently been made but this was below the review threshold for a minor site plan. He reported that the applicants wish to defer the paving until Spring but would like to install the carport immediately on a gravel base.

He reported that the home to the east of the carport is owned by the church and is used as a parsonage. The home to the west of the carport is privately owned by the assistant pastor.

He reported that the Design Review Committee reviewed the site and building plans and recommended that a brown or dark grey roof be chosen rather than green as submitted by the applicant. The Committee noted that the brown or grey color would match the color of the tree trunks in winter and would make the structure less noticeable with leaves off.

Douglas Brogan was present from the Faith Tabernacle Church and explained that they would prefer the green roof they propose rather than the dark grey suggested by the Design Review Committee. He explained this is a fairly deep green and there are a lot of evergreen trees surrounding the building.

Attorney Jed Callen, from Baldwin and Callen, spoke on behalf of Jeffrey and Jill Savage, abutters at 120 Portsmouth Street. He explained that they feel that with open sided structure located as proposed, there will be an intrusion on their dwelling by headlights and noise from the buses. The problem could be easily solved by extending the existing stockade fence approximately 50 feet southerly to the end of the Savage property. He also asked that the church maintain the fence.

Mr. Harrington noted that photographs presented with the application make it appear that the property is already being used for bus storage and he wondered if this will be an increase in impact. Mr. Savage responded that the property has been continually cleared, with more trees cut and more sheds constructed on the site and more buses parked. He also noted that this structure is intended to be constructed without walls and, as proposed, the headlights will shine directly into his dining room.

Sandra Dinning, 184 East Side Drive, also expressed concern about the continued clearing of trees on the property. She reported that when she purchased her property in 1999, there were fewer than 90 children at the day care center there, and she expressed concern about how the applicant is intruding on the neighborhood as it expands.

Mr. Brogan felt they would be willing to extend the fence and to maintain it.

Ms. Meyer suggested that they include a space for buses to turn around when backing out of the structure.

There was no one else who wished to speak for or against this application and the Chair declared the hearing closed at 7:27 PM.

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

Mr. Swope move that the Planning Board grant conditional minor site plan approval for a 1,513 square foot carport and paved driveway for Faith Tabernacle at 164 East Side Drive subject to the following conditions:

1. The applicants may defer the paving of the driveway until July 1, 2009.
2. The applicant shall extend the stockade fence on the east side of the church property approximately 50 feet southerly to a point opposite the rear lot line of the Savage property at 120 Portsmouth Street, and the entire fence shall be kept in good repair.

Ms. Foss seconded. Motion carried.

Mr. Swope moved approval under Architectural Design Review without specifying the color of the roof. Ms. Foss seconded. Motion carried.

2. Application by **Robert Aranosian** for approval of revisions to a previously approved site plan of property at **249 Sheep Davis Road.** (#2008-57)

Determination of Completeness

Mr. Henninger explained this proposal to convert two of the five retail units in the Gateway Plaza into a sit-down restaurant.

He reported that the 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. Mr. Swope seconded. Motion carried.

Public Hearing

Mr. Henninger reported that in 2008 the applicant constructed a 6,650 square foot multi-tenant retail building on an approximately one-acre parcel at the northwest corner of Sheep Davis Road and Pembroke Road. He explained the property owner now proposes to convert two of the five retail units in the Gateway Plaza into a sit-down restaurant. No changes to the building or site are proposed. He reported that the applicant received a variance from the Zoning Board of Adjustment to permit the change of use without providing the required additional parking for the restaurant use.

He reported that the principal consideration for the Planning Board in its review and action relative to a change of use is the impact on City utilities and services, traffic impacts and parking impacts.

He reported that the change of use will generate additional traffic. The applicant has correctly noted that the proposed use will generate on average 338 trips per weekday versus 118 trips for a retail establishment based on the ITE Trip Generation Report. All nearby intersections are working at an acceptable level of service and the increase in trip activity should not adversely impact the local transportation system or the project driveway on Pembroke Road. The change of use will result in an additional traffic impact fee being assessed in the amount of \$4,948.

The proposed restaurant is expected to require 40 gallons of water per day per seat, or 1600 GPD, as compared to retail space which is expected to require only 5 GPD per 100 square feet or 133 GPD. The existing water and sewer services available to the site can handle the increased demand and flow.

He reported that the applicant had noted in his petition to the Zoning Board of Adjustment for a variance that the Zoning Ordinance does not recognize non-simultaneous parking demand. This is incorrect in that Section 28-7-11(c) specifically addresses shared parking arrangements (non-simultaneous uses). Retail and restaurant uses traditionally have peak parking demands in the evenings and weekends. Local

zoning interpretation has found that the retail and restaurant uses have simultaneous parking demands.

Attorney Richard Uchida from Orr and Reno was present on behalf of the applicant and explained that they are aware that there is a non-simultaneous use Conditional Use Permit option in the Zoning Ordinance but did not feel that was appropriate in this instance.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 7:40 PM.

Deliberations and Action on Application

Mr. Gross moved that the Planning Board grant conditional site plan approval for a change of use for 2,660 square feet of the Gateway plaza Shopping Center at 249 Sheep Davis Road subject to the payment of the differential traffic impact fee of \$4,948 as calculated on the Impact Fee Worksheet. Ms. Foss seconded. Motion carried.

3. Application by **Manchester Sand, Gravel & Cement Company** for a Conditional Use Permit (CUP) pursuant to Section 28-5-26, Earth Materials Removal, of the Concord Zoning Ordinance for renewal of its current CUP for the excavation of gravel on **Sheep Davis Road**. (#2008-58)

Mr. Woodward reported that Planning staff had received an email late this afternoon from the applicant's agent requesting postponement until January of the hearing on this application scheduled for this evening. The Board agreed to this request and no further consideration was given to this application.

4. Application by **Public Service Company of New Hampshire** for a Conditional Use Permit (CUP) pursuant to Section 28-4-3(d), Disturbance of a Wetland Buffer, of the Concord Zoning Ordinance, in conjunction with the replacement of an existing electrical distribution line between **Farmwood Road and the Loudon townline**. (#2008-59)

Determination of Completeness

(Mr. Swope recused himself and left the table.)

Ms. Hebert explained this proposal to construct a new 34 kv electrical distribution line from the Oak Hill substation at the end of Farmwood Road to the Loudon substation in Loudon.

She reported that the 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 proposal to construct a new 34 kv electrical distribution line from the Oak Hill substation at the end of Farmwood Road to the Loudon substation in Loudon. The new line will be located within an existing 100-foot wide PSNH right-of-way. Once the new line has been installed, the older poles and wires, which were installed in the 1940s, will be removed. However, a small section of the existing line will remain with only minor modifications to the structures. The new line will provide additional capacity and more reliable electrical service to the properties served by PSNH in this region.

She reported that the total length of the project is approximately four miles, 1.66 miles of which are located within Concord. A total of 11 new utility poles will be installed within protective wetland buffers. The applicant has filed an application for a Conditional Use Permit to approve the permanent impacts caused by the installation of the new poles, and the temporary impacts for proposed access routes that cross into the wetland buffers. Most of the structures will be accessed using existing roads, driveways and trails; however some wetland and wetland buffer areas will need to be crossed in order to reach the new utility pole locations. The existing PSNH right-of-way is mowed to maintain low growing vegetation, but additional trees along the northern side of the right-of-way will need to be cleared to accommodate the new distribution line. PSNH has identified 11 jurisdictional wetlands along the existing right-of-way in Concord. There are no permanent wetland impacts proposed as part of this project, but temporary impacts are required to access the existing and proposed pole locations. The utility poles have been spaced to avoid impacts to the jurisdictional wetland areas, resulting in the placement of poles within the wetland buffers in order to minimize construction activity within the wetlands. The crossing of wetlands will occur during frozen ground conditions, if the soil is saturated or not yet frozen, construction mats will be used to reduce impacts.

She reported that PSNH has filed a Minimum Impact Expedited Wetlands permit for the temporary wetland impacts amounting to 9,321 square feet. The permit includes the proposed erosion control and restoration methods for disturbances to the wetlands & wetland buffers.

Ms. Hebert reported that the Conservation Commission reviewed the permit and did not have any objections to the Minimum Impact Expedited Permit or the Conditional Use Permit request.

She reported that the total area of tree clearing within the wetland buffer is 12,343 square feet, the area of permanent wetland buffer impact is 66 square feet (6 square feet per pole), and the temporary buffer impact is approximately 15,484 square feet.

She reported that the distribution line crosses through the public right-of-way of Graham Road, Shaker Road, and Hot Hole Pond Road. PSNH will be required to obtain a license from the Poles and Wires Committee for the utility structures and wires that cross through city-owned rights-of-way.

Ms. Meyer asked if they will have to cut trees and shrubs and Ms. Hebert responded that they will but they have the right to do that already for maintenance.

Chris Nadeau from Nobis Engineering and David Still from PSNH were present to answer questions from the Board.

Sean and Katie Faherty, 111 Snow Pond Road, expressed concern about the placement of a pole closer to their house than the existing pole. They had concerns about the effects of the electromagnetic fields (EMFs) on their children. They asked that the pole be moved 25 feet farther away from their house than proposed. They were concerned about the resale value of the house as well as the health risk. Mr. Faherty felt that moving the pole 25 feet to the south does not seem as though it would impact PSNH, and it would move the pole that much farther away from their house.

Mr. Gross asked if they had contacted PSNH with their request. Mr. Faherty responded that they had and had been told that the NHDES permits had already been issued for the placement of this line.

Mr. Gross asked if moving the pole 25 feet away from the house would affect any wetlands and Ms. Hebert responded that there are no wetlands shown in that area.

Mr. Nadeau responded that the existing line is located in the center of the 100 feet easement. They cannot zigzag across the existing line, and there would be more clearing and wetland impact involved if they moved the entire line. Mr. Still also explained that they cannot take the existing line out of service to construct the new line, so it has to be offset.

Mr. Drypolcher asked how PSNH could provide comfort to affected families regarding the health risks, and Mr. Still responded that they have a staff person who can meet with the abutters and provide readings of the EMFs of the existing service as well as information regarding health risks. Typically, the concerns are for the higher voltage lines than this project will be using.

Mr. Woodward asked if they could cross above the existing lines with the new lines. Mr. Still discussed some of the concerns they have with that, including the danger to line workers working above the existing live wires. He mentioned that the electromagnetic emissions drop off dramatically rather quickly with distance.

Mr. Henninger mentioned that there are 34 kv lines in the city today so what they propose is not unusual.

Mr. Flaherty spoke again. He felt there were some things that are more important than cost when undertaking a project like this and that includes his family's health.

There was no one else who wished to speak for or against this application and the Chair declared the hearing closed at 8:36 PM.

Deliberations and Action on Application

Ms. Foss suggested that the applicant ask someone who is knowledgeable about these voltage lines to attend a future meeting with the Planning Board to answer the Board's questions so members can make a decision with full information.

Mr. Shurtleff indicated he would vote against approval of this application at this time because he does not want to approve something without full information about its impacts on abutters.

Ms. Foss moved to table action on this application and to request that the applicant return with information and diagrams of the attenuation patterns of the electromagnetic fields (EMFs), not only for this voltage line but also for the next higher voltage and, further, to make available at the next meeting an expert who is able to answer the Board's questions relative to impacts of the EMFs on neighbors. Mr. Shurtleff seconded.

Mr. Harrington also suggested that City staff provide information about whether the Planning Board as a jurisdiction can consider the impact on an abutter in its deliberations.

Ms. Hebert reminded the Planning Board that they are reviewing an application for a Conditional Use Permit for wetland impacts.

Motion carried with Mr. Swope abstaining from discussion and vote.

Architectural Design Review

5. 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.

- **Boloco Inspired Burritos at 10 Fort Eddy Road (3 signs)**
- **Community Bridges at 70 Pembroke Road**
- **Mary Baker Eddy Historic House at 62 North State Street**
- **Phenix Mutual at 42 Pleasant Street**
- **Princess Nails & Spa at 374 Loudon Road (2 signs)**
- **The Masiello Group at 4 Park Street (3 signs)**

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

- **Boloco Inspired Burritos at 10 Fort Eddy Road (3 signs)**

Mr. Henninger explained that they propose to replace the existing awning with a slighter darker red awning, and replace the existing Boston Market signs with the Boloco Inspired Burritos signs.

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

There was no one present on behalf of the applicant.

Mr. Harrington noted that the sign had already been installed. Mr. Henninger responded that he believed they had received a temporary permit with the understanding that they would need to comply with conditions imposed by the Planning Board.

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

- **Community Bridges at 70 Pembroke Road**

Mr. Henninger explained they propose to construct an additional freestanding sign at the site. He reported that the Design Review Committee had noted that the second freestanding sign on the site would not comply with the Zoning Ordinance. The applicant's agent had been provided with options the applicant could take to comply with the ordinance and was referred to the Zoning Administrator.

He reported that the Design Review Committee had found the design of the proposed sign to be appropriate for the location and use, and recommended approval subject to compliance with the Zoning Ordinance.

Raymond Bouisseneau, managing partner of Capital City Realty, the building owner, was present and asked for a clarification of the issue of compliance with the Zoning Ordinance.

Mr. Gross moved to table action on this application to allow the applicant the opportunity to resolve non-compliance with the Zoning Ordinance. Ms. Dolcino seconded. Motion carried.

- **Mary Baker Eddy Historic House at 62 North State Street**

Mr. Henninger explained that the Design Review Committee felt the overall design of the sign was appropriate but found it to be cluttered. They felt that much of the wording in the center portion of the sign could be removed and placed on a plaque on the building.

He reported that the Design Review Committee had recommended approval of the sign as submitted with the stipulation that it be reformatted to reduce the amount of verbiage in order to make the sign less cluttered. Members also suggested that they consider a revision to minimize the shadow line over "Mary Baker Eddy".

He reported that the suggestion had also been made that the applicant consider applying for a State historic marker. He explained that could be placed in a location that would be very visible and would provide a place for the information the curators want on the sign.

Kris Barthelmess from Longyear Museum was present as applicant with a revised design that took into account the recommendations made by the Design Review Committee.

Mr. Gross moved approval of the revised design as submitted. Mr. Swope seconded. Motion carried.

- **Phenix Mutual at 42 Pleasant Street**

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

There was no one present on behalf of the applicant.

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

- **Princess Nails & Spa at 374 Loudon Road (2 signs)**

Mr. Henninger explained that the Zoning Administrator had noticed non-compliant flashing signs in the windows and had indicated that it would be unlikely that a permit would be issued until those signs were removed.

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

He reported the applicant had subsequently removed all of the non-conforming signs with the exception of one Open sign that was flashing around the edges.

Alan Tran was present as applicant and explained that he had been issued a permit for a freestanding sign and then it had been revoked. He indicated that he really needs that sign. He is a new business and needs it to survive. Mr. Henninger explained that the freestanding sign permit should not have been issued.

The Chair informed the applicant that he would have to deal with the Zoning Administrator relative to the freestanding sign permit.

Mr. Gross moved approval of the sign as submitted inasmuch as the non-conforming signage had been reviewed. Mr. Swope seconded. Motion carried.

- **The Masiello Group at 4 Park Street (3 signs)**

Mr. Henninger explained that the applicants are changing their affiliation so the logo will change. They now propose a grey awning with white text. The affixed sign on Main Street will have a white background with green lettering. The affixed signs will be of the same square footage as the existing signs, and the awning will be replaced by an awning of about the same size.

He reported that the Design Review Committee recommended approval subject to the stipulation that they increase the size of the words "Real Estate" in order to join the two panels in the signs.

Members also suggested that "Each office is independently owned and operated" be eliminated as it is not necessary and adds clutter to an otherwise attractive sign.

He reported that the applicant has submitted a revised design along with a letter questioning the authority of the Design Review Committee to require changes to their logo.

Bill McNamara from Classic Signs was present on behalf of the applicant and indicated that the Design Review Committee had recommended changes that would modify the registered trademark of the Better Homes and Gardens corporation.

Ms. Foss asked if any consideration had been given to a different font for "The Masiello Group" than for "Better Homes and Gardens". Mr. McNamara responded that the franchise wants it this way.

Mr. Gross moved approval of the signage as revised without the vertical lines separating the two elements. Ms. Meyer seconded. Motion carried.

REGULAR MEETING

Minutes

Mr. Gross moved approval of the minutes of the meeting of October 15, 2008, as submitted and Ms. Dolcino seconded. Motion carried.

Applications

7. Further consideration of an application for approval of a development on which a public hearing has previously been held:

- a. Application by **B & D Houston Enterprises LLC** for final approval of a subdivision of property on **Garvins Falls Road and Integra Drive**. (#2008-49)

Mr. Henninger explained this proposal to subdivide a 2.25 acre residential lot on Garvins Falls Road from a 44.05 acre predominately commercial property located at the end of Integra Drive. In order to convey the new lot, the applicant proposes to extend Integra Drive 260 feet to provide frontage for the remnant lot. The new roadway construction and the extension of municipal utilities establish this application as a major subdivision.

He reported that the Planning Board granted conditional preliminary approval on October 15, 2008, along with a waiver to allow the plat to be submitted at a scale of 1" = 100' and to submit a location plan at a scale of 1"=800'. The applicant also obtained a

variance from the Zoning Board of Adjustment to allow the creation of a lot along Garvins Falls Road with 128 feet of frontage where 200 feet is required.

He reported that municipal water service is available along Garvins Falls Road. The applicant is proposing to connect to this system for the proposed residential lot to be created. Municipal sewer service is not available along Garvins Falls Road. The applicant has shown a proposed septic system location on the plan for the new residential lot. NHDES approval of the subdivision has been obtained for the new residential lot without sewer service.

He reported that the applicant intends to extend municipal water and sewer lines along the extension of Integra Drive. The existing sewer line along Integra Drive is not in operation but is designed to extend north and westerly through this property ultimately to Manchester Street. Existing development on Integra Drive is connected to the Manchester Street gravity sewer line by individual sewer force mains. The applicant has added a note to the plan that indicates the remnant 41.40 lot on Integra Drive will not be developable until functioning sewer service is provided.

Mr. Henninger reported that the property has areas of steep slope and bluffs associated with the Soucook River. No development is proposed as part of this application near any areas of steep slope or near the bluff buffer setbacks.

Potential future road connections north and south through the site have been identified on the subdivision plan. It is intended that Integra Drive will extend approximately another 250-300 feet westerly to a future collector road which will extend southerly from Manchester Street. A corridor has been reserved at the intersection of Old Suncook Road/Manchester Street. This collector road will continue southerly beyond Integra Drive to Garvins Falls Road. An agreement to convey the future right-of-way to the City at no cost has been provided in a form suitable for execution and recording.

He reported that the Planning Board has expressed concerns in the past regarding additional development along Integra Drive until improvements are made to the intersection of Integra Drive and Manchester Street. These improvements, including turn lanes and a traffic signal, are scheduled in the Capital Improvement Program and Budget for Fiscal Year 2009 in the amount of \$1,950,000.

Mr. Gross moved that the Planning Board grant conditional final subdivision approval of the "Subdivision Plat prepared for B & D Houston Enterprises, Inc." subject to the following standard and special 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, approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions.

3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following easement documents and/or agreements, 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. A deed of easement for the new street;
 - b. Temporary turnaround easements for the temporary hammerhead.
 - c. A temporary drainage easement for the temporary drainage system.
 - d. Agreement to convey a future right of way for an extension of Integra Drive and the future north-south road to be extended southerly from Manchester Street.
4. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.
5. Approvals shall be obtained for the construction drawings and specifications for all public improvements from the Engineering Division prior to the commencement of any of the public improvements. No construction activity on the public facilities may commence prior to the pre-construction conference.
6. No certificate of occupancy for any building or use on the remnant 41.40 acre parcel shall be issued until all public improvements have been completed to the satisfaction of the City Engineer and accepted by the City Council. A certificate of occupancy may be issued for the residential lot on Garvins Falls Road prior to the completion of the improvements to Integra Drive.
7. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall obtain approval of private utility plans from Unitil, Fairpoint Communications and National Grid.
8. Prior to the release of a financial guarantee for any public improvement, an as built plan shall be provided to the City Engineer in form and content acceptable to the City Engineer.
9. Prior to the final plat being signed by the Planning Board Chair and Clerk, the plat shall be annotated stating that no development may occur on the 41.40 acre remnant parcel until a functional sewer service connection is provided to the municipal sanitary sewer system.

Ms. Foss seconded. Motion carried.

Official Map

8. Further consideration of an **amendment to the Official Map** of the City of Concord so as to establish the mapped the lines of a future street **between Bog Road and Kyle Road**.

Mr. Henninger explained that the Planning Board, during its extended deliberation of the Vineyards Planned Unit Development in 2003 and 2004, had identified a need for neighborhood connectivity in the developing residential area west of Fisherville Road between Bog Road, Borough Road and the Great Bog to the west. The Planning Board made a condition of approval of the Vineyards PUD that, prior to an issuance of the first Certificate of Occupancy in the third phase of the Vineyards, the applicant shall submit a plan suitable for adoption of a mapped line of future street to be established between the end of Kyle Road in the Sandwood Crossing Development to Bog Road. The Board revised this condition on September 17, 2008 to change the last unit in Phase 2 from the 74th to 100th unit, so that the third phase would start with the 101st unit. Currently, 94 units have been started and somewhat less than that number have Certificate of Occupancies.

He reported that the Planning Board has found neighborhood connectivity to be important enough to specifically establish a section in the recently adopted Master Plan 2030.

Mapped lines of future streets are intended to implement the adopted master plan and to provide for a coordinated street system when development is occurring incrementally and involves more than a single parcel. The mapping is effectively an encumbrance on private property. The mapping does not constitute the opening or establishment of any street or the taking of any land for street purposes.

He reported that for nearly fifty years the mapped line of future streets process has allowed the Planning Board to approve subdivisions in an incremental manner that allows for a planned, interconnected street pattern. While development has not followed the exact street pattern envisioned 50 years ago, no properties have been landlocked by incremental development, and the planned extension of streets has been allowed to occur on a lot-by-lot basis at the discretion of the property owners.

Mr. Henninger explained that the main limiting factor for development in the area of Bog Road is the Great Bog and other wetlands lying to the west of the existing residential areas along Fisherville Road. These wetlands set the western limit of urban development along Bog Road. The developer of the Vineyards commissioned a wetland study of his property and the property of SC@TP Real Estate Development to the north. The developer has also partially completed a wetland study on the abutting property to the west sufficient to identify a potential road corridor.

While both properties presently owned by others do have significant wetlands, they also have sufficient upland to support additional residential development. The proposed mapped line of future street will have some wetland impacts, but the corridor does appear to be feasible with appropriate mitigation when the properties are developed.

He explained that the extension of Kyle Road to Bog Road is intended to be a local street. It is not designed to divert traffic from Fisherville Road, Borough or Bog Road but to allow traffic within the neighborhood to circulate without needing to access the collector

and arterial road network in the area. With this in mind a roundabout was recommended along the extended section of Kyle Road as a traffic calming measure.

He reported that, at its October 15, 2008 public hearing, the Planning Board considered the report by Planning staff, viewed the proposed mapped line of future street, and received the testimony of representatives of the Vineyards. The Board noted that the proposed mapped line bisected a part of the contiguous wetland known as the Great Bog and asked Planning staff to revise the route of the mapped line of future street southerly along the lot line between the Vineyards property and the property to the north.

Mr. Gross asked if this revised line would increase the amount of developable land over the last proposal and Mr. Henninger responded that it would not increase.

Mr. Swope moved that the Planning Board acknowledge that the applicant has submitted a proposal for a mapped line of future street which is acceptable for consideration as of July 29, 2008. This submittal and acceptance by the Board satisfies condition #10 of the Planning Board's approval for the Vineyards PUD. He further moved that the Planning Board set for public hearing the proposed revision of the mapped lines of a future street for an extension of Kyle Road westerly then southerly to Bog Road at the December 17, 2008 Planning Board meeting.

Mr. Gross seconded. Motion carried.

Zoning Ordinance

9. Further consideration of a proposal by R.J. Moreau Communities, L.L.C. to **amend the Zoning Map** by changing the boundary between an existing Open Space Residential (RO) District and a Medium Density Residential (RM) District **northerly of Bog Road and westerly of Kyle Road**.

Mr. Henninger explained that the Planning Board had received from the City Council a communication from Attorney Raymond D'Amante requesting the rezoning of land north of the Vineyard Planned Unit Development on Bog Road from Open Space Residential Development (RO) to Medium Density Residential Development (RM). No development proposals for the land in question have been either submitted or approved for the two parcels.

He reported that a portion of the property proposed for rezoning is located on the undeveloped but recently cleared area north of the 124-unit Vineyard planned unit development. The intent of the rezoning is to add to this development by creating additional two-story townhouses and duplex units. The second parcel proposed for rezoning is located west of the Sandwood Crossing development and is partially cleared on the east end transitioning to woodland and extensive wetlands on the west end of the property as part of the Great Bog. The land use to the north and west abutting the area of the request is either wetlands or low density rural residential development along Blueberry Lane (private). A large undeveloped property with a single home is located directly west of the Vineyards.

He reported that the recently adopted 2030 Master Plan has identified this area as Medium Density Residential with the principal uses being single and multi-family development with a maximum residential density of six units per acre. The intent of the master plan is to set the Urban Growth Boundary at the edge of the wetlands associated with the Great Bog in West Concord and Penacook.

He explained that the primary development constraint in this area is wetlands associated with the Great Bog. In 2004 the City contracted with the Sewall Company to complete a wetland analysis city-wide using aerial photo interpretation. The areas of wetlands identified were in this instance significantly different from soils information used to identify wetland areas previously for this portion of Concord. The petitioners, at the request of the Planning Division, have surveyed the wetlands on their properties and a portion of the abutting property to the southeast along Bog Road. The detailed wetland survey is more precise and accurate than that obtained by aerial photo interpretation. The survey in general conforms to the information provided in the city-wide survey. Parcels to the west of the Vineyards development on the north side of Bog Road are almost entirely wetlands or at least 50% wetlands.

Mr. Henninger reported that the petitioners have submitted a conceptual drainage plan, a conceptual water line extension plan, and a conceptual sanitary sewer extension plan. The City's Engineering Division indicates that the area under consideration for rezoning could be served by sewer if service is brought by way of Kyle Road or by gravity systems through the Vineyards development. This does present problems for any properties developed to the west. Pump stations and force mains may be required to provide sewer service to the future development. The Engineering Division indicates that storm water runoff from future development can be managed. It is anticipated that any runoff from the development area will likely be directed to the Great Bog to the west. The Engineering Division has commented that the city water system is now adequate to handle this and any adjacent developments.

He reported that the existing connectivity from Kyle Road to Bog Road is through a private condominium street system which can be restricted at any time. Currently, this route is gated at the north property line of the Vineyards.

The Planning Division has developed a proposed zoning change that relocates the RM/RO Zoning Boundary to reflect the best available information on the boundaries of the Great Bog. This proposal adjusts the boundaries along Bog Road by reducing the westerly extent of the zone line on Bog Road by approximately 20.1 acres and increasing the area north of the Vineyards and west of Kyle Road by 28.71 acres. However, roughly one third of the area to be rezoned is encumbered by a wetland area along the north side of the Vineyards development.

He explained that adjusting the zoning district boundary between the RM and RO Districts as proposed would not result in a significant increase in the planned residential development in this part of the city. The twenty acres of buildable area, if developed as a planned unit development, could see the construction of up to 100 units in a PUD, or

somewhat fewer units if the property immediately west of Sandwood Crossing is developed as an extension of this existing residential single family neighborhood.

Mr. Henninger reported that Phase 1 of the Fisherville Road corridor study includes improvements to Fisherville Road north and south of Bog Road and the realignment and signalization of the Bog Road intersection. These improvements have been approved as part of the City's 2008 budget and are now under design. An additional appropriation may be required once final design is completed and bids received. A decision to remove the partial concrete base under the center of Fisherville Road will also affect the cost and timing of this planned construction.

The area proposed for rezoning connects through the Sandwood Crossing development by way of two non-standard roundabouts on Alice Drive. It will be necessary to reconfigure the central islands in the roundabouts to conform to more modern standards if additional traffic from the new development area is directed toward Alice Drive.

He reported that the Planning Division is recommending the rezoning of the property in question contingent upon the mapping of a connecting public street system from Kyle Road to Bog Road.

There was a brief discussion about sending both the mapped line of future street and the rezoning to the City Council as a package, in which case members felt the Planning Board should not take action on this rezoning until after it holds a public hearing on the mapped line of future street as scheduled for next month.

Ms. Foss proposed an alternative zoning plan that would take into account consistency of land use patterns - lower density to the north and higher density to the south of the wetland area, using the proposed mapped line of future street as the zoning boundary.

Further discussion resulted in the consideration of RS zoning north of the proposed future street and then RM zoning south of the mapped line. This would insure the continuation of a consistent pattern of land use in the area.

Mr. Gross moved to table action on the rezoning request until the Planning Board holds its public hearing relative to the mapped line of future street for this property in December, at which time consideration can be given to both proposals. Mr. Swope seconded. Motion carried.

City Council Referrals

11. Consideration of a request from Councilors Bouchard and Shurtleff requesting the Planning Board devise a method to issue **building permits**, using some of the provisions provided under RSA 674:41, that could be incorporated under the City's Code of Ordinances, for either an **unaccepted street**, or an individual lot on which there are pre-existing dwellings and which is located on an unaccepted street.

Mr. Woodward explained that the City Council referred to the Planning Board a request from Councilors Bouchard and Shurtleff that the Planning Board devise a method,

pursuant to RSA 674:41, for the issuance of building permits on unaccepted streets. Councilors Bouchard and Shurtleff have expressed concern about home owners who currently reside on unaccepted streets and thereby are not entitled to obtain a building permit for additions, or accessory buildings such as garages or sheds.

RSA 674:21 provides that where a Planning Board is empowered to regulate the subdivision of land, no building permit can be issued unless the street giving access to the lot upon which such building is proposed to be placed is an accepted City street, or a street shown on an approved subdivision plat or on the Official Map. The statute also contains provisions related to circumstances of practical difficulty or unnecessary hardship to the property owner who may appeal to the Zoning Board of Adjustment which may authorize the issuance of a permit, subject to such conditions as it may deem necessary. Two sections of the statute provide options for the City Council to authorize the issuance of building permits for the erection of buildings on property without access to a City street. In one instance, after review and comment by the Planning Board, the Council can vote to authorize the issuance of building permits for the erection of buildings on property with access to a private road. In the second instance, the Council may vote to exempt a lot without access to a City street from the ban on the issuance of building permits. Under this option, the Planning Board must vote on the matter first, and if the Board disapproves the exemption, then the Council must pass the measure by a two-thirds majority.

He reported that Concord has a number of unaccepted streets the disposition of which has been the focus of official discussion and debate for over thirty years. Twenty-one of these streets actually have year-round dwellings which obtain their sole access by means of these streets. In some cases, there is only one house on an unaccepted street such that it functions as a private driveway, while in other cases, there are two to seven homes on the unaccepted street, and in the worst case, 20 homes accessed by means of an unaccepted street. The right-of-way and traveled way widths of unaccepted streets are often substandard, and municipal utilities, where such exist, in a number of these streets consist of individual private service lines running from the nearest accepted street to the individual dwellings.

The homes on these streets may be privately bought and sold in the real estate market, and are assessed by the City based on market value. Assuming that the unaccepted street status is fully disclosed to buyers, homes on unaccepted streets are generally valued at less than comparable homes on accepted streets due to the lack of surety about street maintenance and utility repair service.

He reported that much of the past municipal discussion about unaccepted streets was focused on how to achieve the acceptance of these streets by the City, with options being to accept these unaccepted streets in the condition in which they currently existing, or to require the upgrading of the street and municipal utilities as a precondition of acceptance. Accepting these streets as they currently exist would benefit the adjacent property owners by ensuring municipal services for the street, but would cost the City for improvements to the base, pavement, and drainage of the streets as well as for upgrading municipal sewer and water utilities. While some aspects such as a substandard right-of-way width might not be able to attain current standards, utilities,

drainage, base and pavement could be upgraded for these streets, but the key unresolved factor is how to pay for such.

He reported that in December of 1999, the City Council designated 29 unaccepted streets as emergency lanes pursuant to RSA 231:59-a. The primary work done to render these ways passable for emergency services is snow plowing.

Since that time, two of the 29 unaccepted streets/emergency lanes, Mulberry and Marion Streets, were accepted after being upgraded to City standards as part of a new development, and another one, Ormond Street Extension, has become part of the Havenwood campus through their acquisition and redevelopment of land on both sides of the street. Several other emergency ways serve residences which actually have frontage on an accepted street and therefore are eligible for building permits because they conform to the Zoning Ordinance or have the status of a non-conforming lot of record. However, there are still 86 year-round residential structures containing 88 dwelling units on 21 unaccepted streets/emergency lanes which are the focus of this concern.

Mr. Woodward reported that many of the homes on unaccepted streets are on lots that are non-conforming with regard to the City's Zoning Ordinance for reasons in addition to the lack of frontage on an accepted street. The non-conformities include substandard lot size, substandard yard setbacks, exceeding the maximum lot coverage, lack of municipal utility services, and substandard buffers. An ordinance to allow for the issuance of building permits for existing dwellings on unaccepted streets will not excuse the property owners of such dwellings from addressing these regulatory and utility issues just as any owner of a dwelling on an accepted street would have to. While the Zoning Ordinance does contain the option for authorization of a building permit by action of the ZBA, the statutory requirements for practical difficulty or unnecessary hardship can represent a burden that may not be able to be met by a homeowner wanting to add a garage or shed.

A new ordinance is proposed to be placed as a new Chapter 29.3 of the Code of Ordinances. The principal statutory reference is 674:41 II-a, which essentially provides an exemption from the ban on the issuance of building permits for certain lots with access to unaccepted streets. The ordinance incorporates those lots upon which there is an existing year-round residence and which are located on unaccepted streets that have been designated as emergency ways.

Mr. Gross raised questions as to whether this proposed ordinance was intended to allow for removal and replacement of a residential structure, or whether a change in use, such as to a non-residential use, would be permitted. As a result of these questions, it was agreed that a further limitation should be added so that no permit could be issued for a change of use. Mr. Henninger also suggested looking at the major home occupation category of accessory use to see what impact it might have if allowed.

Mr. Woodward indicated he would continue to fine tune this ordinance for further review by the Planning Board.

10. Consideration of an ordinance amending the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-6, **Sign Regulations**, Section 28-6-9, Signs Permitted in Non-residential Districts; together with a report from the Zoning Administrator.

Mr. Henninger explained the Planning Board had received a communication from the Zoning Administrator outlining a number of proposed changes to the sign regulations primarily related to institutional properties and multi-building complexes. Proposed revisions to the Zoning Ordinance have been forwarded by City Council to the Planning Board for review and recommendation.

He reported that Planning and Code staff have met and reviewed the proposed changes and have developed a revised proposal which better clarifies the proposed modifications.

He reported that the first major change requested is to increase the size of the allowable free standing signs in the Institutional District from a maximum of 40 square feet to 100 square feet. Private properties impacted by this change include Concord Hospital, Lincoln National Life Insurance, Concord Hospital, Dartmouth Hitchcock Clinic, Genesis Healthcare, Delta Dental, 1, 2 & 30 Pillsbury Street, and a number of smaller properties along Pleasant Street, South Main Street and Loudon Road. Most of these properties are large facilities with large lots and the proposed change is in keeping with the large scale nature of most of the properties in question. Smaller properties will not be able to obtain the required sign frontage for the maximum sign area.

The second major requested change is to allow for additional free standing signs for complexes or campuses containing more than one building on a lot. The additional free standing signs will be limited to no greater than 40 square feet or one square foot per building (sign) frontage as defined in the ordinance, or the maximum allowable sign in the district, whichever is less. This provision treats each free standing building as if it were on its own lot, including requiring a setback between signs equivalent to the required lot frontage in the district. This change would apply to all non-residential campus or multi-building lots in all commercial, industrial, and mixed use districts including such establishments as Steeplegate Mall, 2 & 30 Pillsbury Street, Foundry Business Center, Concord Hospital Campus, and the McCarthy Properties office/warehouse complex at 2-6 Industrial Park Drive. This change will result in the opportunity for additional free standing signs for these and other multi-building properties by application to the Planning Board for a Conditional Use Permit.

He reported that proposed minor changes include sign heights increased by two feet in the Civic Performance District, Institutional District, the Industrial District, and the Urban Transitional District in order to make the signs more visible over parked cars; requiring additional free standing signs allowed in some commercial districts to be set back a minimum of 50 feet from a residential district boundary; establishing the area of allowable upper story window signs at no more than four square feet primarily in the downtown; and an increase in area of allowable directional signs on campuses from 20 to 24 square feet and in height from 6 to 12 feet, subject to a Conditional Use Permit by the Planning Board.

Ms. Meyer had questions relative to the reason for these changes.

City staff was directed to invite the Zoning Administrator to a future meeting of the Planning Board to discuss his proposal for these revisions to the sign ordinance and to answer the Board's questions. It was agreed that this discussion would take place at the beginning of a meeting, prior to the start of public hearings.

New Business

12. Nomination of a member of the Planning Board to the **Heritage Commission** to fill the seat vacated by the resignation of Mr. McGonagle.

The Chair asked for volunteers to fill the vacancy on the Heritage Commission. There were no volunteers and the appointment was deferred.

13. Consideration of reappointments to the **Design Review Committee**.

Mr. Gross moved to reappoint Elizabeth Durfee Hengen and Ron King to the Design Review Committee. Ms. Meyer seconded. Motion carried.

There was no further business to come before the Board and the meeting adjourned at 10:45 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

o