

A recessed meeting of the City Planning Board was held on January 31, 2007 in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Dolcino, Foss, Gross, McGonagle, Merrill, Meyer, and Swope. Messrs. Woodward and Henninger, and Ms. Osgood of the City Planning Division were also present, as was Mr. McGinley, the Deputy Fire Chief, and Ms. Aibel, the City's Associate Engineer.

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

### CITY COUNCIL REFERRALS

1. Consideration of a memorandum from the **Greater Concord Chamber of Commerce** relative to **Workforce Housing**.

The Chair introduced Timothy Sink, president of the Greater Concord Chamber of Commerce, and Thomas Avallone, Chair of the Chamber of Commerce Workforce Housing Task Force.

Mr. Sink opened by explaining that this task force came about with the Chamber hiring a demographer to review the Concord area. That study noted that it appeared that New Hampshire is losing younger workforce population, with an increase in the over age 65 population. One of the problems identified is that affordable housing is becoming harder to come by for the younger population. As a result of the demographer's report, the Chamber organized a task force to look at housing. They looked at reports, asked questions, researched how Concord does business, and studied the City's Zoning Ordinance. They looked both in New Hampshire and outside the region to see what others have done about housing. This resulted in the report submitted to the City Council.

Mr. Avallone indicated there were four general recommendations:

1. Creation of a housing commission.
2. Creation of zoning and other regulations to encourage workforce housing.
3. Creation of a redevelopment authority.
4. Working with advocacy groups in a regional manner.

Mr. Avallone noted that since Concord is the center of activity for the region, there needs to be a way to bring the surrounding towns together to address this problem. This needs to go beyond Concord in a regional approach.

Mr. Drypolcher asked if the noted migration is a State-wide issue or local. He was under the impression that New Hampshire was one of the few areas in the country that was gaining in population. He asked for an explanation. Mr. Sink responded that the out migration is of the 35-54 age population while there is an increase in the age 15-34 population as well as in the population over 65.

Mr. Drypolcher asked for a definition of workforce housing versus affordable housing. Mr. Sink responded that the task force had discussed workforce housing and their concern is that a lot of people fall just a little below the median income needed to purchase a house valued at median cost for single family. Rental properties are also pretty tough. Concord is one of the communities where there is a good market for homes in the high end range.

Mr. Swope asked what would keep a developer from taking advantage of relaxed regulations and still constructing housing in the high-end price range. He asked if there were any incentives to make a builder construct less expensive homes. Mr. Avallone responded that some builders will build if they know they can have a good response in the market and if they can get through the approval process quickly. The task force would like to see potential in the community for greater density projects with relaxed requirements so that more workforce housing could be constructed. There has to be some method to encourage a builder to construct workforce housing.

Mr. Gross expressed appreciation for the fact that the Concord business community was back in the business of advocating for housing. He asked for confirmation of his understanding that they are looking for a pro-active approach to housing in the city and Mr. Sink agreed they were.

Mr. Gross discussed the Bonz report adopted a few years ago by the City in which the recommendation was made that more attention be paid to the high-end housing market with the expectation that the rest of the housing market would follow, and he asked if the task force was not endorsing the report. Mr. Sink agreed that there was not 100% agreement with the Bonz report. Mr. Avallone felt there needed to be a mix of housing at all levels.

Mr. Gross noted the task force report's recommendation that two new groups be created and pointed out that CATCH and Concord Housing Authority already exist and are doing quite a good job. He asked why the task force had not recommended that the City do something to encourage these organizations to accomplish the recommended goals. Mr. Sink responded that both of those organizations were represented on the task force and the organizations are doing a very good job. Mr. Avallone also noted that the Housing Authority has experienced a number of changes in personnel in recent years that has strengthened the organization and its ability to carry out new projects. He also reported that CATCH and the Housing Authority have been working in recent years to create projects together.

Mr. McGonagle discussed the interest of the City in encouraging infill within the Urban Growth Boundary and he asked if the recommendations from the task force would support that effort. Mr. Avallone referred to the Firehouse Block that was a very successful project as well as the condominiums at Court and North State Streets. He also felt the Opportunity Corridor could be dedicated to mixed use development or housing. He also would like to see apartments in the upper floors of commercial buildings downtown. The first priority would be for the community to make the commitment to that kind of housing. In reading building codes, he has found that it is

nearly impossible to create residential units above commercial uses in a building. It can be done but there needs to be a serious commitment on the part of the City. Density and parking are two problems that need to be worked out.

Mr. McGonagle asked if they were aware of any examples of creative use of codes to accomplish mixed use developments. Mr. Avallone indicated there were many communities in the country that have done this and he could assemble a list of them if the Board wished.

Mr. Merrill was of the opinion that property taxes are a major challenge in housing affordability. He asked what the Planning Board should be looking at for densities and how those standards should be incorporated into the Master Plan in order to accomplish the goals set out in this report.

Mr. Avallone responded that there are a lot of strategies like cluster development to encourage open space and to allow small parcels of land to be developed for small projects. On the interior of the community where the infrastructure is in place we need to look at how to create 4-5 story brick buildings and decided where those could be encouraged.

Mr. Swope noted that some of the outstanding projects CATCH has done have been rehabilitation and he asked how the task force felt those projects should be encouraged. Mr. Sink described proposed legislation that would provide incentives to do more of those kinds of projects.

Ms. Meyer discussed the perceived confusion between work force housing and affordable housing. She felt a distinction needed to be made between the two. Also, she felt that if a regional commission is created, it should look at the total housing picture and focus on whatever the need is determined to be. Mr. Sink indicated that the Chamber is focusing on housing that is affordable by a family of four earning the median income of \$70,000.

Mr. Drypolcher commented that Concord had carried the ball for the region in terms of providing housing opportunities, and asked if they had talked with local government administrations in surrounding communities to see if they were willing to join in a regional movement. Mr. Avallone responded that they had talked with Bow, Pembroke, and Hopkinton so far. Mr. Drypolcher felt it would be a tough sell within Concord if other surrounding communities did not participate.

Mr. Drypolcher also asked if anyone had approached members of legislature and Mr. Sink responded that there is one piece of legislation put forth by a State-wide work force housing coalition that would provide financial resources to help communities plan for workforce housing.

Ms. Foss asked the standard against which a community's fair share of affordable/workforce housing is measured. Mr. Woodward explained that by statute, Central New Hampshire Regional Planning Commission looks at a number of factors for each community. The last study done by the Commission was done in about 2000.

Rosemary Heard, president of CATCH, was recognized and responded to some of the questions and comments by members of the Planning Board. She explained that CATCH has 140 units in Concord right now with 319 people living in those units. A lot has changed in the last couple of years as far as calculating affordability of housing costs. Their challenge is land costs, whether for a rental project or an ownership project.

Mr. Drypolcher asked if they had properties outside Concord. Ms. Heard responded that CATCH was originally created to serve Merrimack County but had not had opportunities in other communities. That is one of the initiatives they are trying to work on now. She explained that a big problem now is that many of the surrounding communities have adopted growth management ordinances.

Mr. Gross talked about the barriers that currently exist to affordable housing in Concord. He asked Ms. Heard if there were mechanisms in place to be certain that CATCH projects are kept affordable, and she responded that they used mechanisms such as deed restrictions to assure that their projects remain affordable. Mr. Gross then asked if the City has assessed those properties taking into account those limitations and Ms. Heard responded that it has not.

Mr. Swope indicated he was in general support of the task force's report with the exception of the proposal for creating two new groups. He suggested getting the groups that are already existing to address these issues.

Mr. Gross suggested that the Planning Board endorse the proactive attitude in this report but suggest that the City would benefit more from encouraging existing committees to expand their interests and work toward these goals, and further recommend that the City Council also support the movement by its own actions regarding tax assessment and codes. Mr. Swope agreed.

Ms. Meyer also suggested that the regional approach should be encouraged.

Ms. Foss felt transportation planning had to be as much a part of the picture as housing itself.

Mr. Gross moved to recommend that the City Council endorse a pro-housing stance by the City, but to urge the City to make better use of its existing housing organizations including CATCH and Concord Housing Authority, in lieu of establishing new institutions; to give attention to currently existing challenges and barriers to the development of affordable housing including the application of tax assessment and codes to the same; and that the City should expand its efforts related to housing to be a regional one, urging other communities in the region to do their fair share in providing affordable housing. Mr. Swope seconded.

Mr. McGonagle suggested an amendment that the Planning Board urge the City Council, in support of the goal of expanding regional cooperation, be attentive to legislative issues related to affordable housing, and to take an active role in the same.

Mr. Gross and Mr. Swope respectively accepted the amendment to the motion and to the second.

Ms. Dolcino suggested that relaxation of codes should be tied to a specific project and that it be understood that this would only be for projects that would remain affordable. Mr. Swope felt that relaxation was not necessarily a proper definition but that it was more a cooperation.

Mr. McGonagle also asked if it was possible to use a system similar to the Transfer of Development Rights process being considered by the City, but instead zoning an area for a particular density with the option of a higher density if it is created as a permanent affordable unit. Mr. Woodward said he believed it was.

Motion carried with the request that staff forward the staff report to the City Council along with the recommendation from the Board.

### REGULAR MEETING

2. Further consideration of an application for approval of a development on which a public hearing has previously been held:
  - a. Application by **Jeannette M. Cate, Lucille P. Bollinger Trust, Robert & Lucille Bollinger Trustees, and Mark and Carolyn Blasko** for preliminary approval of a subdivision of property on **Portsmouth Street and Curtisville Road**. (#2005-10)

Mr. Henninger explained that the Planning Board had voted in May of 2006 to close the public hearing on this application and table consideration of the application for subdivision approval and the request for a Conditional Use Permit to allow disturbances to wetland buffers. At a subsequent meeting, the Board made a number of preliminary comments on the application and again tabled action to allow the applicant to address the numerous staff comments on the application as well as the Board's comments, and to revise the storm drainage plan to be acceptable to the City Engineer so that it does not increase off-site runoff for both the peak flows and total flow.

He explained that this was a proposal to create a cluster subdivision of 87 lots on 271.52 acres in the Broken Ground area with access from both Curtisville Road and Portsmouth Street. The applicant is also reconfiguring an existing 3.99 acre at the end of Curtisville Road owned by Mark & Carolyn Blasko to allow for access for Whispering Way. The applicants are proposing to construct approximately 11,747 feet of new public street and to set aside 178.54 acres of the property as open space. The applicants are proposing improvements to Curtisville Road and to complete sidewalk improvements along Portsmouth Street.

He reported that the applicants are proposing to construct the development in seven phases. They propose to disturb 33,408 square feet of wetlands for the construction of the main project road (Whispering Way). A request for a Conditional Use Permit has been submitted for wetland buffer impacts at eight locations along Whispering Way and

at locations within the conservation areas for trail construction in the amount of 130,976 square feet or 3.01 acres of disturbance. 8,524 square feet of disturbance is attributed to trail construction at 14 widely separated locations.

He explained that a 2.7 acre utility easement to Unitil for an electrical transmission line corridor is proposed. This would make two of the proposed lots unbuildable when granted.

Mr. Henninger explained that the lots will be served with individual wells and septic systems. The property is too high to be served by the City's existing water system as verified by the City's water supply consultant. He reported that the Subdivision Regulations require connection to the municipal sewer system if the development lot is within 1,500 feet of the property. The nearest sewer line is 2,500 feet away at the intersection of Portsmouth Street and Old Loudon Road and the first lot is an additional 1200' into the site. Due to elevation changes across the property sewer service extensions are limited to only a portion of the site. No waiver is required.

He reported that the City Fire Marshal has requested and the Planning Board has supported the stipulation that residential sprinkler systems be required within this development. The revised plans have a note to this effect on the sheets to be recorded.

He reported that a Phase I-A Archaeological Survey was completed in February of 2006 and a copy provided to the City. Two historic stone foundations were encountered in the project area. A Phase I-B survey is recommended for the Eastman/Frost/Cate farmstead. One historic farmstead is located in the proposed open space well removed from any construction activity, and one farmstead is located on one of the proposed lots and will likely be disturbed during lot development. This site needs to be fully documented before construction occurs.

The applicant has included the area of existing and proposed power line right-of-way as part of the project open space. The Code Administrator has interpreted the Zoning Ordinance in support of the applicant's interpretation.

Mr. Henninger explained that the Zoning Ordinance requires a contiguous buildable area of open space of 32.58 acres with no minimum horizontal dimension of less than 1,650 feet. The applicant received a variance from the Zoning Board of Adjustment from the provision of requiring a contiguous area of open space with a minimum horizontal dimension of 1,650 feet. However, the ZBA did not waive any other requirement of Cluster Development Design Standards, in particular that requirement that "A minimum of one-half ( 1/2) of the common open space that is comprised of buildable land, shall be contiguous." The applicant has shown a 33.6 acre contiguous area of buildable open space. However, the buildable open space is broken up by large areas of steep slope and wetlands and is only touching in about 15 locations with dimensions of between 5 feet and 20 feet in width. The largest contiguous rectangular block of buildable open space is approximately 4 acres.

He reported that four lots lie partially within the required 100 foot perimeter buffer. The Board has discouraged individual lots from encroaching into the perimeter buffer.

The applicant has proposed a conservation easement on each portion of the lot within the perimeter buffer.

He reported that a waiver request has been submitted that would allow the applicants to provide the required useable land area by grading Lot 49. All other lots meet the required useable land area requirements of the Subdivision Regulations and buildable land area requirements of the Zoning Ordinance.

He reported that the drainage plan is acceptable to the City Engineering Division as to general layout and design, and the City Engineer is supportive of granting conditional preliminary approval at this time.

He reported that the applicant planned to construct sidewalks through the project on the main road (Whispering Way) from Portsmouth Street to Curtisville Road for a distance of 6,479 feet. The applicant has requested a waiver from the Subdivision Regulations to not construct sidewalks along the remaining streets within the subdivision, amounting to another 5,996 feet of roadway. He reported that the Planning Board had advised the applicant that a waiver to not construct sidewalks on the proposed cul-de-sacs, including Nebki Circle, Moccasin Court, and Silent Road southerly of the intersection of Abenaki Way, is reasonable. The Planning Board had also advised the applicant that it was not reasonable to waive the requirement for sidewalks on the loop created by Abenaki Way and Silent Road northwesterly of its intersection with Abenaki Way. This loop serves 42 of the proposed 85 development lots. The applicant has revised the subdivision plan to include sidewalks as recommended by the Planning Board. The applicant has agreed to construct the recommended sidewalk extension along Portsmouth Street.

Mr. Henninger reported that the applicants have requested a waiver from the maximum block length standard contained in Section 9.04 (3)(g) Blocks to have blocks in excess of 1,200 feet. City staff feels that a waiver is reasonable given the terrain and the moderate development density

He reported the applicant has requested a Conditional Use Permit for proposed wetland buffer impacts at seventeen locations, most of which are associated with the construction of Whispering Way. The remaining impacts are associated with the construction of outlet swales to the wetlands on site for the drainage system. The Conservation Commission has determined that the proposed disturbance is the minimum required to access the property as required in the City's Subdivision Regulations. The Conservation Commission has voted to send this recommendation to the Planning Board.

He reported that the applicant is proposing disturbances within the perimeter buffer next to Portsmouth Street for the new road and a detention facility. In the past the Board has not allowed retention/detention ponds to be constructed in a required perimeter buffer. The applicant has proposed a planting plan as partial mitigation for the disturbance and the City's landscape architect has recommended using native species that do not require maintenance after being successfully established. Most of the perimeter buffer at this location lies within the existing power line easement

periodically cleared by PSNH and the area to be disturbed is a substantial distance from the nearest house lots. The location is down gradient of the road and along the path of the natural watershed. The placement of the retention basin is logical, is located in a previously disturbed area and is located away from both the nearest homes and the uses to be buffered. The disturbance is not within a wetland buffer area.

He explained that the Board had requested a substantially widened open space corridor between Lots 45-49 and Lots 65 through 68. The Board preferred a reduction in the lot sizes where possible to widen the corridor but indicated they would accept conservation easements on Lot 49 so as to not eliminate this lot. The applicant has increased the width of this corridor to approximately 146 feet. He reported that the Conservation Commission had voted to recommend acceptance of the proposed project open space and to accept the responsibility to monitor the open space area. Planning staff has recommended a number of additional conservation easements over wetlands and wetland buffers on lots abutting significant wetlands. The applicant has shown a total of 3.6 acres of conservation easements on lots abutting the open space area to protect wetlands located on said lots.

Mr. Henninger reported that Section 9.03(2)(a) states that side lot lines shall be at right angles to the street (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. A number of lots, most notably side lot lines for Lot 69 and 70, do not meet this rule. The applicant has advised that the lots were originally complying but in order to reduce the lot sizes to provide as much open space as possible the lot lines were revised as now shown. He reported that City staff feels this is appropriate for the development of this property. The Planning Board will need to rule on whether this is a reasonable request.

Ms. Meyer asked if there was any mechanism that could be used to insure that there would be no encroachment of the buffer area during construction if the Board approves the encroachment. Mr. Henninger responded that these are lots of reasonable size. However, the biggest problem will be after construction when there are subsequent owners who then encroach. There is a standard condition of Planning Board approval relative to marking these areas. He also reminded the Board that the Conservation Commission has agreed to be responsible for monitoring the buffer encroachments.

Mr. Merrill asked if the Engineering Division was completely satisfied with the drainage design and Mr. Henninger responded that they are. Mr. Merrill also asked to what standards the drainage system had been reviewed and Mr. Henninger responded they had been reviewed for ten-year and 25-year events.

Mr. McGonagle expressed concern about visibility along the S-curve of the main project road and Mr. Henninger responded that staff had asked for sight analysis for a number of specific lots. He also noted that each lot had been analyzed for a number of criteria, including drainage, driveways, sight lines, and grades.

Mr. Gross moved that the Planning Board grant a waiver from the City's Subdivision Regulations from the maximum block length standard contained in Section 9.04 (3)(g) Blocks to have blocks in excess of 1,200 feet. The Board finds that, because of the

proposed density and project terrain, the four waiver criteria in Section 11.06(1) Waivers, have been met. Mr. Swope seconded. Motion carried.

Mr. Swope moved that the Planning Board grant a waiver to Section 9.0(2)(a) Sidewalks – Required Improvements, to not construct sidewalks on the cul-de-sac streets including Nebki Circle, Moccasin Court, and Silent Road southerly of the intersection of Abenaki Way for a distance of approximately 1,925 feet. The waiver is granted conditioned on the construction of an offsite sidewalk northwesterly along Portsmouth Street (an urban collector) from Whispering Way to its current terminus near Broken Ground Drive for a distance of approximately 3,000 feet linking this development to the existing sidewalk system. Said construction shall include curbing and drainage improvements where necessary to allow for the construction of the sidewalk within the existing public right-of-way. He further moved that the Planning Board not find it reasonable to waive the requirement for sidewalks on the loop created by Abenaki Way and Silent Road northwesterly of its intersection with Abenaki Way. This loop serves 42 of the proposed 85 development lots. Mr. Gross seconded. Motion carried.

Mr. Gross moved that the Planning Board grant a waiver to Section 9.03(3)(b)(i) for Lot 49 which does not have the required 8712 square feet of useable land in the form of a rectangle with a minimum dimension of 60 feet. The waiver is based on the applicant's grading plan for the lot and is the minimum necessary to allow for the development of this lot. Mr. Merrill seconded. Motion carried.

Mr. Gross moved that the Planning Board grant a Conditional Use Permit for proposed disturbances to wetland buffers pursuant to Article 28-4-3(d) of the Zoning Ordinance for a disturbance amounting to a total of 130,976 square feet or 3.01 acres for the construction of Whispering Way and the project drainage system, along with an estimated disturbance of 8,524 square feet to construct the trail system in the project open space. The Planning Board finds the proposed disturbance the minimum needed to develop this property. The CUP is conditioned on the following:

1. Conveyance of Open Space Areas "A", "B", "C", "D", "E" and "F" to the City of Concord with Conservation Restrictions containing at a minimum 174.94 acres. Provisions shall be included in the deeds for the proposed construction, operation and maintenance of drainage facilities approved as a part of this subdivision within the open space areas.
2. Use restrictions within the existing and proposed power line transmission rights-of-way within the open space areas shall be included in the deeds which would prohibit the building of structures, paving and other improvements not associated with the construction and operation of the utility holder's rights to construct and operate transmission line corridor across the open space.
3. The conveyance of conservation easements for wetlands, wetland buffers and perimeter buffers on Lots 2, 3, 7, 10, 11, 16, 22, 23, 47, 48, 49, 63, 64, 71, 72, 81, 82, and 86 containing a minimum of 3.6 acres, and the conservation easements shall be clearly and permanently marked.

Motion carried.

Mr. Merrill moved to grant preliminary approval subject to the following standard and special conditions:

**Standard Conditions**

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following State and federal permits shall be obtained and copies provided to the Planning Division:
  - a) NH Wetlands Bureau (wetland alterations)
  - b) NH Department of Environmental Services Site Specific Permit (RSA 485-A:17)
  - c) NH Department of Environmental Services, Water Supply and Pollution Control Division, subdivision approval for on-site septic systems.
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions.
3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.
4. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:
  - a) Right-of-way easements for Whispering Way, Abenaki Way, Silent Road, Moccasin Court, and Nebik Circle.
  - b) Deeds for Open Space Areas "A", "B", "C", "D", "E" and "F" to the City of Concord with Conservation Restrictions containing at a minimum 174.08 acres.
  - c) Conservation Easements for wetlands, wetland buffers and perimeter buffers on Lots 2, 3, 7, 10, 11, 16, 22, 23, 47, 48, 49, 63, 64, 71, 72, 81, 82, and 86 containing a minimum of 3.6 acres.
  - d) Slope easements as shown on the plans on the properties shown needed for the construction and maintenance of the proposed public streets.
  - e) Drainage easements as shown on individual lots shown on the plans.
  - f) Agreement to convey an easement for a "sight distance easement" on lots 65 and 66, as well as lots 56 & 57 for proposed driveways serving these lots.
5. Prior to the final plat being signed by the Planning Board Chair and Clerk, approval shall be obtained for the construction drawings and specifications for

all public improvements from the Engineering Division. No construction activity may commence prior to the pre-construction conference.

6. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall obtain approval of private utility plans from Unitil (Concord Electric), Verizon, and Energy North.
7. Prior to the release of a financial guarantee for any public improvement, an as built plan shall be provided to the City Engineer in form and content acceptable to the City Engineer.
8. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
9. The wetland buffers shall be clearly and permanently marked before, during, and after construction of the sites. Building permits will not be issued until the buffers are marked.
10. Traffic, recreation and school impact fees shall be assessed for any construction on lots contained within this approved subdivision. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 1, School Facilities Impact Fee per variable unit; and Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.
  - a. School Facilities - Single Family Residence
  - b. Recreational Facilities - Single Family Residence
  - c. Transportation Facilities - Single Family Residence
11. The following improvements to be constructed are deemed to be eligible for credits against the assessed traffic impact fees. The procedures for determining the eligibility and the calculation of the credit shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance.
  - a. The construction of an offsite sidewalk northwesterly along Portsmouth Street (an urban collector) from Whispering Way to its current terminus near Broken Ground Drive for a distance of approximately 3,000 feet. Said construction shall include curbing and drainage improvements where necessary to allow for the construction of the sidewalk within the existing public right-of-way.

## Special Conditions

12. Phase 1 shall be granted for a period of two (2) years from the date of the Planning Board's final resolution. The Planning Board's approval for Phases 2 and 3 shall be valid for a four (4) year period provided that the Phase 1 plat including all of Whispering Way is recorded and a financial guarantee is in place and maintained. The Planning Board's approval for Phases 4, 5 and 6 shall be valid for a six (6) year period provided that after four (4) years Whispering Way has been completed and accepted by the City of Concord.
13. The phasing of off-site improvements shall be as follows:
  - a) The reconstruction of Curtisville Road from the project entrance to Broken Ground School shall be complete prior to the first Certificate of Occupancy in the subdivision.
  - b) The offsite sidewalk northwesterly along Portsmouth Street (an urban collector) from Whispering Way to its current terminus near Broken Ground Drive shall be complete prior to the first Certificate of Occupancy in either Phase 2 or Phase 3.
14. The applicant shall reconstruct Curtisville Road from the Broken Ground School entrance easterly to the project entrance to a 26 foot paved cross section without curbing and sidewalk with three-foot gravel shoulders, except at the Beaver Pond outlet where the gravel shoulders may be reduced to minimize any wetland impacts. The applicant shall, however, construct a sidewalk along their frontage along Curtisville Road, preferably on the north side.
15. The applicant shall construct an offsite sidewalk northwesterly along Portsmouth Street (an urban collector) from Whispering Way to its current terminus near Broken Ground Drive for a distance of approximately 3,000 feet linking this development to the existing sidewalk system. Said construction shall include curbing and drainage improvements where necessary to allow for the construction of the sidewalk within the existing public right-of-way.
16. The design of the offsite improvements shall be complete and approved by the City Engineer and City Planner before final subdivision approval is granted.
17. No Certificate of Occupancy shall be issued in each phase until all the public improvements for that phase have been completed to the satisfaction of the City Engineer and accepted by the City Council.
18. No construction, clearing or grading may take place on the site until final approval has been granted by the Planning Board, financial guarantees provided, inspection fees paid, and a pre-construction conference is held.
19. If the proposed power line easements are recorded over the lots in Phase 7 (Lots 86 & 87), said lots are not buildable lots and no improvements may be

constructed on said lots except as allowed for the construction and operation of the electrical transmission line (s) and poles proposed by Unitil.

20. Each residence within the development shall be provided with a residential sprinkler system acceptable to the City Fire Marshal.
21. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall fully document the historic stone foundation located on a development lot within the subdivision acceptable to the NH Division of Historical Resources and the Heritage Commission.
22. Prior to final subdivision approval a Phase I-B Archaeological Survey shall be completed and copies provided to the City and the New Hampshire Division of Historical Resources for the Eastman/Frost/Cate farmstead.

Mr. Swope seconded.

Ms. Dolcino indicated she was still having difficulty with the contiguous buildable space and the precedent being set by allowing this. She did not feel that this was meeting the spirit and intent of the ordinance even with the variance that was granted. She noted that they were meeting the requirement by just an acre and the open space still felt fragmented to her.

Motion carried.

#### NEW BUSINESS

4. Consideration of a Pre-Application Design Review for a development which will later become the subject of a formal application:
  - a. Application by **Judith & Emmanuel T. Brochu, Jr.**, on behalf of **Parmenter Realty Investments LLC**. for approval of a planned unit development of property at **8 Parmenter Road**. [To be considered only if it is prior to 10:00 PM.]

It being 10:00 PM, the Board discussed their decision at an earlier meeting to not take up the pre-application design review for property at 8 Parmenter Road after 10:00 this evening. Staff reported that the applicant had been informed of the decision.

Members agreed that it was too late to offer well thought out comments on this project at this time and asked that it be scheduled for as early as possible after previously scheduled public hearings on February 21<sup>st</sup>.

#### OLD BUSINESS

3. Staff report relative to the **Master Plan Update**.

Mr. Woodward noted he had provided the Board with a preliminary draft of the Land Use Chapter of the updated Master Plan in order to provide an opportunity for initial

feedback as to whether he was proceeding in the right direction. He reported that the existing Land Use Map has been updated, and staff will next update the Urban Growth Boundary map and will shortly have available the Land Capabilities Map. He indicated he has direction from the Conservation Commission regarding their open space plan and maps and he intends to provide that to the Board next. He reported that his plan was to get a draft plan before the Planning Board soon to set for public hearing.

At 10:10 PM the Planning Board went into executive session to discuss results of current litigation.

The Board came out of executive session at 10:30 PM and, inasmuch as there was no further business to come before the Board, the meeting was adjourned.

A TRUE RECORD ATTEST:

Douglas G. Woodward  
Clerk

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January 31, 2007

An Executive Session of the City Planning Board was held on January 31, 2007 in the City Council Chambers in the City Hall Annex at 10:10 PM, immediately following a recessed meeting that was called to order at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Dolcino, Foss, Gross, McGonagle, Merrill, Meyer, and Swope. Messrs. Woodward and Henninger, and Ms. Osgood of the City Planning Division were also present.

The purpose of the executive session was to discuss the results of recent litigation related to the application by Berkshire Developers of property at 295 Loudon Road, and to provide guidance to staff as to further action.

Mr. Gross noted that the Court appeared to have based its decision on the fact that the Board was in possession of the minutes of the Design Review Committee at which the developers' architect suggested the use of murals on the exterior wall. It appeared that the Court considered the Board to have had fair notice as to what could be applied to the wall.

After discussion, members agreed that the Planning Board note its exception to the ruling of the Court but accept the decision.

The Planning Board came out of Executive Session at 10:30 PM and the meeting was adjourned.

A TRUE RECORD ATTEST:

Douglas G. Woodward  
Clerk