

A recessed meeting of the City Planning Board was held on January 4, 2006 in the Second Floor Conference Room at City Hall at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Blanchette, Dolcino, Gross, McGonagle, Merrill, and Meyer. Messrs. Woodward, Henninger and Pollock, and Ms. Seifried and Ms. Osgood of the City Planning Division were also present, as was Mr. Roberge, the City Engineer.

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

APPLICATIONS

Minor Subdivisions

1. Application by **Alan Johns (The Estate of Marian Gray)** for approval of a subdivision of property at **97 High Street in Penacook.** (#2005-84)

Determination of Completeness

Ms. Seifried reported this application was complete and ready for public hearing.

Mr. Gross moved and Mr. McGonagle seconded that the Planning Board determine this application to be complete and proceed to hold a public hearing. Motion carried.

Public Hearing

Ms. Seifried explained this proposal to subdivide an existing 23,622 square foot single-family residential parcel into two lots.

Timothy Bernier from TF Bernier, Inc. was present to answer questions on behalf of the applicant.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 7:10 PM.

Deliberations and Action on Application

Mr. Gross moved approval subject to the following conditions:

1. Prior to the issuance of a certificate of approval, the applicant shall revise the site plan drawings to address the minor corrections and omissions noted by City Planning and Engineering staff.

2. Prior to the start of construction, the following local approvals and permits shall be obtained and copies provided to the Planning Division:
 - a. Driveway Permit from the Engineering Division
3. 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. Table 3: Transportation Facilities - Single Family Residence

Mr. Merrill seconded. Motion carried.

2. Application by **Jonathan Halle** for approval of a subdivision by virtue of conversion to condominium of property at **80, 80A & 80½ Warren Street. (#2005-85)**

Determination of Completeness

Mr. Pollock reported this application was complete and ready for public hearing.

Mr. Gross moved and Mr. Blanchette seconded that the Planning Board determine this application to be complete and proceed to hold a public hearing. Motion carried.

Public Hearing

Mr. Pollock explained this proposal to convert an existing three-family residence to condominium ownership.

Jonathan Halle was present as applicant to answer questions from the Board.

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

Deliberations and Action on Application

Mr. McGonagle moved approval subject to the following 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. The floor plans shall be stamped by a licensed architect and display the Planning Board's signature block.

Mr. Blanchette seconded. Motion carried.

3. Application by **Sally J. Silver** for approval of a subdivision of property at **20 Margerie Street.** (#2005-82)

Determination of Completeness

Ms. Seifried reported this application was complete and ready for public hearing.

Mr. Gross moved and Mr. Blanchette seconded that the Planning Board determine this application to be complete and proceed to hold a public hearing. Motion carried.

Public Hearing

Ms. Seifried explained this proposal to subdivide an existing 1.15 acre single-family residential parcel into two lots.

No one was present for the applicant.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 7:14 PM.

Deliberations and Action on Application

Mr. Merrill moved approval subject to the following conditions:

1. Prior to the issuance of a certificate of approval, the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City Planning and Engineering staff.
2. Prior to the start of construction, the following local approvals and permits shall be obtained and copies provided to the Planning Division:
 - a. Driveway Permit from the Engineering Division

3. 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. Table 3: Transportation Facilities - Single Family Residence

Mr. Gross seconded. Motion carried.

Major Subdivision

4. Application by **Juniper Fells LLC** for approval of a cluster subdivision of property on **Snow Pond Road and Shaker Road**. (#2005-83)

Mr. Pollock explained this proposal to subdivide a 28.95 acre lot into a 23.85 acre lot from which a five-lot cluster development is proposed, with 14.31 acres of open space at the northwest corner of Snow Pond Road and Shaker Road. The balance of 5.10 acres is to be attached to Phase 3 to provide legal frontage until Phase 3 is ready to be recorded, at which time the lot will be transferred to the Conservation Commission for open space purposes.

Determination of Completeness

Mr. Gross moved that the Planning Board determine this application to be complete and to set it for public hearing at the recessed meeting of February 1, 2006. Mr. Blanchette seconded. Motion carried.

Conditional Use Permits

5. Request by **Lowe's Home Improvement Center** for an amendment to the conditions of approval of a Conditional Use Permit for property at **90 Fort Eddy Road**. (#2004-50)

Public Hearing

(Ms. Meyer recused herself and left the table.)

Mr. Henninger explained that Lowe's has requested a revision to a condition attached to a previously approved Conditional Use Permit to allow the construction of fewer parking spaces pursuant to Section 28-7-11(b) of the City's Zoning Ordinance. He explained that on February 16, 2005 the Planning Board granted the Conditional Use Permit subject to the condition that a financial guarantee shall be provided that will insure the construction of the deferred parking space, including the garage structure, and shall be maintained until the proposed Lowe's use is discontinued. A second condition of approval was that the Conditional Use Permit shall expire as soon as the proposed use as a home improvement superstore is discontinued, including other retail uses, or the financial guarantee lapses.

He reported that the applicant has requested relief from the open-ended financial guarantee, and that the financial guarantee only be required for a ten-year period instead of in perpetuity, or until the site ceases to be used as a home improvement superstore. The applicant is not requesting any changes to the design of the site or the extent of the off-site improvements.

He reported that the previously approved Conditional Use Permit for the construction of fewer parking spaces includes the provision that the applicant will construct initially for Lowe's 652 parking spaces where 854 are required to be built under terms of the Zoning Ordinance. The applicant has submitted a copy of a parking utilization study for nine Lowe's stores in New England and a Home Depot Store in Massachusetts in support of their request. The parking utilization in the study was for a peak Saturday in May of 2004. The observed parking ratios ran from a low of 1.64 spaces per 1000 square feet to a high of 3.47 spaces per 1000 square feet. The applicant will initially construct 3.84 spaces per 1000 square feet.

He reported that the applicant is demonstrating that the additional required parking spaces can be provided in three separate ways if necessary. An additional 61 surface parking spaces can be constructed to the rear of the site without disturbances to wetland buffers, resulting in a parking ratio of 4.17 spaces per 1000 square feet; an additional 166 spaces can be provided in a one level parking deck resulting in a parking ratio of 5.14 spaces per 1000 square feet; or, if an alternate use were to occupy the building, the garden center area can be converted to an additional 145 surface parking spaces resulting in a parking ratio of 5.74 spaces per 1000 square feet.

The applicant has requested that the financial obligation for the parking structure be limited to ten years. The Code Administrator can still require the construction of the deck if the Administrator at that time determines that additional parking is necessary.

Mr. Henninger noted that once a business has been open several years, the community has adjusted to its presence and any opening year fluctuations are over with. City staff has suggested that after the home improvement store has

been open for two years, a parking study be completed and presented to the Board before the third anniversary of the opening. If the Board determines that no additional parking is necessary, then the Board could eliminate the financial guarantee requirement. The scope and extent of the parking study would need to be approved by the Clerk of the Board.

Mr. Gross asked why the Planning Board could not eliminate the need for a financial guarantee and just require a parking study two years from now and then require the additional parking if it is found to be necessary. Mr. McGonagle asked what the recourse would be if it was apparent that they needed more parking after the parking study. Mr. Henninger responded that Code Administration would have to address parking requirements and could require, as a last resort, that the store close.

Mr. Gross suggested that for this project it might be appropriate to require a written agreement from the applicant so that if it becomes necessary for the City to address that condition there is a document that can be taken to Court to enforce.

Attorney Raymond D'Amante was present on behalf of the applicant and indicated that they concurred with the staff recommendation but asked for a four-year trial period instead of a two-year period. He also liked the suggestion made by Mr. Gross and indicated they would agree to provisions that would require Lowe's to pay all costs of enforcement if it comes to enforcement.

Mr. D'Amante explained this would be a parking study of parking generated only by Lowe's and not be the Demoulas market and the strip mall.

He reported that the ITE has recently generated new parking standards for stores of this kind and they are now at 3.4 per thousand square feet and they are above the new standard also. He mentioned that they have a very large area of warehousing inside the building because they do not generally store lumber outside.

There was no one else wishing to speak for or against this request and the Chair declared the hearing closed at 7:40 PM.

Deliberations and Action on Request

Mr. McGonagle moved that the Planning Board revise a previously approved Conditional Use Permit to allow the Construction of Fewer Spaces pursuant to Section 28-7-11(b) for Lowe's Home Improvement Center on property owned by M& G Equities and Demoulas Super Markets, Inc. subject to the following conditions:

1. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), a financial guarantee shall be provided that will insure the construction of the deferred parking space including the garage structure. Said guarantee shall be maintained for a minimum of a four year period

- or until the proposed Lowe's use is discontinued as a "Home Improvement Superstore - ITE Land Use Code 862". Two to three years after the Lowe's store opens the applicant shall commence a parking study acceptable to the Clerk of the Planning Board and present said study to the Planning Board before the fourth anniversary of the opening of Lowe's. If the Board determines that additional parking is not warranted at that time, no further financial guarantees for the parking structure will be required.
2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall submit an agreement to maintain a guarantee to provide the required parking spaces, if ordered by the Code Administrator, and to acknowledge this condition in a written form that is enforceable as a bond, with undertakings for payment of legal costs to the City for enforcement, and a confession of judgment.
 3. The Conditional Use Permit shall expire as soon as the proposed use "Home Improvement Superstore - ITE Land Use Code 862" is discontinued, including other retail uses, or the financial guarantee lapses.

Mr. Gross seconded. Motion carried with Ms. Meyer abstaining from discussion and vote.

6. Application by **Morrill Mill Pond LLC** for consideration of a Conditional Use Permit pursuant to Section 28-7-11(b), Construction of Fewer Parking Spaces, and Section 28-7-11(c), Shared Parking Arrangements, of the Zoning Ordinance, for property at **2 Whitney Road**. (#2005-89)

Determination of Completeness

Mr. Henninger reported this application was complete and ready for public hearing.

Mr. Blanchette moved and Mr. McGonagle seconded that the Planning Board determine this application to be complete and proceed to hold a public hearing. Motion carried.

Public Hearing

Ms. Henninger explained this request for a Conditional Use Permit under Article 28-7-11: Alternative Parking Arrangements, Section (b) Construction of Fewer Parking Spaces, and (c) Shared Parking Arrangements. He reported that the existing 74,520 square foot building was constructed as a single tenant industrial building in the late 1990's for the O.D. Hopkins Company, which subsequently

closed. The new owner of the property, Morrill Mill Pond LLC, is converting the building into a mixed use, multi-tenant commercial/industrial facility to be called Concord Crossing. He reported that the applicants have indicated that the largest proposed use for this building has less parking demand than the use classification under the Zoning Ordinance and that the peak parking demand for this use is in the evenings and on the weekends. This is particularly true for any teaching clinics or competitions that may be held at the venue. This appears to be a reasonable assumption.

The applicants obtained site plan approval for a change of use for 17,094 square feet of industrial space to a privately owned indoor health and fitness center for a sports practice and training facility on August 17, 2005, subject to the following two conditions:

1. Within 90 days of occupancy by Homerun USA a complete site plan shall be submitted providing sufficient parking for the full reuse of the building. The submittal shall include a complete design for the required amount of parking including drainage design, drainage calculations and landscaping as required in the Zoning Ordinance and Site Plan Regulations.
2. Prior to the re-occupancy of more than 50,000 square feet of the building, the required parking for the entire site shall be completed per the approved site plan as may be modified by the Planning Board as part of any Conditional Use Permit subsequently granted.

He reported that a plan in support of the Conditional Use Permit has been submitted which shows ten additional parking spaces being marked out on the site for parking in loading areas which are no longer needed. A conceptual plan has been submitted which shows an additional 68 spaces which can be constructed adjacent to the existing parking lot which would bring the total parking to 215 parking spaces. The site still has large developable areas in which to expand the parking area and drainage detention areas for parking beyond the 68 additional spaces shown on the concept plan. The applicant could restripe the eastern most parking bay to the east of the building to compact spaces and could increase the amount of onsite parking by three spaces.

With the additional marked spaces, sufficient parking is available for all uses proposed except for Homerun USA, an indoor baseball/softball practice and teaching facility. The applicant has indicated that the peak use of the Homerun USA facility would not exceed thirty spaces on nights and weekends. The other uses listed by the applicant are primarily daytime peak activities. In addition, it is likely that some of the uses will park vehicles within the building increasing

the availability of surface spaces. The majority of the building is still vacant, the final occupancy is still undetermined, and will change over time.

Laurie Rauseo was present as applicant to answer questions from the Board.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 7:50 PM.

Deliberations and Action on Application

Mr. Gross moved that the Planning Board grant a Conditional Use Permit pursuant to Article 28-7-11: Alternative Parking Arrangements, Section (c) Shared Parking Arrangements for the Concord Crossing Development at 2 Whitney Road subject to the condition that the Conditional Use Permit for a shared parking arrangement only applies to Homerun USA as an indoor baseball/softball practice and teaching facility of 17,094 square feet. If the proposed use increases in intensity or square footage or becomes vacant for a period of 90 days, the Conditional Use Permit will terminate. Mr. Blanchette seconded. Motion carried.

Mr. Blanchette moved that the Planning Board grant a Conditional Use Permit pursuant to Article 28-7-11: Alternative Parking Arrangements, Section (b) Construction of Fewer Parking Spaces, subject to the following conditions.

1. If the Code Administrator determines that additional parking is required to serve the uses on the property site, the 17 spaces shown on the south side of the site will be constructed first. The City Engineer and City Planner shall approve the revised plans for the additional paved area including paving, drainage and additional landscaping.
2. If the Code Administrator determines any of the remaining 51 spaces shown on the site plan at the southwest corner of the site need to be constructed, the applicant shall submit a complete site plan for the entire property for review and approval by the Planning Board as provided for in the City's Site Plan Review Regulations. The land owner shall then bring the paving, drainage and landscaping into conformity with the City's Zoning and Site Plan Review Regulations.

Mr. McGonagle seconded. Motion carried.

7. Application by **Sprint Spectrum, on behalf of Cingular Wireless**, for consideration of a Conditional Use Permit pursuant to Section 28-5-23, Wireless Telecommunications Equipment, of the Zoning Ordinance, for property owned by **Sylvia Miskoe on Little Pond Road. (#2005-94)**

(Ms. Dolcino recused herself and left the table.)

Determination of Completeness

Mr. Pollock reported this application was complete and ready for public hearing.

Mr. Gross moved and Mr. Blanchette seconded that the Planning Board determine this application to be complete and proceed to hold a public hearing. Motion carried with Ms. Dolcino abstaining from discussion and vote.

Public Hearing

Mr. Pollock explained that Sprint Spectrum LP is seeking a Conditional Use Permit under terms of Section 28-5-23, Wireless Telecommunications Equipment, of the Concord Zoning Ordinance, to sublease its existing telecommunications equipment to Cingular Wireless which proposes to remove and replace six old antennas with six new antennas. No changes are proposed in the height of the antennae and the new antennae will be located at the same location as presently.

He reported that the Design Review Committee reviewed the site and building plans and recommended approval subject to the antennas being painted to match the tower.

Mr. Gross asked whether there was provision for co-location and Mr. Pollock responded that there are many co-locations already on the tower.

Sean Conway from Tower Resource??? was present on behalf of Cingular Wireless to answer questions from the Board.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 7:55 PM.

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

Ms. Meyer moved approval, including approval under Architectural Design Review, subject to the following conditions:

1. In accordance with the provisions of Section 28-5-23 of the Zoning Ordinance, the permit shall be valid for a period of three years from the date of the vote of the Board.
2. The applicant shall provide the requisite financial guarantee under the terms of Section 28-5-23(i) of the City Zoning Ordinance. The financial guarantee shall be in an amount as approved by the City Engineer and in a form acceptable to the

City Solicitor. The term of the guarantee shall extend one year past the period of validity of the permit.

3. The antennas shall be painted to match the tower.

Mr. Blanchette seconded. Motion carried with Ms. Dolcino abstaining from discussion and vote.

8. Application by **Telecorp Realty LLC, on behalf of Cingular Wireless**, for consideration of a Conditional Use Permit pursuant to Section 28-5-23, Wireless Telecommunications Equipment, of the Zoning Ordinance, for property owned by **Beauregard Realty LLC at 19 Industrial Park Drive. (#2005-91)**

Determination of Completeness

Mr. Pollock reported this application was complete and ready for public hearing.

Mr. Merrill moved and Mr. Blanchette seconded that the Planning Board determine this application to be complete and proceed to hold a public hearing. Motion carried.

Public Hearing

Mr. Pollock explained that Telecorp Realty LLC is seeking a Conditional Use Permit under terms of Section 28-5-23, Wireless Telecommunications Equipment, of the Concord Zoning Ordinance, to sublease space in its monopole tower to Cingular which proposes to remove six old antennae and replace them with six new antennae. No changes are proposed in the height of the tower. The new antennas will be located at a height of 88 feet and 100 feet within the mono pole.

He reported that the Design Review Committee reviewed the site and building plans and recommended approval.

Sean Conway from Tower Resource??? was present on behalf of Cingular Wireless to answer questions from the Board.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 7:59 PM.

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

Mr. McGonagle moved approval, including approval under Architectural Design Review, subject to the following conditions:

1. In accordance with the provisions of Section 28-5-23 of the Zoning Ordinance, the permit shall be valid for a period of three years from the date of the vote of the Board.
2. The applicant shall provide the requisite financial guarantee under the terms of Section 28-5-23(i) of the City Zoning Ordinance. The financial guarantee shall be in an amount as approved by the City Engineer and in a form acceptable to the City Solicitor. The term of the guarantee shall extend one year past the period of validity of the permit.

Mr. Merrill seconded. Motion carried.

9. Application by **Telecorp Realty LLC, on behalf of Cingular Wireless**, for consideration of a Conditional Use Permit pursuant to Section 28-5-23, Wireless Telecommunications Equipment, of the Zoning Ordinance, for property owned by **2 Pillsbury Street LLC at 2 Pillsbury Street**. (#2005-92)

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

Determination of Completeness

Mr. Pollock reported this application was complete and ready for public hearing.

Mr. Gross moved and Mr. Merrill seconded that the Planning Board determine this application to be complete and proceed to hold a public hearing. Motion carried with Mr. Blanchette abstaining from discussion and vote.

Public Hearing

Mr. Pollock explained that Telecorp Realty LLC is seeking a Conditional Use Permit under terms of Section 28-5-23, Wireless Telecommunications Equipment, of the Concord Zoning Ordinance, to sublet its existing wireless telecommunications equipment on the roof of the building at 2 Pillsbury Street to Cingular Wireless which proposes to remove six old antennas and replace them with six new antennas. No changes are proposed in the height of the tower. The new antennas will be located at the same locations on the penthouse as they are presently located.

He reported that the Design Review Committee reviewed the site and building plans and recommended approval subject to the freestanding elements being painted a charcoal gray and the antennas on the penthouse painted to match the penthouse.

Sean Conway from Tower Resource??? was present on behalf of Cingular Wireless to answer questions from the Board.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 8:01 PM.

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

Mr. McGonagle moved approval, including approval under Architectural Design Review, subject to the following conditions:

1. In accordance with the provisions of Section 28-5-23 of the Zoning Ordinance, the permit shall be valid for a period of three years from the date of the vote of the Board.
2. The applicant shall provide the requisite financial guarantee under the terms of Section 28-5-23(i) of the City Zoning Ordinance. The financial guarantee shall be in an amount as approved by the City Engineer and in a form acceptable to the City Solicitor. The term of the guarantee shall extend one year past the period of validity of the permit.
3. The freestanding element shall be painted a charcoal gray and the antenna on the penthouse painted to match the penthouse.

Mr. Gross seconded. Motion carried with Mr. Blanchette abstaining from discussion and vote.

10. Application by **Brett A. & Samantha Tucker** for consideration of a Conditional Use Permit pursuant to Section 28-4-3(d), Disturbance of Wetland Buffer, of the Zoning Ordinance, for property at **128 Penacook Street**. (#2005-90)

Determination of Completeness

Ms. Seifried reported this application was complete and ready for public hearing.

Mr. Gross moved and Mr. Merrill seconded that the Planning Board determine this application to be complete and proceed to hold a public hearing. Motion carried.

Public Hearing

Ms. Seifried explained this request to permit the reconstruction of an existing storm drain. She explained that the applicant wishes to build a garage outside of the wetland buffer. To accomplish this, the existing drainage easement must be relocated and the drain line reconstructed, based on advice from the City Engineering Division. The applicant is seeking a Conditional Use Permit for disturbance to the wetland buffer. She reported that the Conservation Commission had reviewed the application and recommended approval.

Timothy Bernier from TF Bernier, Inc. was present on behalf of the applicant and explained that all of the construction and impact to the wetland will be on land of the Tuckers but some of the easement area will spill over to the abutting property. They have the agreement of the abutters to this easement.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 8:05 PM.

Deliberations and Action on Application

Mr. Gross moved that the Planning Board grant approval for a Conditional Use Permit for the disturbance of the wetland buffer subject to the following standard conditions:

1. Prior to the issuance of a certificate of approval, the applicant shall revise the site plan drawings to address the minor corrections and omissions noted by City Planning and Engineering staff.
2. Prior to construction, a mandatory preconstruction meeting will need to be held with the applicant and the Engineering Division to discuss inspection fees, construction schedule, permitting, and other construction items.

Mr. Merrill seconded. Motion carried.

Architectural Design Review

11. Revised building plans related to an application by **R. J. Moreau Communities LLC** at **The Vineyards on Bog Road**.

Mr. Henninger that the Design Review Committee had reviewed and made recommendations on modifications to the previously approved elevations for the two- and four-unit buildings for The Vineyards. The Planning Board had approved all the modifications with the exception of the end elevations, which were tabled to allow the applicant time to address comments made by the Design Review Committee. The Design Review Committee had now reviewed photographs of the buildings as constructed and heard testimony from the developer that substantial landscaping was planned that would improve the appearance of the ends of the buildings.

He reported the Design Review Committee recommended approval of the end elevations with a bump out using matching materials to cover the electric panels. The Committee was of the opinion that this additional detail, combined with the proposed landscaping, would address their earlier concerns.

No one was present for the applicant.

Mr. Gross moved approval of the revised end elevations with the condition that the electrical meter panels be covered with a shed dormer that matches the colors and materials of the fireplace bump out on the same elevation. Mr. McGonagle seconded. Motion carried.

REGULAR MEETING

Minutes

Mr. Gross moved approval of the minutes of the meetings of November 16, 2005 and November 30, 2005 as submitted. Mr. Merrill seconded. Motion carried.

NEW BUSINESS

2. Consideration of a pre-application design for a development which will later become the subject of a formal application:
 - a. Application by **Robert Nichols** for approval of a townhouse condominium development of property at **42-52 Shawmut Street**. (#2005-76)

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

Mr. Henninger explained this proposal to create an 85-unit multi-family attached development on the south side of Shawmut Street in East Concord Village. The development will consist of two-story townhouses in three, four, five and six unit buildings. In addition, one single family lot is proposed to be created on Shawmut Street. One entrance is proposed on Shawmut Street opposite Randolph Drive and a second emergency entrance is proposed on Shawmut Street between two existing house lots. Without the emergency access, the proposed dead end access exceeds the 1000 foot dead end drive limitation of the Board's Subdivision Regulations.

He reported that no development is proposed in the wetlands along Mill Brook. The applicant has shown units, driveways, private streets, decks, and required private yard areas within the wetland buffers. The plan needs to be revised to eliminate these intrusions. The applicant is also proposing units on steep slopes of 15 to 25 percent and some in excess of 25%. The disturbed areas are sand bluff type features which do not meet the definition of bluffs in the Zoning Ordinance. Bluffs must have a vertical elevation of 25 feet, and the steep slopes being disturbed only have a vertical rise of 20 to 24 feet in elevation. The units are shown in a position where disturbances to the 75-foot Shoreland Protection setback and the 50-foot wetland setback will be required unless the units are built on 20-25-foot vertical retaining walls.

He reported that the length of internal dead end road would exceed 1000 feet without the proposed paved and gated emergency access. The project could be redesigned without the need for an emergency way.

He reported that the intersection of Shawmut Street/NH 132 Mountain Road and the access to I-93 Exit 16 was studied by the City's traffic consultant in 2004. The community is debating the desirability of signaling or constructing a roundabout at this intersection. This intersection was reconstructed several years ago by NH Department of Transportation as part of the I-93 Exit 16 project.

Mr. Henninger reported the conceptual sewer system appears to be flowing up hill which is not feasible without a sewer pumping system.

Mr. McGonagle had questions relative to the proposed emergency access. Board members felt the proposed emergency access should be a full access.

Mr. McGonagle noted that there were two buildings containing a total of eleven units located in a steep slope area.

Ms. Meyer asked how this related to the proposed zoning change being discussed at public hearing next week. Mr. Henninger responded that this was submitted as a pre-application design review before the petition for zoning change so at this time it is being reviewed under the existing zoning ordinance. Design and review may have to change if the proposed zoning change is adopted by City Council.

Mr. Gross expressed his frustration at seeing developments being brought before the Board with what appears to be the only consideration to design being to squeeze as many units as possible on a given site. Applicants submit plans like this over and over again to be told that they are trying to put too many units onto the site with no imagination to the layout. He would like to see someone create something that looks like a community with some life in it.

Ms. Meyer observed that by the time the development is constructed, the fifty foot buffer may not be apparent.

Mr. McGonagle indicated three items he is very upset about were the three buildings in the steep slopes, crossing of wetlands for a roadway in the northeast part of the property, and the second access proposed as emergency access only. He indicated he would definitely want to see what is now proposed as an emergency access be the primary access and the currently proposed primary access become a secondary access if it was needed.

Robert Nichols was present as applicant with Ron Bourcier from HL Turner.

Mr. Nichols explained they were trying to get into the luxury market that Concord does not have right now. He explained there will be 2400 square foot units with optional elevators in the units. Forty-four of the units will be about 1900 square feet and then there will be some smaller units of about 1400 square feet. He explained their site design options were limited because the lot itself is triangular. The beauty of the site is that residents can walk anywhere in the village because there are so many sidewalks in the neighborhood as well as an existing trail system.

Mr. Bourcier explained that they had been working on this for nearly a year. They have met with abutters, Conservation Commission, City staff, and the NH Department of Environmental Services during that time. He discussed the bluffs and explained they are building on only nine acres of the 19-acre tract.

Mr. McGonagle indicated that the Planning Board will need clarification by staff regarding the definition of the bluff and the topography in the area and how this project complies with the City's ordinances.

Mr. Nichols further described the bluff area and explained it is covered with heavy pines.

Mr. McGonagle indicated he is not familiar with this area and thought it would be helpful to have a walk-through of the property.

The Chair summarized comments and indicated that the emergency access road should be wide enough to be a regular street and a real access. Generally speaking, the proposed development is cookie cutter and crowded, and building on the steep slopes will be a challenge if they wish to continue to pursue that feature. There is a question about the value of the two stubs toward the abutting parcel reserved for future access. Gravity feed for sewer needs to be reviewed more carefully. There was great concern about buffers and wetland crossings as well as design issues.

NON-AGENDA ITEM

Request for a waiver from the **First Baptist Church** to allow consideration of a Determination of Completeness and the holding of a Public Hearing at one meeting

Mr. Woodward explained this request on behalf of the First Baptist Church relative to a Major Site Plan application of its property at 129-135 Clinton Street. The Church had submitted in early 2001 a site plan application, and a hearing was held on a development of a new church and school complex, but after a one year extension for consideration, the Church withdrew the application prior to any action being taken. They have worked with the City in planning access and utilities to this site in concert with the City's construction of Langley Parkway and the related improvements to Clinton Street. The Church proposes to establish access to its property directly opposite the intersection of Langley Parkway with Clinton Street, thereby creating a four-way intersection. The Church also proposes to extend the municipal sanitary sewer westerly

to its site as a private force main. At this time they are not prepared to go forward with the plans for the church and school, which may be as much as five years away, but they want to proceed with the infrastructure improvements to support the eventual development of this site.

He reported that a waiver of the two meeting process for determination of completeness and hearing seems reasonable in this case as this application is only related to the off-site improvements for access and sewage disposal, and does not include any of the actual proposed site improvements. The main purpose of this application is to allow the Church to coordinate its off-site improvements with the City's construction on Clinton Street.

Board members found no compelling reason to depart from the standard schedule given that the on-site improvements are some years away and the City's efforts for Langley Parkway will not begin until later this year.

The Board suggested that this application be set for determination of completeness at its regular meeting on January 18, 2006 and, if the application is determined to be complete, the Board will set the public hearing for the regular meeting of the Board on February 15, 2006.

INFORMATION

3. Update on current litigation.

Mr. Woodward reported that Kevin Guay has submitted an application to the Board regarding his proposed driveway, and the City is in Court with him next week regarding his violation of the cease and desist order. The hearing before a judge for the US Cellular case will not happen until late this year but there are some preliminary skirmishes coming up. Also, the City Solicitor has submitted a request for reconsideration on the Court Order related to the Whispering Heights development and interpretation of the completeness issue. Tomorrow City staff is meeting with the applicants regarding specific development details.

4. Status Report on the Master Planning Process.

Mr. Woodward reported that he was nearly ready to give CNHRPC the information regarding future growth scenarios and will be meeting with VHB to discuss transportation issues.

There was no further business to come before the Board and the meeting adjourned at 9:30 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward

Clerk

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