

The regular monthly meeting of the City Planning Board was held on May 17, 2006 in the City Council Chambers at the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Dolcino, Foss, Gross, McClure, McGonagle, Merrill, Meyer, Swope, and Alternate Members Blanchette and Kenison. Messrs. Woodward, Henninger and Pollock, and Ms. Seifried and Ms. Osgood of the City Planning Division were also present, as was Ms. Aibel, the City's Associate Engineer.

As all regular members of the Board were present, no alternates were seated.

At 7:05 PM a quorum was present and the Chair called the meeting to order.

## **APPLICATIONS**

### Minor Subdivisions

1. Application by **Kirk & Arlene Devoid and Bradley J. & Kristen L. Gaudreau** for approval of a resubdivision and subdivision of property at **50 & 56 Lake View Drive.** (#2006-48)

### Determination of Completeness

Mr. Pollock explained this proposal to reconfigure two existing lots. He reported this application was complete and ready to set for public hearing.

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

### Public Hearing

Mr. Pollock explained this proposal to subdivide 2.01 acres from an existing parcel and to annex it to an existing 3.93 acre lot to create a new lot of 5.94 acres.

David Collier, surveyor of record, was present to answer questions on behalf of the applicant.

At 7:08 PM there was no one who wished to speak for or against this application and the Chair declared the hearing closed.

### Deliberations and Action

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. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat to reflect the proper name of Lake View Drive.

Mr. Gross seconded. Motion carried.

2. Application by **Stephen and Cynthia Domenici** for approval of a subdivision of property at **71 Runnells Road**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-4-3(d) of the Zoning Ordinance, Conditional Use Permit Required for Certain Disturbance of Wetland Buffers. (#2006-47)

The Chair announced that this application would be postponed at the request of the applicant.

3. Application by **NH Excavating LLC** for approval of a subdivision of property at **1 Henniker Street**. (#2006-49)

#### Determination of Completeness

Ms. Seifried explained this proposal to subdivide a 191,271 square foot parcel into two separate lots. She reported this application was complete and ready to set for public hearing.

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

#### Public Hearing

Ms. Seifried explained this proposal to subdivide an existing parcel into two lots. Lot 1 is proposed to be 43,902 square feet and Lot 2 will be 147,368 square feet. She reported there is a previously approved site plan for this property for the construction of a two-story seven-unit building with office and warehouse space and a single-unit building for wholesale distribution. A 265 foot wide right-of-way for PSNH encumbers eastern half of the lot.

She reported that the applicant has requested a waiver for the minimum requirement of 17,000 square feet contiguous usable land area as required by Section 9.03 (3) (b) (i) of the Subdivision Regulations. Because of the lot shape and the PSNH right-of-way easement on the site, the applicant is unable to meet the rectangular shape of the required amount of usable land area.

She reported that they had also requested a waiver of the plat scale in order to increase the scale to clearly view details of the plat.

She reported that an access easement will be required for access across Lot 1 to Lot 2 and that this is not shown on the plan. An access easement will also be needed for

access onto Lot 1 over Lot 2 and this is shown on the plan. A utility easement will be required for underground electrical and gas services that will have to cross lots 1 and 2.

There were a number of questions by Board members relative to the reasons for creating lots of unusual configuration. Ms. Seifried noted that much of each of the two proposed lots is encumbered by a PSNH easement. Also, a previously approved site plan affected the lot shape.

Christopher Ogden, from Burd Engineering, explained that the intent was to take a previously approved site plan and allow for the uses as approved. There was one common drive proposed because it is the safest way to provide access to both lots. There are slope issues along Chenell Drive. The intent was to create the smallest lot that will support commercial use and maintain the largest lot. He explained the nature of the PSNH easement is to allow for support of the use but not to permit structures.

At 7:29 PM there was no one who wished to speak for or against this application and the Chair declared the hearing closed.

#### Deliberations and Action

Mr. Swope moved to grant a waiver of the Board's Subdivision Regulations to allow plans submitted showing a scale of 1" =40' for the plan. Mr. Gross seconded. Motion carried.

The Board then discussed the requested waiver for the minimum requirement of contiguous usable land as required by Section 9.03 (3) (b) (i) of the Subdivision Regulations.

Mr. Henninger explained that the applicant had the lot size to allow contiguous useable land but could not use the PSNH easement.

Ms. McClure felt the Planning Board would be creating problems for the future by approving this lot configuration.

Mr. Swope moved to deny because the only reason for the waiver is to support the subdivision that is being requested. Mr. Merrill seconded.

Mr. McGonagle clarified that if they had decided to convert to condominium this would not be an issue and Mr. Woodward responded that was correct.

Ms. Dolcino then asked if a change in the shape of the lot would also not require the waiver and Mr. Woodward again agreed but indicated that could create difficulty for the use of the larger lot.

Mr. Gross supported the motion because granting the requested waiver will not correct a problem that the property owner inherited.

Motion to deny the requested waiver carried.

Mr. Gross moved to deny the subdivision as the application did not comply with the Subdivision Regulations in the absence of a waiver of Section 9.03(3)(b)(i) and Mr. McGonagle seconded. Motion carried.

4. Application by **Kenneth J. Smith** for approval of a subdivision of property at **227 Mountain Road.** (#2006-46)

#### Determination of Completeness

Mr. Pollock explained this proposal to subdivide an existing parcel into two lots. The applicant proposes to construct a private force main, sanitary sewer connection under Mountain Road and within the right-of-way of Fairview Drive. He reported this application was complete and ready to set for public hearing.

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

#### Public Hearing

Mr. Pollock explained this proposal to subdivide the existing lot into two parcels, one having 2.764 acres and the other having 2.851 acres. The applicant also proposes to construct a private force main, sanitary sewer connections under Mountain Road and within the right-of-way of Fairview Drive. A permit to cross under Mountain Road is needed from the State of New Hampshire Department of Transportation and a license is required from the City to place private sewer connections in the public right-of-way of Fairview Drive. A sewer easement across Lot 1 for the benefit of Lot 2 will be required.

The proposed private force main to facilitate a new subdivision raises new policy issues for the City as to the maintenance of the main in the street and the potential for other intervening land owners to connect or propose similar, duplicate facilities in the street. It raises further issues as to where such systems will be allowed and how they will affect land use in the City. This area was once planned to be serviced by a gravity sewer system going north on Mountain Road to Sewalls Falls Road and then westerly to a sewer crossing the bridge. Agricultural land protection has removed a substantial amount of frontage from future development, making the sewer extension infeasible from an economic standpoint. The City has not had good experience with private sewer pumping systems for residential developments. At Mountain Green, residents of the subdivision petitioned for the City to take over a private pump and force mains.

In answer to a question by Mr. Gross, Mr. Woodward explained the discussions City staff had regarding the proposed sewer system.

Mr. Gross asked why staff had recommended this application be determined complete if these permits and licenses were critical to this proposal. Mr. Drypolcher responded that for the applicant to proceed with permits would be inappropriate until the Planning Board made a policy decision regarding the sewer problem.

Ms. McClure noted that she was aware of two situations that the City Council had dealt with recently regarding private sewers and she did not feel the City Council would be in favor of this proposal and did not feel the City Administration would be in favor of it either.

Robert Carpenter, from TF Bernier, Inc., was present on behalf of the applicant and requested conditional approval subject to receipt of a license from the City Council since the City Council typically asks for a recommendation from the Board.

He explained his concerns about the process. He reported that the applicant purchased the property last summer and has been looking at his options and met with staff. At the meeting with City staff he got some preliminary positive feedback. This is two residential lots that are looking to put in a pump system in order to get into the municipal sewer. He did not see this as breaking any new ground.

Mr. Drypolcher noted that he has been around long enough to remember the problems the City has had with situations such as this. Down the road, given the history of these, the City will suffer.

Mr. McGonagle noted that even if City staff had recommended approval, he would not have been in favor of this sewer proposal. He also asked what would happen around the driveways. He asked if the existing loop driveway will be terminated and a separate drive constructed for the new lot. Mr. Carpenter responded that they did anticipate using the southerly driveway as it exists with the connection broken and a second driveway constructed for the second lot.

Mr. Merrill noted that he also had significant concerns about this proposal for sewer and would like to see more information from staff before acting favorably on this.

Ms. Foss asked about the elevation change between the front of the lot and the westerly end of the lot and Mr. Pollock responded that it was about 100 feet.

Mr. Blanchette noted, in response to Mr. Carpenter's comments about staff encouraging the application, that it is the Planning Board that takes action on application. While he appreciates the staff's input and recommendations, when the time comes to take action it is the Board that that takes action based on all the input it has received.

Mr. Blanchette asked if the geology of the lot would allow them to construct a residential septic system and Mr. Carpenter responded that they could.

At 8:13 PM there was no one who wished to speak for or against this application and the Chair declared the hearing closed.

#### Deliberations and Action

Board members asked Planning staff to ask City Administration for direction as to what they would be willing to allow for sewer service in this instance.

Mr. McGonagle asked if there was any way to get this question before City Council for a determination on the license without actually requesting a license and getting a recommendation from the Planning Board.

Mr. Swope felt that it was the responsibility of the applicant to request direction from the City Council. He noted that the Planning Board has consistently discouraged applicants from creating private pump stations. He also recalled that in discussing lot standards during the deliberations for the zoning ordinance update, consideration was always on either municipal sewer system or septic system and there was never any thought given to private pumping stations.

Mr. Swope suggested that the Planning Board also recommend that the City should not allow private pumping stations to connect to the municipal system because of the problems it would cause and the future costs to the City.

Ms. Meyer had a problem tabling this application because she felt it would be leading the applicant to believe that getting all the suggested easements and licenses would guarantee that this application would then be approved by the Planning Board. She did not necessarily feel approval was appropriate.

Ms. Meyer moved to deny and Ms. Foss seconded because the private sewer and pumping station would not be an acceptable solution to providing sewage disposal for the proposed lots, there is already a residence on the property served by a viable septic system, and the only purpose for the private sewer and pumping system is to facilitate a subdivision.

Mr. Drypolcher felt the applicant was creating a situation voluntarily where he needed to add the private sewer system. The Board is being put in a position of authorizing an additional 650 feet of sewer line under a City street and if the property owners decide they don't want to maintain that sewer line, they will petition the City to take it over and it will become the City's maintenance problem at taxpayer expense.

Mr. Gross suggested that the Board deny without prejudice in the event the applicant can work out the sewer issue so he can reapply.

Mr. Swope felt that any decision should incorporate the Planning Board's feeling that it is a bad idea to allow this private force main sewer system.

The motion to deny without prejudice was summarized as follows:

1. The Board is of the opinion that the lot is usable as it presently exists and that the proposed subdivision as presented, creates the need for a force main sewer line.
2. The Board is of the opinion if the applicant wanted to pursue the private force main in public streets, the applicant should get all easements and permits from the State of New Hampshire to cross under Route 132 and a license from the City Council to place a private line in Fairview Drive.

Motion to deny carried.

#### Major Subdivision

5. Application by **Bridgestone Builders Inc.** for preliminary approval of a cluster subdivision of property on **Hooksett Turnpike**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-4-3(d) of the Zoning Ordinance, Conditional Use Permit Required for Certain Disturbance of Wetland Buffers. (#2005-36)

#### Public Hearing

Mr. Henninger explained this proposal to subdivide a 60.39 acre parcel on the east side of Hooksett Turnpike into a ten-unit cluster subdivision. The applicant is selecting the no lot cluster subdivision option with condominium ownership. A Conditional Use Permit to allow Disturbances to a Wetland Buffer pursuant to Section 28-4-3(d) of the Zoning Ordinance for the construction of a new public street has also been requested. This subdivision will involve a new 990 foot public street, the first 90 feet of which will be in the Town of Bow, with a cul-de-sac. The applicant is proposing a common drive off the new public street. Both the new public street and the combined public/private street are less than 1000-foot' maximum extension from Hooksett Turnpike. The common drive will provide access to four houses.

He reported that the frontage of the existing parcel is along Hooksett Turnpike in the Town of Bow. Subdivision approval will also be required from the Town of Bow although all the new units will be in Concord.

He reported that the Planning Board granted a waiver in January from Section 8.04 (3)(a) of the City of Concord Subdivision Regulations to allow the final plat to be prepared at a scale of 1"=100' and 1"=60'. The also Board denied a waiver request to Section 9.04(3)(p) of the City of Concord Subdivision Regulations to allow for a combined dead end public cul-de-sac and private common drive in excess of 1000 feet, and to Section 9.04 Streets requiring the provision of slope granite curbing for the proposed public street. The Planning Board then tabled this application to allow the applicant to redesign the proposed subdivision based on a denial of the requested waivers and to allow the applicant to address comments from the Planning and Engineering Divisions, and to address the concerns raised by the Conservation Commission about the logging related disturbances on the site and resolution of the NH Department of Environmental Services Wetland Board complaint.

Mr. Henninger reported that the applicant has revised the plans as directed by the Board and is now asking for preliminary approval and, since the revised plans differ in a number of ways from the prior plan, a new public hearing has been scheduled.

He reported that Wetland Board approval will be required to cross a linear wetland for the new public street. The revised plan will disturb 3,373 square feet of wetlands to access six units. The original application involved disturbances to 335 square feet of wetland by using an old woods road to mitigate the wetland impacts. The applicant is

proposing to remove the old woods road (fill) through the wetlands and restore this area using the disturbed soil from the new crossing. An application for a Conditional Use Permit has been submitted for the crossing of the wetland buffer on either side of the disturbed linear wetland. The disturbed wetland buffer area at 11,782 square feet is several thousand square feet less than the prior plans.

He reported that the applicant has provided sloped granite curbing on the new public street. The same City cross section is also included in the Bow section of the new road. In discussion with the Town Planner for Bow, it was determined that the Bow Planning Board will likely require or allow the same street cross section that the City requires for the majority of the roadway length.

Mr. Henninger reported that the Fire Department has indicated that this concept is acceptable provided the units are provided with residential sprinklers. The applicant has agreed to the stipulation that residential sprinklers be provided for the homes.

He reported that Hooksett Turnpike in Concord north of NH 13 is in poor condition. Hooksett Turnpike is scheduled for improvement in the City's six year CIP in FY 2007. It is recommended that this plat not be recorded until Hooksett Turnpike is either improved or a guarantee is provided that assures the reconstruction of this portion of Hooksett Turnpike before the first Certificate of Occupancy is issued.

He reported that testimony was received on an earlier application for this property that the intersection of Hooksett Turnpike and Clinton Street has poor sight distance on the Clinton Street approaches. The traffic study completed by the applicant indicates that the existing sight distance on Clinton Street for traffic on Hooksett Turnpike is less than desirable, hence NH Department of Transportation has posted an advisory speed of 30 MPH at this intersection. No suggested modifications to this intersection are planned either by the City of Concord or NH DOT.

Mr. Henninger reported that the Conservation Commission does not object to the wetland buffer Conditional Use Permit provided that logging disturbances are rectified, the drainage system is revised to minimize wetland buffer impacts, and conservation easements are placed on the open space and with non-motorized public access allowed. A trail system to access the common open space by the residents has been provided.

Mr. Gross asked why it would be in the interest of the taxpayers of Concord to bring maintenance vehicles to this site through Bow and Mr. Henninger responded that it would be the City's responsibility to maintain the public street in this development so it would be logical to maintain the 90 feet entrance that is in Bow. Once approved by the Planning Board, the City would be responsible for the public portion of the road into the development. This new street will only serve homes in Concord.

Ms. McClure asked the Board's obligations regarding allowing wetland impacts. Mr. Henninger responded that it is not unusual to have wetland crossings to access the development area of a site. Almost 80% of the site will be in open space so this is not unusual.

Ms. McClure asked what condition Hooksett Turnpike is in and Mr. Henninger explained it is scheduled in 2007 for a complete reclamation. This development will contribute a small percentage of the traffic on this road. Most of the traffic comes from outside the city.

Attorney Richard Uchida and Alden Beauchemin from Keyland Enterprises were present on behalf of the applicant.

Mr. Uchida indicated they had been in discussion with the City Solicitor who has been in discussion with the City's General Services Department regarding an intergovernmental agreement for maintenance of the road. Before they go to the City Council for approval of that agreement, they need to go to the Town of Bow and get their agreement. He explained they originally proposed a private road for this development and went to the Zoning Board of Adjustment for a variance and were denied.

Mr. Uchida introduced Alden Beauchemin who explained this is a forested wetland. It is their intent to mitigate a wetland buffer impact of about 9500 square feet with wetland impact of about 2500 square feet. The net result is much less than described because of an error on the plan.

At 9:08 PM there was no one who wished to speak for or against this application and the Chair declared the hearing closed.

#### Deliberations and Action

Ms. Meyer felt the Board should require the same planting standard for this development as for a cluster development in an RO zoning district, or at least some attention should be paid to landscaping for the cul-de-sac.

Mr. McGonagle moved to grant a Conditional Use Permit to allow Disturbances to a Wetland Buffer pursuant to Section 28-4-3(d) of the Zoning Ordinance for the construction of a new public street as requested by the applicant. Ms. Foss seconded. Motion carried.

Mr. McGonagle moved to grant preliminary approval subject to the following 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 Department of Environmental Services Site Specific Permit (RSA 485-A:17)
  - b) NH Wetlands Bureau (wetland alterations)

2. 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.
3. 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.
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. 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) An open space agreement for the "Open Space B" and "Open Space D" parcels along the linear wetland through the development area of the site.
  - b) Conservation easement for "Open Space A", "Open Space C" and "Open Space E" parcels.
  - c) Right of way easement for the new public street.
  - d) Two (2) drainage easements.
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 and Verizon.
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. 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

### Special Conditions

9. Prior to the final plat being signed by the Planning Board Chair and Clerk, the plat shall be approved and certified by the Town of Bow Planning Board.
10. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall pay a fair share contribution for improvements to Hooksett Turnpike in the amount of \$17,400.
11. Prior to the submittal of a request for final subdivision approval, the Wetlands Board complaint on this property will need to be resolved satisfactorily to the NH Department of Environmental Services and documentation provided.
12. Prior to the final plat being signed by the Planning Board Chair and Clerk, the condominium documents shall be approved by the City Planner and the City Solicitor.
13. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall work with the Conservation Commission in the design of the proposed public trail system in the open space.
14. No clearing, grading or development on the site may occur until final subdivision approval is granted.
15. Street trees shall be added to the plan.

Mr. Merrill seconded. Motion carried.

### Site Plans

6. Application by **John Dapergolas** for approval of a site plan of property at **12 Integra Drive.** (#2005-87)

The Chair announced that this application would be postponed at the request of the applicant.

7. Application by **Daniel D. Hughes** for approval of a site plan of property at **58 Hall Street.** (#2006-39)

### Public Hearing

Ms. Seifried explained this proposal to construct a new paved parking lot in support of a change of use from residential to commercial. A handicap accessible ramp is also being added to the main entrance of the building. The property has non-conforming frontage of 113 feet where 200 feet of frontage is required in the Opportunity Corridor Performance District. However, the lot is already of record and the proposed project does not result in any increase in the non-conforming status of the lot.

She reported the applicant had also requested a Conditional Use Permit for less than the required driveway separation pursuant to Article 28-7-11 (f) Driveway Separation Alternatives of the Zoning Ordinance. The proposed driveway does not meet the required standard of 200-foot driveway separation on an arterial street, nor does it meet the 200-foot separation from an intersection. The site is located within 200 feet of the Home Avenue intersection. The placement of the drive is the only feasible location on the site.

Ms. Seifried reported that site and building plans were reviewed by the Architectural Design Review Committee and the Committee found the architectural plans to be acceptable with modifications to the shortening of the handicap ramp and the placement of a lattice under the ramp so that it does not visually conflict with the railings.

David Hughes was present as applicant as was his attorney, Maria Dolder, to answer questions from the Board.

At 9:25 PM there was no one who wished to speak for or against this application and the Chair declared the hearing closed.

Deliberations and Action  
Deliberations and Action on Architectural Design Review

Mr. Swope moved approval under Architectural Design Review subject to shortening of the ramp and the use of lattice under the rails. Mr. Kenison seconded. Motion carried.

Mr. Swope moved that the Planning Board grant a Conditional Use Permit pursuant to Article 28-7-11 (f) Driveway Separation Alternatives of the Zoning Ordinance. Ms. Foss seconded. Motion carried.

Mr. Swope moved approval of the site plan subject to the following conditions:

**Standard Conditions:**

1. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions.
2. Traffic impact fees shall be assessed for any non-residential construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The applicants are proposing a change of use from a single family residence to a general office building with 2,091 square feet of office space with an additional 780 square feet of warehouse space. The new general office use on the new lot will receive credit

against the Transportation Facilities Impact Fee (100%), for the pre-existing single-family residence.

Mr. McGonagle seconded. Motion carried.

8. Application by **The Roman Catholic Bishop of Manchester** for approval of a site plan of property at **25 Columbus Avenue**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(c) of the Zoning Ordinance, Shared Parking Arrangements. (#2006-41)

#### Public Hearing

Mr. Pollock explained this proposal to expand the existing high school by 27,910 square feet for a total of 76,032 square feet of floor area. He reported that the Zoning Board of Adjustment granted variances for parking lot landscaping and dimensional layout of the parking lot. The applicant has agreed to provide a sprinkler system which will require a new water connection. The applicant does not propose to add any parking spaces to the current total of 217. The Code Administrator has ruled that the school has a parking requirement based on both the number of classrooms (189 spaces required) and the seating capacity of the gymnasium/auditorium as a place of public assembly (200 spaces required) for a total of 389 spaces. However, the school has indicated that during the school day, the gym/auditorium would never be used by an outside organization, meaning that the parking would be based solely on the classroom requirement, and in the evening there is never simultaneous use of the classrooms and gym/auditorium, so that an evening parking demand should be based on the gym/auditorium. In either case, the existing parking total exceeds each of the individual parking requirements. Therefore, the applicant has submitted an application for a Conditional Use Permit pursuant to Section 28-7-11(c), Shared Parking Arrangements, of the Zoning Ordinance to allow for non-simultaneous occupancy of the existing 217 parking spaces, a total which exceeds either individual requirement of 189 or 200 spaces.

He reported that the proposed drainage plan shows the new storm water going directly into the City's storm system. Inasmuch as the applicant cannot increase the flows into the existing system, there needs to be some detention on site before going into the City's storm system. A revised drainage study was submitted and is currently under review by the City's Engineering Division.

Mr. Pollock reported that the Design Review Committee recommended approval of the elevations subject to the brick on the existing entrance being replaced with the same brick as the new additions, the roof on the front entrance being extended two or three feet, more detail being provided relative to the proposed iron gate, and a landscape plan being provided. The Committee deferred recommendation on the landscape plan until a plan is submitted for review. A landscape plan has subsequently been submitted and shows no landscaping for the parking lot perimeter. A variance was granted for internal parking lot landscaping but not for the perimeter.

Mr. Pollock noted that the Board had received a letter from an abutter in support of the application and with a request for consideration of some his concerns. The abutter requested that the Board require proper, effective acoustical screening of any rooftop mechanical units, that the applicant be diligent in its monitoring of the builder's compliance with noise and dust ordinances, and that the contractor coordinate efforts with the City for any paving to avoid having to disrupt traffic and excavate the road for utility connections once the City's new road surface is in place.

Ms. Meyer asked if there were shade trees planned in front of the addition and Mr. Pollock responded that there were five trees proposed. Ms. Meyer asked that those be shade trees.

David Reinstra from Team Design was present on behalf of the applicant and noted that they would provide additional plantings as requested by the Board.

Mr. Drypolcher asked, in response to the communication from the abutter, if they are proposing rooftop mechanical equipment and Mr. Reinstra responded that they are. Mr. Drypolcher then asked about screening for that mechanical equipment and Mr. Reinstra indicated that the plan shows rooftop screening.

Attorney Maria Dolder was also present on behalf of the applicant and explained the requested Conditional Use Permit.

Mr. Gross asked if this construction was intended to expand the enrollment and Mr. Reinstra responded that it was to support their programs but not to expand enrollment.

Serena Varley, abutter, spoke in favor of the application but asked that drainage be addressed because it is currently a problem. It is not adequate in its current design.

At 9:44 PM there was no one else who wished to speak for or against this application and the Chair declared the hearing closed.

Deliberations and Action  
Deliberations and Action on Architectural Design Review

Mr. Gross moved approval under Architectural Design Review, subject to the recommendations of the Design Review Committee that the brick on the existing entrance being replaced with the same brick as the new additions, that the roof on the front entrance being extended two or three feet, that more detail be provided relative to the proposed iron gate, and that the most recently submitted landscape plan shall be subject to the review and approval of the Design Review Committee. He further indicated that his motion included an additional condition, that being "subject to consideration of the concerns expressed in the letter of Ray and Pam Gerbi of May 16, 2006 relative to screening the rooftop mechanical units." Mr. McGonagle seconded. Motion carried.

Mr. Swope moved to grant the Conditional Use Permit pursuant to Section 28-7-11(c), Shared Parking Arrangements, of the Zoning Ordinance, for the school to have 200

parking spaces based on the seating capacity of the gym/auditorium which exceeds the 189 parking spaces based on the number of classrooms. Mr. Kenison seconded. Motion carried.

Mr. Merrill moved to table action on the site plan for the City Engineering Services Division review of the drainage report. Mr. Gross seconded. Motion carried.

9. Application by **John J. Redden, Smokestack Realty LLC** for approval of a site plan of property at **8 McGuire Street.** (#2005-52)

#### Public Hearing

Mr. Henninger explained this proposal to convert an existing industrial building of 41,735 square feet into a mixed use multi-tenant facility off McGuire Street. He reported that the property was once the site of the Rock of Ages Granite Company's factory for cutting and fashioning dimensional granite and stone. Once the manufacturing use was discontinued, the site had intermittent occupancy for industrial and warehousing activities and some small office tenants. For many years maintenance had been deferred on the facility. As a result, a portion of the main factory building was no longer capable of occupancy and was demolished in the 1990's. He explained that over the last five years the tenants have obtained variances for a number of non-industrial uses including a dance studio, pet grooming facility and daycare, spa sales and service, and a medical office facility. Most of the uses now on site or proposed for the facility generate a greater amount of traffic than standard industrial or warehousing uses. The site has limited paved parking, does not have any parking lot landscaping, nor does it have the drainage facilities required today for a commercial facility.

He reported that the Code Administrator has ruled that the applicant is required to construct additional parking and that no new building permits for any activity can be issued until site plan approval is granted by the Planning Board.

Mr. Henninger reported the City's Fire Marshall has reviewed the fire protection measures and has requested additional fire lanes be provided in front of Units K and L. If sprinklers are not provided, then two-thirds of the front of the building must be provided with fire lanes. The Fire Marshal is requesting a 12-foot fire lane and a minimum of a 12-foot travel lane. Where no fire lane is provided for the one-way lane by Units J, K, and L, the access lane must be increased from 12 feet to 14 feet for access by fire vehicles. He reported the applicant proposes to provide a new eight-inch water line around the east and north sides of the building. A fire hydrant must be located within 300 feet of all sections of the building. The proposed water line needs to be extended an additional 30 feet southwest to bring the southwest corner of Unit M to within 300 feet of the new hydrant. The Fire Marshal has also requested a third hydrant to be located between the 12-foot and 24-foot paved drives east of Unit D off the new water line.

He reported that the applicant has requested that they not be required to develop plans showing the remaining required parking. However, this is a zoning requirement and a prerequisite for the granting of a Conditional Use Permit pursuant to Section 28-7-11(b)

of the Zoning Ordinance. All parking must be paved parking for this use pursuant to the Zoning Ordinance and the Site Plan Review Regulations except for the 21 spaces in front of Unit M for which relief was granted by the Zoning Board of Adjustment and the Planning Board. 112 spaces are required for Phase 1 for Units C, D, E, L & M and 47% of the common area. The Phase 1 site plan shows 73 paved parking spaces on site plus the 21 gravel spaces already approved for a total of 94 spaces proposed to be eligible to meet the parking requirements.

He reported the plan refers to Phases 2-5 but does not show what is proposed to be constructed in each phase. The construction of additional site improvements should be linked to occupancy of the building. It is staff's recommendation that the Phase 1 parking be implemented immediately resulting in 71 paved and 21 already approved gravel spaces in front of Unit M. Phase 2 parking, amounting to 115 paved parking spaces with fully compliant landscaping, should be implemented within two years or prior to full occupancy whichever comes first.

Cheryl Gochez and Carlos Gochez were present as applicants to answer questions from the Board. They asked that the Planning Board approve this application. They have spent much money on this project and would like to get on with this project.

Mr. Gochez felt much of what was being requested was unnecessary. They have already submitted five site plans and have tried to comply with the City's Site Plan Review requirements and asked that the Board approve it as submitted. This is an existing building with infrastructure in place that does not need much change. Variances were granted because they supplied photographs of existing parking and everything is existing. They were not impacted by the recent storms that damaged so much of the rest of the city. The money they have spent so far should have gone to fix up the building. There is no need to pave all of the parking. It just makes everything harder.

Mr. Gross asked Mr. Gochez for his response to the Fire Department's concerns. Mr. Gochez indicated that they would be willing to create fire lanes.

Mrs. Gochez indicated she could have plans to the City early next week showing fire lanes marked. There is no need to add a third hydrant as requested by the Fire Department. There are already enough hydrants on the site. The building can be supplied by the existing hydrants. If it was a necessity for safety reasons, they are willing to accommodate it but they do not feel it is necessary.

Mr. Gochez reminded the Board that this is an old industrial building.

Mrs. Gochez discussed parking requirements relative to uses allowed. She indicated they do have the land to build the parking.

After reviewing staff comments with the applicant, Mr. Gross summarized that there is substantive disagreement regarding the need for a third fire hydrant, the need to resolve parking and paving issues, and the need to upgrade the landscape plan.

Ms. Meyer felt an effort had been made to respond to the City's concerns and staff should work with the applicant in order to get complete information from the applicant.

Board members indicated they would like this to proceed and asked applicants to discuss in good faith with staff how to get their application materials into a form that the Board could approve.

Mr. Swope felt that the substantive issues seemed to be pretty narrow and he felt that they could be worked out. He further noted that the Planning Board needs a plan that they can approve and inspect to before action can be taken.

Mr. McGonagle asked for a response from the Fire Marshal as to the need for a third hydrant and whether that could be phased. Parking issues can be worked out but when it comes to public safety the Board has to rely on the people who are most knowledgeable in that area. Some of the uses in that building have children that need to be protected.

Mr. Blanchette noted that the most serious issues being discussed this evening are life safety.

At 10:50 PM there was no one else who wished to speak for or against this application and the Chair declared the hearing closed.

Deliberations and Action  
Deliberations and Action on Architectural Design Review

Mr. Kenison asked if it was possible to create a motion by which an approval is granted subject to delegating the execution of it to the City Planner so that nothing will happen in the absence of a necessary plan and the necessary documentation. That way this project would not have to be delayed until another meeting of the Board.

There was a consensus of the Board that it was an absolute requirement that a plan needs to be submitted showing all the required elements.

Mr. Gross moved to table and express the Planning Board's support in concept for this project and the efforts of the applicants in redeveloping this underutilized property. However, the life safety issues of the Fire Marshal are the most serious issue requiring immediate action by the applicant and a compliant plan for the site showing the required parking is a pre-requisite for any Conditional Use Permit deferring the construction of parking. Such a plan is essential to insure that the City and the property owners know what is required and when such improvements are required to be completed.

Mr. Swope preferred to vote approval subject to approval of the Fire Marshal and also by staff of all conditions put forth.

Ms. McClure seconded the motion to table. She also noted that she had a sense that the applicant simply did not agree with some of the City's regulations and if that is the case

they have to understand that the Planning Board has to abide by those regulations. The Board cannot change the rules.

Motion carried.

10. Application by **Ten Hutchins LLC** for approval of a site plan of property at **10 Hutchins Street.** (#2006-28)

Public Hearing

Ms. Seifried explained this proposal to construct a new eight-unit residential building behind an existing two-unit residential building. Of the eight new units, six of them will be two-bedroom units and the remaining two units will be three-bedrooms. She reported the Board had received a communication from an abutter expressing concern about drainage.

She reported that the City Engineering Division has requested that the applicant ensure that the rate and volume of flow of the outfall pipe from the detention pond is no greater than current conditions of drainage from the property to the north. The applicant is working with the City Engineering Division to assure that the drainage plan is acceptable.

Mr. Gross referred to the abutter's letter and asked what was being done in response. Mr. Seifried responded that the Associate Engineer had been working with the applicant to address the concerns expressed.

Mr. Kenison noted that at the last meeting the Board had heard a presentation by the Engineering Division staff regarding new methods of addressing runoff that did not necessarily include detention.

Ms. Aibel explained that with this site the volume coming off the site was very critical. The applicant did comply with the Board's Regulations as written but were willing to redesign to accommodate the City's request to get runoff into the ground faster, the point being to reduce the size of a detention basin.

Brian Vincent, from Nobis Engineering, and Ron Richter, owner and developer, were present to answer questions from the Board.

Mr. Vincent explained that they were making use of infiltration measures to address runoff.

Mr. McGonagle asked about maintenance of the infiltration facilities. Mr. Vincent responded that maintenance probably would need to take place in twenty years or so.

Mr. Merrill asked the size of the detention pond and Mr. Vincent responded it was about 30' x 50' and would be about ten feet tall. The effective volume of the pond would be under four feet.

Mr. Blanchette asked if this site was challenged by water pressure concerns and Mr. Vincent responded that he did not believe there was a problem with pressure.

Ms. Meyer asked if there was a reason why they did not provide a longer sidewalk and Mr. Richter responded that they could but he felt it would not be appropriate for it to be so close to the existing house. He has also noticed that no one uses the sidewalk on Hutchins Street right now. He indicated he could make the sidewalk longer if the Board requested it.

Ms. McClure asked the applicant to address concerns expressed in the abutter's letter. Mr. Vincent responded that his guideline was the City's regulations and they had conformed to those regulations.

Mr. Richter explained his history with this property. He reported that he did not plan to construct playground equipment since there is a city park nearby that appears to be underutilized. He explained that they had completely renovated the existing house and he felt they had done a really good job with the work. He did not want to undermine his own project so he reassured the Board that the new construction will be attractive.

Carol Dunlap, 513 North State Street, expressed concern about water. She explained that she had suffered with water in her basement for years after buying her house and about two years ago she spent \$10,000 to completely redesign the drainage on her lot. She reported her drainage plan has worked even with the problems everyone else experienced this week. She has a fear of anything that could affect that. She expressed concern that the water will detour and there will be water in her basement again and that money will have been wasted.

Pat Connors Little and Al Little, 9 Hutchins Street, indicated that the quality of the work of the applicant has never been a question in anyone's mind. It is a very nicely done renovation and Ms. Little noted that she has no doubt that what he does with the new construction will be nicely done also. Her concern is traffic. Morning traffic is very congested and it is almost impossible to get out onto North State Street now. This project will just add to the traffic. She would also rather not have the interior sidewalk come all the way to Hutchins Street.

Mr. Little also discussed his traffic concerns and explained that their driveway is located directly across from the proposed access to the development. He also felt this would change the character of the neighborhood. The rest of the neighborhood is pretty much single family residential. He felt this would be improperly placed among the existing residences. He was also concerned about how this project would change the hydrology in the neighborhood. He asked if the containment pond would be below ground or above ground. He also complimented the Planning Board for its dedication and interest. He noted it was his first visit before the Board and he was impressed with the Board's attention to each application.

Ellen Maziarz, 515 North State Street, reported she had many concerns about this project, mainly about traffic. She asked if it would be possible to make Hutchins Street one way and using Knight Street for access to North State Street. She also mentioned

her concern that this neighborhood is mostly single family homes and questioned whether this would fit in the neighborhood.

Walter Maziarz explained they had lived in this house for 24 years. He discussed the character of the neighborhood. He explained traffic had increased dramatically since they moved into the house. This is a single- or two-family residence neighborhood. He expressed concern about the increased traffic this project will generate. There are also some concerns about water. The soil is very porous. Part of the subject property is damp in the summer. The idea of having a detention pond above the level of his property is a concern. He wanted some guarantee that in the event of some catastrophe he will not be affected. If this is going to be an above ground pond, there will be concerns about mosquitoes and associated diseases. He would prefer to see something that is more like the traditional New England development that would fit in the neighborhood better. He was concerned that he will see more water in his basement as a result of this development.

Andrew Chapman, 9 Parmenter Road, referred to his letter to the Board. He expressed concern about housing density and storm water volume and quality, as well as site layout, land buffers and on-site lighting. In answer to a question by Ms. Meyer, Mr. Chapman indicated it would be great to have additional landscaping on the northerly side of the property to help with glare. He noted that the previous owner of the property in question stripped a lot of the trees off the site.

Mr. Drypolcher asked the applicant's engineer to describe again the proposed detention pond. Mr. Vincent responded that the pond will be a dug pond. The northerly side will be a slightly built up berm that will create the pond and will sustain the pond during its operation. The pond is a dry pond with a one-foot spillway to the north. It would exfiltrate smaller storms so that it would drain as the storm finished. The reason for volume control and back control is to eliminate the need for easements from abutters.

At 12:20 AM there was no one else who wished to speak for or against this application and the Chair declared the hearing closed.

Deliberations and Action  
Deliberations and Action on Architectural Design Review

Mr. Gross moved approval under Architectural Design Review and Mr. Swope seconded. Motion carried.

Ms. McClure indicated that a lot of good questions were raised in testimony and she would like to see the staff response to those comments before taking action on this application.

Ms. McClure moved to table action to May 31, 2006. Mr. Merrill seconded. Motion carried.

11. Application by **Tiffany Properties LLC** for approval of a site plan of property at **11 Integra Drive. (#2006-10)**

Determination of Completeness

Mr. McGonagle moved and Ms. McClure seconded that the Planning Board determine this application to be complete and schedule the public hearing for the Board's regular meeting on June 21, 2006. Motion carried.

12. Application by **The University System of New Hampshire** for approval of a site plan of property at **125 North State Street.** (#2006-40)

The Chair announced that this application would be postponed at the request of the applicant.

Architectural Design Review

14. Building plans related to an application by **Lawrence MacLean** at **3 North Spring Street.**

Public Hearing

Mr. Henninger introduced this proposal for changes to the north elevation of an existing commercial building. He reported the changes included the addition of a porch and a handicapped ramp. He reported that the Design Review Committee had reviewed the plans and recommended approval of the modification to the elevations as well as the site plan to address the ramp.

Claude Gentilhomme, architect, and Todd Fahey, applicant, were present to answer questions from the Board.

Mr. Gross moved approval and Mr. Merrill seconded. Motion carried, 8-1, with Ms. McClure voting against.

At 12:31 AM, the hour being late, the Board recessed the meeting to May 31, 2006 at 7:00 PM in the City Council Chambers.

A TRUE RECORD ATTEST:

Douglas G. Woodward  
Clerk

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