

The regular monthly meeting of the City Planning Board was held on September 20, 2006 in the City Council Chambers at the City Hall Annex at 7:00 PM.

Present at the meeting were Members Swope (who as Vice-Chair presided), Dolcino, McClure, McGonagle, and Merrill. Messrs. Woodward and Henninger, and Ms. Osgood of the City Planning Division were also present, as were Ms. Aibel, the City's Associate Engineer, and Mr. McGinley, Fire Marshal.

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

APPLICATIONS

Minor Subdivisions

1. Application by **Concord Area Trust for Community Housing** for approval of a subdivision by virtue of conversion to condominium of property at **8 & 10 Curtice Avenue.** (#2006-82)

Determination of Completeness

Mr. Henninger explained this proposal to convert an existing duplex on the south side of Curtice Avenue into a two-unit condominium. He reported this application was complete and ready for public hearing.

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

Public Hearing

Mr. Henninger explained this proposal to convert an existing duplex on the south side of Curtice Avenue into a two-unit condominium. No modifications to the duplex structure and existing single car garage are being proposed. The existing duplex is non-conforming in regard to lot size, frontage, and setbacks. The proposed conversion does not increase or otherwise alter the non-conforming status of the property.

A written request has been submitted requesting permission to submit plans at a scale of 1"= 20' instead of 1"=50' as required in the Subdivision Regulations.

Mark Sargent, from Richard D. Bartlett & Associates, LLC, was present on behalf of the applicant to answer questions from the Board.

At 7:10 PM there was no one who wished to speak for or against this application and the Vice Chair declared the hearing closed.

Deliberations and Action

Mr. McGonagle moved that the Planning Board grant a waiver to Section 8.04 (2)(a)(ii) of the City's Subdivision Regulations to allow the subdivision to be submitted at a scale of 1"=20'. Mr. Merrill seconded. Motion carried.

Mr. McGonagle moved and Ms. Dolcino seconded 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 condominium documents shall be approved by the City Planner and City Solicitor.
3. Separate water meters shall be installed (if not already present) for each of the units prior to their transfer to individual owners.

Motion carried.

2. Application by **Lora Goss and Brian Smith** for approval of a subdivision of Tax Map 122 Block 3 Lot 21 on **Sanborn Road**. (#2006-83)

Determination of Completeness

Mr. Henninger explained this proposal to subdivide an existing lot with 520 feet of frontage along the west side of Sanborn Road into two lots for single family residences. He reported this application was complete and ready for public hearing.

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

Public Hearing

Mr. Henninger explained this proposal to subdivide an existing lot with 520 feet of frontage along the west side of Sanborn Road into two lots for single family residences. A PSNH electrical transmission corridor crosses the property approximately from north to south. The buildable and useable land rectangles for Lots 1 and 2 are located on either side of the power line right-of-way. The property cannot be further subdivided. The property is not served by municipal water or sewer service. This property is in a potential water service area but no service is planned to be extended to this area of the City in the foreseeable future. The property will be served by on-site well and septic systems.

He reported that there is a bluff east of Hayward Brook and a 50-foot buffer area to the east of the bluff. The City's Master Plan recommends the provision of conservation easements on sensitive lands where development is proposed. A conservation

easement along Hayward Brook and the steep slope on Lots 1 and 2 outside the PSNH power line right-of-way is recommended as a condition of Planning Board approval. Conservation easements have been obtained along Hayward Brook immediately north of Hoit Road and adjacent to this site to the south along Hayward Brook in the last ten years as subdivisions have been granted.

Chris Bofinger, surveyor of record, was present on behalf of the applicant and discussed the definition of bluff as it relates to this property. He felt the slope is only about 18 feet in elevation and not the 25 feet elevation called for in the Zoning Ordinance.

Lora Goss was present as applicant and asked for more information about the requested conservation easement. Mr. Henninger explained that, as provided in the Master Plan and the Subdivision Regulations, the City seeks to acquire easements as additional protection of sensitive properties as development occurs along these brooks.

At 7:24 PM there was no one who wished to speak for or against this application and the Vice Chair declared the hearing closed.

Deliberations and Action

Mr. McGonagle asked the process for defining the bluff and Mr. Woodward responded that it is an interpretation based on the Zoning Ordinance and ultimately would be ruled on by the Code Administrator. If there is disagreement with the ruling, there is a process for appeal of the Code Administrator's decision.

Mr. Merrill moved approval of the subdivision of property at 61-65 Sanborn Road subject to the following conditions:

Standard Condition:

4. 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.
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) A Conservation Easement along Hayward Brook and the steep slope on Lots 1 and 2 outside the PSNH power line right-of-way.
6. 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
4. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following State and federal permits shall be obtained and copies provided to the Planning Division:
- a) NH Department of Environmental Services, Water Supply and Pollution Control Division, subdivision approval for on-site septic systems.
5. Clarification of the PSNH easement and the property owner's ability to use the area under the easement for a driveway.

Ms. Dolcino seconded. Motion carried.

3. Application by **Lora Goss and Brian Smith** for approval of a subdivision of Tax Map 122 Block 3 Lot 22 on **Sanborn Road**. (#2006-84)

Determination of Completeness

Mr. Henninger explained this proposal to subdivide an existing lot with 619 feet of frontage along the west side of Sanborn Road into two lots for single family residences. He reported this application was complete and ready for public hearing.

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

Public Hearing

Mr. Henninger explained this proposal to subdivide an existing lot with 619 feet of frontage along the west side of Sanborn Road into two lots for single family residences. The property is not served by either municipal water or sewer service. This property is in a potential water service area but no service is planned to be extended to this area of the City in the foreseeable future. The property will be served by on-site well and septic systems.

He reported that there is a bluff located east of Hayward Brook and a 50-foot buffer area to the east of the bluff. The useable land rectangle for Lot 2 is located such that it will be impossible to further subdivide this lot. The property is also severely constrained by bluffs and steep slopes.

The City's Master Plan recommends the provision of conservation easements on sensitive lands where development is proposed. A conservation easement along Hayward Brook and the steep slope on Lots 1 and 2 outside the PSNH power line right-of-way is recommended as a condition of Planning Board approval. Conservation easements have been obtained along Hayward Brook immediately north of Hoit Road and adjacent to this site to the south along Hayward Brook in the last ten years as subdivisions have been granted.

Chris Bofinger, surveyor of record, was present on behalf of the applicant to answer questions from the Board.

At 7:30 PM there was no one who wished to speak for or against this application and the Vice Chair declared the hearing closed.

Deliberations and Action

Mr. McGonagle moved approval of the subdivision of property at 51-55 Sanborn Road subject to the following conditions:

7. 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.
8. 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:
 - b) A Conservation Easement along Hayward Brook and the steep slope on Lots 1 and 2.
9. 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

5. 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:
 - b) NH Department of Environmental Services, Water Supply and Pollution Control Division, subdivision approval for on-site septic systems.

Mr. Merrill seconded. Motion carried.

4. Application by **Kevin and Lorraine Guay** for approval to construct a house and driveway in a location different from that shown on a previously approved subdivision of property at **30 Villanova Drive. (#2006-81)**

Determination of Completeness

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

Mr. Woodward explained that the applicant has requested an amendment to a previously approved plan relating to a private drive to serve a proposed home at 30 Villanova Drive. The plat as approved in September of 1999 had a driveway at a grade greater than 10% entering the lot from the southerly end of Villanova Drive. The proposal is to relocate the house to the southeast and to establish a new drive along the contour at a grade within the 10% maximum.

The applicant has failed to respond to a letter faxed and mailed to him on August 29, 2006, specifying a number of omissions, corrections and items to be addressed relative to this application, as follows:

1. The recent modifications to this plan were not prepared and stamped by a surveyor, as the seal and signature on the plan are dated June 30, 2000. The new information must be prepared and stamped by a licensed land surveyor.
2. The plan must display topographic information all along the proposed driveway and around the proposed house site.
3. A grading plan and a profile of the proposed driveway must be provided and should indicate the driveway at a grade of less than 10%.
4. The proposed well location must be shown on the plan together with the requisite 75-foot protective radius.
5. The underground electric and telephone service must be shown on the plan.

Mr. Merrill moved to determine this application to be incomplete due to a failure to provide a plan prepared and stamped by a licensed land surveyor, which displays topographic information all along the proposed driveway and around the proposed house site, shows the well location, the 75-foot protective radius, and underground electric and telephone service, as well as provision of a grading plan and a profile of the proposed driveway indicating the grade of the driveway. Ms. Dolcino seconded. Motion carried with Ms. McClure abstaining from discussion and vote.

Site Plans

5. Application by **John Grappone Leasing, Inc.** for approval of a site plan of property at **4 & 8 Hall Street.** (#2005-73)

The Vice Chair reported that the applicant's agent had requested postponement of the hearing on this application until the Board's regular meeting on October 18, 2006.

Before agreeing to the postponement, Mr. McGonagle asked to be heard on the matter and expressed concern about what appeared to be the lack of attention to the design expectations inherent in the Gateway Performance District standards and asked that this be communicated to the applicant. He indicated he would be looking for something more than the typical box building.

6. Application by **Milano Real Estate Associates LLC** for approval of a site plan of property at **317 Loudon Road.** (#2005-70)

Public Hearing

Mr. Henninger explained this proposal to construct a 10,060 square foot multi-tenant retail building on the last vacant lot at the Milano-Vincenza commercial condominium development behind Smokey Bones Restaurant on Loudon Road. The development also includes the reconstruction and expansion of a temporary parking area to the west of Smokey Bones. All utilities are in place and stubbed to the site. The project drainage system has been designed for the overall development and has been constructed. Only a handful of catch basins need to be constructed or relocated to complete the drainage system.

He reported that a traffic study has been provided for the overall development and offsite improvements have been completed to address access issues along Loudon Road. No new curb cuts or driveways will be required. All access will be from the internal access road leading to traffic signals adjacent to Jared's and Ruby Tuesday's.

He reported that the Architectural Design Review Committee had reviewed the site and building plans and recommended approval as submitted.

Mr. McGonagle expressed concern about the parking area proposed at the southwest corner of the parcel. He was concerned about pedestrian access from the parking area to the commercial uses.

Marc Vanson, from TF Moran, and Michael D'Amante, from Milano Real Estate Associates, were present to answer questions from the Board. Mr. Vanson explained that creating a crosswalk from the southwest corner to the new building would probably mean losing a parking space but they would be willing to do that.

Carl Sargent, 306 Portsmouth Street, reported that his neighborhood had submitted a petition to the Planning Board a year or so ago regarding lighting at the PetsMart store next door. He explained that the lights at the abutting Dick's Sporting Goods building pointed downward toward the light colored walls and then reflected back to the residences in the neighborhood. He asked that they use a darker earth tone color on the rear of the new building facing Old Loudon Road. Mr. Sargent asked that mechanical units be screened and the noise directed toward Loudon Road rather than toward the back of the building. He noted that there is some of the landscaping that was planted as a result of the earlier development of this property had died and the fence is leaning and he asked that those items be corrected.

Mr. McGonagle asked the applicant to respond to the issues raised by Mr. Sargent. Mr. D'Amante reported that they are planning true downlighting as well as using some darker colors on the rear of the building. He reminded the Board that Dick's Sporting Goods is at road level but this parcel is in a hole compared to Dick's. The rooftop units will all be screened. The landscaping is being replaced and they are constantly addressing the vandalism that takes place regarding the fencing and they will continue to do so.

Mr. Merrill asked what kind of plantings are proposed for buffering and Mr. D'Amante responded that most of the landscaping was installed as part of the earlier phases of the project on this site and they were also able to save some of the existing trees. He indicated a willingness to meet with the neighbors to go over the plan and discuss measures to mitigate their concerns.

Mr. Sargent was recognized again and explained that there are four residential units that will look directly at the lights at the back of the building.

At 8:04 PM there was no one else who wished to speak for or against this application and the Vice Chair declared the hearing closed.

Deliberations and Action
Deliberations and Action under Architectural Design Review

Mr. Merrill moved approval under Architectural Design Review. Mr. McGonagle seconded.

Ms. McClure proposed a condition to the approval that the rear of the building be painted a dark color that does not reflect light. Messrs. Merrill and McGonagle agreed to the amendment.

The motion for approval under Architectural Design Review as amended carried.

Mr. Merrill moved approval subject to the following standard & special 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 and off-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 specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 3, Transportation Facilities Impact Fee per Variable Unit.
 - a) Transportation Facilities - Retail (5,001 SF to 100,000 SF)

Special Conditions

1. The rear elevation shall be painted the darker color used on the façade so as not to reflect light towards the residential area to the north.
2. A pedestrian walkway and crosswalks shall be provided across the internal access road and parking lot from the Smokey Bones site to the new retail building.
3. The proposed roof top screening and mechanical roof-top units shall be installed so that the units are not visible from the first floor of the abutting residential units across Old Loudon Road. Said screening shall be designed as both a visual and auditory screen.
4. The existing landscape buffer shall be replanted where trees have died and fences shall be properly maintained within the existing landscape buffer at the rear of the site next Old Loudon Road.

5. The lighting plans shall be revised to conform to the City of Concord Zoning Ordinance and fixtures shall be designed to minimize glare as viewed from offsite to the satisfaction of the City Planner.

Mr. McGonagle seconded. Motion carried.

7. Application by **Ripley Street Management LLC** for approval of a site plan of property at **1 Ripley Street.** (#2006-80)

Determination of Completeness

Mr. Woodward explained this proposal to renovate a former industrial building into facilities for the machine tool division of Machine Craft Company, Inc. The application includes an expansion of 3,260 square feet of floor space, the construction of a second driveway from Ripley Street to establish a looped access system, as well as a new parking lot, and an expanded loading area. A retention pond is proposed as is a new sanitary sewer connection. He reported this application was complete and ready to schedule for public hearing.

Mr. Merrill moved and Mr. McGonagle seconded that the Planning Board determine this application to be complete and schedule the public hearing for the Board's next regular meeting on October 18, 2006. Motion carried.

Site Plan and Conditional Use Permit Minor Subdivision Plan

8. Application by **The University System of New Hampshire** for approval of a site plan of property at **125 North State Street and 20 & 22 Franklin Street.** Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(a), Off-Site Parking, of the Zoning Ordinance. (#2006-69).

Public Hearing

Mr. Woodward explained that the applicant proposes to construct a 5,012 square-foot addition to an existing building that was converted to office use through a series of use variances. The applicant also proposes to convert the garage and basement of the existing building to office use for a total of 12,390 square feet of office space. An expansion of the parking lot is proposed as is use of parking spaces on two adjacent residential lots that was sanctioned by variances.

He reported that the applicant has also requested a Conditional Use Permit for off-site parking pursuant to Article 28-7-11(c), Shared Parking Arrangements, of the Zoning Ordinance, to permit parking on two adjacent residential lots located at 20 and 22 Franklin Street.

Mr. Woodward reviewed related actions of the Zoning Board of Adjustment, the latest actions being that on March 1, 2006, the Zoning Board of Adjustment granted additional variances to expand the office use in the former residential structure at 125 North State Street. This allowed the office use to occupy the garage and basement, and provided for a new addition of 975 square feet. On August 2, 2006, the Zoning Board of Adjustment granted additional variances to further expand the office use by providing for an addition of 2400 square feet and to permit parking in the required front yard setback at 125 North State Street. The ZBA also granted a variance to allow a commercial parking lot on the premises at 20 Franklin Street, a variance to allow a commercial parking lot on the premises at 22 Franklin Street, and a variance to allow an additional 11% lot coverage over the maximum at 22 Franklin Street. The commercial parking lots had been previously established without the benefit of approvals and permits on the rear of the properties at 20 and 22 Franklin Street. These variances legitimized the presence of commercial parking lots in a residential district on lots occupied by a duplex and a single family home.

He explained that, pursuant to Section 28-7-11(a), Off-site parking, of the Zoning Ordinance, the applicants have submitted draft easements to address the requirement for a Conditional Use Permit that, "The off-site parking must be permanently related to the principal use by easement, condominium declaration, or other recordable binding legal instrument that may terminate only upon termination of the principal use." The proposed easement contains language that provides for the termination of the easement upon conveyance of one of the encumbered properties, with a further provision that "prior to the termination of the agreement, any party...shall be required to obtain any and all permits and approvals for the reduction in parking spaces caused by the termination of the agreement." The implication is that a variance will be sought to eliminate the parking requirement.

He explained the discussions that had taken place regarding the proposed easement document. The Code Administrator and the City Solicitor both feel that, according to the Zoning Ordinance, the easement needs to be tied to the use and not the ownership.

Mr. Woodward reported that the site and building plans were reviewed by the Design Review Committee and the Committee had recommended, if possible, that the ridge line on the stairwell/elevator addition be lowered, perhaps by lowering the eave on the north and east elevations. The Committee also recommended adding landscaping along the northwest corner of the parking lot to the rear of 22 Franklin Street to provide a better buffer for neighboring residences and in recognition of the fact that all existing vegetation is deciduous.

Roy McCandless from CML Administrators, Fred Potter, executive director of NH Health Plan and NH Vaccine Association, and Attorney Richard Uchida were present on behalf of the applicants.

Mr. McCandless explained CML Administrators is the entity under contract to purchase this property from the University System of New Hampshire. It is a not for profit organization that provides services for non-profit organizations. He explained the history of the existing parking on these properties and the agreements for shared parking with the abutting church. He also noted that the City uses the parking lot for voting at St. Peter's Church. He reported they have designed their parking layout to accommodate the needs of the Church, including improving the drainage system currently on the properties.

Mr. Potter indicated they have had trouble finding a property that is appropriate for their clients. This parking arrangement was an effort on their part to bring into conformity a situation that had been going on for many years. They are trying to preserve the grand old house. The addition will be largely invisible except from the property itself but it is absolutely necessary to the viability of this project.

He explained that the abutting property at 22 Franklin Street is not owned by them but they have been included in this application in order to bring that parking into conformity.

Mr. Uchida, attorney representing CML Administrators, discussed the parking and access easement in question. The Ordinance requires a series of things in order to get a Conditional Use Permit for the off-site parking, one of which is that the off-site parking must be permanently attached to the property. Historically, this parking lot has worked just fine for this site and the Church. The purpose of the ordinance provision is to make sure the parking does not disappear as long as the use is still there. He explained the wording in the proposed easement that he felt would accomplish this reassurance

Mr. Swope and Mr. McGonagle both felt that the proposed language was not clear enough. Mr. McGonagle also noted that the applicants are also creating further demand on parking by proposing a sizeable addition to the building in addition to solving historic parking problems.

Mr. Swope asked if there was enough area along the east and south lawns for parking and Mr. Uchida responded that they would have to get relief from the Zoning Board of Adjustment and Mr. Potter added that that was not an option they had considered and they also understood it would not be a very popular option.

There was a lengthy discussion about the proposed easement and its ability to protect the neighborhood and the intent of the Ordinance.

Ms. Dolcino asked if this need for the off-site parking is driven by the addition and whether there is enough parking on-site for the existing building. Mr. Woodward responded that he had done some very basic, quick calculations and found that it was

close but it appeared that there is sufficient parking on-site for the existing building. Mr. Potter agreed with that assessment.

At 9:30 PM there was no one who wished to speak for or against this application and the Vice Chair declared the hearing closed.

Deliberations and Action on Application

Mr. McGonagle moved to table action on this application until the Planning Board is presented with alternative language on the easement that will meet the spirit and guidance of the Board and asked for the opinion of the City Solicitor on the proposed easement language. Members felt that stipulation that parking will continue to exist is the only way to remain true to the Zoning Ordinance.

There was a discussion about whether the Planning Board can preclude certain relief from the Zoning Ordinance in the future. Members also asked that the intent of the ordinance be more clearly spelled out in the easement.

Ms. McClure seconded. Motion carried.

9. Application by **The University System of New Hampshire and 20 Franklin Street LLC** for approval of a resubdivision and subdivision of property at **20 Franklin Street and 125 North State Street.** (#2006-78)

Recessed Public Hearing

Mr. Woodward explained this proposal to subdivide an area of 2596 square feet from the lot at 125 North State Street owned by the University System of New Hampshire and to combine it with the lot at 20 Franklin Street owned by 20 Franklin Street Concord LLC. The lot at 20 Franklin Street is occupied by a single family home, while the parcel at 125 North State Street is occupied by a structure formerly used for residential purposes that has been converted to offices by variances granted by the Zoning Board of Adjustment. The lot at 20 Franklin Street is non-conforming due to substandard frontage and the proposed subdivision will establish standard frontage for this lot. The lot at 20 Franklin Street has a shared driveway with the adjacent single family home at 22 Franklin Street.

He reported that the subdivision is related to a site plan application for which additional off-site parking is proposed to be located on the parcels at 20 and 22 Franklin Street to allow for expansion of the use by variance at 125 North State Street, and the subdivision will allow the lot at 20 Franklin Street to remain conforming with regard to lot coverage if the off-site parking is permitted to occur.

At 9:42 PM there was no one who wished to speak for or against this application and the Vice Chair declared the hearing closed.

Deliberations and Action on Application

Ms. McClure moved to table action until deliberations on the related site plan application, and Mr. Merrill seconded. Motion carried.

Architectural Design Review

10. Applications by the following for approval of signs at the following locations under the provisions of Section 28-9-4(f), Architectural Design Review, of the Code of Ordinances.

- **Country Estates at Juniper Fells** on Snow Pond Road
- **Dunkin Donuts** at 196 North Main Street (2 signs)
- **Elizabeth's Kitchen** at 26 Pleasant Street (2 signs)
- **Riverhill Condominiums** at 45 & 47 Bog Road
- **Tokyo Joe's** at 202 North State Street (2 signs)

Public Hearing

The Vice Chair opened the hearing on all of the sign applications.

- **Country Estates at Juniper Fells** on Snow Pond Road

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

- **Dunkin Donuts** at 196 North Main Street (2 signs)

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

There was a representative of Cumberland Farms present to answer questions on behalf of the applicant.

- **Elizabeth's Kitchen** at 26 Pleasant Street (2 signs)

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

- **Riverhill Condominiums** at 45 & 47 Bog Road

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

- **Tokyo Joe's** at 202 North State Street (2 signs)

Mr. Henninger reported that the Design Review Committee found the proposed design and placement of the signage to be appropriate for the location and use, and recommended approval as submitted provided it complies with the current Zoning Ordinance. He reported revised drawings had been submitted which now comply with the Zoning Ordinance.

Mr. McGonagle moved approval of all the signs as recommended by the Design Review Committee. Mr. Merrill seconded. Motion carried.

11. Site and building plans related to **Bus Stop Shelters on North Main Street.**

Mr. Woodward explained this proposal for bus shelters in front of Eagle Square and in front of the State House Plaza. He explained that one suggested alternative location for the Eagle Square shelters was between the two buttresses along the southerly side of the entrance to the Square, but CAT indicated that would not be an option because of visibility. The second option was a rather open structure in front of the furniture store on North Main Street, but City staff had suggested that it be moved north away from the store front. He reported that the bus shelter at the State House Plaza was proposed to be located between the existing memorials and staff had suggested moving the structure northerly to the corner of Park and North Main Streets.

He reported the Design Review Committee felt CAT should be re-approached regarding locating between the buttresses in the opening to Eagle Square. They felt it could be simpler and much less expensive. Regarding the State House Plaza, members did not think the location proposed was a good location nor was the design compatible with the Plaza. The Committee suggested moving the shelters north closer to Park Street and to try to combine the information kiosk into the design. Members also expressed a concern about materials for the shelters and questioned whether this would encourage miscellaneous posters being pasted on the walls of the structures.

Mr. McGonagle expressed concern about whether the shelter in front of the State House would be used as a shelter for other than bus passengers.

Ms. McClure concurred with Design Review Committee comments. She also wondered if the structures had to be so large. She did not feel the State House shelter would fit well into the site.

Mr. Swope did not agree with the Design Review Committee about the Eagle Square location. He did not feel tucked into the entryway would be very functional. The State House shelter seems to be quite large and he wondered whether that large a structure was needed.

Mr. Merrill and Ms. Dolcino concurred with comments previously expressed.

REGULAR MEETING

Minutes

Mr. Gross moved approval of the minutes of the meetings of June 28, 2006, July 19, 2006, August 16, 2006, and August 23, 2006 as submitted. Mr. Merrill seconded. Motion carried.

CITY COUNCIL REFERRALS

2. Further consideration of communication from Mary Lou Manias, listing agent for **95 Loudon Road**, and Judith Bryant, Attorney in fact for **Hazel C. Ruggles**, requesting the rezoning of property at 95 Loudon Road.

Mr. Woodward reminded the Board that they had previously made a recommendation to the City Council that the property at 95 Loudon Road not be rezoned. The City Council had referred the matter back to the Planning Board to allow Ms. Manias to explain the history and the reasoning behind the request. Ms. Manias had provided a report which had been distributed to Planning Board members.

The Vice Chair called on Ms. Manias to comment on the request for rezoning. She asked the Planning Board to take into consideration that this property was previously a commercial property. It was in a Business district until the 2001 update of the Zoning Ordinance. She offered to answer questions from the Board regarding her report on the topic.

Mr. McGonagle mentioned the problem is access to this property from the street if it is going to be developed as a commercial site. He felt turning movements off Loudon Road onto that property would be difficult.

Ms. Manias responded that this property has a 50-foot right-of-way. She has been told by City staff that this property could be accessed in the same manner as Boston Market - right in/right out. She cited a number of instances of right in/right out access.

Mr. Merrill commented that he drives by that parcel nearly every day and he would be more inclined to recommend rezoning if there were assurances for buffering abutting residences as well as appropriate egress.

Ms. McClure commented that she had been approached by two people in that neighborhood who had expressed concern about the buffer of the neighborhood and who would like to see it remain zoned as it is in order to protect the neighborhood.

Mr. McGonagle felt this lot has much more in common with the lots to the east that have their means of entrance right off Loudon Road which also abut residential properties. There are regulations in place that would provide for buffers and screening between commercial and residential property. If the safety concerns are potentially solved, he would be willing to support rezoning.

Mr. Swope spoke against the rezoning. He felt this would be a complicated place to have another turn movement. He did not feel safety concerns could be addressed. If

this is taken out of residential use, it would be really challenging the abutting residential street.

Mr. Merrill asked staff how many units of multi-family housing could be built on the lot. Mr. Henninger responded six to eight attached units could be constructed, in addition to the two units in the existing house.

Ms. McClure indicated that sounded like there is possibility for development without changing the zoning. She did not see any hardship demonstrated.

Ms. McClure moved that the Planning Board reaffirm its prior recommendation to deny the request for rezoning. Ms. Dolcino seconded. Motion carried, 4-1, with Mr., McGonagle voting against.

OLD BUSINESS

3. Further consideration of the State of New Hampshire **Executive/Legislative Parking Garage Site and Design Study.**

Mr. Woodward announced that the City Council has declared a public hearing on this study for October 10, 2006, and the Mayor has indicated a preference for all comments to be combined. He asked if the Board had comments it wished to pass on.

He reported that the Design Review Committee had a lengthy agenda and did not have much time to discuss and form their comments on the project. They did agree with an earlier suggestion that the buildings be set back and green space created.

Mr. Swope indicated his main concern was whether the State would follow through with their promises for architectural integrity and what would happen once budgets became a concern. He was also concerned about traffic and how the Green Street building will fit into the neighborhood.

Mr. McGonagle thought it might make sense to explore a joint City/State venture for the parcel at School and Green Streets to help with the City's space needs.

Mr. Swope spoke against the Planning Board taking its own formal position in the event there are conflicting positions.

Ms. McClure felt the scale of the building really needed to be addressed. She also felt the garage should be open to the public at any time when Legislature is not in session.

Mr. Merrill reported he would much prefer for the State to do something at the current Department of Justice site. He did not want to see spillover to the Green Street site. He did not see how an additional 300-400 cars could be forced into this neighborhood. He felt the congestion would be significant. He was also concerned that the budget will be cut and something not very attractive will be constructed in the core of the city.

Mr. Henninger reported that there had been an announcement at State Capital Region Committee (*Get correct title*) meeting this morning that this Fall the State will be adding 100 spaces to the park and ride facility at Stickney Avenue. They are looking at State-related agencies to occupy the building at Stickney Avenue for a five-year period, and considering a shuttle for State employees to park there and be taken into their offices downtown.

4. Staff report relative to the **Master Plan Update - Examples of a transfer of development rights system**

Mr. Woodward explained that the Board had requested that the Planning Division develop some hypothetical examples of a transfer of development rights system, perhaps using land already protected outside the Urban Growth Boundary and land already developed inside the Urban Growth Boundary. These examples would help to illustrate the concept and answer questions about the mechanics of the system. The Board felt this was necessary in order to ensure that they understood and were comfortable with the concept and to assist the Board in presenting the concept to the public at a public hearing on future residential land use, including four-acre zoning outside the Urban Growth Boundary, mandatory cluster, and the transfer of development rights concept.

He reported that the recently preserved Dimond Hill Farm was selected as the hypothetical donor parcel as it is located outside the UGB, is already protected by conservation easement, and a substantial amount of information is available on this property. Dimond Hill Farm consists of two tracts lying north and south of Hopkinton Road. The southerly tract is vacant except for a barn, while the northerly tract contains a dwelling and a number of agricultural structures. These tracts were separately appraised, as was the house and a three-acre plot surrounding it. Another five acres was isolated from the north end of the northerly tract as a possible development parcel.

He reported that the southerly tract is comprised of 38.4 acres with 829 feet of frontage on Hopkinton Road. Approximately 30 acres are buildable land as there are some steep slopes on the lot. The appraiser had assigned the highest and best use as being for seven single family house lots which would require 28 buildable acres at a density of one lot or unit per four buildable acres.

He reported that the northerly tract is comprised of 65.7 acres with 386.8 feet of frontage on Hopkinton Road and 988.8 feet of frontage on Currier Road. Approximately 48 acres are buildable land as there are some steep slopes on the lot, as well as some wetlands along Ash Brook which flows through the northerly portion of the tract near Currier Road. The appraiser had assigned the highest and best use as being for twelve single family house lots which would require 48 buildable acres at a density of one lot or unit per four buildable acres.

Mr. Woodward explained that the Board had agreed that the land inside the UGB to which the rights would be transferred should be land in the RS and RM Zoning Districts which are limited to the lowest densities in the area inside the UGB and are the least intensively utilized. The transferred units could be absorbed by raising the allowable

densities by one or two units per acre. The transferred rights were intended to be used in cluster subdivisions or perhaps a new development alternative containing a mixture of single, duplex, three- and four-unit dwellings.

He reported that recently developed lands were examined to illustrate what might occur under a transfer of development rights program. The Oxbow Bluff cluster subdivision on Manor Road and the Goldenrod and Heather Lane subdivisions off South Street were selected to use as examples.

He reported that the Oxbow Bluff cluster subdivision contains 63 single family condominium units. The useable acres supporting the units were determined to be 39.23 acres in both the RS and RO zoning districts so that the theoretical number of units possible was 109. However, the 63 units were all clustered at the top of the bluff in the RS district on about 21 of the useable acres, with the remainder of the useable acres being located at the bottom of the bluff, some of which are in the RO District and outside the UGB. If the transfer of development rights system were to allow one additional unit per useable acre, another 21 units could be added to bring the total to 84 units. A different design for the units would need to be devised as the approved layout substantially covered the useable land area and the shape of the useable area constrained the efficient use of the area. A traditional neighborhood development might be more appropriate for this site as it could provide fewer buildings to accommodate the same number of units. If an additional 21 or 42 units could be accommodated on the site, then all of the 19 available development rights could be acquired from the Dimond Hill Farm to be transferred to this site.

He then explained that the Goldenrod Lane and Heather Lane subdivisions were conventional subdivisions in the RS District developed at densities below three units per acre, due in part to the shape of the parcels and in part to the presence of several existing homes. The two subdivisions have yielded a dozen new lots on City streets on parcels consisting of fully useable land. Under cluster subdivision standards the same area could have yielded up to 18 units at three units per acres, although the lot shape might have prevented achieving the maximum number. At a density of four units per acre, the number of units would increase by six, and at five units per acre by 12. To increase the density to four units per acre as a cluster subdivision, the cluster standards for the RN District would have to be employed, lowering the minimum lot size and reducing the minimum frontage requirements. To increase the density to five units per acre, given the shape of the parcel and the reasonable expectation of a street layout to provide lot frontage, either a new cluster design standard would have to be established with even smaller lots or a traditional neighborhood development format would have to be established and employed.

Mr. Woodward explained that some recent developments were examined to ascertain the land cost paid on a per unit or lot basis. Each project requires differing amounts of investment in site preparation and infrastructure, and the resulting dwelling units are aimed at different markets. To the extent that the transfer of development rights program creates the availability of bonus units over and above the number that would otherwise be permitted and the number around which the development's economic equation was established, the question becomes one of what price would be paid to

have the right to construct a bonus unit such that after any additional incremental infrastructure costs it can be sold at a profit. The key to the transfer of development rights program is the relationship of the purchase price for a bonus unit to the cost of purchasing the development right of that bonus unit from other land outside the UGB.

After some discussion about the report and the viability of this type of program, Planning staff was asked to provide some information about some towns or small cities who have tried this.

Ms. McClure indicated this strikes her as being complex to administer. She wondered if it would be just as easy to make changes to the Zoning Ordinance without trying to create this complex system that might not accomplish what we want to accomplish, that being to decrease density outside the Urban Growth Boundary and increase density inside the Urban Growth Boundary.

NEW BUSINESS

5. Consideration of whether to set a public hearing for the recessed meeting on October 4, 2006 relative to the **NH Department of Transportation Fueling Facility on Route 106.**

Members agreed to schedule a public hearing for this matter on October 4, 2006.

At 11:17 PM, the hour being late, the Planning Board recessed to October 4, 2006 at 7:00 PM in the Second Floor Conference Room in City Hall.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

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