

The regular monthly meeting of the City Planning Board was held on October 18, 2006 in the City Council Chambers in City Hall Annex at 7:00 PM.

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

At 7:10 PM a quorum was present and the Chair called the meeting to order and seated Alternate Member Kenison for Member Swope who was not expected.

APPLICATIONS

Minor Subdivisions

1. Application by **Abbott Hill LLC** for approval of a revision to a previously subdivision of property at **56 Timberline Drive**. (#2006-89)

Determination of Completeness

Mr. Henninger explained this proposal to convey a 1864 square foot portion of the existing parcel at 56 Timberline Drive as part of the Timberline Drive right-of-way. He reported this application was complete and ready for public hearing.

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

Public Hearing

Mr. Henninger explained that in 2005 the Planning Board approved the subdivision of an 82.92-acre tract to create 13 new lots on extensions of both Timberline Drive and Reserve Place. The approval included the extension of Reserve Place by approximately 2000 feet and the extension of Timberline Drive by approximately 1000 feet to create a connected road network. The work is now substantially complete and the City Council has authorized the City Engineer to accept the extensions of both City streets subject to completion of punch list items. He reported that when the as-built plan was completed, it was found that the center line for a 475-foot section of Timberline Drive had been incorrectly staked out and the road was offset by about ten feet to the east. In order to correct this, a 1864 square foot portion of the abutting parcel has been proposed to be conveyed as part of the Timberline Drive right-of-way. The conveyance will not affect the driveway location, the required contiguous buildable area or the useable area provided for this lot. In addition, an existing drainage easement will be expanded by ten feet or so to the east.

Timothy Golde was present as applicant to answer questions from the Board.

At 7:14 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. Gross moved approval subject to the following conditions:

1. 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. Expanded drainage easement on Parcel 99-2-104
 - b. Expanded right-of-way easement on Parcel 99-2-104
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.

Ms. McClure seconded. Motion carried.

2. Application by **2 Pillsbury Street LLC** for approval of a subdivision by virtue of conversion to condominium of property at **2 Pillsbury Street. (#2006-92)**

Determination of Completeness

Mr. Henninger explained this proposal to create three additional condominium units as well as a limited common area for a generator for the sixth floor unit proposed to be occupied by NH Public Radio.

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

Mr. Henninger explained this proposal to create three additional condominium units, two in the basement and one on the fifth floor. In addition, a limited common area is proposed on site for a generator for the sixth floor unit proposed to be occupied by the NH Public Radio.

He explained that in 2005 and 2006 the applicant received subdivision approval for conversion of the former Blue Cross Blue Shield building into seventeen condominium units. He explained that the six-story structure at 2 Pillsbury Street contains approximately 140,000 square feet of floor area, including approximately 20,000 square feet in the basement. Another building on the premises, located at 30 Pillsbury Street, is single story and contains approximately 1,800 square feet of floor area. The balance of the block surrounded by Pillsbury, Dakin, Allison, and South Main Streets contains ancillary parking lots, as do the two parcels westerly of Dakin Street on the corners of

Pillsbury and Allison Streets, respectively. The 1,800 square foot building is located on a convertible land unit of 11,568 square feet and is intended as a future condominium unit.

He reported that renovations to the main building and site are now nearing completion. Plans have not yet been submitted for the redevelopment of the 1,800 square foot building. Except for the sixth floor only about 5,000 square feet remains to be occupied. The existing condominium documents have been drafted to accommodate the creation of the three proposed units.

He reported that the Planning staff has recommended the relocation of the proposed generator from the northwest corner of the building to the northeast corner of the building on an existing foundation next to the HVAC unit for the building. A screen for this area is proposed in addition to the existing landscaping. The generator at the northwest corner of the building is in an exposed location, and will need a sound and visual barrier. Even with a sound barrier for the unit, concern exists about sound bouncing off the side of the building and creating a nuisance in the neighborhood to the north of Allison Street.

Mr. Gross asked if the Planning Board will have the opportunity to address concerns about noise from the generator as a condition of this application. Mr. Woodward responded that since the generator was not part of the original site plan approval, it would be appropriate to articulate the Board's concerns at this time in order to give the applicant ample time to resolve the concerns.

Attorney Richard Uchida was present on behalf of the condominium association and explained that under the agreement they have with WEVO they have committed to provide a space for the generator but the condominium has not expressed a preference as to its location.

Scott McPherson from WEVO explained their concerns with locating the generator at the northeast corner as requested by staff. He explained it would require them to retrench over 200 feet through the existing parking lot and sidewalk to move the gas lines and it would mean disturbing the existing landscaping. He also explained they currently have a similar generator at their current location which abuts a residential neighborhood and have not had any noise complaints from any of the neighbors.

Ms. McClure asked if this generator will be the same size as the existing and Mr. McPherson responded that they hope it will be larger but the decision has not yet been made as to exact equipment.

Ms. Foss asked about soundproofing. Mr. McPherson explained the muffler system in the current generator and indicated he expected it would be similar. Their intent is to work with the condominium association and, if necessary, the neighborhood to address their concerns. It is not their intent to be a nuisance.

Mr. Kenison asked if there were any techniques for sound deadening to prevent sound from bouncing. Mr. McPherson indicated he would be willing to come back to the

Planning Board with more information regarding noise control if the Board approved the condominium application this evening.

Mr. Uchida explained that there is a Conditional Use Permit application for WEVO pending for the Planning Board and information relative to noise could be presented at the time the Conditional Use Permit application is brought before the Planning Board.

Mr. Foss noted that sound rises and they do not have abutters at any height at their current location so this will be a different set of circumstances.

Mr. McPherson noted it was his understanding that the sound muffling system is the same as being used for the Capital Commons project on South Main Street. Mr. Woodward responded that it was his understanding that the redesign had not been finalized for that project.

Ms. Foss asked what uses were proposed for the basement units and Mr. Uchida responded that one unit will be a conference room and the other a small fitness center. Ms. Foss then asked about ventilation and egress and Mr. Uchida responded that it was his understanding that the basement issues had been taken into account at the time of the building renovations and the Fire Marshal had been actively involved in the safety concerns at that time.

Ms. McClure asked if they had explored the possibility of locating the generator on the roof and Mr. McPherson responded that they had but had decided against it for cost reasons. However, they might be willing to revisit that possibility, given the discussion this evening.

At 7:44 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. Gross moved approval for revisions to the condominium subdivision for the 2 Pillsbury Street Condominium with the generator at the northwest corner subject to the following standard and special conditions:

Standard Condition:

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.

Special Condition:

2. The issue of adequacy of sound abatement for the generator at the northwest corner will be addressed at the time the prospective Conditional Use Permit application is brought before the Planning Board.

Ms. McClure seconded.

After discussion relative to the location of the generator pad and the concerns related to the equipment, Mr. Gross withdrew his motion and Ms. McClure withdrew her second of the motion.

Further discussion ensued after which Mr. Gross moved approval of the revision to the condominium subdivision subject to the following standard condition:

Standard Condition:

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.

He further moved that the Board table action on changes to the site plan with regard to the location of the generator with the expectation that the issue of adequacy of sound abatement for the generator will be addressed before action by the Planning Board.

Ms. McClure seconded.

Ms. McClure explained that the concerns she expected to have answered at the time of reapplication included echo effect, difference between sound of this generator and the current generator, location compared to surrounding buildings, and sound decibels.

Mr. Gross wanted to be reasonably assured that offsite impacts will be minimal.

Ms. Foss would like to see a plan specifically addressing decibel levels at specific distances from the generator, both horizontal and vertical, given the condominium situation with multiple floors.

Ms. Dolcino also asked that they explore the roof option for the generator as well.

Motion carried.

3. Application by **Philip Bates and Stephanie Tiedeman** for approval of a subdivision of property at **451 North State Street. (#2006-90)**

Determination of Completeness

Ms. Hebert explained this proposal to subdivide an existing lot in order to create one new building lot for a single family residence.

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

Public Hearing

Ms. Hebert explained this proposal to subdivide an existing lot on which there is a single family residence and which has 179.95 feet of frontage along the south?? side of North State Street in order to create one new building lot for a single family residence.

She reported that the technical review of the application has identified the driveway construction as an item of concern for the subdivision approval because of safety concerns due to the difficult grade change at the proposed driveway location on North State Street. The applicant has been asked to provide a definitive plan for the driveway design. The plan should include a typical cross section and profile, sight distance, grading and spot elevations, a detail of the proposed curb cut into the right-of-way of North State Street, and the dimensioned distances to adjacent driveways.

Ms. McClure asked what would happen if it was determined that there was no good way to create a driveway curb cut through the existing six-foot tall retaining wall. Mr. Woodward responded that the charge of the Planning Board in this is to ascertain that there is a safe access. If that cannot be accomplished, the Board could deny the application.

Mark Sargent, from Richard D. Bartlett & Associates, LLC, was present on behalf of the applicant to answer questions from the Board. He explained that they had identified the driveway access issue early on and he had met on site with the City Engineer. They had submitted a plan for the driveway access with the application and they have retained an engineer to fully design the access.

At 8:08 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. McClure moved approval subject to the following conditions:

Standard 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. Traffic, recreation and school impact fees shall be assessed for any construction on the new lot 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 Condition:

3. The applicant shall provide a design for the proposed driveway. The plan shall include a typical cross section and profile, sight distance, grading and spot elevations, a detail of the proposed curb cut into the right-of-way of North State Street, and dimensioned distances to adjacent driveways.

Mr. Merrill seconded.

Ms. McClure suggested that the applicant review this proposal in light of the improvements planned for North State Street/Fisherville Road.

Motion carried.

4. Application by **Jonathan and Margaret Chorlian** for approval of a subdivision by virtue of conversion to condominium of property at **80 School Street.** (#2006-91)

Determination of Completeness

Ms. Hebert explained this proposal to convert an existing three-family building to a three-unit residential condominium.

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. Hebert explained this proposal to convert an existing three-family building to a three-unit residential condominium. The project is located on the north side of School Street between Tahanto and Summit Streets with frontage on all three streets. No modifications to the existing structure are being proposed as part of this application. A number of variances were granted by the Zoning Board of Adjustment to allow the construction of the carport on Tahanto Street.

She reported that the unit floor plans are acceptable as submitted with the minor exception of providing dimensions on the architectural plans (as per RSA 356-B:20 II) and correcting the unit numbers. The designation of common and limited common areas is also acceptable with the minor exception of providing some additional dimensions near the carport.

She reported that the existing three-family building had five parking spaces for the tenants and the condominium is also proposing five parking spaces. Unit #3 will have only one parking space rather than the two spaces required for new condominiums. The

number of parking spaces is considered a pre-existing non-conforming situation that does not need to be corrected as part of the conversion.

She reported that a request for a scale waiver has been submitted to allow the plat to submit plans at a scale of 1"= 20' instead of 1"=50' as required in the Subdivision Regulations.

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

At 8:17 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. Merrill moved to Grant a Waiver to Section 8.04 (2)(a)(ii) of the City's Subdivision Regulations to allow the subdivision plat to be submitted at a scale of 1"=20' instead of 1"=50'. Ms. McClure seconded. Motion carried.

Ms. Foss moved approval of the subdivision subject to the following standard conditions:

Standard Condition:

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 which include but are not limited to: providing dimensions on the architectural plans in accordance with the provisions of RSA 356-B:20 II , adding dimensions to the limited common area near the car port, and providing address numbers for the units on the recordable plans.
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 the City Solicitor.

Ms. McClure seconded. Motion carried.

Major Site Plans

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

Public Hearing

Mr. Henninger explained this proposal to demolish an existing 22,100 square foot building at the intersection of Hall and Water Streets to construct a 12,900 square foot retail pharmacy with two drive-up lanes and a 200 square foot freestanding ATM. The applicant proposes to remove all surface parking and to construct accessory parking in

conformity to City regulations. The amount of impervious surface coverage has been reduced below existing conditions.

He reported that the site has access from both Hall Street and Water Street opposite Gulf Street. The applicant proposes to utilize two existing curb cuts, one on Hall Street and one on Water Street constructed by NH DOT in 1999-2000 as part of the I-93 Exit 13 project. The curb cut on Water Street is directly opposite Gulf Street and a left turn lane has been provided for traffic turning into the site.

He reported that a traffic study showed that the intersection of the Hall Street/I-93 southbound off ramp and Water Street will function at Level of Service C with or without the development. Queues on Hall Street from the signalized intersection will extend beyond the Hall Street entrance as they do today during the evening peak hours and the queues on Water Street from the signalized intersection will extend beyond the project entrance as they do today. A dual exit lane at both entrances is being proposed along with stacking space to address this issue.

Mr. Henninger reported that over head electrical and telecommunication utilities will be placed underground to the proposed buildings. One overhead pole will remain on site behind the auto repair/residence at 14-16 Water Street to the north. This pole provides electrical service to the existing mixed use building. There does not appear to be an existing easement for this overhead line. It is expected that Unitil will want a regular easement as a condition of their providing the new service.

He reported that a cross connection has been shown from the project to the abutting property to the south to facilitate an interconnected parking lot. A draft agreement has been submitted for this connection and is under review by staff. The location of the driveway connection to the property to the south shown on the site plan may not be in the best location for both parties. The draft agreement needs flexibility to locate the interconnect where all parties can agree, the landowners and the City Planning Board.

Mr. Henninger reported that the Design Review Committee had reviewed the site and building plans a number of times and expressed concern about the design of the northeast corner of the building as it relates to residents and travelers leaving downtown. He reported the Committee had found the design acceptable in general and recommended further modifications to the northeast corner. The Committee found the site design to be acceptable as proposed. He reported the applicant had also submitted a signage plan and the Design Review Committee had also found the sign package to be acceptable. The Code Administrator is verifying compliance with the Zoning Ordinance relative to proposed square footage.

He reported that the Planning staff has advised the applicant that the proposed dumpster needs to be provided with an opaque screen and recommended the screen match the color and material of the building.

Erin Reardon, from Nobis Engineering, was present on behalf of the applicant and introduced Kevin Patten from BKA Architects, Richard Westergren from Poyant Signs, and Robin Bowser and Nick Sanders from VHB.

Mr. Patten made a presentation relative to the design of the building and the changes made as a result of comments by the Design Review Committee.

Ms. McClure noted that there were no trees proposed to be located in the parking lot. She asked if they could incorporate more landscaping within the lot itself. She saw that there was a lot of landscaping around the perimeter of the site but it did not seem to provide much shading in the parking lot. Ms. Reardon responded that it is difficult to provide much more landscaping because of the need for winter-hardy materials but she would discuss the Board's concerns with their project's landscape architect. She also explained that the number of parking spaces provided is the minimum required by CVS for their own operations. She indicated they will explore options for further landscaping.

Mr. Gross noted that his experience with stand-alone CVS stores is that they are bleak and provide minimal landscaping and shade, and he felt more shade trees would provide a better experience for their customers.

At 8:17 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. Gross moved approval under Architectural Design Review for the CVS retail building. This approval does not include the proposed ATM Building and accessory signage for the ATM use. Ms. Foss seconded. Motion carried.

Mr. Drypolcher asked if the Planning Board will see plans for the ATM building and Mr. Henninger responded that ATM building plans only would be submitted as the site plan has already accommodated the location of the building.

There was a lengthy discussion relative to the site plan, in particular the parking lot and landscaping, with the suggestion that the applicant reduce the excess parking of 17 spaces and provide further landscaping.

Attorney Bryan Pellerin from D'Amante Couser Steiner & Pellerin was recognized on behalf of the applicant and explained that CVS would be willing to eliminate four spaces to provide additional landscaping on the site.

Mr. Gross moved approval site plan subject to the following standard and 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 improvements shall be obtained from the Engineering and Planning Divisions.
2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant 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.
 3. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the 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) 25' Sewer easement across the site for an existing sanitary sewer.
 - b) Widened drainage easement to 25' for the existing storm drainage line across the site.

Special Conditions

4. The applicant shall install an opaque screen around the proposed dumpster with colors and materials to match the proposed building.
5. 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), an agreement shall be provided to allow for the interconnection of the CVS parking lot with the abutters to the south (parcel 15-3-12) when that property redevelops. The draft agreement needs the flexibility to locate the interconnection where all parties can agree, the landowners and the City Planning Board.
6. The applicant shall eliminate four parking spaces on the east and south sides of the building and provide additional shade trees their place, details to be worked out with staff.

Ms. McClure seconded. Motion carried.

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

Public Hearing

Mr. Woodward explained this proposal for the 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 at the former industrial building that was part of the Richard D. Brew Company is proposed to be renovated into facilities for the machine tool division of Machine Craft Company, Inc.

The application includes an. A retention pond is proposed as is a new sanitary sewer connection.

- The site includes a Unitil Easement on the northerly portion of the lot adjacent to Ripley Street. Unitil has reviewed the plans and has advised that a Joint Use Agreement will not be necessary to establish the second driveway beneath the lines.
- At the Design Review Committee meeting in September, the property owner was present and explained that he proposed a metal roof and either painted or vertical metal siding on the building. The roof was portrayed as black in color and the siding was presented in two tones of gray. Currently the exterior of most of the building is yellow glazed brick. The Committee had asked for more detail on the material and colors; however, no new submission was made for the Committee's October meeting. Based on the submittal and representations made at the September meeting, the Committee recommended approval subject to a recommendation that any painting of the existing glazed exterior brick be performed with materials suitable for, and with an understanding of, the necessary adhesion to the glazed brick.
- The Fire Department has advised that the new use of the building may not be compatible with the existing sprinkler system design, that interior modifications may require changes and/or upgrades to sprinkler coverage and fire alarm system, and that the applicant should consult a licensed professional system designer to determine the adequacy of the existing sprinkler system.

Mark DeGrace from Holden Engineering & Surveying, Inc. was present with the applicant, Kim Jenkins, ??? to answer questions from the Board.

Ms. McClure asked why they needed the second driveway access and Mr. Jenkins responded that he would have preferred access off Airport Road but cannot because of the City's regulations. He prefers to keep his deliveries and his visitors separate from each other.

At 9:30 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. Gross moved approval for the design of the site and buildings under terms of Section 28-9-4(f), Architectural Design Review, of the City of Concord Zoning Ordinance, subject to the recommendation that any painting of the existing glazed exterior brick be performed with materials suitable for, and with an understanding of, the necessary adhesion to the glazed brick. Ms. Foss seconded. Motion carried.

- Mr. Merrill moved approval Grant conditional final approval of the Major Site Plan application subject to the following conditions:

1. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the plans to address the minor corrections and omissions noted by City staff;
2. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the issues and concerns raised by the City Engineering Division in the attached memorandum shall be addressed to the satisfaction of the City Engineer;
3. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the adequacy of the sprinkler system shall be established to the satisfaction of the Fire Marshal and Code Administrator, or a new system design shall be submitted and approved by the Code Administrator.
4. Traffic impact fees shall be assessed for the construction of new office space addition 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.

Ms. Foss seconded. Motion carried.

Minor Site Plans

6. Application by **LDW - Enterprise Development LLC** for approval of a site plan of property at **193 North State Street**. (#2006-87)

Determination of Completeness

Ms. Hebert explained this proposal to proposing to redesign the existing parking area to provide parking for seven compact spaces.

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

Public Hearing

Ms. Hebert explained this proposal to proposing to redesign the existing parking area to provide parking for seven compact spaces. This will replace the current parking area which can support 3-5 cars double parked. The new layout will allow for vehicles to turn around onsite and prevent cars from backing up into North State Street. The

existing building is comprised of two residential units and one commercial space; no change of use is anticipated at this time.

Variances Granted:

- Article 28-7-5 & 28-7-7(c), Handicapped accessible spaces, to allow the provision of one accessible space with a 5 foot aisle in place of a van accessible space requiring an 8 foot aisle.
 - Article 28-7-7(a), to allow 8' x 15' spaces (compact spaces) in place of the required 9' x 19' spaces.
 - Article 28-7-7(e), Minimum aisle width, to allow an aisle width of 15 feet where 24 feet is required.
 - Article 28-7-7(f), Driveway widths to allow a reduced driveway width of 12 feet where 24 feet is required.
 - Article 28-7-7(g) Setbacks and restrictions, to allow a parking area with a setback ranging from 1 foot to 4 feet where a 5 foot setback is required.
- While a variance has been granted from the terms of the Zoning Ordinance, a waiver of Section 8.07 (C) (5) (d) of the Site Plan Review Regulations is needed for the width of the parking aisle to be 15 feet instead of the required width of 24 feet.
 - The sidewalk is in poor condition along the entire frontage of the property. The applicant is proposing to reconstruct the sidewalk along the length of the front lot line.
 - The grading plan illustrates a steep slope along the north side of the parking lot at the property line. The applicant has indicated that a double granite curb will be used to stabilize the slope. A plan and cross-sections for the placement of the double granite curbing should be provided.
 - A leaching catch basin has been proposed at the entrance to the parking area. The City Engineer has concerns about the effectiveness of the leaching catching basin, and commented that the bulk of the runoff will pass the basin and continue onto North State Street. Approval of the site plan should be subject to any corrections or omissions noted by the Engineering Division for the design of the stormwater system.

Ms. McClure had questions relative to slopes and drainage and Ms. Aibel responded and explained the discussions that had taken place with the applicant.

Larry Wurster was present as applicant and explained he was trying to improve an existing situation that is very difficult right now. At present the residents of the two residential units are backing out onto North State Street and this would allow them to drive out.

At 9:50 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. Gross moved to **Grant a waiver** to Section 8.07 (C) (5) (d) of the Site Plan Review Regulations for the width of the parking aisle to be 15 feet instead of the required width of 24 feet. Mr. Merrill seconded. Motion carried.

Mr. Merrill moved approval for the expansion of the parking lot and associated improvements at the LDW Enterprise, 193 North State Street subject to the following standards and special conditions:

Standard Conditions:

3. Prior to the issuance of a Certificate of Approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff including but not limited to: the provision of a plan and cross-sections for the double curbing along the north side of the parking lot and the provision of a revised design for the stormwater runoff that satisfies the City Engineer's concerns.
4. 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 Planning Division.
5. 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), approval shall be obtained for the construction drawings and specifications for all public improvements from the Engineering Division.

Ms. Foss seconded. Motion carried.

7. Application by **Riverbend Community Mental Health, Inc.** for approval of a site plan of property at **278 Pleasant Street.** (#2005-88)

Determination of Completeness

Ms. Hebert explained this proposal to expand the existing parking area at Miller House by adding 10 new parking spaces..

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

Public Hearing

Ms. Hebert explained this proposal to expand the existing parking area at Miller House by adding 10 new parking spaces.. The site is narrow and the parking lot expansion will

be located in the front yard; paving the area between the building and Pleasant Street. The applicant has received a variance to permit parking within the 30-foot front setback and to construct fewer spaces than would typically be required by the Zoning Ordinance. Currently cars are parking informally in the front yard area and additional parking is needed. The plan will organize the parking and improve the stormwater management by providing a closed drainage system. There are no changes to the building or the existing use.

- The site plan improvements include a small detention pond at the southeast corner along Pleasant Street and the design includes a retaining wall that will be visible from the road. The Engineering Division has expressed concerns about the proposed drainage design and would like the opportunity to discuss the plans in more detail with the applicant.
- The Design Review Committee reviewed the site plans on October 10, 2006. The DRC recommended that additional landscaping should be included along the street. The existing vegetative buffer will be removed as part of the parking lot expansion; greatly increasing the visibility of the site from Pleasant Street.
- A Conditional Use Permit is needed for the proposed number of compact parking spaces on the site plan as submitted. The required number of parking spaces pursuant to the variance is 29 of which 25% or 7 spaces could be compact. The applicant has shown 8 compact spaces which would require a Conditional Use Permit (CUP) to exceed the 25% compact space limit. The applicant would like to redesign the site plan to remove one compact space and eliminate the need for the CUP.
- The applicant has requested a waiver to “checklist items” and needs to provide a letter that identifies the corresponding Sections of Site Plan Regulations that would need to be waived. The requests include the following items:
 - Waive the requirement in the checklist for “the location, size, and common and botanical names of all existing plant material to be retained or relocated.” (Section 7.04 (B) 2 (e))
 - Waive the City’s comment to include the wetland buffers on the plan. The project is on the south side of the property and will not be impacting the wetlands. The wetlands are located on the north side of the property. The applicant does not want to incur the additional expense of hiring a wetland scientist and a surveyor to locate the buffer. (7.06 (A)(1)(B))
 - Waive the City’s comment to submit a plan stamped by a structural engineer for the design of the retaining wall. The applicant would like the submittal of the stamped plan to be a condition of approval. (Section 8.03)

Mr., Kenison expressed concern related to the vegetated buffer at the front of the property that is proposed to be removed especially as it relates to the abutting residential properties.

Jim Spaulding was present from HL Turner Group on behalf of the applicant to answer questions from the Board.

Ms. Meyer noted that Pleasant Street still has a very residential feel to it and she expressed concern about removing any buffer and creating a much larger field of asphalt at the front of the property.

At 10:07 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. Gross moved to table action on **this application** pending response by the applicant to the concerns of the City Engineer as well as revision of the site plan to remove one compact space or alternatively, submittal of a Conditional Use Permit Application. Mr. Merrill seconded.

Ms. McClure encouraged staff, in discussions with the applicant, to increase the intrusion as little as possible even though a variance was granted.

Motion carried.

Conditional Use Permit

8. Application by **Robert N. and Rupa P. Laverdiere** for approval of a Conditional Use Permit pursuant to Section 28-7-8(b), Separation of Driveways in Residential Districts, of the Zoning Ordinance for property at **313 Portsmouth Street**. (#2006-85)

Determination of Completeness

Mr. Henninger explained this proposal to allow a second driveway to a residential lot. This provision of the zoning limits the number of driveways for a residential lot to a single driveway for lots with under 100' of frontage, an additional driveway can be allowed for lots having an additional 150' of frontage. The only explanation or supporting documentation submitted by the applicant for the CUP is the statement, "Proposed 2nd driveway would provide access to the rear of the property for outside storage, etc." He reported that staff had been handed during this meeting the information needed to recommend that the application be determined to be complete. City staff has not had time to review or make recommendations on the newly submitted material.

Mr. Merrill 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 November 15, 2006. 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.

- **Capital City Automotive** at 88 Manchester Street
- **Jaguar Mining, Brazilian Resources, Secure Foods** at 48 Pleasant Street
- **Machine Craft Company Inc.** at 1 Ripley Street
- **NEA** at 9 South Spring Street
- **Riverbend Community Mental Health, Inc.** at 105 Loudon Road
- **T-Mobile** at 240-242 Loudon Road (2 signs)

Public Hearing

The Chair opened the hearing on the sign applications for Jaguar Mining, Brazilian Resources, Secure Foods, Machine Craft Company Inc., NEA, Riverbend Community Mental Health, Inc., and T-Mobile.

- **Jaguar Mining, Brazilian Resources, Secure Foods** at 48 Pleasant Street

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.

Mr. Merrill moved approval and Mr. Kenison seconded. Motion carried.

- **Machine Craft Company Inc.** at 1 Ripley Street

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.

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

- **NEA** at 9 South Spring Street

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.

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

- **Riverbend Community Mental Health, Inc.** at 105 Loudon 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 subject to a ruling from the Code Administrator regarding the size of the sign.

Mr. Merrill moved approval subject to compliance with the Zoning Ordinance regarding size. Mr. Kenison seconded. Motion carried.

- **T-Mobile** at 240-242 Loudon Road (2 signs)

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

Mr. Gross moved approval of the sign and the color of the awning as submitted and Ms. Meyer seconded. Motion carried.

- **Capital City Automotive** at 88 Manchester Street

Mr. Henninger reported that the Design Review Committee had reviewed an application with a design showing a variable message board. The Committee noted that the variable message board is no longer permitted under the City's Zoning Ordinance. There was some question as to whether this would be considered a replacement sign which would be allowed to retain the variable message.

He reported that the Design Review Committee recommended approval subject to a solid pole cover in a color to match the sign and eliminating the two lines of changeable copy and making the letters more proportional.

Since the Design Review Committee meeting, the Code Administrator has ruled that that the variable message sign will not be allowed inasmuch as the City Council has changed the Zoning Ordinance to eliminate all changeable message boards.

Paul Morandi was present as applicant and presented revised design compliant with the Design Review Committee recommendation. Mr. Henninger noted that the revised plan was still oversized as it could be no more than 36 square feet. Mr. Morandi indicated he would revised the size to comply with the City's Zoning Ordinance.

Mr. Gross moved approval of the revised sign subject to compliance with the Zoning Ordinance relative to size. Mr. Merrill seconded. Motion carried, 7-1, with Ms. Meyer voting against.

Mr. Gross then asked staff for an update regarding variable message signs.

Mr. Woodward responded that the City Council had adopted a complete ban on variable message signs, including both manual and electronic signs.

Mr. Gross commented on the visual pollution on Loudon road, particularly the new Uno Car Wash sign and its electronic component.

11. Site and building plans related to renovations of property of **Ciborowski Realty Trust at 72-74 North Main Street.**

Mr. Henninger explained this proposal to renovate the façade of this empty storefront to match the recent renovation next door.

He reported that the Design Review Committee recommended approval as submitted and asked that the applicant submit plans detailing materials and colors.

There was no one present on behalf of the applicant and no one wishing to speak for or against this application.

Mr. Gross moved approval as submitted with the request that the applicant submit plans detailing materials and colors. Ms. Meyer seconded. Motion carried.

REGULAR MEETING

Minutes

Mr. Gross moved approval of the minutes of the meeting of September 20, 2006, as submitted and Mr. Kenison seconded. Motion carried.

The Board further considered applications for approval of developments on which public hearings have previously been held.

2.a Request by **Consolidated Realty Inc.** for approval of a change in the conditions of approval of a site plan of property on **Poplar Avenue.**

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

Mr. Henninger explained this This project was granted conditional Site Plan (Large Scale Development) approval on April 19, 2000 subject to 18 conditions. Since that time the applicant has slowly been bringing the property into compliance with a Superior Court Judgment, the Planning Board's Site Plan approval and the terms of the ZBA's prior approvals.

The City Engineering, Planning and Code Divisions have jointly completed our inspection of the site and have concurred that the site and buildings are in compliance with the site plan approval with the exception of two items and a modification to the site plan for the location of the scales.

The proposed scales for weighing deliveries were originally to be located off-site between Poplar Avenue and the site. The scales were constructed on site.

The applicant has several offsite improvements that were part of the approved plans and conditions of approval for which they cannot obtain the legal rights to construct.

1. The first is an eight (8) foot tall screen fence to be constructed across the railroad tracks on abutting property to the west.

2. The second is the construction of a turnaround at the end of Poplar Avenue. The same property owner for both parcels has refused to convey the right-of-way for the turnaround at the end of Poplar Avenue and will not allow the construction of the fence on property west of the tracks. The applicant is requesting that the Board allow the applicant to provide a financial guarantee for both items in lieu of constructing the improvements at this time.

Finally, the applicant is asking permission from the Board to transfer this approval to a new owner since the Planning Board's approval is solely limited to the present owner. Please see condition number 15 below. The conditions of the April 19, 2000 approval are listed at the end of the report after the Recommendations.

1. The on-site improvements while not pretty have been completed according to the approved plan.
2. The applicant is not responsible for other storage items on the property surrounding the recycling facility located on abutting property.
3. The Code Division has issued permits for the scales at the location constructed on the site.
4. The location and height of the metal stored on site to be crushed and recycled is now in compliance with the ZBA's prior approvals.
5. The metal crusher is now fully enclosed within a building.
6. The location and construction of the scales is acceptable to the Code, Planning, and Engineering Divisions.
7. The applicant has provided a letter from the owner's attorney rejecting a request to provide the easement for the hammerhead turnaround. The easement is shown on the approved plat for the area dating from 1995 but an accompanying easement document was not recorded with the plat. The parcel in question is lot 13-1-5 owned by C500 Limited Partnership (Joseph Alosa).
8. The applicants are proposing a financial guarantee to insure the construction of the turnaround when the City can obtain the rights to construct said turnaround. The guarantee will be renewed annually and will be adjusted for inflation.
9. The site and landscape plan for the project provided for the construction of an eight (8) foot tall screen fence to the west of the crusher location on the opposite side of the railroad tract. A screen wall on the east side of the track is unfeasible because of the railroad siding along the western border of the site and the requirement to load recycled materials onto rail cars. The screen wall is to be 600 feet in length. The abutting use to the west is currently an industrial use and the noise emanating from that site is at least as loud as any on the Advanced Recycling site based on our site visit in August.

10. The applicants are proposing a financial guarantee to insure the construction of the proposed screen fence. The guarantee will be renewed annually and adjusted for inflation.
11. The applicant is proposing a single guarantee of \$20,975 for both improvements consisting of \$5375 for the hammerhead and \$15,600 for the fence.
12. NH DES permits for this property must be transferred to the new owner as well as a permit from the NH DOT and approval by the NH Department of Justice. These are in process.

Mr. Gross moved **Grant approval for revisions** to the prior Large Scale Development (site plan) approval for **Consolidated Realty, Inc./Advanced Recycling** as follows:

1. Approve the construction of the existing scale as shown on the "Site Plat of the Materials Processing Area prepared for Advanced Recycling" by Richard D. Bartlett & Associates, Inc., dated July 11, 2006.
2. Revise condition number 12 of the April 19, 2000 Planning Board approval to allow the petitioner and successors in title to post a performance bond in lieu of constructing the "hammerhead" turn around at the end of Poplar Avenue. Said bond shall be renewed annually, and adjusted for inflation until the right-of-way becomes available to allow the construction of said turnaround by the petitioner or successors in title.
3. Allow the petitioner and successors in title to post a performance bond in lieu of constructing 600 feet of eight (8) foot tall wooden screen fence across the railroad tracks from the shredder as shown on the approved site and landscape plans until such time as the rights may be obtained from the abutting property owner on the west side of the tracks on parcel 25B-1-1. Said bond shall be renewed annually and adjusted for inflation until the rights are obtained to construct said screen by the petitioner or successors in title.
4. Approve the transfer of the grant of Large Scale Development (site plan) approval subject to all conditions previously approved, and as amended herein, and all representations and agreements noted in the April 19, 2000 Planning Board approval. The approval is transferred to "Prolerized New England Company LLC (PNE), a subsidiary of Schnitzer Steel Industries, Inc. and is not transferable to any other entity or owner with out submission to and approval from the City (Planning Board & Zoning Board).

Mr. Merrill seconded. Motion carried with Ms. Meyer abstaining from discussion and vote on the matter.

- 2.b Application by **John J. Redden, Smokestack Realty LLC** for approval of a site plan for property at **8 McGuire Street**.

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 west of N. State Street near the NH State Prison.

The Planning Board closed the hearing and tabled the application on May 17, 2006.

The Board by vote expressed its support for the project and the efforts of the applicants in redeveloping this under utilized property.

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 has 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 occupiable and was demolished in the 1990's.

The tenants over the last five years 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. The site has limited paved parking, has limited lot landscaping, insufficient fire protection measures and an old drainage system.

The applicant has requested a Conditional Use Permit pursuant to Section 28-7-11(b) Construction of Fewer Parking Spaces to show the required parking on the site plan but not to construct all the required parking.

The applicant has requested a Conditional Use Permit for disturbances to the buffer to bluff.

- Mr. Rice 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 along with any relief granted by Conditional Use Permit.
- since the May meeting the applicants have undertaken to pave an access driveway, some parking areas and several fire lane locations.
- The existing parking needs striping and signage for compact spaces, handicapped spaces and fire lanes.
- Eight of the existing parking spaces need to be paved which have been shown on the plan.
- The City Fire Marshal has reviewed the Fire Protection measures and has requested additional Fire Lanes be provided in front of Units "K" and "L". This has been accomplished on the revised plans. Signs for the fire lanes *have been* shown on the plans.

- If sprinklers are not provided then two thirds (2/3) of the front of the building must be provided with fire lanes. The Fire Marshal is requiring in this instance a 12' Fire Lane and a minimum of a 12' travel lane.
- The applicant is proposing to reuse an existing water line on the site and add two hydrants off this water line. No information has been provided on the plan as to the size and condition of the water line.
- The Fire Marshal is satisfied with the layout of the fire protection measures.
- However, neither the Fire Department nor the City Engineering Division are in the position to recommend approval of the site plan without an acceptable testing report demonstrating acceptable fire flow and pressure for the existing line.
- The applicant has requested a waiver not to provide topographic and wetland survey information below the top of the bluff and on top of the bluff south of the existing developed area of the site. Staff finds this an appropriate request since the land below the bluff is clearly not developable and the property to the south is not proposed for any development activity.
- The applicant's request for a Conditional Use Permit to construct fewer parking spaces is reasonable given the existing parking at the site based on the current level of occupancy.

All parking has to be paved parking for this use pursuant to the Zoning Ordinance and the Site Plan Regulations except for the 21 spaces in front of Unit "M" for which relief was granted previously by the ZBA 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.

The Planning Board closed the hearing and tabled the application on May 17, 2006.

The Board by vote expressed its support for the project and the efforts of the applicants in redeveloping this under utilized property.

The Board advised that the life safety issues of the Fire Marshal are the most serious issue requiring immediate action by the applicant. The Board noted that a compliant plan for the site showing the required parking is a pre-requisite for any Conditional Use Permit deferring the construction of said parking. The Board noted that the 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.

- The Board should tie any action on the Conditional Use Permit for "Construction of Fewer Parking Spaces" to a phasing plan.

- A Conditional Use Permit has been submitted to approve the existing access drive and eight existing (8) parking spaces which have already been constructed within the 50' buffer to bluff. The slopes of the river bluff on the east side of the site are covered with granite rubble from the old Rock of Ages granite operation of the 19th and early 20th century which was originally housed at this site. On inspection the bluff appears to be stable. The slopes are wooded and no improvements have been proposed within the buffer beyond those in existence. Currently a small wooden shed is located at the bluff edge approximately 10-12' square. It would be desirable to remove this shed and revegetate this area.
 - *The landscaping plan as revised is in conformity with the Zoning and Site Plan Review requirements for the Phase 1 parking. The applicant has requested that the installation of the remaining landscape plantings be phased over a couple of years.*
1. Neither the Fire Department nor the City Engineering Division are in the position to recommend approval of the site plan without an acceptable testing report demonstrating acceptable fire flow and pressure for the existing line.
 2. The existing 27 gravel parking spaces will need to be paved after the "Petit Papillon" dance school use is discontinued and before the tenant space is reoccupied.
 3. The fire hydrants need to be fully operational, tested and approved by the Fire Marshal before any further occupancy. In addition, the proposed fire lanes need to be marked and signed before any further occupancy.

Mr. Drypolcher asked that staff clarify that when the shed is removed, the landscaping will take place immediately. Mr. Henninger responded that was the intent.

Mr. Gross moved approval **Grant a Conditional Use Permit** pursuant to the Article 28-7-11: Alternative Parking Arrangements, Section (b) Construction of Fewer Parking Spaces, for the **Smokestack Center** at 8 McGuire Street subject to the following conditions.

1. When the tenant "Petit Papillon" vacates all or a portion of Unit "M" then the 18 gravel spaces previously approved for this use shall be paved prior to any new occupancy.
2. The eight (8) existing gravel parking spaces north of the site driveway shall be paved within one year of the date of Planning Board approval.
3. If the Code Administrator deems any of the remaining 88 future spaces shown on the site plan need to be constructed, the applicant shall submit a complete site plan for the entire property for review and approval by the Planning Board as provided for in the City's Site Plan Review Regulations.

Mr. Merrill seconded. Motion carried.

Mr. Gross moved **Grant a Conditional Use Permit** pursuant to the Article 28-4-4: Buffers to Bluff, Section (d) Conditional Use Permits Required for Certain Disturbances of Bluffs and Buffers, for the **Smokestack Center** at 8 McGuire Street subject to the following conditions. The Board has determined that the existing paving within the perimeter buffer is not a threat to the stability of the bluff at this location.

1. The existing shed located within the buffer will be relocated outside the buffer to bluff within one (1) year of the date of Planning Board approval and the area underneath the shed shall be landscaped to prevent erosion. Upon removal, the land underneath the shed will be landscaped forthwith.

Mr. Kenison seconded. Motion carried.

Mr. Gross moved approval of **Grant conditional Site Plan** approval for the **Smokestack Center** at 8 McGuire Street subject to the following standard and special conditions:

Standard Conditions

4. 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.

Special Conditions

1. The applicant shall pave the eight (8) gravel parking spaces located to the north of the main access drive within one (1) year from the date of Planning Board approval.
2. The applicant shall complete the landscape plantings as shown on the approved plans within two (2) years from the date of Planning Board approval.
3. The applicant shall affirmatively document that the existing water line where the proposed hydrants are to be installed has the required pressure and fire flow acceptable to the City Fire Marshal and the City Engineering before the issuance of any further Certificates of Occupancy for any tenants at the facility.
4. The applicant shall install and demonstrate that the required pressure and flows at both hydrants are available for fire protection measures to the satisfaction of the City Engineer and City Fire Marshal before the issuance of any further Certificates of Occupancy for any tenants at the facility.
5. The applicant shall loam and seed the three areas shown on the site plan within one (1) year from the date of Planning Board approval.

In addition, the applicant shall provide a financial guarantee for #1, 2, and 5 and the Conditional Use Permit for the shed (wherever there is a time limit) to secure the

performance of the special conditions within the required time limits the applicant shall post a bond as worked out with staff.

Ms. Dolcino seconded. Motion carried.

CITY COUNCIL REFERRALS

Item #3. Consideration of a communication from Attorney Richard Uchida on behalf of Fox Brook Holdings LLC requesting a **rezoning** of property on **Foundry Street** from Office Park Performance (OFF) to Opportunity Corridor Performance (OCP).

Mr. Woodward explained Attorney Richard Uchida, on behalf of the sole affected landowner Fox Brook Holdings, LLC, has forwarded a request to the City Council for a rezoning of land on Foundry Street adjacent to Exit 16 of I-93 to the Opportunity Corridor Performance (OCP) District from the current Office Park Performance (OFF) District. The stated purpose of the request is to allow offices for healthcare practitioners including clinics and outpatient healthcare, as the owner has requests for the establishment of the same from such providers.

The site in question was rezoned by the City Council to the current Office Park Performance (OFF) District from an Opportunity Corridor Performance (OCP) District in 2003 upon recommendation from the Planning Board. At that time, a local research and development company had expressed an interest in establishing a new "campus" of facilities on the site of the former Eastman Foundry. The City and the Capital Regional Development Council (CRDC) cooperated in a land assembly that included the former Eastman Foundry site as well as some surplus State land left over after the redesign and re-construction of Exit 16. The area was included primarily in the OCP District with some of the State land included in the RO District. A re-zoning to OFF was proposed in order to accommodate the type of use contemplated. While the research and development company did not proceed, the property was acquired by the current owner which has received approvals for an office condominium complex which is partially developed.

As part of the 2003 rezoning, the Planning Board looked at the Master Plan as well as the past zoning of the site. In its fully planned and partially developed status, this site remains appropriately zoned in the OFF District. The OCP District allows a broader range of uses and more signage as it is more of a mixed use district. The question that needs to be addressed is whether the OFF District should be amended to allow "offices for healthcare practitioners including clinics and outpatient healthcare", which as a principal use is permitted in the full range of commercial districts as well as the Civic and Institutional Districts. The above-referenced purpose statement for the OFF District was drawn from the Garvins Falls Master Plan amendment which set forth the concept of professional office/research parks for Concord. Medical offices and clinics certainly make use of related laboratory facilities and can engage in research, but the primary characteristic is service to customers (patients). As a result, medical offices are required to have more parking than a general office (1 space per 150 square feet of floor area vs. 1 space per 200 square feet).

Currently, in addition to this site, there are three OFP Districts northerly and easterly of the Concord Municipal Airport in various stages of development, and there is the undeveloped Garvins Falls area south of Manchester Street. These current OFP Districts are predominantly comprised of professional offices, with some laboratories, and a manufacturing use under the new standards that were adopted in 2003.

Medical offices and clinics are currently clustered around the Concord Hospital as well located in the Downtown area, with a few on the Heights and in Penacook village. With Concord continuing to expand its role as a regional medical center, medical offices and clinics would make some sense in the OFP Districts despite having some differing characteristics from the uses for which the OFP District was conceived. Therefore it is recommended that the Foundry Street area remain in the OFP District and that the Zoning Ordinance be amended to allow "offices for healthcare practitioners including clinics and outpatient healthcare" as a permitted principal use in the OFP District.

Ms. McClure reported that one of the concerns expressed by the City Council was that the City maintain its taxable property and she asked if that could be part of the recommendation that this remain taxable property.

Mr. Gross was under the impression that generally medical offices are taxed.

Mr. Henninger noted that at one time the City was in the chain of ownership of the property under discussion and when the City conveyed ownership, there was a provision that it remain on the tax rolls or there be a payment in lieu of taxes.

Ms. Dolcino reminded the Board that this is a recommendation by staff to change the entire zoning district and not just this parcel.

(Ms. McClure left the meeting at 11:18 PM.)

Mr. Gross moved that the Planning Board schedule a public hearing on this rezoning request as well as the staff recommendation for the regular meeting on November 15, 2006. Mr. Merrill seconded. Motion carried.

(Ms. Meyer left the meeting at 11:24 PM.)

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

Mr. Woodward noted that the hour was late but he had written a report as requested by the Board relative to TDR (*copy title*). Given that the Board had expressed an interest in holding a public hearing on the matter and there was some interest by the City Council in moving rather quickly on this idea, he asked for direction relative to scheduling a public hearing.

Staff was directed to pole members not present to see whether they could attend a recessed meeting on November 8, 2006. The alternate date chosen was November 29th.

At 11:29 PM, the hour being late, the Board recessed its meeting to a date to be announced.

ATRA

Douglas G. Woodward
Clerk

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