

The regular monthly meeting of the City Planning Board was held on June 15, 2005 in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Blanchette (who arrived at 7:05 PM), Dolcino, McGonagle, Merrill, Meyer, and Swope. Messrs. Woodward, Henninger and Pollock, and Ms. Osgood of the City Planning Division were also present, as was Mr. McGinley, the City Fire Marshal.

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

APPLICATIONS

The Chair asked the Clerk if there were any applications that had been received and which the staff was recommending should be determined to be incomplete. The Clerk informed the Board that there were no applications for which the staff was recommending incompleteness.

- Information on statutory change with regard to **assessment of impact fees**.

Mr. Henninger explained that revisions to the NH statutes relative to Innovative Land Use Controls in regard to impact fees became effective on June 1, 2005. Those changes in the enabling legislation require adjustments in the Board's procedures in assessing impact fees and now require the assessment to be made at the time of Planning Board approval. He submitted proposed conditions to be used in the approval of site plans and subdivisions that will provide for the assessment of impact fees at the time of approval.

Minor Subdivisions

1. Application by **Robert V. & Richard E. Aranosian and the City of Concord** for approval of a resubdivision and subdivision of property on **Old Suncook Road**.

Determination of Completeness

Mr. Henninger reported all required materials had been submitted and the application was complete and ready for public hearing.

Mr. McGonagle moved and Mr. Swope seconded that the Board determine this application to be complete and proceed with the public hearing. Motion carried.

Public Hearing

Mr. Henninger explained this proposal to consolidate nine lots and to create two lots from the resulting lot, for multi-family residential development north of Old Suncook Road and west of the Old Suncook Road landfill. An existing private access to an existing house within the center of the two lots will be provided with an access and utility easement. He explained that the applicants also propose to provide sufficient

right-of-way for Old Suncook Road to bring this public way up to a minimum of 50 feet in width. This right-of-way will extend to allow for future connections by the abutting mobile home community and other residential developments to access Manchester Street at a future signalized intersection with Manchester Street and Old Suncook Road. A number of existing non-conformities are eliminated, including lots with substandard or no frontages, and lot sizes below the minimum for the district.

He reported that the City Council has authorized the sale of three of the City lots abutting the development parcel. The proceeds of the sale are to be dedicated to extending the Soil Vapor Management System (SVMS) constructed last year for the Old Suncook landfill in order to protect this property. The SVMS was a condition of the Mulberry Village and Mulberry Street subdivision and is constructed to prevent the migration of landfill gases, including methane, into the surrounding structures. The owner of the land on which these developments were created was the partner of the City in disposing of the solid waste. The properties making up Friedman Court were not a part of the landfill and the owners were not party to the disposal.

He reported that the ground water on this site is 35 feet or below grade. The ground water is contaminated and will remain so for an undefined period, perhaps decades. This property will need to be protected with an easement to allow the City to enforce a restriction on drilling wells on this property and to have the right to close said wells at the owner's expense. The easements placed on the lots in the Mulberry Village Condominium and Mulberry Street subdivision will be the format for the easement on these properties.

Attorney Richard Uchida was present on behalf of the Aranisian family to answer questions from the Board.

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

Deliberations and Action on Application

Mr. Swope moved approval subject to the following conditions:

1. The applicant shall revise the plat drawings to address the corrections and omissions noted by City staff.
2. The applicant will provide the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, to the Planning Division:
 - a. Deed of easement for the expanded right-of-way for Old Suncook Road.
 - b. An easement prohibiting wells to be drilled or dug to remove or otherwise impact ground water within the subdivision and allowing the City to enforce said restrictions.
 - c. The access and utility easement from the owners to Darlene A. Labrie at 15 Old Suncook Road.

Mr. McGonagle asked the status of negotiations regarding the transfer of land with the applicant and Mr. Henninger responded that the City Council had authorized the City Manager to negotiate with the property owner and, while the transaction had not been completed, it was his understanding that it is close to finalization.

Board members moved to suspend the rules and ask Mr. Uchida to comment on the progress of negotiations.

Mr. Uchida reported that they are very close to agreement and are aware that the agreement needs to be finalized and recorded before the subdivision plat is recorded, deeds exchanged, and the development proceeds.

Mr. McGonagle then moved that a further condition be placed on the approval which will spell out the need for completion of the agreement with the City before recording of the plat. Messrs. Swope and Blanchette agreed with the amendment.

Motion as amended carried.

2. Application by **Ben D. Benson and Kenneth Vallery** for approval of a resubdivision and subdivision of property at **102 & 115 Appleton Street**.

Determination of Completeness

Mr. Pollock reported all required materials had been submitted and the application was complete and ready for public hearing.

Mr. Swope moved and Mr. Merrill seconded that the Board determine this application to be complete and proceed with the public hearing. Motion carried.

Public Hearing

Mr. Pollock explained this proposal to exchange triangular-shaped areas 0.106 acres in size along a common property line between the 5.081-acre Benson lot and the 2.04-acre Vallery lot. He reported that the Code Administrator has ruled that the Benson lot will comply with the Zoning Ordinance relative to the frontage measurement being at the front yard setback if the Appleton Street cul-de-sac is expanded to meet the current standards for cul-de-sacs as specified in the Subdivision Regulations. As part of a previously conditionally approved subdivision application, Mr. Benson is to dedicate additional right-of-way to establish a conforming right-of-way for the cul-de-sac. The Planning and Engineering Divisions have agreed on a teardrop layout for the cul-de-sac that will achieve a conforming design within the property owned by the Mr. Benson.

Timothy Bernier, surveyor with TF Bernier, Inc., was present on behalf of the applicants and asked that the applicants not be required to show the full extent of the footprint of buildings as well as the septic systems, and the water supply well and the protective radii on both lots. He also asked that they not be required to mark the wetland buffers.

He explained that there are no new lots being created and only one-tenth of an acre is being exchanged.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 7:32 PM.

Deliberations and Action on Application

Mr. Swope moved approval subject to the following conditions:

1. The applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
2. The subdivision plat of Ben D. Benson that was granted conditional approval by the Board on April 20, 2005, shall be recorded prior to the recording of this plat.

Mr. Merrill seconded.

Mr. Woodward discussed the proposed condition relative to showing the full extent of the footprint of buildings on both lots as well as the septic systems, and the water supply well and the protective radii. He explained that there is a State regulation regarding the protective radii of a well. He also expressed concern that this is a result of a misunderstanding regarding property lines when the original subdivision was submitted and suggested that extra care should be taken to provide details.

Mr. Swope felt these requests were out of scale with what the applicants were trying to do.

Mr. Drypolcher suggested that the motion be amended to include an additional condition that the water supply wells and the protective radii for both lots shall be shown on the plat.

Messrs. Swope and Merrill agreed to the amendment.

Motion as amended carried.

At this time the Chair reminded the audience that the Board will be acting on its new policy to meet only until 10:30 PM and asked that any testimony be kept brief in order to allow that Board to act on as many items as possible this evening. He also announced for the benefit of anyone in the audience interested in the Concord Hospital application that the applicants had asked that this be discussed at the Board's meeting on June 22nd.

3. Application by **Charter Trust Company, Trustee of the Rosa and S. Spencer MacLaughlin Irrevocable Trust**, for approval of a subdivision of property at **59 Sewalls Falls Road**.

Determination of Completeness

Mr. Pollock reported all required materials had been submitted and the application was complete and ready for public hearing..

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

Public Hearing

Mr. Pollock explained this proposal to create two new lots on Gallen Drive, leaving the remainder lot with the existing house on Sewalls Falls Road. He reported that both new lots on Gallen Drive will be required to be served with underground utilities which may run from the last and only pole on the west side of Gallen Drive just north of Sylvester Street. The existing sidewalk on Gallen Drive is noted as encroaching on Proposed Lot #2. An easement is needed for the sidewalk where it encroaches. The driveway locations are labeled as "possible"; these locations need to be definitively determined and duly noted on the plat.

Timothy Bernier, surveyor with TF Bernier, Inc., was present on behalf of the applicant and reported that the applicant had raised concern about the proposed conditions of approval, particularly the requirement that proposed driveways be definitively determined and noted on the plat. He reported that there were no specific building plans for the two new lots and the driveway locations had been shown on the plat to prove that there is appropriate access but were not intended to be a definite plan for access. There may be an interest in locating driveways in a location other than shown on the plat.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 7:46 PM.

Deliberations and Action on Application

Mr. Swope moved approval subject to the following conditions:

1. The applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
2. The applicant will provide the following easement document, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, to the Planning Division:
 - a. Deed of Easement for the sidewalk encroachment on proposed Lot #2.
3. The final location of the driveways for the two new lots which are shown on the plat on Gallen Drive, shall be determined at the time driveway permits are issued, and shall be in compliance with the provisions of Section 28-7-8, Access and Driveway Standards, of the City's Zoning Ordinance.

4. Either the information shown on the two sheets of the plat must be combined onto one sheet for recording, or both sheets must be prepared for recording purposes.
5. Traffic, recreation and school impact fees shall be assessed for any construction on the two new lots contained within this 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

Mr. Merrill seconded. Motion carried.

4. Application by **South Main Street Condominium Association, KI Realty LLC, and the City of Concord** for approval of a resubdivision and subdivision of property at **7-23 South Main Street**.

Determination of Completeness

(Mr. Blanchette recused himself.)

Mr. Pollock reported all required materials had been submitted and the application was complete and ready for public hearing.

Mr. Swope moved that the Board determine this application to be complete and proceed with the public hearing.

Mr. McGonagle asked if this application was truly complete. It was his understanding that there was a change in ownership from KI Realty recently and he asked how that would affect the completeness of the application.

Matthew Walsh, Community Development Project Manager for the City, explained that one of the units in the South Main Street Condominium Association, owned by KI Realty LLC, had recently changed ownership and the City was now working with the new condominium unit owner.

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

Public Hearing

Mr. Pollock explained this proposal to subdivide fifty-five square feet of the City's property and convey it to the South Main Street Condominium, and the new unit owner will subdivide 1,104 square feet and convey it to the City of Concord. Both the new unit owner and the South Main Street Condominium will release all claims of ownership to the former Freight Street right-of-way, and the total right-of-way, with an area of 15,481 square feet, will be annexed to other land of the City of Concord on both sides of the former right-of-way. He reported that the Capital Commons project has been granted a 100% reduction in impact fees by the City Council as part of an amendment to the Public Capital Facilities Impact Fees Ordinance adopted earlier this year.

He reported that the survey revealed that Hills Avenue, between Railroad Street and Storrs Street, had never been laid out. There is a triangular shaped parcel of land that crosses the current traveled way of Hills Avenue and then separates Storrs Street from Railroad Street.

Matthew Walsh, Community Development Project Manager for the City, was present to answer questions from the Board.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 7:54 PM.

Deliberations and Action on Application

Mr. McGonagle moved approval subject to the condition that the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff. He further moved that the Planning Board recommend to the City Council that the easterly end of Hills Avenue, between Railroad Street and Storrs Street be laid out. Mr. Swope seconded. Motion carried with Mr. Blanchette abstaining from discussion and vote.

5. Application by **the City of Concord** for approval of a subdivision by virtue of conversion to condominium of property at **7-23 South Main Street**.

Determination of Completeness

(Mr. Blanchette recused himself.)

Mr. Pollock reported all required materials had been submitted and the application was complete and ready for public hearing.

Mr. Swope moved that the Board determine this application to be complete and proceed with the public hearing. Mr. McGonagle seconded. Motion carried with Mr. Blanchette abstaining from discussion and vote.

Public Hearing

Mr. Pollock explained this proposal to create two land condominium units. Proposed Unit #1, which is for the mixed use office/retail building, will have 0.30 acres, and proposed Unit #2, which is for the parking garage, will have 1.62 acres. He reported that the Capital Commons project has been granted a 100% reduction in impact fees by the City Council as part of an amendment to the Public Capital Facilities Impact Fees Ordinance adopted earlier this year. He further noted that the condominium documents contain provisions for the City to withdraw from the condominium any land that lies south of the parking garage site to the northerly edge of the right-of-way of Hills Avenue.

Matthew Walsh, Community Development Project Manager for the City, was present to answer questions from the Board.

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

Deliberations and Action on Application

Mr. Merrill moved approval subject to the following conditions:

1. The applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
2. The Declaration of Condominium shall be subject to the review and approval of the City Solicitor.
3. The minor subdivision plat of South Main Street Condominium Association, KI Realty LLC and its successors and assigns, and the City of Concord shall be recorded prior to the recording of this plat.

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

Major Subdivisions

6. Application by **California Fields LLC** for preliminary approval of a subdivision of property on **Crescent Street in Boscawen** with vehicular access and utilities provided through Concord.

Public Hearing

Mr. Henninger explained this proposal for a subdivision and a site plan for 38 townhouse units to be constructed in the Town of Boscawen north of East Street in Penacook. He explained that the City has limited jurisdiction in regard to this project. The new street intersection with East Street is partially located within Concord city limits opposite MacCoy Street. The applicant is also proposing to connect from the

Boscawen Water Precinct to the sewer interceptor which is a facility constructed by the City.

He reported that California Fields LLC owns a lot within the City on the north side of East Street from Boscawen to Crescent Street. The applicant has been advised that when a site plan is submitted for the remainder of the north side of East Street from the new street west to Crescent Street the Concord Planning Board's regulations require the installation of vertical granite curbing and sidewalk along the entire frontage of this property.

He reported that the current subdivision creates a separate lot for the existing landfill with a portion of the landfill in the new street right-of-way. The existing monitoring wells are both on and off the proposed lot. The ultimate disposition of this landfill needs to be acceptable to the Town of Boscawen and NH Department of Environmental Services.

Dana Willis was present as applicant to answer questions from the Board.

Mr. Blanchette asked about groundwater and Mr. Willis responded that they had done extensive groundwater monitoring and gas monitoring, and a remedial action plan has been developed. He reported that the site of the groundwater plume will be capped and monitoring wells will be in place. The State has also required a swale around the cap. Mr. Willis reported that most of the environmental permits are in place.

Mr. Blanchette asked if City staff had reviewed the studies and reports noted by Mr. Willis. Mr. Henninger responded that the City has not received copies of the reports but usually defers to the expertise of the State on these matters.

Mr. McGonagle noted that, while the majority of the project will be in Boscawen, the traffic will have to use Concord roads. He asked if staff had explored whether Concord could request impact fees for this project. Mr. Henninger responded that the City had waived impact fees for the abutting tannery project and it would be somewhat inconsistent to require them through the Town of Boscawen for this project.

There was no one from the audience wishing to speak for or against this application and the Chair declared the hearing closed at 8:11 PM.

Deliberations and Action on Application

Mr. Blanchette moved to table action on this application until the Town of Boscawen is able to satisfactorily complete its review and act on the subdivision and site plan for this development, and for a determination of the ultimate disposition of the landfill from the Penacook Tannery. Mr. Swope seconded. Motion carried.

7. Application by **Douglas & Bonnie McNutt and James & Susan Sebold** for approval of a subdivision of property at **263, 265 & 267 South Street**.

Determination of Completeness

Mr. Woodward explained the proposed subdivision is located on the southerly end of the new extension of Heather Lane at the end of Goldenrod Lane. The properties consist of three lots, two of which are in common ownership and, due to the non-conformity of one of these lots, these two lots are treated as one under the Zoning Ordinance. The applicant is proposing to resubdivide and subdivide the existing lots into six lots, leaving the two existing homes on smaller lots with frontages on South Street, and creating four new lots on a southerly extension of Heather Lane.

Mr. Woodward reported all required materials had been submitted and staff recommended that the Planning Board determine this application complete and set it for a public hearing at the regular meeting on July 20, 2005.

Mr. Swope moved that the Board determine this application to be complete and set it for a public hearing at the regular meeting on July 20, 2005. Mr. Blanchette seconded. Motion carried.

Site Plans

8. Application by **Robert V. and Richard E. Aranosian, on behalf of CATCH**, for approval of a site plan of property on **Old Suncook Road**.

Public Hearing

Mr. Henninger explained this proposal by Concord Area Trust for Community Housing (CATCH) to construct 54 dwelling units on the north side of Old Suncook Road immediately west of the Old Suncook Road landfill and north of Manchester Street. Fourteen of the units are townhouse dwelling units and forty of the units are multi-family units contained in two and three story structures. Four buildings are proposed, with the townhouses attached to the sides of three of the three-story apartment buildings. The fourth building is a two-story structure and contains four units on the second floor, community spaces, and office and tenant storage on the ground level.

He reported that the applicant proposes to provide curbing and sidewalk along a portion of the north side of Old Suncook Road from the Old Suncook Road intersection west along the project frontage and to provide a full 30 feet of pavement section along the same frontage.

Mr. Henninger reported that the City Council has authorized the sale of City property west of the site and the companion subdivision. The proceeds of the sale are to be dedicated to extending the Soil Vapor Management System (SVMS) constructed last year for the Old Suncook Landfill in order to protect this property. The SVMS was a condition of the Mulberry Village and Mulberry Street subdivision and is constructed to prevent the migration of landfill gases including methane into the surrounding structures. The owner of the land on which these developments were created was the partner of the City in disposing of the solid waste. The properties making up Friedman Court were not a part of the landfill and the owners were not party to the disposal.

He reported that the ground water on this is 35 feet or below grade. The ground water is contaminated and will remain so for an undefined period, perhaps decades. This property will need to be protected with an easement to allow the City to enforce a restriction on drilling wells on this property and to have the right to close said wells at the owner's expense.

Mr. Henninger reported that Manchester Street is scheduled for widening and reconstruction starting in 2007. Utility relocation work and right-of-way acquisition is underway. Manchester Street will initially be widened to three lanes in the vicinity of the Old Suncook Road intersection. Development to the south of Manchester Street will drive the timing of the signalization of the intersection of Manchester Street/Old Suncook Road and the widening of this section of Manchester Street to five lanes. Sidewalks will be constructed on both sides of Manchester Street.

He reported that City staff had recommended that a connecting sidewalk be constructed from the intersection of Old Suncook Road and the project frontage to Manchester Street, a distance of approximately 350 feet. Staff has recommended that the applicant not construct this connection at this time but provide funding for the design and construction of this connecting link and have this construction added to the Manchester Street project. This will avoid construction conflicts and ensure that the improvements are completed simultaneously.

He reported that the Design Review Committee had reviewed the revised elevations, site plan and project identification sign, and recommended approval of all phases of the project as submitted.

Amy Lockwood, executive director of CATCH, and Judy Houston, from Nobis Engineering, were present to answer questions from the Board.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 8:40 PM.

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

Mr. Swope moved approval of the site plan, project identification sign, and building elevations as submitted. Mr. Blanchette seconded. Motion carried.

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

1. The applicant shall obtain approvals of construction drawings for on-site and off-site improvements from the Engineering and Planning Divisions.
2. 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. The applicant will provide to the Planning Division the following easement document, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds:
 - a. An easement for the widening of Old Suncook Road.
4. The applicant shall obtain approval from the City Council for extensions to the potable water system and sanitary sewer system located within the public right of way. This approval will stand as the Planning Board's favorable recommendation to the City Council in regard to the utility extension requests.
5. The applicant shall obtain approvals for the construction drawings and specifications for all public improvements from the Engineering Division. No construction activity may commence prior to the preconstruction conference.
6. No certificate of occupancy for any building or use shall be issued until all public improvements have been substantially completed to the satisfaction of the City Engineer.
7. The applicant shall obtain approval of private utility plans from Unitil, Verizon, and KeySpan.
8. Prior to the release of a financial guarantee for any public improvement, an as built plan shall be provided to the City Engineer in form and content acceptable to the City Engineer.
9. The applicant shall obtain the following State and federal permits shall be obtained and provide copies to the Planning Division:
 - a. NH Department of Environmental Services Site Specific Permit (RSA 485-A:17)
 - b. NH Department of Environmental Services Water Quality and Sewer Discharge Permits
10. Traffic, recreation and school impact fees shall be assessed for any 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 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 – Multi-unit/Apartment (40 dwelling units)
 - b. Recreational Facilities – Multi-unit/Apartment (40 dwelling units)
 - c. Transportation Facilities - Multi-unit/Apartment (40 dwelling units)

- d. School Facilities - Townhouse/Duplex (14 dwelling units)
 - e. Recreational Facilities - Townhouse/Duplex (14 dwelling units)
 - f. Transportation Facilities - Townhouse/Duplex (14 dwelling units)
11. The applicant shall prepare a construction cost estimate for constructing an approximately 350-foot section of curbing and sidewalk north from Manchester Street for approval by the City Engineer, and a cash contribution in said amount shall be provided to the City for inclusion of said improvement into the Manchester Street improvement project.
12. The companion subdivision creating the development lot for this development shall be recorded in the Merrimack County Registry of Deeds.

Mr. McGonagle seconded. Motion carried.

Site Plan and Conditional Use Permit

9. Application by **Cumberland Farms Inc.** for approval of a site plan of property at **196 North Main Street.**

Public Hearing

(Mr. Merrill recused himself.)

Mr. Henninger explained this proposal to demolish an existing convenience store and gas station on the east side of North Main Street along with an auto repair building to the rear. The applicants propose to construct a new convenience store of 3,744 square feet and pump islands with a canopy for 16 fueling stations on the site. The applicants also propose to remove the existing convenience store across North Main Street and sell the property with deed restrictions prohibiting the reuse of the site for gasoline sales and service. The applicant will need to provide a financial guarantee to insure that the existing gas fueling stations will be closed upon occupancy of the new facility and removed within a reasonable period.

He reported that the applicant has submitted an application for a Conditional Use Permit to allow them to construct fewer spaces than required. The applicant has indicated that, in their experience, the six spaces will not be needed but has not provided supporting justification.

He reported that the applicant has also requested a Conditional Use Permit in regard to driveway separation. The applicant proposes to reduce the number of driveways from two to a single entrance which will align with Court Street. The applicant's request is reasonable since it is impossible in this location to obtain the necessary 200 foot spacing between driveways off the site. The abutting uses to the north and south have only a single drive onto North Main Street but they are located approximately 110 feet to the north and approximately 60 feet to the south from the new entrance. No better separation can be provided.

Mr. Henninger reported that the Fire Department has recommended that the retail building be sprinkler protected. The canopy in front of the building would inhibit access to the building itself by fire equipment and the provision of sprinklers to the retail building would alleviate the concerns the Department has with the site plan.

He also noted that an existing overhead electrical line which crosses the site provides service to the area west of North Main Street. The applicant is proposing to relocate this line across the lot and across the abutter's property to the south. The applicant has requested a waiver from Section 9.10(2)(a) to allow the electrical line to remain overhead. The applicant has offered in support the comment that Unitil does not want the lines to be underground. The Planning Division has asked for further justification in support of this request.

Unitil has indicated that the proposed underground fuel storage tank cannot be located in their utility easement. The applicant has advised that they will relocate the underground tanks. Unitil has advised that the proposed relocation of the line may not be feasible and, if feasible, will be expensive. The proposed relocated line will be brought within 10 feet of the abutting mixed use office and residential building to the south. This issue has not been addressed.

Mr. Henninger reported that there are a number of ground water monitoring wells on the site. Planning staff has asked for information on the status of any completed or ongoing cleanup occurring on site.

He reported that the Design Review Committee had reviewed the elevations for the building, canopy, signage and landscaping plans and found the design of the retail building to be acceptable, with a recommendation that the cupola on the roof be slightly larger. The Committee also found the affixed sign on the building to be appropriate for the location and use proposed.

He further reported that the Design Review Committee had found the design of the proposed canopy unacceptable and strongly recommended that the canopy incorporate a fixed roof and include elements of the retail building in the design. A copy of a photograph of a canopy constructed in Meredith, NH for a new Mobil facility was shown to the Committee and was also provided to the applicant. The Committee found this design to be a good example to emulate. The Committee was also concerned about the thirty American flags to be mounted on the roof of the canopy and noted that the flag poles were not an integrated element of the design. The Committee expressed their opinion that the signage was intended as advertising and bordered, in their opinion, on desecration.

He reported that the Design Review Committee recommended that additional trees be planted along the street frontage. A street tree is proposed to be removed and must be replaced in kind within North Main Street.

The Committee further recommended that the price panel on the proposed free standing sign be the minor element and the Cumberland Farm panel be the top panel and made the largest element.

Jeff Adler from Dubois & King, and Attorney Matthew LaPointe were present on behalf of the applicant to answer questions from the Board.

Mr. Adler reported that he had discussed with the Fire Marshal his comment relative to the need for sprinkler protection and found that there had been a misunderstanding sprinklers are not needed. He indicated the applicant has seen the photograph of the example of an appropriate design to consider for the canopy and he felt the applicant could provide something similar.

Dwight Keeler was present as an abutter immediately to the south at 194 North Main Street. He reported that his building is an historic building and the scope of work proposed next door to him concerns him as to the damage it could cause to his building. A similar project a few years ago created damage to the building and this would appear to be a much more extensive project. He also expressed concern about the effect the added pumps would have on the residents in his building. He also mentioned the utility easement granted across his property, specifically that when the utility lines were installed, the easement was very specific as to where the lines could be located and that they could not be moved closer to his building. He also expressed concern about noise and its effect on his tenants. A few of the lights closer to his building will need to have restrictions as to how much light is directed toward his building. The trees proposed to be removed provide a buffer, especially in the summer, and he asked the Planning Board and the applicant to keep that in mind when considering this plan.

Mr. McGonagle asked if Mr. Keeler has had any conversations about his concerns with the applicant and Mr. Keeler responded that the applicant had not tried to make contact with him at all.

The Chair asked the applicant's agents to address the issues mentioned by Mr. Keeler.

Mr. Adler expressed their willingness to use the same precautions in this construction as they would for a blasting job. There are things that can be done during construction to minimize the impact on Mr. Keeler's building and they are willing to also videotape the building before construction. He reported that the applicant has agreed that their speaker system will only be used for emergency situations such as when a customer has a problem at the pumps. He noted that the utility pole will not be physically moved side to side but moved 5-7 feet to get it out of the pavement. He also reported that lighting is being redesigned to comply with the Zoning Ordinance.

He reported that Cumberland Farms has control over the deliveries of fuel and dumpster visits so they can accommodate those visits to the abutting residential uses and ask that those activities take place during less intrusive times.

Mr. Keeler also mentioned traffic late in the day may become a problem. A left turn onto North Main Street is a problem now around the rush hour.

There was no one else wishing to speak for or against this application and the Chair declared the hearing closed at 9:20 PM.

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

Mr. McGonagle moved to table action on this application to allow the applicant to address the comments of the Architectural Design Review Committee, the Planning Division and the Fire Department, to allow for the review of the project to be completed by the Engineering Division, and to allow the applicant to work with Unitil and the abutting property owner to the south on the design of the proposed relocated electrical line across both properties. Mr. Blanchette seconded. Motion carried with Mr. Merrill abstaining from discussion and vote.

10. Application by **Fox Brook Holdings LLC** for approval of a site plan of property on **Foundry Street**.

Public Hearing

Mr. Henninger explained that the first of this development contained 209 parking spaces and a 22,881 square foot two-story office building now occupied by Sanborn Head. The applicant now proposes to construct a second phase of the development containing a second two-story building of 19,450 square feet and a third building of three stories containing 59,400 square feet. The applicant had also submitted an application for a Conditional Use Permit (CUP) to install an affixed sign above the sill of the second story window of the existing building in Phase 1. Last year the applicant purchased additional property from the State of New Hampshire which was declared surplus I-93 right-of-way and increased the lot size from 7.68 acres to 11.67 acres. The original application in 2002 contained a total of 68,052 square feet of office space. The additional land the applicant purchased allowed the total amount of office space to be increased to 101,731 square feet.

He reported that the Planning Board did not require a traffic study to be completed previously for this development and the Board, during the determination of completeness, did not require an additional traffic study to be completed. The total project, and either phase alone, would generate sufficient traffic to trigger the Board's requirement for a traffic study. However, a traffic study was not required for this project because the study would not add materially to the information at hand due to the project's unique location, the recently completed multi-million dollar upgrade to the I-93 Exit 16 interchange by NH Department of Transportation, the acquisition of most of the undeveloped land west on I-93 as conservation area, and the recently completed design study of the Mountain Road/East Side Drive/Shawmut Street intersection by the City.

He reported that the he signage (other than the affixed sign for Sanborn Head) shown on the site and building plans are either off-site, too many in number or size, and/or require Conditional Use Permits for their placement. The Design Review Committee has advised the applicant to work with the Code Administrator to develop a sign package which will conform with the City's Zoning Ordinance.

He reported that the Design Review Committee had reviewed the building elevations, site plan, and affixed sign for Sanborn Head and recommended approval with the recommendation that the satellite dishes be provided with additional evergreen screen plantings around the base of the fenced enclosure.

Mr. Henninger reported that the applicant proposed to disturb 4,200 square feet of wetlands which are drainage ways created with the original construction of I-93. A Conditional Use Permit is required for disturbances to the wetland buffer areas. 1,015 square feet of the disturbed area is for the construction of sidewalk on the east side of Foundry Street into the site. 18,405 square feet of the disturbance is to facilitate the grading of the site north of the parking lot, involving almost exclusively a previously developed and disturbed area, and for the construction of a drainage treatment swale. The remaining 17,992 square foot area of disturbance involves a wooded area next to the Exit 16 overpass for the construction of a stormwater detention basin.

The Conservation Commission did not recommend approval of the Conditional Use Permit as submitted due to the extent of the wetland buffer disturbance.

Mr. Henninger reported that the Board had received a request for a waiver to allow the applicant to not place the existing electrical lines crossing the site underground. The waiver request seemed to be based on a desire for Unutil to not place the line underground and the cost of said improvement.

Jonathan Halle, from Warrenstreet Architects, and Fred Mock, from McFarland Johnson, were present on behalf of the applicant.

Mr. Mock addressed the request for Conditional Use Permit for wetland buffer impacts for components of the drainage system associated with the parking lot. Specifically proposed in the fifty-foot buffer are drainage swale grading, a grass treatment swale, and a stormwater detention pond.

He reported the Conservation Commission had asked for more information relative to alternative storm water handling systems. He reported that the analysis provided by his firm indicated that the proposed natural biological/infiltrative system was superior to pre-engineered systems under all storm recurrence intervals, particularly considering the maintenance requirements of pre-engineered systems.

There was no one else wishing to speak for or against this application and the Chair declared the hearing closed at 10:06 PM.

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

Mr. Swope moved approval under Architectural Design Review as submitted including the affixed sign for Sanborn Head. Mr. McGonagle seconded. Motion carried.

Mr. Swope moved approval of a Conditional Use Permit pursuant to Article 28-6-9(b)(2), Permitted Building Signs, for an affixed sign above the sill of the second floor

windows for Sanborn Head as submitted. Mr. McGonagle seconded. Motion carried.

Mr. McGonagle moved that the Planning Board grant a waiver to Section 9.10, Non-Municipal Utilities, of the Concord Subdivision Regulations requiring the placement of all utilities on site underground. Mr. Merrill seconded. Motion carried, 6-1, with Mr. Swope voting against.

Mr. Swope moved approval of a Conditional Use Permit for Disturbances to Wetland Buffers. Mr. McGonagle seconded. Motion failed, 3-4, with Members Drypolcher, Blanchette, Dolcino, and Meyer voting against.

Ms. Meyer moved, inasmuch as the areas proposed for disturbance next to Foundry Street and adjacent to the proposed parking lot have already been disturbed by previous development of the site and the buffer area to be disturbed for the drainage detention pond are an overall net benefit to the adjacent wetland areas, that the Planning Board grant approval of a Conditional Use Permit for Disturbances to Wetland Buffers subject to a determination by the Planning Division that the planting plan proposed for the disturbed buffer areas contained the appropriate number and type of plantings. Mr. Blanchette seconded. Motion carried.

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

1. The applicant shall obtain approvals of construction drawings for on-site and off-site improvements from the Engineering and Planning Divisions.
2. The applicant shall obtain the following State and federal permits and provide copies to the Planning Division:
 - a. NH Wetlands Bureau (wetland alterations)
 - b. NH Department of Environmental Services Site Specific Permit (RSA 485-A:17)
 - c. NH Department of Environmental Services Water Quality and Sewer Discharge Permits
3. The wetland buffers shall be clearly and permanently marked before, during, and after construction of the sites. Building permits will not be issued until the buffers are marked.
4. 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 - General Office

5. The utility plan shall be revised to include the connection of the water system to the existing eight-inch water line that crosses underneath I-93 to the site for redundancy of service.

Mr. Merrill seconded. Motion carried.

Conditional Use Permit

11. Application by **Casey Family Services** for approval of a Conditional Use Permit pursuant to Section 28-6-9(b)(2), Signs Permitted in Non-Residential Districts, of the Zoning Ordinance for property at **105 Loudon Road, Building #2**.

Public Hearing

Mr. Henninger explained this request to install an affixed sign above the sill of the second story window in single-tenant buildings that is three stories in height. The proposed sign is to be located on the easternmost office building in a four-building complex on the north side of Loudon Road.

He reported that the proposed sign will be individual white plastic lettering to be placed on the southerly building façade between the second and third story windows. The sign will not be illuminated. He reported that the Architectural Design Review Committee had reviewed the proposed plan, and recommended approval as submitted.

Lenny Charron from Great Northern Sign Company was present on behalf of the applicant to answer questions from the Board.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 10:27 PM.

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

Mr. Swope moved that the Planning Board grant a Conditional Use Permit pursuant to Article 28-6-9(b)(2), Permitted Building Signs, for an affixed sign above the sill of the second floor windows for Casey Family Services at 105 Loudon Road as submitted. He further moved approval under Architectural Design Review as submitted. Ms. Dolcino seconded. Motion carried.

Architectural Design Review

12. 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.

Public hearings were opened for each of the following.

- **AAA** at 48 Fort Eddy Road

(Mr. Blanchette recused himself.)

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

Mr. Merrill moved approval as submitted and Mr. McGonagle seconded. Motion carried with Mr. Blanchette abstaining from discussion and vote.

- **Lighting Place, Inc.** at 10 Pleasant Street Extension

Mr. Henninger reported that the Design Review Committee recommended approval of the placement of the sign centered over the northernmost second-story window. Members also made a strong recommendation that this be approved only for this use and that any other tenant should not be allowed to reuse this box sign.

Mr. McGonagle moved approval subject to the following conditions:

1. The proposed sign shall be located centered over the northernmost second story window.
2. This approval is only for this tenant and not for any other tenant of this building.

Mr. Swope seconded. Motion carried.

- **NH SCOT** at 17 Green Street

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

Don Munro was present as applicant to answer questions from the Board.

Mr. McGonagle moved approval as submitted and Mr. Blanchette seconded. Motion carried.

- **Olde Rose Stencil Shoppe** at 341 Loudon Road

Mr. Henninger reported that the Design Review Committee found the proposed sign to be appropriate for the location and use, and recommended approval subject to placement of the sign on the sign panel over the entry portico. He explained that there was some confusion with this sign. The Design Review Committee had limited information and the Code Administrator thought this was a separate unit and, therefore, felt that it would not comply with the Zoning Ordinance. He explained that there is already a sign in the sign panel for the unit. This is a second use within the unit.

The applicant was present to answer questions from the Board.

Mr. Swope moved approval as submitted and Ms. Meyer seconded. Motion carried.

- **Starbucks Coffee** at 240 Loudon Road (3 signs)

Mr. Henninger explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval of the insert in the pylon sign as submitted, and approval of the affixed sign provided the raceway color matches the background color of the building. The applicant was represented at the meeting and agreed to the suggestion.

Mr. Swope moved approval of the panel in the freestanding sign as submitted and approval of the two affixed signs provided that the raceway be painted to match the color of the wall behind. Mr. McGonagle seconded. Motion carried.

- **Vineyards** on Bog Road (Revisions to previously approved sign)

Mr. Henninger reported that the color, copy and shape of the original sign had changed since approved with the site plan. He reported that the Design Review Committee had found the proposed revised sign to be appropriate for the location and use, and recommended approval as submitted.

Ms. Meyer moved approval of the revised sign as submitted and Mr. Swope seconded. Motion carried.

In keeping with the Board's policy to limit the length of the meeting, the Board recessed at 10:37 PM to Wednesday, June 22, 2005 at 7:00 PM in the City Council Chambers.

A TRUE RECORD ATTEST::

Douglas W. Woodward
Clerk

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