

The regular monthly meeting of the City Planning Board was held on August 17, 2005 in the City Council Chambers at the City Hall Annex at 7:00 PM.

Present at the meeting were Members Swope (who as Vice Chair presided), Blanchette, Dolcino, Foss, Gross, McGonagle, Merrill, and Alternate Member Kenison. Messrs. Woodward and Pollock, and Ms. Seifried and Ms. Osgood of the City Planning Division were also present, as was Timothy McGinley, the City's Fire Marshal.

At 7:05 PM a quorum was present, the Vice Chair called the meeting to order and seated Alternate Member Kenison for Member Meyer who was not expected.

APPLICATIONS

The Clerk informed the Board that item #3, Application by **John J. Redden, Smokestack Realty LLC** for approval of a site plan of property at **8 McGuire Street**, had been withdrawn by the applicant. He also reported that item #2.b under the Regular Meeting portion of the agenda, Application by **California Fields LLC** for approval of a subdivision of property on **Crescent Street in Boscawen** with vehicular access and utilities through Concord, had asked to have action deferred because they had been tabled by the Planning Board until the Boscawen Planning Board takes action on their application in Boscawen. The applicant has reported that the Boscawen Planning Board has not acted on the application yet. He expected action at the September meeting.

The Clerk also noted that Planning staff is recommending that item #6, Application by **Dave Lou Realty LLC, on behalf of Robert Dion DBA Executive Wellness**, for approval of a Conditional Use Permit pursuant to Section 28-7-11(c), Shared Parking Arrangements, of the Zoning Ordinance for property at **79 South Main Street**, be determined incomplete.

Mr. Woodward also reported that Jill Seifried, the Neighborhood Planner, was again funded partially through the City's general fund and was now available for Planning Board support and is filling in for Mr. Henninger who is away for a few weeks. He also reported that Edward Roberge had started work this week as the City Engineer.

Mr. McGonagle moved and Mr. Merrill seconded that Item #6 (**Dave Lou Realty LLC, on behalf of Robert Dion DBA Executive Wellness**) be taken out of order. Motion carried.

Conditional Use Permit

6. Application by **Dave Lou Realty LLC, on behalf of Robert Dion DBA Executive Wellness**, for approval of a Conditional Use Permit pursuant to Section 28-7-11(c), Shared Parking Arrangements, of the Zoning Ordinance for property at **79 South Main Street**.

Determination of Completeness

Mr. Woodward explained this was an application for a Conditional Use Permit under terms of Section 28-7-11(c), Shared Parking Arrangements, of the Concord Zoning Ordinance, to allow off-site parking at 58 South Main Street on the premises of Capital Paint and Wallpaper, Inc. He explained that Executive Wellness is a health and fitness center that occupies 4,000 square feet of the basement of the 10,000 square-foot, multi-tenant retail center at 75-77 South Main Street. The fitness center was established without the benefit of permits in a basement space that was designed and approved as ancillary storage for the commercial space on the first floor.

He explained that no drafts of a recordable legal instrument have been received at this time, nor has an official acknowledgement been received from the owners of Capital Paint and Wallpaper that they are a party to the representations in this application.

Mr. Gross moved and Mr. Blanchette seconded that this application be determined to be incomplete due to lack of any official communication from Capital Paint and Wallpaper, Inc. that it is a party to this application. Motion carried.

Major Subdivisions

1. Application by the **Sandra E. Ellison Heirs** for approval of a subdivision of property on **Little Pond Road**.

Public Hearing

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

Ms. Seifried explained this proposal to subdivide an existing 13.09 acre parcel into sixteen new single-family residential lots with an 898 foot cul-de-sac off Little Pond road. She reported the applicants had also requested a Conditional Use Permit for the disturbance to a wetland buffer for the purpose of drainage to a detention pond. She explained that the applicant proposed to construct a sewer line extension from Auburn Street across City land near the proposed Northwest bypass. A sewer easement to Little Pond road will also be provided, allowing for the potential to connect the Little Pond subdivision to City sewer. The applicant will construct an eight-inch water line from Little Pond Road to the existing water line along the proposed Northwest Bypass. The water and sewer easement will also be a pedestrian easement to allow for resident access to the Northwest Bypass right-of-way, initially for trail use and ultimately for a connecting sidewalk. The lot for the proposed Northwest Bypass along the easterly edge of the property is proposed to be conveyed to the City and will need to be merged with abutting City land to the north along Auburn Street.

She reported that a 100-foot wooded buffer easement between the proposed Northwest Bypass and the buildable area has been provided at the request of City staff to help preserve a buffer between the proposed homes and the future road.

Ms. Seifried explained that the City Council had received a related communication from the applicant's agents requesting City Council approval of a release of easement rights, the construction of a sewer line extension across City land and an executed easement deed conveying to the City a permanent right to construct, operate and maintain a portion of the approved Northwest Bypass.

Mr. McGonagle asked if the Conservation Commission had reviewed the requested Conditional Use Permit and Mr. Pollock responded that the Commission had not reviewed it yet.

Mr. Gross had questions relative to the right-of-way easement the City was being asked to release. Mr. Woodward responded that there was a time years ago that developers would lay out streets and then deed them to the City without the City's knowledge instead of using the process of laying out used by the City today. This apparently was one of those situations.

Ms. Seifried also reported that the Board had received a letter from Attorney Geoffrey Ransom, on behalf of Dave and Becky Cawley, abutters to the project, requesting that the Board deny approval of the subdivision until their issues are fully resolved. He reported that their greatest concern was with the potential change in the hydrological function of the site being developed as it may have a direct effect on their property and their neighborhood. He also expressed the abutter's concern about the prospect of blasting. And he further indicated that until the City has determined that it should legally release the two roadway easements deeded to the City in 1942, the proposal was premature for approval.

Lynn Z_____, from Keach Nordstrom, was present on behalf of the applicant and responded to the issues of blasting. She noted that the design of the road had been changed in order to relieve any blasting issues they would have had. There should be limited blasting in that area as part of the current design. She also noted that blasters always provide pre-blasting surveys.

Anthony Schnell???, 25 Little Pond road, noted that there are site issues coming in and out of the Pond Place development as a neighborhood safety issue.

Ms. Z_____ responded that this subdivision did not warrant a traffic study but they had hired a traffic engineer to conduct a traffic generation report and sight distance study and found both to be excellent.

There was no one else wishing to speak for or against this application and the Chair declared the hearing closed at 7:30 PM.

Deliberations and Action on Application

Mr. McGonagle moved to table action on this application until such time as the City's Engineering \division ahs completed its review of the development. Ms. Foss seconded. Motion carried with Mr. Merrill abstaining from discussion and vote.

Mr. Gross then moved to table action on a recommendation to the City Council relative to extension of sanitary sewer service over City property to the development and authorization to release easement rights. Mr. Blanchette seconded. Motion carried with Mr. Merrill abstaining from discussion and vote.

Site Plans

2. Application by the **City of Concord**, on behalf of **East Coast Hangars LLC**, for approval of a site plan of property off **Regional Drive** at the **Concord Airport**.

Public Hearing

Mr. Gross indicated that he had seen this application as Chair of the Airport Advisory Committee but has formed no opinion as to whether it should be approved. But he reported he would recuse himself if the Planning Board felt he should. There was no one who indicated Mr. Gross should recuse himself and he remained seated.

Mr. Pollock explained this proposal to construct a 12,474-square-foot building containing 10 T hangars on a land lease area located easterly of Regional Drive, at the northerly end of the discontinued runway 21. He reported that twelve parking spaces are required for this proposal and the applicant proposes to have cars park inside the hanger while the planes are in use. Two outside parking spaces are required and have not been shown on the plans. A 24-foot wide, two-lane travel aisle is to be provided between the fenced limit of the National Guard lease area and the proposed hangar building.

He reported that the Design Review Committee had reviewed the site and building plans, found the proposed hangar building to be appropriate for the location and recommended approval as submitted with the condition that the building be gray in color.

Mr. McGonagle had questions relative to the required parking and the proposed location of the two parking spaces. He also had questions about the width of the travel aisle proposed between the proposed hangar building and the fenced limit of the National Guard area.

Frank Lemay, from Milestone Engineering, was present on behalf of the applicants and explained that the lease was approved by the Planning Board last month as a subdivision application but that plan could be revised to move the lease line by two feet if the Planning Board approved the change. He explained this is the optimum size building for these hangars. Also, generally people park in the their hangars but if required they can provide two parking spaces along the access road.

Mr. McGonagle asked for the opinion of the fire department relative to the question of the 24-foot wide travel way to the west of the hangars. Why is it that the fire department is not requiring a full roadway design instead of a passageway design, given the concerns about vehicles moving and the width being shortened by snow banks and the existing chain link fence limiting the ability to accumulate snow.

Mr. McGinley responded that he had been comparing this hangar proposal to those hangars in existence along Airport Road and had not considered the overall project in terms of travel way width, given the prospect of traffic along that travel way.

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

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

Mr. Gross moved to table action on this application to give staff the opportunity to review the plan in terms of better access. Mr. McGonagle seconded. Motion carried.

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

Determination of Completeness

Members were reminded that this application had been withdrawn by applicant.

4. Application by **Two Home Avenue LLC, Duprey Company, LLC, and PM Carter Properties LLC** for approval of a site plan of property at **2 Home Avenue and 62 Hall Street**.

Determination of Completeness

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

Mr. Woodward explained this proposal to convert an existing building at 2 Home Avenue into a health and fitness center. The application includes the removal of the building at 62 Hall Street to create off-site parking for the fitness center, and the use of off-site spaces in an existing adjacent parking lot at 71 Hall Street.

Mr. Gross moved and Mr. Merrill seconded. that the Board determine this application to be complete and set it for a public hearing at the regular meeting on September 21, 2005. Motion carried with Mr. Blanchette abstaining from discussion and vote.

5. Application by the **United States Small Business Administration**, on behalf of **Homerun USA**, for approval of a site plan of property at **2 Whitney Road**.

Public Hearing

Mr. Woodward explained this proposal to convert 17,094 square feet of industrial space to an indoor health and fitness center for Homerun USA, a sports practice and training facility. The application is before the Planning Board due to the change in use category as defined under the Zoning Ordinance. He reported that

the existing vacant 74,420 square foot building was developed as a single tenant industrial building in the late 1990s. That business eventually closed and the intended purchasers of the property intend to convert the building into a mixed use, multi-tenant commercial/industrial facility. Several other industrial uses are currently identified as tenants but are not subject to review because they are not a change in use. The only modifications to the site plan proposed are to add a new passage door to provide a second means of egress, a short walkway and the conversion of two parking spaces near the entrance to Homerun USA into handicapped parking. The existing handicapped spaces on site are not in proximity to the proposed use. No changes to parking lot, drainage and site landscaping is proposed

He explained that the proposed uses which may occupy the building have substantially higher parking requirements and will generate additional traffic over and above that expected by an industrial use.

Access to the site is by way of a private common drive off Whitney Road. No change is proposed to the site access.

Privately owned indoor health and fitness centers require parking to be provided at 1 space per 200 square feet of floor area versus the 1 space required for 500 feet for an industrial use. The Zoning Ordinance in effect when the building was developed required 137 spaces and 137 spaces were provided on site. If the property was to continue to exclusively be used for industrial purposes no additional spaces would be required to occupy the entirety of the building.

Insufficient off street parking has been provided for the proposed uses once the building is fully occupied. The building is currently vacant, the actual occupancy is still undetermined, the existing parking is in good condition and is sufficient for the proposed use and an industrial occupancy up to about 70% occupancy.

The proposed indoor health and fitness center with its peak occupancy on nights and weekend may qualify for a CUP for Shared Parking Arrangements under Article 28-7-11(c) of the City's Zoning ordinance. Additional parking can be created from existing paved areas devoted to truck loading and new paved parking on the site can be created in an outside storage area located to the west of the building.

City staff recommended a two step process to insure that the proposed uses will be provided with sufficient parking as this site is reused. The first phase would be the development of a conforming site plan within 90 days of the occupancy of Homerun USA showing the required amount of parking for the entire mixed use building including drainage design, drainage calculations and landscaping as required in the Zoning Ordinance and Site Plan Regulations. The second phase

would be the construction of the required parking once the building is 70% occupied.

If the applicant wishes to take advantage of Article 28-7-11(c) - Shared Parking Arrangements or Article 28-7-11(b) Construction of Fewer Parking Spaces within the Zoning Ordinance, an application for a Conditional Use Permit should be made to the Planning Board within the 90 day period recommended above. This will require a new application, an application fee and a site plan showing how the required amount of parking can be provided.

Mr. Woodward reported the Board had received a communication on behalf of Susan Whitney, abutter to the property, requesting that the Board take into account the history of a driveway shared by Ms. Whitney and the property in question this evening and not require any changes to that arrangement

David Wright was present on behalf of the prospective tenant and reminded the Board that peak parking for this use is generally after normal business hours - in the evenings and on the weekends.

Ms. Foss asked if they ran summer programs and Mr. Wright responded that it is not likely.

Lois Corey, 21 Hannah Dustin Drive, reported she had lived there since 192. She had seen a lot of changes over the years and asked that the Board look at this proposal very carefully. Both she and her neighbor have young children. She is not opposed to this project but has some concerns. She expressed concern about drainage and the outdoor storage is basically in her back yard. At the time of construction of the building it was pretty wet. Concerns about the future use of the outdoor storage area and about drainage. Access on Hannah Dustin Drive should not be needed. Does not want increased traffic on Hannah Dustin Drive because of this.

Mr. Swope asked if she had experienced any drainage problems with the building as it is now and she responded they have had a change in the drainage and their well has changed. All of the residences still have wells even though the incinerator is on municipal water.

There was no one else wishing to speak for or against this application and the Chair declared the hearing closed at 8:31 PM.

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

Mr. Gross moved approval subject to the following conditions:

1. 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. The proposed project will generate 107 new trips for the proposed Commercial Recreation and Sports Training Facility less credit for the previous use of Manufacturing.
2. Within 90 days of occupancy by Homerun USA, a complete site plan shall be submitted providing sufficient parking for the full reuse of the building. The submission shall include a complete design for the required amount of parking including drainage design, drainage calculations and landscaping as required in the Zoning Ordinance and Site Plan Regulations.
3. Prior to the re-occupancy of more than 50,000 square feet of the building, the required parking for the entire site shall be completed per the approved site plan as may be modified by the Planning Board as part of any Conditional Use Permit subsequently granted.

Mr. Blanchette seconded.

Ms. Foss asked if the proposed use would mean any changes to the lighting on the site since this is a change of use for an occupancy that could occur frequently at night. Now that this will be an evening activity. A related issue could be evening headlights.

Mr. Gross agreed to a modification of his motion and Mr. Blanchette seconded that a condition be added that the applicant address any lighting issues.

Motion as amended carried.

Architectural Design Review

7. 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.

The Vice Chair opened public hearings for each of the following.

- **Citizens Bank at 188 Loudon Road**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as submitted subject to landscaping at the base of the freestanding sign and compliance with the City's Zoning Ordinance.

Carolyn Parker was present on behalf of the applicant.

Mr. Gross moved approval as submitted subject to landscaping at the base of the freestanding sign and compliance with the City's Zoning Ordinance and Mr. Blanchette seconded Motion carried.

- **Citizens Bank at 88 South Street**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as submitted subject to reduction of the size of the directional signs and compliance with the City's Zoning Ordinance. He reported revised plans had been submitted.

Carolyn Parker was present on behalf of the applicant.

Mr. Gross moved approval as submitted subject to compliance with the City's Zoning Ordinance and Mr. Blanchette seconded Motion carried.

- **Concord Auto Spa at 16 Water Street**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as submitted but suggested that the applicant re-think the design of the sign for readability.

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

- **Concord Business Center at 128 Hall Street (2 signs)**

Mr. Woodward explained that the property owner proposed two freestanding signs. He explained that this development was actually two separate buildings on separate lots under the same ownership. He explained that these are directory signs, one for each building, and are to be placed one on each side of the common driveway. He explained that both signs would use the same color scheme but the second sign would have the colors reversed.

He reported that the Design Review Committee had found the proposed signage to be appropriate for the location and use, and recommended approval subject to "Concord Business Center" needed more attention drawn to it and suggested that the letters be made larger and be in the contrasting color to the tenant identification panels. They also suggested that the street number be centered at the top of the sign. Members also

suggested that the suite letter designations be brought into the body of the sign as part of the box.

Mr. Gross moved approval subject to the Design Review Committee recommendations. Mr. Kenison seconded. Motion carried.

- **Courtyard-Marriott at 70 Constitution Avenue**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as submitted.

Mr. McGonagle moved approval as submitted and Ms. Foss seconded. Motion carried.

- **GMAC Mortgage at 199 Loudon Road**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as described.

Mr. Blanchette moved approval as described and Mr. Merrill seconded. Motion carried.

- **Gold's Gym at 62 Hall Street**
- **Gold's Gym at 2 Home Avenue (3 signs)**

Mr. Woodward explained that the Design Review Committee recommended approval of the proposed signage as submitted, providing they can conform to the City's Zoning Ordinance or obtain relief from the Zoning Board of Adjustment.

Ben _____ from Barlo Signs was present on behalf of the applicant and indicated that they will be requesting variances from the Zoning Board of Adjustment for the 25-foot high pylon sign because visibility from I-93 is very important to the applicant. Also, the two medallions on the gable ends will also be subject of a variance request before the Zoning Board of Adjustment.

Mr. Merrill moved to table action on the applications for all the signage for Gold's Gym in order to take it up at the same time as the site plan next month, and to allow the applicant to apply for the required variances from the Zoning Board of Adjustment. Ms. Foss seconded. Motion carried.

- **Granite State College at 8 Old Suncook Road**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as submitted.

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

- **Irving Oil at 163 North State Street**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as submitted, provided the location and size of the sign complies with the City's Zoning Ordinance.

Rob Schuller from Core States Engineering was present on behalf of the applicant to answer questions form the Board.

Mr. McGonagle moved approval as submitted, provided the location and size of the sign complies with the City's Zoning Ordinance. Mr. Gross seconded. Motion carried.

- **Irving Oil at 414 South Main Street (2 signs)**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as submitted

Rob Schuller from Core States Engineering was present on behalf of the applicant to answer questions form the Board.

Mr. McGonagle moved approval as submitted. Mr. Gross seconded. Motion carried.

- **Margarita's Mexican Restaurant & Watering Hole at 1 Bicentennial Square**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as submitted.

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

- **New Hampshire Liquor & Wine Outlet at 80 Storrs Street**

Mr. Woodward explained that the Design Review Committee found the proposed signage to be appropriate for the location and use, and recommended approval as submitted.

Mr. Gross moved approval as submitted and Mr. Merrill seconded. Motion carried.

8. Application by the **Estate of Stella A. Ciborowski** for approval of building plans for property at **54-56 North Main Street**.

Mr. Pollock explained the applicant had a prospective tenant who wanted the space currently occupied by two adjacent storefronts. He reported that the applicant had presented four alternative designs to the Committee.

He reported that the Design Review Committee recommended approval of Scheme 5 with columns of a single uniform width and the applicant had concurred. A revised final plan had been submitted for the Board's action.

Mark Ciborowski was present as applicant to answer questions from the Board.

There was no one wishing to speak for or against this application and the Chair declared the hearing closed at 9:27 PM.

Deliberations and Action on Application

Mr. Gross moved approval as revised and Mr. Kenison seconded. Motion carried.

9. Application by **Doane Ruggles** for approval of revisions to site signage, building and canopy elevations for property at **114 Fisherville Road**.
10. Application by **Doane Ruggles** for approval of revisions to site signage, building and canopy elevations for property at **229-231 Loudon Road**.
11. Application by **Doane Ruggles** for approval of revisions to site signage and canopy elevations for property at **190 Pleasant Street**.

Public Hearing

The Planning Board agreed to take the three related items up as a package.

Mr. Woodward explained they are updating the image of the Irving Oil properties and each application reflected changes to the site as a result.

He reported that the Design Review Committee recommended approval of the proposed signage, and building and canopy elevations for the property at 114 Fisherville Road as submitted. The Design Review Committee recommended approval of the proposed signage and canopy elevations for property at 190 Pleasant Street as submitted. And the Design Review Committee recommended approval of the proposed signage, and the building and canopy elevations for the property at 229-231 Loudon Road subject to eliminating the red tube from the canopy seen from the abutting residential properties to the north, and removal of the bottom panel from the freestanding sign.

Rob Schuller from Core States Engineering was present on behalf of the applicant to answer questions from the Board.

There was no one wishing to speak for or against these application and the Vice Chair declared all three hearings closed at 9:34 PM.

Deliberations and Action on Applications

Mr. Blanchette moved approval of the proposed signage, and building and canopy elevations for the property at 114 Fisherville Road as submitted, approval of the proposed signage and canopy elevations for property at 190 Pleasant Street as submitted, and approval of the proposed signage, and the building and canopy elevations for the property at 229-231 Loudon Road subject to eliminating the red tube from the canopy seen from the abutting residential properties to the north, and removal of the bottom panel from the freestanding sign. Mr. Merrill seconded. Motion carried.

REGULAR MEETING

Annual Organizational Meeting

- A. Appointment of representative to the Heritage Commission

The Vice Chair asked for a volunteer to represent the Planning Board on the Heritage Commission.

There were no volunteers and action was postponed.

- B. Appointment of representatives to Central New Hampshire Regional Planning Commission (2)

Mr. Swope and Ms. Foss expressed willingness to continue to represent the Planning Board on the Central New Hampshire Regional Planning Commission.

Minutes

Mr. Gross moved approval of the minutes of the meeting of July 20, 2005 as submitted. Mr. Blanchette seconded. Motion carried.

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

- 2.a Application by **Berkshire-Concord LLC** for approval of revisions to previously approved site and building plans of property at **295-299 Loudon Road**.

Mr. Woodward explained this proposal to construct a third building on the site for Petsmart. The building has a new footprint and loading area design. No changes are proposed to the parking lot, site access and circulation and storm drainage. Utilities have already been extended to the pad site. The total square footage proposed for the development of 78,593 square feet is less than the

originally approved 83,500 square foot development originally approved in July of 2004.

He explained that this project received conditional site plan approval on July 24, 2004 for an 83,500 square foot retail development contained in two separate retail buildings. The Board granted site plan approval on March 16, 2005 for a revised plan with three retail buildings containing a total of 80,700 square feet. The largest building will be for a 52,800 square foot sporting goods retailer, which has started construction. The second building, containing a 5,700 square foot jewelry store, has been issued a building permit and will start shortly. This project received Conditional Site Plan approval on July 20, 2005 for a series of revisions to the site plan .

In support of this retail development the Toys R Us intersection will be signalized and turn lanes provided at the intersection. A driveway interconnection between this project and the restaurant developments to the east will be provided. This will allow both developments to have access to the proposed signalized intersection across from Toys R Us on Loudon Rd. No access to this development will be provided from Old Loudon Road to the north.

He reported that the Design Review Committee reviewed architectural elevations and proposed signage for the Petsmart building at its meeting on August 9, 2005. The Committee recommended approval of the proposed building elevations, affixed signs and revised landscape plan as revised. The only revision to the landscape plan will be the addition of plantings immediately adjacent to the east side of the Petsmart building.

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

1. The applicant shall obtain approvals of construction drawings for on-site improvements from the Engineering and Planning Divisions.
2. 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.
3. 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.

Mr. Blanchette seconded. Motion carried.

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

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

Mr. Woodward explained this proposal to demolish an existing convenience store and gas service station on the east side of North Main Street along with an auto service repair building to the rear. The applicants are proposing to construct a new convenience store of 3,744 square feet and pump islands with a canopy for 14 fueling stations. *The number of fueling stations has been reduced from 16 to 14 to allow for the required stacking for the pumps.* The applicants are proposing 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 net gain in fueling stations is now proposed to be zero.

The applicant is proposing not to construct six of the required parking spaces and has submitted a Conditional Use Permit to construct fewer spaces. The applicant has indicated that in their experience the spaces will not be needed. However, the applicant has not provided supporting justification.

The applicant is requesting a Conditional Use Permit in regard to driveway spacing. The applicant is reducing the number of driveways from two to a single entrance. The new entrance aligns with Court Street. The applicant's request is reasonable since it is impossible in this location to obtain the necessary 200' 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' away to the north and approximately 60' to the south from the new entrance. No better separation can be provided.

An existing overhead electrical line crosses the site which provides service to the area west of N. Main Street. It has been determined that there is no existing recorded easement for the power line across the site. The applicant is proposing to convey a 20' wide utility easement to Unitil centered on the pole line. The applicant is proposing to relocate one of the poles for the electrical transmission line across the site which will affect the location of the conductors which cross the abutter's property to the south of the site. The applicant needs to revise the location of the proposed relocated pole so as not to relocate the conductor across the abutter's property.

The applicants have requested a waiver from Section 9.10(2)(a) of the City's *Subdivision Regulations???* 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.

The applicant has submitted information on the status of the ground water monitoring permit for this property. The plan needs to note those monitoring wells which will be preserved and those to be replaced. Four (4) monitoring wells have been shown but they do not appear to be sufficient to address the existing Ground Water Management Permit for existing contamination on the property.

The ADRC reviewed revised elevations for the building and canopy and revisions to the site landscaping plans on July 19, 2005, and found the design of the retail building and canopy to be acceptable as revised. The committee found the affixed signs on the building and canopy to be appropriate for the location and use proposed. The applicant advised the committee that the multitude of American flags on the canopy were not to be reinstalled on the new canopy. The ADRC 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. *The applicant has agreed to this change but the plans still do not reflect this modification.*

The ADRC recommended additional trees to be planted along the street frontage and to preserve the existing large trees along the south property line next to the existing apartments. The applicant has revised the landscaping plan to add more trees along the N. Main Street frontage and to preserve the existing trees along the south property line.

The lighting plan has been revised to comply with the Zoning Ordinance and to provide complete cutoffs for the proposed lighting.

Mr. Gross moved approval under Architectural Design Review with the exception of signage, subject to the following conditions:

1. The existing trees along the south property line shall be preserved.
2. The gasoline price panel and the panel for Cumberland Farms shall be reversed on the free standing sign.

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

Mr. Gross moved that the Planning Board grant a Conditional Use Permit pursuant to Article 28-7-11 (f) Driveway Separation Alternatives inasmuch as the proposed development's single driveway obtains the maximum possible separation from drives on the abutting lots possible. Mr. McGonagle seconded. Motion carried with Mr. Merrill abstaining from discussion and vote.

Mr. Gross moved that the Planning Board Grant a Conditional Use Permit pursuant to Article 28-7-11 (b) Construction of Fewer Parking Spaces. The Board finds the information provided by the applicant supports the construction of only 13 spaces where 19 parking spaces is required and that the applicant has demonstrated on the site plan that the additional six (6) spaces can be constructed if required by the Code Administrator.

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

Mr. Gross moved approval of the application 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. 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.
4. The applicant shall obtain approval of private utility plans from Concord Electric, New England Telephone, and Energy North.
5. 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.
6. 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) Gas Station/Convenience Store (per fueling station) less credit for pre-existing uses on site and at 165 North Main Street (parcel 46-3-1) per Impact Fee Worksheet dated 8/11/05. No impact fee will be

due if the applicant removes the eight (8) fuel filling stations located at 165 North Main Street.

7. The applicant shall obtain the following State permit and provide a copy to the Planning Division:
 - a) NH Department of Environmental Services Water Quality and Sewer Discharge Permits
8. The two properties shall be consolidated into a single property by a Voluntary Merger.
9. The applicant shall provide an agreement and financial guarantee acceptable to the Planning Director and City Solicitor which insures the removal of all gasoline & diesel fueling stations at the 165 North Main Street Cumberland Farms (parcel 46-3-1). Said fueling facility at 165 North Main Street shall be closed with fourteen days (14) days of issuance of Certificate of Occupancy for the facility at 196-198 North Main Street and removed within 90 days of the issuance of a Certificate of Occupancy.

Mr. Blanchette seconded.

Mr. McGonagle asked out the commitment got recorded that there will be no re-introduction of pump islands at the property across the street.

Matthew LaPointe, attorney representing the applicant, was recognized and explained that there would be a deed restriction recorded with the Merrimack County Registry of Deeds and it is also his understanding that current zoning would not allow gasoline stations at that location. Both tanks and pumps will be removed.

Also, in answer to the question relative to the waiver for underground utilities, he responded that the utility line in question actually serviced abutting property. The applicant's own utilities will be underground.

After some discussion, it was agreed to revise condition #9 to read:

"The applicant shall provide an agreement for a deed restriction and financial guarantee acceptable to the Planning Director and City Solicitor which insures the permanent removal of all gasoline and diesel fueling stations and tanks at the 165 North Main Street Cumberland Farms (parcel 46-3-1). Said fueling facility at 165 North Main Street shall be closed with fourteen days (14) days of issuance of Certificate of Occupancy for the facility at 196-198 North Main Street and removed within 90 days of the issuance of a Certificate of Occupancy."

Motion, including a revised condition #9, carried with Mr. Merrill abstaining from discussion and vote.

2.d Application by **Juniper Fells LLC** for preliminary approval of a subdivision of property on **Snow Pond Road, Graham Road and Shaker Road.**

Mr. Pollock explained the applicant has reduced the proposed subdivision to 6 lots from 8 lots and reduced the length of the proposed cul-de-sac to conform to the 1,000-foot maximum length. The proposed new road will ascend a hill to the north of Snow Pond Road. After the subdivision of this third phase, the remaining parcel owned by Juniper Fells will be 28.95 acres bounded by Shaker and Snow Pond Roads.

He reported that Engineering Division review of the revised plans is not complete.

Mr. Merrill moved to table action on this application to allow for completion of the review of the revised submittal, and of the road and drainage designs in particular, by the Engineering Division, as well as to allow the applicant to address other staff comments.

2.e Application by **Riverhill Condominiums** for approval of revisions to a previously approved site plan of property at **45-47 Bog Road.**

Mr. Woodward explained this proposal to construct sections of six (6) foot high fencing along the project frontage on Bog Road for privacy screening. This development consists of 28 single story townhouse units on a 5.389 acre lot on the south side of Bog Road. Identical single story attached units are clustered in two, four and six unit buildings with two points of access to Bog Road. The location of each fence segment has been staked in the field and the applicant has advised that the fence sections can be installed without removing any of the existing vegetation planted on the property along Bog Road. The proposed fence will become a primary element of the appearance of this project from Bog Road. The ARDC reviewed this project on August 12, 2005 and recommends approval of a privacy fence with lattice at the top in either a desert sand or grey color as shown in the catalog included with the application.

Maggie Tatone was present on behalf of the Board of Directors of the Condominium Owners Association and explained that they needed the six foot tall fence for privacy and need the full six feet to be solid for privacy. She was also concerned about the cost of the lattice top fence.

Mr. McGonagle felt the lattice would soften the view.

Mr. Gross felt it was worth a try for the applicant to look into complying with the Design Review Committee's recommendations.

After lengthy discussion, Mr. Gross moved approval subject to the privacy fence with lattice at the top in either a desert sand or grey color. If the applicant finds that it is not possible to comply, they should return to the Planning Board for further review.

Mr. Blanchette seconded. Motion carried, 5-3, with Members Dolcino, Foss and Merrill voting against.

2.e Application by **Sally Silver and the State of New Hampshire** for final approval of a resubdivision and subdivision of property at **26 Warner Road**.

Mr. Woodward explained that the original proposal was to subdivide a 41.55 acre parcel into five single family residential lots along Warner Road with four of the lots being served by a 1000 foot common private drive. Five lots will still be created but a 5.01 acre upland parcel will be subdivided from the northern part of the development lot and added to the Allen State Forest. NH DRED has become the co-applicant and the State Forest will be increased in area from 25 acres to just over 30 acres.

In addition, the Conservation Commission and Planning staff have recommended that a conservation easement be provided on the large wetland in the front of the property. The applicant has agreed to this provision as well.

The Planning Board has granted a Conditional Use Permit to disturb 3,577 square feet of wetlands buffer on the north side and 3,013 square feet of wetlands buffer at south side of the wetland crossing for the common private drive based on the mitigation plan proposed, including the 5.01 acre parcel being added to the Mast Yard State Forest and a conservation easement over the wetlands on site and a linkage to the Mast Yard State Forest (22.34 acres).

A right-of-way easement over the common private drive and a portion of Lot 5 for state personnel and assigns, but not for the general public is being provided by the applicant.

Mr. Gross moved approval subject to the following conditions:

1. The applicant shall obtain the following State 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)
2. The applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
3. The applicant shall provide to the Planning Division the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds:
 - a) Agreement to Convey an Easement for the Common Drive
 - b) Conservation Easement over the wetland areas on Lots 1 through five inclusive.

4. 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.
5. Traffic, recreation and school impact fees shall be assessed for any construction on lots contained within this approved subdivision. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 1, School Facilities Impact Fee per variable unit; and Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.
 - a. School Facilities - Single Family Residence
 - b. Recreational Facilities - Single Family Residence
 - c. Table 3: Transportation Facilities - Single Family Residence

Mr. Blanchette seconded. Motion carried.

OLD BUSINESS

Item #5. The Board heard a status report on the Master Planning process.

Mr. Woodward announced that the workshop on future growth scenarios will be held on September 28, 2005. Concord 2020 is sponsoring a transportation summit on October 13, 14 and 15, 2005 with DOT and surrounding towns to see what would be of mutual benefit to all. Concord 2020 is also bringing an expert in land use and transportation on September 27, 2005. More information will be forthcoming from 2020.

He also reported that he expected that the Master Plan web site should be back up next week.

OTHER BUSINESS

Mr. Woodward informed the Planning Board that US Cellular has sued the City in the federal court. They did approach the City Solicitor with a request about what would happen if they lowered the proposed tower by ten feet. They may meet with the City Solicitor and ask for a meeting with the Planning Board.

There was no further business to come before the Board and the meeting adjourned at 10:50 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

