

The regular monthly meeting of the City Planning Board was held on September 21, 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, Gross, McGonagle, Merrill, and Meyer. Messrs. Woodward, Henninger and Pollock, Ms. Seifried and Ms. Osgood of the City Planning Division were also present, as was Mr. Roberge, the City Engineer.

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

The Clerk informed the Board that the agent representing the applicants for Item #2.d under the Regular Meeting portion of the agenda, an Application by the **David J. & Edwina Morrill Irrevocable Trust and June R. Brown** for final approval of a subdivision of property at **12 Sanborn Road.**, had requested that consideration of the application be postponed.

APPLICATIONS

Minor Subdivisions

1. Application by **Cherry Hill Homes and Nicholas Horangic & Nicole N. Varasteh** for approval of a resubdivision and subdivision of property at **20 & 26 Emerson Road.** (#2005-63)

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

Determination of Completeness

Ms. Seifried explained this proposal to exchange 0.005-acre parcels between the lots at 20 and 26 Emerson Road. No new lots will be created and the lots will remain the same size. The purpose of this application is to ensure that the parcel at 20 Emerson Road conforms to the side setback of 20 feet as required in the City's Zoning Ordinance.

Mr. Gross moved and Mr. Blanchette seconded that the Board determine this application to be complete and to hold a public hearing. Motion carried with Mr. Merrill abstaining from discussion and vote.

Public Hearing

Tim Bernier, surveyor, was present to answer questions on behalf of the applicant.

There was no one wishing to speak for or against this application and the Vice-Chair declared the hearing closed at 7:05 PM.

Deliberations and Action on Application

Mr. Gross 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 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.

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

2. Application by **Jonathan A. and Margaret E. Chorlian** for approval of a subdivision by virtue of conversion to condominium of property at **32 Merrimack Street.** (#2005-60)

Determination of Completeness

Mr. Pollock explained this proposal to convert an existing four-family dwelling into four condominium units. The lot is an existing non-conforming lot of record that has received a series of variances from the Zoning Board of Adjustment.

Mr. Gross moved and Mr. Blanchette seconded that the Board determine this application to be complete and to hold a public hearing. Motion carried.

Public Hearing

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

There was no one wishing to speak for or against this application and the Vice-Chair declared the hearing closed at 7:10 PM.

Deliberations and Action on Application

Mr. Gross 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. Mr. McGonagle seconded. Motion carried.

3. Application by the **City of Concord** for approval of revisions to a previously approved subdivision by virtue of conversion to condominium of property at **75 Storrs Street.** (#2005-62)

(Messrs. Blanchette and Gross recused themselves and left the table.)

Determination of Completeness

Ms. Seifried explained that this application related to the Capital Commons project previously approved by the Planning Board. She reported that at the time the condominium was approved there was an area designated as withdrawable land. This evening's proposal is to withdraw the so-called "withdrawable land" and to create a

new lot of 11,761 square feet from this withdrawable land. This would leave the remaining lot with 70,172 square feet after the subdivision.

Mr. McGonagle moved and Ms. Dolcino seconded that the Board determine this application to be complete and to hold a public hearing. Motion carried with Messrs. Blanchette and Gross abstaining from discussion and vote.

Public Hearing

Matthew Walsh, the City's Community Development Project Manager, was present and explained that this will allow the City some flexibility in the future to do another project if the opportunity presents itself. For the time being, there will be a small parking lot on the parcel, along with a vehicular connection between the parking garage and the abutting South Main Street Condominium.

There was no one wishing to speak for or against this application and the Vice Chair declared the hearing closed at 7:16 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. Mr. Merrill seconded. Motion carried with Messrs. Blanchette and Gross abstaining from discussion and vote.

Major Subdivision

4. Application by **Fred and Estelle Moses** for approval of a subdivision of property on **Old Dover Road, Old Pittsfield Road, and Asby Road.** (#2005-61)

Determination of Completeness

Mr. Woodward explained this proposal to subdivide an 11.88 acre parcel to create five single-family residential lots. Three lots will have frontage on Asby Road, one lot will have frontage on Old Dover Road and the last lot will have frontage on Old Pittsfield Road. Access to Asby Road, Old Dover Road and Old Pittsfield Road will be from Loudon Road (NH 9) east of I-393. He reported that the parcel is an old gravel pit that has not been formally reclaimed. Since abandonment, the pit has largely revegetated naturally. However, several areas of this parcel still need to be reclaimed.

Mr. Gross moved and Mr. McGonagle seconded that the Board determine this application to be complete and to set it for a public hearing at the regular meeting on October 19, 2005. Motion carried.

Site Plans

5. Application by **HT Properties** for approval of a site plan of property at **232 & 234 Loudon Road.** (#2005-64)

Determination of Completeness

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

Mr. Woodward explained this proposal to demolish 3240 square feet of retail space at 232 Loudon Road and to construct a 2432 square foot detached building for an automotive lubrication business and to expand the occupancy of the existing transmission repair business at 234 Loudon Road from 4000 square feet to 4560 square feet with the addition of two service bays.

Mr. Gross noted that he hoped the applicant will come to the public hearing prepared to explain why the previously approved plan was not constructed as approved.

Mr. McGonagle also asked that staff prepare a report explaining why those conditions in the previously approved plan were not met and how things went wrong.

Mr. Gross moved and Mr. McGonagle seconded that the Board determine this application to be complete and to set it for a public hearing at the regular meeting on October 19, 2005. Motion carried with Ms. Meyer abstaining from discussion and vote.

6. 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.** (#2005-54)

Public Hearing

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

Mr. Pollock explained this proposal to convert an existing building at 2 Home Avenue into a health and fitness center along with an office for a chiropractor. The application includes the removal of most of the buildings 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. A storage building at 62 Hall Street will be retained, and eight off-site parking spaces required for the Comfort Inn and presently located at 71 Hall Street will be retained within the parking lots on the east side of Hall Street.

He reported that the Design Review Committee had recommended approval of the most recently submitted plans provided that the applicant submit documentation of the appearance of the building to remain on the lot at 62 Hall Street, that the canopy of the fitness center building be extended to cover the columns, and that shade trees be added on the southerly property line on the parking lot parcel at 62 Hall Street. The Design Review Committee had also recommended approval of the two freestanding signs as submitted.

Mr. Pollock explained that the applicants had also submitted two Conditional Use Permit applications for this project, one under terms of 28-7-11(a), Off-site Parking, of the Concord Zoning Ordinance, to allow off-street parking for the project site at 2 Home Avenue on the adjacent lot at 71 Hall Street as well as across the street at 62 Hall Street. The second application for Conditional Use Permit is under the terms of Section 28-7-

11(f), Driveway Separation Alternatives, of the Concord Zoning Ordinance to allow the driveway for the off-site parking area at 62 Hall Street to be less than 200 feet from an existing driveway on an adjacent lot or from an intersection. He noted that Hall Street is considered a collector street.

He explained that the proposed off-site parking at 62 and 71 Hall Street is within 500 feet of the project site and is within the same Zoning District, and the proposed parking lot at 62 Hall Street is to be owned by the same entity as the project site at 2 Home Avenue. A new crosswalk is proposed to be striped across Hall Street from the parking lot at 62 Hall Street to the corner of Home Avenue and Hall Street, and a new sidewalk is proposed to be constructed on the southerly side of Home Avenue from Hall Street easterly to the entrance to the Gold's gym site. Eight parking spaces that currently exist at 71 Hall Street were required for the construction of the adjacent Comfort Inn and must be retained for usage by the Comfort Inn or its successors.

He explained that a driveway currently exists at 62 Hall Street, and any driveway serving that lot cannot meet the driveway separation standards. The proposed driveway has been aligned with Home Avenue.

Attorney James Morris, from Orr & Reno, was present on behalf of the applicant and explained that an issue had arisen today with the abutter to the south of the parcel to be used for supplemental parking for the health and fitness facility. He reported that the abutter asserted that the property line was incorrectly shown on the applicant's site plan, which showed the line running through the abutter's paved parking area and within several feet of a shed. The abutter installed wooden stakes along the line that he claimed was the actual property line and insisted upon the applicant recognizing the staked line as the property line. The abutter also sought to have the applicant grant him an easement to cross through the rear of the property at 62 Hall Street for the purpose of future development of the property at 72 Hall Street. He reported that the applicant also hired a surveyor who concurred that the property line called for in the deeds is the line as shown on the applicant's plan and not as he had staked out. He reported that this afternoon the abutter had filed a petition to quiet title, claiming adverse possession.

Mr. Morris asked that the Planning Board grant approval as presented.

In answer to a question by the Board, he indicated that the worst case situation would be that the abutter wins his case and the applicant needs to convey the 10' x 250' strip, in which case they would have to eliminate twenty of the parking spaces currently proposed. There is enough parking proposed for this project even without the 20 spaces, if they must be eliminated.

Mr. Morris mentioned that Lynn Zebrowski from Keach Nordstrom, Mark Sargent from Richard D. Bartlett & Associates, LLC, Joel Silverwatch, architect, and representatives from the sign company and the owners were all present and ready to answer questions from the Board relative to the project.

Mr. Gross asked if any aspect of the request for approval is driven by the size and shape of the parking lot and Mr. Morris responded that they could comply with the City's regulations should the abutter prevail in his case.

Brian Goodman, abutter to the south at 72 Hall Street, explained that two months ago he received a phone call indicating someone was interested in purchasing his property. He never met with the applicant or any of her representatives but subsequently was called by Mark Sargent, surveyor for the applicant, who asked him where he felt the common property line was. He showed the surveyor the two pins he believed were the boundary. After consulting with his attorney and on his advice, he put up pins indicating where he thought his boundary was. He then hired his own surveyor who confirmed the applicant's survey, later learning the surveyor was a former employee of the applicant's surveyor.

Mr. Swope interrupted at this point and asked Mr. Goodman how much land was being disputed. Attorney Andy Sullivan responded on behalf of his client that the parcel is approximately 8' x 250'.

Mr. Gross asked what they want from the Planning Board this evening. Mr. Sullivan responded that they would like the Board to not approve this application until the question of title is resolved because the applicants have submitted a site plan on property to which they do not have legal title.

Mr. Gross then asked if the application is approved, how it would cause irreparable harm to Mr. Goodman, and Mr. Sullivan responded that the question is that the Board would be approving something that it does not know if the applicants have a legal right to develop. He felt the question is whether the site is being submitted properly before the Board and he does not think it is because he felt he and his client have conclusively shown that they own this property.

There was no one else wishing to speak for or against this application and the Vice Chair declared the hearing closed at 8:10 PM.

Deliberations and Action on Application

Mr. Gross asked staff if the applicant builds an alternative parking arrangement in order to avoid the disputed strip, whether that would comply with the City's regulations. Mr. Woodward responded that they would have to return to the Board with a revised plan for approval.

Mr. Swope explained that the Planning Board could address this application in several different ways, including granting approval, or tabling it and requesting a revised parking plan. He indicated that addressing the boundary issue could be seen as adjudicating the disagreement and that is not within the authority of the Planning Board.

Mr. McGonagle felt the application should be tabled to allow the applicant to present a revised plan showing fewer parking spaces.

Ms. Meyer indicated she would be supportive of approving this, feeling fairly confident that there would be enough parking spaces under either circumstance. If there are any

changes, they would have to return with a revised plan showing a new parking configuration.

Mr. Gross felt that, to keep the Planning Board's process clean and not take sides in the boundary dispute, since staff has recommended approval because the applicant has presented an approvable application, the Board should act on the application before it and leave the parties to pursue their legal remedies. He felt an approval action would put the Planning Board in the least likely position of taking sides in the dispute.

Mr. Swope also felt that not approving this proposal would set a precedent.

Mr. McGonagle mentioned that the Planning Board does not know for certain that a downsized parking plan would be approvable. Mr. Woodward responded to an earlier question by Mr. Sullivan regarding whether the Planning Board has a legal application and explained that the Board has in its possession a stamped plan by the surveyor as well as a signed application from the current property owners which would meet the standard for a valid application.

Mr. Merrill moved that the Planning Board grant a Conditional Use Permit pursuant to Section 28-7-11(f), Driveway Separation Alternatives as requested, and further to grant a Conditional Use Permit pursuant to Section 28-7-11 (a) Off-site Parking, subject to the following conditions:

1. The transfer of the land at 62 Hall Street into common ownership with the land at 2 Home Avenue, or the submittal of an easement, condominium declaration, or other recordable binding legal instrument in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, shall be provided to the Planning Division that permanently relates the parking at 62 Hall Street to the principal use at 2 Home Avenue and which may terminate only upon termination of the principal use.
2. The submittal of an easement, condominium declaration, or other recordable binding legal instrument in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, shall be provided to the Planning Division that permanently relates the proposed off-site parking at 71 Hall Street to the principal use at 2 Home Avenue, which may terminate only upon termination of the principal use at 2 Home Avenue, and which preserves the rights for eight parking spaces for exclusive use by the Comfort Inn or its successor.
3. The submittal of a financial guarantee for the construction of the sidewalk on Home Avenue and the striping of the crosswalk on Hall Street.

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

Mr. Gross moved approval under Architectural Design Review of the design of the site landscaping and building, as well as two freestanding signs, subject to the conditions that documentation be submitted relative to the appearance of the building to remain on

the lot at 62 Hall Street, that the canopy of the fitness center building be extended to cover the columns, and that shade trees be added on the southerly property line on the parking lot parcel. Ms. Meyer seconded. Motion carried with Mr. Blanchette abstaining from discussion and vote.

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

1. The applicant shall revise the plans to address the corrections and omissions noted by City staff.
2. The refuse container shall be sited and screened in accordance with Section 28-7-14 of the Zoning Ordinance, the details of which shall be shown on the plans.
3. The site lighting shall be adjusted or re-lamped to ensure that the illumination is no greater than 0.2 foot-candles at the side and rear property lines, in accordance with Section 28-7-7(j) of the Zoning Ordinance.
4. Traffic impact fees shall be assessed for the change of use and 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.
5. The applicant will provide to the Planning Division the following easements in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds:
 - a. An easement establishing formal rights of access for the property owner at 72 Hall Street to continue to use the pre-existing driveway encroachment over the parcel at 62 Hall Street;
 - b. Cross easements establishing rights of access between the owners of 2 Home Avenue and 71 Hall Street that will allow access to the parking lot at 71 Hall Street via a driveway from Home Avenue to and through the premises at 2 Home Avenue, and that will allow access to parking spaces in the parking lot at 71 Hall Street that are for the use and benefit of 2 Home Avenue.

Ms. Meyer seconded. Motion carried, 5-1, with Mr. McGonagle voting against and Mr. Blanchette abstaining from discussion and vote.

Architectural Design Review

The Board considered 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:

- **Baby Bungalow** at 54-56 North Main Street

Mr. Henninger reported that the Design Review Committee found the design and placement of the proposed signage to be appropriate for the location, and recommended approval subject to the background of the sign being a cream color, and to the affixed sign being placed such that the oval is centered over the doors.

Ms. Meyer moved approval subject to the background of the sign being a cream color, and to the affixed sign being placed such that the oval is centered over the doors. Mr. Gross seconded. Motion carried.

- **Citizens Bank** at 20 Fort Eddy Road

Mr. Henninger reported that the Design Review Committee found the design and placement of the proposed signage to be appropriate for the location, and recommended approval subject to reduction in size in order to align the bottom of the sign to the bottom of the adjacent architectural detail and for the top of the sign to fit within the existing band on the canopy.

Mr. Meyer moved approval subject to reduction in size in order to align the bottom of the sign to the bottom of the adjacent architectural detail and for the top of the sign to fit within the existing band on the canopy. Mr. Merrill seconded. Motion carried.

- **Concord Collision Center** at 14 Hall Street

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

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

- **Eastern Mountain Sports** at 68 Fort Eddy Road

Mr. Henninger reported that the Design Review Committee found the design and placement of the proposed signage to be appropriate for the location, and recommended approval as submitted, provided the sign complies with the Zoning Ordinance relative to size.

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

- **Fabulous Looks Boutique** at 86 North Main Street

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

Mr. Gross moved approval as submitted and Ms. Dolcino seconded. Motion carried.

- **Fairfield Inn Marriott** at 4 Gulf Street (3 signs)

Mr. Henninger reported that the Design Review Committee recommended approval of the design of the freestanding sign as submitted, provided it is reduced in height to twenty feet to comply with the Zoning Ordinance. They also recommended approval of the proposed revisions to the existing affixed sign on the easterly elevation as submitted, and recommended approval of the graphics for the affixed sign in the gable on the southerly elevation provided the sign is reduced by 10% and the applicant apply for and receive a Conditional Use Permit for location above the second floor.

He reported that the sign company had subsequently withdrawn the application for the freestanding sign in order to apply for a variance from the Zoning Board of Adjustment for the requested height, and the affixed sign in the gable on the southerly elevation in order to apply for a Conditional Use Permit for its location above the second floor.

Mr. Merrill moved approval of the revisions to the existing affixed sign on the easterly elevation as submitted. Ms. Dolcino seconded. Motion carried.

- **Genesis Health Care/Harris Hill Center** at 20 Maitland Street (2 signs)

Mr. Henninger reported that the Design Review Committee recommended approval of the graphics for both signs but recognized that sign #1 showing 20 Maitland Street may not have legal status. He explained that only one of the signs has legal standing as a result of Zoning Board of Adjustment action since they are now both off-site signs.

Mr. Gross moved approval of sign #2 which has legal standing and denial of sign #1 which has no legal standing at this time. Mr. Merrill Seconded. Motion carried.

- **GMAC Mortgage, Stewart Title, Atlantic Property Inspections** at 201 Loudon Road

Mr. Henninger reported that the Design Review Committee found the design and placement of the proposed signage to be appropriate for the location, and recommended approval subject to a dark border around the panels and to caps on the posts as currently constructed, and further subject to the sign being set back five feet from the property line to comply with the Zoning Ordinance.

Ms. Meyer moved approval subject to a dark border around the panels and to caps on the posts as currently constructed, and further subject to the sign being set back five feet from the property line to comply with the Zoning Ordinance. Ms. Dolcino seconded. Motion carried.

- **Gold's Gym** at 62 Hall Street
- **Gold's Gym** at 2 Home Avenue

Mr. Henninger reported that this application package had turned into a request for approval of only two freestanding signs. The applicant has withdrawn the remaining

applications for affixed signage for the time being. The request now is for approval of the freestanding sign for the parking lot and the freestanding sign at the Interstate side of the Home Avenue parcel. The Design Review Committee noted that the design of the signage had not changed since its earlier recommendation for approval as submitted.

Mr. McGonagle moved approval of the two freestanding signs as submitted and Ms. Meyer seconded. Motion carried.

- **Granite Bay Connections** at 54 Old Suncook Road

Mr. Henninger reported that the Design Review Committee found the graphics of the proposed freestanding sign to be appropriate and recommended approval provided the sign complies with the Zoning Ordinance.

Ms. Meyer moved approval subject to compliance with the Zoning Ordinance and Mr. Merrill seconded. Motion carried.

- **The Yellow Submarine** at 192 North State Street

Mr. Henninger reported that the Design Review Committee recommended tabling action on this application until the missing information has been submitted and the sign is in compliance with the Zoning Ordinance. The Committee had expressed concern that it appeared the sign was proposed to be placed in the sidewalk, and it appeared to be too large and too high.

David Haneman, property owner, and David Luoma, business owner, were present and reported that there are other places on the lot on which they could place this sign. They indicated they would contact staff to resolve outstanding issues and return with a revised design.

Mr. Gross moved to table to allow the applicants to return with a revised design. Mr. McGonagle seconded. Motion carried.

Mapped Lines of Future Streets

8. Public hearing relative to amendments to **mapped lines of future streets** bounded by **Iron Works Road, the Turkey River, Bow Brook and the Bow Town line.**

Public Hearing

Mr. Henninger explained a request has been made to eliminate the mapped line of future streets from a lot with a house at 97 Rockingham Street. He reported that mapped lines of future streets are intended to implement the adopted master plan and provide for a coordinated street system when development is occurring incrementally and involves more than a single parcel. In this instance 33 parcels were involved in 1956.

He reported that, pursuant to state statutes, an official map of Concord was established in 1944. Amendments to the map, often referred to as the layout process, are made by

the City Council and by the Planning Board on approval and recording of a subdivision plat with a public street right-of-way dedication. By far the majority of amendments to the official map have been undertaken by the Planning Board. Amendments to the map are also undertaken routinely as part of the site plan review regulations where road improvements are required as a condition of approval and right-of-way is conveyed by the developer to allow for the expanded road network.

On November 16, 1956 the Planning Board adopted a series of mapped streets in an area bounded by Iron Works Road, the Turkey River, Bow Brook and the Bow Town line. Through the years, the vision of an interconnected street pattern in this portion of the community has slowly occurred. Two amendments eliminated a mapped line of future street south of Iron Works Road in 1982 and 1987, which today is not possible due to both floodplain and wetland issues. A third amendment was proposed and adopted in 1996 which resulted in the extension of Midland Street terminating in a cul-de-sac rather than turning westward and connecting to Madison Street.

Since the adoption of the 1956 mapped line of future street plan, a number of streets have been completed as proposed in the 1956 plan. Angela Way was developed somewhat differently from the grid pattern envisioned in 1956 but retained the internal connectivity envisioned in the 1956 plan by retaining two connections north to align with future southerly extensions of Midland and Meadow Streets and one extension to the south by way of S. Midland Street. A recent subdivision east of South Street and south of Rockingham Street created Goldenrod Lane and a portion of Heather Lane. The mapped lines through this property were revised by the recorded subdivision. A new subdivision is under consideration at this time which will further extend Heather Lane and further modify the mapped lines of future streets between South Street and Bow Brook.

He explained that the mapped line of future streets has for nearly 50 years allowed the Planning Board to approve subdivisions in this part of the community in an incremental manner that allows for a planned and interconnected street pattern. While development has not followed the exact street pattern envisioned 50 years ago, no properties have been landlocked by incremental development, and planned extension of streets has been allowed to occur on a lot by lot basis at the discretion of the property owners. The mapped line of streets functioned to preserve the right-of-way for the Northwest Bypass (Langley Parkway) until it could be acquired or reserved, and it has allowed the Planning Board to properly integrate residential subdivision street design over a 50 year period in this part of the community.

Mr. Henninger reported that three sections of mapped lines of future streets have been made unnecessary due to subsequent development. The remaining land to be developed in this area, especially south of Angela Way, will not follow exactly the same street pattern envisioned in 1956. However, each of the proposed subdivisions can be evaluated by the Board individually, the interconnectivity desired can be preserved, and the official map revised at the time any subdivision is proposed.

Ron Wareing appeared on behalf of his mother, Beverly Wareing, at whose request this petition was presented and he spoke in favor of the amendment.

Deliberations and Action

Mr. McGonagle moved and Mr. Blanchette seconded that the staff report be forwarded to the City Council with a favorable recommendation from the Board. Motion carried.

REGULAR MEETING

Minutes

Mr. McGonagle moved approval of the minutes of Planning Board's August 17, 2005 meeting as submitted and Mr. Blanchette seconded. Motion carried.

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

- 2.a 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**. (#2005-44)

Mr. Pollock explained this proposal to construct a 12,474-square-foot building containing 10 T-hangars on a land lease area located east of Regional Drive, at the northerly end of the discontinued runway 21. Twelve parking spaces are required and the applicant proposes to have cars parked inside the hangar while the planes are in use. Two outside parking spaces are required and have been shown on the plans. A 22-foot wide, one-lane travel aisle has been provided between the land lease limit of the National Guard lease and the proposed hangar building.

He reported that the Design Review Committee 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.

He reported that last month there was discussion regarding vehicular traffic circulating around the proposed hangars. As a result of that discussion, they propose to create a one-way traffic system with cars allowed to drive onto the closed runway to access the hangars.

Mr. Gross asked if the City's General Services Department was aware of this configuration and whether they know that they will have to plow this area in the winter. Mr. Woodward responded that they were aware of the plan and the Fire Department had requested this travel lane.

Mr. Blanchette moved approval under Architectural Design Review subject to the recommendation of the Design Review Committee that the building be gray in color and Mr. McGonagle seconded. Motion carried.

Mr. Gross moved approval of the site plan 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 storm drainage analysis report shall be subject to the review and approval by the City Engineer, and the proposed drainage system design shall be modified to his satisfaction.
3. A “one way do not enter” sign shall be placed at the northwesterly corner of the hangar to prevent inadvertent wrong-way traffic movement around a blind corner.
4. A Transportation Impact Fee shall be assessed in accordance with the Public Capital Facilities Impact Fee Ordinance using the Warehouse category as the closest approximate use category.

Mr. Blanchette seconded. Motion carried.

- 2.b Application by the **Sandra E. Ellison Heirs** for preliminary approval of a subdivision of property on **Little Pond Road**. (#2005-43)
and
4. Consideration of a communication from Ari Pollack, Gallagher, Callahan & Gartrell, 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**, all relating to a subdivision application of **Cherry Hill Homes, Inc.**

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

Ms. Seifried explained this proposal to subdivide a 13.09 acre parcel into sixteen new single-family residential building lots with an 898-foot long cul-de sac off Little Pond Road. The property has 421 feet of frontage along Little Pond Road. She reported the applicants had also requested a Conditional Use Permit for the disturbance of a wetland buffer.

She reported a detention pond at the southerly tip of the site will require a drainage easement that encroaches part of the wetland buffer. The Conservation Commission has recommended approval of the Conditional Use Permit with the condition that the location of vernal pools be shown on the plan and that the applicant strongly consider moving the drainage swale to the detention pond easterly to reduce impact on the wetland buffer. She reported the applicant had provided a letter from the wetland scientist who had delineated the wetlands and he reported that the wetlands that were delineated on this parcel in the month of December contained no evidence of areas that appeared to have seasonal flooding that would have suggested the possibility of a vernal pool.

Ms. Seifried reported the applicant proposes to construct a sewer line extension from Auburn Street across City land in the area of the proposed Northwest Bypass. The sewer will extend along the new road to Little Pond Road. A sewer easement to Pond Place Lane will also be provided, allowing for the potential to connect the Pond Place subdivision to City sewer in the future. The applicant will be constructing an 8-inch

water line from Little Pond Road to the existing water line along the route of the Northwest Bypass. The water and sewer easement will also be a pedestrian easement to allow for access to the Northwest Bypass right-of-way; initially to be for trail use and ultimately for a connecting sidewalk. 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 bypass.

She reported that the lot containing Northwest Bypass is proposed for conveyance to the City. This lot for the Northwest Bypass along the eastern edge of the property will need to be merged with the City lot abutting to the north along Auburn Street so that a non-conforming lot will not be created.

Ms. Meyer asked that pedestrian access on the Northwest Bypass easement be formalized and Mr. Woodward responded that the parcel will be deeded to the City so there would be no need for such an action.

Mr. McGonagle mentioned that the Conservation Commission had asked that the applicants strongly consider moving the drainage swale to the detention pond easterly to reduce impact on the wetland buffer. He asked if the applicants had considered that request and what the reaction was. Ms. Seifried responded that they are looking into the question but were concerned that in moving it they would be impacting the wooded buffer area intended to screen the subdivision from the bypass.

Mr. McGonagle brought up the issue of the proposed detention pond and the discussion the City Council had regarding the maintenance and use of such ponds. He explained that the City Council is concerned that detention ponds need to be monitored very closely. He asked if there are any other new technologies or ways of handling runoff that do not require detention ponds. Mr. Woodward responded that the City Engineering staff will be attending a workshop regarding this topic soon.

Mr. Gross moved that the Board grant a Conditional Use Permit for the disturbance to the wetland buffer for the drainage outfall to the detention pond based on the conditions recommended by the Conservation Commission. Ms. Meyer seconded. Motion carried with Mr. Merrill abstaining from discussion and vote.

Mr. McGonagle moved that the Planning Board recommend to the City Council that an extension to the sanitary sewer system from Auburn Street over city property to the development be approved. Mr. Gross seconded. Motion carried with Mr. Merrill abstaining from discussion and vote.

Mr. Gross moved to recommend that the City Council authorize the execution of the "Release of Easement Rights" that will extinguish the two easements reserved to the City by deed dated June 3, 1942. Ms. Meyer seconded. Motion carried with Mr. Merrill abstaining from discussion and vote.

Mr. Gross moved that the Planning Board recommend that City Council authorize the City Manager to take the necessary steps to accomplish the merger of the lot being donated for the Northwest Bypass with the abutting City lot (96A-1-4) on Auburn

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

Mr. Gross moved preliminary approval of the subdivision subject to the following conditions:

1. The applicant shall obtain the following State and federal permits 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
2. The applicant shall obtain approvals of construction drawings for on-site improvements from the Engineering and Planning Divisions.
3. 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.
4. 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 new road right-of way.
 - b. Deed of easement for additional Little Pond Road right-of-way.
 - c. Cross country sewer and water easement.
 - d. Pedestrian/public access easement over cross country sewer and water easement.
 - e. Drainage easement.
 - f. Sewer easement for future connection to Pond Place Lane.
 - g. Easement to protect tree buffer along future Northwest Bypass.
 - h. Deed for conveyance of Northwest Bypass.
5. The applicant shall obtain approval from the City Council for extensions to the sanitary sewer system across municipal property. This approval will stand as the Planning Board's favorable recommendation to the City Council in regard to the utility extension requests.
6. The applicant shall obtain approval for the construction drawings and specifications for all public improvements from the Engineering Division prior to the commencement of any of the public improvements. No construction activity may commence prior to the pre-construction conference.
7. No certificate of occupancy for any building or use shall be issued until all public improvements have been completed to the satisfaction of the City Engineer and accepted by the City Council.

8. The applicant shall obtain approval of private utility plans from Unitil, Verizon, and KeySpan Energy.
9. 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.
10. The applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
11. 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.
12. 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
13. The following improvements to be constructed or dedicated are deemed to be eligible for credits against the assessed traffic impact fees. The procedures for determining the eligibility and the calculation of the credit 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.
 - a. A 66-foot right-of-way for the Northwest Bypass across the lot to be conveyed to the City of Concord.
14. Street trees shall be required on the basis of two per lot frontage and the final plat shall be revised to reflect this.
15. Prior to the final plat being signed, City Council shall authorize the execution of the "Release of Easement Rights" that will extinguish the two easements reserved to the city by deed dated June 3, 1942. This approval will stand as the Planning Board's favorable recommendation to the City Council in regard request by the applicant to discontinue said easements.

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

2.c Application by **Juniper Fells LLC** for preliminary approval of a subdivision of property on **Snow Pond Road, Graham Road and Shaker Road.** (#2005-02)

Mr. Gross asked, given the letter the Board received this evening from Attorney Eugene Sullivan representing the applicants, what was the procedural status of this application. Mr. Woodward explained that the public hearing took place in January, and there was a subsequent waiver request that the Planning Board denied, and then denied a request for reconsideration of the same. He reported that this communication appeared to restate the past issues relative to the waiver request and the Board's denial of the waiver; however, the letter contained no specific request for any action by the Board relative to the contents of the letter. He indicated that the matter on the agenda was the consideration of a preliminary approval of the subdivision based on plans and materials submitted by the applicant's engineer and surveyor.

Mr. Gross expressed confusion about the intent of the letter submitted by Attorney Sullivan.

The Vice-Chair asked if the applicant wished the Planning Board to act on this application this evening or if they wished to have the Board table action so that consideration could be given to the communication received this evening by the Board. James Mullaney responded as applicant and indicated that they did want the Board to act on this application this evening and not to table the matter. He stated that the Board has been presented with both a six-lot and an eight-lot subdivision plan. He indicated that his attorney's letter presents new information that they feel would make the eight-lot plan approvable so they would like consideration of both the plans this evening.

Mr. Pollock explained that plans for a six-lot proposal had most recently been submitted and reviewed by the City staff and his report was based on that six-lot plan.

Mr. Pollock reported that the applicant has submitted a plan showing a reduced subdivision proposal to six lots from the eight lots previously submitted, and a reduced cul-de-sac length to conform to the 1,000-foot length required under the Board's Subdivision Regulations. 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 the applicant had previously requested a waiver of the Subdivision Regulations for the additional length of the cul-de-sac, and the Board denied the waiver on February 16, 2005. The Board also voted to table consideration of the application to allow the applicant to re-design and resubmit the plat to reflect the maximum length of 1,000 feet for a cul-de-sac as specified in the Subdivision Regulations. The Board also expressed concerns about the sight lines at the intersection of Snow Pond Road and the proposed cul-de-sac, as well as the proposal for storm water drainage design for the subdivision.

The applicant then submitted a motion for reconsideration of the Board's denial of the waiver of the Subdivision Regulations for the additional length of the cul-de-sac and on April 20, 2005, the Board voted to deny the motion for reconsideration. The application remained tabled pursuant to the vote of February 16, 2005, with several Board members expressing the opinion that a cluster development might provide an appropriate option for the development of this phase of Juniper Fells within the limits of the maximum length of a cul-de-sac.

At the Board's August 17, 2005 meeting, the Board voted to table this application to allow for the completion of the review of the revised submittal, of the impacts of the proposed subdivision on the small private pond located in part on the adjacent Hyland property, 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, as follows:

1. Indication on the plans of the sight distances at the intersection of Snow Pond Road and the proposed cul-de-sac, and an evaluation of the adequacy of the same by the City Engineer.
2. The merging of "Parcel A and Parcel B" as shown on the plat on either side of the entry to the cul-de-sac off Snow Pond Road, into a widened right-of-way for that section of the cul-de-sac.

Mr. Pollock reported that a small private pond is located in part on the adjacent Hyland property and in part on the applicant's property. The original application for Phase 1 was to convey a parcel to the Hylands in order to consolidate the pond under a single ownership. When the applicant and the Hylands could not agree to terms, the land was merged with the remaining ownership of Juniper Fells. It is now proposed to be a portion of Lot #3-6. The applicant's engineer has submitted information relative to the impacts of the proposed subdivision on the pond. This information has been evaluated by the City Engineer and comments forwarded to the applicant's engineer.

The plans as submitted show that the sight distances will be adequate at the intersection of Snow Pond Road and the proposed cul-de-sac.

Mr. McGonagle moved to grant preliminary approval to the six-lot plan subject to the following conditions:

1. The applicant shall obtain the following State and federal permits and provide copies to the Planning Department:
 - a. NH Department of Environmental Services, Water Supply and Pollution Control Division, Subdivision Approval for on-site septic systems.
 - b. NH Department of Environmental Services, Water Supply and Pollution Control Division, Site Specific Permit pursuant to RSA 485-A:17.
 - c. Evidence that a Notice of Intent (NOI) has been submitted to the US Environmental Protection Agency (EPA) by both the contractor and the owner, and that a Stormwater Pollution Prevention Plan has been prepared for the project.

2. The applicant shall obtain approvals of construction drawings for on-site improvements from the Engineering and Planning Divisions.
3. 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.
4. 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. A Deed of Easement for the extension of the right-of-way of the new street;
 - b. Slope easements along both sides of the new street right-of-way; and
 - c. Drainage easements.
5. Approvals shall be obtained for the construction drawings and specifications for all public improvements from the Engineering Division prior to the commencement of any of the public improvements. No construction activity on the public facilities may commence prior to the pre-construction conference.
6. No certificate of occupancy for any building or use shall be issued until all public improvements have been completed to the satisfaction of the City Engineer and accepted by the City Council.
7. The applicant shall obtain approval of private utility plans from Unutil and Verizon.
8. The wetland buffers shall be clearly and permanently marked, and said wetland markers shall be maintained during, and after construction on the site.
9. 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.
10. Traffic, recreation and school impact fees shall be assessed for any construction on the 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.
11. No construction shall take place until final approval is granted by the Planning Board, the required financial guarantee is provided, a pre-construction meeting is held, and the required inspection fees have been paid.

12. "Parcel A and Parcel B", as shown on the plat on either side of the entry to the cul-de-sac off of Snow Pond Road, shall be merged into a widened right-of-way for that section of the cul-de-sac.

Mr. Gross seconded. Motion carried.

- 2.e Application by **Riverhill Condominiums** for approval of revisions to a previously approved site plan of property at **45-47 Bog Road**. (#2005-53)

Mr. Henninger explained that the Committee reviewed this proposal last month to construct a series of six-foot vinyl fences across the front of the property for privacy purposes, and recommended approval of a fence with lattice at the top in either a desert sand or grey color. The Planning Board granted approval subject to the Design Review Committee's recommendations. However, the condominium association has found that the lattice-top fencing is cost prohibitive and is now requesting consideration of alternatives.

He reported that the Design Review Committee provided a revised recommendation for approval of a fence without lattice in a light gray color and subject to staggered plantings where needed to soften the appearance of the fencing as viewed from Bog Road.

Mr. Gross moved approval of a fence without lattice in a light gray color and subject to staggered plantings where needed to soften the appearance of the fencing as viewed from Bog Road as recommended by the Design Review Committee and Mr. Merrill seconded. Motion carried.

OLD BUSINESS

Item 36 The Board considered a communication from Brown Engineering relative to conditions of approval for **The Village at Thirty Pines**.

Mr. Woodward explained that Brown Engineering had forwarded a request on behalf of Mall Realty to allow foundations for two multi-family buildings which were not approved to be constructed until Phase 2B to be installed along with the single multi-family building foundation approved for construction in Phase 2A

He reported that Sandwood Crossing consists of a 108-unit multi-family development and a 102 lot subdivision south of Borough Road, with Phase 1 including twenty-seven single-family house lots on a northerly extension of Alice Drive that has now been completed. Phase 2A, which consists of thirty-five single-family lots and one multi-family structure with 36 units, began with the bonding of the improvements to the intersection at Fisherville, Borough, and Manor Roads with Village Street. The final phase referred to as Phase 2B, will begin when the intersection is complete. Phase 2B will complete the development with the last 40 single-family lots and two more 36-unit multi-family buildings.

He reported that, at this time, the intersection improvements are well underway and completion, except for the signal mast arm, is expected by the end of October. The signal arm is expected by the first of the year, and then the signal will be functioning, which is the key aspect of the phasing plan approved by the Board. The intent was that vehicular trips generated by the units in Phase 2B would all be regulated by the new signal. Clearly, even if foundations were to be installed prior to the activation of the signal, there would be no new residents until some time next year, well after the signal will be activated and the intersection has been completed.

Mr. Woodward explained that the simultaneous installation of the foundations will result in substantial cost savings for the development of the multi-family units. Over the past several years, the Planning Division has been approached by several parties who wanted to purchase the rights to construct these units, but always asked if the building could be constructed all at one time, as this was critical to the cost considerations. The standard answer from the Division was that the only way that three buildings could be constructed at one time would be to delay the first building in Phase 2A and build all three buildings in Phase 2B, after the intersection was completed. In this particular case, the intersection is approaching completion and Phase 2B will be allowed to begin upon its completion. The only thing that the developer is asking is to put in the foundations all at once, and then construct just the first building until such time as Phase 2B officially starts.

Mr. Gross asked the rationale behind the phasing of this project and Mr. Woodward responded that it was intended to be tied to the traffic impacts. The foundations will not generate traffic in and of themselves; only the completed buildings will provide the opportunity to house residents who will generate the new trips.

Mr. McGonagle recalled that the phasing was designed to moderate the impact of the traffic as the project came on line. He then asked if there had been an investigation of the detention pond as to whether it was constructed appropriately and functioning as expected. Until that issue is addressed, he is not inclined to make any accommodations in the phasing.

Mr. Woodward responded that the single family portion of the project was conveyed to a different developer and that the single family developer was responsible for construction of the detention pond which benefits the entire development. The City has easements to drain stormwater through the pond and out to a new storm sewer in Borough Road. The detention pond was constructed, inspected, and deemed complete and functioning appropriately when Alice Drive extension was accepted.

Mr. Swope asked Mr. McGonagle if he had reason to believe the detention pond is not working appropriately and Mr. McGonagle responded that there was testimony before the City Council that it was not working properly.

Mr. McGonagle moved to table action on this request to change phasing until such time as the City has a report relative to the detention pond and whether it is properly constructed. Mr. Gross seconded. Motion carried.

The Vice-Chair then reminded the Board of its workshop on September 28, 2005 at 7:00 PM at Rundlett Middle School, and the Special Meeting on October 5, 2005 at 7:00 PM in the Second Floor Conference Room at City Hall.

Non-Agenda Item

Mr. Woodward mentioned that the Board had received a request from Greg Marceau to be placed on the agenda of the special meeting on October 5, 2005 for final approval relative to the application by Douglas and Bonnie McNutt and James and Susan Sebold for subdivision of land on Heather Lane Extension. Since site preparation cannot begin until final approval is granted, gaining an additional two weeks of construction time at this time of year would make a difference to them.

Mr. Gross moved to authorize the Clerk to place this application on the agenda for the special meeting on October 5, 2005. Mr. Merrill seconded. Motion carried.

The Clerk reported that the Planning Board had received an invitation from Concord 2020 to participate in a series of meetings dealing with growth, land use and transportation in the next few weeks. These include a meeting on Tuesday, September 27th to hear a national expert speak on the linkage between land use and transportation, and a Growth Forum scheduled for October 13, 14 and 15.

There was no further business to come before the Board and the meeting adjourned at 10:08 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

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