A special meeting of the City Planning Board was held on June 30, 2010 in the Second Floor Conference Room in City Hall at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Foss, Hicks, Dolcino, Shurtleff (representing the City Council), and Alternate Member Kenison who was seated for absent Member Meyer. Messrs. Woodward and Henninger, and Ms. Hebert of the City Planning Division were also present.

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

The Chair indicated that he would take up Agenda item #2 first.

 Consideration of a date for a special meeting for the holding of a public hearing and further consideration of the application of Tropic Star Development, LLC at 155- 157 Loudon Road.

The Clerk indicated that a copy of a letter from the applicant's attorney is available in this evening's agenda packet. The letter indicates that the applicant now wishes to have the Board consider a plan that had been submitted for consideration in January 2010, but was then withdrawn by the applicant prior to the Board's January meeting. A staff report had been prepared in January which had gone out to the Board in the agenda packet, but was not considered by the Board due to the withdrawal of the application.

The Clerk reminded the Board that a Site Plan application for this applicant had been granted conditional approval in August 2009. Subsequently, a revised application was the subject of a public hearing in April 2010 which led to the application being tabled and the Board voting to have an outside consultant review the plans and advise the Board as to their views of the impacts to traffic and circulation. The Clerk indicated it is his understanding that the applicant is now presenting another revised plan in lieu of having to pay for the outside consultant to review the April submission. The Board would now need to hold another hearing on the revised submission. The Clerk indicated that he had inquired of the applicant's attorney if the principal prospective tenant, CVS, now found the revised plan to be acceptable, and the counsel responded that his client believed they could convince the prospective tenant that the plan would suit their needs.

The discussion turned to meeting dates and potential length of agendas. The July 21st agenda had been fairly extensive with hearings scheduled for the Concord School District's elementary schools and the Emerald Abode subdivision, but both of these applications may be postponed by the applicants. The August 18th agenda will likely have hearings on Banks Chevrolet and St. Paul's School, pending the determination of completeness in July. July 28th was discussed as was August 25th as possible special meeting dates but a number of Board members will not be available to attend on those dates. August 11th was raised as a possible special meeting date and a quorum appeared possible. The possibility of having the Concord School District hearing on August 11th was raised as this could be a 2-3 hour consideration in and of itself. It would then be possible to consider the Tropic Star application on July 21st.

The Clerk asked Board members to indicate which dates that they could not be present with the following result:

July 21st and August 11th – Frank Kenison will not be available, and it was known that John Swope will not be available.

August 18th – Matt Hicks cannot be present, Gerry Drypolcher would prefer to not be present as he will be on vacation, and it was known that John Swope will not be available.

The Clerk will confer with absent members Meyer and Gross to determine their availability. He will also contact the Concord School District to determine if August 11<sup>th</sup> is workable for them in terms of their consultants being available. He will also confirm with Tropic Star's counsel that July 21<sup>st</sup> meeting will be workable for their consultant team.

Board members indicated that the special meeting on August 11<sup>th</sup> with the Concord School District needed to be capable of being televised. The Clerk indicated that he would contact CCTV about the date.

Board members asked about the differences in the new Tropic Star submittal and the staff responded that the left turn out of the site onto East Side Drive had been eliminated, but that the left turns into the site from Loudon Road and from East Side Drive were still part of the plan.

A question was raised as to the status of the conditional approval from August 2009. It was concluded that the conditional approval remained valid unless the applicant specifically relinquished it, or the Board took some further action on the new application that eliminated the earlier conditional approval.

The status of the review by the traffic consultant was raised. The Clerk reported that the review was not initiated due to the funding not being provided by the applicant, that the consultants were on hold pending direction from the Board, and that they could be available should the Board decide they still wished to have a review conducted.

The Board indicated that they would like to know the increase in daily trips attributable to the proposed development.

## **Old Business**

1. Review of the **proposed new Subdivision Regulations** focusing on Chapter 1, <u>General</u>, Chapter 2, Application Procedure, and Chapter 3, Application Requirements.

Mr. Henninger presented a matrix outlining changes in the draft regulations as compared to the current regulations. He started with Chapter 5, <u>Administration and Enforcement</u>, the review of which had been initiated at the July 16, 2010 meeting. He expanded on the proposed changes as highlighted for each section, starting with Section 30, <u>Financial Guarantees</u>, wherein he noted two new features – a site restoration security, and a two-year maintenance guarantee. Ms. Dolcino asked about the notification required for the City to collect on a guarantee. Mr.

Henninger explained about "self-calling" bonds and open ended bonds. Mr. Woodward noted that the guarantees, which are reviewed by the Solicitor's office, contain language about how the collection process is to be conducted.

In reviewing Section 31, <u>Completion and Maintenance of Improvements</u>, Mr. Henninger noted particularly the proposed process for conditional acceptance of public improvements by the City Council with the final acceptance being the responsibility of the City Engineer.

During discussion of Section 32, <u>Special Investigative Studies</u>, Ms. Foss asked that hydrological studies be added to the list in Section 32.02.

Mr. Henninger went on to cover Section 33, <u>Traffic Impacts and Traffic Studies</u>, as well as Section 34, <u>Conditional Use Permits</u>, the latter being added for the first time to correspond with language in the Zoning Ordinance.

The next section to be reviewed was Section 35, <u>Administration and Enforcement</u>, in subsection 35.20 of which it was noted that the Clerk was proposed to be empowered to approve minor changes or amendments to a subdivision plat, while major changes would require further review and approval by the Board. Mr. Woodward suggested that this section be amended to include a requirement for the Clerk to file a report with the Board at the next regular meeting after he had approved a minor amendment describing the changes so approved. Mr. Woodward also noted again that he believed that the option for an applicant to construct public improvements must be provided as an alternative to posting the financial guarantee. He has not yet had the chance to sit down with the Solicitor to go over the statutes on this matter.

The Board then went back to review Chapter 1, <u>Authority and Purpose</u>, inclusive of Sections 1 through 5. Mr. Henninger noted the specific reference to "resubdivisions" and "lot line adjustments" as these are commonly used terms.

The Board continued on to reviewing Chapter 2, <u>Application Procedures</u>, inclusive of Sections 6 through 11. The largest change in procedures involved elimination of a preliminary plat stage for a Major Subdivision so that these become a single stage application process. Board members noted that they would like to encourage applicants to take advantage of the optional Design Review Phase. It was concluded that the City website could be utilized to promote the exercise of this optional phase.

The Board agreed to set aside Chapter 3, <u>Application Requirements</u>, for consideration at another meeting.

3. Review of the **draft report**, *Land Use Regulation Review*, by Jeffrey Taylor & Associates, prepared for Concord 2020, particularly with regard to references to the Subdivision Regulations.

The Chair asked the Clerk to briefly review matter raised in the report with regard to the Subdivision Regulations. Mr. Woodward noted that the consultants had indicated that they would be making a presentation directly to the Board at some point after the report is finalized. He also noted that EDAC had made a presentation to the City Council on their review of the

Zoning Ordinance, and that their report is more extensive that the one appended to the Concord 2020 consultant report. Copies of the final EDAC report will be provided to the Board.

The first Subdivision related issues were on page 4 relative to timing and waivers. The former related to the fact that Site Plan approvals are good for two years while Subdivision approvals are good for only one year. The Planning staff noted that there was only one instance in memory where that became an issue which was the Parmenter Road case where the applicant and project consultants simply overlooked the deadlines. That said, the staff indicated that they would review the matter to see if there were any issues or concerns with changing the period of validity presumably of a subdivision approval.

Under waivers, it was noted that the regulations now contain standards and that the Board has been very judicious in its consideration and actions on the same. Clarification may need to be sought from the consultants just what their concern may be.

On page 5 of the draft report, the matter of definitions of *buildable* vs. *useable* land was raised. *Useable land* is a term defined in the Subdivision Regulations to ensure an adequate development site and minimize environmental damage on lots created in a subdivision. *Buildable land* is a term defined in the Zoning Ordinance which applies to all lots of record as well as newly created lots. The consultants do not appear to understand the differences nor does there seem to be a reason to integrate them.

On page 7 of the draft report, the consultants recommend site walks by the Board. As the Board was aware, a site walk by the Board is deemed to be a meeting of the Board with full notice requirements. It would involve all of the scheduling issues of finding a common time for a quorum. The Board for some years has followed a policy of each member deciding how to obtain site information, with some actually doing individual site walks, and other driving by and then viewing aerial photos of the site. Board members noted the value of some of the online aerial photography with the "bird's eye view" displays, and indicated that it may be helpful for the staff to arrange for that type of display at the Board's meetings, as has been done on some occasions. As in the past, the staff will continue to include photo-reductions of site plans in the agenda packets and present site plans at the hearings

On page 9 of the draft, the consultants had recommended that more conditional use permits be employed in lieu of shifting certain items out of the Zoning ordinance and into the Subdivision and Site Plan Regulations. The Board concurred with that concept although the Chair noted that he was aware that Manchester had done that to the point that there were too many CUPs and it was consuming too much time on the Board's agenda. Mr. Woodward noted that during his years as a consultant, he had drafted an updated zoning ordinance for Manchester with CUPs, but the Manchester Planning Board had sought to convert all Special Exceptions to CUPs, and this may be the source of the excessive applications on the Manchester Planning Board agenda.

On page 11 of the draft report, the consultants express concern about the provisions of the Subdivision Regulations related to upgrading of existing streets. The Board noted that this was generally done in conjunction with the results of traffic impact studies and recommendations of the City Engineer. Obviously, off-site improvements are constrained to some degree by existing

right-of-way width unless the development includes substantial frontage. Existing traffic counts and projected trip generation from a development are all factored into the decisions related to off-site improvements such that there is no "one size fits all" solution. Intersection improvements are common but many times already needed for existing development.

On page 12 of the draft report, the consultants are critical of the current standards for residential road widths and suggest using NHDOT standards for local streets. Mr. Woodward noted that NHDOT works with small towns and not the cities and larger towns where there are "urban compacts" established by statute and within which the local community is responsible for its streets. The cities and larger towns have higher densities with more curb cuts and on-street parking on local streets. The Board noted that they had already reviewed the proposed street standards in the draft regulations and the widths had been reduced for the rural roads outside of the Urban Growth Boundary as well for the cul-de-sac dimensions throughout the City.

On page 14 of the draft report, the consultants advocate the adoption of Low Impact Design (LID) guidelines for stormwater management. The Board had considered the design standards for stormwater management in the draft regulations and the Planning and Engineering staffs had put great effort into these with a focus on infiltration. However, where LID advocates solutions such as "rain gardens", the maintenance requirements for these is such that they are not considered to be approaches for the Board to be incorporating in the regulations.

On page 21 of the draft report, the consultants discuss cluster development outside of the Urban Growth Boundary and the matter of exempting small projects from the cluster requirements. While this involves changes in the Zoning Ordinance as well, it was noted that the option of a payment in lieu of land dedication was discussed and there would be no need for exemptions.

Mr. Woodward also noted that while not directly related to the Subdivision Regulations, he had looked at the issue raised on page 7 about term limits. He reported that he had looked at Board membership patterns over the past nine years during which he had been City Planner and Clerk of the Board with the following results:

Of the nine citizen positions (not including the Council member and the City Manager's seat), only two members remain from when he started in 2001, the Chair who has served on the Board for 21 years and the Vice-Chair, who has served for 15 years. One present member was added in 2001 as an alternate and was later re-appointed a regular member. Three current members including one of the alternates, were appointed in 2005, and one member was appointed in 2008, with the other two seats (one regular, and one alternate) being vacant. During that time period, three former members resigned before completing one term, one former member served one term and did not seek reappointment, while four other former members completed terms of service of 9 to 17 years.

He also noted that the ZBA was in a similar position with the current Chair having served for over 26 years and another current member having served for about 20 years, with four others having been appointed during the past decade, and four seats being vacant.

The Board discussed the value of institutional memory, noting that as the longer serving members leave the Board, those remaining members with the most experience fill the

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leadership positions, and new members are appointed to fill the vacancies, so that there is intentionally and ideally a range of experience among the membership. It appears that this has been the case with both of the Boards, and the larger problem has been finding new members willing to serve, given the demand on personal time, and the difficult nature of the decisions to be made. It was also pointed out that some citizens who might otherwise be potential members of one of these Boards find the ides of being televised inhibiting.

The Board indicated that it would further consider the 2020 consultant report when it was finalized and formally presented to them.

There was no further business to come before the Board and the meeting adjourned at 10:30 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward Clerk