

The regular monthly meeting of the City Planning Board was held on December 15, 2010 in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher, Swope, Foss, Gross, Hicks, Meyer, Shurtleff (City Council representative), and Alternate Member Kenison (who was seated for absent Member Dolcino). Messrs. Woodward and Henninger, Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Ms. Aibel, the City's Associate Engineer.

At 7:00 PM a quorum was present, and the Chair called the meeting to order and seated Alternate Member Kenison for Member Dolcino who was not expected.

APPLICATIONS

Minor Subdivision Applications

1. Application by **Abbott Farm LLC** for a subdivision by virtue of an amendment to a previously approved condominium of property at **382 North State Street (#2010-48)**.

Determination of Completeness

Mr. Henninger explained this proposal to revise an existing recorded condominium subdivision containing 79 townhouse units and a single detached residential unit (Abbott House).

He reported that the application was complete and ready for public hearing.

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

Public Hearing

Mr. Henninger explained this proposal to revise an existing recorded condominium subdivision containing 79 townhouse units and a single detached residential unit (Abbott House). The only revision requested is a modification to phasing of the project from three phases to six phases to facilitate construction financing. No changes are proposed to the approved site plan or exterior elevations of the buildings at this time.

He reported that the new owner had purchased this project after the previous owner's bankruptcy. All back taxes have been paid, and the bankruptcy order has allowed the new owner to acquire the property free of any liens and encumbrances. Three units in the first phase have received a Certificate of Occupancy and seven more could quickly be completed for occupancy. The applicant has recently pulled building permits to complete several units in Phases 1 and 2.

He reported that the infrastructure for the project is substantially complete except for the final phase of 18 units. Final paving for the internal road network, as well as curbing, landscaping and utility service connections, need to be provided for the units not yet complete in the existing Phases 1 and 2.

Mr. Henninger reported that the subdivision was originally granted Planning Board approval on March 29, 2006. A revised subdivision plan with three phases was subsequently approved by the Board on December 19, 2007, and recorded at the Registry of Deeds.

He reported that under the original phasing plan Phase 1 was to consist of three buildings containing 18 units, Phase 2 was to consist of six buildings containing 44 units and the Abbott House, and Phase 3 was to consist of the remaining four buildings containing 17 units. Under the proposed phasing plan Phase 1 will consist of one building, largely complete, containing five units; Phase 2 will consist of one building, largely complete, containing five units; Phase 3 will consist of one building, finished on the exterior but incomplete on the inside, containing eight units; Phase 4 will consist of two buildings containing 16 units, with one eight-unit foundation complete; Phase 5 will consist of four buildings containing 28 units not yet started, and a community building (complete); and Phase 6 will consist of 17 units in four buildings not yet started, and the Abbott House.

He explained that the City's Subdivision Regulations allow for a maximum of three phases with the maximum time frame for the approvals of six years. In order to comply with the applicant's request and the terms of the Subdivision Regulations, Planning staff is recommending that the applicant's Phases 1, 2 and 3 be considered the first phase, the applicant's Phases 4 and 5 be considered the second phase, and the applicant's Phase 6 be considered the third phase. The first phase (the applicant's Phases 1, 2 and 3) would be approved for two years from the date of Planning Board action on the revised plat. The second phase (the applicant's Phases 4 and 5) would be approved for an additional two years, and the third phase (the applicant's Phase 6) would be approved for a final two years, for a maximum of six years. The applicant concurs with the time frame for the phasing and advises that their plan is to complete this project in five years.

As a condition of site plan approval, the Abbott House will need to be restored prior to the issuance of a Certificate of Occupancy for the 30th unit in the development. The Abbott House has been painted and the roof repaired. The Abbott House needs to be incorporated into Phase 4, rather than Phase 6 as proposed by the applicant, in order to conform to the conditions of site plan approval.

He reported that a \$50,000 financial guarantee was provided by the original developer to insure the completion of the site landscape and final paving when the Certificate of Occupancy was issued for the first three units. This \$50,000 financial guarantee needs to be reestablished.

The applicant was represented but the representative had nothing further to add.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 7:10 PM.

Deliberations and Action on the Application

Mr. Swope moved that the Planning Board grant final conditional subdivision approval for revisions to the phasing plan for the Abbott Village Condominium off North State Street subject to the following conditions:

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, the revisions to the condominium documents shall be approved by the City Planner and the City Solicitor.
3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant's phasing on the Condominium Plan shall be revised to incorporate the Abbott House in Phase 4 of the project.
4. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant will provide to the City Engineering Division a replacement financial guarantee in the amount of \$50,000 to insure the completion of on-site paving and landscaping for the units in the proposed Phases 1, 2 and 3, including those units for which a Certificate of Occupancy has already been issued, in a form acceptable to the City Solicitor.
5. First Phase approval, consisting of Phases 1, 2 & 3 as shown on the revised Condominium Plan, shall be valid for a two year period commencing from the date of Planning Board action. Second Phase approval, consisting of Phases 4 & 5 as shown on the revised Condominium Plan, shall be valid for a four year period commencing from the date of Planning Board action. Third Phase approval consisting of Phase 6 as shown on the revised Condominium Plan, shall be valid for a six year period commencing from the date of Planning Board action.

Ms. Foss seconded. Motion carried.

Minor Site Plan Applications

2. Application by **NH Real Estate Investment Corporation on behalf of Joe King's Shoe Shop** for a site plan of property at **18 Low Avenue (#2010-46)**.

The Chair announced that this application had been withdrawn at the request of the applicant.

3. Application by **Seelye and David Longnecker on behalf of the Concord Housing and Redevelopment Authority** for a site plan of property at **23-25 Green Street**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the Zoning Ordinance. (**#2010-47**)

Determination of Completeness

Ms. Hebert explained this proposal to demolish an existing building containing three residential apartments at 23-25 Green Street and to construct a 3,000 square foot office building, together with related parking and utility improvements.

She reported that the application was complete and ready for public hearing.

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

Public Hearing

Ms. Hebert explained this proposal to demolish an existing building containing three residential apartments at 23-25 Green Street and to construct a 3,000 square foot office building, together with related parking and utility improvements.

She reported that a Conditional Use Permit has also been requested to permit less than 200 feet between the proposed driveway and the existing driveway on the adjacent property to the north. Article 28-7-11(f) of the City's Zoning Ordinance requires that driveways on a collector street be located at least 200 feet from an intersection and a minimum of 200 feet from adjacent driveways. The property has approximately 86 feet of road frontage and the location of the existing driveways on the abutting properties, together with the applicant's desire to preserve existing trees along Green Street, limit options for the driveway location. The applicant was also unsuccessful in negotiating a shared driveway with the owner of 29 Green Street or the property to the west.

The site plan includes the planting of seven additional trees within the parking lot and also proposes to preserve five existing mature trees. The two trees along the Green Street frontage are noted as being among the largest American Smoke Trees in New England. The applicant has consulted an arborist with regards to protecting the trees from damage during construction.

She reported that the Zoning Board of Adjustment granted variances to permit an 18 foot wide driveway, where a 24 foot wide driveway would be required, and to provide 12 parking spaces where 13 spaces would be required onsite.

Ms. Hebert explained that the existing three-family residence is approximately 170 years old. The applicant filed a Demolition Permit with the City, and the Demolition Review Committee determined the building to be historically and architecturally significant and held a public hearing to receive testimony on the demolition. During the review process,

the applicant and the Committee did not agree to alternatives to the demolition and the applicant is free to proceed with the demolition as proposed.

She reported that the design of building is very similar to that of the existing three-family residence and is also in approximately the same location on the property. The building materials include cementitious clapboard siding, fiber cement shingles, and PVC trim. The original doors, two stained glass windows and granite steps will be salvaged and reused on the proposed structure.

The Architectural Design Review Committee reviewed the site and building plans and recommended that if the existing building is to be demolished, then the design of the site and building should be approved. They felt the proposed office building was appropriately designed to replace the existing structure.

Ms. Hebert reported that the applicant has requested a waiver to Section 8.06 of the Site Plan Regulations to permit the installation of the electric, telephone, and cable utilities above ground. The utility lines are located on the east side of Green Street and all of the adjacent properties are served by above ground utility lines. Green Street is a heavily travelled collector roadway with extensive underground municipal utilities. The applicant believes that the excavation required to install the wire and cable utilities underground would be detrimental to the street and would disrupt traffic, and that installing the utilities above ground would not be a significant change to the existing conditions on Green Street.

Ms. Hebert noted that the Planning Board had received correspondence from the public regarding the preservation and re-use of the structure, most of which urged the Board to encourage the applicant to re-use the existing building.

Mr. Gross asked about the jurisdiction of the Planning Board to hold up the demolition of a building which no one else seemed to have the authority to hold up. He understood that the Planning Board had the authority to grant architectural design review approval. Ms. Hebert responded that the Site Plan Review Regulations refer to compliance with the Master Plan and one chapter of the Master Plan emphasizes the preservation of historic buildings in the city.

Robert Rook, engineer for the applicant, was present to answer questions from the Board and introduced Attorney Daniel Luker from PretiFlaherty and John Hoyt from the Concord Housing and Redevelopment Authority.

Mr. Gross asked Mr. Luker what he felt the Planning Board's authority was relative to demolition of a building. Mr. Luker responded that he felt the Planning Board authority did not extend to demolition. There was a specific ordinance in the city that dealt with demolition rights. He felt that the Master Plan was not a regulatory document by itself. He reported that the applicant was more than willing to consider alternatives to demolition but they were on a deadline with their purchase price and they needed to move forward.

Ms. Foss was unclear about the funding for the project. She asked if the Housing Authority would qualify for federal funding for this project. Mr. Hoyt responded that there is no federal funding or match money being used for this project nor have they applied for any federal funding.

Ms. Foss asked for further clarification of their funding of this project. Mr. Hoyt explained they provide contract services for HUD. Concord Housing Authority does not own any of the housing projects they manage; the federal government does. The Housing Authority manages the projects using the rules of HUD and then they are paid a fee by HUD. That money is then used to pay salaries, infrastructure upgrades, etc. At that point it is no longer federal money. He reported that HUD is very well aware of this hearing tonight. In answer to Ms. Foss's question, Mr. Hoyt indicated that HUD had not provided a letter regarding funding.

Mr. Shurtleff noted that the Heritage Commission had discussed an alternative that would have meant preserving the 1840s portion of the home and demolishing the later addition. He asked if the Housing Authority saw that as an option. Mr. Hoyt responded that they are open to any options but right now they need a site plan approval showing that there is a workable project so that they can close on the property. Then they can proceed with exploring and receiving approvals for alternative designs.

Mr. Luker reported that one of the major aspects of this project is to save the two smoke trees on the site. In order to save those trees, they needed to move the foundation to provide handicapped access. If there are cost effective alternatives, they will consider them but from everything they have seen so far, it is a better use of Housing Authority money to go the route they proposed.

Mr. Gross asked for clarification of the applicant's need for Planning Board approval in order to be able to close on the property. Mr. Luker responded that the closing is contingent upon approvals and there are certain other deadlines for getting this all done. However, he felt there could be on-going discussions regarding alternatives.

Mr. Gross also inquired about a recent offer of funding to explore the possibility of alternatives that would allow saving more of the structure than currently proposed. Mr. Luker responded that there has been a \$3000 grant offered, and Mr. Hoyt explained that they had responded in the affirmative to the offer and had asked for more information about the requirements and process.

Mr. Gross asked if they had any suggestions for how the Planning Board could give the Housing Authority what they need in order to close and at the same time to assure that if this is an opportunity to investigate re-use of the existing structure, they would pursue that opportunity rather than demolish as soon as they get their approval. Mr. Hoyt responded that they are open to discussing options and would not shut off any discussion about it. However, any delay is not in their best interests. They do not want to delay the site plan because of these discussions.

Mr. Drypolcher felt that the Planning Board would need to feel comfortable that all avenues had truly and willingly been discussed so that the Board could be certain that every possible avenue had been explored. If they could not reach agreement, he would be interested in knowing why.

Mr. Gross asked if they would be willing to engage in discussions to see if they could re-use the existing structure to some extent more than their current plan proposes. Mr. Luker responded that they could live with that as a condition of approval.

Ms. Meyer explained that if the applicant had proposed to preserve the front of the building and left the street trees alone, that would barely change what would be visible to the street because they are mimicking the existing building. She asked if that could be done cost effectively. If they had proposed something like that, she would have less of a problem than with the current proposal. Tearing down a building costs a lot of money. Preserving the front portion of the building would create a building that is real and part of the historic fabric of the street. She felt they could adjust their use of the interior to allow the front portion of the building to be preserved and then construct an addition to accommodate their programming.

Mr. Kenison asked about the other deadlines. He also asked what would be involved to re-engineer the building to keep the front portion of the building. Mr. Rook responded that he felt it would likely be impossible to provide ADA access because right now they are right at the edge of being able to comply.

Mr. Luker indicated that they cannot commit to make changes to the site plan before their deadline to close because they have not done a full study.

Ms. Foss asked the potential for the current EPA team to help in this process in some way. Mr. Woodward responded that the original focus of the sustainability group from the EPA was the downtown, but the concern would also be in the timing. The City will probably not have further communications with them until the first of the year. That might be a problem for the applicant in terms of their deadlines.

Phil Donovan, Chair of the Heritage Commission, explained the function of the Heritage Commission in regard to this site plan. He explained that the house was built in 1840 and was renovated in 1890. The original architectural features remain to this day. He also explained the demolition review process. The Heritage Commission inspected the building and found it to be well maintained and to have no structural problems. During the demolition review process, the Committee offered an alternative plan that the front portion of the building remain and be renovated, and then an addition constructed to the rear. They were told the proposal to demolish was strictly a cost decision but that a study had not been done because the applicant did not want to spend the money. Subsequently, the Heritage Commission located a \$3000 grant to study alternatives. He reported that the Heritage Commission asked that the Planning Board delay a final decision so that a feasibility study could be conducted.

Mr. Swope felt the suggested compromise that would allow keeping the front portion of the building had potential and asked how much of the building would remain. Mr. Donovan suggested about one third of the existing structure could remain.

Mr. Shurtleff asked if Mr. Donovan had any concerns about whether there would be a good faith effort to negotiate and Mr. Donovan responded that the Heritage Commission would take the applicant's offer as it was expressed and assume that it would be done in good faith. He would be a little concerned, however, about how they would know that they had reached a true end of discussion about alternatives.

Mr. Gross asked about the source of the grant money and Mr. Donovan responded that it originated from the National Trust for Historic Resources. It came with some expectation of matching funds, the amount of which the Heritage Commission needed to explore a little further. Mr. Gross also asked if a 30-day period would be realistic, and Mr. Donovan responded that he felt it might be difficult to accomplish in 30 days. He explained that it might take that long just to get the money to filter down and then to get the appropriate professionals placed under contract to do the study.

Mr. Donovan explained that demolition review comes into the process pretty late in the development process. This grant proposal came up as a result of that demolition review process and they were just notified of the grant approval on Monday. It is hard to make a determination of the relative merits of the project without knowing realistic numbers.

Fred Richards, Vice Chair of the Heritage Commission and Chair of the Demolition Review Committee, was present as writer of the grant application to answer questions relative to the grant program.

James McConaha was present as a citizen but reported he is also a member of the Heritage Commission and the Demolition Review Committee. He explained that this is the same challenge that the Heritage Commission and the Planning Board faced with the recent proposal for the demolition of the Kimball School. He encouraged the Planning Board to find a way of connecting the policies of the Master Plan and other land use regulations to make everything work. There are plenty of examples where the City and its land use boards can restrict an owner's use of their property and that is something all board members hold very sacred. If the criteria are not met, especially in respect to loss of housing and resources, the Planning Board can say it is not acceptable.

He was not sure that the Planning Board should grant approval of the site plan without knowing what the final plan could be, especially if there is a cooperative effort to redesign. This is a piece of property that is vulnerable so he did not feel the City wanted to drive the Housing Authority away from this parcel. He would rather work with them to come up with an acceptable plan. That would provide an acceptable long-term future for this property.

He felt this is not a good design. In the area of historic preservation, to build a building that attempts to mimic an historic structure is not appropriate. It is really in many ways demeaning to the historic values the property holds. The National Trust has guidelines

for additions to buildings that include a recommendation that there is a clear distinction between what is old and what is new. Consequently, he disagreed with the Design Review Committee's recommendation for approval.

He felt the City could not have important goals laid out in the Master Plan and then watch one project after another work against those goals.

Mr. Gross asked Mr. McConaha if he objected to the re-use of this property as an office use. Mr. McConaha responded that he did not object. There would be a loss of residential use but nearly all the properties in that area have been converted so this would fit in. His concern was that the applicant had not paid sufficient attention to the alternatives based on hard data. That was a very important shortcoming in this process. There are lots of examples in the city where renovation has been made to work. The Heritage Commission would like to continue to work with them on that.

He suggested that the Planning Board postpone approval until after the study had been done. He felt the City would end up with a much better project.

Elizabeth Durfee Hengen, also a member of the Heritage Commission and Demolition Review Committee, addressed Mr. Gross's question about the amount of time that would be needed to complete the analysis. She indicated she felt the study could be done within 60 days starting January 1. She felt lining up appropriate consultants would take a little time and then it would take 60 days to do the analysis.

Elaine Kellerman, Concord resident, encouraged the Planning Board to postpone approval until the study is completed. The Board also needed clear information from HUD about whether this project will in any part be financed by federal money. There has been nothing to indicate that any answer has been given by HUD. If there is federal money involved, this would require a Section 106 review. She also reminded Mr. Hoyt and CHRA that there were a lot of Concord residents who did not want this building demolished and they wanted the Housing Authority to be a good community partner.

Fred Richards introduced Sue Booth from the New Hampshire Preservation Alliance, who encouraged the Planning Board to allow the grant money to be used for further analysis before taking final action this evening.

Mr. Gross asked for further information regarding the grant in order to know how real it was. He felt the Planning Board needed to be assured that this would not be a waste of time or money and could feel that some good would come of it. Mr. Richards responded that the National Trust wanted a match of at least \$3000 and the ability to review the specialists who will be doing the work.

Mr. Gross asked if the process would benefit from a facilitator, someone impartial to help move it along. Mr. Richards indicated he would not be against that approach. He felt someone in City Hall could fill that role. He also felt they had an amicable relationship with the Concord Housing and Redevelopment Authority.

Ms. Foss noted that the Housing Authority had expressed a strong preference for having handicapped access at the front of the building. She asked if access along the side of the historic portion of the building would be suitable. Mr. Richards responded that would not be a deal breaker if done appropriately.

Mr. Luker explained that the Housing Authority had made a significant investment in this property already with engineering, legal, applications and deposits on the property. They are more than willing to discuss alternatives but, if any other design costs significantly more, they probably cannot do it because their mission is to be cost efficient and their primary mission is to provide housing. He did not feel the Planning Board had the authority to deny this application. The applicants were more than willing to have a condition of approval that they negotiate before pulling a permit, but they need to be able to close on the deal. They are talking about property rights. They want to develop cost effectively. They respect historic preservation but keeping the front portion of the building may cost 50% of the space available to them. All they are asking for is Planning Board approval so they can have some certainty and can act on the investment they have already made. He felt they had met all of the requirements of the Site Plan Review Regulations. The applicants feel they are entitled to approval tonight on the plan before the Board and do not feel the Board has the authority to deny it.

Mr. Drypolcher responded that, taking into account the Master Plan, the Planning Board has the authority to try to work with an applicant to try to comply with the goals of the Master Plan. He expressed concern that a housing agency is taking away three residential units from the supply in the central part of the city. He was inclined to see the outcome of the study. However, he was not getting the feeling that everyone would be willing to work together to accomplish what the analysis might suggest.

Mr. Luker indicated this will come down to a matter of dollars and there are also other issues such as layout of rooms to consider.

There was no one else who wished to speak for or against this application and the Chair declared the hearing closed at 8:37 PM.

Deliberations and Action on the Applications

Ms. Meyer was uncomfortable being pressured because of the applicant's constraints with their purchase and sales agreement. It is sometimes unrealistic to expect final approval immediately and she was shocked that the Housing Authority did not see the red flags months ago. She felt this did seem inconsistent with the Concord Housing and Redevelopment Authority's mission to provide housing. She was more concerned that they were not being sensitive to the historic building and the streetscape and had not made the effort to finance a cost analysis but had instead dismissed the idea.

Mr. Shurtleff felt that the City had done so much to encourage preservation of property. For the applicant to propose demolition of a structure that has stood for 160 years and not be willing to take another 60 days to study, it seemed unreasonable. He did not see

why the Planning Board needed to rush. He felt it was part of the Planning Board's mission to act only after it had full information.

Mr. Woodward reminded the Planning Board that, by State statute, from the time an application is deemed complete, the Board had 65 days to take final action. He also noted that the applicant had asked for quicker action.

Mr. Swope indicated that this was the first time the Planning Board had seen this plan. To say that rehabilitation is impractical and provide no information to prove it seems to be a gap. And then to request a blanket approval and expect the Planning Board to take their word that they will comply is asking for an awful lot. He was not in favor of taking final action tonight but would be in favor of tabling action to allow for the study.

Mr. Gross explained that he had pursued a lengthy string of questions to equip himself with information that did not seem to be available until tonight. The Planning Board was presented with a statement by the CHRA that they have a contractual deadline that they must meet or they are at risk of losing the deal. That is why they want the Board to take action tonight. CHRA has also said that they would be willing, if they get approval, to consider alternatives to demolition. There was also a group of citizens who have asked the Board to stop the process so that those alternatives can be professionally studied. If tabling is the action to be taken, he felt the Planning Board should be very clear that the parties would be expected to come together to pursue creative re-use of this property and to retain the appropriate professionals to do the analysis. He also suggested that the City Planner act as the convener for these groups. He did not think there was any dispute about whether the Concord Housing and Redevelopment Authority should be there.

Mr. Swope reported he would be looking to have some objective information expressed to the Planning Board about the problems of renovation. The Board has heard no one who has given any concrete facts or figures about this but, if renovation is not practical, then evidence should be provided to support that position.

Mr. Swope moved and Mr. Shurtleff seconded that the Planning Board table action on these applications and request that the parties meet and confer about the advisability and financial feasibility of the creative re-use or renovation of this property, and to fund the investigation through the grant plus an appropriate contribution from the Concord Housing and Redevelopment Authority. He further moved that the Planning Board offer the services of the City Planner to convene the parties and facilitate discussion.

Ms. Foss suggested adding to the motion that the grant be used to obtain professional assessment of the project. She also asked about providing a time frame and Mr. Drypolcher indicated that the Statutes require a decision within 65 days, which would mean that the Board would have to take action on this matter by the regular meeting on February 16, 2011.

Motion carried.

Major Site Plan Applications

4. Application by **Forget & Boucher, LLC, on behalf of Concord Nissan** for a site plan of property located at **175 Manchester Street. (#2010-44)**

Public Hearing

Mr. Henninger explained this proposal to demolish three buildings containing a total of 18,391 square feet, and to construct a new car dealership containing a total of 27,295 square feet in a single building. The applicant proposes a two phase construction plan. All existing site improvements will be removed, and the site will be completely reconstructed, except for a single family residence at the north end of the site which is proposed to be retained.

He reported that there is approximately 20,000 square feet of outside motor vehicle display area on the main site at 175 Manchester Street and approximately 24,000 square feet across Airport Road at 169 Manchester Street. The applicant proposes to retain approximately 46,000 square feet of vehicular display area on the site when it is fully built.

The intersection of Airport Road and Manchester Street is to be reconstructed by the City and a traffic signal installed. The City Council has appropriated funding, and the project will be out to bid this winter with construction anticipated in 2011. Airport Road will be moved westerly and aligned with Integra Drive. A land swap will be occurring between Concord Nissan and the City to facilitate this realignment. The full build plan (second phase) for Concord Nissan incorporates the new alignment of Airport Road and a consolidated and enlarged dealership site.

He reported that the Phase 1 plan did not provide the required ten foot wide landscape strip along the entire frontage of Airport Road. This can easily be provided once the land swap occurs between the City and the owners of this property which is currently in process.

He reported that large trailer trucks and fire vehicles can now access the site from Airport Road and Manchester Street and traverse the site in front of the building. The proposed route through the vehicle display area is circuitous and is not adequately defined near Airport Road. This access needs to be maintained and should be curbed or defined with landscape islands to prevent the blockage of this critical element of the site circulation. No loading or unloading of vehicles should be allowed on Airport Road or Manchester Street. The required loading area to the rear of the building can be accessed by panel trucks (SU-30) or smaller vehicles provided the driveway around the rear of the building is entirely one-way.

Mr. Henninger reported that the proposed dumpster at the rear of the building is not accessible. The second dumpster shown on the plan at the north side of the parking lot needs to be provided with a fully opaque screen which matches the building. The dumpster located at the rear of the building could be relocated to this location. A more

direct access to the dumpsters and loading area could be provided through the display area.

He reported that the Architectural Design Review Committee had reviewed the site and building plans, and found the building design to be appropriate for the use and location proposed. The Committee found the landscape plan to be acceptable in concept with the caveat that the City's Landscape Architect find the type and location of the proposed plantings to be acceptable. The Committee was advised that the applicant proposed that the two existing free standing signs be relocated. A variance several years ago from the Zoning Board of Adjustment allowed both free standing signs on this site. The Design Review Committee recommended approval of the proposed affixed signs provided the information signs over the service bay entrances are reduced in size to conform to the Zoning Ordinance.

Mr. Henninger explained that the site is impacted by approach and transitional slopes for both the existing runway 17-35 at Concord Airport and its proposed 1,000 foot extension. The height of buildings, structures and trees is restricted on site. Information has been provided to the applicant by the City in regard to the restrictions in place. The height restrictions on the site are actually greater on the existing conditions than with the proposed 1,000 foot extension of runway 17-35. An aviation easement will be required to allow for the removal of any encroachments into the transitional or approach slopes for the Concord Airport. No structure or building can be higher in elevation than 352 feet at the nearest corner of the property line. The transitional slope elevation increases one foot for every seven feet moving away from the runway. The approach slope increases one foot for every twenty feet moving away from the runway. The top of the proposed building will be approximately 348 feet in elevation, and the ground elevation of the site will vary from 328 feet to 323 feet from north to south.

He reported that the new site plan has one driveway on Manchester Street and one driveway on Airport Road. The reconstructed driveway on Manchester Street is proposed as a right turn in and out only. The Airport Road driveway was originally located with less than the minimum 200-foot separation from the realigned intersection of Airport Road and Manchester Street at full buildout of Manchester Street. The City Engineering Division has requested that this driveway be moved further away from the intersection due to the length of the projected queues on Airport Road at the proposed traffic signal at the intersection of Airport Road and Manchester Street. The revised driveway location is now set back more than 400 feet from the Manchester Street intersection.

He reported that preliminary discussions have been held in regard to a land swap between the City and the applicant in regard to airport property abutting the site. However, any resolution requires Federal Aviation Administration and other environmental approvals and would take several years to come to fruition. The current geometry of the site creates design challenges for the applicant.

He reported that both Concord Nissan properties are significantly affected by Phase 1A of the Manchester Street improvement project. Phase 1A will involve the realignment of

the Airport Road/Integra Dr intersection, the widening of Manchester Street from the intersection of Airport Road southeasterly to beyond Broken Bridge Road, and the relocation of Broken Bridge Road to connect with Integra Drive. Right-of-way negotiations have commenced and may be completed with Concord Nissan by the end of this calendar year. Construction of Phase 1 is anticipated in 2011.

He reported that the installation of sidewalks and landscaping is being deferred to Phase 1B along the frontage of this project, since the sidewalk that would be constructed in this phase would be isolated from the rest of the system and any landscaping that would be installed would be disturbed by subsequent construction.

He reported that the traffic study does not include any increase in traffic associated with the redevelopment of the site. The published ITE traffic generation information finds a statistically significant relationship between the size of a new car dealership and the amount of traffic generated. No justification has been submitted to support the applicant's assumption. The City assesses a Traffic Impact Fee of \$5.77 per gross square foot of building area for new car sales and \$3.50 per gross square foot of building area for auto service. This project would be assessed for traffic impacts based on the net increase in floor area. The Impact Fee Worksheet for this project recommends an Traffic Impact Fee of \$35,968.

Peter Holden from Holden Engineering and Surveying, Inc. was present on behalf of the applicant and explained that they had recorded pre-development traffic for this site. He asked, regarding proposed condition #6 relative to traffic impact fee, that the applicant be allowed to count traffic after the building is reconstructed and calculate the impact fee on the actual difference. He reported this was the process recently used for Banks Chevrolet. Mr. Woodward explained that there is an agreement process that was used for Banks and something similar could be done for Nissan as provided in the Impact Fee Ordinance.

There was no one else who wished to speak for or against this application and the Chair declared the hearing closed at 9:24 PM.

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

Ms. Foss commented that she was glad the south wall was broken up by windows but it did seem criminal to have that expanse of wall facing due south and not taking advantage of the solar gain. Mr. Henninger responded that there was not a good way to utilize the solar effects since this was the portion of the building being used for service bays.

Mr. Swope moved that the Planning Board grant Architectural Design Review approval of the site, building elevations and proposed signage for the new automobile dealership at 175 Manchester Street for Concord Nissan, subject to the following conditions.

1. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals of the landscape plan shall be obtained from the Planning Division.
2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the proposed affixed directional signage for the service bay entrances on the approved architectural elevations shall be revised to conform with the Zoning Ordinance.

Mr. Gross seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional site plan approval of the site and building elevations for a new automobile dealership at 175 Manchester Street for Concord Nissan, subject to the following standard and special conditions:

Standard Conditions

1. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), approvals of construction drawings for on-site improvements shall be obtained from the Engineering and Planning Divisions. No construction activity may commence prior to the preconstruction conference.
2. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer and in a form acceptable to the City Solicitor.
3. Prior to the release of a financial guarantee for any public improvement, an as-built plan shall be provided to the City Engineer in a form and content acceptable to the City Engineer.
4. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following local approvals and permits shall be obtained and copies provided to the Planning Division:
 - a. Driveway Alteration Permit from the Engineering Division
5. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following State and Federal permits shall be obtained and copies provided to the Planning Division:

- a. NH Department of Environmental Services Alteration of Terrain Permit (RSA 485-A:17)
 - b. NH Department of Environmental Services Water Quality and Sewer Discharge Permits
 - c. NH Department of Transportation Driveway Permit
6. Traffic impact fees shall be assessed for any construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 3, Transportation Facilities Impact Fee per Variable Unit.
- a. Transportation Facilities - New Car Sales & Auto Service
7. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall obtain approval of private utility plans from Unitil, Fairpoint, and National Grid.
8. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the following easement documents, in a form acceptable to the City Solicitor and suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:
- a. Avigation Easement for Concord Airport for the Transitional and Approach Slopes for Runway 17-35.

Special Conditions

9. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the landscape plan to the satisfaction of the City Planner.
10. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall relocate the proposed dumpster on site and provide both dumpsters with an all around opaque screen matching the architectural of the building to the satisfaction of the City Engineer and City Planner.
11. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall revise the site plan to better define the main access route for large

vehicles and fire trucks near Airport Road by the use of curbs and landscape islands acceptable to the City Engineer and City Planner.

12. No loading or unloading of vehicles shall occur along either Airport Road or Manchester Street either entirely or partially within the right-of-way for either street.
13. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the site plan shall be modified to provide the required ten foot wide perimeter landscape strip along Airport Road.

There was a brief discussion as to whether Condition #6 should be revised to include the opportunity for the applicant to provide a financial guarantee for the traffic impact fee and provide documentation of changes to traffic after the construction is completed. The staff advised that the Impact Fee Ordinance contains provisions to allow for this, but that the Board must establish the ordinance-based impact fee which subsequent counts will either confirm or cause it to be adjusted.

Mr. Swope seconded. Motion carried.

Architectural Design Review

5. 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.
 - **Do or Dye Scisstors Salon** for one new affixed sign at **44 Fisherville Road**
 - **Merrimack County Savings Bank** for one new affixed sign at **89 N. Main Street**
 - **Jo Ann Fabrics** for a replacement affixed sign at **80 Storrs Street**
 - **Spirit of Style Salon** for one new hanging sign at **30 Warren Street**

The Chair opened the hearings on all of the above signs.

- **Do or Dye Scisstors Salon** for one new affixed sign at **44 Fisherville Road**

Mr. Henninger explained this was a replacement sign for a new business. He reported that the Design Review Committee had found the proposed design and placement of the sign to be appropriate for the location and use, and recommended approval as submitted.

There was no one present on behalf of the applicant.

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

- **Merrimack County Savings Bank** for one new affixed sign at **89 N. Main Street**

Mr. Henninger explained this was an additional affixed sign being proposed for the existing building and the design of the sign was consistent with the other existing signs on the site. He reported that the Design Review Committee found the proposed design and placement of the sign to be appropriate for the location and use, and recommended approval as submitted.

There was no one present on behalf of the applicant.

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

- **Jo Ann Fabrics** for a replacement affixed sign at **80 Storrs Street**

Mr. Henninger explained this was a replacement sign for an existing business in the strip mall and the proposed signage was smaller than the existing sign. He reported that the Design Review Committee found the proposed design and placement of the sign to be appropriate for the location and use, and recommended approval as submitted.

There was no one present on behalf of the applicant.

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

- **Spirit of Style Salon** for one new hanging sign at **30 Warren Street**

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

There was no one present on behalf of the applicant.

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

6. Further consideration of an application by **Twelve North Main Street Realty LLC** for approval of renovations to the building façade for Siam Orchid at **12 North Main Street. (#2010-39)**

Public Hearing

Mr. Henninger introduced this proposal for a renovation of the 1950's storefront that will be occupied by a restaurant, and the renovation of the second floor into two apartments. There is an existing large picture window on the second floor that will be replaced by four individual double hung windows with casings, a lintel and window sill for each of the new windows. There are three existing cast iron pillars on the storefront that will be painted black along with the existing wood framing around the windows

and door. The existing brick will be cleaned up and new brick on the second floor will match the existing bricks. The granite column on the left side of the façade will be cleaned and will remain unpainted.

He reported that the Design Review Committee had recommended approval subject to receipt of updated plans, and further subject to the recommendation that the second floor windows will be four separate windows with lintel, sill and casing around each of the windows.

Eddie Saktanaset was present on behalf of the applicant.

Planning Board complimented the applicant on the attractive renovation of the downtown building.

Mr. Gross moved approval subject to receipt of the requested updated plans, and further subject to the recommendation that the second floor windows will be four separate windows with lintel, sill and casing around each of the windows. Mr. Swope seconded. Motion carried.

REGULAR MEETING

Minutes

Mr. Gross moved approval of the minutes of the meeting of November 17, 2010 as submitted, and Mr. Shurtleff seconded. Motion carried.

Amendments to the Subdivision Regulations

8. Further consideration of **amendments to the Subdivision Regulations** which constitute a complete revision of the Regulations, and on which a public hearing was previously held.

Deliberations and Action on Amendments

Mr. Woodward reminded the Board that a public hearing was held last month relative to a complete revision of the Subdivision Regulations and that action was tabled until this evening to allow a further opportunity for written communications from the public.

He presented an email from Betty Hoadley asking if the Planning Board actions could be overridden by City officials or departments. She also asked about the process regarding complaints and responses thereto. Mr. Woodward responded to the questions posed by Ms. Hoadley's communication noting that while there is no process for any administrative override of the Board's regulations, that there was a time in the late 1990's when the City administration contradicted the Board's conditions of approval, particularly as regards issuance of Certificates of Occupancy prior to fulfillment of those conditions. He explained that the Clerk is charged with enforcement of the Board's regulations with the assistance of the City's Legal and Code Departments, and that

complaints can be brought to the Clerk's attention as well as directly to the Board. It was suggested that a communication should be sent to Ms. Hoadley with those responses to her questions.

There was nothing further in the Regulations that the Board felt it could add or change.

Mr. Henninger also pointed out that typographical errors had been noted and asked if the Board would like them pointed out before taking action. Members did not feel the need to be made aware of each typographical error.

Mr. Gross moved that the Planning Board adopt the amendments to the Subdivision Regulations which constitute a complete revision of the Regulations and on which a public hearing was held, with the regulations to become effective on January 1, 2011. Ms. Foss seconded. Motion carried.

After the vote, Board members signed the certificate of adoption which is required by statute. The Clerk will file the certificate together with a copy of the new regulations with the City Clerk as is required by statute.

New Business

9. Consideration of the annual review of the **Public Capital Facilities Impact Fee Ordinance**.

Mr. Woodward explained that the Public Capital Facilities Impact Fee Ordinance was adopted in June 2001, and contained a requirement that the impact fee tables be reviewed periodically by the Planning Board and revised by the City Council whenever appropriate. It required an annual report to the City Council by the Board's Clerk with respect to increases in the estimated costs to construct public capital facilities, including recommendations for appropriate adjustments to the impact fee tables. Specific sources of cost data and information for updating the fees are cited in the ordinance.

He reported that the last time the City Council amended the ordinance was February 11, 2008, containing the increases for calendar year 2007. After the annual review for calendar year 2008, the Planning Board voted unanimously to forward to the City Council an ordinance amending the Public Capital Facilities Impact Fee Ordinance, reflecting an updated schedule of fees, but recommended that the increased fees not be adopted in recognition of the economic downturn that had occurred since the indices were derived in 2008. The City Council subsequently concurred with that recommendation and did not amend the fee schedules.

As part of the annual review for calendar year 2009, the Planning Board noted that since the impact fees were not amended in 2008, the proposed fees for 2009 should reflect the cumulative change in the indices over the two year period since the ordinance was last amended. The Board voted unanimously to forward to the City Council the ordinance reflecting an updated schedule of impact fees, but recommended that the City Council

consider the changes included and then take whatever action they deemed appropriate. The City Council subsequently voted not to amend the impact fee schedules.

Mr. Woodward presented Tables 1, 2, and 3 containing the current as well as proposed new fee schedules for the School, Recreation, and Transportation Facilities Impact Fees. These schedules were developed using the required data sources and the indicated inflationary increases since the base year fees were adopted. A draft ordinance was also provided which would implement these fee schedules. The proposed fees reflected the cumulative change in the indices over the three-year period since the impact fee ordinance was last amended. The school and recreational facilities impact fees would increase 8.32% to accommodate the cumulative effects of inflation. Similarly, the transportation facilities impact fees would increase 10.63% to accommodate the cumulative effects of inflation. Mr. Woodward observed that it would start to be difficult to catch up if the adoption of a new fee schedule was deferred again.

The Planning Board discussed the possibility of phasing in the fee increases so that the fee schedules would not fall further behind. Mr. Gross noted that what struck him was that the price of not doing things in a timely fashion leads to sticker shock. Ultimately it was the City Council that ordained what the fees would be, but he felt the Planning Board should recommend that the City Council adopt some way of phasing in increases. They should not do anything to put the City further behind.

Mr. Swope felt it would be foolish to not put some increase in place but not necessarily the entire amount.

Mr. Gross moved that the Planning Board transmit revisions to the City Council with the recommendation that the City Council take appropriate steps to start adjusting fee schedules in order to return to the annual process as prescribed in the Ordinance for adjusting the fee schedules. Mr. Kenison seconded. Motion carried.

10. Consideration of re-appointments to the **Architectural Design Review Committee**.

Mr. Woodward explained that the Planning Board established the Design Review Committee in 1978, and in 1990 adopted an amendment to the Site Plan Review Regulations which specified that the Committee should consist of at least five and no more than seven members with training or experience in architectural design, landscape architecture, or historic preservation. The terms of membership are the same as those for Planning Board members, which is three years, and the members must be local residents. He reported that the terms of Duene Cowan and Claude Gentilhomme were due to expire and both had expressed an interest in being reappointed.

He reported that Mr. Cowan is a native of Penacook who now resides in East Concord. He is a NH Registered Architect who worked for the local architectural firms prior to forming his own firm, DC Designs located at 5 Eagle Square, in 1989. He has served on the Design Review Committee for the past fourteen years.

He reported that Mr. Gentilhomme moved to Concord in the mid-1990s to join a local architectural firm. He resides on North State Street and is a NH Registered Architect who has had his own architectural practice, Gentilhomme Design Associates, for a number of years. He has served on the Design Review Committee for the past eight years.

Mr. Gross moved that the Planning Board re-appoint F. Duene Cowan and Claude P. Gentilhomme to the Design Review Committee. Mr. Shurtleff seconded. Motion carried.

Old Business

11. Review of the effect on the City's interest from the decision of the Town of Pembroke ZBA denying a request for a rehearing by **Continental Paving** for a Special Exception for an asphalt plant on **North Pembroke Road in Pembroke**

Mr. Woodward explained that in denying a request for a rehearing to Continental Paving, the Pembroke Zoning Board of Adjustment had indicated that new information submitted to them seemed to mitigate their concern regarding the Concord's well head protection area, but they maintained their position that the proposed use is prohibited in that zoning district and requires a variance.

The Planning Board had expressed concern about whether the City had standing to be a party in an appeal to the Superior Court should Continental Paving appeal the Pembroke ZBA's denial of their application for a Special Exception. The Planning Division consulted with the City's Legal Department on this matter and they had advised that, because the City's rights with respect to its wellfield could be directly affected by the outcome of Continental's appeal, the City would be a party in interest and have standing to participate.

He reported that no action was recommended or necessary at this time. Should Continental Paving, the applicant to the Pembroke Zoning Board of Adjustment, file an appeal with the Superior Court, the Board may request the City's Legal Department to file an appearance for the City to become a party in interest in such an appeal.

He reported that he had talked with the Town of Pembroke and, as of last Friday, they had not been served and the applicant had not sought a variance from the Zoning Board of Adjustment.

So that there is no misunderstanding of the Planning Board's view, Mr. Gross moved that the Planning Board request that the City Planner ask the City's Legal Department to file an appearance for the City to become a party in interest in such an appeal if it becomes necessary. Mr. Swope seconded. Motion carried.

INFORMATION

- Record of Action of the Technical Review Committee on December 1, 2010, relative to a Minor Site Plan Application of **Langdon H. Waite, Trustee under the will of Alice E. Ward**, at **89 Fort Eddy Road. (#2010-45)**

Mr. Woodward reported that the Technical Review Committee had reviewed an application for a change of use of 1200 square feet in a strip shopping center from retail to high turnover restaurant. The principal issue for this use and the Merrimack Center in general is the availability of parking. The applicant had agreed to develop a plan to provide the required parking spaces and conforming handicapped parking, to eliminate the central island, and to show the location of the dumpsters on the site plan.

He reported the Technical Review Committee had granted conditional approval to the application and no action was necessary on the part of the Planning Board.

Mr. Woodward also reminded members that a balloon test was being conducted on Thursday, December 16th starting at 8 AM to noon on the St. Paul's School property for a telecommunications tower. This application will be coming before the Planning Board in the next few months and he encouraged members to view the test if possible.

There was no further business to come before the Planning Board and the meeting adjourned at 10:06 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

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