

The regular monthly meeting of the City Planning Board was held on October 21, 2009 in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Swope, Dolcino, Foss, Gross, Hicks, Meyer, McClure (who arrived at 7:07 PM and represented the City Council), and Alternate Member Kenison who was seated in the position left vacant by the resignation of Mr. Harrington. Mr. Woodward, Mr. Henninger, Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Edward Roberge, the City Engineer.

At 7:00 PM a quorum was present, and the Chair called the meeting to order and seated Mr. Kenison in the position left vacant by the resignation of Mr. Harrington.

APPLICATIONS

Major Site Plan Applications

1. Application by the Duprey Acquisitions, LLC, on behalf of Sanel Realty Company, Inc., for a site plan of property located at 45A-49 South Main Street and 7 Theatre Street. (#2009-34)

Public Hearing

Mr. Henninger explained this proposal to demolish two buildings fronting on South Main Street, Theatre Street and Storrs Street and to develop a portion of the site for a 91,500 square foot, six story office building. The lowest level of the building will include a 21-space parking garage with access from Theatre Street. This project includes the reconstruction of Theatre Street and the sidewalk along the South Main Street frontage.

He explained that the existing parcel is owned by Sanel Realty with a 10-foot wide passway and a 20-foot wide passway owned by the State of New Hampshire. A companion subdivision has been submitted consolidating the State property and the Sanel property and creating two lots. One of the lots, which is the subject of this application, will face South Main Street and Theatre Street, and a second lot will front on Storrs Street and Theatre Street. A companion site plan has been submitted by CATCH, for a 45-unit apartment building facing Storrs Street on the second lot.

He reported that it is anticipated that an application will be submitted for the construction by the applicant of a 100-car parking lot on undeveloped City-owned property on the west side of Storrs Street between Theatre Street and Storrs Street.

(Ms. McClure arrived at 7:07 PM.)

He reported that the applicant obtained a variance from the Zoning Board of Adjustment to allow a building which exceeds the 80-foot maximum height. After further review, it was determined that this variance was unnecessary. The building is just over 80 feet high on the east side but is less than 70 feet high on the west side. The

average height is approximately 75 feet and within the allowances of the Zoning Ordinance.

He reported that the amount of impervious surface is being reduced from nearly 95% to 81%. The rate of runoff is unchanged, but the flow is being directed to storm drains before leaving the site. The existing condition involves storm water leaving the site as surface runoff onto Theatre Street. A drainage analysis has been submitted for Theatre Street and Storrs Street to evaluate the existing capacity of the system. Flooding on Storrs Street at the Theatre Street intersection has been a recurring issue. The City Engineering Division is reviewing the drainage analysis and evaluating whether the proposed redevelopment adversely impacts the drainage flow or improves the existing situation. City staff has suggested the inclusion of a green roof on the building to reduce drainage impacts. The applicant is considering both the inclusion of solar voltaic systems on the roof and a green roof but no decision has yet been made.

Mr. Henninger explained that all utility service lines will be underground to the building. An existing overhead electrical line along the north side of the site was originally intended to be retained to serve the abutting property to the north. However, the plans have been revised to extend underground electrical and telecommunication lines to serve that property as well. This pole line will remain to provide temporary service during construction and will be removed at the conclusion of office building construction. Overhead utility lines along Theatre Street are being relocated by the applicant in Theatre Street and two poles along Storrs Street are being relocated as well.

Access to a loading dock serving the abutting property to the north is being retained through the understory parking garage. Fencing has been proposed to prevent access from the sidewalk along the north side of the office building. This would prevent pedestrians from walking off the loading dock.

He reported that as part of the companion subdivision, access easements and utility easements are being provided along the north property line, for underground utilities through the property, and to allow pedestrian access, service deliveries, and utility services to be maintained through the garage to the abutting property to the north. A common drain line and easement is proposed along the boundary between this lot and the proposed CATCH lot. The utility and drainage easements are being prepared as part of the companion subdivision as well.

He reported that the Architectural Design Review Committee reviewed the site and building plans a number of times and on October 13, 2009, had recommended approval of the site and building plans as revised.

City staff is working with the applicant to finalize design details for the proposed landscape planters, as well as lighting and parking meter locations and/or design. The City may wish to use this location as a pilot site to test out public acceptance of a parking meter kiosk for the five parking spaces in front of the building along South Main Street.

Mr. Henninger reported that the property is located in the Central Business Performance District. Parking is not required in this Zoning District. The applicant has indicated that the tenant for three floors of building will require 152 parking spaces. The applicant has an agreement to purchase the existing 24 car parking lot on Storrs Street owned by the City, and has agreed to lease between 80 and 150 parking spaces in the Capital Commons parking garage. The applicant is also proposing to construct up to 100 additional surface parking spaces on the remainder of the City property located west of Storrs Street and south of Theatre Street. Approval for a number of variances was obtained by the applicant from the Zoning Board of Adjustment on September 2, 2009 for this parking lot. A site plan application to the Planning Board has not yet been submitted.

He explained that this project, and the companion CATCH residential project, will have impacts on the availability of on-street parking in the area. Currently, on-street parking, especially metered parking on Storrs Street is underutilized in the area. The City will need to reconsider time limits, parking meter locations, and on-street parking space utilization.

He reported that an on-street parking study, as commissioned by the applicant, estimated the total parking demand at between 248 to 306 spaces depending on assumptions used. City staff has reviewed this demand analysis and finds it reasonable given the location of this development. The applicant proposes to lease, purchase and/or build up to 237 parking spaces. The report notes that the remaining 35 to 70 spaces would need to be provided for on street. The parking analysis indicates a current parking supply of 329 spaces in the primary study area with an occupancy rate of only 55%. The parking analysis concludes that sufficient on-street parking is available to meet the demands of the proposed development. The parking restrictions on use, whether short term or long term, and whether to extend the limits of downtown parking meters, are issues which the City Council will be addressing in the coming years.

He reported that major modifications are proposed for Theatre Street. The street will be narrowed, and the overhead utility pole line will be moved from the north side of the street to the south side of the street. Sidewalks will be retained on both sides of the street and widened on the south side. The road will be resurfaced, the sidewalks reconstructed and curbing reset. Landscaping along both sides of the street will be added. The sidewalk snow melting system along the south side of Theatre Street will be replaced in kind. A widened sidewalk is proposed along the South Main Street frontage with a bump out proposed at a relocated crosswalk across South Main Street. Included in the widened sidewalk area will be tree wells along the frontage of the development. On-street parallel parking will be retained along the South Main Street frontage. A sidewalk easement will be required for the expanded sidewalk along South Main Street.

Mr. Henninger explained that a traffic study for this project was completed by Vanasse Hangen Brustlin and was found to be acceptable by the City's Traffic Engineer. The project is not projected to adversely affect traffic capacity along either South Main Street

or Storrs Street. The study did note that as more development occurs in the Opportunity Corridor, left turns onto Storrs Street will experience significant delays during peak hours. He reported that the City's Traffic Engineer is completing a traffic model for North and South Main Street from the Storrs Street/North Main Street intersection on the north to the Storrs Street/South Main Street/Perley Street intersection to the south. The computerized model will show detailed traffic and pedestrian movements in real time. This model will be used to evaluate existing signal timing, evaluate the impacts of a three lane section on Main Street between Pleasant Street and Centre Street, and analyze design options for the North Main Street/Storrs Street intersection improvement project.

Ms. Meyer expressed an interest in seeing both the office building that is the subject of this public hearing and the related abutting residential building to see how they relate to each other. Ms. Hebert mentioned that staff had been informed that the brick on both buildings will be the same.

Ms. Meyer also suggested that the tree wells on South Main Street be doubled in size to provide better infiltration.

Steve Duprey was present as applicant with Dana Adams from Opechee Construction Management.

Mr. Duprey indicated that the same brick and materials will be used for both the office building and the abutting residential building.

Mr. Gross asked if any consideration had been given to a different location for the utilities to the site and Mr. Adams explained the various designs they considered and noted that the design was determined by Unitil and FairPoint.

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

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

Mr. Gross moved that the Planning Board grant Architectural Design Review approval for the site and buildings for a 91,500 square foot office building proposed by Duprey Acquisitions, LLC, at 45A-49 South Main Street, subject to revision to the satisfaction of the City Planner of the design and layout of the planters, street lighting, and parking meter locations along the South Main Street sidewalk and building frontage. Mr. Swope seconded. Motion carried.

Mr. Swope moved that the Planning Board grant conditional site plan approval for the site and a 91,500 square foot office building, proposed by Duprey Acquisitions, LLC, at 45A-49 South Main Street, 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 shall obtain approval of private utility plans from Unutil, Fairpoint Communications and National Grid.
3. 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) (if required by the NH DES)
4. Traffic impact fees shall be assessed for any non-residential construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 3, Transportation Facilities Impact Fee per Variable Unit.
 - a. Transportation Facilities - Retail (5,001 SF to 100,000 SF)
 - b. Transportation Facilities - General Office
(The Impact Fee Worksheet which provides for credits for existing site uses was provided to the Planning Board.)
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 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.
6. No certificate of occupancy for any building or use shall be issued until all public improvements have been substantially completed to the satisfaction of the City Engineer.
7. 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.

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. A deed of easement for an additional one foot of right-of-way along the north side of Theatre Street.
 - b. A deed of easement for an eight foot wide sidewalk easement along the South Main Street frontage.

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 companion subdivision creating this development parcel shall be recorded in the Merrimack County Registry of Deeds.
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 demolition plan and the construction phasing plan shall be approved by the City Engineer.

Mr. Gross seconded. Motion carried.

2. Application by the **Duprey Acquisitions, LLC, and the Concord Area Trust for Community Housing (CATCH) on behalf of Sanel Realty Company, Inc.**, for a site plan of property located at **49-53 Storrs Street and 7 Theatre Street. (#2009-35)**

Public Hearing

Ms. Hebert explained that the Concord Area Trust for Community Housing (CATCH) proposes to construct a 45-unit apartment building at the corner of Theatre Street and Storrs Street along with the construction of associated drainage, landscaping, and utility improvements. The development also includes improvements to Storrs Street and the Storrs Street/Theatre Street intersection as well as roadway and landscaping improvements within Railroad Street, which is a pie-shaped parcel of City-owned land on the west side of Storrs Street.

She reported that the Zoning Board of Adjustment granted variances pursuant to Article 28-4-5(e), Development Standards in Performance Districts, of the Zoning Ordinance, to allow for the establishment of residential dwelling units on the first floor of the building; and pursuant to Article 28-4-5(e), Maximum Floor Area Ratio, of the Zoning Ordinance, to permit the construction of a multi-family residential structure with a floor area ratio (FAR) of 2.85 where a maximum FAR of 2.5 is allowed in the Central Business Performance District (CBP).

She explained that the property is located in the Central Business Performance District. To allow for flexibility in the design of the site and to encourage redevelopment within the district, new construction is not required to provide off-street parking, off-street loading areas, or off-street loading and storage areas for refuse containers. The district also allows for 100% maximum lot coverage and does not have standards for building setbacks from the property line.

She reported that the applicant has not made specific provisions for parking for the tenants of the apartment building, and is not required by the City's zoning ordinance to do so. The new residents will utilize nearby on-street parking and may also have designated spaces within the proposed parking lot off of Storrs Street and may choose to lease space within the parking garage.

She reported that the applicant has indicated his intention to submit a separate site plan application for the construction of a parking lot containing approximately 100 parking spaces. The parking lot would be located on City-owned property on the west side of Storrs Street. The parking spaces would be intended for use by the proposed office building and possibly tenants of the apartment building.

Ms. Hebert explained that the project lies within the Impact Fee Redevelopment Initiative Zone within the Opportunity Corridor as defined by Article 29.2-1-3(g) of the Public Capital Facilities Impact Fees Ordinance, and is eligible for incentives for the redevelopment of blighted, underutilized, abandoned, or contaminated buildings. The multi-family project is considered a priority land use and is also taxable property, which qualifies the development for a 30% incentive reduction of the traffic, school, and recreation impact fees. A credit will also be applied to reduce the impact fee, based on the existing use of the buildings to be removed on the site.

Overhead utility lines along Theatre Street are being relocated by the applicant in Theatre Street and two poles along Storrs Street are also being moved.

She reported that the overall amount of impervious surface has been reduced on the property, and the rate of runoff is unchanged, however, the applicant has submitted a Drainage Report analyzing the capacity of the city's existing drainage system along Storrs Street and Theatre Street. The Engineering Division has reviewed this report and recommended that the storm system along Theatre Street be upgraded to better control the surface runoff at the Theatre Street/Storrs Street intersection. The improvements may include replacing drainage structures, increasing the pipe sizes, and installing double grate catch basins where necessary. There is a common storm drain line between the two proposed buildings; the companion subdivision establishes the necessary drainage easement for this infrastructure.

Ms. Hebert reported that this project, along with the companion site plan application for the office building, will have impacts on the availability of on-street parking. Currently, on-street parking, especially metered parking on Storrs Street is underutilized. The office building will utilize approximately 100 parking spaces within the proposed

parking area off Storrs Street and will also lease between 80 and 150 spaces from the City within the parking garage.

She reported that the applicant has prepared an on-street parking study of South Main Street, Storrs Street, and South State Street, along with the connecting streets, east to west from Perley to Hills Avenue. The study also evaluated implementing one way pairs between South State Street and South Main Street with the intent of improving circulation and providing additional on-street parking. The parking study estimated that the total parking demand will be between 248 to 306 spaces depending on the assumptions used. This number includes the parking demand for both the office and apartment building. The report also noted that approximately 35 to 70 spaces will need to be provided on-street. The parking analysis indicated a current parking supply of 329 spaces in the primary study area, with an occupancy rate of only 55%, thus indicating that there is sufficient on-street parking available to meet the projected demand. The City will need to reconsider time limits, parking meters and on-street utilization with in the vicinity of this block.

A traffic study, analyzing the impacts of both the office building and 45-unit apartment building, has been reviewed by the City's traffic engineer. According to the study, the development will not adversely affect the traffic along either Main Street or Storrs Street. The study did note that, as more development occurs in the Opportunity Corridor, left turns onto Storrs Street will experience significant delays during peak hours.

She reported that the off-site improvements include painting two additional crosswalks at the Storrs Street/Theatre Street intersection, reconstructing the sidewalk along the west side of Storrs Street along the project parcel frontage, closing two curb cuts along Storrs Street (which needs to be coordinated with the adjacent property owners), striping nine additional parallel parking spaces on Storrs Street, and constructing bump outs at the northwestern and southwestern corners of the Storrs Street/Theatre Street intersection. The proposed off-site improvements along the west side of Storrs Street need to include the reconstruction of the island within the Railroad Street parcel. The reconstruction should include a five foot wide concrete sidewalk with vertical granite curbing. The driveway across from Theatre Street, at the Theatre Street/Storrs Street intersection, should be narrowed to 40 feet wide, and the off-site improvements along the east side of Storrs Street should be modified to terminate at the property line. The construction of the sidewalk along Theatre Street encroaches onto the site, and the applicant will be required to convey a one foot wide strip of land as right-of-way.

Ms. Hebert reported that the Architectural Design Review Committee reviewed the site and building plans and recommended approval with the suggestion that the TPO roof be a beige color rather than white.

She reported that a number of landscape improvements are located within the City-owned parcel known as Railroad Street. The construction and maintenance of these improvements will require a license from City Council. The landscape improvements include the installation of four new street trees along Storrs Street, the creation of a

garden with shrub plantings in front of the building to provide privacy to the first floor tenants, the construction of a handicap ramp to access the courtyard, installation of steps from the sidewalk to the courtyard, the installation of a granite bench and tree well at the corner, pervious pavement within the courtyard, roof ballast drip edge around the perimeter of the building, and concrete block retaining walls at the northern and southern ends of the building, and a black ornamental fence along the top of the wall.

Mr. Hicks asked what consideration had been given to on-street parking for the residents during those times when there are events at the Capital Center for the Arts. Ms. Hebert responded that on-street parking is very underutilized currently but she deferred to the applicant for a full answer to the question.

Ms. Meyer questioned the reason for the use of roof ballast in the open space on the south side of the parcel.

Mike Reed, Director of Real Estate and Asset Management for CATCH, Doug Proctor from Warrenstreet Architects, Nick Sanders from Vanasse Hangen Brustlin, Dana Adams from Opechee Construction Management, and Rosemary Heard, President of CATCH, were all present to answer questions from the Board.

Mr. Reed answered the question regarding parking by noting that they are planning to submit a site plan application next month for a parking lot to the south of this parcel on Storrs Street.

Mr. Reed also explained that it is their intention to not encourage sitting in the open space area because there are residences on the ground floor level and they are trying to preserve some privacy for those residents.

Ms. Meyer suggested that the applicants consider a vegetative ground cover instead of bark mulch or roof ballast in the open space. She also suggested replacing the granite bench with some benches with backs conducive to sitting.

In answer to the question by Mr. Hicks, Mr. Sanders explained that the parking study did not include Capital Center for the Arts in its considerations. They looked at parking supply at the peak periods during the week but they do not anticipate the CCA events will provide a parking issue in that area.

Mr. Duprey described the potential parking lot application. He explained that there is a 24-space parking lot nearby which will probably become the parking area for the residents of the apartment building. The proposed parking lot probably will provide spaces for the CCA events.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 8:14 PM.

Mr. Gross moved that the Planning Board grant Architectural Design Review approval for the site plan, landscaping plans, sign, and building design for the Major Site Plan Application of Duprey Acquisitions, LLC and Concord Area Trust for Community Housing as submitted by Opechee Construction Corporation and Warrenstreet Architects with the condition that the roof be a beige color rather than white.

Ms. Meyer moved that a further condition be added to require living ground cover instead of roof ballast in the large side open spaces and to include a recommendation that they consider incorporating a bicycle rack on the site and at least two backed benches instead of granite bench. Mr. Gross agreed to the additional conditions.

Mr. Swope seconded. Motion carried.

Mr. Swope moved that the Planning Board grant conditional Site Plan approval for the Site Plan Application of Duprey Acquisitions, LLC and Concord Area Trust for Community Housing as submitted by Opechee Construction Corporation and Warrenstreet Architects 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 all private and public improvements shall be obtained from the Engineering and Planning Divisions. The applicant shall revise the plans to address minor corrections and omissions as noted by Staff. 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 form and content acceptable to the City Engineer.
4. No certificate of occupancy for any building or use shall be issued until all public and private improvements have been substantially completed to the satisfaction of the City Engineer.
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 permits shall be obtained and copies provided to the Planning Division:

- a. NH Department of Environmental Services Alteration of Terrain Permit
(If determined to be necessary by the NHDES)
6. 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 Communications, and National Grid.
7. Traffic, recreation and school impact fees shall be assessed for any construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 1, School Facilities Impact Fee per variable unit; and Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.
 - a. School Facilities – Multi-unit/ Apartment (*45-units*)
 - b. Recreational Facilities – Multi-unit/ Apartment (*45-units*)
 - c. Transportation Facilities - Multi-unit/ Apartment (*45-units*)

Special Conditions:

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. The conveyance of a right-of-way easement, one-foot wide, along the northern side of Theatre Street
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), a license from the City Council shall be obtained for the improvements located within Railroad Street. This approval will stand as the Planning Board's favorable recommendation to the City Council in regard to the license to construct and maintain the proposed improvements within Railroad Street.
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 companion subdivision creating this development parcel shall be recorded in the Merrimack County Registry of Deeds.

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 demolition plan and the construction phasing plan shall be approved by the City Engineer.
12. The proposed off-site improvements along the west side of Storrs Street shall include the reconstruction of the island within the Railroad Street parcel. The reconstruction shall include a five-foot wide concrete sidewalk with vertical granite curbing.
13. The driveway across from Theatre Street, at the Theatre Street/Storrs Street intersection, shall be narrowed to 40 feet in width, and the off-site improvements along the east side of Storrs Street shall be modified to terminate at the property line.

Ms. Foss seconded. Motion carried.

3. Application by **St. Paul's School** for a site plan of property located on **Dunbarton Road. (#2009-29)**

Public Hearing

Mr. Henninger explained this proposal to demolish a 24,802 square foot classroom building and to construct a new 77,596 square foot Math and Science building. The proposed development would include the removal of 46 parking spaces and the construction of 48 new parking spaces. The project includes the relocation of a part of Dunbarton Road, significant drainage improvements, and shifting of an existing recreation field located east of Dunbarton Road.

He reported that Dunbarton Road is now a private street. An agreement between the City and St. Paul's School retains the right of passage for both pedestrians and bicyclists along both Dunbarton Road and the discontinued portion of Silk Farm Road, as well as the right of passage through the campus from Pleasant Street to Clinton Street for emergency vehicle access. An easement was to have been provided at the time of the discontinuance of Dunbarton Road under the agreement, but a draft easement document has just now been received and is under review by City staff. A 900-foot section of Dunbarton Road will be relocated easterly to allow for the construction of the new building and parking. Fifteen parallel parking spaces are to be constructed along the east side of Dunbarton Road along with a new sidewalk in the relocated section.

He reported that the current section of Dunbarton Road is 26 feet wide with no curbing and sidewalk. The proposed new section will have a travel way of 24 feet with curbing and bays along the east side for parking. The City Engineering Division has recommended that the travel way be retained at 26 feet in width, while the applicant proposes to reduce the travel way to 24 feet which is the minimum width for a common private drive. The applicant has requested that the Planning Board approve the 24-foot travel way width versus the 26-foot width recommended by the City Engineer. The

applicant has not yet provided cross sections and a profile for the reconstructed Dunbarton Road, and has asked to defer this requirement until a decision is made by the Board relative to the width of Dunbarton Road.

The Silk Farm/Dunbarton Road connection between Pleasant Street and Clinton Street used to carry 2,300 ADT as measured on Silk Farm Road north of Clinton Street prior to the road being closed and gated. The City has not done a traffic count on the discontinued Dunbarton Road since the opening of Langley Parkway.

He reported that the applicant has obtained a variance from the Zoning Board of Adjustment to allow the construction of a building with portions of the structure exceeding 45 feet in height.

The applicant has advised that St. Paul School's enrollment averages 520 students per year and 305 full time employees. The enrollment and full time employees fluctuate slightly for any given year, but have maintained the averages stated for many years. There are no plans for the school to substantially increase either the student enrollment or the number of full time employees.

Mr. Henninger reported that the project involves the reconstruction of eleven parking spaces on a minor campus street, the reconstruction of an existing parking lot between the new building and Dunbarton Road to provide 22 spaces, and the construction of 15 new parallel parking spaces along the east side of Dunbarton Road. The redevelopment results in a net increase of two parking spaces.

He explained that the applicant proposes to construct the new building around three sides of the existing building. The old building will remain in service until the new building is complete and then will be demolished and a courtyard will be constructed in its place. A demolition and construction staging plan will be needed for this plan to allow for safe access to the existing and new buildings during the construction process.

Utility reconstruction to service the new building is underway. Overhead electric and telecommunication utilities in Dunbarton Road will need to be relocated, and an existing gas line and sewer force main may have to be reconstructed. The applicant has shown the relocated overhead electrical and telecommunication lines along Dunbarton Road and has advised that the existing sewer force main and gas line are deep enough not to be disturbed by the construction.

An application for a Conditional Use Permit has been submitted for the disturbance of wetland buffers for the drainage improvements, and for encroachment into a portion of the buffer for the relocated recreational field being shifted east towards Miller's Brook. The applicant proposes to disturb 4,688 square feet of wetland buffer for a drainage outfall and to accommodate the shift of the existing recreational field easterly. A wetland impact of 255 square feet is required to reconstruct the drainage outlet swale at this location. An approximately 1400 square foot area of buffer is being proposed for a portion of the settlement pond for the wet drainage retention area. Approximately 4,000

square feet of disturbance is proposed for the construction of an outfall pipe and outlet for the proposed wetland detention system. An approximately 600 square foot area of wetland disturbance is proposed for the outfall. A wetland permit will be required for this disturbance.

He reported that an underground subsurface detention system is proposed on the east side of Dunbarton Road, north of the existing recreational field. A wet extended detention basin is proposed south of the recreational field between two existing recreational fields southeast of Dunbarton Road. The construction of the drainage facilities and the relocation easterly of the recreational field will result in substantial clearing. Approximately 1.6 acres of forest is proposed to be cleared.

Additional storm water runoff into the Turkey River Basin is a concern, given the flooding that has occurred in recent years. The total amount of runoff from the subject area is proposed to increase by a little less than 0.2 acre feet for the ten year design storm. The wet extended detention basin and the underground infiltration basin appear to address this concern. At a minimum, this development should manage both the rate and the amount of runoff to existing levels. Any additional runoff will impact a small watershed, which is already subject to significant flooding during storm events. The Engineering Division will complete its review of the proposed drainage plan once the plan has been updated with as-built information.

Mr. Henninger reported that the Architectural Design Review Committee reviewed the site and building plans and recommended approval as submitted.

He reported that the following waiver requests from Site Plan Review Regulations have been made by the applicant:

1. A waiver to Section 7.03(B) to show the entire parcel with property line bearings and dimensions. The area of the development (9.07 acres) is less than 10% of the two parcels which are involved in this development.
2. A waiver to Section 7.03(B) to show building setbacks and dimensions. The nearest property boundary and/or public right-of-way is more than 700 feet from the first site disturbance and well beyond the limits of a site plan drawn at a reasonable scale.
3. The applicant has requested a waiver to not show solid waste facilities. The school custodial staff collects the trash and recyclables from each building and transports it to their central compactor and roll-off facility at the White Farm complex at the intersection of Dunbarton Road and Silk Farm Road. A waiver is not required because solid waste facilities are not being constructed for this or any other individual building.
4. A waiver to Section 7.04(B) was requested not to show profiles of the water and sewer system. City staff did not concur with this request, and the applicant

subsequently provided profiles of the sanitary sewer system. Therefore, this waiver is no longer necessary.

5. The applicant requested a waiver to Section 7.04(B) not to provide tabulations. The applicant has subsequently provided tabulations for the 9.07 acre development area. To provide tabulations for the entire campus is not appropriate nor has it been required for any other project at the school. This waiver request was unnecessary.

He explained that the Planning Board has rarely approved a Conditional Use Permit for a wetland buffer disturbance for a storm water drainage basin. The Board did approve a portion of a detention basin for the Whispering Heights project within a portion of a wetland buffer because the area proposed was already cleared and the location was the only feasible location for the drainage outfall due to the topography of the site. The Conservation Commission reviewed this application and found the proposed disturbances to the wetland buffers acceptable for both the drainage improvements and recreational field. The Commission noted that the affected wetland buffer is from the westerly tip of an arm of a wetland, which extends easterly from the main wetland areas along Miller's Brook.

He explained that the Planning Board has rarely approved a Conditional Use Permit for a wetland buffer disturbance for a recreational field. The Board did approve a partial disturbance at Merrill Park for a proposed ball field by the Northeast Little League in an area of the park that was an open field. The Conservation Commission reviewed this application at their October 14, 2009 meeting. The Commission found the proposed disturbances to the wetland buffers acceptable for wet detention basin, and noted that the affected wetland buffer is from the westerly tip of an arm of a wetland, which extends easterly from the main wetland areas along Miller's Brook.

The Conservation Commission reported that the outfall shown for the wet detention area appears to be excessive and could be reduced in length to eliminate a significant amount of wetland and wetland buffer disturbances.

Ms. McClure expressed concern that by curbing and narrowing Dunbarton Road, a greater hazard would be created for the bicyclists and pedestrians using it. She noted that when Dunbarton Road was closed at Silk Farm Road and returned to St. Paul's School, there was an agreement in place that they would continue pedestrian and bicycle access.

Mr. Roberge was recognized on behalf of the City Engineering Division and explained the factors that staff considered in making its recommendation for a 26-foot wide road. He reported that they recognized the traffic calming benefits of this proposal but it is still serving as the spine of the campus, being used by bicyclists and pedestrians as well as vehicles. The multiple uses out there along with the introduction of on-street parking on Dunbarton Road concerned the Engineering staff, and they recommended keeping the 26-foot width as it would be consistent with the other sections of Dunbarton Road and access roads in the area.

Ms. McClure asked if they had discussed with the applicant a 28-foot width or the possibility of adding a bicycle lane. Mr. Roberge responded that Engineering knew that the applicants were hoping to reduce the requirement so they didn't try to increase it.

Ms. Foss asked if it would be possible to require sloped granite curbing instead of vertical curbing in order to continue to provide access for wildlife.

Theodore Kupper from Provan and Lorber was present on behalf of the applicant and explained that the location of the proposed building around the existing Payson building as well as the construction period that would be necessary drove the decision to move Dunbarton Road. He explained there is a master plan for the campus that was done by a professional firm from Chicago. The purpose of closing Dunbarton Road after the opening of Langley Parkway was to return the road to pedestrians. The master plan called for reducing Dunbarton Road to 24-feet with the idea that the roadway would be reconstructed at the narrower width for this portion and eventually entirely reduced in width in order to return the campus to pedestrian use rather than the recently discontinued vehicular use. When the road became private, a gate was placed at the end of Dunbarton Road at Silk Farm Road. As a result, there should be no public use of the road. It is not open for through traffic. As part of this project, St. Paul's School is undertaking a considerable investment in drainage systems because of new DES requirements. Increasing the roadway width would require a redesign of those systems. Part of their master plan includes vertical curbing on the roadway that is consistent with other curbing on the roads around the rest of the campus. It is their intent to provide pedestrian access essentially from Hopkinton Road to Dunbarton Road. As far as bicyclists, the amount of traffic now travelling through the campus is greatly reduced and speed limits have been reduced to 15 MPH. Bicyclists will travel to the campus from either Hopkinton Road or Silk Farm and Clinton Street, which are very busy roads, and they will be much safer on Dunbarton Road.

Ms. Foss felt Dunbarton Road is basically serving the athletic facilities and the maintenance facilities and as such it would have to accommodate larger vehicles. The function of Dunbarton Road within the campus is unique and needs to be taken into consideration. She would really like to see sloped curbing at least on the east side, given the undeveloped land and wetland areas to the east. Mr. Kupper responded that during athletic events it has been the observation of St. Paul's School that parents tend to pull off the road and onto the grass to park to watch the athletic events. They would like to use vertical curbing in order to reduce that habit.

Ms. McClure asked if the 26-foot wide road would be acceptable to St. Paul's School and Mr. Kupper responded that they feel that they have already compromised by going to a 24-foot wide road from the original plan for a 22-foot wide road. They felt that by participating in the Langley Parkway project they would have a little more ability to accomplish what they want.

Bruce Woods from KLM Architects described the building elevations. He explained materials will include red-orange brick, Indiana limestone, and zinc coated copper, the same as the schoolhouse building.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 9:18 PM.

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

Mr. Swope moved that the Planning Board grant a waiver to Section 7.03(B) of the Site Plan Regulations to not show the entire parcels with property line bearings and dimensions. The area of the development (9.07 acres) is less than 10 % of the two parcels which are involved in this development. Mr. Swope also moved that the Planning Board grant a waiver to Section 7.03(B) of the Site Plan Regulations to not show building setback and dimensions. The nearest property boundary and/or public right of way is more than 700 feet from the first site disturbance well beyond the limits of a site plan drawn at a reasonable scale. Mr. Gross seconded both motions. Both motions carried.

Mr. Swope moved that the Planning Board grant Architectural Design Review approval for the site plan, landscaping plans, sign, and building design for the Major Site Plan Application of St. Paul's School as submitted by Provan and Lorber. Ms. McClure seconded. Motion carried.

Ms. McClure moved that the Planning Board support the recommendation of the Engineering Division that Dunbarton Road should be reconstructed at a 26-foot wide pavement width through the limits of the project. She noted that it is now 26 feet wide, and a lot of the bicycles that now go through there go at 15 MPH. For safety reasons, she felt it was important to maintain 26 feet.

The motion died for a lack of a second.

Mr. Swope moved that the Planning Board allow Dunbarton Road to be reconstructed at a 24-foot wide pavement width through the limits of the project as requested. He noted that this is basically an internal street for the campus. If it was still a public street, he would agree with the need for a wider road. He thought the request was reasonable under the circumstances and did not feel it would be a safety problem. Mr. Gross seconded. Motion carried, 8-2, with Ms. McClure voting against.

Mr. Swope moved that the Planning Board table action on the site plan application and the Conditional Use Permit application to allow the applicant to complete the design details associated with Dunbarton Road, for the submittal of as-built information for on-site utilities, for the Engineering Division to complete its review of the construction plans, and for the applicant to address the Conservation Commission's concern with the wetland detention outfall. Ms. Dolcino seconded. Motion carried.

Architectural Design Review

4. 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.

- **Cowan and Zellers Real Estate** at 30 South Main Street (1 affixed & 1 freestanding sign)
- **Game Stop in Fort Eddy Plaza** at 40 Fort Eddy Road (1 affixed sign)
- **Laconia Savings Bank ATM** at 27 North State Street (1 hanging sign)
- **Pitchfork Records** at 12 South Main Street (2 affixed and 1 hanging sign)
- **Smokestack Center** at 254 North State Street (1 affixed sign)
- **UnFranchised Auto Care** at 89 South Main Street (1 freestanding sign)
- **Main Street Concord Inc. in cooperation with the City of Concord** - new Downtown Banners

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

- **Cowan and Zellers Real Estate** at 30 South Main Street (1 affixed & 1 freestanding sign)

Mr. Henninger explained that these are replacement signs.

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

Glenn Schadlick from Ne-Op-Co Signs was present on behalf of the applicant to answer questions from the Board.

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

- **Game Stop in Fort Eddy Plaza** at 40 Fort Eddy Road (1 affixed sign)

Mr. Henninger explained that this is a new sign in a style consistent with the existing signage at the Fort Eddy Plaza.

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

There was no one present who wished to speak on behalf of the applicant.

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

- **Laconia Savings Bank ATM** at 27 North State Street (1 hanging sign)

Mr. Henninger explained that Laconia Savings Bank had moved from its former location at 27 North State Street with the exception of an ATM machine in the lobby of the building. The proposed sign would be placed at the entrance to the lobby.

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

There was no one present who wished to speak on behalf of the applicant.

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

- **Pitchfork Records** at 12 South Main Street (2 affixed and 1 hanging sign)

Mr. Henninger explained that Pitchfork Records had received approval some time ago for the design and placement of three signs at their former location. They have since moved and wish to use the same signs at their new location.

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

Glenn Schadlick from Ne-Op-Co Signs was present on behalf of the applicant to answer questions from the Board.

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

- **Smokestack Center** at 254 North State Street (1 affixed sign)

Mr. Henninger explained that the proposed sign will be placed on a tower facing North State Street. This building is set well back behind a row of residences along North State Street and would not easily be seen from North State Street. The sign will be backlit.

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

There was no one present who wished to speak on behalf of the applicant.

Ms. Meyer noted that this is backlit and there are residential uses abutting the property. She asked if this would qualify for a condition that lighting be turned off after hours.

Mr. Gross moved to table action on this application to request information from the applicant relative to times of use in the building in order to support a condition of limiting the hours of lighting. Ms. Meyer seconded. Motion carried.

- **UnFranchised Auto Care** at 89 South Main Street (1 freestanding sign)

Mr. Henninger explained that the existing sign is 26 feet tall so the applicant proposes to reduce the height of the poles to 8- 9 feet in order to comply with the Zoning Ordinance. He reported that Design Review Committee members felt there was too much text on the sign, the poles as proposed do not appear substantial enough for the size of the sign, and it would be nice to have some base for the poles and signs.

He reported that the Design Review Committee found the proposed sign to be appropriate for the location and use, and recommended approval, subject to placement of evergreen landscaping at the base of the sign and the provision of a more detailed site plan to ensure that the proposed sign did not encroach into the right-of-way.

Mr. Henninger reported that the City's surveyor had visited the site to confirm that there is no encroachment into the City's right-of-way.

There was no one present who wished to speak on behalf of the applicant.

Ms. Meyer moved approval, subject to placement of evergreen landscaping at the base of the sign, and an additional condition that the telephone number be removed from the sign. Ms. Foss seconded and suggested increasing the size of the web site address to replace the telephone number since that would be more easily remembered.

Mr. Gross asked for a clarification of the concern regarding the telephone number and Ms. McClure explained that she was under the impression that the City's view was that signs were intended to be directional but not advertising.

Motion carried.

- **Main Street Concord Inc. in cooperation with the City of Concord - new Downtown Banners**

Mr. Henninger explained that there will be up to 42 signs located on street light poles between Main Street and State Street as well as on Storrs Street and as far south as West Street. The banners have a 3-5 year life expectancy. He explained that there will be a pennant attached with grommets to the bottom of the banners for sponsors. The pennants will be coordinated in color with the banners and will not include sponsor logos, only lettering. Only the 1½ foot pennant at the bottom will move. The main panel will be stationary.

He reported that the Design Review Committee recommended approval as submitted.

Matt Walsh, the City's Assistant for Special Projects and a member of the Board of Main Street Concord Inc., and Jessica Eshleman from Main Street Concord Inc., were present and explained that Main Street Concord was trying to improve the quality of the banners downtown. The thought behind this design was to call attention to the ability to dine, shop, play and live in Concord.

Ms. Meyer felt the banners were a little cluttered and she did not know that they would do what Main Street Concord Inc. wanted them to do.

Ms. Eshleman explained that these banners will be up for about nine months of the year. They hope eventually to switch them out a number of times a year seasonally but that depends on funding.

Tom Timpone of Orchard Street was recognized and reported that he liked the banners.

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

5. Application by OSI, on behalf of Demoulas Super Markets Inc., for approval of modifications to the previously approved exterior design of the Outback Steakhouse at 22 Loudon Road. (#2009-38)

Public Hearing

Mr. Henninger introduced this proposal for an updated color scheme for the existing restaurant building. He noted that the original elevations were approved by the Planning Board and the project was located in the Gateway Performance District which requires design review.

He reported that the Design Review Committee recommended approval as submitted.

Mark Hartley, manager of the restaurant, was present on behalf of the applicant.

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

REGULAR MEETING

Minutes

Ms. McClure moved approval of the minutes of the meeting of September 16, 2009 as submitted and Mr. Kenison seconded. Motion carried.

7. Further consideration of an application for approval of a development on which a public hearing has previously been held:
 - a. Application by 26 Centre Street LLC for approval of a site plan of property located at 26 & 26 ½ Centre Street in the Civic Performance (CVP) District. 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. (#2009-18)

Mr. Woodward explained this proposal to renovate an existing mixed use building at 26 Centre Street to professional office space. The property is located to the east of the Green Street/Centre Street intersection. There is an existing residential structure at 26 ½ Centre Street which will be removed along with an adjacent garage in order to facilitate the construction of a parking area to serve the renovated office building. The parking area will include 17 spaces with one-way circulation through the property, both entering and exiting on Centre Street with the exit movement restricted to right turn out movements only. While the property includes rights to travel on Cedar Court, the narrowness of that drive has caused the applicant to focus on access and egress to and

from Centre Street. The connection from the premises to Cedar Court will be gated to preserve the landowner's right to utilize Cedar Court.

He reported that the Planning Board had declared this application to be complete on April 15, 2009, opened a public hearing and then recessed the hearing to allow for a corrective notice to be given to the abutter at 28 Centre Street as well as notice to be provided to all property owners with rights of passage over Cedar Court.

He reported that an application has subsequently been submitted for a Conditional Use Permit pursuant to Section 28-7-11(f), Driveway Separation Alternatives, of the City's Zoning Ordinance in recognition of the collector street status of Centre Street and the higher standards for driveway separation for collector streets. At the regular meeting of the Planning Board on September 16, 2009, the Conditional Use Permit application was determined complete and the public hearing was opened along with the recessed hearing on the site plan application. After hearing testimony from the applicant and the abutters, the Board voted to table action and to strongly recommend that the applicant and abutters engage in serious discussions relative to mutual concerns of access and drainage.

He reported that the applicant has made a proposal to the abutter at 28 Centre Street to provide either an easement or an outright gift of land on a 20' x 40' area immediately to the rear of the parcel at 28 Centre Street to allow the vehicles parked at that parcel to turn so that they may exit the site driving forward rather than backing out as might otherwise have occurred under the site plan under consideration at the public hearing. A plan detail has been provided of the proposal and City staff has taken photographs of markings made in the field to show the existing property lines together with the proposed easement/gift area.

Mr. Woodward reported that the applicant proposes to use pervious pavement in the parking lot but not the entry and exist drives to control stormwater runoff. The snow storage area is designed with a bio-retention swale.

He reported that the applicant proposes to convert the second story of the existing 1,099 square foot building to professional office use. This change of use is eligible for the assessment of an impact fee. However, the applicant receives a credit for the removal of the single family dwelling at 26 1/2 Centre Street. The credit for the residential dwelling exceeds the impact fee for the proposed office conversion; therefore no impact fee will be charged.

The exterior renovation of the building includes the replacement of the roof with asphalt shingles, the replacement of the windows and doors, the painting of the existing exterior siding; and construction of a handicapped access ramp. The details of these changes in terms of colors and materials have not been submitted or reviewed by the Design Review Committee. The Committee has reviewed an earlier site plan but has not yet reviewed the current plan. Sign applications also have not been submitted and will be reviewed by the Design Review Committee and the Planning Board at a later date.

Mr. Woodward explained that a Conditional Use Permit application has been filed to allow for two driveways where only one would be permitted on a lot with less than 350 feet of frontage on a collector street. The CUP application also requests permission to have less than a 200 foot separation between the driveways and the nearest street intersections, and less than a 200 foot separation from driveways on the same lot and on adjacent parcels. The two proposed site driveways are a one-way pair, with the existing driveway to the east of the building at 26 Centre Street to be used as the entry drive which shares a curb cut with a neighboring driveway to the parking area associated with an apartment building at 65-69 North State Street. The exit drive is a proposed new curb cut to the west of the building at 26 Centre Street, and it will be about seven feet from the edge of the neighboring driveway at 28 Centre Street which contains two apartments. The exit drive will be limited to right turns out.

Terry Schnare, owner of the property at 26 Centre Street, was present to answer questions from the Board and explained they had tried a number of different options and worked with a number of abutters to try to find a better solution to parking and access for their site. After negotiations during the last thirty days, they have not been able to come to agreement for shared access with 28 Centre Street. As a result, they have come up with the proposal before the Board this evening. It is a tight situation for the abutter so they propose vegetation along the property line for a distance of about 60-70 feet. This would provide clear delineation of the boundary line but still allow for some ability for the abutter's tenants to encroach on their driveway if they need to.

Mr. Gross had questions about the number of proposed parking spaces. Mr. Schnare responded that they now propose 15 parking spaces where 12 are required. In answer to a further question by Mr. Gross, Mr. Schnare indicated they do not plan to rent the extra spaces to outside users.

Attorney Peter McGrath was also present on behalf of the applicant to answer questions by the Board, as was Tim Golde from Golde Planning & Design, Inc.

Mr. McGrath reported that the abutter to the east of the parcel had this evening agreed to share in the access and egress plan for their properties.

Ms. Meyer noted that a street tree would have to be removed for the new curb cut and asked if that tree would be replaced. Mr. McGrath responded that they would be happy to replace it nearby.

Mr. McGrath explained that the plan now shows no fence between 26 and 28 Centre Street so there will not be any barrier. Instead there will be perennial plants to define the property line. There was a desire to delineate the boundary line and also to maintain the ability to cross over if necessary. There will be clear definition of two separate driveways. He reported that the abutter does not want anything like sloped curbing on her side of the property line.

Marian Sagona, owner of 28 Centre Street, reported that tonight was the first time she learned that the conveyance for turnaround to the rear of her property was going to be

an easement. She had always believed it would be a grant. She presented photos showing existing conditions at her property. If there is any impediment along the driveway, access and egress for her property will not work. She asked for access to some of the five-foot grass strip on the abutting property to allow her tenants a little wider access. She feels there are still a lot of questions that have not been answered so she asked the Board to table action this evening. There are too many things up in the air and she would like to see a document with everything laid out. Her tenants have driven over the line for a number of years. She also asked that the Planning Board condition any approval on turning off lights in the parking lot at night. She also mentioned that nine cars use the corner lot and three of them exit on North State Street. That is too many cars to exit next to her property. She asked that the Planning Board not grant this at this time.

Mr. Gross asked Ms. Sagona why she was resistant to negotiating with the applicants to create a better access/egress if she was concerned about her tenants not having enough room to maneuver. She responded that she did not know the new neighbors or their engineers and did not know how they would operate and whether she could trust them. She is self-contained and self-reliant at this time and does not like relying on people she does not know. She does not want to be involved with strangers.

Mr. Kenison noted that in order to establish that Ms. Sagona has the right to use the abutting property, she would need to litigate. If the litigation did not go in her favor, he asked how she would plan to provide access.

Mr. Gross noted that two driveways going out in parallel may harm the public and it is the Board's role to protect the common interest. What he thinks is in the public interest is that there should be a single driveway at this point which would reduce the friction between the two driveways. He is concerned that the solution that has been offered is now not enough to satisfy Ms. Sagona because she feels the driveway is too tight. He is not in favor of forcing the applicants to provide additional property to continue the second access.

Mr. Swope noted that right now there is a two-way driveway to the east. The proposal is to make it one way and construct the exit on the other side of the building. He felt that is in the best interest of everyone. He does not feel it is right to hold the property owner hostage to giving away land in order to use his land. There is a public interest to be served in separating the ingress and egress for the property at 26 Centre Street.

Mr. McGrath indicated they would be agreeable to allowing use of an additional one-foot easement to facilitate her access. This plan is a 100% improvement for the area. They are also agreeable to deeding the 20' x 40' rectangle to provide a turnaround for the abutter's tenant to allow four fully regulated parking spaces at the rear of her property.

Mr. Schnare explained they are trying to do what is best by alleviating the problem for the abutter. He would like to come to an agreement with the abutter.

Ms. Sagona indicated she would be willing to go outside her comfort zone and seek the opinion of professionals on her behalf relative to the effects of a common driveway on her property.

The Chair recognized Attorney Diane Puckhaber who spoke in support of Ms. Sagona and indicated that the only way to close this once and for all is to have an agreement. It was only this evening that they heard a proposal that was acceptable and the only problem is reducing it to a document on which everyone can agree. They have worked very hard to get an agreement and she thinks that what they have on the table now may work. She feels as though in principle there is an agreement.

Mr. Gross moved to further table action until next month with the strong suggestion that the Board expects a fully drafted agreement that is ready for Planning Board approval and if that is not the case, the Board will need to act on what is on the table. Mr. Swope seconded and indicated that he felt that the applicant had gone way beyond what should have been reasonably expected of him. Motion carried.

(Ms. McClure left the meeting at 11:16 PM.)

8. **Request by Parmenter Road Development, LLC on behalf of Judith & Emmanuel T. Brochu, Jr. for either a waiver to the Subdivision Regulations to allow for a retroactive extension of the period of validity of the expired conditional final approval of a major subdivision at 8 Parmenter Road, or multiple waivers of the Subdivision Regulations to allow for a new major subdivision approval process that will occur at one meeting. (#2008-01)**

Mr. Woodward explained that Attorney Richard Uchida has submitted a request on behalf of Concord Housing Authority for the Planning Board to consider either granting a waiver of the Subdivision Regulations to allow retroactive extension of the period of validity of the expired conditional approval, or a new approval process with the granting of waivers of the Subdivision Regulations for that to occur at one meeting.

He explained that the Planning Board granted conditional final approval for the subdivision of the property at 8 Parmenter Road on September 24, 2008. A major site plan gained approval on May 21, 2008 for this property. Section 7.03(5)(i)(iii) of the Subdivision Regulations requires that the conditions be fulfilled and the plat recorded within one year of the date of the Board's action or the plat will become null and void. The applicant may approach the Board prior to the expiration of the plat and seek an extension of the approval. In this case, the applicant allowed the approval to expire and has now come forward with two alternative requests. The first is to seek a waiver to allow for a retroactive extension of the conditional approval and the second to initiate a new approval process but with requests for waivers to the Subdivision Regulations so that the typical three meeting process will be compressed into a one meeting process.

He explained that the conditional approval of the major site plan remains in full force but the related major subdivision application is critical to the provision of the access, frontage, and utility services for the planned unit development. The major subdivision

created three lots, one for the PUD and two non-buildable lots for drainage and open space purposes. An extension of Parmenter Road was included to establish frontage for the development lot, and the existing Parmenter Road was to be substantially upgraded to facilitate access to the site. A new road was designed to intersect with Parmenter Road to provide for connectivity as adjacent properties are developed in the future. Municipal water and sewer as well as non-municipal utilities were to be upgraded and extended in Parmenter Road and its proposed extension to serve the development.

He reported that Attorney Uchida had explained in his communication to the Board that because Concord Housing Authority and the other parties to this development were focused on various other conditions of approval set forth by the Board, the approval of the subdivision for the property expired on September 24, 2009 without an extension or renewal. That expiration occurred as CHA was on the verge of closing on the property and commencing construction on the site after months of work to satisfy the conditions of final approval. Mr. Uchida had explained that following receipt of final subdivision approval, Concord Housing Authority negotiated the acquisition of the rights of the original applicant to purchase and develop the property. It completed that process in February of 2009 and immediately went to work to obtain an allocation of low income housing tax credits for the developments. If a development receives an allocation of credits, it must then market those credits to investors seeking to reduce their federal income tax liability. These investors are typically banks, insurance companies and other financial institutions. Since the economic downturn last fall, finding institutions in need of income tax credit relief has been challenging and the process was not completed until early this summer.

The City and the original developer also worked to resolve a lawsuit that an abutter to the development filed claiming that the abutter had acquired title by adverse possession to a portion of the City's right-of-way for Parmenter Road and to the abutting former railroad property now owned by the City on which the abutter's driveway is located. The case was not resolved until July 22, 2009.

Mr. Woodward explained that while the consideration of a waiver to allow retroactive extension of the period of validity of the expired approval would be simpler procedurally, the Board needs to consider the potential for establishing a precedent. Only one waiver has been granted by the Board for a retroactive extension and that related to a minor subdivision of the Jaworski Trust in East Concord which occurred when a new counsel was retained by the Trust and the counsel discovered that the subdivision approval had lapsed a few weeks prior to his being retained. Aside from the similarity of an oversight leading to the expiration of approval, that case differed substantially in that the Jaworski application was for a minor subdivision which was conditionally approved in one evening with no abutter testimony and no ensuing litigation. The unique features of the Parmenter Road subdivision are the utility work that has been completed and the continuing validity of the tandem site plan application, although no building permits can be issued for the development unless and until the site's road frontage is restored to an approved and built or bonded status.

He explained that the standard process would be for the applicants to reapply and go through the hearing and approval process again, which is the second option that the applicants have initiated. However, they have asked for waivers to shorten the process from ninety days to one night. There is no precedent for that type of waiver. The Board may elect to hear one of the requests or it could authorize notices to be sent out for both requests with additional wording that the second option would only be considered if the first was denied. The Board could also decline to consider either request on the basis that the subdivision has expired so that there is no standing to make the request for a retroactive extension and there is no standing to request a waiver until the applicant has been determined complete, which is the point at which formal consideration of the application can begin.

Mr. Gross noted that the Planning Board has heard this plan and hundreds of hours of the City's resources have been spent on this plan. This plan is not going to get any better. The applicant is not asking to change the approved plan. He did not see any problem with considering the waiver for a retroactive extension if the Board feels it is reasonable. He saw no sense to making this process start all over again and raise all the same arguments and justifications and devote hundreds of hours of resources.

Mr. Swope felt it would serve no public purpose to go through the process again. This does not open the flood gates as a precedent. They still have approval for the site plan just not the subdivision so it is an unusual case in that respect. They only missed the deadline by a matter of days. In the economy we face today and the delays they faced, the lapse is understandable. He felt the Planning Board should schedule a hearing on the waiver for a retroactive extension, and testimony should only be allowed on the merits of the waiver request.

Mr. Gross moved that the Planning Board set the request for retroactive waiver for hearing at the recessed meeting on November 4, 2009, and recommend to the applicant's agent that he be prepared to defend why the Planning Board should grant the waiver. Mr. Swope seconded. Motion carried.

9. Request from **Evangelos D. Lillios** for an extension of the period of validity of the conditional Architectural Design Review approval previously granted for exterior building renovations at **2 North Main Street. (#2005-51)**

Mr. Swope moved that the Planning Board grant a 60-day extension of the period of validity of the previously granted approval for exterior building renovations at 2 North Main Street as requested. Ms. Foss seconded. Motion carried.

OLD BUSINESS

11. Further consideration of a review of a **Development of Regional Impact on North Pembroke Road in Pembroke** across from the City's wellfield.

Mr. Woodward briefly discussed the proposed development of regional impact known as Silver Hills Major Subdivision in Pembroke adjacent to the City's well field in

Pembroke. He presented copies of a series of communications including a letter from the Interim Town Planner for Pembroke, a letter from T. F. Bernier, Inc. to the Pembroke Planning Board, a letter from Timothy Bernier to Chairman Drypolcher, and a draft of a letter for the Board's consideration to be sent to the Pembroke Planning Board clarifying the Board's prior comments and reviewing the history of Concord-Pembroke interactions over developments of regional impact and mutual concern.

He asked for comments relative to the draft letter to the Pembroke Planning Board. Members expressed approval of the draft letter and authorized the Clerk to send the letter.

The Chair noted that Mr. Bernier had been invited to attend the scheduled recessed meeting of the Planning Board on November 4, 2009 to discuss the plans he prepared for the proposed Silver Hills subdivision in Pembroke.

At 11:30 PM the meeting was recessed to November 4, 2009 at 7:00 PM in the Second Floor Conference Room in City Hall.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

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