

**CITY OF CONCORD PLANNING BOARD  
January 21, 2015 MEETING**

The regular monthly meeting of the City Planning Board was held on January 21, 2015, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Present at the meeting were Chair Drypolcher, Members Champlin, Hicks, Kenison, Lavers, Rosenberger, Smith-Meyer and Woodfin. City Planner Larson, Ms. Shank and Ms. Murray of the City's Planning Division were also present. Alternate Member Kenison was seated for Member Regan.

At 7:00 p.m., a quorum was present and the Chair called the meeting to order.

Chair Drypolcher announced that a request to postpone the application by the State of NH Administrative Services to construct a new building to house a biomass (woodchip) boiler; including a 75' smoke stack and a woodchip storage bunker (enclosed within boiler building) at 27-29 Hazen Drive in the IS (Institutional) District. Map/Block/Lot: 114D/1/1 (2014-0062) under RSA 674:54 until February 18, 2015 was received. The Board granted the request to postpone the application to the February 18, 2015 Planning Board meeting at 7pm in Council Chambers.

**PUBLIC HEARINGS**

**Architectural Design Review Applications**

1. 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 City of Concord's Code of Ordinances:

The Chair opened the public hearings for all the sign applications.

- a. **Application by Venezia Realty Associates, LLC, on behalf of Verizon Wireless Zone, requesting Architectural Design Review Approval for one (1) new 20 sq. ft. internally illuminated affixed sign, at 62 D'Amante Drive, within the Gateway Performance (GWP) District. MBLU: 111D-2-4**

Ms. Larson stated ADR Committee recommends approval of the sign as submitted and noted that they felt the black background is a nice addition. She stated there was not a quorum at the ADRC meeting so the recommendation is non-binding.

There were no other comments or discussions.

Councilor Champlin moved to grant Architectural Design Approval for one (1) new 20 sq. ft. internally illuminated affixed sign, at 62 D'Amante Drive as submitted by the applicant and recommended by the Architectural Design Review Committee. Ms. Smith-Meyer seconded the motion. Motion carried unanimously.

## Conceptual Review

**2. Conceptual site plan by RNL Properties, LLC, to construct a multi-family senior housing development at 61 Borough Road in the RM (Medium Density Residential) District.  
Map/Block/Lot: 192P-38 (2014-0066)**

Ms. Shank stated the plan is for a multi-family senior housing development. She stated staff has met with RNL several times and they went through several iterations of the concept. One plan included in the Board's packet was reviewed by staff and it consists of 3 buildings which are townhouse type attached dwelling units in a stacked condo format. The third building is a multi-family with community facilities. She stated the applicant submitted a preferred alternative which staff has not yet been able to review fully. She stated the comments made on the original plan would still apply to the new concept. The newest concept contains four single story attached townhouse style buildings and the fifth building is limited to only community amenities with no living spaces contained within. She stated staff would like to draw attention to whether or not the facilities proposed are sufficient for that facility, circulation issues which may have been addressed by the new concept, and the location of the dumpster and mail receptacles in proximity to the proposed units and the existing unit. Ms. Larson also stated a discussion on snow storage should be conducted and asked that the applicant, his architect and engineers, be very mindful of snow storage when designing the site.

Ron Richter, RNL Properties, LLC, and Eric Paulson, SMP Architecture, were present. Mr. Richter stated the property is the same site that came before the Board a year ago for a lot line adjustment where the property now connects to Primrose Lane. There is a large natural conservation buffer bordering the east and south of the property, Borough Road is to the north and the Primrose development is to the west. The total site is 5.6 acres and is serviced by municipal water and sewer. The electric and natural gas can be brought in from Primrose. The site has an existing 3 family structure, which are rental units. The PSNH 317 line easement runs behind the existing house. Mr. Richter stated he did not want to have any variances and wanted to stay within the allowed use. His original proposal consisted of 3 two story buildings, each with an elevator, for a total of 32 units. There are 4.4 buildable acres on the site which would allow 60+ units. Mr. Richter stated he wanted the development to fit in the neighborhood as best as possible and felt one story structures would fit in. The new design also scaled the project down to where he felt more comfortable. He stated the development will probably be built as condominiums and will be a 55+ community. He stated one facility he would like to include would be a greenhouse. Mr. Richter said the new design followed the original design as far as driveway and turn-around. The covered parking was eliminated with the newly added garages for each unit. An open space has now been added to the median. Mr. Richter stated snow storage was not shown on the newest plan but there are several places for it. Mr. Richter stated he is unsure of the facilities and services that will be offered because he is uncertain of what will be required. He stated he is willing to work out those details with the planning staff. There are a total of 16 units planned. He stated the clubhouse has not been designed yet but it will contain a food service facility, a library and possibly a pool table. The structure will probably have a full basement. Mr. Richter stated the original concerns from staff regarding the dumpster location should be alleviated with the new plan as the dumpster is now moved to the back of the development away from any residences and the existing house which will have a separate, smaller dumpster.

Chair Drypolcher asked about the PSNH easement. Mr. Richter replied that there will be a single pole going down the center of the easement. Mr. Paulson pointed out the existing utility pole on the plans.

Mr. Richter explained that he foresees no problems with the driveway stating all sight distances will be met or exceeded. A traffic consultant will be hired and will present any findings to the Board if necessary.

Chair Drypolcher asked Mr. Richter to talk about amenities that may be offered. Mr. Richter stated he will hire a consultant that is familiar with this type of project. Mr. Richter stated as far as he knows food services, social services and transportation services need to be offered. He stated they will either provide in-house or will contract out for these services. Mr. Richter states the units are designed for independent living but will provide any services that need to be provided and that assisted living is also an allowed use on the site.

Ms. Smith-Meyer asked if the driveway was a one-way system. Mr. Richter stated it was and the cul-de-sac is for fire department access/egress. Ms. Smith-Meyer asked if moving the community building to the other end would allow more flexibility. Mr. Paulson stated the constriction of the buffers on either side makes it too acute a corner to have a turnaround. He feels the community building provides a nicer focal point at the end rather than just green space. Ms. Smith-Meyer also asked why an independent 55+ community would require facilities. Ms. Larson replied that the zoning ordinance does not make a distinction for different types of senior housing and that staff is working with the applicant. Ms. Larson stated State law defines senior housing in two categories; 55 and older and 62 and older. Discussion ensued regarding what facilities may or may not be required. Mr. Richter reiterated his willingness to provide any required services and his willingness to work with staff. He also stated services such as laundry, garbage removal and transportation services may be offered even if not required.

Ms. Smith-Meyer asked about the land going to Primrose Lane and the intention for use and if it may be open as a pathway for walking. Mr. Richter stated that it would be a nice pathway and it is more conducive to walking than Borough Road.

Councilor Champlin asked how many bedrooms the units will have. Mr. Paulson answered they are 2 bedroom units at this point but over the development they may have some be a grander two bedroom and have some 1 bedroom units.

Mr. Lavers asked for the square footage. Mr. Paulson stated the units are about 1144 sq. ft. inclusive of the garage so the living space is about 900 sq. ft.

Mr. Woodfin asked if the units had decks. Mr. Paulson stated they are patios and each unit has a through-view.

Councilor Champlin inquired about the mailbox and dumpster concern expressed by staff. Ms. Shank stated she feels the dumpster location is much better and reducing the size for the existing unit is better. Mr. Richter stated the Post Office regulates where mailboxes are located but he is hoping to locate it near the clubhouse.

Ms. Larson noted Mr. Tony Bourque, 7 River Road, Penacook, submitted an email expressing his concerns regarding increased traffic. She stated his primary concern was at the three way at Borough Road and Lilac Street. Staff forwarded those concerns to the Traffic Engineer, Rob Mack and Mr. Mack stated at this point in time he has no reason for any safety concern but Ms. Larson expressed to the applicant that a traffic engineer will need to be hired to conduct a traffic study. Mr. Richter added that the intersection is where the present circular driveway is now but it will be eliminated and he believes a safer situation will be created.

The Chair asked if members of the public had any comments or questions. There were no comments from the audience.

**3. Conceptual site plan by Bedford Design Consultants, on behalf of RJ Moreau Communities, LLC, for a twenty-six (26) unit multi-family townhouse style development (a.k.a. The Vineyards Phase IV) with municipal sewer and water in the RH (High Density Residential) District. Also to be discussed is the existing mapped line of a future street intended to connect Kyle Road (via Sonoma Lane) to Bog Road, along the rear of the proposed Phase IV Vineyards. Map/Block/Lot: 103C/1/126 (2014-0059)**

Ms. Larson stated the design is similar to the last rendition except for the road that would service these units, no longer connects to the first four phases of Vineyards due to the expressed concerns by residents. The connection would now be from the existing private access drive accessed by Bog Road or Sonoma via Kyle Road. There is an elimination of two units in this plan versus the last plan. Staffs' primary concern is still the issue of the mapped line of Future Street and staff feels it is still important to at least keep that on the books. She stated the applicant has additional information that would maybe help the Planning Board decide whether they support the continuation of this mapped line of Future Street or decide it is no longer necessary based on how the surrounding area has been developed and the location of wetlands.

Mr. Robert Baskerville, Bedford Design Consultants, and Mr. Reggie Moreau, RJ Moreau Communities LLC, were present. Mr. Baskerville stated they were last before the Board on November 19 to review the plan. He stated they made one change that Ms. Larson didn't mention; they eliminated the connection to the back of the vineyards. The road was originally parallel to the mapped line of Future Street but there was concern over having a road fifty feet off another road so it was moved up into the mapped line of Future Street so at least it would be in place for the future. Mr. Baskerville stated the plan was still for 26 units. He also stated that the property just to the left, Private Preserve, LLC, and LaPierre property was approved for a subdivision and the wetland delineation on their property was added to Mr. Moreau's plan. In total, the mapped line of Future Street, from the cul-de-sac on Cabernet Drive to the LaPierre property is 2100 feet long. The total cost would be about \$1.2 million to build the mapped line of Future Street. He stated the wetland impact would be about 225 feet long. With building the road the wetland fill would be about 13,500 sq. ft.

Mr. Baskerville, referring to one concern raised in staff comments, stated in 2003 the Vineyards was approved. At that time the zoning was different in a part of the development and the applicant didn't own the entire development so they always showed a proposed connection in an unowned portion of land. A condition of the original Vineyards was prior to building the first unit in Phase 3 which would have been the 100<sup>th</sup> unit, they had to come back to the city and work with them to make a mapped line of Future Street. By 2007, the applicant was able to buy the other parcel, mapped it and returned to the City in 2008 at which time a letter was generated stating the condition of the original approval was met. So between City Council and the Planning Board the mapped line of Future Street went in. He stated the road will have a large wetland crossing and may not be approved by the state and could possibly require mitigation or compensation. He stated 10 years ago when the mapped line of Future Street was first talked about people thought there was more land to be developed and more land available. He stated the condition is fully satisfied because the Board let them complete phase 3 and concluded the condition was met.

Chair Drypolcher clarified that Mr. Baskerville is making the case that the portion of the mapped line of Future Street incorporated with the roadway would not go down and cross the next property. Mr. Baskerville, referring to the site plan, replied that they took a portion of theirs and moved it up into the road and revised the placement of some elements including proposed storage sheds. There will be a 100 foot buffer with quite a bit of landscaping in it. While they are building part of the road they do not intend to build to the property line. They think the likelihood of getting it permitted and the abutter ever coming up to meet it doesn't warrant construction at this time.

Mr. Hicks asked for clarification if the community is built and the city, in Mr. Baskerville's opinion, unwisely decides to build the mapped line of Future Street, what happens to the two-unit dwelling with the road right behind them and what happens to the other two units on the left whose driveways would have to change. Mr. Baskerville replied that if the city builds the road through, they would no longer be the need for the cul-de-sac. They would need to pull some units back. They have not done final engineering because they wanted to have this discussion before submitting final plans.

Chair Drypolcher asked about the water. Motioning to the site plan, Mr. Baskerville replied that some of the property was regarded to stockpile for new work. Some of the other properties will have drainage areas behind the buildings. There may be a few low areas where water flows from the property line towards the wetlands areas. Some areas were filled 3 or 4 feet during original construction. Chair Drypolcher asked if any water or wetlands analyses were done for the land to the north. Mr. Baskerville stated it was flagged in 2007. It has not been re-flagged because they don't anticipate any impacts. He stated a wetlands scientist was out on Monday and was comfortable with the line. Chair Drypolcher asked how much higher the property proposed to build on is than the wetlands. Mr. Baskerville stated it has not been designed yet but he guesses about 4 feet above the ground level of the wetlands. The road they intend to build is up about 2.5 to 3 feet now or 6 inches above where it is filled to now. Chair Drypolcher asked how the water flow manages itself. Mr. Baskerville stated there is a swale behind the units that flows to the inlet. He also stated a full drainage analysis and alteration of terrain will be conducted.

Ms. Smith-Meyer stated that it's clear the practicality of the mapped line of Future Street doesn't make sense as far as connecting. Right now Kyle Road could be used to gain access to Bog Road via Cabernet. She also stated it doesn't appear that there will be cut through traffic because it would require going through all those neighborhoods. She stated if the other parcel (LaPierre subdivision) were to be developed it could have a cul-de-sac. She stated if the city does not discontinue the mapped line of Future Street he would have to design his site to take that into consideration. She stated it doesn't make sense to her to have that mapped line of Future Street. Mr. Baskerville replied that it is a long process to get it discontinued that they tried to design the site with a layout such that the project can be completed and the mapped line of Future Street can be just left as is on the plan.

Councilor Champlin asked for the timeline of the first and second phases of the Phase IV project. Mr. Baskerville stated that the permitting was projected to be done sixty days ago. Mr. Moreau replied that those particular units; the two units on the right, up Cabernet Drive towards the circle, have existing access and can be built right away and the rest would be economy driven. Mr. Moreau stated they need Attorney General's approval and part of their disclosure regarding the ROW is to supply complete plans.

Mr. Lavers asked about the possibility of this worsening the existing water problems that were previously expressed by abutters. Mr. Moreau replied there were a few instances during the Mother's Day flood. He stated the maintenance around the culvert pipe was not being done on a regular basis. The swale was also blocked by construction workers. He has been addressing the issues with the Condo Association.

The Chair asked if members of the public had any comments or questions.

Mr. Bill Kiernan, representative of the unit owners, spoke. He mentioned access and egress to Bog Road which he sees as going right through their development. The road will produce extra traffic through private roads. He said there is no road going directly to Bog Road. Ms. Smith-Meyer asked if the private roads were built to city standards. Ms. Laura Aibel, Associate Engineer, stated they were not. MS. Larson stated in order to avoid that crossing of the mapped line of Future Street it would have

to be shifted to a corner of the property. Mr. Kiernan stated they are concerned that it would be too close to the tennis courts and pool. Ms. Larson stated she would like to explore that before the decision on the mapped line of Future Street is determined not feasible.

Ms. Smith-Meyer asked the purpose of the second roundabout. Mr. Moreau stated one is located where the private and public roads come together and creates an easy loop for plowing. The other one is for potential future development. Discussion regarding necessity and placement of the two roundabouts ensued.

Mr. Harvey Greenberg, 17 Cabernet Drive, spoke. He stated when he bought his unit he was told that his street was the last street to be built. He stated the proposed new buildings are in his backyard. He stated his backyard is unusable because it is always wet and floods. He said building in back of him will force more water towards his unit. His other concern is that people will use his street to access the new units because going through the Vineyards is the easiest way. He stated he pays a lot of money for the upkeep of the private road. Chair Drypolcher stated a report will be submitted by the applicant on how drainage will be managed.

Chair Drypolcher expressed his concerns regarding drainage of groundwater. Mr. Baskerville explained that part of the original approval an access and utility easement was added so traffic could flow from the neighborhoods to Bog Road. He explained the roundabout was constructed because the mapped line of Future Street was not to be a connector road. Referring to a letter from the city last year, the roundabout was created because the mapped line of Future Street was not projected to be built and a roundabout would allow access and slower traffic; the result being a roundabout and a cul-de-sac a few hundred feet from each other.

Chair Drypolcher raised the question of how to keep the people that move into the new homes from going to Bog Road through private roads. Mr. Baskerville suggested a sign that states private development. Discussion of placement and visibility of sign and other possible ways to discourage people using private roads ensued. Mr. Moreau gave a history of the proposals brought to planning board including the original plan to keep the road public and not private. He also stated that gates are prohibited from being used to block access. Ms. Rosenberger clarified that all other roads are public except for that one portion of Cabernet Drive. Mr. Hicks suggested that planning staff go back and look at this and advise the board of the original agreement because his recollection is that the Board was pushing for interconnectivity of all these neighborhoods. He would like to know if that was a condition of approval. Mr. Hicks stated the reason the mapped line of Future Street is in place is to allow connectivity around the private road. Ms. Aibel responded to a question from Councilor Champlin stating that the transportation section of the Master Plan encourages interconnectivity of neighborhoods but doesn't necessarily discourage cul-de-sacs. She also stated she is not aware of the recent water issues but she said she has notes and will look into it. Mr. Moreau said he responds to phone calls regarding water issues. He said he will go out and take a look at Mr. Greenberg's property. More discussion regarding the swale ensued.

Chair Drypolcher reiterated his concern for the public using private roads. He stated he would like staff to sit with city management to discuss this issue. Ms. Larson asked if the Board had made a decision on the mapped line of Future Street. Chair Drypolcher said he would encourage the Board to have the city pursue doing something there to alleviate this oncoming problem or to take over those roads as city roads so the current owners don't have to pay for maintenance. Ms. Larson asked if the Board wants to have Mr. Moreau pursue shifting the alignment of the mapped line of Future Street southerly onto the corner of the first three Vineyards phases which she doesn't believe has been fully explored and would like to know if that mapped line of Future Street needs to just go away or if it's worth pursuing. Mr. Moreau stated they had looked at moving the mapped line of Future Street southerly but ran into issues because the development can't back out onto a city street. Councilor Champlin suggested moving the

Future Street to between Cabernet and the street the development would be on along the proposed tree line. Ms. Larson stated that the cut-through traffic exists today and the Board needs to be careful not to create a hardship on this proposal because of something that has to do with the first three phases of the Vineyards. Discussion ensued about delaying the project due to the traffic/city streets not being able to handle the increase. Ms. Aibel stated the private streets in question are not built to city standards and it would create zoning issues if the private roads became public. Chair Drypolcher stated he would like to not go forward until they get better direction as to how the city feels about it. He reiterated that it is not right that they pay for these roads and they can't limit access. Chair Drypolcher stated the city cannot rationalize this when there is another way. He suggests the city complete the mapped line of Future Street to take the pressure off this. Mr. Moreau stated he currently has easements on that road so he does have access for the proposed phase. More discussion regarded gates and other means of access denial ensued. Mr. Moreau explained how some changes would require an approval from mortgage holders. Further discussion ensued regarding one-way streets and signage and gating.

In conclusion, the mapped line of Future Street is on the plan and will stay until something happens. The Board agrees there is no controversy until phase 2 of phase IV. The Board would like to see an agreement between the homeowners and the developer.

### **REGULAR MEETING**

#### 4. Approval of the minutes of the December 17, 2014 Planning Board Meeting.

Mr. Lavers moved to approve the December 17, 2014 Meeting Minutes with the change to remove Mr. Woodfin's name from the attendance. Mr. Kenison seconded the motion. Motion carried unanimously.

#### 5. Annual Organization Meeting

##### a. Election of Chair for 2015

The Chair turned the meeting over to the Clerk to accept nominations for Planning Board Chair. The Clerk opened the floor to accept nominations.

Ms. Smith-Meyer nominated Mr. Drypolcher, who stated he was interested in continuing in the role of Chair. Hearing no other nominations, the Clerk closed the floor and requested a vote. The Planning Board voted unanimously for Mr. Drypolcher to be Chair of the Planning Board. The Clerk turned the meeting back over to the Chair.

##### b. Election of Vice Chair for 2015

The Chair opened the floor to accept nominations for the Vice Chair of the Planning Board. Mr. Hicks nominated Ms. Foss. Hearing no other nominations, the Chair closed the floor and requested a vote. The Planning Board voted unanimously for Ms. Foss to be Vice Chair of the Planning Board.

##### c. Designation of two representatives to the Central New Hampshire Regional Planning Commission (CNHRPC)

Continued since Ms. Foss was absent from the meeting.

##### d. Designation of a representative to the Heritage Commission

The Chair received an e-mail from Mr. Regan, who was absent, indicating his willingness to continue as Planning Board designee to the Heritage Commission unless another member had an interest. Mr. Rich Woodfin expressed his interest.

6. The Board will hold a workshop to discuss a proposed zoning amendment to address the zoning of alternative treatment centers for therapeutic cannabis under RSA 126-X.

Mr. Carlos Baia, Deputy City Manager, was present to speak to the proposal. In 2013, the New Hampshire legislature enacted a comprehensive law for the use of medical marijuana. The law has been codified at RSA chapter 126-X, entitled the Use of Cannabis for Therapeutic Purposes. RSA chapter 126-X includes administrative requirements for alternative treatment centers, which are non-profit entities registered for the purpose of acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, selling, supplying and dispensing cannabis to qualified patients and designated caregivers. The State of New Hampshire Department Health and Human Services is in the process of developing administrative rules to regulate alternative treatment centers. RSA 126-X:7 requires the New Hampshire Department of Health and Human Services to issue registration certificates to no more than four non-profit alternative treatment centers. At least two of the registration certificates must be issued within 18 months after the law goes into effect, which would be January 2015.

Currently there is no zoning use category under which an alternative treatment center could be operated, and therefore, the City of Concord's Zoning Code requires that any use be placed in the category to which it is most similar and regulated under that category. Anticipating the need for local zoning, City Staff has been working to evaluate the new law and develop local zoning regulations to determine the most appropriate locations for an alternative treatment center.

An alternative treatment center is defined in RSA 126-X:1, I as a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying patients and alternative treatment centers. RSA 126-X:7, IV(2) states that an alternative treatment center "may include a second location for the cultivation of cannabis."

Based on its review of the statute, City Staff is recommending the adoption of a new ordinance that would create three new principal uses. The first new principal use would be designated as a "Alternative Treatment Center," which is a facility permitted in the Industrial District that involves both the cultivation and dispensing of cannabis. The second new principal use would be designated as an "Alternative Treatment Center (Cultivation Location Only)," which is a facility that would be permitted in the Industrial District for the purpose of cultivating cannabis. The third new principal use would be designated as an "Alternative Treatment Center (Non-Cultivation Location) which is a facility that is permitted in the Institutional District for the purpose of dispensing cannabis. The proposed ordinance also sets forth the parking requirements for an Alternative Treatment Center (Non-Cultivation Location).

It should be noted that RSA 126-X:8, II prohibits alternative treatment centers from being located in a residential district or within 1,000 feet of the property line of a pre-existing public or private elementary or secondary school or designated drug free property zone. Any proposed location will need to comply with these requirements. It should be further noted that nothing in the proposed ordinance purports to permit activities that are otherwise illegal under state or local law.

Ms. Smith-Meyer moved to recommend the proposed zoning amendment to address the zoning of alternative treatment centers for therapeutic cannabis under RSA 126-X as written. Mr. Hicks seconded the motion. Motion passed unanimously.



7. Any other business which may legally come before the Board.

**INFORMATION**

- Next regular monthly meeting on Wednesday, February 18, 2015

There was no further business to come before the Planning Board and the Chair adjourned the meeting at 9:45 pm.

A TRUE RECORD ATTEST:

Nancy Larson  
City Planner