

**MINUTES  
CITY OF CONCORD PLANNING BOARD  
March 16, 2016**

The regular monthly meeting of the City Planning Board was held on March 16, 2016, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Present at the meeting were Chair Gerard Drypolcher, Matthew Hicks, Richard Woodfin, Ian West, Carol Foss, Susanne Smith Meyer, and Teresa Rosenberger. Also present were Heather Shank (Assistant City Planner), Beth Fenstermacher (Senior Planner), and Kate Kindel (Administrative Specialist, *pro-tem*) of the City's Planning Division.

Absent: Councilor Byron Champlin, Frank Kenison, John Regan, and Chiara Dolcino.

At 7:03 p.m., a quorum was present, and the Chair called the meeting to order.

**PUBLIC HEARINGS**

**Determination of Completeness**

1. **Application by Bedford Design Consultants, on behalf of RJ Moreau Communities, LLC, requesting Major Site Plan approval for a twenty-six (26) unit multi-family townhouse style Planned Unit Development (a.k.a. The Vineyards North) with municipal sewer and water off of Kyle Road in the Single-Family Residential (RS) and Medium Density Residential (RM) Districts. Map/Block/Lot: 193P/54 and 193Z/1 (2016-08).**

The Board voted unanimously to determine the application complete and set the public hearing for April 20, 2016, on a motion made by Ms. Smith Meyer, and seconded by Mr. Hicks.

**Architectural Design Review Applications:**

Consideration of requests for Architectural Design Review Approval by the following applicants, for signs, buildings and/or site plans at the noted locations, under the provisions of Section 28-9-4(f), Architectural Design Review, of the Code of Ordinances:

2. **Signs (Consent Agenda Items)**
  - a. **Application by DSM MB II LLC, on behalf of Foxy Nails & Spa, requesting ADR approval to install one (1) new 32.38 sf wall sign consisting of internally illuminated channel letters, and one (1) new 12 sf internally illuminated panel sign in an existing freestanding sign at 16 Loudon Road in the Gateway Performance (GWP) District. MBL: 114/1/2**
  - b. **Application by Cobalt Properties NH Corp on behalf of Irving Oil, requesting ADR approval to install one (1) 50.96 sf internally illuminated replacement sign in an existing freestanding sign at 414 S. Main Street in the General Commercial (CG) District. MBL: 1/2/1**
  - c. **Application by Lazio Investments LLC on behalf of Avada Hearing Care, requesting ADR approval to install one (1) new 15.57 sf internally illuminated wall sign and one (1) replacement 21.96 sf internally illuminated panel sign in an existing freestanding sign at 341 Loudon Road in the Gateway Performance (GWP) District. MBL: 111/F2/3**

- d. **Application by Associated Enterprises Inc., on behalf of Starkey Realty, requesting ADR approval to install one (1) new 12.84 sf externally illuminated wall sign 136 N. Main Street in the Central Business Performance (CBP) District. MBL: 45/6/13**

\*\*End of Consent Agenda\*\*

The Consent Agenda items were unanimously approved, on a motion made by Ms. Smith Meyer, and seconded by Ms. Foss.

**Subdivision Plan Applications:**

- 3. **Application by Joseph M. Wichert, LLS, Inc., on behalf of Mark L. & Michelle M.S. Boucher and Lawrence D. & Linda L. Boucher, requesting Minor Subdivision Plan approval of a lot line adjustment between 137 & 147 Elm Street in the RM (Medium Density Residential) and RO (Open Space Residential) Districts. Map/Block/Lot: 15P/12 & 15P/14/1 (2016-04).**

The Board voted unanimously to determine the application complete and open the public hearing on a motion made by Ms. Smith Meyer, and seconded by Ms. Foss.

Joseph Wiechert was present to represent the applicants. The proposed lot line adjustment between 137 & 147 Elm Street would reduce the size of Lot 14-1, which was newly created in 2015, from 3.89 acres to 1.70 acres. Lot 12 would increase in size from 24.67 acres to 26.87 acres. He noted Staff comments regarding relocation of the well.

There were no questions or comments. Chair Drypolcher closed the hearing.

On a motion by Ms. Smith Meyer, and seconded by Mr. Hicks, the Board voted unanimously to grant the following waivers from the Subdivision Regulations based on the fact that the required information is provided for the smaller future house lot and the larger lot is already developed, utilizing the criteria of RSA 674:36, II (n) (2):

- Section 12.08(3) to not provide topography for the entirety of Lot 12; and
- Section 12.08(5) to not delineate the wetlands for the entirety of Lot 12.

(a) On a motion made by Ms. Smith Meyers, and seconded by Ms. Foss, the Board voted unanimously to grant Minor Subdivision approval, subject to the following precedent and subsequent conditions:

- (b) **Precedent Conditions** – to be fulfilled within two years and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:
  - (1) Any waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny any waiver request, the applicant shall comply with said submission requirement.
  - (2) Address Technical Review Comments, noted in Section 3 of the Staff Report dated March 16, 2016, to the satisfaction of the Planning Division.
  - (3) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.

- (4) The Licensed Land Surveyor and Certified Wetland Scientist shall sign and seal final plans and mylars.
- (5) Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.

(c) **Subsequent Condition** – to be fulfilled as specified:

- (1) The Applicant shall deliver to Planning, one plan set and mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds. Applicant shall then make four copies of the endorsed plan set to be returned to Planning for recording.

**4. Application by Matthew Moore, Civil Engineering, PLLC, on behalf of Edward A. Welch, Jr. and Nan F. Welch requesting Minor Subdivision Plan approval to subdivide one lot into two at 356 Mountain Road in the RM (Medium Density Residential) District. Map/Block/Lot: 122/2/15 (2016-05).**

The Board voted unanimously to determine the application complete and open the public hearing on a motion made by Ms. Smith Meyer, and seconded by Mr. Woodfin.

Matthew Moore was present to represent the applicant. Mr. Moore stated that the applicant is proposing to subdivide a 2.939 acres lot into a 1.241 acre lot, and a 1.698 lot with existing house and barn.

There were no questions or comments, and Chair Drypolcher closed the meeting.

The Board voted unanimously, on a motion made by Mr. Hicks, and seconded by Ms. Smith Meyer, to grant Minor Subdivision approval, subject to the following precedent and subsequent conditions:

(a) **Precedent Conditions** – to be fulfilled within two years and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

- (1) Address Technical Review Comments, noted in Section 3 above to the satisfaction of the Planning Division.
- (2) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
- (3) The Licensed Land Surveyor and Certified Wetland Scientist shall sign and seal final plans and mylars.
- (4) Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.

(b) **Subsequent Conditions** – to be fulfilled as specified:

- (1) The Applicant shall deliver to Planning, one plan set and mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds. Applicant shall then make four copies of the endorsed plan set to be returned to Planning for recording purposes.

**5. Application by Steven C. Luger, on behalf of William R. and Karen M. Paige requesting Minor Subdivision Plan approval to subdivide one lot into two at 279 Shaker Road in the RO (Open Space Residential) District. Map/Block/Lot: 120/3/16 (2016-06).**

The Board voted unanimously to determine the application complete and open the public hearing on a motion made by Ms. Smith Meyer, and seconded by Ms. Foss.

Mike Seraikas of Beaver Brook Environmental Services was present to represent the applicant. Mr. Seraikas stated that the applicant is proposing to subdivide a 4.362 acre house lot and a 2.356 acre lot on which the existing house will remain.

There were no questions or comments.

On motion made by Ms. Foss, and seconded by Ms. Smith Meyer, the Board voted unanimously to grant the waiver request for Section 12.08(3) of the Subdivision Regulations to not provide the location of steep slopes based on the fact that the steep slopes were man-made and constitute a relatively small area, utilizing the criteria set forth in RSA 674:36, II (n)(2).

On a motion made by Ms. Smith Meyers, and seconded by Mr. Hicks, the Board voted unanimously to grant Minor Subdivision approval, subject to the following precedent and subsequent conditions:

- (a) **Precedent Conditions** – to be fulfilled within two years and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:
  - (1) Any waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny any waiver request, the applicant shall comply with said submission requirement.
  - (2) Address Technical Review Comments, noted in Section 3 of this Staff Report, to the satisfaction of the Planning Division.
  - (3) Address to the satisfaction of the Engineering Division, review comments from Paul Gendron dated February 24, 2016.
  - (4) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
  - (5) The Licensed Land Surveyor and Certified Wetland Scientist shall sign and seal final plans and mylars.
  - (6) Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
- (b) **Subsequent Conditions** – to be fulfilled as specified:
  - (1) The Applicant shall deliver to Planning, one plan set and mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds. Applicant shall then make four copies of the endorsed plan set to be returned to Planning.

**6. Application by Bedford Design on behalf of R.J. Moreau Communities LLC requesting Minor Subdivision Plan approval to subdivide one lot into two off of Kyle Road in the Single-Family Residential (RS), RO (Open Space Residential) and Medium Density Residential (RM) Districts. Map/Block/Lot: 193P/54 and 193Z/1 (2016-07).**

The Board voted unanimously to determine the application complete and open the public hearing on a motion made by Ms. Smith Meyer, and seconded by Mr. Hicks.

Representing the applicant, R.J. Moreau Communities, LLC was Katie Weiss, Bedford Design Consultants. Ms. Weiss stated that the applicant is proposing to subdivide approximately 77 acres into a 10-acre residential lot and a 67-acre undeveloped lot.

Ms. Weiss also stated that the applicant requests a waiver from Section 12.08(3), 12.09, and 15.03(4) (SDR) requiring existing topographic conditions refer to sea level datum of the National American Vertical Datum 1988 (NAVD 1988) to aid in construction of both the Vintage Estates Subdivision, and the proposed Vineyards North (submitted concurrently). The as-built plans will be in the required datum. Ms. Weiss stated that the applicant will address the other staff comments from the staff report.

The owner of 3 Ty Lane, had a question with regard to the new construction and what will happen with the trees located behind his property. Ms. Weiss explained that there is a required buffer area; between his backyard and the abutting subdivision. Reggie Moreau clarified that the flagging is on the property line, and the tree buffer will remain along the property line.

There being no additional comments or questions, Chair Drypolcher closed the hearing.

On a motion by Ms. Smith Meyer, and seconded by Ms. Voss, the Board voted unanimously to grant the following waivers from the Subdivision Regulations based on the fact that topography and wetlands delineation are provided for the eastern portion of the site adjacent to where development is proposed on adjacent lots, and this larger lot is not proposed for development, utilizing the criteria of RSA 674:36, II (n) (2):

- Section 12.08(3) and 15.03(4) to not provide topography for the entirety of the remainder lot; and
- Section 12.08(5) to not delineate the wetlands for the entirety of the remainder lot.

On a motion by Ms. Foss, and seconded by Mr. West, the Board voted unanimously to grant a waiver to Sections 12.08(3), 12.09, and 15.03(4) with the condition that the Applicant survey the As-Built on the NAVD 88 Datum upon completion of the construction portion, utilizing the criteria of RSA 674:36, II (n) (2). The reason for the waiver approval is to aid in construction of both the Vintage Estates Subdivision, and the proposed Vineyards North (submitted concurrently). There are numerous utilities which need to tie into each other across the projects, and separate datums could easily cause confusion and discrepancies for the contractor. Mr. West seconded the motion, and the Board voted unanimously.

The Board voted unanimously to grant Minor Subdivision approval, on a motion made by Ms. Smith Meyer, and seconded by Mr. Hicks, subject to the following precedent and subsequent conditions:

- (a) **Precedent Conditions** – to be fulfilled within two years and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:
- (1) Any waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny any waiver request, the applicant shall comply with said submission requirement.
  - (2) Address Engineering Review Comments, noted in the Memo from Paul Gendron, dated February 24, 2016, to the satisfaction of the Engineering Division.

- (3) Address Technical Review Comments, noted in Section 3 of the Staff Report dated 3/16/16, to the satisfaction of the Planning Division.
- (4) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
- (5) The Licensed Land Surveyor and Certified Wetland Scientist shall sign and seal final plans and mylars.
- (6) Final language for the Public Utilities and Access Easement documents reviewed and approved by the office of the City Solicitor to be submitted for recording at the Registry of Deeds.

**(b) Subsequent Conditions** – to be fulfilled as specified:

- (1) Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
- (2) The Applicant shall deliver to Planning, one plan set and mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds. Applicant shall then make four copies of the endorsed plan set to be returned to Planning for recording.

**Request for Amendments to Previously Approved Plans:**

- 7. Application by Bedford Design on behalf of R.J. Moreau Communities LLC requesting an amendment to the previously approved subdivision plan of Vintage Estates – Phase I, a 22-lot residential subdivision, to replace the roundabout (not yet constructed) at the intersection of Kyle Road and Sonoma Lane with a three-way intersection, within the Single-Family Residential (RS) District. In addition, the Applicant is requesting an extension to the Conditional Use Permit for impact to the wetland buffer which expires in April 2016. Map/Block/Lot: 193P/54 (2011-07).**

Representing the applicant, R.J. Moreau, was Katie Weiss, Bedford Design Consultants. The application is a request to eliminate the proposed roundabout from the intersection of Sonoma Lane and Kyle Road in Vintage Estates, and to replace it with a 3-way intersection. Further, they request an extension to the previously-approved CUP for impact to the wetland buffer.

Ms. Weiss stated that the applicant only submitted revised intersection design and profiles and therefore does not plan to record a revised Subdivision Plan. She requested that the staff comments to revise updated Map/Block/Lot Numbers be revised to indicate a general note could be inserted onto the Cover Sheet, with an explanation to refer to the future Vineyards North subdivision for new tax map information. She also requested an amendment to the staff comment to address the revised Map Line of Future Street. Ms. Fenstermacher will check with the City Surveyor, and ask about how to correlate M/B/L numbers. Discussion ensued about this issue.

The decision was made to remove items 1, 3, and 4 from the Precedent Conditions, and instead create one new general Precedent Condition which addresses this issue, pending approval by the City Surveyor and Staff. Item #2 will stay intact. The Subsequent Conditions will also be deleted.

As there were no further questions, Chair Drypolcher closed the hearing.

The Board voted unanimously to approve a 1-year extension to the previously-approved Conditional Use permit, on a motion made by Ms. Foss, and seconded by Mr. Hicks.

The Board voted unanimously, on a motion made by Ms. Smith Meyer, and seconded by Mr. Hicks, to grant approval of the modification to the approved and amended Major Subdivision Plan to allow for the replacement of the proposed roundabout with a three-way intersection at Kyle Road and Sonoma Lane. As part of this action, all conditions of the original approval and amendment shall remain in full force and effect. Additionally, the following conditions shall be fulfilled as specified:

**(a) Precedent Conditions** – to be fulfilled within two years and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

- (1) Applicant shall work with staff to reflect the updated Map/Block/Lot and 30' Public Utilities and Access Easement (former Mapped Line of Future Street) on the revised plans.
- (2) Address to the satisfaction of the Engineering Division review comments received in a Memo from Jeffrey Warner, PE, dated March 2, 2016.

**Proposed Amendments to the Site Plan Regulations, Subdivision Plan Regulations, and Zoning Ordinance**

**8. Consideration of the following proposed amendment to the Site Plan Regulations:**

**Section 7.08, regarding Consideration of, and Action on, the Application; Section 11.09, regarding Consideration of, and Action on, the Application; and Section 36.21, regarding Exemption from Subsequent Amendments to the Site Plan Review Regulations and Zoning Ordinances. The purpose of the amendments is to change the deadline for expiration of Planning Board approval to one (1) year, and clarify the criteria for vesting rights in accordance with the RSAs.**

The Board voted unanimously to approve the Amendment, on a motion made by Ms. Smith Meyer, and seconded by Mr. Hicks.

**9. Consideration of the following proposed amendment to the Subdivision Regulations:**

**Section 9.08, regarding Consideration of, and Action on, the Application; Section 10.09, regarding Consideration of, and Action on, the Application; and Section 35.22, regarding Exemption from Subsequent Amendments to the Subdivision Regulations and Zoning Ordinances. The purpose of the amendments is to change the deadline for expiration of Planning Board approval to one (1) year, and clarify the criteria for vesting rights in accordance with the RSAs.**

The Board voted unanimously to approve the Amendment, on a motion made by Ms. Smith Meyer, and seconded by Ms. Foss.

**10. Consideration of the following proposed amendment to the Zoning Ordinance:**

**Section 28-9-4(d)(2)(e) of the Zoning Ordinance, pertaining to Thresholds for Minor Site Plan review. The purpose of the amendments is to require Minor Site Plan Review for a change of use that results in greater than 200 vehicle trip ends per day or 20 peak hour trips, instead of requiring review for any increase in vehicle trips; and to eliminate the requirement for review**

**of changes of use that result in an increase in parking demand (this will eliminate redundancy with Section 28-9-4(d)(2)(d) of the Zoning Ordinance that requires Minor Site Plan review for construction of a parking lot to accommodate more than five (5) and less than twenty-five (25) vehicles).**

The Board voted unanimously to approve the Amendment, on a motion made by Ms. Smith Meyer, and seconded by Mr. Hicks.

### **REGULAR MEETING**

**11. Approval of the minutes of the February 17, 2016 Planning Board Meeting.**

The Board voted unanimously to approve the Minutes as written, on a motion made by Mr. Woodfin, and seconded by Mr. Hicks.

**12. Any other business which may legally come before the Board.**

**a. Discussion regarding possible interest in a Planning Board member serving on the Transportation Policy Advisory Committee**

Ms. Shank reported that this Committee meets once a month on the fourth Thursday from 6-8 pm. While there is no requirement that a Board member serve on this committee, she let Board members know that TPAC extended the invitation.

### **INFORMATION**

**13. Minutes of the March 8, 2016 Design Review Committee meeting.**

**14. Next regular monthly meeting on Wednesday, April 20, 2016.**

As there was no further business before the Board, Mr. Hicks made a motion to adjourn at 8:03 pm; this was seconded by Ms. Foss.

A TRUE RECORD ATTEST:

Heather Shank  
Assistant City Planner