The regular monthly meeting of the City Planning Board was held on March 17, 2010 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, Gross, Meyer, and Shurtleff (representing the City Council). Messrs. Woodward and Henninger, Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Ms. Aibel, the City's Associate Engineer.

At 7:01 PM a quorum was present, the Chair called the meeting to order.

APPLICATIONS

Minor Subdivision Application

1. Application by **Michael J. & Beverly Nemetz and David W. Nemetz** for approval of a subdivision and resubdivision of property located at **126 and 138 Snow Pond Road**. **(#2007-20)**

Determination of Completeness

Ms. Hebert explained this proposal to adjust the lot lines between the properties at 126 & 138 Snow Pond Road.

She reported this application was complete and ready for public hearing.

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

Public Hearing

Ms. Hebert explained this proposal to adjust the lot lines between the properties at 126 & 138 Snow Pond Road. The applicant has also requested two waivers to the Subdivision Regulations; the first waiver is to Section 8.04 (2)(a)(ii) of the City's Subdivision Regulations to allow the subdivision plat to be submitted at a scale of 1″=100′ instead of 1″=50′. The second waiver is to Section 8.02(2)(a) (i) & (v) which requires the contour lines at two-foot intervals and wetland locations to be included on the plan. The contours and wetlands have been shown on the buildable areas of both properties and the request is to not include these details on the remaining back land. There are extensive wetlands on both of the properties.

She reported that the applicant has recently decided to hire a different surveyor. The newly submitted plan needs to be modified to include the standard notes and details required by the City.

Mike Nemetz was present as applicant and explained that the Planning Division had a lot of the information in the files that is missing from the current plan and being requested of the new surveyor.

There was no one else present who wished to speak for or against this application and the Chair declared the hearing closed at 7:07 PM.

Deliberations and Action on the Application

Mr. Gross moved that the Planning Board grant a waiver to Section 8.04 (2)(a)(ii) of the City's Subdivision Regulations to allow the subdivision plat to be submitted at a scale of 1″=100′ instead of 1″=50′. Mr. Swope seconded. Motion carried.

Mr. Swope moved that the Planning Board grant a waiver to Section 8.02(2)(a)(i) and Section 8.02(2)(a)(v) of the City's Subdivision Regulations to not include the wetlands locations and contours at two foot intervals in the non-buildable areas of the property, inasmuch as the wetlands locations and contour information have been provided in the buildable areas of the property to demonstrate that the lots comply with the zoning and subdivision regulations. Mr. Gross seconded. Motion carried.

Ms. Dolcino moved that the Planning Board grant conditional final subdivision approval for the "Resubdivision Plat of Michael J. & Beverly Nemetz and David W. Nemetz" as prepared by MSC Civil Engineers & Land Surveyors, Inc. subject to the following standard conditions:

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff including but not limited to the following:

    a. The applicant has recently decided to hire a different surveyor. The plans that were submitted to replace the original subdivision need to be modified to include all of the standard notes and details required by the City of Concord.

    b. The subdivision plat needs to be stamped by the NH Certified Wetland Scientist who surveyed the property.

2. The wetland buffers shall be clearly and permanently marked before, during, and after construction of the sites. Building permits will not be issued until the buffers are marked.

Mr. Gross seconded. Motion carried.

Major Site Plan Applications

1. Application by **DEW Construction Corporation, on behalf of the City of Concord**, for approval of a site plan of property located at **4 Crescent Street and 0 East Street. (#2010-05)**

Public Hearing

Ms. Hebert explained this proposal to construct a 14,884 square foot office building for the Penacook Family Physicians practice, which is considered a department of Concord Hospital. The site will be developed in two phases; the first phase includes a 9,484 square-foot medical office building and the construction of a parking area to accommodate 71 spaces. The second phase involves a 5,400 square-foot addition to the building and the expansion of the parking area to include 30 more spaces.

She reported that the subject parcel, together with the adjacent property at 35 East Street, comprise the former location of the Allied Leather Tannery in Concord. The City acquired the land in 2006 to protect its investment and vision for the redevelopment of the Penacook Mill at 35 East Street. Following the purchase of the property, the City invested money in the cleanup, environmental assessment, and demolition of an existing building and utility structures to prepare the site for redevelopment. The City has now entered into a Purchase and Sales/Development Agreement with DEW Construction Corporation for the redevelopment of the property. As part of the agreement, the City is creating a Tax Increment Financing (TIF) District to finance the construction and design of certain off site improvements. The off site improvements need to be considered as part of the site plan application. If a TIF District was not being proposed by the City, a private developer would be required to make any necessary infrastructure improvements to facilitate the development of the site.

She reported that the applicant had applied for a Conditional Use Permit to construct additional compact parking spaces. The City's regulations allow up to 25% of the parking spaces to be compact by right, and the site plan has been designed with 49% compact parking spaces. The Zoning Ordinance provides for the construction of additional compact parking spaces (up to 50%) through the Conditional Use Permit process. The applicant has requested that 49% of the parking spaces be compact. The first phase of construction will involve constructing nineteen of the compact spaces, and the remaining thirty spaces will be constructed as part of the second phase.

She reported that the applicant had also applied for a Conditional Use Permit for impacts to wetland buffers. There are two wetland areas on the property, a small vernal pool and a portion of wetland that extends onto the adjacent property to the north. The proposal involves filling both wetland areas. The vernal pool does not meet the 3000 square foot threshold to qualify for a wetland buffer setback, but the 50-foot buffer associated with the wetland complex on the adjacent property will be impacted by the proposed development. The Conservation Commission discussed the proposed wetland fill and buffer impacts, and did not have objections to the impacts.

An existing City storm drain crosses onto the site from East Street and discharges water into the wetland; the drain is to be decommissioned and filled with concrete. The stormwater will be redirected as part the of the proposed East Street improvements.

Ms. Hebert explained that the property is located within a walkable neighborhood; patients will be able to walk to the clinic from their homes in downtown Penacook and employees of the clinic will most likely walk to services in the village. The scope of work

for the off-site improvements has been expanded to include the construction of a sidewalk along the east side of Crescent Street. The East Street right-of-way extends approximately 20 feet from the existing edge of pavement. This will leave a wide grass strip between the site development and traffic on East Street. The off-site improvements also include street tree plantings along the north side of East Street.

She explained that it is not possible for the project to utilize the existing sewer line adjacent to the property on Crescent Street. In order to provide municipal sewer service to the site, a new connection needs to be made to an existing sewer main in Walnut Street. This will require the conveyance of a sewer easement from the City to DEW. The sewer easement will run southerly, from Walnut Street through the so-called Walnut Street Park.

She reported that the project may require the approval of two coordinated Alteration of Terrain Permits, one for the off-site improvement to be submitted by the City, and a second for the site development which is to be submitted by the applicant. A Water Quality and Sewer Discharge Permit from the New Hampshire Department of Environmental Services will also be required.

A Trip Generation Analysis has been prepared by the applicant and reviewed by the City's Traffic Engineer. The report indicated that the proposed development will not significantly impact the level of service along East Street or Crescent Street. The project will be assessed traffic impact fees for the medical office use.

She reported that recent environmental work undertaken by DEW Construction Corporation discovered the presence of additional organic materials buried on the site, and the applicant either needs to remove the organic material or design a building foundation system that will overcome the limitations of the soils.

She reported that the site plan has been revised to provide a pedestrian connection to Crescent Street in the Phase I layout, and a sidewalk connection to East Street in both the Phase I and II site designs.

She explained that the front of the building would face away from East and Crescent Streets. The snow storage, dumpster enclosure, loading area, mechanical equipment, detention pond, and employee break area would all face towards the street. Because East Street is considered a gateway to Penacook, efforts should be made to design attractive screening, as well as a building facade that is compatible with the urban context of the site.

Ms. Hebert reported that the Architectural Design Review Committee had discussed the design of the office building and site at their meeting on February 9th and made a number of suggestions and comments. The applicant returned with revised elevations which the Committee reviewed on March 9th, and noted that the plans had been improved to address their concerns. The Committee recommended approval of the site and building plans with the suggestions that the walkway connecting the building to East Street be curvilinear; a pathway be added to the physician's parking area to the east

of the building; additional low growing shrubs and perennials be added to the planting beds along the East Street façade; the planting bed continue around the corner of the east side of the building; and the evergreen trees near the east side of the building be replaced with landscaping that will not block the view of the wall sign.

Erin Reardon from Nobis Engineering, architect Steve Yaw from DEW Construction Corporation, and Dominic Ciavarro, Vice President of Facilities for Concord Hospital were present on behalf of the applicant.

Mr. Ciavarro explained the history of the existing Penacook Family Physicians which will relocate to this new building. He then introduced Steve Yaw, designer of the project.

Mr. Yaw explained it was their intention to extend the walkway from East Street to the main entrance. He also reported that they are aware this is a critical gateway into Penacook and they had tried to make it as aesthetically pleasing a space as possible, both for patients and the community at large.

Mr. Drypolcher asked about the landscape design for the space being reserved for Phase 2. Ms. Reardon responded that the area would be loamed and seeded until construction of Phase 2.

Mr. Shurtleff noted that the design of the building made it appear as though it was turning its back on Penacook. Mr. Yaw responded that they were limited by the size and shape of the lot as well as building setback requirements and, consequently, had worked hard on the design of the building to make it inviting.

Ms. Meyer asked if there could be a landscape strip between the sidewalk and the road and Ms. Hebert responded that there had been many discussions with City staff and the applicant about that and the conclusion was that creating a landscape strip between the road and the sidewalk would mean that the new sidewalk would be offset from the rest of the sidewalk along East Street.

Ms. Meyer also suggested that there should be at least three more shade trees in the strip in the parking lot. Ms. Reardon responded that there is a 3:1 slope in that location and that is steeper situation than trees can generally grow in.

Ms. Meyer also noted that there is a sugar maple proposed in the parking lot and that it is not salt tolerant. Mr. Reardon indicated they could change that.

Peter Hennenberg and Dana Willis, owners of the so-call California Fields property abutting this parcel in Boscawen, were recognized by the Chairman. Mr. Willis asked if Concord would be approaching Boscawen as part of the Development of Regional Impact process. He indicated he was generally supportive of this project but had a few concerns. He asked where water would go after going through the proposed detention pond. Ms. Hebert responded that the existing stormwater system will be discontinued

and reconstructed to flow away from his property and eventually into the Contoocook River.

Mr. Willis noted that one of the biggest problems this particular piece of property had was that it has a difficult shape for development. He also reported he would think twice about constructing the building so close to the street. He felt the building would create a feeling of claustrophobia for drivers along East Street.

Mr. Hennenberg asked about the impact of water on his abutting property. He felt that some of it would run down the retaining wall and some of it would come from the detention pond and all of it would flow toward his property. He also understood that the applicants had asked if they could fill some of his wetlands. Ms. Reardon responded that the proposed impacts are strictly limited to the applicant's property. Currently, drainage from the East Street culvert flows onto the abutting California Fields and, as part of the project, that has been redesigned so that it will drain onto their own property and eventually into the Contoocook River.

Mr. Gross noted this is a development of substantial size right on the border with Boscawen and there is likely to be some increase in traffic into Boscawen. He asked what would trigger a notice to the Town of Boscawen that this could be considered a Development of Regional Impact and give them an opportunity to be heard.

Matthew Walsh, the City's Assistant for Special Projects and the City's project manager for this project since 2002, reminded the Board of the City's history with this site and efforts to redevelop it. He reported that City administration feels this will be a catalyst for the further development of downtown Penacook. He indicated the City does not feel an Alteration of Terrain permit will be necessary since this project will be decreasing the amount of impervious surface by about 900 square feet.

Mr. Woodward provided a definition of regional impact as found in the State's statutes. Basically, the process is intended to determine what level of impact a project might have on the neighboring community such as on traffic, water supply, shared schools, wastewater, and surface water. Mr. Woodward explained the Planning Division saw this as a redevelopment site and as a replacement for the former tannery site which had greater numbers of employees as well as hazardous waste.

There was no one else who wished to speak for or against this application and the Chair declared the hearing closed at 8:22 PM.

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

Mr. Gross moved that the Planning Board grant the Conditional Use Permit to allow the construction of additional compact parking spaces pursuant to Section 28-7-11(d) of the Zoning Ordinance. The CUP will allow for the construction of 49 compact parking spaces, which is 49% of the total number of parking spaces required. The first phase of construction will involve constructing 19 of the compact spaces, and the remaining 30

spaces will be constructed as part of the second phase. Mr. Shurtleff seconded. Motion carried.

Mr. Swope moved that the Planning Board grant the Conditional Use Permit pursuant to Article 28-4-3(d) of the Zoning Ordinance, Conditional Use Permits Required for Disturbances of Wetland Buffers, to permit impacts to the wetland buffers. There is a 1,768 square-foot wetland area that is part of a larger wetland complex to the north of the site that will be filled as part of the development. The 50-foot buffer associated with the wetland complex on the adjacent property will be impacted by the proposed development. Given the environmental contamination of the property, the proposed buffer impact is reasonable. Mr. Shurtleff seconded. Motion 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 DEW Construction Corporation as submitted by Nobis Engineering, Yaw Associates and Hoyle, Tanner & Associates subject to the conditions that the walkway connecting the building to East Street should be curvilinear; a pathway should be added to the physician's parking area to the east of the building; additional low growing shrubs and perennials should be added to the planting beds along the East Street façade; the planting bed should continue around the corner of the east side of the building; the evergreen trees near the east side of the building need to be replaced with landscaping that will not block the view of the wall sign; and ten street trees shall be planted along East Street. In addition, the proposed sidewalk along East Street shall be moved back to the edge of the right-of-way and a green strip shall be added between the roadway and sidewalk, and the Planning Board shall have an opportunity to review the proposed signage since that will be very important for visitors. Mr. Shurtleff seconded.

Ms. Meyer suggested an additional condition that there shall be shade trees in the landscape strip in the parking lot or a parking space sacrificed to allow three street trees to be planted in the parking lot. Mr. Swope and Mr. Shurtleff agreed to this additional condition.

Motion as revised carried.

Mr. Swope moved that the Planning Board grant conditional site plan approval for the Site Plan Application of DEW Construction Corporation as submitted by Nobis Engineering, Yaw Associates, and Hoyle, Tanner & Associates 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. 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.

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 permits shall be obtained and copies provided to the Planning Division:

    a. NH Department of Environmental Services Alteration of Terrain Permit
    b. NH Department of Environmental Services Wetlands Dredge and Fill Permit
    c. NH Department of Environmental Services Water Quality and Sewer Discharge Permit

4. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the applicant shall obtain approval of private utility plans from Unitil, FairPoint Communications, and National Grid.

5. 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 - 14,884 sq. ft. (Single Tenant Office Space)

Special Conditions:

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 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 25-foot wide sewer easement, through the Walnut Street parcel, from the City of Concord to DEW Construction Corporation

7. Prior to the issuance of a certificate of approval by the Planning Board Chair (and issuance of any building permits for construction activity on the site), the voluntary lot merger application to combine parcels P1/7/9 and P2/1/1 shall be approved by the City and recorded at the Merrimack County Registry of Deeds.

8. Prior to the issuance of a Certificate of Occupancy for the building or use, the following off site improvements shall be substantially complete:

    - Consolidation and relocation of existing utility poles from the site to the East Street right-of-way and a nearby city-owned property;
    - The replacement of an old (1890) water main located in East Street and Crescent Street;
    - Reconstruction of Crescent Street between East Street and the Boscawen town line;
    - Construction of a new sidewalk on the north side of East Street between Crescent and MacCoy Street;
    - Construction of a new sidewalk on the east side of Crescent Street between East Street intersection and the driveway entrance to 4 Crescent Street;
    - Realignment of the Walnut, East, and Crescent Street intersection, including the removal of the Walnut Street slip lane; and
    - Planting of ten street trees along the north side of East Street.

Mr. Shurtleff seconded. Motion carried.

Architectural Design Review

3. 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.

    - **Breathe Esthetics Spa Services** at 53 N. Main Street (1 hanging sign)
    - **Checkmate Pizza** at 41 Washington Street (3 affixed signs) [***postponed at the request of the applicant***]
    - **Labor Ready** at 122 Loudon Road (renovations to existing free standing sign)
    - **Northeast Electrical Distributors** (1 hanging sign)
    - **Rath Young & Pignatelli** at One Capital Plaza (1 affixed sign and a projected image on the storefront window) [***postponed at the request of the applicant***]
    - **Salon K** at 18 Pleasant Street (1 hanging sign)
    - **Sun Tan City** at 50 Storrs Street (2 affixed signs)

The Chair opened a public hearing on all of the above signs.

- **Rath Young & Pignatelli** at One Capital Plaza (1 affixed sign and a projected image on the storefront window)

The Chair noted that the Board had received a copy of an email from the City's Zoning Administrator in which he indicated that Rath Young & Pignatelli had notified him that they wished to withdraw their application for the sign which featured a projected image on which the Board tabled action last month.

- **Breathe Esthetics Spa Services** at 53 N. Main Street (1 hanging sign)

Mr. Henninger reported that Design Review Committee members felt that, while the graphics of this sign were attractive, the light green lettering disappeared, and they suggested highlighting the lettering.

He reported the Design Review Committee found the design and placement of the sign to be appropriate for the location and use proposed, and recommended approval with the suggestion that they shadow or outline the lettering so that it is more visible from a distance.

There was no one present on behalf of the applicant.

Mr. Swope moved approval for the new hanging sign as submitted, but suggested that the applicant consider adding a shadow around the letters, or outline the lettering, so that the lettering would be more visible at a distance. Ms. Meyer seconded. Motion carried.

- **Checkmate Pizza** at 41 Washington Street (3 affixed signs)

The Chair announced that the applicant had requested that action on this application be postponed.

- **Labor Ready** at 122 Loudon Road (renovations to existing free standing sign)

Mr. Henninger reported they are refurbishing an existing freestanding sign for a new occupant of the building.

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

There was no one present on behalf of the applicant.

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

- **Northeast Electrical Distributors** at the Ralph Pill Building at 22 Bridge Street (1 hanging sign)

Mr. Henninger explained this proposal for a replacement sign that will be the same shape with just an upgrade in materials.

He reported that the Design Review Committee had found the design and placement of the sign to be appropriate for the location and use proposed, and recommended

approval with the suggestion that they add a blue border around the lightening bolt to make it visible from a distance.

There was no one present on behalf of the applicant.

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

- **Salon K** at 18 Pleasant Street (1 hanging sign)

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

There was no one present on behalf of the applicant.

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

- **Sun Tan City** at 50 Storrs Street (2 affixed signs)

Mr. Henninger reported that the Design Review Committee had noted that the raceway for the sign on the front of the building is integrated into the sign. They felt it was a little unusual but worked.

He reported that the Design Review Committee had found the design and placement of the signage to be appropriate for the location and use proposed, and recommended approval with the recommendation that all three words on the sign for the rear of the building be consistent in width. He reported that the sign company concurred with the Committee's recommendation.

There was no one present on behalf of the applicant.

Mr. Gross moved approval for a new affixed sign facing Storrs Street as submitted and approval for a second affixed sign facing I-93 subject to the condition that all three words on the sign be consistent in width and vertically aligned. Mr. Shurtleff seconded. Motion carried.

Ms. Meyer had a question relative to the front sign for Sun Tan City. She asked if this was a box sign and recalled that all the signs on the front of the shopping center had individual lettering. Mr. Henninger responded that these are individual letters just a little different appearance due to the raceway.

4. Application by **St. Paul's School** for approval of a site plan of property located on **Dunbarton Road**. **(#2003-59)**

<u>Public Hearing</u>

Mr. Henninger explained this proposal to construct a two-family residence on Dunbarton Road pursuant to a conditional approval granted by the Planning Board in June of 2003, for construction of thirteen new dwelling units for faculty housing in the form of four attached duplexes, and five detached units, to be located throughout the main campus of St. Paul's campus at 325 Pleasant Street. These units were to replace existing faculty housing north of Hopkinton Road and Pleasant Street with the existing housing to be sold. The new units were to be constructed at a rate not to exceed four units per year. One of the conditions of approval was the review of the architectural elevations for the attached and detached units by the Design Review Committee and approval of the same by the Planning Board.

He reported that the conditional approval is effective for a period of four years from the date of approval to allow for a construction phasing schedule that will not exceed four units per year. On June 6, 2007, the Board granted an extension of the conditional approval granted in 2003, for an additional four years for St. Paul's to complete the balance of the 13 units, at that time having only constructed seven units over the first four year approval period.

He reported that a two-car garage is incorporated into the proposed duplex between the individual dwelling units. A surface parking area sufficient to park an additional four cars is proposed behind the building.

Mr. Henninger reported that the Design Review Committee had reviewed the site and building plans and recommended approval for the design of the new two-family residence and attached a two-car garage together with the related site and landscaping plans as submitted subject to the following recommendations:

1. An ornamental tree will be planted in front of the garage elevation facing Dunbarton Road.
2. A landscaping plan will be provided showing foundation plantings and screening for the two patios.

He reported that a revised site plan was subsequently submitted incorporating revisions to the site plan requested by staff and the Design Review Committee, including the addition of landscaping to the site plan.

Ted Kupper from Provan and Lorber was present to answer questions from the Board on behalf of the applicant.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 8:43 PM.

Deliberations and Action on the Application

Mr. Gross moved that the Planning Board grant conditional approval under the provisions of Section 28-9-4(f), Architectural Design Review, of the Zoning Ordinance,

for the design of the site and building elevations for a new two-family faculty residence on Dunbarton Road, subject to the following 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.

2. 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 – Townhouse/Duplex
    b. Recreational Facilities – Townhouse/Duplex
    c. Transportation Facilities - Townhouse/Duplex

Mr. Shurtleff seconded. Motion carried.

REGULAR MEETING

Minutes

Mr. Gross moved approval of the minutes of the meeting of February 17, 2010, as submitted and Ms. Dolcino seconded. Motion carried.

6. Further consideration of applications for approval of developments on which public hearings have previously been held:

- Communication from **Duprey Acquisitions, LLC**, on behalf of the City of Concord, is seeking clarification of a condition of a Site Plan approval granted by the Planning Board on December 16, 2009, for the expansion the existing 24-space **parking lot at 6 Theatre Street** southerly along the westerly side of **Storrs Street** to accommodate a total of 128 parking spaces.

Mr. Woodward reported that an email communication was received on the Board's behalf from Stephen Duprey relative to the December 21, 2010 conditional approval granted to the major site plan application by Duprey Acquisitions, LLC, on behalf of the City of Concord, for property located at 6 Theatre Street. Mr. Duprey requested that the Board clarify one of the conditions of approval as being "subject to our best efforts to obtain those approvals". The original condition is as follows:

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 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. *An agreement or easement to allow Duprey Acquisitions to install landscaping on property located at 67 South Main Street (parcel 34-5-7) and 71-79 South Main Street (parcel 34-5-9).*

Mr. Duprey indicated in his communication that in his testimony he agreed to this condition subject to his best efforts to obtain the approval of these owners.

Mr. Woodward explained that this application, made in conjunction with the Sanel Block applications, was to construct 97 compact parking spaces on parcels which are currently City-owned and extend along the west side of Storrs Street from Theatre Street southerly to the curve of Storrs Street where it turns to meet South Main Street. An existing 24-space municipal parking lot is located at 6 Theatre Street and is included in the acquisition, resulting in a total of 121 private spaces proposed for this property.

He reported that the applicant had obtained variances from the Zoning Board of Adjustment to provide no parking lot perimeter landscaping along the easterly property line adjacent to Storrs Street where a ten foot landscaping strip is required along a collector street, to allow not less than a 4½ foot landscaped strip along a portion of the westerly property line when a five foot landscaped strip is required, and to permit no interior parking lot landscaping when a minimum of 5 percent is required, and waive the requirement that no parking space is greater than 120 feet from a portion of such landscaped areas.

He explained that, as part of the landscape plan that was included as part of the Site Plan submittal, a significant number of the landscape buffer plantings were proposed to be planted on the abutting properties to the west due to grade and to have enough space for the plants to grow. The properties to the west will be 8-10 feet above the finished elevation of the parking lot. The intent of the off-site landscaping was to screen the backs of the abutting buildings which front on South Main Street. Trees which now screen the backs of the buildings, some of which were planted by the City on the Storrs Street property and some of which are existing trees on the adjacent parcels, will be removed as part of the parking lot construction. The Planning Division report to the Board noted that applicant will need a formal agreement with the property owner(s) to install and maintain the buffer plantings, and a proposed condition of approval was to require such an agreement or easement. This was the condition included by the Board in granting its approval. Another condition of approval required a revised Landscape Plan which was to contain additional and more substantial plant materials. The revised landscape plan has not been submitted as yet.

Mr. Woodward explained that the description of the testimony and the Board's deliberations as contained in the official minutes did not include sufficient detail

related to the issue in question so that an expanded description was obtained from the CCTV videotape. The portion of the related testimony from Mr. Duprey was transcribed.

He reported that, in reviewing the landscape plans, City staff had noted that the vast majority of the off-site landscaping is located on one of the two parcels (71-77 South Main Street), while only three trees were proposed on the parcel at 67-69 South Main Street. The Planning Division has suggested to the applicant that these abutters be approached to determine the actual circumstances with regard to the ability or inability to fulfill the specified condition of approval.

He reported that the Board had received a communication this afternoon from Rachel Goldwasser from Orr & Reno on behalf of Duprey Acquisitions LLC in which she reported that the owner of The Draft property at 67-69 South Main Street was adamant that his company will not grant any landscaping rights of any kind. However, the owner of the property at 71-79 South Main Street has asked for a landscaping plan and a draft agreement and they have been supplied to his attorney. His attorney has indicated that they may be willing to grant such a license but needed additional time to review the documentation before agreeing to it.

As a result of these discussion, Ms. Goldwasser suggested that the Board clarify its decision on the site plan to require best efforts to obtain such landscaping licenses, with a further condition that if the applicant was unable to obtain the license for the property at 71-79 South Main Street, he would return to the Board for approval of an alternative landscaping plan for the western side of the parking lot. The applicant would not include the property at 67-69 South Main Street as part of this requirement because the plan already approved by the Board contains only three trees proposed on that property.

Mr. Gross moved and Mr. Shurtleff seconded that the Board clarify its decision on the site plan to require best efforts to obtain such landscaping licenses, with a further condition that if the applicant was unable to obtain the license for the property at 71-79 South Main Street then he would return to the Board for approval of an alternative landscaping plan for the western side of the parking lot. The applicant would not include the property at 67-69 South Main Street as part of this requirement because the plan already approved by the Board contains only three trees proposed on that property. To relieve the applicant of the obligation to provide landscaping at 67-69 South Main Street and require him to use his best efforts to provide landscaping behind 71-77 South Main Street and if that is not possible he will return to the Planning Board with an alternate landscaping plan.

Ms. Meyer suggested that the applicant reduce the number of parking spaces in his lot to make space to plant the trees which were to have been placed on the premises at 67-69 South Main Street. If he cannot landscape off-site, he should sacrifice some of the proposed parking spaces.

Mr. Swope did not agree with Ms. Meyer's suggestion as a condition of approval.

Attorney Rachel Goldwasser from Orr & Reno was present on behalf of the applicant and reported that the owner of 67-69 South Main Street was adamant that there would be no landscaping rights granted.

Mr. Gross suggested that the motion be revised to include that Mr. Duprey be asked to use his best efforts to insert reasonable substitute plantings to compensate for the abutter's refusal to cooperate. Mr. Shurtleff agreed to the addition.

After discussion, Mr. Gross re-stated his motion that the Board clarify its decision on the site plan to relieve the applicant of his undertaking to insert plantings on the property at 67-69 South Main Street, and to require him to continue negotiations with the owner of 71-77 South Main Street in order to accomplish plantings that property as shown on the approved Landscape Plan. He further moved that if the applicant is unable to obtain permission to plant on the property at 71-79 South Main Street, then he shall return to the Planning Board for approval of a substitute landscaping plan for the western side of the parking lot, and further, that he make his best efforts to insert some reasonable substitute landscaping to compensate for the planting which was to have been placed on the premises at 67-69 South Main Street make up for the refusal of 67-69 South Main Street to cooperate.

Motion carried.

New Business

7. Inquiry from NHDOT about potential environmental impacts related to the **repair and replacement of the Sewalls Falls Bridge**, together with a copy of comments submitted thereon by the CNHRPC.

Mr. Woodward explained that the NH Department of Transportation has been working with the City to design the repair/replacement of the bridge over the Merrimack River at Sewalls Falls Road. There were a number of hearings on alternative designs and the design that came out of the preliminary design process was to build a new one-lane bridge with shoulders along the northerly side of the existing bridge. This bridge would carry traffic westbound. The trusses of the existing bridge would be saved and repaired. These would stay in the same location and carry traffic eastbound. New piers and abutments would be constructed to support both the new bridge and the existing trusses, as the existing piers are in poor condition. Through one-way traffic would be maintained on the existing bridge until the new bridge is constructed and then traffic would be diverted to the new bridge while the existing bridge is rehabilitated.

He reported the Department of Transportation had now asked for comments from the City relative to specific potential impacts to assist them in preparing the necessary environmental documentation for this project.

He reported the Conservation Commission had asked to obtain copies of the environmental studies done to date, the Heritage Commission had requested to be kept

advised as the design progressed toward construction plans, and CNHRPC had commented on the proposal.

Mr. Swope felt that, from the point of view of the Planning Board's responsibilities, it would be appropriate to leave comments relative to planning and design for this project to the City's staff.

Mr. Swope suggested that the communication from NH DOT be placed on file.

8. Introduction to the proposed new **Subdivision Regulations** with a focus on changes and differences from the current regulations.

Mr. Henninger explained that the City's current Subdivision Regulations were adopted on May 22, 1985. Substantive amendments were made in 1988, 1989, 1991 and 1997. In addition, a number of minor amendments were made since 1997 to address procedural changes and critical issues.

He explained that an attempt had been made to improve the organization and arrangement of the document to make it easier to locate the appropriate regulation and/or design standard. He explained that this is a partial rewrite of the Subdivision Regulations. A significant portion of the standards and language of the existing ordinance have been carried forward where warranted. Numerous changes in the enabling legislation (NH RSA's) have required rewriting of the procedural sections of the application. Certain sections, such as Stormwater Management, have needed a complete overhaul and have been totally rewritten. Standards for parking lot design, parking lot landscaping and fire lanes have been updated and have been relocated to the site plan regulations.

Typographical and spelling errors have been corrected. Citations have been revised and updated. Variable plan scales are allowed and the definitions are expanded and updated. New and updated specifications and reference documents have been cited, which may not have existed in 1985 or have seen substantial modifications in the last 20 years. Duplicate standards and regulations have been eliminated or consolidated where possible within the document.

He explained that the regulations are grouped into five Chapters entitled General, Application Procedures, Application Requirements, Design Standards, and Administration and Enforcement. A separate Glossary and three Appendices have been added for Fees, and Notes, as well as Easements and Legal Documents.

Mr. Gross asked about the requirements for sprinkler systems and whether the City had taken a position regarding currently proposed legislation regarding sprinkler systems. Mr. Woodward responded that the Fire Department has strongly supported this revision in the Subdivision Regulations.

Mr. Gross suggested that someone on behalf of the City should write to our State senator pointing out the City's position and suggesting that it would be inappropriate and would prevent the Board from carrying out its job.

Mr. Woodward did not know the City Administration's position but did know how the Fire Department feels. He also noted that, if this legislation passed, there is a process under the Board's powers to regulate subdivisions that would allow the Board to deem an application premature in outlying areas of the city with limited fire protection. The Board would have to ask the Fire Department to review and report specifically on each application in this respect.

Mr. Swope agreed that the Planning Board should at least communicate with the City Manager and perhaps the City Council and suggest that the position of the Planning Board and what the Board understands to be the position of the Fire Department be transmitted to the Legislature.

Mr. Gross felt the proposed legislation is too broad and is a reaction to the requirement of sprinkler systems. He expressed concern that if the legislation is not carefully written, it would prevent the Planning Board from doing what it has been trying to do. He was concerned that this is a policy the Planning Board has been pursuing on advice and recommendation of our public safety people. This is a matter of subdivision regulation, which is what the Planning Board does, so it should be seen as appropriate for the Planning Board to communicate to our State Senator.

Mr. Gross moved to direct the Clerk to communicate to our State Senator that the Planning Board has been pursuing a policy of requiring sprinkler systems in outlying areas of the city on the advice and recommendation of the City's public safety personnel and, if the legislation is not carefully written, it will prevent the Planning Board from providing for careful development in a safe environment for the City's residents. Mr. Swope seconded. Motion carried.

A discussion relative to a meeting schedule for review of the proposed Subdivision Regulations led to agreement that that discussion should take place after the public forums on March 23 and March 27, 2010, as scheduled by Concord 2020 as part of the review process for the Concord Zoning Ordinance, as well as after a joint meeting of all City Boards and Commissions on April 13, 2010.

The discussion then turned to scheduling a special meeting after the public forums and before the joint meeting in order to provide the Planning Board with an opportunity to discuss what members had learned at the forums and provide for a coordinated reaction at the joint meeting.

The Clerk was instructed to communicate with all members as to their availability on either March 31 or April 7 for this meeting.

INFORMATION

Mr. Woodward noted that the Board had received for informational purposes copies of the letters to the Pembroke Planning Board resulting from the February 17, 2010 meeting of the Concord Planning Board, together with an excerpt from draft minutes of the February 23, 2010 meeting of the Pembroke Planning Board concerning applications by Concord Sand & Gravel for an excavation expansion, WS Dennison Cabinets, Inc. in the Silver Hills Business Park, and New England Flower Farms, LLC, a copy of an Alteration of Terrain Permit, dated March 2, 2010, issued by NHDES to Concord Sand & Gravel Inc., and a copy of a letter dated February 26, 2010 from Emery & Garrett Groundwater, Inc to Philip Bilodeau, Deputy Director of General Services relative to review comments on draft Management Plans submitted to NHDES by Nobis Engineering on behalf of Concord Sand & Gravel Inc**.**

He noted that in each case the Pembroke Planning Board had incorporated the Concord Planning Board's recommendations and concerns into its action on these applications.

Mr. Swope moved and Mr. Gross seconded that the report from Emery & Garrett Groundwater, Inc. be forwarded to the Pembroke Planning Board with an expression the Concord Planning Board's appreciation to the Pembroke Planning Board for its consideration of the City's concerns for its well field. Motion carried.

There was no further business to come before the Board and the meeting adjourned at 10:02 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward
Clerk

o