The regular monthly meeting of the City Planning Board was held on January 19, 2011, in the City Council Chambers in the City Hall Annex at 7:00 PM.

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

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

#### **APPLICATIONS**

# **Architectural Design Review**

- 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 Code of Ordinances.
  - Nonni's for two new affixed signs and one new awning sign at 172 North Main Street
  - **Pizza Market** for one new affixed sign and one replacement panel in an existing freestanding sign **at the Merrimack Center at 89 Fort Eddy Road**
  - Subway for one new affixed sign at 231 Loudon Road.

The Chair opened the hearings on all of the above sign applications.

• Nonni's for two new affixed signs and one new awning sign at 172 North Main Street.

Mr. Henninger reported that the affixed signs proposed to be placed on each corner of the building were previously attached to the old freestanding sign. When that freestanding sign was replaced, these panels were installed on the building. He reported that they met the requirements of the Zoning Ordinance.

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

Matthew Mitnitsky, owner of Nonni's, was present to answer questions from the Board.

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

• **Pizza Market** for one new affixed sign and one replacement panel in an existing freestanding sign at the Merrimack Center at 89 Fort Eddy Road

Mr. Henninger reported that these were replacement signs. He reported that the Design Review Committee had found the proposed design and placement of the signage to be appropriate for the location and use, and recommended approval as submitted.

There was no one present on behalf of the applicant.

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

• Subway for one new affixed sign at 231 Loudon Road.

Mr. Henninger explained this proposal for new signage for the Subway restaurant at the existing Circle K store on Loudon Road. He explained that Subway received a variance for a 2' x 8' affixed sign on the building and advised that Subway believed that customers were having trouble finding them. They hope the additional signage will help.

There was a question by the Committee as to whether the "W" in "Subway" was intended to be black or yellow, and Mr. Henninger reported he had received confirmation that it was intended to be the same yellow as the rest of the lettering.

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

There was no one present on behalf of the applicant.

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

 Consideration of an application by Burger King Corporation for approval of revisions to the previously approved building elevations at 155 Loudon Road. (#2009-04)

### **Public Hearing**

Mr. Henninger explained this proposal for revisions to the previously approved building elevations for Burger King, along with changes to the site plan.

He explained there was a change in location of the dumpster. He explained that the approved plan showed the two dumpsters for Burger King to be located to the rear of the building. They now propose to place those two dumpsters, along with the one dedicated to CVS, in a single enclosure in the location originally planned for the sole CVS dumpster. It will be a masonry enclosure with wooden gates and will match the colors of the CVS building. This will allow for increased landscaping at the original location of the Burger King dumpsters.

Mr. Henninger noted that they are only allowed three signs so, while they comply with the Zoning Ordinance regarding sign area, they cannot have the number of signs proposed. The applicant's agent agreed to remove two signs and has submitted revised plans which are in compliance with the Zoning Ordinance.

He reported that the Design Review Committee recommended approval of the revisions as submitted, with the reduction in signage by removing the Burger King medallion and removing "have it your way" on the west side, and increasing the sign diameter of the two remaining medallions from five feet to six feet. "Home of the Whopper" will also remain.

Ms. Foss noted that it appeared there were fewer windows in the new design. Mr. Henninger responded that the front elevation will have more glass and the drive-through windows will be larger.

Attorney Richard Uchida from Orr and Reno was present to answer questions on behalf of the applicant.

Mr. Swope moved approval and Ms. Foss seconded. Motion carried.

3. Consideration of an application by the **New Hampshire Community Loan Fund** for approval of modifications to the previously approved design of the northerly building elevation at **5-7 Wall Street.** (#2010-23)

## Public Hearing

Mr. Henninger explained that in the course of demolition for construction the foundation of the building started to fail and the porches were lost in the process of responding to the foundation failure. Since they now need to rebuild the porches, they are trying to emulate the porches originally on the buildings. Also, in the demolition they found scalloped shingles in the gable of one of the buildings and decided they would like to keep that feature. They are also replacing the originally proposed palladium window with double windows similar in style to the other windows on the building.

He reported that the Design Review Committee recommended approval as submitted with the suggestion that they use wider corner boards.

He reported that they had submitted revised plans showing wider trim borders as suggested by the Design Review Committee. They also added lintels and strengthened trim around the windows.

Greg Coates from The Azimuth Group was present on behalf of the applicant.

Mr. Swope moved approval as revised and Mr. Shurtleff seconded. Motion carried.

#### **REGULAR MEETING**

#### Minutes

Mr. Swope moved approval of the minutes of the meeting of December 15, 2010 as submitted and Mr. Hicks seconded. Motion carried.

#### **New Business**

6. Consideration of a request for a waiver of the Subdivision Regulations by Richard Uchida as attorney for Tropic Star Development on behalf of Burger King Corporation, the Hall 2001 Family Revocable Trust, and Jean B. Chase for another one year extension of the period of validity of a conditionally approved minor subdivision, for property at 155-157 Loudon Road, 36 Burns Avenue, and 9 East Side Drive. (#2009-03)

Mr. Woodward explained that the attorney for the applicant has forwarded a request for an extension of the conditional subdivision approval seeking to extend the period of validity through January 21, 2012.

He explained that the Planning Board, at the regular meeting on January 21, 2009, granted conditional final approval of the application for a subdivision and resubdivision of properties on Burns Avenue, East Side Drive, and Loudon Road. The original approval was valid for a period of one year or until January 21, 2010. The Board then granted, on January 20, 2010, a request for a waiver of the Subdivision Regulations to allow for a one year extension of the period of validity for the conditional approval through January 21, 2011.

He explained that, in a related matter, at its regular meeting of August 19, 2009, the Board granted a conditional approval to the site plan application on this property. One condition of the site plan approval related to the subdivision application as follows:

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 submit an application for a voluntary merger of the properties at 155 and 157 Loudon Road, 36 Burns Avenue, and 9 East Side Drive, and said voluntary merger shall be recorded at the Merrimack County Registry of Deeds prior to the recording of the companion subdivision and resubdivision of these properties.

This condition was established in response to advice from the City Solicitor that this condition should be added. The applicant's attorney was present at the meeting and the minutes reflect that he acknowledged the need for the voluntary merger.

He reported that the applicants came back before the Board on September 15, 2010 with a revised site plan application which was granted a conditional final approval. Most of the original conditions of approval were carried forward but the language of the precondition of the voluntary merger was inadvertently omitted.

He explained that any extensions of a final subdivision approval may be granted by the Board as a waiver of the Subdivision Regulations, and the Board has often granted one-year extensions, but has generally required that an applicant present requests for anything more than that at the end of the one year extension. The Board has evaluated the request at that time to determine if conditions related to the subdivision have changed or otherwise warrant another one-year extension. If conditions have changed, the Board has denied the waiver for a further extension, and after several extensions, the Board has also indicated to applicants that a requested extension will be the final one as the passage of time alone creates an issue in terms of new abutters having no recorded plat as a means of learning of the existence of the application and the pending change in their neighborhood.

In this case, the applicant has indicated that they are working toward fulfillment of the conditions of approval of the site plan application which is based on the subdivision, and they need the extension to allow time to complete all of the conditions of site plan approval. A one-year extension appears to be reasonable for the Board to grant. The voluntary merger precondition needs to be re-established as a condition of this extension. The applicant's attorney has indicated that this is acceptable to them.

Mr. Drypolcher moved that the Planning Board grant a waiver of the Subdivision Regulations for a one-year extension for this application, extending the period of validity through January 21, 2012, indicating that all conditions of approval set forth in the decision of the Board on January 21, 2009, shall remain in full force and effect, and subject to the original condition of site plan approval from August 19, 2009, that a voluntary merger of the properties must be recorded at the Merrimack County Registry of Deeds prior to the recording of this subdivision plat.

Ms. Dolcino seconded. Motion carried.

### Amendments to the Site Plan Regulations

5. Consideration of **amendments to the Site Plan Regulations** which constitute a complete revision of the Regulations.

Mr. Henninger explained that the proposed revised Site Plan Review Regulations were a follow up to the recently adopted Subdivision Regulations. As a result, there is a great deal in common between the Subdivision Regulations and the proposed Site Plan Review Regulations which should facilitate the Board's review and consideration of the revised Regulations. He noted sections of Chapter 4, Design Standards, and Chapter 5, Administration and Enforcement, were the sections with the most differences.

He reported that Chapter 1, Authority and Purpose, Chapter 2, Application Procedures, Chapter 3, Application Requirements, and Chapter 5, Administration and Enforcement, were parallel and had much in common with the Subdivision Regulations as recently reviewed and adopted.

He asked for feedback in particular relative to Section 30 regarding Sustainable Development.

Mr. Henninger suggested that the Planning Board schedule a special meeting in February to review these Regulations. Mr. Woodward also noted that the committee working on the Bicycle Master Plan had expressed an interest in meeting again with the Board. He thought a special meeting in February might be a good time for them to visit.

Members present agreed to schedule a special meeting for February 23<sup>rd</sup> to discuss the proposed Site Plan Review Regulations and to hear a presentation regarding the Bicycle Master Plan, as well as to address any items that might remain from the regular meeting on February 16<sup>th</sup>.

#### **INFORMATION**

Record of Action of the Technical Review Committee on January 5, 2011, relative to a
Minor Site Plan Application of Christina Poulicakos and Michael A. and Giovanni
M. Guglielmo at 140 Rumford Street. (#2011-01)

Mr. Woodward reported the Technical Review Committee had unanimously granted a conditional minor site plan approval for the conversion from a duplex to a three unit building with no changes to the existing site conditions, including parking,

• Update on Continental Paving, Inc. v Town of Pembroke

Mr. Woodward reported that the last time the Planning Board discussed this, the appeal period had not come to an end and no appeal had been filed at that time. The Board had authorized the Planning staff to request of the City's Legal Department that the City seek standing in a lawsuit if a suit was actually filed against the Pembroke ZBA. He reported that the Town of Pembroke had subsequently notified him that they had been sued, so the City Solicitor has filed a motion for the City to become an intervener.

He reported he had also been advised by the Town of Pembroke that Continental Paving has begun taking steps for requesting approvals for an asphalt plant on Ricker Road which is outside of Concord's wellhead protection area.

Communication relative handicapped access from Fred Graf of 20 Carter Street

Mr. Woodward explained this communication relative to the Design Review Committee item last month regarding the Siam Orchid. Mr. Graf felt this was a situation similar to the recent ADA accessibility situation at the Phenix Hall building. Mr. Woodward explained that this was really a situation of interpretation that came under the purview of building codes and not the Planning Board. It would likely come down to an interpretation as to whether these are substantial renovations or minor repairs.

Mr. Swope asked that this communication be forwarded to Code Administration.

Mr. Henninger noted that the Zoning Administrator was at the Design Review Committee meeting at which this item was discussed. He also noted that Siam Orchid has not proposed to change either the stairs or the doorways. Most of the revisions are to the second story façade. If they have to make further changes to the exterior, they will be expected to return for further review by the Design Review Committee.

There was no further business to come before the Board and the meeting adjourned at 7:44 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward Clerk

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