

The regular monthly meeting of the City Planning Board was held on February 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 (who arrived at 7:05 PM), Dolcino (who arrived at 7:02 PM), Foss, Gross (who arrived at 7:05 PM), Hicks, Meyer, Shurtleff (representing the City Council), and Alternate Member Kenison who was seated for the recently vacated position. Mr. Woodward, 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 and seated Mr. Kenison in the seat recently vacated by Mr. Harrington.

## **APPLICATIONS**

### **Minor Subdivision Application**

1. Application by **David and Lisa Braiterman** for approval of a subdivision of property located at **1 Kensington Road. (#2010-03)**

#### **Determination of Completeness**

Ms. Hebert explained this proposal to subdivide an existing 32,554 square foot parcel to create one additional building lot.

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

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

#### **Public Hearing**

Ms. Hebert explained this proposal to subdivide an existing 32,554 square foot parcel on which there is an existing residential dwelling to create one additional building lot. The new parcel will be 15,260 square foot and the existing house will remain on a 17,294 square foot parcel.

She reported that the applicant received a variance for the creation of a non-conforming setback for an existing detached garage. This permitted an 8.4 foot wide sideyard setback where a 15 foot setback would otherwise be required.

David Braiterman was present as applicant to answer questions from the Board.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 7:04 PM.

Deliberations and Action on Application

Ms. Meyer moved that the Planning Board grant conditional final subdivision approval for the "Subdivision Plan prepared for David and Lisa Braiterman" as prepared by Richard D. Bartlett & Associates 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.
  
2. Traffic, recreation and school impact fees shall be assessed for any construction on the new lot contained within this approved subdivision. 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, and 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 - Single Family Residence
  - b. Recreational Facilities - Single Family Residence
  - c. Transportation Facilities - Single Family Residence

Mr. Shurtleff seconded. Motion carried.

Minor Site Plan Application

2. Application by **Johnny Prescott & Son Oil Company, Inc.** for approval of a site plan of property located at **122 Airport Road. (#2010-04)**

(Messrs. Gross and Swope arrived at 7:05 PM.)

Determination of Completeness

Ms. Hebert explained this proposal for the construction of a 2,360 square foot storage building to house a Concord Coach and other memorabilia next to the existing Johnny Prescott & Sons facility.

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

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

Public Hearing

Ms. Hebert explained this proposal for the construction of a 2,360 square foot storage building to house a Concord Coach and other memorabilia next to the existing Johnny Prescott & Sons facility. Other than a walkway and a short section of driveway to the side of the building, no changes are proposed to the site.

She reported that the Zoning Administrator has ruled that the proposed use is a storage and warehousing use under Principal Use - K.7 of the Table of Uses. The proposed building and collection of artifacts will not be open to the general public. The applicant has indicated it may be available on appointment for groups such as Boy Scouts or student field trips. If the storage building and the collection it will hold was ever opened for public use, sufficient room exists on site to provide the required parking. However, this use is not allowed in the Industrial District and would require action by the Zoning Board of Adjustment before the use could be changed.

She reported that the applicant does not propose water or sewer services to the new building. It will have limited heating to maintain temperatures between 40-50 degrees during the winter months as well as air conditioning/humidity control to protect the collection during warmer months. All mechanical units will be located in the rear section of the shed. The building will be provided with both a fire alarm system and a security system.

Ms. Hebert reported that the Design Review Committee reviewed the site and building plans and found the plans to be acceptable as submitted. The Committee found the project to be interesting and the design to be of high quality and appropriate for the use proposed.

Tom Prescott was present as applicant to answer questions from the Board.

There was no one present who wished to speak for or against this application and the Chair declared the hearing closed at 7:09 PM.

#### Deliberations and Action on Application

Mr. Swope moved that the Planning Board grant both architectural design review approval and site plan approval for the proposed coach shed for Johnny Prescott & Son Oil Company, Inc. at 122 Airport Road as submitted. Mr. Gross seconded. Motion carried.

#### Major Site Plan Application

3. 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)**

#### Determination of Completeness

Ms. Hebert explained this proposal to construct a 14,884 square foot office building for the Penacook Family Physicians practice, which is a division of Concord Hospital. The site will be developed in two phases. The first phase will include a 9,484 square foot medical office building and the construction of a parking area to accommodate 71 spaces. The second phase will involve a 5,400 square foot addition to the building and the expansion of the parking area to include 30 more spaces. The applicant has also applied for a Conditional Use Permit to construct additional compact parking spaces, and a Conditional Use Permit for impacts to wetland buffers.

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

Mr. Gross moved that the Planning Board determine this application to be complete and set it for public hearing at the next regularly scheduled meeting on March 17, 2010. Mr. Shurtleff seconded. Motion carried.

### Architectural Design Review

4. Applications by the following for approval of signs at the following locations under the provisions of Section 28-9-4(f), Architectural Design Review, of the Code of Ordinances.

- **Checkmate Pizza** at 41 Washington Street (2 affixed signs)
- **Donovan's Party & Novelty** at 102 Ft. Eddy Road (1 affixed sign)
- **Exeter Events & Tents** at 118 North Main Street (1 affixed sign)
- **Rath Young & Pignatelli** at One Capital Plaza (1 affixed sign and a projected image on the storefront window)

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

- **Checkmate Pizza** at 41 Washington Street (2 affixed signs)

Mr. Woodward explained that the Design Review Committee had previously reviewed this sign proposal and recommended that the Planning Board table action to allow the applicant to consider their comments and revise his plan. The Planning Board tabled action and asked the applicant to return to the Architectural Design Review Committee to work out a compromise on the layout and design of the sign. He reported that the applicant had met with City staff and now proposed a revised design for the signage, the major component being a white background rather than the bright yellow background previously proposed. The applicant also added a black border around the proposed signs.

He reported that the Design Review Committee noted that the applicant had responded positively to the Committee's earlier comments, and recommended approval as revised with the understanding that the applicant will submit revised sign permits to Code Administration for the three signs as now proposed.

There was no one present on behalf of the applicant.

Ms. Meyer expressed a concern with the telephone number being on the sign. She thought none of the other businesses on the street had telephone numbers on their signs. Since it is difficult to read the telephone number on the sign on the front of the entrance, it should not be there. She felt no signs should have telephone numbers on them in any location. In this case, she felt the telephone number was too large in proportion to the business name.

Mr. Swope felt this was still a very large, awkward sign for the location even though it was a major improvement over the original submittal.

Mr. Gross felt this was a charm-free sign. It bore no relation to its surroundings. He felt this was a neighborhood that had struggled in recent years and seems now to be doing pretty well and deserved better. This does not do the neighborhood any good. He reported he hesitated to criticize signs but this one was completely out of place.

Ms. Meyer felt this sign should identify the building and not advertise the business.

Ms. Foss suggested that the logo on the front sign could be centered with the telephone number and website address underneath.

Mr. Swope moved that the Planning Board take action on this application to allow the Board to receive verification from Code Administration that the signage meets the size limitations of the Zoning Ordinance; and to allow the applicant the opportunity to revise the design of the front sign so that it only has the logo and the street address, to provide only the logo and the telephone number on the sign for the side and that it be proportionate and, further, that the applicant submit a complete application package including an application for the second sign.

Mr. Shurtleff seconded.

Mr. Kenison also suggested that specific dimensions for each of the signs should be included in the signage package.

Motion carried.

- **Donovan's Party & Novelty** at 102 Ft. Eddy Road (1 affixed sign)

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

Ms. Meyer noted that the graphics were unclear as to whether the lettering would be centered in the sign band and asked for clarification. Patrick Donovan was present as applicant and responded that the lettering will be centered.

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

- **Exeter Events & Tents** at 118 North Main Street (1 affixed sign)

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

Ms. Meyer asked how signage for the basement level space would be handled. Mr. Woodward responded that in the past the signage above the entry had been shared. In this case, it appeared that the applicant would be taking the available signage area above the entry and that the basement tenant would have to use window signs or the matter will have to be worked out by the landlord with the two tenants.

Mr. Gross asked if the background of the proposed sign would be stark white as shown on the rendering submitted. He recalled that a few months ago the Board had a discussion regarding a restaurant sign on Main Street that proposed a stark white background and he asked if this was a new trend that the Board planned to allow.

Ashley Parkin was present on behalf of the applicant and explained that the company colors are black, red and white and it was their intention to continue with the color scheme that they have used for their signage as well as letterhead and business cards.

Mr. Gross felt that if the downtown is going to continue to have the flavor of a vibrant Victorian, downtown, the Board needed to be conscious of its decisions in these matters. Just because this is the company logo and color scheme does not mean it works well in its downtown surroundings.

Ms. Meyer felt it was a very nice sign and the sign company should be able to suggest a tone of white other than the stark white shown that will not look different but will be more appropriate.

Ms. Meyer moved approval with the suggestion to the applicant that the background not be a stark white. Mr. Gross seconded. Motion carried.

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

Mr. Woodward explained this proposal for a projected image on the storefront window. He explained that the building has a front window which is 80 inches wide by 74 inches tall. The applicants propose to project a picture of Mount Washington no larger than 46 inches wide and 60 inches tall on the inside of this glass using a standard computer projector mounted on the ceiling inside the building. The glass will be coated with a film that will allow the image to be seen in color on the glass from the outside but will not project onto the sidewalk or the street. In addition to this picture of Mount Washington, the applicants propose a red banner along the top of the image area with the words "Rath

Young Pignatelli" 46 inches wide by 4.1 inches tall. There will also be wording on the lower left corner that will be less than two square feet in size.

He reported that the Zoning Administrator had ruled that the actual sign is only the lettering. The background is not considered signage but a graphic or art image without any advertising or identification component. A photograph of Mount Washington would not be considered an advertisement for the product this applicant provides.

He reported the Design Review Committee members had noted that lighting will have to be carefully considered in order for the company name to remain visible both day and night. It would be desirable to have two light levels for the graphic, one for daylight and one at night.

He reported that the Design Review Committee found the design and placement of the proposed sign to be appropriate for the location and use, and recommended approval as submitted but expressed concern that there will need to be consideration given to the variance in brightness between day and night.

Ms. Meyer disagreed with the Zoning Administrator's ruling that the image of Mount Washington was not a sign.

Sherri Young, president of Rath Young and Pignatelli, was present and explained that they are a second story tenant so they are allowed four square feet of signage on the ground floor level. The proposed signage itself is less than four square feet. They can remove the business information in the lower left hand corner if the Board prefers.

Mr. Swope asked if they had explored the light levels and Ms. Young responded that they did not feel there would be a variance in light levels between day and night.

There was a lengthy discussion relative to whether the image being projected should be considered part of the total sign. Questions were raised as to whether the firm name would be affixed to the window with the image projected behind it, or whether the name was contained within the projected image.

Ms. Dolcino and Mr. Shurtleff questioned the precedent that would be set in approving only the area of the lettering as signage and not the image being projected.

Mr. Swope moved approval subject to the removal of the business information in the lower left hand corner. Mr. Gross seconded.

The Chair indicated he would vote against the motion and preferred to ask for a clarification from the Zoning Administrator relative to the question of the image not being part of the sign and the reasoning behind this ruling.

Motion failed, 4-5, with Members Drypolcher, Meyer, Shurtleff, Hicks and Kenison voting against.

Mr. Shurtleff moved to table action on this application in order for the Zoning Administrator to consult with the City Solicitor for clarification on the issue of whether the image is a part of the sign. Ms. Meyer seconded. Motion carried, 8-1, with Mr. Swope voting against.

## REGULAR MEETING

### Annual Organizational Meeting

#### 5. Annual Election of Officers

##### a. Election of a *Chair* for 2010

The Clerk presided over the election and called for nominations for Chair for the ensuing year.

Mr. Swope nominated Gerard Drypolcher for another term as Chair. Mr. Kenison seconded. There were no other nominations.

Mr. Shurtleff moved that nominations be closed and the Clerk be instructed to cast one ballot for Gerard Drypolcher for Chair for 2010. Mr. Kenison seconded. Motion carried.

Mr. Drypolcher again presided.

##### b. Election of a *Vice Chair* for 2010

The Chair called for nominations for Vice Chair for the ensuing year.

Ms. Meyer nominated John Swope for another term as Vice Chair. Mr. Kenison seconded. There were no other nominations.

Mr. Gross moved that nominations be closed and the Clerk be instructed to cast one ballot for John Swope for Vice Chair for 2010. Mr. Shurtleff seconded. Motion carried.

#### 6. Annual nominations of two **representatives to the Central New Hampshire Regional Planning Commission** (CNHRPC).

Ms. Foss and Mr. Hicks expressed a willingness to continue to serve as representatives to the Central New Hampshire Regional Planning Commission.

Mr. Gross moved and Ms. Meyer seconded that Ms. Foss and Mr. Hicks be reappointed as the Board's representatives to the Central New Hampshire Regional Planning Commission. Motion carried.

#### 7. Designation of a **representative to the Heritage Commission**.

The Chair asked for a volunteer to represent the Planning Board on the Heritage Commission. There were no immediate volunteers and the appointment was postponed.

### Minutes

Mr. Swope moved approval of the minutes of the Board's meeting of January 20, 2010 as submitted. Mr. Kenison seconded. Motion carried.

### **Applications**

9. Request for an extension of the period of validity of a conditional approval of the Major Subdivision Plat of **the Whispering Heights Cluster Subdivision on Portsmouth Street and Curtisville Road. (#2005-10)**

Mr. Woodward explained the Meisner Brem Corporation had requested an extension of the conditional subdivision approval of the Whispering Heights subdivision seeking to extend the period of validity through April 16, 2011. He reported that they had explained that the current economic conditions made it imprudent for them at this time to start construction of a large residential project which would require a significant investment in infrastructure. In addition, one of the partners in this venture recently passed away somewhat suddenly and they will be meeting with his heirs soon.

He reported that the Planning Board, at a meeting on April 16, 2008, granted conditional final approval of the Major Subdivision application of Links Realty Trust, Lucille P. Bollinger Trust, Robert & Lucille Bollinger Trustees, and Mark and Carolyn Blasko for final approval of an 87 lot cluster subdivision of property on Portsmouth Street and Curtisville Road. The original approval was valid for a period of one year or until April 16, 2009. The applicants filed a request for an extension in February 2009, and the Board granted a waiver of the Subdivision Regulations for a one-year extension to the conditional final approval extending the period of validity through April 16, 2010.

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.

He reported that, in this case, the applicant has indicated that economic conditions have prevented them from initiating the construction of the improvements. Also, the Alteration of Terrain permit issued by NH Department of Environmental Services for the project has lapsed and the applicant is seeking to extend the original permit or obtain a new permit. Given the current market and economic conditions, a one-year extension

appeared to be reasonable for the Board to grant subject to receipt of an extension or a new Alteration of Terrain permit from NHDES.

Mr. Swope 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 April 16, 2011, subject to receipt of an extension or a new Alteration of Terrain permit from NHDES, and indicate that all conditions of the original subdivision approval shall remain in full force and effect. Mr. Shurtleff seconded. Motion carried.

### **New Business**

10. Consideration of proposed new **Subdivision Regulations**, and setting a schedule for review of, and hearings on the same.

Mr. Woodward indicated that the draft regulations will be delivered to the Board for the March 17, 2010 meeting.

The Chair suggested that the Planning Board schedule a series of meetings to review the proposed Subdivision Regulations. He noted that since it was never certain what the Board's agenda would include for the regular monthly meeting, this review should be scheduled for a different time.

Mr. Gross asked how extensive the changes were and Mr. Woodward responded that this is the first major rewrite of the Subdivision Regulations since 1985 but a number of amendments had been adopted by the Board over the years. Some of the re-write was to better organize the document and to include new language related to current State requirements.

Members agreed to start discussion and review of the proposed Subdivision Regulations at a special meeting on March 24, 2010 at 7:00 PM.

11. Consideration of **Tax Title Property on Basin Street.**

Mr. Woodward reported that only one property was taken by the City for tax title in 2009. The parcel in question is approximately 600 square feet in area and is located on the west side of Basin Street southerly of Osgood Street. The parcel is approximately 135 feet long and varies from 3.5 feet to 4.5 feet in width as shown on the City's GIS. The property appears to be a remnant from the NH Department of Transportation's construction of I-93 and the simultaneous construction of Basin Street parallel to I-93. The last deed to the property was dated 1957. This parcel was shown on the I-93 right-of-way plans from September of 1956 and has been shown on the City tax maps since 1960. Taxes were paid on this property until 2005 when it was taken by tax deed after taxes were not paid for 2006, 2007, and 2008. The tax bill for 2009-2010 would have amounted to \$12.99 on an assessed value of \$600.

He explained that the Planning Board's role is to recommend to the City Council the disposition of properties. In the past, the Planning Board has recommended retention of

property as part of the City's open space system, retention of property for other public use, and land being offered to other governmental bodies, such as the Merrimack Valley or Concord School Districts. The Board has also recommended holding of property to facilitate land assembly and redevelopment, and land not be retained in public ownership. On occasion, where the property in question is a non-conforming lot or is unbuildable due to wetlands, slope or lot size and configuration, the Board has recommended, and the City Council has concurred, that the properties are offered only to abutters.

He explained that it has been the practice of the Planning Board to solicit interest from the City's Conservation Commission, city departments, the appropriate school district, and Merrimack County to ascertain if any public purpose could be foreseen for these properties. In this instance, given the small size of the parcel and its shape, a formal referral to other public agencies did not appear warranted.

In reviewing this property with the City Engineer, it was ascertained that its best use is to add the strip to the Basin Street right-of-way. The property is too small and narrow to be developable, it runs parallel to and abuts the municipal right-of-way of Basin Street. The property is entirely paved and the boundary between Basin Street, this property and the parking lot on the parcel to the east is not discernable on the ground. Basin Street contains major City infrastructure including the City's sewer interceptor leading to the Hall Street Wastewater Treatment Plant. This sewer main is 60 inches in diameter and is now over 30 years old. The small amount of right-of-way this would add to Basin Street would be of assistance when major work occurs on this essential utility.

Mr. Gross moved that the Planning Board recommend that the City Council permanently accept fee title to the approximately 600 square foot strip of land along Basin Street and incorporate it into the Basin Street right-of-way. Mr. Swope seconded. Motion carried.

Mr. Gross asked if any research had been done as to the possibility of hazardous material on that property. Mr. Woodward responded that he was not aware of any review of hazardous materials on the parcel.

Given the question regarding hazardous materials, Mr. Gross having voted for the motion moved to reconsider the action. Mr. Swope seconded. Motion to reconsider carried.

Mr. Gross then moved that the Planning Board recommend that the City Council permanently accept fee title to the approximately 600 square foot strip of land along Basin Street and incorporate it into the Basin Street right-of-way, provided there has been an investigation as to the presence of hazardous waste on the site. Mr. Swope seconded. Motion carried.

12. Consideration of a report and resolution re-designating **Lehtinen Park** as public open space to be managed by the Conservation Commission, and re-designation the **Contoocook River Park** as a park to be managed by the Recreation Department.

Mr. Woodward explained that the Master Plan 2030 recommends that Lehtinen Park be re-designated as open space to be managed by the Conservation Commission, and that Contoocook River Park be re-designated as a park to be managed by the Recreation Department

He explained this proposal to swap the official management designations of these two public lands so that Lehtinen Park is designated as open space and officially under the management of Conservation Commission, while the Contoocook River Park is designated as a park to be under the management of the Recreation Department. Designation as a park invokes Article 6-1, Rules and Regulations for Parks, of the Code of Ordinances which places the management responsibility in the hands of the Recreation Director, who can issue certain permits for activities, and wherein firearms and weapons are disallowed such that hunting is prohibited in public parks. Designation as open spaces invokes Article 4-6, Conservation Open Space, of the Code of Ordinances, which places the management responsibility in the hands of the Conservation Commission which can issue permits for certain activities, and by statute, hunting cannot be prohibited on open space unless it is forbidden by a deed restriction.

He explained that Lehtinen Park is located on 267 acres adjacent to the Hopkinton town line on the Contoocook River and was acquired with assistance from the Land and Water Conservation Fund (LWCF) in 1970 and 1974. Lehtinen Park was designated by the City to be a park under the jurisdiction of the Recreation Department. However, the Recreation Department does not manage this park or issue permits for uses therein. It has been managed by the Conservation Commission which has developed trails for hiking, cross-country skiing, and snow shoeing, and permitted other trails for snowmobiling. There are informal swimming areas, and canoe pull-offs along the Contoocook River, and hunting and fishing occur there as well. Its location is outside of the Urban Growth Boundary remote from the densely settled areas of the City.

He explained that the Contoocook River Park is located on 27 acres between Electric Avenue and Island Road, along the Contoocook River and the Outlet Canal in Penacook, on the site of the historic park of the same name that existed from 1890s to the 1930s. It was acquired by the City in part with LWCF funds in the 1980s. The Contoocook River Park is considered to be open space under the jurisdiction of the Conservation Commission which has been managing it and has developed trails therein for hiking and snowshoeing. It is located within the Urban Growth Boundary, immediately adjacent to the densely populated village center of Penacook. As open space land officially managed by the Conservation Commission, hunting cannot be prohibited there despite the close proximity to high density residential development. There is potential for neighborhood park facilities (athletic fields and playground equipment) to be developed here in the future, and its location and size are inappropriate for hunting or for snowmobiling. Re-designation as a park would not in any way eliminate the trail system established therein.

Mr. Swope moved that the Planning Board recommend that the City Council adopt a resolution re-designating Lehtinen Park as public open space to be managed by the Conservation Commission pursuant to Article 4-6, Conservation Open Space, of the Code of Ordinances, and re-designating the Contoocook River Park as a park to be managed by

the Recreation Department pursuant to Article 6-1, Rules and Regulations for Parks, of the Code of Ordinances, subject to the concurrence of the Conservation Commission and the Parks and Recreation Advisory Committee. Mr. Shurtleff seconded. Motion carried.

Ms. Foss suggested that for the Contoocook River Park it might be appropriate to do a park development plan in concert with the Conservation Commission. Mr. Woodward noted that some of the park area had been partly disturbed prior to City's ownership by the construction of Island Shores Estates, so it might not be as pristine as expected. He indicated that impact fee revenues had been used to do park plans over the past few years, but there may not be funding for a park plan right now. He will look into it.

13. Consideration of a Site Plan for **New England Flower Farms, LLC in Pembroke** for which the City received an abutter notice because of its well field on North Pembroke Road.

Mr. Woodward explained that an abutter notice was received from the Pembroke Planning Board relative to a Special Use Permit Application in the Aquifer Conservation District, and Major Site Plan Application from New England Flower Farms, LLC (NEFF) for expansion of a development on North Pembroke Road opposite the City's well field. The NEFF applications have been placed on the February 23, 2010 agenda for the Pembroke Planning Board for a determination of completeness to be followed by a public hearing if they are determined complete.

He explained that NEFF operates commercial greenhouses and proposes to construct 56,196 square feet of additional greenhouse space on a lot with 187,200 square feet of existing greenhouse space. The subject lot is within the Well Head Protection Area (WHPA) for the Concord well field, and in the Town's Aquifer Conservation District. It is also within the NH Shoreland Protection District adjacent to the Soucook River. NEFF has also requested a variance from the Pembroke Zoning Board to have only 50% open space where 70% is required in the Rural/Agricultural Residential (R3) District. The NEFF lot is not served by Town water and sewer. Two wells are noted although no septic system location is indicated on the site plan. No information was provided with the Special Use Permit Application as to any chemical storage and usage at the site although a commercial greenhouse operation would presumably utilize fertilizers, fungicides, and insecticides. The Interim Town Planner provided a copy of a portion of a prior NEFF Site Plan which had been approved in 2008 on which the following notes appear:

1. "Any fertilizers, herbicides, etc. used on site will have a specially allocated storage area within the greenhouse. All materials and specifications for the oil storage tank shall comply with NHDES Regulations (Env.Wm 1402, Control of above ground petroleum storage tanks). Storage tank shall be a double wall steel tank protected by bollards.
2. "A list of fertilizers will be provided to the Pembroke Water Works and updated as necessary. Best Management Practices in accordance with Env\_Wq 401 will be followed to minimize ground and surface water contamination.
3. "There shall be no processing of woodchips on the property."

Mr. Woodward explained that this application is subject to the provisions of the Pembroke Aquifer Conservation District, but not subject to the other covenants that were imposed on the Silver Hills Business Park at the request of the Concord Planning Board.

He suggested that it may be appropriate to request of the Pembroke Planning Board that a covenant providing performance standards for regulated chemicals and substances be included as a condition of any approval granted to NEFF.

Ms. Foss expressed a concern, in light of the recent large fire in NEFF's Loudon greenhouse, about chemicals being stored inside a greenhouse building, and she suggested that it may be preferable to have chemicals stored in a separate building. Members agreed that fire safety measures for chemical storage would be an appropriate recommendation.

Mr. Swope moved that the Planning Board request that the Pembroke Planning Board require the applicant to provide an up-to-date list of any chemicals that are used at and stored on site including pesticides, fungicides, and fertilizers, and that the applicant provide a more detailed description of the current and intended on-site storage of such chemicals together with spill containment features and plans for dealing with spills should they occur, including those that might occur during delivery of chemicals. He further moved that the Planning Board request that the Pembroke Planning Board consider imposing on this application the same covenant as was imposed on the Silver Hills Business Park relative to Performance Standards for Regulated Chemicals and Substances together with a requirement for fire safe storage of these chemicals and substances.

Mr. Gross seconded. Motion carried.

#### **Old Business**

14. Further consideration of a review of a **Development of Regional Impact on North Pembroke Road in Pembroke** across from the City's wellfield (**Silver Hills Business Park**). (#2009-30)

Mr. Woodward reported that the Planning Board had reviewed and commented on this application and had been represented at the Pembroke Planning Board's meetings. He reported that, at the January 26, 2010 meeting of the Pembroke Planning Board, the Silver Hills Business Park subdivision was granted conditional final approval subject to a number of conditions including the following:

1. Display the Concord Wellhead Protection Area on Sheet 1, modify the "conditions of approval" plan notes 1 and 2 to include the Concord Wellhead Protection Area with the exception that the land on lot 12-1 that is bordered by the Pembroke Aquifer Conservation District and the City of Concord Wellhead

Protection District be excluded and will be dealt with at site plan review for lot 12-1.

2. Revise Sheet 2's regulated substances note to include the Concord Wellhead Protection Area and revise note (a) to the exact text listed in the minutes of November 24, 2009, as follows:

"(3) Add, from the City of Concord's Covenant, the following:

- (a) No bulk storage of fuel for distribution be allowed;
- (b) Dry cleaning plants or establishments not be allowed;
- (c) The recycling and processing of asphalt, concrete, and/or aggregate be allowed;

(4) Plan Note: Performance Standards for Regulated Chemicals and Substances.

- (a) Any storage of these regulated chemicals and substances in containers with a capacity of 5 gallons or more shall be product-tight containers and stored on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;
- (b) Storage facilities where regulated chemicals and substances are stored shall be secured against unauthorized entry by means of doors or gates which are locked when authorized personnel are not present and shall be inspected on a weekly basis by the facility owner;
- (c) Outdoor storage areas for regulated chemicals and substances shall be protected from exposure to precipitation and shall be located at least fifty (50) feet from surface water or storm drains, at least seventy-five (75) feet from private wells, and outside of the sanitary protective radius of wells used by public water systems;
- (d) Secondary containment shall be provided for outdoor storage of regulated chemicals and substances if an aggregate of two hundred seventy-five (275) gallons or more of regulated chemicals and substances are stored outdoors on any lot."

He explained that note #1 above indicates that the portion of the Concord WHPA which is outside of the Town's Aquifer Conservation District will not be made subject to any additional protection at this time but will be further considered when a site plan is received for the affected lot.

Mr. Woodward indicated that no further action by the Planning Board is recommended at this time as the Pembroke Board has taken final action on this application.

15. Further consideration of a review of a Site Plan for **WS Dennison Cabinets, Inc. in the Silver Hills Business Park in Pembroke** for which the City received an abutter notice because of its well field on North Pembroke Road.

Mr. Woodward reported that the Planning Board had reviewed this application and provided comments to the Pembroke Planning Board. As noted in the previous agenda

item, at the January 26, 2010 meeting of the Pembroke Planning Board, the Silver Hills Business Park subdivision was granted conditional final approval.

The conditions imposed on the Silver Hills Business Park are applicable to the Dennison Cabinets Major Site Plan and Special Use Permit Applications as the lot is within the Silver Hills subdivision, as well as within the Well Head Protection Area (WHPA) for the Concord well field, and in the Town's Aquifer Conservation District. Mr. Woodward reported that at the January 26, 2010 meeting, the Pembroke Planning Board determined these applications complete and opened a public hearing. They did not deem the applications to be of regional impact. It was noted that there is no on-site fuel storage, that chemicals on the premises will be stored in a flameproof cabinet located in a room with a concrete floor, that the largest container of chemicals is 5 gallons and that the containers are unloaded by hand. A spill plan is to be developed by the applicant, and the applicant is arranging a meeting between Concord's General Services Department and the Pembroke Water Works to ensure that the aquifer is protected.

The Pembroke Planning Board continued the hearing and their consideration of the applications until February 23, 2010.

Mr. Woodward also reported that he had learned that Pembroke Water Works has invited the Concord General Services Department personnel to join them in future site inspections to review the chemicals stored on the site when the site is fully developed.

Mr. Woodward indicated that there does not appear to be any need for further action on this application at this time and the Board agreed.

16. Further consideration of a review of a **Development of Regional Impact in Pembroke** adjacent to the City's wellfield (**Concord Sand & Gravel Excavation Expansion**). (#2009-43)

Mr. Woodward explained the Board first considered a Development of Regional Impact (DRI), the notice for which had been received from the Pembroke Planning Board together with an invitation to attend the Pembroke Board's meeting at which this matter would be considered. He reported the Planning Board had reviewed this application a number of times and provided comments to the Pembroke Planning Board. The Pembroke Planning Board discussed this application at their meeting on January 26, 2010 and received a communication from the Concord Planning Board, as well as a presentation from Emery and Garrett. The question regarding the presence of radioactive substances in the bedrock was raised and Emery and Garrett responded that it was not a large risk in their opinion. They explained that the bedrock in this area is Concord Granite which is not a source of radioactivity, in contrast to other types of granite in other parts of the State. The application was continued until the Pembroke Board meeting on February 23, 2010.

He reported that the applicant's consultants had recently delivered copies of an Operations Plan for Mineral Extraction, a Blasting Plan, and a Groundwater Monitoring Plan, as well as a Source Control Plan, and copies of these were forwarded to the General Services Department (GSD). The GSD will be contracting with Emery and Garrett to

review these plans and provide comments to the applicants and to the Pembroke Planning Board.

Mr. Gross asked if anyone had reviewed whether arsenic would be a concern. Mr. Woodward responded that he did not recall any reference to arsenic but indicated he would ask that Emery and Garrett that question.

Ms. Foss also mentioned that NH Department of Environmental Services is considering the potential effects of blasting on water quality. If this is going to be a continuing situation, she thought it might be worthwhile to ask that they make a presentation to the Board in this regard. Mr. Woodward explained that he will be contracting with Emery and Garrett to continue with the next phase of the aquifer study and they will be back in the next few months. He suggested that perhaps they can provide the Board with information.

No further action was deemed necessary to be taken on this application by the Board at this time.

#### INFORMATION

##### Reminder of upcoming meetings:

- Regular monthly meeting on **Wednesday, March 17, 2010**
- Public forums as may be scheduled by Concord 2020 as part of the review process for the Concord Zoning Ordinance.

The Chair reported that the Zoning Board of Adjustment has scheduled a meeting for Monday, February 22, 2010 to discuss their recommendations for changes to the Zoning Ordinance.

There was no further business to come before the Board and the meeting adjourned at 9:10 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward  
Clerk

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