

The regular monthly meeting of the City Planning Board was held on July 21, 2010 in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher, Dolcino (who arrived at 7:04 PM), Foss, Gross, Hicks, Meyer, and Shurtleff (City Council representative). Mr. Henninger, Ms. Hebert and Ms. Osgood of the City Planning Division were also present, as was Mr. Roberge, the City Engineer.

At 7:00 PM a quorum was present, and the Chair called the meeting to order and announced that the public hearing for Tropic Star would be held after all other public hearings had taken place.

APPLICATIONS

Major Subdivision Application

1. Application by **Scott Bussiere** for approval of a modification to a previously approved major subdivision so as to convert it to a cluster development on **Julie Drive, easterly of Graham Road. (#2010-24)[ref: #03-37]**

Public Hearing

The Chair reported that the applicant's agent had requested postponement until the Board's meeting on September 15, 2010.

Mr. Gross moved and Mr. Shurtleff seconded that the public hearing for the application by Scott Bussiere be postponed until September 15, 2010, as requested by his agent. Motion carried.

Minor Site Plan Applications

2. Application by **Frank Alosa** for a site plan of property located at **151 Manchester Street**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(c), Shared Parking Arrangements, of the Zoning Ordinance. (**#2010-30**)

Determination of Completeness

Mr. Henninger explained this proposal to convert an existing convenience store to a pizza restaurant as part of larger mixed use project.

He 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

Mr. Henninger explained this proposal to convert an existing convenience store on the north side of Manchester Street to a pizza restaurant as part of larger mixed use project. Changes to the site include exterior building modifications, removal of the non-conforming signage, and converting three existing parking spaces into two handicapped parking spaces.

(Ms. Dolcino arrived at 7:04 PM and was seated.)

Mr. Henninger reported that the applicant had obtained relief from the Zoning Board of Adjustment in regard to bringing the substandard parking lot into conformity with the Zoning Ordinance. The applicants have applied for a Conditional Use Permit for non-simultaneous or shared parking. However, the CUP is not necessary based on the variance granted by the ZBA to permit 305 parking spaces on the site where 415 are required. Mr. Henninger advised that a CUP could have addressed the required number of parking spaces. Located on site are 58 second story residential units, which are required to be provided with 116 parking spaces under the Zoning Ordinance. The residential units have a substantially different peak parking demand than the retail and office uses on site.

He reported that the building frontage will be disturbed by construction as part of Phase 1A and Phase 1B of the City's Manchester Street project. The widened street right-of-way will extend to the front of the existing building and this frontage will be disturbed in both Phase 1A and Phase 1B. Phase 1A is funded and is scheduled to commence in the summer of 2011, and Phase 1B is proposed for funding in fiscal years 2016 & 2017 in the City's adopted CIP. Due to funding limitations and drainage redesigns being required by the NH Alteration of Terrain Permit (AOT), Phase 1A will only include the realignment of the Airport Road/Integra Dr intersection, the widening of Manchester Street from the intersection of Airport Road southeasterly to beyond Broken Bridge Road, and the relocation of Broken Bridge Road to connect with Integra Drive. The installation of sidewalks and landscaping is being deferred to Phase 1B, since the sidewalk that would be constructed in this phase would be isolated from the rest of the system and the landscaping installed disturbed by subsequent construction.

Mr. Henninger explained that normally the Planning Board would require the installation of street trees and landscaping along a project frontage as part of a redevelopment project. However, this site's frontage will likely be in some form of disruption for the next four to five years and any landscaping proposed would not survive. Planning staff has advised the applicant to focus on improving the appearance of the existing building and to bring the non-conforming signage for the building into conformity with the Zoning Ordinance. The applicant is proposing to repaint the building, remove the non-conforming signs, and add several doors and windows to the building.

He reported that the Architectural Design Review Committee had reviewed the proposed modifications to the building and the proposed location of the affixed signage and recommended approval as submitted.

Steve Melbourne from Steven Melbourne Design was present on behalf of the applicant to answer questions from the Board.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:15 PM.

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

Mr. Gross moved that the Planning Board grant Architectural Design Review approval for the proposed renovations to the site and building for Brookside Pizza at 151 Manchester Street. Ms. Meyer seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional site plan approval for the proposed renovations to the site and building for Brookside Pizza at 151 Manchester Street 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. No construction activity may commence prior to the preconstruction conference.
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. Transportation Facilities - Conversion of Use from Small Retail to High Turnover Restaurant for 1,916 square feet of gross floor area.

Ms. Meyer seconded. Motion carried.

3. Application by **Sam's Club** on behalf of **Wal-Mart Stores, Inc.** for a site plan of property located at **304 Sheep Davis Road.** (#2010-28)

Determination of Completeness

Mr. Henninger explained this proposal for a new drive-through loading canopy on the front of the existing Sam's Club retail facility.

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

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

Public Hearing

Mr. Henninger explained this proposal to construct a new drive-through loading canopy on the front of the existing Sam's Club retail facility. In order to accommodate the new canopy, two existing landscape planters in front of the building will be removed and replaced with two landscaped islands. The existing four trees in the planters will be relocated to the new larger islands. In addition, handicapped parking will be consolidated closer to the main entrance and parking restriped immediately in front of the building. The site modifications result in a small reduction in impervious surface and a relatively small increase in the number of parking spaces.

He reported that the applicant was granted permission by the Zoning Board of Adjustment to install a fourth and fifth affixed sign on the premise. The affixed signage on the main building and the gas canopy would be increased to five signs with a total square footage of 210 square feet where 200 square feet is allowed. One additional sign will be added for the pharmacy on the main building and a second affixed sign on the fueling station canopy to match the existing 19 square foot sign.

He reported that several passage doors and short segments of walkway are proposed, as well as the construction of a new sewer service connection within the parking lot to support the interior building renovations. A small 600 square foot curb island is being rebuilt next to the gas canopy. The amount of pavement marking for the pedestrian crossing at the main entrance will also be significantly increased. The changes to the parking lot in front of the building will result in a more efficient layout which creates a net increase in parking spaces and a decrease in impervious surface.

He reported that the Fire Department has advised that the existing fuel island requires a suppression system, and had previously been advised by the applicant that this issue would be addressed during the next project at this site. The Fire Department has requested that this deficiency per the International Life Safety Code be addressed as part of this application. The applicant's agent has responded that the addition of a fire suppression system will be included as part of this project and will be shown and detailed in the architectural plans.

Mr. Henninger reported that the Architectural Design Review Committee had reviewed the proposed modifications to the building and the new sign package and recommended approval as submitted.

There was no one present on behalf of the applicant.

There was no one who wished to speak for or against this application and the Chair declared the hearing closed at 7:21 PM.

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

Mr. Gross moved that the Planning Board grant Architectural Design Review approval for the proposed renovations to the site and building for Sam's Club at 304 Sheep Davis Road along with two new affixed signs. Mr. Shurtleff seconded. Motion carried.

Mr. Gross moved that the Planning Board grant conditional site plan approval for the proposed renovations to the site and building for Sam's Club at 304 Sheep Davis Road subject to the following 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. No construction activity on the site may commence prior to the preconstruction conference.
2. 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), plans shall be provided to the Code Division, acceptable to the Fire Department, in compliance with Section 2204.5 of the International Life Safety Code (as amended by the City of Concord), and the fire suppression system for the fueling station shall be installed as directed by the City Fire Department and Code Administration Division.

Mr. Shurtleff seconded. Motion carried.

Major Site Plan Applications

4. Application by **St. Paul's School** at for approval of a site plan of property located **on Dunbarton Road. (#2010-29)**

Determination of Completeness

Ms. Hebert explained this proposal to remove an existing 9,025 square foot parking area containing 23 parking spaces, and replace it with a new 29,065 square foot parking area containing 55 parking spaces.

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

Mr. Gross moved and Ms. Foss seconded that the Planning Board determine this application to be complete and set it for public hearing on August 18, 2010. Motion carried.

Architectural Design Review

6. 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.
 - **City of Concord** for one freestanding sign at the Ft. Eddy Road Reprocessing Center at **10 Intervale Road**
 - **Holiday Inn** for one replacement freestanding sign and three replacement affixed signs at **172 North Main Street**
 - **New Hampshire Lodging & Restaurant Association** for one replacement affixed sign at **341 Loudon Road**
 - **Parmenter Place** for one freestanding sign at **15 Parmenter Road**
 - **People's United Bank** for one replacement panel in a freestanding sign and three replacement affixed signs at **197 Loudon Road**
 - **Sam's Club** for two affixed signs at **304 Sheep Davis Road**
 - **Weston Solutions** for one freestanding sign and one affixed sign at **45 Constitution Avenue**

The Chair opened the hearings for all of the above signs.

- **City of Concord** for one freestanding sign at the Ft. Eddy Road Reprocessing Center at **10 Intervale Road**

Mr. Henninger reported that, as a result of comments by the Design Review Committee, the applicants propose to add granite posts and landscaping at the base of the sign, and to move the existing variable message sign farther down Intervale Road onto the site.

He reported that the Design Review Committee had found the design and placement of the freestanding sign to be appropriate for the location and use, and recommended approval subject to the suggestion that "Fort Eddy Road" be replaced with "City of Concord".

There was no one present on behalf of the applicant.

Ms. Foss moved approval subject to the condition that "City of Concord" be replaced with "Fort Eddy Road". Mr. Gross seconded. Motion carried.

- **Holiday Inn** for one replacement freestanding sign and three replacement affixed signs at **172 North Main Street**

Mr. Henninger reported this is a corporate rebranding. He reported that the designs as submitted to the Design Review Committee for the affixed signs were not in compliance with the Zoning Ordinance requirements for maximum size. Mr. Henninger reported that revised plans for the affixed signs had been submitted in compliance with the Zoning Ordinance.

He reported that the existing freestanding sign will be removed and replaced with a whole new structure. At this time, the proposed freestanding sign as proposed exceeds the height limit within the district.

He reported that the Design Review Committee recommended approval of the affixed signs provided that they are reduced in size to comply with the Zoning Ordinance. The Committee further recommended approval of the freestanding sign subject to compliance with the Zoning Ordinance, and further subject to the provision that the pylon not be lighted and that it match one of the primary colors on the building, so that there is not the sharp contrast of the white against the natural tones of the building.

Robin Casey from Casey Signs was present on behalf of the applicant and indicated that the proposed freestanding sign is not as high as the existing freestanding sign. She also explained that the white base was the standard color for the corporate logo.

Members noted this is at the edge of the Victorian downtown area and is visible from the State House.

There was no one else who wished to speak for or against this application.

Mr. Gross moved to table action on the freestanding sign and request that the applicant clarify the issue of zoning compliance. He further moved that the Planning Board express concern with the proposed color of the sign base and illumination considering its location at the edge of the downtown area. Mr. Shurtleff seconded. Motion carried.

Mr. Gross moved approval of the affixed signs as submitted with the understanding that they now comply with the Zoning Ordinance. Ms. Dolcino seconded. Motion carried.

Mr. Shurtleff asked if the proposed freestanding sign contained the variable message panel and Mr. Henninger responded that the existing freestanding sign does contain a variable message panel but the proposed freestanding sign will not.

- **New Hampshire Lodging & Restaurant Association** for one replacement affixed sign at **341 Loudon Road**

Mr. Henninger explained this proposal for a replacement sign for a new business in the rear unit of an existing multi-use building. This sign will be located in the sign band as previously approved in the overall signage plan.

He reported that the Design Review Committee found the design and placement of the replacement affixed sign to be appropriate for the location and use, and recommended approval subject to the suggestion that there be a border around the sign to make it stand out from the light colored sign band.

He reported that revised plans had been submitted in compliance with the Design Review Committee's recommendation.

There was no one present on behalf of the applicant.

Mr. Gross moved approval as revised. Ms. Foss seconded. Motion carried.

- **Parmenter Place** for one freestanding sign at **15 Parmenter Road**

Mr. Henninger explained this proposal for a freestanding sign for the housing development currently under construction. This project identification will be placed at the entry to the site.

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

There was no testimony from the audience.

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

- **People's United Bank** for one replacement panel in a freestanding sign and three replacement affixed signs at **197 Loudon Road**

Mr. Henninger explained this proposal for a replacement panel in the freestanding sign as well as new affixed signs replacing the Ocean Bank signage.

He reported that the Design Review Committee found the design and placement of the replacement 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. Gross moved approval of the replacement signage with the understanding that the building sign affixed to the canopy will be appropriately curved to match the background structure. Mr. Shurtleff seconded. Motion carried.

- **Weston Solutions** for one freestanding sign and one affixed sign at **45 Constitution Avenue**

Mr. Henninger explained this proposal for signage for a recently constructed and occupied building. The freestanding sign will be on a brick pedestal with granite cap and base.

He reported that the Design Review Committee found the 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. Gross moved approval as submitted. Mr. Shurtleff seconded. Motion carried.

7. Application by the **Jacob Ciborowski Trust** for approval of the restoration of the first floor façade at 36-42 North Main Street. (#2010-32)

Public Hearing

Mr. Henninger explained this proposal to revise three storefront facades and an entry canopy for the Phenix Hall at the southeast corner of North Main Street and Depot Street. He reported that the applicant proposes to restore the damaged granite façade, clean up and repair any damage to the granite columns and cast iron pillars. The storefront windows and doors will match those recently installed at "Butters", including the window patterns, granite base, granite steps, black color for the window trim, and the mahogany doors.

He reported that the applicant has stripped the plywood cover from the steel supports for the canopy for the main Phenix Hall entrance and will be removing the steps and reconstructing the elevator lobby inside to make access to the bulk of the building more handicapped accessible. The applicant proposes to cover the steel frame with an approximately 18" wide metal cover to match the black store front and to install a mahogany ceiling with down lighting. The applicant also proposes to install gold applied letters on the front of the canopy identifying Phenix Hall. The canopy will be provided with a flat membrane roof and an internal roof drain.

Mr. Henninger reported that the Architectural Design Review Committee reviewed the proposed modifications to the building and the replacement Phenix Hall sign and recommended approval as proposed.

Mr. Gross moved approval as submitted, and noted that the City is very fortunate to have Mark Ciborowski as a downtown property owner as he is renovating downtown one building at a time. Ms. Foss seconded. Motion carried.

5. Application by **Tropic Star Development on behalf of Burger King Corporation, the Hall 2001 Family Revocable Trust, and Jean B. Chase** for approval of revisions to a previously approved site plan of property located at **155 and 157 Loudon Road**. Along with this application is a request for a Conditional Use Permit pursuant to Section 28-7-11(c), Driveway Separation Alternatives, of the Zoning Ordinance. (#2009-04)

Determination of Completeness

Mr. Henninger explained that the applicant has submitted for the Board's consideration a new site plan with revisions to the site access to both Loudon Road and East Side Drive.

He reported that this application is complete and ready for public hearing.

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

Public Hearing

Mr. Henninger reported that the Planning Board, at its regular meeting on August 19, 2009, granted conditional site plan approval for this project and granted a Conditional Use Permit pursuant to Article 28-7-11(f), Driveway Separation Alternatives, of the Zoning Ordinance, for two driveways on Loudon Road where one is allowed and for one driveway on East Side Drive with less than the required driveway separation, subject to four conditions. The Board also granted conditional Architectural Design Review approval for the project signage subject to further Planning Board review of the signage.

He reported that City staff has met with the applicant on numerous occasions to discuss a range of potential modifications to the site access since approval was granted.

The Planning Board held a hearing on a revised site plan on April 21, 2010, closed the hearing, and tabled action on the application to allow for a third party traffic review to be undertaken for the site and access plan. The Board directed staff to engage the services of an independent traffic consultant, to be paid for by the applicant, to evaluate the access plan and traffic studies prepared by the applicant and to review the staff's recommendations. The Planning Board Clerk subsequently selected an independent traffic consultant to review the traffic study, site and access plan, negotiated a price, and requested funding from the applicant. The applicant has elected instead to submit for the Board's consideration a new site plan with revisions to the site access to both Loudon Road and East Side Drive. A few minor changes have been made to the on-site plan.

Mr. Henninger explained this proposal to demolish an existing auto service building at 155 Loudon Road and an existing Burger King Restaurant at 157 Loudon Road, and to construct a new 13,225 square foot CVS Pharmacy and a new 2,598 square foot Burger

King restaurant. A drive-up window is proposed for both the Burger King and the CVS. A total of 101 new parking spaces are proposed.

He reported that a companion subdivision was approved in February 2009 by the Planning Board, which consolidated both commercial lots and a portion of 36 and 42 Burns Avenue to create the 2.10 acre site for redevelopment.

He reported that the Planning Board has granted a Conditional Use Permit to allow two driveways on Loudon Road where one is allowed and with spacing between driveways of 150 feet and 40 feet, where 200 feet is required. The Board has also granted a CUP for spacing between driveways for the relocated entrance on East Side Drive. The existing driveway is shifted 30 feet northward away from the Loudon Road intersection, but is only separated by 110 feet from the Loudon Road intersection and 130 feet from the Burns Avenue/East Side Drive intersection.

He reported that a supplemental traffic report has been submitted to coincide with the changes made to the site access in the current proposal. Based on this plan, the applicant's traffic study revises the projected critical turning movement (left turns) to and from the site. The amount of left turning traffic entering at the East Side Drive entrance has been reduced from four trips in the weekday peak hour and five trips during the Saturday peak hour to zero. The amount of left turn traffic exiting from the site is now anticipated to increase from 9 vehicles to 21 vehicles (133% increase) in the weekday PM peak hour and from 14 vehicles to 20 vehicles (30% increase) in the Saturday peak hour. The amount of left turning traffic entering the site from Loudon Road is anticipated to increase from 5 vehicles to 17 vehicles (340% increase) in the weekday PM peak hour and from 9 vehicles to 21 vehicles (133% increase) in the Saturday peak hour.

Mr. Henninger reported that the applicant has requested that the median approved to be extended westerly on Loudon Road be cut back enough to allow eastbound traffic to turn left into the site. The proposed median extension in Loudon Road west of East Side Drive would be reduced from 115 feet to 47 feet in the proposed plan. This revision is consistent with the three lane section proposed in the Loudon Road Corridor Plan.

He reported that the City, when it last reconstructed this intersection a little over ten years ago, created a double nested turn lane to allow the two existing businesses to retain access. The current plan eliminates the double nested left turn lane into the project entrance and prohibits left turns into the site from East Side Drive.

He reported that the previous approval included the condition that if, in the opinion of the City Engineer and the Clerk of the Board, a safety problem exists at the project's driveway on East Side Drive or the increased turning movements at this driveway adversely impact traffic at the intersection of East Side Drive and Loudon Road, or adversely impact traffic flow on East Side Drive, improvements shall be installed along East Side Drive from Loudon Road extending approximately 200 feet north of the intersection of Loudon Road. The previous approval also included the condition that the project driveway on East Side Drive shall be monitored beginning six months after

both the Burger King and CVS proposed for the site are open for business and then annually for three years thereafter. The monitoring plan shall be approved by the Clerk of the Board and the City Engineer prior to the start of demolition and shall, at a minimum, consist of turning movement counts during the weekday PM peak hour and the Saturday peak hour, accident data and evaluation of each accident, and the length of the queue during peak hours on East Side Drive. A pre-build baseline survey shall be completed with the same parameters.

Mr. Henninger reported that the proposed plan would create a driveway opening on East Side Drive creating a curb-to-curb pedestrian crossing of about 60 feet. The approved plan reduced the width of this crossing and provided a pedestrian refuge in the median island within the driveway. The median island was eliminated in the revised plan.

He reported that the movement most likely to adversely impact the intersection of East Side Drive and Loudon Road is left turning traffic out of the site, which can block the southbound lanes on East Side Drive. There is no space for exiting traffic to queue to wait for the north bound traffic to clear on East Side Drive. The existing queues along East Side Drive routinely extend beyond Burns Avenue to the north and routinely during peak hours extend northerly beyond Eastern Avenue and Christian Avenue to the vicinity of Hazen Drive.

He reported that the applicant has submitted a proposed agreement to provide additional funding to be used at the City's discretion to improve either East Side Drive or Loudon Road in the vicinity of the project to help mitigate the project's off-site impacts on these streets.

City staff has requested that the applicant provide enough right-of-way along East Side Drive to bring the right-of-way to a minimum of 60 feet from Burns Avenue to Loudon Road. The current right-of-way tapers from 60 feet at the project drive to 52 feet at Burns Avenue. The additional right-of-way required would vary in width from approximately eight feet near Burns Avenue and taper to zero feet at the proposed project entrance drive on East Side Drive. The applicant previously offered to convey an additional five feet of right-of-way along the East Side Drive frontage of the residential lot at 42 Burns Avenue which is a part of this development. The recommended right-of-way will result in the conveyance varying from a maximum of eight feet at Burns Avenue tapering to zero by the time the proposed project drive is reached.

Mr. Henninger explained that the widened right-of-way would support the proposed extended southbound storage lane on East Side Drive and the double left onto Loudon Road. The cross section recommended by the Engineering Division to support this intersection includes a southbound 11 foot wide outside travel lane, a southbound 10 foot wide inside travel lane, a northbound 11 foot wide travel lane, 3 foot wide shoulders on each side of East Side Drive, and a minimum 6 foot wide median.

He reported that the application conforms to the Zoning Ordinance with the Board's approval of the Conditional Use Permits for the number of driveways and driveway

separation, as well as the location variance granted by the Zoning Board of Adjustment for the residential district buffer.

Mr. Gross asked, with respect to the westerly entrance off Loudon Road providing a left in access to the site allowing the median to be shortened, if there would immediately be a stacking lane to prevent left turning traffic from impeding through traffic on Loudon Road. Mr. Henninger responded the median would be extended but not as far as in the approved plan. He noted that there is room for a short stacking lane at this location.

Members had a number of questions relative to the East Side Drive improvements. Mr. Henninger described the proposed improvements to the Board.

Edward Roberge, City Engineer, was present and noted that there are limitations with this existing intersection that is just about at capacity. The applicants have tried to mitigate the impacts as best as they could. The proposed double left turn will add some capacity and will minimize delays a bit. Access management and improving pedestrian safety were the goals of the Loudon Road Corridor Study that were considered during staff review of this application. The applicant proposes to escrow funds for the construction of the raised median if it becomes necessary in the future. The City compared the benefits of the left in on East Side Drive with the left in at Loudon Road and felt the access at Loudon Road was a much more appropriate situation.

Mr. Roberge also noted that the proposed interconnection with the abutting property to the west of this site will be an important piece of future development along Loudon Road.

Mr. Drypolcher asked for an explanation of what is usually required in a traffic study and Mr. Roberge described the criteria the City typically requires.

Mr. Drypolcher asked the projected percentage of growth at the intersection and Mr. Roberge responded that staff does not look at this in percentages. There is more to these studies than that. Staff looks at what the intersection capacity can handle. The level of service is not likely to change because of this application because mitigation efforts will be made that will add capacity. Mr. Drypolcher noted that this plan, according to the traffic study, seemed to allow for more efficient absorption of additional traffic but did not add any capacity.

Mr. Gross noted that these numbers left him baffled. This is an intersection that is already in Level of Service E. The policy issue is to weigh, as the public representative for planning in the City, whether to allow a situation to occur that would add traffic to an intersection that is already at capacity. He felt this was essentially saying that the Board is going to allow this intensive development at this intersection and propel it into a failure situation. Mr. Roberge responded that the City has been working hard to try to not get to that situation. They feel that the model they have agreed upon with the applicant will prevent failure, especially when coupled with other measures the City will be taking in the future. The City pushed as much as it could at this intersection but that is the most it can do without taking properties in that area.

Ms. Meyer found that there were a lot of negative words and phrases in the City traffic engineer's review report. She did not see any advantage in this plan. Mr. Roberge responded that he did not see this as an ideal situation. There is nominal improvement, but what they thought was important, as far as safety was concerned, was to get a minimum of 60 feet right-of-way along this corridor. When East Side Drive is widened to the east in the future as part of a capital project, he expected to have the ability to provide a three foot wide bicycle lane.

Steve Pernaw, traffic engineer, Attorney Richard Uchida from Orr & Reno, Wayne Morrill from Jones & Beach Associates, as well as two representatives from Tropic Star were present on behalf of the applicant.

Mr. Uchida explained that the problem with the plan approved last August was that any traffic eastbound on Loudon Road had to get onto East Side Drive to enter the site and that would increase the amount of traffic on East Side Drive. On that plan they also did not have direct access to I-393 and the northerly portion of East Side Drive from the site. That would cause traffic to cut through neighborhoods to get back to East Side Drive. In their mitigation plans, they will not be able to provide a dramatically improved solution to traffic but, in conjunction with other projects, both public and private, the situation does not get worse. The new plan allows a left turn in at the Loudon Road entrance which will take some of the traffic off East Side Drive.

He reported one of the issues with the plan proposed in April was that they were seeking both a left turn in and out at East Side Drive. That was the plan the Board tabled for independent review. In the meantime, the applicants looked again at their plan to see if they could find a design that represented sound access management, sound safety features, and sound traffic management both on and off the site. They feel they have that plan. They believe this represents a better design than that approved in August of 2009. A so-called multi-purpose lane is being proposed in order to help everybody's traffic coming through the intersection, not just what they expect will be incurred by this development. Maintaining the status quo in this particular corridor would be an improvement there. Without their mitigation the situation will get worse.

Ms. Meyer noted that a lot of these improvements are being proposed because they want the left turn onto East Side Drive, and in the review report she sees documentation that shows failure at the interior of the site. She understood why the applicants wanted to keep the left turn from Loudon Road but the most problematic for her was to allow the left turn in from East Side Drive. She expressed concern about the safety of traffic having to cross two lanes to enter left from East Side Drive. She did not see a huge benefit to the public.

Mr. Uchida reminded Ms. Meyer that there are two lanes of traffic existing today and vehicles crossing those today.

Mr. Gross expressed concern about intensifying the use on this site and propelling a tough intersection into a failure state. He felt strongly that people should be allowed to

use their property and rejected the theory that the Planning Board's function was to discourage development, but he also felt it was necessary for the Planning Board to create no net harm to the public.

Mr. Uchida responded that if they create a condition that ten years from now does not make the situation worse then they have satisfied the no net harm standard. He also noted that they control all of the property up to Burns Avenue on the west side of East Side Drive so they can provide whatever easement is necessary for mitigation purposes.

Steve Pernaw, traffic engineer, explained access and egress from the site. He reported that there would be no left turn in from East Side Drive. Exit onto Loudon Road will be right turn only with no access eastbound onto Loudon Road. A new detail of this plan over the previously approved plan is two southbound lanes on East Side Drive to help increase capacity at the intersection. The existing volume of 271 left turns at the signal would be split between two lanes instead of the single lane it is today. The impact of this development at the signal is 1% increase in volume. Adding a second lane will greatly increase the ability to deal with vehicles going through the intersection and will shorten the queues. He reported that the improvements will benefit everybody, primarily the general motoring public. He explained that Level of Service F is an indication that the wait to get through the intersection exceeds 80 seconds.

Mr. Pernaw reminded the Board that Burger King generates traffic today. This intersection has problems today. He felt there would be a big improvement on East Side Drive because of the proposed mitigation. They are adding 1% more traffic but, in exchange for that increase, they propose mitigation that will improve the existing conditions.

Mr. Pernaw then responded to questions relative to the City's traffic engineer's report of his review of the applicant's traffic study.

Mr. Drypolcher expressed his concern about the potential for illegal left turns but he was more concerned about pedestrians since this is the walk to school route. The entrance drive at East Side Drive is about 60 feet wide so he was concerned about little children crossing that drive safely. He suggested redesigning the entrance to provide an island as a refuge area for pedestrians. That would allow them to sculpture the lanes to make it less conducive to make illegal left turns. Mr. Pernaw liked the idea but was concerned about the existing zoning district boundary and thought that line might prohibit a redesign.

Mr. Drypolcher questioned if the site drive could access Burns Avenue and not East Side Drive. Mr. Uchida noted that the suggested redesign would introduce site traffic into the residential neighborhood abutting the site. Funneling traffic into the residential neighborhood is not something the City has historically been supportive of doing and would require a variance. Mr. Henninger also noted staff and the applicant had looked at even more dramatic changes but found significant problems with each one.

Mr. Pernaw indicated this is a far superior plan to the plan approved in August because

it eliminates the left turn in from East Side Drive and eliminates traffic through Burns Avenue.

Mr. Roberge noted that, in spite of the negative comments in the City's traffic engineer's report, he does conclude by noting that there are aspects that will benefit the traveling public. There are collective improvements that have public benefits in this plan.

Mr. Drypolcher expressed concern with using this plan as a test study such that the City will have a three year period of time to study it and tweak it if necessary. He was concerned about the further mitigation creating another unforeseen problem.

The Chair made the suggestion that the Board table action on this application in order to require a third party review of the traffic study.

Mr. Hicks noted that, compared to the original plan, this satisfies his earliest concerns about cut-through traffic. He sees this as a much improved plan. He did not know what else the Planning Board would gain or how much the Planning Board could change or improve the plan at this point. He felt it would be more appropriate to deny this plan and go back to the previously approved plan, but he did not feel that was as good a plan as this one.

Mr. Drypolcher expressed concern that this is an experiment and he did not feel comfortable with that without review by a traffic engineer hired on behalf of the Planning Board.

Ms. Meyer was not supportive of a third party review because she did not feel the Planning Board could gain much further information. She noted that the City's traffic engineer did say there are components that are good. What bothered her was that if the applicant was willing to make the commitment to make changes three years from now if necessary, then why would they not just construct that plan now.

Mr. Uchida spoke against the proposal to ask for a third party review. He felt the staff and the applicant had worked together very hard to come to an agreement. The third party review would send the wrong message to future developers. Mr. Drypolcher responded that the City is being faced with much more difficult developments and there will be a need in the future for as much information as possible to deal with those difficult situations.

In order to move on with action on this application, Mr. Shurtleff moved to recess the hearing to require an independent review of the applicant's traffic study. Mr. Drypolcher seconded.

Mr. Gross opposed the motion because he felt the Planning Board had taken in a huge volume of information and this proposal had a full review and any further review was not likely to improve the situation. Their expert and the City's professional staff have provided input and he did not think further information would come of a third party review.

Mr. Shurtleff explained that, although he made the motion in order to provide a means for some action on the application, he intended to vote against it because he felt it was time to vote for or against the proposal.

Ms. Foss indicated that she did not feel it was worth the time or expense to require a third party review just for the sake of improving her confidence in an eventual decision.

Motion failed, 1-6, with Mr. Drypolcher voting in favor.

At 10:37 PM there was no one else who wished to speak for or against the application and the Chair closed the hearing.

Mr. Shurtleff moved to not accept the revisions as proposed. Ms. Meyer seconded.

Mr. Gross asked for clarification of the motion and Mr. Shurtleff responded that it was his intention to not adopt any of the staff recommendations for approval of the current plan as suggested in their report, but to deny this application and go back to the plan approved in August of 2009.

Mr. Gross indicated he would oppose the motion because he felt that this was a better plan from the point of view of providing no additional public harm than the previously approved plan. He was still concerned about intensifying the use of this property at a very sensitive location. However, denying this and leaving the previous plan standing would make the Planning Board look foolish.

Ms. Meyer felt that this proposal as presented was not 100% perfect. She still had problems with the left turn exit from the property. There were pieces of this plan that had potential to benefit the motoring public in that area.

Mr. Henninger reminded the Planning Board that they will need to specify reasons for denial.

Mr. Shurtleff explained that his reasons for moving denial included the left turn exit onto East Side Drive, pedestrians, especially children, crossing the long driveway, and the level of service will decrease. As presented, he felt this would cause more problems for residents of the Heights. Mr. Shurtleff mentioned that this was a "Safe Routes to School" route and that the future community center proposed at Dame School would continue to make this a sensitive walking route for children.

Mr. Gross wondered if there was a way to have applicants work a little more to alleviate concerns of the Board. That would be moving the project in a positive direction.

Based on the comments made by Mr. Gross, Mr. Shurtleff withdrew his motion for the possibility of a better motion coming forward. Ms. Meyer agreed with the withdrawal.

Ms. Foss noted that there had been a lot of concern expressed about traffic being forced

through Burns Avenue. Signage routing traffic to I-393 might help to alleviate some of that problem.

Ms. Dolcino noted that the installation of the median might not result in as much diversion of traffic to the sides streets as suggested and stated that the median may reduce the amount of traffic to the site from the north. Ms. Dolcino indicated that this should be addressed by the applicant and staff.

Mr. Gross moved that the Planning Board lay this application on the table and refer it back to the staff for further consultation with the applicant to deal with specific concerns of the Board as expressed this evening. The Planning Board tabled this application to allow the applicant to work with City staff to address the following issues:

- The Board was concerned with the width of the proposed driveway on East Side Drive as it bears on pedestrian safety, and asked if a refuge island could be created in the center of the driveway. The Board also asked the applicant to address geometric changes that could reduce the potential for illegal left turns into the site from East Side Drive.
- The Board was concerned with the experimental nature of the left turn access from the site onto East Side Drive. The Board asked for additional information and analysis of the impacts of immediately installing a median in East Side Drive to prohibit exiting traffic from turning left from the site. The Board asked the applicant to evaluate the potential for diverting north bound traffic from the site through either Burns Avenue, Christian Avenue or Hazen Drive, methods for controlling cut through traffic on Burns Avenue, as well as looking at the possibility of a reduction in site related trips from the overall project due to the installation of a median in East Side Drive.

Mr. Shurtleff seconded.

Mr. Hicks asked if there were any other pedestrian crossings in the city that are 60 feet wide.

Motion carried.

REGULAR MEETING

Minutes

Mr. Gross moved approval of the minutes of the meetings of June 16, 2010 and June 30, 2010 as submitted. Mr. Shurtleff seconded. Motion carried.

New Business

9. Request for an extension of the period of validity of the conditional approval of the Minor Subdivision Application of **Joseph J. Fitzgerald & Raina J. Eckhardt at 89 Appleton Street. (#2008-41)**

Mr. Henninger reported that Joseph Fitzgerald and Raina Eckhardt had forwarded a request for an extension of the conditional subdivision approval of their application, seeking to extend the period of validity through August 19, 2011. The Planning Board granted conditional final approval of the application on August 19, 2009.

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 any 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, there are no changes in zoning or other regulations which might otherwise warrant denial of an extension. In addition, the applicants have indicated that they are working towards a closing for the sale of the new lot. Given the circumstances, a one-year extension appears to be reasonable for the Board to grant.

Mr. Shurtleff 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 August 19, 2011, and indicate that all conditions of the original subdivision approval shall remain in full force and effect. Mr. Hicks seconded. Motion carried.

10. Consideration of a hearing notice from the Pembroke Planning Board relative to a proposed asphalt plant on **North Pembroke Road in Pembroke by Continental Paving** on the site of the former Concord Sand and Gravel and adjacent to the City's well field.

Ms. Hebert explained that the City has been notified as an abutter, of the public hearing of the Pembroke Zoning Board of Adjustment for the Special Exception of Continental Paving to permit an asphalt plant in the Town of Pembroke's R-3 Rural/Agricultural-Residential and Aquifer Conservation Zoning Districts on property located at 773 to 793 North Pembroke Road. The site is the location of the gravel pit formerly owned and operated by Concord Sand & Gravel Company.

The property encompasses approximately 200 acres in the Town of Pembroke, which was acquired by Concord Sand & Gravel Company in the mid-1980s and has been used for mineral extraction purposes. The Concord Sand & Gravel operation also included a site in Concord, located off of Route 106, which is connected to the property in Pembroke with a Bailey bridge. Material extracted from the Pembroke site was trucked along a haul road across the bridge and then onto Route 106 in Concord.

Concord Sand & Gravel recently applied for and received approval to expand the mineral extraction and excavation operation in Pembroke. The property was subsequently sold to Continental Paving. The change in ownership severs this parcel from the land in Concord. Continental Paving currently operates an asphalt plant in Pembroke off Ricker Road. The material for mixing the asphalt is trucked from the gravel pit to Ricker Road, and Continental Paving would like to build a new asphalt facility to consolidate the operation and avoid the additional trucking.

Concord Sand & Gravel still owns the property in Concord, but has conveyed an easement to Continental Paving to allow the continued use of the haul road into Concord. The Concord Sand & Gravel site in Concord is currently inactive, and the owners are marketing the property for redevelopment. Pembroke does not allow access to North Pembroke Road from the gravel pit, and the North Pembroke Road Bridge over the Soucook River would not be able to support the weight of the loaded trucks.

The proposed asphalt plant would encompass approximately six acres and would be located within close proximity to the City's "Pembroke Well Fields." The site is also located in the City's wellhead protection area as defined by the New Hampshire Department of Environmental Services. The recent study prepared by Emery & Garrett Groundwater, Inc. advised that the land immediately across the river from the well fields in Concord be included in the proposed Aquifer Protection District.

The site development includes paved access area and haul roads, paved stockpile areas for aggregate, two 30,000 gallon liquid asphalt storage tanks with secondary containment, one 20,000 gallon fuel oil tank with secondary containment, scales and scale house, various pieces of processing/mixing equipment, three storage silos, stacking conveyors, a 480 square foot control house building, 1,200 square foot lab building, and a 324 square foot shed.

The applicant has indicated that the haul road would be paved. Although the application does not clarify that the haul road would be paved in Concord, we are assuming that the road would be paved. The paving of the haul road in Concord would trigger site plan review due to the amount of impervious surface being added to the site. If the Special exception is approved, Continental Paving would need to submit site plan applications to the City of Concord for the haul road improvements, and to the Town of Pembroke for the site development. A site plan application would also most likely be determined a Development of Regional Impact, and the Planning Board would have an opportunity to comment. However, RSA 36:54 also gives the authority of designating a project as a Development of Regional Impact to the Local Land Use Boards as defined in RSA 672:7; which would include the Zoning Boards of Adjustment.

She reported that the issues related to this proposal are very similar to the concerns raised during the discussion of the expansion of the gravel pit operation, including the protection of the quality of the public water supply from the City's well field, the traffic implications of continued access and egress through Concord to Route 106 and the requirement to pave the haul road in both Pembroke and Concord, and the reclamation of the Concord excavation to facilitate the redevelopment of the site and restoration of the vegetative buffer along the Soucook River.

The General Services Department has recommended retaining an expert to determine the extent of the impact the proposal would have on the Concord well fields and aquifer, which was also done during the review of the gravel pit expansion. The staff at the New Hampshire Department of Environmental Services has advised Planning staff that the batch petroleum asphalt plant would be considered an allowed use within the wellhead protection area, provided Best Management Practices are implemented.

Even though Continental will no longer need to transport material from the gravel pit to the plant on Ricker Road in Pembroke, the asphalt products will be sold throughout the region, and there is the potential for an increase in the truck traffic onto Route 106. Continental Paving has indicated in the Special Exception application that the haul road will be paved. However the application does not clarify whether this would also include the portion of the haul road through Concord.

The Concord site is located in the Gateway Performance District, and the continued use of the haul road through the Concord site to Route 106 may limit the future redevelopment of the site. The Town of Pembroke should consider pursuing the replacement of the North Pembroke Road Bridge. The conceptual layout of the asphalt plant does not provide a driveway connection to North Pembroke Road and the sole access to this plant is over a temporary bridge structure over the Soucook River. There are other uses along North Pembroke Road that would benefit from the replacement of the bridge over the Soucook River.

The new industrial use on the Pembroke property substantially changes the nature of the haul road to a commercial driveway through Concord to Route 106. In addition to the trips generated by the asphalt plant, the Pembroke site has been approved for additional excavation which will add to the traffic exiting and entering the site from Concord onto Route 106. The Zoning Administrator may determine this to be a new industrial use which would not be permitted in the Gateway Performance District. Continental would then need to seek the necessary variances from Concord's Zoning Board of Adjustment.

Mr. Gross expressed concern about the escape of hazardous substances such as asphalt.

Mr. Gross moved that the Planning Board ask that the Pembroke Zoning Board determine the Special Exception application to be a Development of Regional Impact. Mr. Shurtleff seconded. Motion carried.

Mr. Henninger reminded the Board of the special meeting on August 11, 2010, for the purpose of holding a public hearing relative to proposals by the Concord School District for new schools for Conant School, Dame-Eastman Schools, and Kimball School.

Mr. Gross asked the status of the application before the Zoning Board of Adjustment relative to a communications tower located on St. Paul's School property. Mr. Henninger responded that the Zoning Board had tabled action in order to receive the results of the scheduled balloon testing. It is not likely the Planning Board will see this application before September or October.

There was no further business to come before the Board and the meeting adjourned at 11:10 PM.

A TRUE RECORD ATTEST:

Stephen L. Henninger
Acting Clerk

o