

The regular monthly meeting of the City Planning Board was held on December 21, 2011, in the City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Present at the meeting were Members Drypolcher, Regan, Lavers, Hicks, Dolcino, Smith Meyer, Gross, Swope, and City Council Representative Shurtleff. City Planner McPherson, Mr. Henninger, and Ms. Muir of the City's Planning Division were also present, as was Ms. Aibel, the City's Associate Engineer.

At 7:00 p.m., a quorum was present. The Chair called the meeting to order and seated Alternate Dolcino for Member Foss, who would not be in attendance.

## **APPLICATIONS**

### **1. Application by Kim Delois Fannie for approval of a subdivision of property located at 21 Rockingham Street. (2011-0046)**

#### Determination of Completeness

Mr. Henninger reported that the application is complete and ready for public hearing.

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

#### Public Hearing

Mr. Henninger reported that the purpose of this subdivision is to divide an existing dual frontage lot on Rockingham and Cote Streets into two lots, one lot with the existing house fronting on Rockingham Street and a new lot fronting on Cote Street. He stated that the applicant had received a variance from the Zoning Board of Adjustment on November 2, 2011, to create a lot of 12,302 square feet where 12,500 square feet is required. Mr. Henninger explained that the proposed lots meet the intent of the useable land area requirements to provide an area suitable for a house, outbuildings, parking, and a minimum yard area around the home.

Mr. Joseph Wichert and Mr. Don Fannie were present on behalf of the applicant to respond to questions.

#### Deliberations and Action

Mr. Swope moved to grant a waiver to Section 19.05(4) Useable Lot Area Rectangle of the City of Concord Subdivision Regulations allowing two lots with slightly less than the required minimum 5,000 square foot useable area rectangle. Mr. Gross seconded the motion, stating that the waiver was within the larger spirit of the regulations. Motion carried unanimously.

Mr. Swope moved to grant final subdivision approval for a "Topographic Subdivision Plan for Kim Delois Fannie, Tax Map 8 Block 3 Lot 4 – 21 Rockingham Street, Concord, New Hampshire" subject to the following standard conditions:

## 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 concerns, minor corrections, and omissions noted by City staff.
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following State and Federal permits shall be obtained and copies provided to the Planning Division:
  - a. NH Department of Environmental Services Water Quality and Sewer Discharge Permits.
3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant will provide to the City Solicitor a financial guarantee for all public improvements (sewer service extension in Cote Street) in an amount approved by the City Engineer and in a form acceptable to the City Solicitor.
4. Prior to the final plat being signed by the Planning Board Chair and Clerk, approval shall be obtained for the construction drawings and specifications for all public improvements from the Engineering Division prior to the commencement of any of the public improvements. No construction activity may commence prior to the preconstruction conference.

Mr. Gross seconded the motion. Motion carried unanimously.

**2. Application by Daval Realty Associates, LP for Banks Chevrolet-Cadillac, Inc., for revisions to a previously approved site plan at 137 Manchester Street. (2010-0031)**

Determination of Completeness

Mr. Henninger reported that the application is complete and ready for public hearing.

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

Public Hearing

Mr. Henninger explained that the applicant originally proposed a total of five driveway openings along with a Conditional Use Permit to install the driveways with less than the required 100 feet of spacing between driveways, but has since revised the plans. The current proposal before the Board is to add two new driveways, for a total of four, which conform to the 100 feet of spacing between the driveways, thereby eliminating the need for a Conditional Use Permit.

Mr. Henninger stated that the applicant is requesting a waiver to Section 18.20 of the Site Plan Review Regulations for one of the two new driveways because of the slope of the driveway, which cannot be altered due to the presence of underground storage tanks. Based on the City's Construction Standards, driveway slopes are required to be at two percent or less for the first 20 feet of the driveway from the street edge, with a change in elevation over that distance of approximately five inches. The applicant's

driveway is sloped between seven and eight percent for about 15 feet, with a change in elevation of 14 inches.

Mr. Henninger explained that the waiver meets the intent of the ordinance to provide safe access to driveways and roadways. He stated that Old Suncook Road and the parallel service drive at the rear of the building are essentially flat, and the proposed short steep section of driveway connects two nearly flat areas. The regulation addresses circumstances where driveways of up to a ten percent grade enter into a street in order to provide a level platform at the street. In this instance, the grades on the parking lot and roadway are two percent or less.

Attorney Richard Uchida, Orr & Reno, was present on behalf of the applicant to respond to questions.

#### Deliberations and Action

Mr. Swop moved to grant a waiver to Section 18.20 Construction Standards of the City of Concord Site Plan Review Regulations to allow the first 20 feet of a driveway to exceed a two percent slope. Mr. Gross seconded the motion, citing Mr. Henninger's explanation of the intent of the ordinance. Motion carried unanimously.

Mr. Swope moved to grant conditional site plan approval for modification of the site plan to add two additional driveways on Old Suncook Road in compliance with Article 28-7-8 Access and Driveway Standards, subject to the following condition:

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 onsite and offsite improvements shall be obtained from the Engineering and Planning Divisions.

Mr. Gross seconded the motion. Motion carried unanimously.

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

- **Aubuchon Hardware for three replacement affixed signs at 80 South Main Street**
- **Core Fitness for revisions to an existing freestanding sign at 2 Home Avenue**
- **Concord Christian Academy for revisions to an existing freestanding sign at 37 Regional Drive**
- **Pompanoosuc Mills for a replacement affixed sign at 3 Eagle Square**

#### Public Hearings and Deliberations and Action on all Sign Applications

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

- **Aubuchon Hardware for three replacement affixed signs at 80 South Main Street**

Mr. Henninger reported that this application was for three replacement affixed signs at 80 South Main Street. He stated that the replacement of the existing signs would bring all signs into compliance. He stated that the Architectural Design Review Committee recommended approval of the signs as submitted.

Mr. Gross moved to approve the application as submitted. Mr. Swope seconded the motion. Motion carried unanimously.

- **Core Fitness for revisions to an existing freestanding sign at 2 Home Avenue**

Mr. Henninger explained that this application was for revisions to an existing freestanding sign facing the interstate at 2 Home Avenue. He stated that the business is now under new ownership. The Architectural Design Review Committee recommended approval of the sign as submitted.

Mr. Swope moved to approve the application as submitted. Ms. Smith Meyer seconded the motion. Motion carried unanimously.

- **Concord Christian Academy for revisions to an existing freestanding sign at 37 Regional Drive**

Mr. Henninger stated that three months ago the applicant's agent came forward saying that the proposal submitted was not what they wanted to proceed with, and the ADRC asked for revised drawings. The applicant has not submitted the revised drawings.

Mr. Shurtleff moved that a letter be sent to the applicant advising that the application would be tabled until the January Planning Board meeting, and if revisions were not received by that time, the application would be considered withdrawn. Ms. Smith Meyer seconded the motion. Motion carried unanimously.

- **Pompanoosuc Mills for a replacement affixed sign at 3 Eagle Square.**

Mr. Henninger reported that the application was for a replacement affixed sign consisting of individual letters mounted on the newly painted storefront. He stated that the Architectural Design Review Committee recommended approval of the application as submitted.

Mr. Swope moved to approve the application as submitted. Mr. Gross seconded the motion. Motion carried unanimously.

4. **Duprey Center, LLC, for the Greater Concord Chamber of Commerce for a new affixed sign at 49 South Main Street and for the League of NH Craftsmen for a new affixed sign at 49 South Main Street. (2011-0047)**

The Chair stated that the applicant submitted a letter requesting that the application be deferred to the January Planning Board meeting.

Mr. Gross moved to defer the application until the January Planning Board meeting. Mr. Swope seconded the motion. Motion carried unanimously.

**5. Consideration of an application for building renovations at Havenwood Heritage Heights at 141 East Side Drive. (2011-0048)**

Public Hearing

Ms. Dolcino recused herself from this hearing.

Mr. Henninger stated that the application was to renovate the façade of an existing freestanding building at 141 East Side Drive in the Havenwood Heritage Heights Complex. The proposal consists of the construction of three small entrance additions, two covered entrances, the replacement of the existing roofing, and the replacement of the siding on portions of the building. The applicant was informed that a merger of the two lots would need to be completed as part of the conditions of approval.

Ms. Ann Andrus from Cobb Hill Construction was present on behalf of the applicant to respond to any questions.

Mr. Gross asked whether the additional details on the site plan regarding the design of several walkways, landscaping, and walkway lighting had been reviewed. Mr. Henninger stated that the Planning staff has reviewed the additional details and is working with the applicant on minor modifications.

Deliberations and Action

Mr. Swope moved to grant Architectural Design Review approval for the proposed façade renovations and minor additions for Havenwood Heritage Heights at 141 East Side Drive, subject to the following conditions:

1. Prior to the issuance of a building permit for any of the additions, the properties at 141 and 149 East Side Drive shall be consolidated.
2. Prior to the issuance of a building permit for any of the additions, minor modifications to the site plan, including walkways, walkway lighting, and site landscaping shall be approved by the Clerk of the Board.

Mr. Gross seconded the motion. Motion carried unanimously.

## REGULAR MEETING

### **6. Consideration of the minutes of the Planning Board meetings for November 16, 2011 and November 30, 2011.**

Mr. Gross moved to approve the minutes of the Planning Board meeting for November 16, 2011 and November 30, 2011, but stated that there were minor typographical errors that the Planning Staff should correct. Mr. Lavers seconded the motion. Motion carried unanimously.

### **New Business**

### **7. Annual Review of the Public Capital Facilities Impact Fee Ordinance - 2012**

Mr. Henninger stated that as a requirement of Section 29.2-1-2(b)(10) of the Public Capital Facilities Impact Fee Ordinance, adopted in June 2001, the Planning Board shall periodically review the impact fees and recommend to the City Council any appropriate adjustments to the impact fee tables.

Mr. Gross moved to recommend to City Council to approve the impact fee adjustments as set forth in the draft ordinance as prepared by Planning staff and included in the staff's report to the Planning Board.

Ms. Dolcino seconded the motion. Motion carried unanimously.

### **Old Business**

### **8. Referral from City Council in regard to new information received by City Council related to a requested rezoning by Delta Dental on behalf of the Angwin Revocable Trust for a partial rezoning of property at 107 Commercial Street from an Open Space Residential (RO) District to an Institutional (IS) District.**

The Chair explained that the Planning Board had received new information from Delta Dental regarding the requested rezoning of the property at 107 Commercial Street. Mr. Shurtleff stated that at the City Council hearing on this matter, no one from the public spoke regarding the rezoning. He also stated that City Council sent this request back to the Planning Board because the new information was not available to the Planning Board at the time of their original recommendation.

The Planning Board discussed whether there was a statutory need to hold another public hearing on the matter, whether the Board could decide this issue based on hearing the new information, or whether the Board could decide not to reconsider their original decision.

Mr. Gross moved that the Planning Board listen to the additional information from the applicant. Mr. Lavers seconded the motion. Motion carried unanimously.

Mr. Richard Uchida from Orr & Reno and Mr. Tom Rafio from Delta Dental were present. Mr. Uchida stated that he would provide an overview of the new information that had been provided to City Council. Mr. Uchida stated that the two reasons that the Planning Board denied the original request was because commercial development would adversely impact the natural resources on the property and adjacent properties, and the increased runoff from the property could adversely impact both Wattanummon's Brook and Horseshoe Pond. Mr. Uchida also stated that a recently completed survey identified a total of 10.02 acres instead of the 6.1 acres noted in the City Assessor's records. He explained that the area proposed for rezoning remains the same; however the proposed conservation easement area will be increased to 8.83 acres to reflect the new survey. Additionally, Mr. Uchida reported that the playing fields are no longer being proposed for this site, and the re-vegetation of the 75 foot riparian buffer bordering Wattanummon's Brook and the 50 foot buffer to the wetlands is being proposed. He stated that the re-vegetation would be done as soon as the property is acquired instead of when the applicant begins to develop the property. Mr. Uchida stated that the rezoning would be made effective upon the recording of the conservation easement.

Mr. Uchida stressed that the rezoning advances the goals of the Master Plan by placing a conservation easement on the 8.83 acres of the property, which is listed as a priority in the Open Space Section of the Master Plan; by protecting the features that make up the natural resources on the property; and by rezoning a portion of the property is in line with the Master Plan's priority for commercial development on Commercial Street.

Mr. Gross asked if the Planning Board recommended the rezoning to City Council, would the Master Plan need to be amended. Mr. Uchida stated that not legally, but as a matter of continuity, the City's land use plan should mirror the rezoning.

The Chair questioned whether there was any way that Delta Dental could do their expansion on their existing site and move the ball fields to the Angwin property. Mr. Rafio stated that the Planning Board had decided that the Board did not want ball fields on the Angwin property. Further discussion ensued regarding the existing Delta Dental property and how it could be utilized for the proposed expansion.

Ms. Smith Meyer brought up the Conservation Commission position, which did not change when the Commission reviewed the new information provided by the applicant. The Board further discussed the merits of the Conservation Commission's recommendation to deny the rezoning request and related Master Plan amendment.

The Planning Board discussed the creation of the Master Plan and why the zoning lines were drawn where they were. They also talked about whether granting this request would be considered spot zoning.

Mr. Gross moved that the Planning Board should give further consideration to this item on the basis of the new information received. Mr. Lavers seconded the motion. Motion carried with Ms. Smith Meyer, Mr. Shurtleff, and Mr. Drypolcher voting against the motion.

Mr. Swope moved to set this item for a public hearing at the January Planning Board meeting. Mr. Shurtleff seconded the motion. Motion carried unanimously.

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

There was no further business to come before the Planning Board, and the meeting adjourned at 9:01 p.m.

A TRUE RECORD ATTEST:

Gloria McPherson  
Clerk

djm