

# City of Concord Planning Board

July 17, 2019

## Minutes

The regular monthly meeting of the City Planning Board was held on July 17, 2019, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Attendees: Chairman Richard Woodfin, Councilor Byron Champlin, Teresa Rosenberger (Ex-Officio for City Manager), Members David Fox, Matthew Hicks, and Erle Pierce.

Absent: Vice-Chair Carol Foss, John Regan, Susanne Smith-Meyer, Alternate Chiara Dolcino, and Alternate Frank Kenison.

Staff: Heather Shank (City Planner), Beth Fenstermacher (Assistant City Planner), Sam Durfee (Senior Planner), Lisa Fellows-Weaver (Administrative Specialist), and Bryant Anderson (Associate Engineer).

1. Call to Order

Chairman Woodfin called the meeting to order at 7:00 pm.

2. Roll Call

Chairman Richard Woodfin, Councilor Byron Champlin, Teresa Rosenberger, Members David Fox, Matthew Hicks, and Erle Pierce.

3. Approval of June 19, 2019 Planning Board Meeting Minutes

On a motion made by Mr. Fox, and seconded by Mr. Hicks, the Board voted unanimously to approve the June 19, 2019 Planning Board Meeting Minutes, as written.

4. Planning Board Chair Overview

Chairman Woodfin announced that the applicants for items 8G and 9A requested postponing the public hearings until August 21, 2019.

**5. Determination of Completeness Items by Consent**

5A. Banks Chevrolet, on behalf of Sanel Realty Company, Inc., requesting Major Site Plan approval to demolish an existing building and construct a new 164,500 sf vehicle storage area and associated site improvements at 129 Manchester Street in the Highway Commercial (CH) District.

On a motion made by Councilor Champlin, and seconded by Mr. Hicks, the Board voted unanimously to determine that this application does not meet the criteria for a Development of Regional Impact, to determine the application complete, and to set the public hearing for August 21, 2019.

**6. Design Review Applications by Consent**

The applicant requested to pull item 6B, application for Dartmouth Hitchcock, from the consent agenda.

On a motion made by Councilor Champlin, and second by Mr. Pierce, the Board voted unanimously to approve the sign applications for Items 6A, 6C-6G by consent, subject to the recommendations of the Architectural Design Review Committee (ADR) as conditions of approval, as noted below.

6A. Verizon, on behalf of Joseph Concord Trust 09, requests ADR approval to install 3 new internally illuminated signs including a wall sign and 2 panels in existing freestanding signs at 75 Fort Eddy Road in the Gateway Performance (GWP) District.

On a motion made by Councilor Champlin, and second by Mr. Pierce, the Board voted unanimously to approve the design as submitted by consent.

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- 6C. Milburn Plaza LLC requests ADR approval to install two internally illuminated replacement sign cabinets in an existing freestanding sign at 125 Loudon Road in the General Commercial (CG) District.

On a motion made by Councilor Champlin, and second by Mr. Pierce, the Board voted unanimously to approve the design as submitted by consent.

- 6D. Julian Peccorino, on behalf of Mason Asset Management, requests ADR approval to install a new internally illuminated wall sign and 2 new non-illuminated wall signs at 270 Loudon Road in the Gateway Performance (GWP) District.

On a motion made by Councilor Champlin, and second by Mr. Pierce, the Board voted unanimously to approve the design as submitted by consent.

- 6E. Nature's Health & Beauty LLC, on behalf of Joseph Concord Trust 09, requests ADR approval to install a new internally illuminated wall sign and a new panel in an existing freestanding sign at 75 Fort Eddy Road in the Gateway Performance (GWP) District.

On a motion made by Councilor Champlin, and second by Mr. Pierce, the Board voted unanimously to approve the design as submitted by consent, subject to the conditions that the lettering of the two proposed signs match the building sign and that the location of the building sign line up with the bottom of the Sports Clips sign.

- 6F. Remi Hinxhia requests ADR approval to install a new awning sign and a new window sign at 62 Pleasant Street in the Civic Performance (CVP) District.

On a motion made by Councilor Champlin, and second by Mr. Pierce, the Board voted unanimously to approve the design as submitted by consent.

- 6G. Jeffrey White requests ADR approval to install a new internally illuminated wall sign at 323 S. Main Street in the Urban Transitional (UT) District.

On a motion made by Councilor Champlin, and second by Mr. Pierce, the Board voted unanimously to approve the design as submitted by consent.

**Public Hearings**

**7. Design Review Applications**

- 7A. Dartmouth Hitchcock requests ADR approval to install two new internally illuminated freestanding signs at 253 Pleasant Street in the Institutional (IS) District

Michael Brewster of Barlo Signs represented the application.

Chairman Woodfin opened the public hearing.

Mr. Brewster explained the proposal is to replace all of the signs throughout the property. The cabinets and posts of the directional signs will be replaced and the cabinet in the monument sign will be mounted on the masonry base. He stated that the ADRC recommended approval of the design, with the recommendations that the size of the monument sign be reduced by one-third, landscaping be added to the base of the monument sign, the color of the poles of the directional signs be painted black as opposed to the proposed green, and the street address be added to the monument sign per regulations by the Concord Fire Department. Updated plans have been provided reflecting these recommendations. Variances were granted to permit the two freestanding signs and allow internal illumination in the Institutional District.

There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

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On a motion made by Councilor Champlin, and seconded by Mr. Hicks, the Board voted unanimously to grant approval of the proposed design as revised and submitted at the July 17 Planning Board meeting, subject to the condition that landscaping be provided at the base of the monument sign.

- 7B. Marriott Courtyard & Conference Center, on behalf of Duprey Companies Capital Hotel Company, requests ADR approval to renovate the façade at 70 Constitution Ave in the Opportunity Corridor Performance (OCP) District.

Jonathan Halle of Warrenstreet Architects represented the application.

Mr. Durfee stated that the project is requested by the Marriot Corporation franchise, which will include exterior façade renovations. ADRC expressed concerns regarding the proposed colors and recommended the white materials around the windows that do not have balconies within the center entry block be changed or removed, and the color around all balconies be treated consistently. These recommendations were accepted by the Marriott Corporation. A revised proposal was submitted to staff on 7/8/19 and shared with the Board. Staff noted that the revised proposal addressed the recommendations of ADR.

There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

On a motion made by Mr. Pierce, and seconded by Councilor Champlin, the Board voted unanimously to grant approval of the proposed design as revised and submitted on 7/8/19.

- 7C. Cobblestone, on behalf of Foxfire Property Management, requests ADR approval to install a new projecting sign at 81 N. Main Street in the Central Business Performance (CBP) District.

Ms. Shank recommended that the Board remove the application from the table. Since Code had indicated last month that additional variances may be needed, the Board tabled the application at that time while awaiting clarification.

Ms. Shank noted that the previous variance was granted for the projection of the sign. Code staff stated that additional variances may be needed since there are also window signs, for which the applicant has not requested permits, which may exceed the square footage permitted for the property. Ms. Shank noted that the current application by itself is conforming, and that staff anticipates the property owner either removing the additional signage for which they have no permits, or requesting variances and additional sign permits as needed.

On a motion made by Mr. Hicks, and seconded by Mr. Pierce, the Board voted unanimously to remove the application from the table for further discussion.

A discussion was held regarding signs installed without approvals. Ms. Rosenberger stated that this issue is reoccurring and needs to be addressed by staff and administration. She stated that the Board should suggest that there be an automatic fine if a sign is installed without an application. She added that there needs to be consistency and the rules need to be followed.

Councilor Champlin stated that he agreed. He asked if there are currently fines and whether the fines are sufficient to be effective. He agreed that the issue does need to be looked, along with whether there are mechanisms for effective enforcement. He stated that he does not see implementing fines as being anti-business, but the rules need to be followed.

Ms. Shank stated that any significant increase in the fees will need to be approved by City Council.

Mr. Woodfin requested that fines for installed signs without permits be added to the agenda under other business.

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There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Champlin, and seconded by Ms. Rosenberger, the Board voted unanimously to grant approval of the sign application as submitted.

**8. Site Plan, Subdivision, and Conditional Use Permit Applications**

**8A. Jeff and Nicole Kipphut, requesting a two-year extension to a previously approved Minor Subdivision at 15 Frost Road in the Medium Residential (RM) District.**

There was no one present representing the application.

Ms. Shank explained that the Kipphut's submitted an application for a minor subdivision in July 2018 for property located at 15 Frost Road, owned by Roger and Marion Clattenburg. The property was rezoned at the June 19, 2019 Planning Board meeting. The plan has since expired and the applicants are requesting a two-year extension of their approval. She added that this should have been addressed at the June meeting; however, staff was unaware of the impending expiration.

A waiver is also requested to allow for an expired plan to be granted an approval extension.

There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board voted unanimously to grant the waiver to Section 9.08(8) of the Subdivision Regulations to allow for a previously expired plan to be granted an approval extension utilizing the criteria of RSA....

On a motion made by Mr. Hicks, and seconded by Mr. Pierce, the Board voted unanimously to grant a two year extension to the previously approved Minor Subdivision at 15 Frost Road, subject to the following conditions:

- (1) Address Technical Review Comments, noted in the July 18, 2018 staff report, to the satisfaction of the Planning Division.
- (2) Address Review Comments from Bryant Anderson, P.E., dated July 6, 2018 to the satisfaction of the Engineering Division.
- (3) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
- (4) The Licensed Land Surveyor shall sign and seal final plans and mylars.
- (5) The Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
- (6) The Applicant shall deliver to Planning, one (1) plan set(s) and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
- (7) All waivers and variances granted are to be noted and fully described on the plan including date granted and applicable section numbers of the Subdivision Regulations and Zoning Ordinance.

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- 8B. Laura Jones Hall & Jefferson Hall, on behalf of Norman & Doris Ballard, requesting a Conditional Use Permit to allow medical office uses at 7 Broadway Street in the Neighborhood Commercial (CN) District.

On a motion made by Councilor Champlin, and seconded by Mr. Pierce, the Board voted unanimously to determine that this application does not meet the criteria for a Development of Regional Impact, determine the application complete, and open the public hearing.

Ms. Fenstermacher provided an overview of the project explaining that the applicant is requesting a Conditional Use Permit to allow for medical offices, retail space, and residential use. No additional site work is proposed. The use will not increase the traffic or require additional parking.

Laura Jones Hall and Jefferson Hall represented the application.

Ms. Jones Hall provided an overview of the proposal. She stated that a purchase and sales agreement has been drawn up and is conditional on the approval of the Conditional Use Permit. The existing building will be converted to include a retail space for a natural wellness pharmacy and four to six medical offices, and the 2 residential apartments will remain. For exterior changes, a new ADA compliant ramp will be installed and new windows. The proposed business is compatible with the neighborhood. Traffic may decrease with this type of business. Currently there are 17 spaces with two on in the rear of the building for the apartments; 16 are required. A new plan was provided showing the proposed ADA ramp.

Councilor Champlin stated that he feels this is an appropriate use for the space. He thanked the applicants for growing and building their business in Concord.

Doris Ballard, current property owner, commented that they hate to leave the business and will miss Concord. She feels that the new owners will be doing something good for the neighborhood and the use is a good use for this property.

It was noted that all signage will be a separate application.

There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board voted unanimously to grant a Conditional Use Permit per Article 28-2-4(c) of the Zoning Ordinance to allow for the use as Offices of Healthcare Professionals at 7 Broadway.

- 8C. FWS Land Surveying PLLC, on behalf of ADN Realty Trust & ABS Realty Trust, requesting Minor Subdivision approval for a 2-lot subdivision at 217-219 Fisherville Road in the General Commercial (CG) District.

On a motion made by Councilor Champlin, and seconded by Mr. Pierce, the Board voted unanimously to determine that this application does not meet the criteria for a Development of Regional Impact, determine the application complete, and open the public hearing.

Mr. Durfee explained that the proposal is to subdivide the existing 3.06 acre lot into two lots; Lot 3 will retain 1.794 acres and the existing retail plaza and the new lot, Lot 3-1, will consist of 1.263 acres and the existing CC Tomatoes restaurant. However, in doing the subdivision, Lot 3 will become an odd shaped lot as the owner wishes to retain the existing cell tower on the same lot as the retail plaza. The result is a 4 foot wide, roughly 230 foot strip of land connecting the cell tower area with the retail plaza. Although this is an unconventional shape, staff was unable to find a regulation that would prevent such a lot shape from being created via subdivision.

Webster Stout of FWS Land Surveying PLLC and Doug Dow represented the application.

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There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board voted unanimously to grant the requested waivers from the Subdivision Regulations to not provide the following information on the subdivision plat, utilizing the criteria from RSA 674:36(II)(n)(2): Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

- Section 16.03(13) - the location size and invert elevations of existing and proposed sanitary and storm sewers including manholes, catch basins, and culverts
- Section 15.03(13) - the location and size of all existing and proposed water mains including hydrants, gates, valves, and blow-offs, and service connections.
- Section 15.03(15) - the location of all existing non-municipal utilities including electric, telephone, gas, steam, and CATV system, along with fire alarm cables, both on-site and within abutting rights-of-way.

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board voted unanimously to grant **Minor Subdivision approval** for the lot line adjustment at 217-219 Fisherville Road, subject to the following precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

1. Address Technical Review Comments, noted in the July 17, 2019 staff report, to the satisfaction of the Planning Division.
  2. Address Review Comments from Bryant Anderson, P.E., to the satisfaction of the Engineering Division.
  3. Any waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny the waiver request(s), applicant shall comply with said submission requirement(s).
  4. Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
  5. Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
  6. The Applicant shall deliver to Planning, one plan set and mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
- 8D. Nobis Group, on behalf of Capital Region Health Care Corporation, requesting an amendment to an approved Major Site Plan to construct a pedestrian bridge between the existing parking structure and existing Ambulatory Health Care Building at 250 Pleasant Street in the Institutional (IS) District.

Ms. Fenstermacher stated that the application is a request to amend the Major Site Plan for the Concord Hospital Ambulatory Health Care Building (AHCB), approved March 21, 2018. The Applicant went before the Architectural Design Review (ADR) Committee at the July 2, 2019, meeting.

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Chris Nadeau of Nobis Group and Richard Beasley of Lavallee Brensinger Architects represented the application. Mr. Beasley stated that the comments from ADR were related to the pedestrian bridge, which connects the healthcare building, currently under construction, to the existing parking structure. The feedback was very positive; comments were essentially directed to the brick area in the middle support structure. ADR recommended that the brick area be either lowered to expose more of the metal paneling below the window, or extend the brick all the way up to match the northern elevation. Mr. Beasley stated that at this time the items are still being discussed with the Hospital.

Chairman Woodfin asked how high the overpass is. Mr. Beasley stated that the structure is 14 feet high overall and from the ground to the roof is 40 feet. The structure is enclosed.

Mr. Anderson stated that when Langley Parkway project occurs, the applicant will need to obtain a license from City Council for the structure as the support structure and walkway are in the future Langley Parkway right of way.

There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Champlin, and seconded by Mr. Hicks, the Board voted unanimously to grant Architectural Design Review (ADR) approval for the proposed pedestrian bridge as submitted.

On a motion made by Councilor Champlin, and seconded by Mr. Pierce, the Board voted unanimously to grant Major Site Plan Amendment approval for the proposed health care development, subject to the precedent conditions noted below. As part of the motion, the Board indicated that all conditions of the original Major Site Plan approval shall remain in full force and effect:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building permits, or the commencement of site construction, unless otherwise specified:
  - (1) Address Planning and Engineering review comments to the satisfaction of the Planning and Engineering Divisions.
  - (2) Submit three (3) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.

8E. Sean Monahan requesting Minor Site Plan approval for conversion of an existing residence from 2 units to 3 units, and construction of a parking area at 28 Eastman Street in the Neighborhood Residential (RN) District. Conditional Use Permit approval is also requested to allow construction of fewer parking spaces than is required.

On a motion made by Mr. Pierce, and seconded by Mr. Fox, the Board voted unanimously to determine that this application does not meet the criteria for a Development of Regional Impact, to determine the application complete, and open the public hearing.

Mr. Durfee stated that the Applicant is proposing to convert the existing two-family dwelling into a three-family dwelling by renovating the second floor of the existing barn. A new parking area is being created. In addition, there are two Conditional Use Permit applications; both are supported by staff, to permit the construction of fewer parking spaces for four cars where six spaces are required, and to reduce the drive width to 18 feet from 24 feet. Carpenter Street will be used for access.

Jeff Burd represented the application.

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There being no comments from staff or members of the public, Chair Woodfin closed the public hearing.

On a motion made by Mr. Pierce, and seconded by Councilor Champlin, the Board voted unanimously to **grant the following Conditional Use Permits:**

- Article 28-7-11(b) – Construction of Fewer Parking Spaces
- Article 28-7-11(g) – Reduction of Drive Width

On a motion made by Mr. Hicks, and seconded by Mr. Fox, the Board voted unanimously to grant Minor Site Plan approval for the conversion at 28 Eastman Street, subject to the following precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

- a) **Precedent Conditions** – to be fulfilled within one (1) year and prior to issuance of any building permits, or the commencement of site construction, unless otherwise specified:
- (1) Address Technical Review Comments, noted in Section 2 above, to the satisfaction of the Planning Division.
  - (2) Address Engineering Division comments in the memo from Bryant Anderson.
  - (3) Any waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny the waiver request(s), applicant shall comply with said submission requirement(s).
  - (4) Any CUP(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny the CUP request(s), applicant shall comply with said submission requirement(s).
  - (5) A Professional Engineer shall sign and seal final plans.
  - (6) A New Hampshire Licensed Land Surveyor will sign and seal the Existing Conditions Plan.
  - (7) Submit 3 sets of final plans to be signed by the Clerk and Chair of the Planning Board, prior to issuance of any permits or commencement of construction activities.
- b) **Subsequent Conditions** – to be fulfilled as specified:
- (1) Prior to commencement of construction activity, payment of any required inspection fees in an amount approved by the City Engineer shall be made.
  - (2) A pre-construction meeting shall be required prior to the start of any construction activities onsite if requested by the City Engineer.
  - (3) Prior to the issuance of a Certificate of Occupancy or final construction sign-off, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.08 of the Site Plan Review Regulations and all information shall be converted to a vertical datum of NAVD 88.

8F. Holden Engineering & Surveying, Inc., on behalf of Baron's Major Brands, requesting Minor Site Plan approval to construct a 4,000 sf addition on an existing building and associated site improvements at 350 Loudon Road in the Gateway Performance (GWP) District.



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On a motion made by Mr. Fox, and seconded by Mr. Pierce, the Board voted unanimously to determine that this application does not meet the criteria for a Development of Regional Impact, determine the application complete, and open the public hearing.

Mr. Durfee explained the proposal is to construct a 4,000 sf addition to an existing 6,000 sf retail/showroom facility with associated stormwater improvements at 350 Loudon Road.

Peter Holden of Holden Engineering and Surveying represented the application. He referenced one comment relative to the dumpster and stated that the facility would prefer to not have a dumpster at the location. There are seven stores and a delivery truck picks up and removes the stores trash daily. There is a location for a dumpster detail noted on the plan for future but they would prefer to not have the dumpster at the property. Mr. Anderson suggested a note be added to the plan regarding how the process of trash is now dealt with and provide detail to cover for any future issues. Mr. Holden replied they could label the location on the plan as a future dumpster location should the building be sold in the future.

Mr. Anderson mentioned the potential of the parking area being blocked at the loading dock should a truck be parked to unload. Mr. Holden stated that this should not be an issue as there will be more than ample parking, more than what will be used.

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board voted unanimously to grant ADR approval for the addition and associated site improvements at 350 Loudon Road.

On a motion made by Councilor Champlin, and seconded by Mr. Pierce, the Board voted unanimously to grant Minor Site Plan approval for the addition at 350 Loudon Road subject to the following conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

- a) **Precedent Conditions** – to be fulfilled within one (1) year and prior to issuance of any building permits, or the commencement of site construction, unless otherwise specified:
  - (1) Address Technical Review Comments, noted in the July 17, 2019 staff report, to the satisfaction of the Planning Division.
  - (2) Address Engineering Division comments in the memo from Bryant Anderson.
  - (3) A note shall be provided on the plan indicating the location for the dumpster should one ever been needed by the current or a future owner.
  - (4) The wetland buffer shall be flagged appropriately.
  - (5) A Professional Engineer shall sign and seal final plans.
  - (6) A New Hampshire Licensed Land Surveyor will sign and seal the Existing Conditions Plan.
  - (7) A NH Certified Wetlands Scientist shall sign and seal the Existing Conditions and Site Plans.
  - (8) Submit 3 sets of final plans to be signed by the Clerk and Chair of the Planning Board, prior to issuance of any permits or commencement of construction activities.
- b) **Subsequent Conditions** – to be fulfilled as specified:
  - (1) Prior to commencement of construction activity, payment of any required inspection fees in an amount approved by the City Engineer shall be made.

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- (2) A pre-construction meeting shall be required prior to the start of any construction activities onsite if requested by the City Engineer.

- 8G. Rebecca McWilliams and James Meinecke request approval for a Conditional Use Permit to allow an outdoor recreation use in the Open Space Residential (RO) District for the purpose of having two concerts per year with up to 2,400 attendees, and a second CUP to allow an alternative parking surface for a seasonal use at 192 Silk Farm Road.

At the request of the applicant, this item was postponed to August 21, 2019.

#### 9. Amendments

- 9A. Ari Pollack, on behalf of ROI Irrevocable Trust, Cristine M. Winder, Trustee, requesting amendments to Zoning Ordinance Articles 28-2-4, Allowable Principle and Accessory Uses, 28-4-5, Development of Attached and Multifamily Dwellings, and 28-2-3, The Zoning Map, to allow residential uses in the Gateway Performance District, to rezone property in the Open Space Residential (RO) District to the Gateway Performance (GWP) District, and to modify the definition of the Flood Hazard (FH) District.

At the request of the applicant, this item was postponed to August 21, 2019.

#### 10. Other Business

Council Referral regarding a request to amend Article 28-5-50, keeping of Chickens as Pets, to reduce the 30-foot buffer.

Ms. Shank stated that in April 2019, a resident requested to amend the City Zoning Ordinance to allow henhouses and fenced areas to be closer to lot lines than is currently permitted by the current ordinance requirement for a 30-foot buffer. Section 28-5-50 of the Zoning Ordinance allows henhouses and fenced areas for chickens in side and rear yards when there is a 30-foot buffer provided. The buffer is intended to address noise and odors. The 30-foot width was justified by previous Planning staff who noted that the narrowest required minimum lot width for a residential district was 75 feet. The 30-foot buffer would therefore allow a strip of 15 feet in the center of the smallest conforming lot for henhouses and fenced areas.

Staff has discovered through recent analysis of the district standards that a significant percentage of residential lots in the downtown area are nonconforming with regard to lot width or lot area; therefore, many homeowners are currently precluded from having chickens because they don't have space for the buffer. Staff is currently reviewing proposed changes to the district standards to alleviate the high percentage of lots that are nonconforming. Lot width standards as narrow as 50 feet are proposed to address this issue. The 30-foot buffer would be too wide to allow chickens under that scenario. However, reducing the 30-foot buffer to 15 feet in width would allow lots complying with the proposed standard to have chickens, as well as other narrow lots that may remain nonconforming.

Staff notes that the Concord standards regarding chickens were based off the regulations from Portland, Maine. As a point of comparison, Portland currently allows henhouses and fenced areas located the same distance from lot lines as accessory structures. Setbacks for accessory structures range from 5 to 15 feet in urban Portland neighborhoods. The same regulation in Concord would be a 20-foot setback for urban neighborhoods under the current ordinance, yet only 5 feet under proposed standards.

Ms. Shank explained that the current ordinance was amended in 2011 to allow chickens on lots of less than one acre, specifically to allow residents in denser urban neighborhoods to have chickens. Further, the raising of chickens is consistent with several of the City's goals including to support

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sustainability and local food production. However, backyard chickens may not be appropriate for every property. In particular where lots and setbacks are nonconforming, and would remain nonconforming even under proposed standards, or where there is no space for the use.

Staff would support reducing the buffer from 30 feet to 15 feet, which maintains some space to mitigate potential noise and odor nuisances. However, the Planning Board should discuss whether it is in the community's best interest to relax the regulations to the degree that chickens can be kept on lots as constrained as the petitioner's property.

Ms. Shank noted that this is only applicable to chickens; roosters would not be allowed and there can only be six chickens. It was requested that Staff check with code to see if there have been any noise or odor issues reported.

Chairman Woodfin asked if the code changes would affect anything and if any action by the Board would be premature. Ms. Shank replied

On a motion made by Chairman Woodfin, and seconded by Mr. Hicks, the Board voted unanimously to recommend five feet as a new buffer and to recommend Council change the buffer.

A public hearing by the Planning Board will be scheduled for August 21.

11. Ron King, on behalf of Ciborowski Jacob S. Family Trust, requests ADR approval for a new storage structure at 90 Low Ave. in the Central Business Performance (CBP) District.

Ms. Shank stated that the application was tabled. The applicant will be returning to the Board next month.

12. **Code Update**

Ms. Shank presented a proposed district map with new districts, including a proposed conservation district and new treatment of the Urban Growth Boundary. . General discussion ensued. She stated that there are items in the ordinance that will need to be looked at further for requirements regarding infrastructure.

**Adjournment**

At the request of Chair Woodfin, Mr. Pierce made a motion to adjourn at 8:27 PM, seconded by Mr. Hicks. The motion carried unanimously.

A TRUE RECORD ATTEST:

Lisa Fellows-Weaver,  
Administrative Specialist