

City of Concord Planning Board
April 17, 2024
Minutes

The regular monthly meeting of the City Planning Board was held on April 17, 2024, at 7:00 p.m., in City Council Chambers at 37 Green St, Concord.

Attendees: Chair Richard Woodfin, Vice-Chair Erle Pierce, Members Dina Condodemetraky, David Fox, Matthew Hicks, Teresa Rosenberger (Ex-Officio for City Manager), Amanda Savage, Jeff Santacruce, Councilor Brent Todd

Absent: Mayor Byron Champlin, Alternates Chiara Dolcino, Frank Kenison

Staff: AnneMarie Skinner (Acting City Planner), Alec Bass (Senior Planner), Krista Tremblay (Administrative Specialist II), Peter Kohalmi (Associate City Engineer), and Matt Walsh (Deputy City Manager – Community Development)

1. Call to Order

Chair Woodfin called the meeting to order at 7:00 p.m.

2. Roll Call

Dina Condodemetraky, David Fox, Matthew Hicks, Vice-Chair Erle Pierce, Teresa Rosenberger, Jeff Santacruce, Amanda Savage, Councilor Brent Todd, and Chair Richard Woodfin

3. Approval of Meeting Minutes

On a motion made by Mr. Santacruce, seconded by Mr. Hicks, the Board voted in favor of approving the March 20, 2024, Planning Board meeting minutes, as written. The motion passed unanimously.

4. Agenda Overview

4a. NH Land Consultants and NH Sustainable Communities, LLC, on behalf of Thomas Cheney, request approvals for a major site plan application, architectural design review, and a condominium subdivision application for an 83-unit condominium development. The site comprises 8.33 acres over four tax lots addressed as 169, 165, 159, and 153 Fisherville Rd in the General Commercial (CG) District. (2023-151) The applicant requested a postponement to a date certain of May 15, 2024.

4b. Erin Lambert and Wilcox & Barton, Inc., on behalf of Fred and Mertie Potter, 125 NSS LLC, 20 Franklin St Concord LLC, and 20 Bradley Street LLC, request approvals for a major site plan application and architectural design review. Also requested is a waiver to Section 6.01(3) of the Site Plan Regulations. The site is addressed as 20 Franklin St, 22 Franklin St, 10 Bradley St, and 125 N State St in the Neighborhood Residential (RN) District. (2024-015) The applicant requested a postponement to a date certain of May 15, 2024.

Chair Woodfin stated that agenda items 4a, 4b, 9b, and 10c were continued to May 15, 2024, at the request of the applicants.

Mr. Santacruce made a motion to continue agenda items 4a, 4b, 9b, and 10c to the May 15, 2024, Planning Board meeting. Mr. Pierce seconded. All in favor. The motion passed unanimously.

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5. Design Review Applications by Consent

- 5a. Advantage Signs, on behalf of WB4, LLC, requests architectural design review approval for a new 39.75 square foot internally illuminated pylon sign at 2 Home Ave located in the Opportunity Corridor Performance (OCP) District.
- 5b. Jeff Burnham, on behalf of Capital City Billiards, requests architectural design review approval for an existing 60 square foot internally illuminated wall sign at 219 Fisherville Rd located in the General Commercial (CG) District.

This agenda item was removed from the consent agenda by Mr. Santacruce.

Mr. Santacruce stated he noticed the Architectural Design Review Committee had some comments regarding the sign being installed prior to obtaining a permit. The sign was put up and does not meet current design guidelines. The illumination is broken and does not have the opaque back panel instead of the white that shows the light as required. Mr. Santacruce stated over the last few months they have been tracking older signs that are non-conforming. Mr. Santacruce stated rather than set a precedent that these non-conforming signs can remain they need to make it known that signs installed without a permit that are non-conforming must come into compliance.

No one was present to represent the application.

Mr. Santacruce stated he is recommending denial and asked Mr. Bass to report on what the Architectural Design Review Committee felt needed to be addressed.

Mr. Bass stated the sign complies with the zoning code. It is not compliant with the design review guidelines, which require the opaque background behind white to prevent large illumination. The installed sign has an older style of lighting behind it, and half of the lighting does not work. There was a committee member that commented there was a lot of canopy lighting that almost drowned out the internal illumination that is occurring, so they drafted their motion that if the lighting ever changes that they come back for architectural design review. That is similar with 5c as well. The lighting behind 5c is so old that it does not have the same intensity that a newer LED illumination would have. That was the rationale for these two unique cases. The committee was concerned with exactly what Mr. Santacruce is concerned about – these precedents that are being set and taking into consideration that, had these signs gone before the committee, these would be conditions.

Mr. Santacruce asked Chair Woodfin if the sign lighting breaks and they have someone come in and repair it, the Planning Board will not know. They will continue to have this non-standard issue until they send code enforcement to go out or someone brings it to Planning Board's attention. Mr. Santacruce asked how do they stop this potential domino effect from happening?

Mr. Bass stated Mr. Santacruce is not wrong. That hypothetically could apply anywhere. The big thing is if it got upgraded it would most likely be upgraded to an LED internal illumination which would be very noticeable.

Mr. Pierce asked for clarification on the two signs that were originally installed with no approval from the Architectural Design Review Committee or the Planning Board?

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Mr. Bass stated our Code Department has been going through and doing a lot of enforcing and finding existing signs that are out of compliance and/or existing signs installed without permits. There have been a lot that have come before Planning Board. In the case of 108 Fisherville Rd, those signs have been there a long time. Mr. Bass stated the sign at 219 Fisherville Rd is newer but still essentially the same issue.

Chair Woodfin asked if the recommendation is to go back, start the process over, and do it the right way.

Mr. Santacruce made a motion to deny the application and direct the applicant to install signage that is compliant with the design review guidelines. Mr. Pierce seconded.

Discussion

Mr. Pierce asked if there is a date that should be established for completion?

Chair Woodfin stated that is not something they would usually do.

Mr. Bass stated not if they are denying the application. If they are denying the application, the sign will have to come down and becomes a code enforcement issue.

Chair Woodfin asked Mr. Pierce if the second is still valid without a deadline?

Mr. Pierce stated yes, his second is still valid.

Mr. Santacruce asked if non-conforming signs are assessed a daily penalty?

Chair Woodfin stated yes.

Mr. Santacruce stated then that it would behoove the applicant to make arrangements with Code Enforcement soon.

Chair Woodfin asked if they can do this for both signs – items 5b and 5c?

Mr. Santacruce stated Ms. Skinner would like to do them separately.

Ms. Skinner stated she only read agenda item 5b into the record.

All in favor. The motion passed unanimously.

- 5c. Andrew Mailloux, on behalf of Szechuan Gardens, requests architectural design review for existing 18-square-foot and 24-square-foot internally illuminated building signs at 108 Fisherville Rd in the General Commercial (CG) District.

This agenda item was pulled from consent by Mr. Santacruce.

Chair Woodfin stated this sign has the same issue as the one in agenda item 5b.

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Mr. Santacruce made a motion to deny the application due to non-compliance with design review guidelines. Mr. Pierce seconded. All in favor. The motion passed unanimously.

- 5d. Classic Signs, Inc, on behalf of Sullivan Tire, requests architectural design review approval for a new 55.15-square-foot internally illuminated building sign at 63 Hall St in the Opportunity Corridor Performance (OCP) District.
- 5e. Daniel Weed, on behalf of Weed Family Automotive, requests architectural design review approval for two existing 24-square-foot non-illuminated building signs and one existing 47.5-square-foot externally illuminated building sign at 124 Storrs St in the Opportunity Corridor Performance (OCP) District.
- 5f. Signarama Concord, on behalf of Aerie Healthcare, requests architectural design review approval for a new 6.15-square-foot non-illuminated freestanding post sign at 33 Pleasant St in the Civic Performance (CVP) District.
- 5g. Signarama Concord, on behalf of Sundial Solar, requests architectural design review approval for a new 8-square-foot externally illuminated hanging sign at 5 Pleasant St Extension in the Central Business Performance (CBP) District.
- 5h. Jonathan Huston, on behalf of Capital Vintage, requests architectural design review approval for a new 10.5-square-foot externally illuminated hanging sign at 19 Pleasant St in the Central Business Performance (CBP) District.
- 5i. Joel Harris, on behalf of Dos Amigos Burritos, requests architectural design review approval for four existing non-illuminated window signs at 26 N Main St in the Central Business Performance (CBP) District.
- 5j. Charter Foods North, LLC, on behalf of Taco Bell, requests architectural design review approval as part of a building permit for exterior renovations and rebranding at 321 Loudon Rd in the Gateway Performance (GWP) District. (2024-012)
- 5k. R. Fraser Company, on behalf of Concord Christian Academy, requests architectural design review approval as part of a building permit application for exterior alterations and a staircase to access second-floor classrooms at 37 Regional Dr in the Office Park Performance (OFP) District. (2024-013)

On a motion made by Mr. Pierce, seconded by Mr. Fox, the Board voted unanimously to approve applications 5a and 5d through 5k (5b and 5c were pulled from consent by Mr. Santacruce) as submitted, subject to the recommendations of the Architectural Design Review Committee. All in favor. The motion passed unanimously.

6. Determination of Completeness Items by Consent

Prior to the discussion of agenda items 6a-6c, Ms. Savage stated to the Planning Board that she recused herself from agenda item 6b and would vote in favor of agenda items 6a and 6c.

- 6a. Granite Engineering, LLC and Brenton Cole, on behalf of Bradcore Holdings, LLC requests approvals for a major site plan application and architectural design review for an 8,250-square-foot

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building addition and accompanying circulation and parking improvements, and conditional use permit applications for disturbance to wetland buffer and an alternative parking arrangement for the construction of fewer parking spaces than what is required. Also requested is a waiver from Section 22.03(2) of the Site Plan Regulations. The site is addressed as 391 Loudon Rd, operating as Chappell Tractor Sales, LLC in the Gateway Performance (GWP) District. (2024-018)

Mr. Pierce moved, and Ms. Rosenberger seconded, to determine the application complete, not a development of regional impact and set the public hearing for May 15, 2024. All in favor. The motion passed unanimously.

- 6b. Jonathan Devine and TFMoran, Inc., on behalf of ROI Irrevocable Trust and Christine Windler, request approvals for a major site plan application and architectural design review for the construction of a new bank and associated site improvements. Also requested is a conditional use permit approval for driveway separation distance. The site is addressed as 16-22 Manchester St (Tax Map 792Z2) in the Gateway Performance (GWP) District. (2024-023)

Mr. Pierce moved, and Ms. Rosenberger seconded, to determine the application complete, not a development of regional impact, and set the public hearing for May 15, 2024. All in favor. The motion passed. Ms. Savage recused herself from this item.

- 6c. Jonathan Devine and TFMoran, Inc., on behalf of ROI Irrevocable Trust and Christine Windler, request approvals for a major site plan application and architectural design review for the construction of a gas station, convenience store, car wash, and associated site improvements, and conditional use permit applications for the number of driveways and driveway separation distances. The site comprises three tax lots addressed as 30 Manchester St (Tax Map 781Z30), 32 Manchester St (Tax Map 781Z29), and 33-35 Black Hill Rd (Tax Map 81Z32) in the Gateway Performance (GWP) District. (2024-024)

Mr. Pierce moved, and Ms. Rosenberger seconded, to determine the application complete, not a development of regional impact, and set the public hearing for May 15, 2024. All in favor. The motion passed unanimously.

Public Hearings

8. **Design Review Applications**

- 8a. Jeremy Nadeau, on behalf of Nadeau Subs, requests architectural design review approval for an existing 9.2-square-foot internally illuminated pylon panel sign, an existing 10-square-foot internally illuminated window sign and a new 30.06-square-foot internally illuminated building sign at 89 Fort Eddy Rd in the Gateway Performance (GWP) District.

Jeremy Nadeau presented the application.

Chair Woodfin asked for a staff update.

Mr. Bass stated the signs were found to be existing and installed without permits. His understanding is that the building sign, though, is not currently installed. The applicant asked to be moved to a public hearing to make an appeal to Planning Board about the sign.

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Mr. Nadeau is the owner of Nadeau Subs. Mr. Nadeau noted that he did not realize that Pepsi logos were not allowed on the sign. He said that Architectural Design Review Committee said the sign would be approved with his logo. Mr. Nadeau is willing to remove the Pepsi logo and just have his logo on the outside of the building.

Chair Woodfin wanted to point out for clarification that the committee is stretching what is within their purview and stretching the line with free speech and what can and cannot be on a sign. Chair Woodfin asked if Mr. Nadeau would like the Pepsi logos to remain or not and asked for justification as to why they should remain.

Mr. Nadeau stated the reason why he put the Pepsi logos was that Pepsi gave him money for the sign for advertising. Mr. Nadeau stated he did not put the Pepsi logos on the old signs that were approved. If it is a deal breaker, he will remove the Pepsi logos.

Mr. Walsh stated that he spoke with other staff today who felt the Pepsi logos were a problem under Article 28-6-7(m) of the Zoning Ordinance that talks about billboard signs unrelated to the principal use. Mr. Walsh noted if this was a Pepsi distributor or factory that made Pepsi that is one thing. In this case, the staff member felt the inclusion of the Pepsi logos was in violation of Article 28-6-7(m).

Chair Woodfin stated that is a different story. Chair Woodfin asked Mr. Nadeau if approving the sign with the spreading out of the Nadeau and leaving the space opaque without the Pepsi logos is okay?

Mr. Nadeau stated that is correct.

Chair Woodfin asked the Board if they have any other questions for this applicant, or if any member of the audience has any questions or concerns with this application. Hearing no response, Chair Woodfin closed the public hearing.

Chair Woodfin moved to approve the sign with the removal of the Pepsi logos.

Mr. Santacruce asked a question about what the Architectural Design Review Committee is saying about one sign or the other, and is Chair Woodfin saying both signs as submitted? Mr. Santacruce just wants to make it clear that there are two signs. There is a building sign, there is another sign in the window, and the Architectural Design Review Committee wanted one or the other.

Chair Woodfin stated he does not think that is right and is it just the one sign?

Mr. Nadeau stated there is only one sign that has Pepsi logos.

Mr. Santacruce seconded. All in favor. The motion passed unanimously.

9. **Amendments**

- 9a. Ari Pollack, on behalf of Ciborowski Associates, LLC, requests consideration for amending Article 28-4-1 of the Concord Zoning Ordinance.

Chair Woodfin asked for a staff update.

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Mr. Walsh provided a staff update. Mr. Walsh stated there is a proposal submitted by Ciborowski Associates and a staff memo with the staff opinion and analysis. There are two parts to the proposed request. The first is to create a conditional use permit in the Central Business Performance (CBP) District that will allow exceeding the 80-foot height limit by 10 feet. Mr. Walsh stated in Concord they set the height of the building from the average grade and it is to the parapet. So, any mechanicals, elevator shafts, or anything above the 80 feet is not a part of the height limit. The second part for the conditional use permit to allow obstructing the capitol dome from certain viewpoints from interstate 93 between exit 13 and 393 and 393 South. Mr. Walsh stated the current ordinance prohibits any obstruction of the dome from those viewpoints when constructing in the downtown area.

Chair Woodfin stated this is not an application for major site plan. The Planning Board has a specific job and that is to review a referral from City Council. Chair Woodfin asked the applicant to speak.

Ari Pollock spoke on behalf of Ciborowski Associates, LLC, the proponent of a zoning amendment to Article 28-4-1. Mr. Pollock stated Mark Ciborowski is also present with him and is a long-time Concord property owner, downtown landlord, and developer. Zoning Article 28-4-1 includes most of the zoning ordinance's dimensional regulations. Fundamental development issues such as lot size, frontage, setbacks, coverage, and height are discussed with specificity for every zoning district. Specific to building height in the downtown Central Business District, height is discussed two different ways. First, a maximum height of 80 feet from average grade is established. In other words, measure from the bottom up 80 feet, and then stop. Do not finish a floor in progress, do not add height to complete your building program, do not exceed 80 feet. Second, whether at or under 80 feet in height, do not obstruct views of the statehouse dome from sections of I-93. The ordinance provides no discussion of other vantage points or pre-existing obstructions along the highway such as trees, bridges, or roadway signs. No talk of partial or fleeting obstructions. Just simply, "don't do it." As to basic building heights of 90 versus 80 feet, this is a 12% increase. In reality, this likely means the difference of one more floor, or the completion of a partial floor – maybe a six-story building that could have the potential for a seventh floor. From Main Street, a passerby on foot, or in a vehicle, would be hard-pressed to look upward and tell the difference between 80 and 90 feet. Could the difference even be appreciated from an at-grade perspective? Meanwhile, the ability to finish a floor, add leasable space, add more downtown housing, add new retailers or entertainment venues – all of those things can hang in the balance with the extra 10 feet. Why not just ask for a variance? Isn't that what variances are for? Well, we did. Staff provided our Zoning Board of Adjustment application materials and the Zoning Board of Adjustment meeting minutes with tonight's agenda. You can read our arguments, the deliberation, and the motion to deny. While we did not receive approval of the variance (vote was 3 against granting-2 in favor of granting), the sentiment was clear – "love the project, but the ordinance plainly says "no." Why did the Zoning Board of Adjustment rule against granting the variance? Because variances are an inefficient tool for progress. Variances are an allowed exception to a rule. Ordinances speak to a moment in time, and variances address hardships. In this case that moment in time was decades ago when the relevant provisions were adopted into the ordinance, and it states 80 feet. Things have changed – they always do. Malls were built, and fallen out of favor. Schools were built and need replacing. Streets were built and need repaving. Buildings were replaced, Main Street was redesigned and dramatically enhanced, and progress moved along. The City of Concord has discussed a widespread rezoning for years – that work is unfinished. The

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draft of that work, however, modifies the statehouse dome protection. The draft discusses “respect ... [for] views of the statehouse dome.” Maybe the draft is adopted, maybe it isn’t, but my point is that modifying the strict prohibition is not a new idea. Meanwhile, good projects are hanging in the balance. Narrowly-tailored zoning amendments are an important and timely interim measure. This proposal is one such measure. You have the staff memo from Matt Walsh, Deputy City Manager. The memo concludes that staff is supportive of the amendment, with revisions. Why? Because increasing the height standard by 10 feet is all about offering flexibility for developers, which is paramount in shifting markets, commercial performance districts, and volatile lending atmospheres. Also, staff explains that the City’s various master plans encourage downtown redevelopment while preserving historic buildings – more about Phenix Hall in a moment. Just 10 years ago, who would have thought that a global pandemic would intensify labor and housing shortages and shift office and retail uses from brick and mortar to shipping, warehousing, and distribution? The Planning Board is familiar with the types of planning studies that are drafted, submitted, and presented to make decisions about building programs, mitigation of impacts, traffic safety, and architectural integrity. The Planning Board is uniquely positioned to evaluate the pros and cons of a specific development proposal (versus a typical “one-size-fits-all” zoning provision that must function over decades and in shifting seas). Additionally, conditional use permits are a common tool offered by statute (674:21) to planning boards to allow examination of the particulars of a proposal. Again, conditional use permits offer flexibility in development, in redevelopment, and in community planning, essentially saying, “if we do this, can we do it right?” Protection for views of the statehouse dome is a different element. It is not a metric or measurement, it is a sentiment – a laudable sentiment for sure. The current language about views from the interstate are from but ONE vantage point. How about views from Main Street? From State Street? From the sidewalk? From rooftops? Will building to 90 feet obstruct some views or partial views from the interstate? Maybe. Probably. But, how important is this in the larger scope of Concord, of Main Street, and for the winds of change? A 90-foot-tall building would not alter the statehouse one bit – just the view of it, and only from one place – a highway. Would you rather see the dome from a car window at highway speed, from a Main Street sidewalk or a rooftop restaurant or the statehouse lawn? Would you rather appreciate the heritage and history of the statehouse from 60 miles per hour at a half-mile away; or, from a fixed point at, near or inside the statehouse? And, as this Board knows, NHDOT has long been planning a redevelopment of the I-93 corridor from exit 12 to exit 16 – the same corridor where views are to be protected. NHDOT’s plan and timeline are uncertain, and has shifted multiple times, but the City has a seat at DOT’s table and is putting forward ideas for designs, ancillary projects, and public gathering spaces. The design elevation of the highway will change as these ideas are included, discarded, revised, and finalized. This means, of course, that today’s views of the dome will also be affected, and that what is visible from the interstate today may be invisible tomorrow. Speaking of heritage, the statehouse is not the only building worthy of preservation. Most worthy? Yes. Only one worth? No. Main Street is full of history, architectural gems, and buildings worthy of preservation. For those who know it, Phenix Hall also has a place on this list. It is a special place with treasured history, but an uncertain future. Mark will speak to the virtues of his beloved Phenix Hall in a minute. BUT, consider this – having the zoning flexibility to redevelop the CVS building and the damaged E&P Hotel, also provides the flexibility to renovate Phenix Hall. It is quickly coming down to both or none, not one or the other. Believe me, Mark has tried to look at this all different ways. His redevelopment plan includes a rooftop restaurant venue

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over where CVS is now. Unparalleled views of the dome. A new and exciting attraction for Main Street. New housing. New businesses. And, maybe most importantly, new life for an old Phenix. Before I pass this to Mark, I hoped to share one more observation – we are all opining on what is best for Concord. We all love Concord. We all live or work in Concord. We all pass through Concord for something between moments and lifetimes. If Concord could talk, what would it say? Would it say 90 feet is significantly different than 80 feet? Would it say that a view from a vehicle is the most important thing of all? Would it say a view of the dome is more important than Phenix Hall? Probably not.

Mark Ciborowski stated the following:

“I have lived in Concord for 45 years. I came to Concord to help my grandfather manage his properties in his late years. I have been developing downtown properties for 45 years and taking great pride in doing high-quality renovations that have made downtown Concord a better place. My current project is, by far, my most ambitious. I want to demolish the existing building vacated by CVS a few years ago as well as the E&P Hotel occupied by Hilltop Consignment. In its place I want to build a 6-story mixed use building with a partial 7th floor for a year-round rooftop restaurant. The main street level would be retail, the second floor would be office space, with floors 3-6 being market-rate apartments with a total of 36 apartments. The partial 7th floor would house the rooftop restaurant and would only be approximately 40% of the building footprint and set back so not visible from Main Street. The rooftop portion would be primarily glass to capture the views with outside seating in the summer months. The project also includes restoring historic Phenix Hall into a restaurant, music hall, and event center. I have purchased a spectacular 1870s vintage bar to be a key element in the renovated Phenix Hall. I plan to keep Phenix Avenue as a crucial pedestrian link from Main Street to Low Avenue and Storrs Street. I will also add some small retail spaces on Low Avenue to help change the character of Low Avenue as more than just an alley. The project requires the demolition of both the old CVS store, a one-story strip mall façade with no historical value that no one will miss. It also demolishes the remaining portion of the old E&P Hotel now occupied on the first floor by Hilltop Consignment with the upper floors completely dilapidated and uninhabited with no means of access. If there was any way to incorporate this portion of the building into the project, I would have done it. The Heritage Commission voted unanimously that the E&P Hotel does not possess significant historical, cultural, or architectural value and the benefits of the new building would achieve more public benefit than would be achieved in renovating the existing structure. The renovation of Phenix Hall has been a priority of the city’s master plan since 1997. In the master plan, the city detailed a 20-page plan on how that could be accomplished, an in-depth analysis of a privately-owned property, something that is highly unusual in a municipal master plan. Many of the concepts outlined in that plan are incorporated in my current development plan. The only portion of the new building that exceeds the 80-foot height limit is the restaurant venue, which is only 40% of the footprint of the 6th floor. Will it obstruct the view of the statehouse dome from 93 North? Yes, it will for a few seconds. It doesn’t eliminate the view entirely and obstructs it for just for a few seconds. But what else do you see from 93 – the backside of the shopping plaza, homeless camps, and mountains of trash. Not a very good look for our city. But look at what you gain from my project. You exchange a few seconds of the view from 93 North for a new spectacular view of the capitol dome from a rooftop. So, you don’t lose a view, you gain a new view that doesn’t exist now. And from the highway what do you gain: a view of a lit-up rooftop venue with lots of glass so you see it day or night and a sign on the back of Phenix Hall that reads “The Phenix” much like the Hotel Concord sign. I don’t think many people pull off the highway to check out downtown Concord

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because they see the dome from the highway. Seeing people up on a rooftop venue by day or a rooftop venue lit up at night, however, will make some people want to check it out. When they see The Phenix sign, they may Google it out of curiosity and see a spectacular music venue at The Phenix and a restaurant venue next door and decide to check it out. It adds elements of interest to our skyline from the highway that say, Concord is cool, let's check it out. So, let's summarize what this project does for Concord:

1. It fills the most notable gap tooth on Concord's Main Street.
2. It adds a spectacular view of the dome from a publicly accessible space that does not exist now.
3. It adds interest and activity to Concord's skyline as seen from 93.
4. It restores historic Phenix Hall into a vibrant restaurant, music hall, and event center, achieving an important goal of the city's master plan since 1997.
5. It adds a prominent new mixed-use building containing retail, offices, 36 market-rate apartments, and a dynamic rooftop restaurant.
6. It provides an increase in visitors to our downtown, boosting retail activity.

Together it adds up to increased tax base for the city, housing, jobs, restaurants, and entertainment. All the elements needed for a vibrant, healthy downtown. But none of these benefits can be realized without the adoption of this zoning amendment. And Phenix Hall will remain a lifeless venue still waiting for its chance to rise once again. Zoning is meant to allow worthy projects to happen, not impede them. The adoption of this zoning amendment will give this once-in-a-generation project a chance to become a reality.

Mr. Pierce asked if there is there currently a development plan in front of the Planning Board? Mr. Pollock stated no. They were not able to obtain variances that would have allowed them to deliver an application that would have been found complete.

Mr. Pierce noted the conditional use permit would give the Planning Board the ability to look at development plans, taking comments from staff, and on a project-by-project basis work with the applicant on a particular development. Mr. Pierce stated it is not wholesale if this passes then everyone in the city can go another 10 feet.

Mr. Pollock stated that is correct. Mr. Pollock noted if the ordinance is to be adopted by the Council then the Planning Board may see a site plan application for a building that exceeds 80 feet up to 90 feet and a conditional use permit that would ask the Planning Board to grant the additional height beyond the 80 feet. It would be a separate conditional use application.

Mr. Pierce stated it is safe to assume as with any large development the height of building is only one item.

Mr. Pollock stated certainly, the site plan review would include all typical site plan items.

Mr. Ciborowski stated some people are concerned that the adoption of this amendment will incentivize some buildings or landlords to demolish their existing buildings so they can get the additional height. Mr. Ciborowski stated that would not be economically viable. Mr. Ciborowski stated that would be an apple and an orange in comparison. Mr. Ciborowski stated he has two buildings now that are not economically viable.

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Chair Woodfin asked how long the E&P Hotel has been vacant?

Mr. Ciborowski stated it has been vacant since 1956.

Chair Woodfin asked for Mr. Walsh to give a staff update on the Planning Board's purview.

Mr. Walsh stated the Planning Board is to discuss the amendment proposal and decide if they want to make any recommendations to City Council either to proceed with the language that is proposed or to modify that language or not to proceed at all. Mr. Walsh noted that there is language already in the Zoning Ordinance in Article 28-4-1(g)(5), which has this exact same concept for areas of the Opportunity Corridor Performance District on Storrs St between Hills Ave and Loudon Rd. Mr. Walsh stated this concept already exists and in there you are allowed to go from the 45-foot height limit to 80 feet. The criteria that is in the proposal from Mr. Pollock actually mimics that exact language. Mr. Walsh noted that the particular conditional use permit has never been used but he suspects once the state demolishes the legislative parking garage that will come into play. Mr. Walsh pointed out that there is a nine-page staff memo in the agenda packet that he will not read to the Planning Board. Mr. Walsh stated if this is something the Planning Board is interested in entertaining, staff suggests they might want to think about the following criteria: water pressure for spaces above the 80-foot height limit, fire truck access, photo simulations of proposed building at both the 80-foot and 90-foot level for Planning Board to have data for a decision. There are requirements in Article 28-5-48 of the Zoning Ordinance that pertain to special development standards in the Central Business Performance and downtown there are certain streets that require the building to be setback 10 feet at the 65-foot elevation. Mr. Walsh stated the Planning Board may want to require that as a mandated requirement to help this particular conditional use permit to help with the pedestrian scale. Mr. Walsh stated that might require an amendment to Article 28-5-48. Mr. Walsh stated staff talks about some geography concerns. Right now, the proposal will be all of the Central Business Performance District and staff notes that that there are parts of the Central Business Performance District that are located in Penacook Village. Mr. Walsh pointed out the Planning Board might not want 90-foot buildings on Village Street in Penacook. Mr. Walsh stated there has been discussion on if the Planning Board would like a 90-foot building on sections of North or South State St recognizing predominantly on the other side of the road are one- or two-story buildings because there is a break in the development pattern. Mr. Walsh stated staff feels that if this is crafted properly this could be a nice tool for the Planning Board to have some flexibility to make wise decisions and have minimum impact on the community, especially the viewshed from 93 or 393 and travelling at highway speeds. Mr. Walsh stated City Council adopted their goals for the coming two years, and interim zoning amendments is one of the goals to facilitate economic development in Concord.

Chair Woodfin wanted to make a point for clarification. Chair Woodfin wanted to be clear on the 90-foot building on North State Street where everything around it is 1 ½ to 2 stories, given the ordinance change they are proposing and the process of the conditional use permit, technically they can put that on a plan and come to Planning Board and the project could be denied with public input stating they live next door and this will shade my house.

Mr. Walsh stated that is correct depending on the criteria of approval for the conditional use permit.

Chair Woodfin opened the public hearing at 7:51 p.m.

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Chair Woodfin reiterated that every member of the Planning Board received every email that came in, so if you sent an email to Ms. Skinner she then forwarded it to the Planning Board. Chair Woodfin stated all comments have been read and are part of the public record. Chair Woodfin asked for the people not to read an email that was already sent. Chair Woodfin asked for new comments regarding the proposed ordinance amendment and that they are not here to discuss Phenix Hall or demolition.

The following members of the public testified in favor of comments made by Ari Pollock and Mark Ciborowski regarding the request to consider amending Article 28-4-1 of the Concord Zoning Ordinance: Roy Schneiker, Tim Sink, Chris Curley, Bobby Segal, Eric Gallager, Mark Coen, Jeff Mathis, Paul Provost, Dean Morrison, Claudia Walker, Mary Rose, Terry Parker, Mary Rose, Terry Parker, Elyssa Alfieri, Dave Constant, John Constant, Michelline Dufort, Peter Bugir, William Norton, Frank Lemay, Ron Ragner, Jon Chorlian, Jack Crisp, James Rosenberg, Emily Ricard, Tom Furtado, Susan Mcuu, Brien Murphy, John Duval, Jeff Kipperman, Jim Milliken, Jim Boulay, and Jamie Burnett.

Alan Herschlag a member of the public disagreed with those in favor. Mr. Herschlag noted that the master plan notes to not block the dome with any building or sign.

Chair Woodfin closed the public hearing at 8:55 p.m.

Chair Woodfin asked for concerns with the amendment as proposed.

Council Todd noted that the impact to historic buildings is difficult to predict and stated that the incorporation of language to safeguard downtown historic buildings is needed in the ordinance.

Chair Woodfin asked about the role of Heritage Commission.

Council Todd noted that demolition of historic buildings goes to the Heritage Commission for comment.

Ms. Skinner clarified Councilor Todd's comments by stating that a demolition permit is required prior to demolition of historic buildings (those 50 years or older). The demolition permit is reviewed by the Demolition Review Committee, which is a separate committee other than the Heritage Commission. The Demolition Review Committee is made up of some, but not all, of the members of the Heritage Commission. Demolition requests do not go before the Heritage Commission.

Ms. Rosenberg stated that demolition permits should go to the Heritage Commission prior to demolition, and Mr. Santacruce agreed.

Mr. Pierce agreed that the language needs to be tightened, and he is unsure on the process of tightening the language.

Mr. Walsh said staff can prepare draft language for the Board's consideration or the Board can provide direction to staff and staff can prepare a document to present to City Council without coming back to the Board.

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Chair Woodfin moved to advance the amendment with a positive recommendation from the Planning Board, with staff's recommended language changes as noted in the staff memo, along with additional language from Liz Hengen. Mr. Pierce seconded.

Discussion

Ms. Rosenberg asked if this recommendation for approval had anything to do with approving the Phenix Hall project.

Mr. Walsh stated there are no applications before the Board for the Phenix Hall project.

All in favor. Unanimous.

- 9b. Tom Zajac and Hayner/Swanson, Inc., on behalf of Stickney Avenue, LLC, request approval for an amendment to a major site plan approval to move precedent condition 2 to subsequent conditions as a new subsequent condition 6. The site is addressed as 5-13 Stickney Ave in the Opportunity Corridor Performance (OCP) District. (2022-78)

This agenda item was postponed to May 15, 2024, at the request of the applicant.

Mr. Santacruce made a motion to continue agenda items 4a, 4b, 9b and 10c to the May 15, 2024 Planning Board meeting. Mr. Pierce seconded. All in favor. The motion passed unanimously.

10. Site Plan, Subdivision and Conditional Use Permit Applications

- 10a. Christ the King Parish requests major site plan approval for the constructions of a new 5,300-square-foot building and related site improvements for the purpose of a food pantry at 60 S. Main St in the Urban Transitional (UT) District. (2023-97) This item was postponed from March 20, 2024 at the request of the applicant.

Jonathan Halle, Father Rich Roberge, and Morgan Dunston presented the application. Mr. Halle stated two months ago they were present at the Planning Board meeting and were turned away to have conversations with the school and a few neighbors. Mr. Halle stated they had multiple meeting with all of the constituents. Mr. Halle stated out of those discussions there were issues that were resolved. One of the issues was around safety from the kids walking from the elementary school to the middle school. They decided to make the road coming off State Street one way. The lane got smaller and they are going to stripe the cross walk from the elementary to the middle school. There were other issues that came up that require waivers such as they cannot have a striped basketball court in a parking lot so they took that all out. They moved the playground to a different area and this will be fenced in for the little kids. They removed a light pole and added wall packs.

Mr. Santacruce stated he sees a long cross walk and cannot see a way it will prevent a car from driving on it. Mr. Santacruce asked if they will consider expanding the island portions or have a side walk to have a refuge.

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Mr. Bass stated that was going to be one of the staff comments for the Board to look at precedent condition 7 and decide if they wanted to add that as it speaks exactly to those points not only to provide those pedestrian refuge islands and to widen those landscape islands out to discourage traffic from turning right. It is a 19-foot-wide one-way lane. Mr. Bass stated they wanted the Board to discuss if they wanted that to be a condition of this approval.

Chair Woodfin asked if anyone from the public would like to speak at 9:22 p.m.

Annmarie Timmons and Will Delker are neighbors directly across the street from this project. They reached out to church to discuss their concerns with lighting and landscaping. The existing food pantry now is set back on the lot and they see no impact from food pantry. The new pantry they stated they have calculated it will be less than 60 feet from their front door. With the activity moving towards their front yard they are concerned about screening. Mr. Delker stated the church agreed to make changes to the lighting. Mr. Delker stated the church will continue to work with them on this project. Mr. Delker stated they hired their own landscape architect. The utilities run under the ground in front of the new building and there was some limitation as to what they can plant in that area. Mr. Delker wanted to make sure part of the project moving forward is for the church to keep in their concerns as they move ahead.

Ms. Timmons asked there be open communication between them and the church.

Chair Woodfin closed the public hearing 9:31 p.m.

Chair Woodfin stated the findings of fact include information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing.

Mr. Santacruce made a motion to grant 4.3 architectural design review approval as submitted with the stipulation that if the proposed lighting plan changes that such changes be submitted for review and approval before the Planning Board and with the understanding that there are solar panels on the southern elevation. Mr. Hicks seconded. All in favor. The motion passed unanimously.

Mr. Pierce made a motion to grant 4.4 for the requested waivers from the Site Plan Regulations using the criteria of RSA 674:44 III(e)(2) as guidance, specific circumstances relative to the site plan, or existing conditions of the site, and that the waiver will properly carry out the spirit and intent of the regulations:

- Section 18.10 to allow a 12-foot wide access driveway for approximately 70 feet between South State Street and the internal parking lot where normally a 14-foot minimum width is required.
- Section 25.02(1) to not underground the existing overhead utilities which are being relocated and instead allow to remain overhead.

Mr. Hicks seconded. All in favor. The motion passed unanimously.

Chair Woodfin stated 4.5 Grant Major Site Plan approval for the proposed construction of a new 5,300-square foot food pantry building and additional site improvements at 60-72 S. State St, including the proposed plan revisions, subject to the following precedent and subsequent conditions:

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(a) Precedent Conditions – to be fulfilled within one 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 all review comments to the satisfaction of the Planning Division.
- (2) Address all review comments to the satisfaction of the Engineering Division.
- (3) Waivers granted are to be noted and fully described on the site plan, including the date granted and applicable section number(s) of the Site Plan Regulations. Should the Board vote to deny the waivers, or the applicant cannot meet conditions of the waivers, the applicant shall comply with said Site Plan Regulations.
- (4) Satisfy the February 1, 2023 Zoning Board condition of approval to merge 3 and 5 Thorndike St with the 60 S. Main St parcel.
- (5) Final plans shall be signed and sealed by the project's NH Registered Land Surveyor, Landscape Architect, and Professional Engineer.
- (6) Submit three copies of final plans for signature by the Clerk and Chair of the Planning Board.
- (7) Extend the landscape islands along the pedestrian path and one-way drive aisle to provide pedestrian refuge locations and to direct and further discourage vehicle traffic from traveling the wrong way, while maintaining the minimum aisle widths as required by Table 18-1 Minimum Parking Lot Aisle Widths of the Site Plan Regulations.
- (8) The applicant shall provide non-required landscaping on South State Street in front of the building with species and installation methods to take into consideration not conflicting with utilities.

(b) Subsequent Conditions – to be fulfilled as specified:

- (1) Once the applicant receives notification that the three copies of final plans have been signed by the Clerk and Chair of the Planning Board, then the applicant or designated agent shall contact the Engineering Division to schedule a pre-construction meeting. The pre-construction meeting shall be held prior to the start of any construction activities onsite and prior to the issuance of the building permit for the new food pantry building. See the Engineering memo for additional pre-construction items to be addressed.
- (2) Prior to issuance of a Certificate of Occupancy as-built drawings shall be provided to the City Engineer in accordance with Section 12.09 of the Site Plan Regulations. The as-built drawings shall be surveyed on NH State Plane coordinates and NAVD 88 Datum.
- (3) Prior to the issuance of a Certificate of Occupancy, the applicant shall pay the required impact fees. Impact fees shall be assessed for any construction contained within the limits of the approved 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.
- (4) Per Section 29-2-1-2(3) of the Zoning Ordinance, a waiver of all or part of the payable impact fees must be requested prior to the issuance of a building permit, or determination of the fee by the Clerk.

Chair Woodfin asked if there should be any language for the applicant to work with the abutter in reference to landscaping.

Mr. Bass stated if the Board would like to require it he has drafted language: The applicant shall provide non-required landscaping on South State Street in front of the building with species and installation methods to take into consideration not conflicting with utilities.

Chair Woodfin will recognize that as precedent condition 8.

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Ms. Condodemetraky made a motion to grant 4.5 major site approval with precedent conditions 1-7 and the addition of 8 with the subsequent conditions 1-4. Mr. Hicks seconded. All in favor. The motion passed unanimously.

- 10b. Erin Lambert and Wilcox & Barton, Inc., on behalf of First Church Holdings, LLC, request approval of a Minor Subdivision (minor lot adjustment) and an amendment to a Major Site Plan approval to reconfigure the parking lots to the north and west. Also requested are waivers from various sections of the Site Plan Regulations and Subdivision Regulations. The site is addressed as 177 N Main St in the Urban Commercial (UC) District and Downtown Residential (RD) District. (2023-122) This item was postponed from March 20, 2024, at the request of the applicant.

Erin Lambert and Jonathan Chorlian are present to represent this application. Mr. Chorlian stated they are present for an amended site plan and a lot line adjustment. Mr. Chorlian stated they are asking for a lot line adjustment to transfer an area to the Islamic Society. The site plan amendment piece is authorizing the construction of the parking lot by the Islamic Society. They went back to Zoning Board to receive a variance to remove seven parking spaces, that was approved which is why they are back at Planning Board. Mr. Chorlian stated last September it was required to return to ADR for a couple of items. They went back to ADR and the five windows in the chapel section of the building they improved and came back with new doors and deck. They took ADR suggestions and lowered deck, added planter and using narrow horizontal siding. Mr. Chorlian stated he would like to ask for approval without having to go back to ADR as he feels he has satisfied the condition.

Chair Woodfin asked if all legal issues are resolved?

Mr. Chorlian stated there is an agreement in place that will lead to that.

Mr. Santacruce stated he understands there is an agreement with easement to have corner property to access.

Mr. Chorlian this property has a small parking lot in the back. Mr. Chorlian stated the only access to the parking lot is through this driveway. There is no written document that grants that right. Mr. Chorlian stated as a practical matter that has been a condition for some amount of time. Mr. Chorlian stated currently this is a two-way driveway and under this plan it becomes a one-way driveway. Mr. Chorlian stated it will be owned by the Islamic Society. This will be their main entrance point. Mr. Chorlian noted when this becomes one-way there will be a need to create this one-way pattern and that is a condition of approval to have easement.

Ms. Skinner stated it is precedent condition 8.7.

Chair Woodfin asked if there were any other comments from the public or Board.

Ms. Skinner asked for a determination of completeness.

Chair Woodfin closed the public hearing. Chair Woodfin asked the Board if someone wanted to make a motion to determine the application complete and not a development impact of regional impact.

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On a motion made by Mr. Pierce, seconded by Councilor Todd, to determine the application complete, not a development of regional impact. All in favor. The motion passed unanimously.

Chair Woodfin stated the findings of fact include information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing.

Chair Woodfin read 8.2-8.8 and wants to take them all as outlined.

8.2 Using the criteria of RSA 674:44 III(e)(2) and Section 36.09 of the Site Plan Regulations and noting that architectural design review approval has already been given, grant the waiver request from Section 11.01(9) Major Site Plan Application Requirements – Colored architectural elevations of buildings and any significant structures, Section 12.03(4) Plan Certification, and Section 16.03(1) through (9) Architectural Plans and Elevations of the Site Plan Regulations to not provide full architectural elevations.

8.3 Using the criteria of RSA 674:44 III(e)(2) and Section 36.09 of the Site Plan Regulations, grant the waiver request from Section 12.04 Location Plan and Section 12.05 Vicinity Plan of the Site Plan Regulations to not provide location and vicinity plans.

8.4 Using the criteria of RSA 674:44 III(e)(2) and Section 36.09 of the Site Plan Regulations, grant the waiver request from Section 16.02 Site Plan Requirements (14) Utility Plan (a) and (b) of the Site Plan Regulations to not provide a plan showing the location, size, and invert of existing and proposed sanitary sewers, etc. and profiles of all municipal utilities, with the following conditions: the applicant digs test pits at the start of construction to confirm the size, type of pipe and invert of the existing drainage and sewer pipes; the applicant observe the test pits; and, the applicant prepares the subsequent design in accordance with Construction Standards and Details for submittal to the Engineering Division for review and approval prior to installation of any utilities.

8.5 Using the criteria of RSA 674:44 III(e)(2) and Section 36.09 of the Site Plan Regulations, grant the waiver request from Section 27.07(4) Biodiversity of the Site Plan Regulations to allow more than 25% of the trees planted to be of the same species.

8.6 Using the criteria of RSA 674:44 III(e)(2) and Section 35.08 of the Subdivision Regulations, grant the waiver request from Section 12.08(3) Topography of the Subdivision Regulations to not show the existing topographic conditions and all proposed changes in ground elevation at contour intervals of two feet on the final lot line adjustment plat.

8.7 Using the criteria of RSA 674:44 III(e)(2) and Section 35.08 of the Subdivision Regulations, grant the waiver request from Section 12.08(18) Lighting of the Subdivision Regulations to not show the type and location of existing outdoor lighting on the final lot line adjustment plat.

8.8 Using the criteria of RSA 674:44 III(e)(2) and Section 35.08 of the Subdivision Regulations, grant the waiver request from Section 13.01(5) Zoning Board of Adjustment Actions to not note any variances or special exceptions granted by the Zoning Board of Adjustment on the final lot line adjustment plat.

Mr. Santacruce made a motion to grant 8.2-8.8 as outlined. Ms. Savage seconded. All in favor. The motion passed unanimously.

Chair Woodfin stated 8.6 is to grant approval for the amendment request of the major site plan approval as outlined in Table 1 of this staff report, subject to the following precedent and subsequent

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conditions: **(a) Precedent Conditions** – to be fulfilled within one year and prior to signature of the certificate of approval by the Planning Board Chair and Clerk, unless otherwise specified:

1. As required by 12.08 and 13.02(11) of the Site Plan Regulations, prior to the issuance of a certificate of approval, digital information from the site plan shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineers. Layers (see 12.08(a) through (i) of the Site Plan Regulations) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
2. As required by Section 13.02 of the Site Plan Regulations, all required and applicable documentation shall be submitted for recording prior to the issuance of a building permit.
3. Per Section 16.02(14)(d) of the Site Plan Regulations, the location, type, dimensions, setback, and screening for the solid waste receptacles or dumpsters, including details for any pads, screening walls, or fencing shall be included in the site plan drawings.
4. Per Section 16.02(19) of the Site Plan Regulations, if work is required or proposed within or immediately adjacent to a travel way of a public street or common private drive, a traffic control plan shall be submitted to the satisfaction of the City Engineer.
5. Per Section 16.02(20) of the Site Plan Regulations, where off-site improvements are required or proposed, an off-site improvement plan shall be submitted in compliance with city standards.
6. The plans shall depict, label, and identify the solid waste screening as required by Section 20.03 of the Site Plan Regulations.
7. Upon notification from the Planning Division that the final plan set complies with applicable Zoning Ordinance requirements and the Site Plan Regulations, the applicant shall deliver to the Planning Division three plan sets (two full-size and one 11x17) for endorsement by the Planning Board Chair and Clerk.
8. In accordance with Sections 11.09(6) and 36.11 of the Site Plan Regulations, no building permits may be issued for any building, structure, or site improvement, or change of use prior to site plan approval and the satisfactory completion of the pre-construction conditions of Planning Board approval. As per Section 11.09(7) of the Site Plan Regulations, no change of use approved by the Planning Board shall be allowed to commence operation on a property or within a building or structure, without being in full compliance with the approved site plan, architectural design review approval, and any applicable conditional use permits.

(b) Subsequent Conditions – to be fulfilled as specified:

1. The applicant is responsible for full knowledge of and compliance with all applicable portions of the municipal code, Site Plan Regulations, and Construction Standards and Details for the project.
2. Prior to the start of construction, a pre-construction meeting shall be scheduled with the Engineering Division.
3. Per Section 12.09 of the Site Plan Regulations, prior to the issuance of a certificate of occupancy digital as-built drawings shall be provided conforming to the Engineering Division's as-built checklist.
4. Per Section 16.02(19) of the Site Plan Regulations, if work will take place immediately adjacent to a travel way of a public street, a traffic control plan shall be submitted to the satisfaction of the City Engineer.
5. Prior to the start of construction, applicable permits shall be obtained from the Engineering Division.

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6. Erosion control measures shall be installed and maintained in accordance with Section 27.09 of the Site Plan Regulations.

7. In accordance with Article 17-6-10 of the Traffic Code, truck traffic for vehicles with a gross weight over nine tons shall be prohibited from travel on roads with posted load limits. Waivers for travel of overweight vehicles on posted roads shall not be considered unless requested by the Public Utilities Commission stating such waiver is requested for consideration of the city manager as an emergency to address public safety and wellbeing. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.

8. In accordance with Article 5-1-4(d) of the General Code, excavation permits in newly constructed, reconstructed, rehabilitated, or overlaid pavements within the public right-of-way or on city property are prohibited for five years, except as permitted by the city engineer or in situations deemed by the city manager to be in the best interest of the general public. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.

9. In accordance with Sections 12.08 and 36.14 of the Site Plan Regulations, and prior to the issuance of a certificate of occupancy, digital as-built drawings from the applicant's engineer or surveyor shall be provided conforming to the Engineering Division's as-built checklist. The detailed as-built survey shall show the location of buildings, structures, utilities, parking areas, driveways and access, as well as any public improvements constructed indicating location, dimensions, materials, and other information required by the City Engineer. The digital format and media shall conform to the Engineering Division's as-built checklist.

10. In accordance with Section 36.11 of the Site Plan Regulations, no certificate of occupancy shall be approved, nor shall any use of a building or site commence, unless the proposed improvements and the proposed use of land or buildings, is found to comply with the approved site plan and the conditions of Planning Board approval.

Mr. Santacruce made a motion to grant 8.6 approval for the amendment request of the major site plan approval as outlined in Table 1 of this staff report, subject to the following precedent 1-8 and subsequent conditions 1-10. Ms. Savage seconded. All in favor. The motion passed unanimously.

Chair Woodfin stated 8.7 is to grant minor subdivision approval for the lot line adjustment between 177 N Main St and 181 N Main St, subject to the following precedent and subsequent conditions:

(a) Precedent Conditions – to be fulfilled within one year and prior to signature of the final plat by the Planning Board Chair and Clerk, unless otherwise specified:

1. The applicant is responsible for full knowledge of, and compliance with, the Zoning Ordinance, Subdivision Regulations, and Construction Standards and Details for the project, unless a waiver, variance, or conditional use permit has been granted.
2. Per Sections 13.02(9) and 20.18 of the Subdivision Regulations, an agreement to convey a private cross-access easement to the owners of 185 N Main St (6414Z Lot 24) shall be provided. The format of the agreement shall be approved by the City Solicitor and Clerk of the Planning Board and shall conform to the format contained in Appendix C of the Subdivision Regulations, and shall be recorded in the Merrimack County Registry of Deeds with the lot line adjustment plat.
3. Per Section 13.02(9) of the Subdivision Regulations, an agreement to convey a private reciprocal cross-access easement and utilities easement between Map 6414Z Lots 38 and 26-1 shall be provided. The format of the agreements shall be approved by the City Solicitor and the Clerk of the Planning Board and shall conform to the format contained in Appendix C of the Subdivision Regulations, and shall be recorded in the Merrimack County Registry of Deeds with the lot line adjustment plat.

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4. Prior to the recording of the plat and as required by Section 12.09 of the Subdivision Regulations, digital information from the plat shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. Layers (see Section 12.09(9)(1) through (8)) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).

5. Per Section 13.02 of the Subdivision Regulations, applicable documents shall be submitted to the Planning Division for review and approval prior to the endorsement of the plat by the Planning Board Chair and Clerk.

6. Upon notification from the Planning Division that the final plat complies with applicable Zoning Ordinance requirements and the Subdivision Regulations, the applicant shall deliver to the Planning Division one mylar, one full-size plan set, and one 11x17 plan set for endorsement by the Planning Board Chair and Clerk and recording of the mylar at the Merrimack County Registry of Deeds.

7. The applicant is responsible for confirming with the Merrimack County Registry of Deeds the fee checks necessary for recording the plat and associated documents. Checks are payable to the Merrimack County Registry of Deeds.

(b) Subsequent Conditions – to be fulfilled as specified:

1. The applicant is responsible for full knowledge of and compliance with all applicable portions of the municipal code and Subdivision Regulations for the project, unless a waiver, variance, or conditional use permit has been granted, including but not limited to those requirements and regulations noted in memorandum from the Engineering Division, dated April 9, 2024.

Mr. Pierce made a motion to grant 8.7 minor subdivision approval for the lot line adjustment between 177 N Main St and 181 N Main St, subject to the following precedent 1-7 and subsequent condition 1. Ms. Savage seconded. All in favor. The motion passed unanimously.

- 10c. Erin Lambert and Wilcox & Barton, Inc., on behalf of B&L Transmissions, LLC, request major site plan and architectural design review approvals for construction of a new automotive repair shop and related site improvements, and conditional use permit approvals for separation of driveways and wetland buffer impacts at 388 Loudon Rd in the Gateway Performance (GWP) District. Also requested are waivers from two sections of the Site Plan Regulations. (2023-143) This item was postponed from March 20, 2024, at the request of the applicant.

This agenda item was discussed in agenda item 4, agenda overview, in reference to continuing until the May 15, 2024 Planning Board.

Mr. Santacruce made a motion to continue agenda items 4a, 4b, 9b and 10c to the May 15, 2024 Planning Board meeting. Mr. Pierce seconded. All in favor. The motion passed unanimously.

- 10d. Erin Lambert and Wilcox & Barton, Inc., on behalf of Fred and Mertie Potter, 125 NSS LLC, 20 Franklin St Concord LLC, and 20 Bradley Street LLC, request approval for a minor subdivision (minor lot line adjustment) application. the site is addressed as 20 Franklin St, 22 Franklin St, 10 Bradley St and 125 N State St in the Neighborhood Residential (RN) District. (2024-015)

Chair Woodfin asked for staff update.

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Ms. Skinner stated the applicant submitted as a lot line adjustment and a major site plan. The previous major site plan approval had expired. Ms. Skinner noted they postponed the site plan portion to next month. They opted to continue with the lot line adjustment portion. All that is being considered tonight for the Planning Board is the lot line adjustment application to adjust the lot line for three parcels into 125 North State Street. The purpose of that is to create an area for a solar array panel in the far corner. There is an existing landscape easement on the property. The applicant is aware of the landscape easement and the solar panel will not be on the landscape easement. Staff has reviewed and it meets all the requirements for zoning ordinance and subdivision regulations. There was a letter received questioning some of the items of completeness. There are conditions of approval addressing that the use is not stated on the plat. The use that is proposed on the adjusted portion is a use that is allowed in the district. Meaning item 4 addressed in the letter in Staff estimation it is not applicable because the non-conforming use is on the front part of the parcel, the larger part, which is the office and that is not allowed in the RN District. They have zoning board of adjustment variance approval for that. The solar array panel in staff's estimation is allowed in the RN District. So, the argument by Mr. Bolt for item 4 is not valid. Number one and number two but the actual regulations and articles of the zoning ordinances are being met. There are no specific requirements or regulations for riding a lot line or prohibiting an odd shape.

Chair Woodfin stated staff has reviewed this letter received and asked if okay to proceed?

Ms. Skinner stated yes.

Erin Lambert (Wilcox & Barton) and Fred Potter are present to represent this application. Ms. Lambert showed plans to show the lot line changes. The lot line adjustment is for 125 North State Street and has frontage on North State Street and Franklin St. The other three parcels that are a part of this application are 20 Franklin St, 22 Franklin St and 10 Bradley St. What they are proposing is to adjust the rear lot lines on the three parcels and to create an area that would be continuous to 125 North State Street. There is about 6,000 square feet from the back of Bradley Street there is 1500 square feet from the back of 22 Franklin St and 2900 square feet from the back of 20 Franklin St. As was previously stated there is a landscape easement is solely on 20 Franklin St and with the lot line adjustment the underlying land will be owned by 125 North State St and a portion will remain on 20 Franklin St. The requirements and obligations of the easement would not change regardless of who owns the underlying land. Ms. Lambert stated Mr. Potter can explain why they are doing this lot line adjustment. They would like to install solar panels for 125 North State Street. The purpose and use of this land is in support of that property. Right now, it will be landscaped and the pavement will be removed. Ms. Lambert stated anything they do will have to go thru site plan review and they will make sure it meets zoning ordinances and site plan requirements.

Chair Woodfin asked if the idea is to put solar in the "A" block with the access going underneath to feed 125 North State Street?

Ms. Lambert stated correct. Ms. Lambert stated they looked at doing that thru easements and the underlying zoning did not allow.

Mr. Santacruce asked to clarify the landscape easement.

Ms. Lambert stated the landscape easement is this square and they have sole use of this space.

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Mr. Santacruce asked where in the future would the conduits run?

Ms. Lambert stated right now there is enough room for them to run and there is no guarantee the garage would stay but there is enough room between the landscape island.

Mr. Potter stated they have time to grant easements for lot. The time sensitivity is getting the rear land behind 10 Bradley St off that lot. They have a family that wants to move in the summer. The future development of 125 North State Street will take more time. They still retain all of these ownerships. They have the ability to grant easements. The urgent matter is the 10 Bradley St to be divided so that excess land is pulled out of that and the family can make the housing swap.

Ms. Lambert stated one of the charges was to make the lots did not become more non-conforming so they all have at least 10,000 square feet which is the minimum lot size.

Chair Woodfin opened to the public.

Chris Bolet asked where his letter is located. Mr. Bolet stated part of the letter has a plan showing the landscape easement, Exhibit "B". Mr. Bolet showed the landscape easement and appreciates it is a solar project. Mr. Bolet asks the conduit will not go thru the landscape easement. Mr. Bolet stated there are trees will need to be removed. Those are their concerns.

Lori Payment abuts this property next to 22 Franklin St. She is glad to clarify it is solar. She wants to make sure by allowing this to go in it does not open traffic for the back of Rollins Court. The shed is in the back of her property.

Chair Woodfin stated this is a lot line adjustment. When they come back to Planning Board with a plan set then they will get into screening and how things go thru the property. Chair Woodfin stated as an abutter they would be notified. Chair Woodfin stated from Staff update and perspective there are no issues. They heard testimony regarding the easement. Chair Woodfin asked the applicant if they are comfortable with what they heard by the attorney for the abutters regarding the effect on the easement?

Ms. Lambert stated Mr. Potter is aware of the easement and understands that area is obligated for Rollins Court. There would be no ability to bring anything in there. A concern would be conditioning what that is being used for.

Chair Woodfin stated they did not determine the application complete. Will need someone to make a motion to determine the application complete, not in a regions of development impact and open the public hearing.

On a motion made by Mr. Pierce, seconded by Mr. Santacruce, to determine the application complete and not a development of regional impact. All in favor. The motion passed unanimously.

Chair Woodfin stated the findings of fact include information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing.

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Chair Woodfin stated 7.2 is to grant minor subdivision approval for the lot line adjustment between 125 N Main St, 20 Franklin St, 22 Franklin St, and 10 Bradley St, subject to the following precedent and subsequent conditions:

(a) Precedent Conditions – to be fulfilled within one year and prior to signature of the final lot line adjustment plat by the Planning Board Chair and Clerk, unless otherwise specified:

1. The applicant is responsible for full knowledge of, and compliance with, the Zoning Ordinance, Subdivision Regulations, and Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit has been granted.
2. A note shall be added to the final lot line adjustment plat stating that the project must comply with all subsequent conditions from Case 2024-015 as required by Sections 12.02(4) and 15.03(17), and Appendix B of the Subdivision Regulations.
3. The existing topographic conditions information required by Section 12.08(3) of the Subdivision Regulations must be shown on the final lot line adjustment plat.
4. The soils information required by Section 12.08(4) of the Subdivision Regulations must be shown on the final lot line adjustment plat.
5. The solid waste disposal facility information required by Section 12.08(17) of the Subdivision Regulations must be shown on the final lot line adjustment plat.
6. The lighting information required by Section 12.08(18) of the Subdivision Regulations must be shown on the lot line adjustment plat.
7. The tabulation information required by Section 12.08(23)(b) and (d) of the Subdivision Regulations must be shown on the final lot line adjustment plat.
8. Prior to the recording of the plat and as required by Section 12.09 of the Subdivision Regulations, digital information from the plat shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. Layers (see Section 12.09(9)(1) through (8)) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
9. All applicable requirements of the Subdivision Regulations, including but not limited to Sections 13.02, 15.02 and 15.03, shall be met.
10. The use information required by Section 15.02(9) of the Subdivision Regulations must be shown on the final lot line adjustment plat.
11. The areas of contiguous buildable land notations and depictions for the four lots must be shown on the final lot line adjustment plat as required by Section 15.03(3) of the Subdivision Regulations.
12. The topographic information required by Section 15.03(4) of the Subdivision Regulations must be shown on the final lot line adjustment plat.
13. Upon notification from the Planning Division that the final lot line adjustment plat complies with applicable Zoning Ordinance requirements and the Subdivision Regulations, the applicant shall deliver to the Planning Division one mylar, one full-size plan set, and one 11x17 plan set for endorsement by the Planning Board Chair and Clerk and recording of the mylar at the Merrimack County Registry of Deeds.
14. The applicant is responsible for confirming with the Merrimack County Registry of Deeds the fee checks necessary for recording the plat and associated documents. Checks are payable to the Merrimack County Registry of Deeds.

(b) Subsequent Conditions – to be fulfilled as specified:

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1. The applicant is responsible for full knowledge of, and compliance with, all applicable portions of the municipal code and Subdivision Regulations for the project, unless a variance, waiver, or conditional use permit has been granted.

Ms. Condodemetraky made a motion to grant 7.2 minor subdivision approval for the lot line adjustment between 125 N Main St, 20 Franklin St, 22 Franklin St, and 10 Bradley St, subject to precedent conditions 1-7 and subsequent conditions 1-14. All in favor. The motion passed unanimously.

- 10e. Timothy S. Blagden and the Friends of the Concord-Lake Sunapee Trail request major site plan approval for construction of a multi-use stone gravel trail and approval for a conditional use permit for wetland buffer disturbance in conjunction with the trail construction. Also requested is a waiver from 16.02(12) of the Site Plan Regulations. The site comprises portions of four lots, which are identified as follows: Map 37Z26, owned by City of Concord; Map 32Z78, owned by City of Concord; Map 31Z4, owned by Jerry Wolcott Jocelyn A 1993 Trust; and Map 312Z6, owned by Bull Meadow RE Holdings, LLC. The site is generally located south of Bog Rd and east of the Carter Hill Rd/Broad Cove Dr intersection. (2024-007)

Tim Blagden is present to represent this application.

Chair Woodfin asked for a staff update.

Mr. Bass stated this application was required to go to Conservation Commission for a condition use permit to impact a wetland buffers and Architecture Design Review as a major site plan. Mr. Bass noted both committees are recommending approval as submitted. The applicant is requesting a waiver to drainage and storm water studies and Staff conditionally supports. Staff is recommending of the approval of the conditional use permit, conditional approval of the waiver and conditional approval of the major site plan.

Chair Woodfin asked why conditional approval of the waiver?

Mr. Bass stated they are in support of not conducting a full storm water analysis for the project and where there are culverts crossing under providing adequate information of size and that it can carry the flow required.

Chair Woodfin asked if Engineering conquers?

Mr. Kohalmi stated that is right.

Mr. Blagden read through the list of precedent conditions. Mr. Blagden asked if precedent condition 10 if look at page 15 of the supplemental which shows where the wetlands are located if those are merged into the catted drawing if that is sufficient?

Mr. Bass stated he would have to review the supplemental did have a lot of wetland information and there may have been a correspondence that some of that needs to be merged into the site plan.

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Mr. Blagden stated it was drawn on. Mr. Blagden stated precedent condition 15 they are asking for the location of the existing water mains. Mr. Blagden stated when they have asked General Services for this information on the existing water mains before they have denied for security reasons.

Mr. Bass stated there might be some clarification there. The water utility records are public accessible but not on the city website. However, he is more than welcome to come into our office and use the public kiosk to get utility cards.

Mr. Blagden stated out at Carter Hill Rd this project ends by pump station five and for the first several hundred yards underneath the railroad grade there is a water main that veers off and goes up to the reservoir. Mr. Blagden stated General Services at the time did not want to show where that was located or say how deep it was.

Chair Woodfin asked about the waiver for the regulations for existing culverts. Chair Woodfin stated they tend to defer to Staff and if they are comfortable with a piece of it and make report out on the culverts that the Planning Board will make them do it as well.

Mr. Santacruce asked if they are meeting at Carter Hill Rd is there parking?

Mr. Blagden stated at moment there is no parking. Mr. Blagden stated they are likely to come back and talk about parking in the future. The City has added pump station five property to the license agreement and the property on the opposite side of the river. First they want to finish this piece of trail and then they will address which side of Carter Hill Rd the parking might go on and they will come back.

Mr. Santacruce pointed out on sheet 4 and 5 there are stop signs mid trail and it looks like they are crossing abutter driveway. He noticed there are no stop signs at Carter Hill Rd.

Mr. Blagden stated they will add stop sign.

Chair Woodfin asked if any member of the public would like to speak.

Angela Raymend stated she lives where the big culvert that is washing out again. She wants to know what time they will doing the work if at a time where it is frozen or there is minimal water. So, this will not flood more of her property.

Chair Woodfin asked if building or rebuilding conduits part of this project?

Mr. Kohalmi stated they have requested this culvert be replaced.

Ms. Raymend asked if the flow studies will be available?

Mr. Kohalmi stated it will be designed by engineer.

Ms. Raymend stated across the street at Camp Spaulding they had to do a study because they said there was spotted turtles and northern black racer in the eastern hognose habitat. Ms. Raymond asked if that trickles up to the bog along the side of the road?

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Chair Woodfin asked if this went through Conservation Commission?

Ms. Skinner stated yes, it had to go to Conservation Commission.

Ms. Raymend asked Mr. Blagden if where the trail goes along Bog Rd if they are taking all of the trees on the left side? Ms. Raymend asked if the trail can hug closer to the road and not the bog?

Ms. Blagden stated from where the snow mobile trail comes in going to the east they have flagged a lot of trees to take down. They will leave as many as they can but they need to get the equipment in there to build the trail.

Mr. Bass stated in the supplemental there is NH DOT wetland permits and they provide information from NHB.

Chair Woodfin closed the public hearing at 10:30 p.m.

Chair Woodfin stated using the findings of fact, which include: information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing.

Chair Woodfin stated 4.2 Grant Architectural Design Review approval of the site plan as submitted.

Mr. Pierce made a motion to grant 4.2 Architectural Design Review approval of the site plan as submitted. Councilor Todd seconded. All in favor. The motion passed unanimously.

Chair Woodfin stated 4.3 using the criteria of RSA 674:44 III(e)(2) and Section 36.09 of the Site Plan Regulations, grant the following waiver to the Site Plan Regulations with the condition that, in the areas of the trail where there are existing culverts, calculations must be provided to prove that the culverts are adequate to drain the immediate area.

- Section 16.02(12) Grading and Drainage with the condition that in areas of the trail where there are existing culverts, calculations must be provided to prove that the culverts are adequate to drain the immediate area and in adequate condition subject to approval of the city engineer.

Mr. Santacruce made a motion to grant the following waiver to the Site Plan Regulations using criteria of RSA 674:44 III(e)(2) as guidance, specific circumstances relative to the site plan, or conditions of the land in such site place, indicate that the waiver will properly carry out the spirit and intent of the regulations 16.02 (12). Mr. Fox seconded. All in favor. The motion passed unanimously.

Chair Woodfin stated 4.4 is to grant the Conditional Use Permit (CUP) in accordance with Section 28-4-3(d) of the Zoning Ordinance (ZO) to allow for wetland buffer disturbance to place a stone dust surface along the center of the former railroad grade.

Mr. Santacruce made a motion to grant the Conditional Use Permit (CUP) in accordance with Section 28-4-3(d) of the Zoning Ordinance (ZO) to allow for wetland buffer disturbance to place a stone dust surface along the center of the former railroad grade. Mr. Pierce seconded. All in favor. The motion passed unanimously.

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Chair Woodfin stated 4.5 Grant Major Site Plan approval for the proposed multi-use trail generally located south of Bog Rd and east of the Carter Hill Rd/ Broad Cove Dr intersection, subject to the following conditions noted below:

a) 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 Engineering Comments to the satisfaction of the Engineering Division.

(2) Applicant is responsible for ensuring that the final submitted plan is fully compliant with all applicable Site Plan Regulations.

(3) Conditional Use Permit(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Zoning Ordinance. Should the Board vote to deny the Conditional Use Permit(s), the Applicant shall comply with said submission requirements.

(4) Waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), the applicant shall comply with said submission requirement(s).

(5) Please provide the City of Concord Planning Board Approval block on the cover sheet. Staff can provide a template if requested.

(6) Sheet 2 – General Notes is numbered as sheet 3 in the title block. Please revise to correct sheet number 2.

(7) Per Section 12.04 Location Plan of the SPR, please provide a location plan on the cover sheet with a minimum scale of 1" = 400'. The location plan shall include information details 1-10 of this section.

(8) Per Section 12.05 Vicinity Plan of the SPR, please provide a scale between 1" = 1,000' and 1" = 2,000'. Staff recommends revising the locus map on the cover sheet to meet this criterion.

(9) Per Section 12.06(2) Easements of the SPR, please provide plan or deed references for recorded easements, whether public or private, on the properties proposed for development.

(10) Per Section 12.07 Wetland Delineations of the SPR, please provide the wetland delineations and date on the site plan. The plans will also need to be signed and sealed by the NH certified wetland scientist.

(11) Per Section 15.04(8) Natural Features of the SPR, please show location of all significant natural features including, but not limited to, streams and water bodies and wetlands.

(12) Per Section 15.04(22) Setbacks and Buffers of the SPR, please show the location and dimensions of wetland buffers on the plan.

(13) Per Section 16.02(12)(a) Grading and Drainage Plan of the SPR, please provide location of storm water culverts, and any inlet or outlet structures. (14) Per Section 16.02

(14) Erosion Control of the SPR, please show or identify on the plan where erosion control barriers will be placed. (15) Per Section 16.02

(15)(a) Utility Plan of the SPR, please provide the location of existing water mains.

(16) Per Section 17.03(1) Specification References of the SPR, in General Notes on Sheet 2, please provide a note that all work shall comply with the City of Concord Construction Standards, as most recently published unless otherwise noted on these plans or specified in the contract documents.

(17) Per Section 21.06 Multi-use Paths of the SPR, please provide location and details of acceptable gates or bollards designed to prevent motorized vehicle use.

(18) Prior to the final plan 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 12.08 of the Site Plan Regulations.

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(19) Final plans shall be signed and sealed by the NH Registered Professional Engineer and Wetland Scientist.

(20) Submit three (3) copies of final plans for sign off by the Clerk and Chair of the Planning Board.

b) Subsequent Conditions – to be fulfilled as specified:

(1) The applicant or designated agent shall contact the Engineering Services Division to schedule a pre-construction meeting prior to the start of any construction activities onsite. See Engineering memo for additional pre-construction requirements.

(2) Prior to the commencement of any clearing/construction activity or issuance of a building permit, the 50-foot wetland buffer shall be clearly and permanently marked before, during and after construction with discs available for purchase at the Planning Division. Once in place, Planning staff shall be contacted to inspect the buffer area.

Mr. Santacruce made a motion to grant 4.5 Major Site Plan approval for the proposed multi-use trail generally located south of Bog Rd and east of the Carter Hill Rd/ Broad Cove Dr intersection, subject to the following precedent conditions 1-20 and subsequent conditions 1 and 2. Mr. Pierce seconded. All in favor. The motion passed unanimously.

- 10f. Richard D. Bartlett & Associates, LLC, on behalf of Sarah L. Heard and Benjamin A. Heard, requests approval of a minor subdivision (lot line adjustment) application. Also requested is a waiver from Section 12.08(5) of the Subdivision Regulations. The sites are addressed as 53 and 71 Little Pond in the Open Space Residential (RO) District. (2024-021)

Chair Woodfin asked for staff update.

Mr. Bass stated this is a lot line adjustment between two properties of the same owner. Staff is in support of the waivers.

Chair Woodfin asked if someone wanted to make a motion to determine this application complete, not in a region of development impact and open the public hearing.

Ms. Condodemetraky made a motion to determine the application complete, not a development of regional impact and open the public hearing. Mr. Pierce seconded. All in favor. The motion passed unanimously.

Mark Sargent is present to represent this application. Mr. Sargent is here tonight representing the Hurds. The lot line adjustment is between 53 and 71 Little Pond Rd. Mr. Sargent stated both parcels are owned by the Hurds. Mr. Sargent noted 53 Little Pond Rd has an area of 2.24 acres with 349 feet of frontage on Little Pond Rd and also has a single-family home. On 71 Little Pond Rd 6.1 acres with 225 feet of frontage on Little Pond Rd and also a single-family home. Mr. Sargent stated Bow Brook traverses both parcels. The proposal is to annex 4.56 acres of 71 Little Pond Rd to 53 Little Pond Rd. This would give 53 Little Pond Rd 6.8 acres and leave 71 Little Pond Rd with 11.54 acres. There is no change to frontage. They did request four waivers. Mr. Sargent stated on the plan they show each of the lots meet the minimum buildable usable areas. They depicted the wetland and wetland buffers on each property.

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Chair Woodfin asked if any member of the Board had questions, any members of the public had questions and with no response closed the public hearing.

Chair Woodfin stated the findings of fact include information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing.

Chair Woodfin stated 7.2 is to grant the waiver requests below, utilizing the criteria from RSA 674:36(II)(n)(2) and Section 35.08 of the Subdivision Regulations:

- Section 12.08 Existing Conditions Plan (5) Natural Features of the Subdivision Regulations, to only provide natural features on each parcel to show that the parcels will meet the requirement for buildable and useable area.
 - Section 12.08 Existing Conditions Plan (23) Tabulations of the Subdivision Regulations, to not provide tabulations normally required and to tabulate the full gross acreage for each parcel and useable area in areas as shown
 - Section 15.01 Required Information (3) A wetland delineation and wetland buffers where applicable of the Subdivision Regulations, to not provide wetland delineation on each parcel as a portion of wetlands have been delineated enough to show buildable and useable land requirements are met.
- Section 15.03 Information to be Provided on Final Plat (4) Topography of the Subdivision Regulations, to not provide complete topography for both parcels, and only provide only in areas to show buildable and useable land requirements are met.

Mr. Pierce made a motion to grant 7.2 as outlined. Ms. Condometeraky seconded. All in favor. The motion passed unanimously.

Chair Woodfin stated 7.3 is to grant minor subdivision approval for the lot line adjustment between 53 and 71 Little Pond Rd, subject to the following precedent and subsequent conditions:

(a) Precedent Conditions – to be fulfilled within one year and prior to signature of the final lot line adjustment plat by the Planning Board Chair and Clerk, unless otherwise specified:

1. The applicant is responsible for full knowledge of, and compliance with, the zoning Ordinance, Subdivision Regulations, and Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit has been granted.
2. A note shall be added to the final lot line adjustment plat stating that the project must comply with all subsequent conditions from Case 2024-021 as required by Sections 12.02(4) and 15.03(17), and Appendix B of the Subdivision Regulations.
3. All applicable requirements of the Subdivision Regulations, including but not limited to Sections 13.02, 15.02 and 15.03, shall be met.
4. Waivers granted are to be noted and fully described on the final lot line adjustment plat, including date granted and applicable section numbers of the Subdivision Regulations. Should the Board vote to deny the waivers, the applicant shall comply with said submission requirements.
5. Per Section 12.06(3) of the Subdivision Regulations, please add a note identifying that the land being annexed from lot 22 to lot 19 is in current use, will result in less than 10 acres for lot 19, and will need to be removed from current use. Additionally, staff recommends the applicant create or amend the deeds of the properties to make it easier to understand the remaining portion of current use for lot 22.
6. For compliance with Section 12.08(20) of the Subdivision Regulations, the edge of clearing for the western side of property of 71 Little Pond Road must be shown.

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7. For compliance with Section 12.08(22) of the Subdivision Regulations, the following information must be shown on the final lot line adjustment plat: abutting parcels (59 and 65 Little Pond Rd) property lines, buildings, driveways, wells, and septic systems.

8. For compliance with Section 15.03(2) of the Subdivision Regulations, more clearly identify and label the four lot lines being vacated. Currently only one is labeled as being vacated, while another is labeled as a tie line and it is not clear that it is an existing lot line being vacated as well.

9. Per Section 15.03(5) of the Subdivision Regulations, please label the type of proposed monuments (bounds) to be set.

10. Prior to recording of the plat and as required by Section 12.07 of the Subdivision Regulations, a New Hampshire certified wetland scientist must sign and seal the final lot line adjustment plat showing the mapping of the portions of wetland boundaries provided.

11. Prior to recording of the plat, the New Hampshire licensed land surveyor shall sign and seal final plans and mylars.

12. Prior to the recording of the plat, monumentation for the proposed lot lines shall be set.

13. Prior to the recording of the plat and as required by Section 12.09 of the Subdivision Regulations, digital information from the plat shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. Layers (see 12.09(9)(1) through (8)) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).

14. Upon notification from the Planning Division that the final lot line adjustment plat complies with applicable Zoning Ordinance requirements and the Subdivision Regulations, the applicant shall deliver to the Planning Division one mylar, one full-size plan set, and one 11x17 plan set for endorsement by the Planning Board Chair and Clerk and recording of the mylar at the Merrimack County Registry of Deeds. It is recommended that the deed for the transfer of the property is prepared and ready for recording at the same time as the plat.

15. The applicant is responsible for confirming with the Merrimack County Registry of Deeds the fee checks necessary for recording the plat and associated documents. Checks are payable to the Merrimack County Registry of Deeds.

(b) Subsequent Conditions – to be fulfilled as specified:

1. The applicant is responsible for full knowledge of, and compliance with, all applicable portions of the municipal code and Subdivision Regulations for the project, unless a variance, waiver, or conditional use permit has been granted.

Mr. Fox made a motion to grant 7.3 minor subdivision approval for the lot line adjustment between 53 and 71 Little Pond Rd, subject to the following precedent conditions 1-14 and subsequent conditions 1. Mr. Santacruz seconded. All in favor. The motion passed unanimously.

10g. Fieldstone Land Consultants, PLLC, on behalf of Country Estates of Concord, LLC and Million Dollar View, LLC, requests approval of a minor subdivision (resubdivision/lot line adjustment) application for 5 lots in a 16-lot subdivision. The site is addressed as 119 Sewalls Falls Rd in the Single Family Residential (RS) District. (2024-022)

Chair Woodfin asked if someone wanted to make a motion to determine the application complete, not a development of regional impact, and open the public hearing.

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Mr. Pierce made a motion to determine the application complete, not in a region of development impact and open the public hearing. Ms. Condodemetraky seconded. All in favor. The motion passed unanimously.

Chair Woodfin asked for a staff update.

Ms. Skinner stated the applicant is proposing a resubdivision of a recently recorded 16-lot subdivision. The site contains an existing house and barn, both of which were proposed for demolition as part of the original approval. The existing house and barn cross newly platted lot lines and create non-conforming setbacks as well as any new construction that would take place. Five lots are the subject of the resubdivision. Since that time there has been a change in ownership. The barn will remain and the house will be demolished. For the barn to remain the resubdivision needs to take place to reconfigure the five lots in question to alleviate any portion of the barn crossing lot lines and to alleviate any setback non-conformities.

Dan Barowski and Andy Proman are present to represent this application. Mr. Barowski stated this is a lot line adjustment between five lots on a recently approved 16 lot subdivision on Abbott and Sewalls Falls Rd. The existing lots range in size from 15,745 square feet with a 100 feet of frontage 63,770 square feet and 316 feet of frontage. After the lot line adjustment the size of the lots will range from 14,760 square feet and 110 feet of frontage to 60,728 square feet and 272 feet of frontage. The lots are located in the residential single-family district. The purpose of the lot line adjustment is to alleviate current zoning violation 203Z39 the existing barn encroaches on the side setbacks. They will adjust the lot line so there is no encroachment to the setbacks. Additional frontage has been added to lot 39, 39(2), 39(3) and 39(4) which will even the lot line adjustments. This will allow for single driveways on two lots as opposed to the shared common driveways. This change will add two more curb cuts along approximately 400 feet of frontage. The lot line locations and number of driveways are the only substantial changes proposed from the previously approved 16 lot subdivision plan. They have requested no waivers with this application.

Mr. Pierce asked if what will remain is 16 houses?

Mr. Barowski stated correct, well 15 plus the barn.

Mr. Santacruce asked about the plan showing common driveway easements to be extinguished and if they are looking for individual driveways for every lot? Mr. Santacruce stated the original plan had shared driveways.

Mr. Barowski stated not every lot just the five lots only two of the easements will be extinguished. The lots closest to the intersection of Abbott Rd and Sewalls Falls Rd would still be common driveways.

Mr. Santacruce asked why lot 3 & 2 could not continue to have a shared driveway?

Mr. Barowski stated it does not need to be extinguished.

Mr. Proman stated these are larger lots compared to the triangle corner. The smaller lots it made sense to have a shared driveway. The larger lots can accommodate an individual driveway.

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Mr. Santacruce stated it is not a function of the lot size. It is a matter of how many driveway access they want to have on the road with the safety and conflict point. Mr. Santacruce would prefer they go back to shared driveway on the lots that can accommodate to stay consistent with the original approval. Mr. Santacruce asked how will the barn property have access? Will it have its own driveway?

Mr. Barowski stated yes.

Ms. Skinner stated staff concurred with that recommendation because precedent condition 6 is the common driveway easements for the five subject lots must be shown on sheet one for full compliance.

Chair Woodfin stated it is addressed in precedent condition 6 and they are saying they want to extinguish those and we are saying keep them.

Ms. Skinner stated correct, staff had the same concern and the transportation engineer specifically mentioned that the common driveway easements needed to remain.

Mr. Proman stated it is two driveways they want to extinguish. People want to have their own driveway and do not want to share with their neighbor. He stated it is a better lot without the shared driveway.

Chair Woodfin asked if the Board or any member of the public wanted to discuss this application. Danielle Husora is an abutter to this property. She wanted to know if the landscaping plan will remain the same? Since all of the trees have been removed they have no screen on the Sewalls Falls Rd.

Ms. Skinner stated they have to comply with all the applicable conditions of the original approval.

Meredith Raczka is an abutter to this property. She stated what happened to the previous developer was sad. She attended the demolition review meeting last month. She does not have an issue with the change in the lot lines. What she would like to ask if the removal of the public sidewalk. There is a public sidewalk at the north end of the condo property. There has been recent vandalism and theft on their property. They are concerned with the additional people it will also encourage that. They are also concerned with encroachment and the liability. She asked that might be reconsidered.

Chair Woodfin closed the public hearing at 10:53 p.m.

Chair Woodfin stated the findings of fact include information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing.

Chair Woodfin stated 5.2 is to grant minor subdivision approval for the re-subdivision of 117, 119, 123, 125, and 127 Sewalls Falls Rd, subject to the following precedent and subsequent conditions: **(a) Precedent Conditions** – to be fulfilled within one year and prior to signature of the final plat by the Planning Board Chair and Clerk, unless otherwise specified:

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1. Conditions from the original approvals for Case 2022-09 shall be fulfilled as specified in the decision from March 16, 2022.
2. Notes shall be added to the plat regarding the source of sanitary sewer and potable water supply as required by Section 12.01(3) and Appendix B of the Subdivision Regulations.
3. A note shall be added to the plat stating that the project must comply with all subsequent conditions from Case 2024-022 as required by Sections 12.01(3) and 15.03(16), and Appendix B of the Subdivision Regulations.
4. A New Hampshire certified wetland special must sign and seal the plat sheet showing the mapping of the wetland boundaries for compliance with Sections 12.02(5) and 12.06 of the Subdivision Regulations.
5. Current and correct deed citations for all property owners must be shown on the plat for compliance with Section 12.05(1) of the Subdivision Regulations.
6. Common driveway easements for the five subject lots must be shown on sheet 1 for full compliance with Section 12.07(8) and (9) of the Subdivision Regulations. Applicable documents must be submitted for review as per Section 13.02, including but not limited to Section 13.02(9).
7. Per Section 12.07(10) of the Subdivision Regulations, municipal utilities information shall be shown on the plat.
8. Per Section 12.07(11) of the Subdivision Regulations, non-municipal utilities information shall be shown on the plat.
9. Abutting properties information pertaining to buildings and driveways as required by Section 12.07(22) of the Subdivision Regulations shall be shown on the plat for the abutters across Sewalls Falls Rd.
10. Per Section 15.02(9) of the Subdivision Regulations, the plat shall include a statement of the proposed type of residential use of any lot.
11. Setbacks and driveway information for the five subject lots shall be added to sheet 1 for full compliance with Section 15.03(7) and (8) of the Subdivision Regulations.
12. Utilities information shall be added to the plat to comply with Section 15.03(14) of the Subdivision Regulations.
13. Address compliance comments in the memorandum from the Engineering Division, dated April 9, 2024.
14. All applicable requirements of the Subdivision Regulations, including but not limited to Sections 15.02 and 15.03, shall be met. Applicant is responsible for ensuring that the final submitted plat is fully compliant with all applicable Subdivision Regulations and compliant with the current standards of the Merrimack County Registry of Deeds.
15. Prior to the recording of the plat and as required by Section 12.09 of the Subdivision Regulations, digital information from the plat shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. Layers (see 12.09(9)(1) through (8)) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
16. Per Section 13.02 of the Subdivision Regulations, applicable documents, including but not limited to common driveway easements, shall be submitted to the Planning Division for review and approval prior to the endorsement of the plat by the Planning Board Chair and Clerk.
17. Upon notification from the Planning Division that the final plat complies with applicable Zoning Ordinance requirements and the Subdivision Regulations, the applicant shall deliver to the Planning Division two plan sets and one mylar for endorsement by the Planning Board Chair and Clerk and recording at the Merrimack County Registry of Deeds.

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18. The applicant is responsible for confirming with the Merrimack County Registry of Deeds the fee checks necessary for recording the plat and associated documents. Checks are payable to the Merrimack County Registry of Deeds.

(b) Subsequent Conditions – to be fulfilled as specified:

1. Conditions from the original approvals for Case 2022-09 shall be fulfilled as specified in the decision from March 16, 2022.
2. The applicant shall comply with all applicable portions of the municipal code, Subdivision Regulations, and Construction Standards and Details.
3. Prior to the start of construction, a pre-construction meeting shall be scheduled with the Engineering Division.
4. Prior to the start of construction, applicable permits shall be obtained from the Engineering Division.
5. In accordance with Article 17-6-10 of the Traffic Code, truck traffic for vehicles with a gross weight over nine tons shall be prohibited from travel on roads with posted load limits. Waivers for travel of overweight vehicles on posted roads shall not be considered unless requested by the Public Utilities Commission stating such waiver is requested for consideration of the city manager as an emergency to address public safety and wellbeing. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
6. In accordance with Article 5-1-4(d) of the General Code, excavation permits in newly constructed, reconstructed, rehabilitated, or overlaid pavements within the public right-of-way or on city property are prohibited for five years, except as permitted by the city engineer or in situations deemed by the city manager to be in the best interest of the general public. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.

Ms. Condodemetraky made a motion to grant minor subdivision approval for the re-subdivision of 117, 119, 123, 125, and 127 Sewalls Falls Rd, subject to the following precedent 1-18 and subsequent conditions 1-6. Mr. Fox seconded. All in favor. The motion passed unanimously.

- 10h. McFarland & Johnson, Inc., on behalf of the State of New Hampshire, requests a public hearing in accordance with RSA 674:54 for a parking lot expansion from 101 to 122 spaces at the headquarters for the New Hampshire Liquor Commission. The site is addressed as 50 Storrs St in the Opportunity Corridor Performance (OCP) District. (2024-014)

Chair Woodfin asked for staff update.

Mr. Bass said the project proposes to reclaim existing parking lot and to add 21 spaces. Storm water improvements one of which is lining a City culvert. Staff would want consideration for future Storrs St extensions north are taken into account.

Scott Carni stated it is a parking lot now. This project is funded by a state capital budget fund. The parking lot has become deteriorated over time. They want to reclaim the pavement.

Chair Woodfin asked how far out from the old liquor store to who owns the mall does the parking go?

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Mr. Carni stated there is a section along the north side. They will reset the curb line. They will remove the front section of concrete sidewalk that is also badly deteriorated. They will replace that with a landscape stone. They will act as a landscape feature and security bollard. The west parking lot needs repair and the sidewalk will be redone. The warehouse side which is also where the liquor commission license and enforcement that will also be reclaimed and paved.

Chair Woodfin stated he is aware there were some questions in reference to future streets and is not sure if they have been addressed.

Mr. Walsh stated per the 1997 master plan there is a plan to extent the Storrs St South and it would go thru the liquor commission parking lot and swing out into the railyard and head South under the Water St bridge which was built to be double wide to accommodate this and end at Langdon Ave. Mr. Walsh noted what they are doing he does not think interferes with that and since they are here they want to communicate to the state these are future plans.

Chair Woodfin stated for the record that is Theater St?

Mr. Walsh stated across the street it will create a four-way intersection at the end of Theater St.

Mr. Santacruce stated when looking at the lot lines all parking they are proposing is on the adjacent parcel of the northern side. Mr. Santacruce asked if they have permission from the abutter to do that work?

Mr. Carni stated that is a good question. Mr. Carni stated they own the part that they are working on and the re-stripping part perhaps they do not. He will have to find out.

Mr. Santacruce stated if he is following the property line it looks like it goes up thru and all this work looks like on the abutter's property.

Mr. Carni knows that they are in contact with the abutter. He will make that known.

Chair Woodfin closed the public hearing at 11:05 p.m.

Other Business

11. Any other business which may legally come before the Board.

Adjournment

Mr. Hicks made a motion, seconded by Ms. Condodemetraky, to adjourn the meeting at 11:05 p.m. All in favor. The motion passed unanimously.

The next regular meeting is Wednesday, May 15, 2024, at 7:00 p.m.

TRUE RECORD ATTEST:

Krista Tremblay

Krista Tremblay

Administrative Specialist II