



CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department
Planning Division

Staff Report for Planning Board

Meeting on August 20, 2025
Project Summary – Major Subdivision

Project: 6-lot subdivision (2025-071)
Property Owner: Mark Boucher
Applicant: Northpoint Engineering, LLC and Zendko, LLC
Property Address: Unaddressed Elm St
Tax Map Lot: 15P 26/1

Determination of Completeness:

To determine completeness of a major subdivision application, the Board shall consider the requirements of Sections 10.06, 16, and 35.16(1) of the Subdivision Regulations, the written recommendation of the Planning Division, and any written communications from the applicant, abutters, and parties of interest; **however, no hearing shall be opened nor shall testimony be received on a determination of completeness.**

While the regulations require that the determination of completeness and the public hearing be held at separate meetings for a major subdivision, the applicant has requested a waiver from Section 10.06 *Determination of Completeness* to allow for the determination of completeness and public hearing in the same meeting, where separate meetings are otherwise required.

If the waiver to Section 10.06 *Determination of Completeness* is granted and it is determined that the application is complete, the Board shall then open the public hearing on the application. An application which is determined to be incomplete may be revised and resubmitted to a subsequent meeting of the Board for another determination of completeness.

Per Section 10.07 *Determination of Regional Impact*, upon receipt of an application, the Board shall determine whether or not the application, if approved, could reasonably be construed as having the potential for regional impact pursuant to RSA 36:54. The proposed subdivision borders the municipal boundary line between Boscawen and Concord and has public water supply from the Penacook Boscawen Water Precinct, thus making it a development of regional impact.

The Planning Division reviewed the application for completeness based upon the criteria of the Subdivision Regulations, and concluded that all criteria for completeness have been met, or will be met with granting of waiver requests, and that the application contains sufficient information and detail for a full review and action by the Board.

Based upon staff's review of the application, it is recommended that the Board move to:

- **Grant the waiver request from Section 10.06 *Determination of Completeness* based on the evidence provided showing that the criteria of RSA 674:36(II)(n) and Section 35.08 of the**

Subdivision Regulations are met;

- **Determine that the application is complete;**
- **State that the project DOES MEET the criteria for a development of regional impact per RSA 36:55; and**
- **Open the public hearing.**

As a development or regional impact, the Board has 95 days within which to consider and act on the application once the application is determined complete, per RSA 676:4(I)(c). Provided the Board determines the application complete, the 95-day period shall commence on August 20, 2025, and end on **November 23, 2025**. If the applicant has not demonstrated compliance with the Subdivision Regulations by the end of the statutory timeline (**November 23, 2025**), the applicant may waive the requirement for Planning Board action within the 95-day time period and consent to an extension of the public hearing as may be mutually agreeable, or the Board may approve, approve conditionally, or deny the application based on the information provided at that time.

Project Description:

The applicant is seeking major subdivision approval for a 6-lot subdivision that includes the extension of municipal utilities and the construction of a new public street, at an unaddressed Elm St parcel, identified as Tax Map Lot 15P 26/1, in the Open Space Residential (RO) and Medium Density Residential (RM) Districts.

Staff notes that case 2023-104, a 4-lot major subdivision application, was previously conditionally approved for this property on June 21, 2023. On June 18, 2024, the Planning Board voted to grant a two-year extension to meet the conditions of the conditional approval granted on June 21, 2023, and case 2023-104 is set to expire on June 21, 2026.

This new major subdivision application represents a change in development intent for the property from what was previously conditionally approved.

Compliance:

The following analysis of compliance with the Zoning Ordinance and Subdivision Regulations is based on an undated, 2-page narrative; a 22-sheet plan set, dated June 2025, with revisions through July 25, 2025, prepared by Northpoint Engineering, LLC; a 42-page stormwater management report, dated June 18, 2025, prepared by Northpoint Engineering, LLC; waiver requests; a 5-page Photo Key Exhibit and Site Photograph document, dated June 16, 2025, prepared by Northpoint Engineering, LLC; and a 17-page comment response letter dated July 25, 2025, prepared by Northpoint Engineering, LLC.

1. Project Details and Zoning Ordinance Compliance:

Zoning District:	Open Space Residential (RO) District Medium Density Residential (RM) District
Existing Use:	Undeveloped
Proposed Use:	6-lot residential subdivision
Overlay Districts:	
Flood Hazard (FH) District	None
Shoreland Protection (SP) District	None
Historic (HI) District	None
Penacook Lake Watershed (WS) District	None

Aquifer Protection (AP) District None
Wetland: Yes
Wetlands Buffers: Yes

Zoning Code Item	Required	Proposed
Minimum Total Area	RO District – 87,120 square feet RM District – 12,500 square feet	Lot 1 – 396,650 square feet Lot 2 – 14,829 square feet Lot 3 – 17,545 square feet Lot 4 – 45,312 square feet Lot 5 – 20,317 square feet Lot 6 – 19,302 square feet
Minimum Buildable Land	RO District – 20,000 square feet RM District – 6,250 square feet	Lot 1 – 155,625 square feet Lot 2 – 14,829 square feet Lot 3 – 18,736 square feet Lot 4 – 25,362 square feet Lot 5 – 17,311 square feet Lot 6 – 13,247 square feet
Minimum Lot Frontage	RO District – 200 feet RM District – 100 feet Cul-de-sac – 50 feet	Lot 1 – 493.61 feet Lot 2 (cul-de-sac) – 186.22 feet Lot 3 (cul-de-sac) – 80.54 feet Lot 4 (cul-de-sac) – 105.04 feet Lot 5 (cul-de-sac) – 87.33 feet Lot 6 – 272.86 feet
Minimum Front Yard	RO District – 50 feet RM w/sewer – 25 feet	Front setback line shown as 25 feet for all areas in RM District and 50 feet for all areas in RO District
Minimum Rear Yard	RO District – 50 feet RM District w/sewer – 25 feet	Rear setback line shown as 25 feet for all areas in RM District and 50 feet for all areas in RO District
Minimum Side Yard	RO District – 40 feet RM District w/sewer – 15 feet	Side setback lines shown as 15 feet for all areas in RM District and 40 feet for all areas in RO District
Maximum Lot Coverage	RO District – 10% RM w/sewer – 40%	Undeveloped

1.1 As presented, the project complies with the Zoning Ordinance.

2. General Comments:

2.1 Section 6.01(4) *Conformity with Zoning* requires compliance with the Zoning Ordinance at the time the abutter notifications were mailed. Staff was unaware of any nonconformities with the Zoning Ordinance at the time of the mailing.

2.2 Section 6.01(5) *Conditional Use Permits* requires submittal of a completed conditional use permit application, if one is required, at the same time as the subdivision application. Staff reviewed for compliance and determined that no conditional use permits are required.

2.3 Section 6.02 *Classification of Subdivisions* identifies the classification of subdivisions as minor or major subdivisions. The project creates a new public street, extends municipal utilities, and contains six lots, thereby making it a major subdivision.

- 2.4 Section 10.02 *Major Subdivision Application Requirements* requires the filing of certain items for a completed application. The application form, owner authorization, application fee, and abutters list were submitted as required. An assessment of compliance with Section 16 *Major Subdivision Requirements* follows in Item 3 of this staff report, any required state or federal permits shall be submitted prior to final approval, and requested waivers are addressed in Item 5 of this staff report.
- 2.5 Staff notes that, per Section 12.01 *Research*, applicants shall familiarize themselves with all city, state, and federal regulations relative to zoning, subdivision, land sales, utilities, drainage, health, buildings, roads, and other pertinent data so that the applicants are aware of the obligations, standards expected, and documents to be submitted.
- 2.6 Staff notes that Section 13.01(7) *Phasing Plan* requires a statement describing the proposed phasing of the subdivision, including the time frame, percentage of total residential and non-residential uses, and the improvements and facilities to be provided in each stage. The applicant stated in an email to staff that the project will be completed in one phase and that the intent is to develop and build all houses, rather than selling off the lots.
- 2.7 Section 26 *Nonmunicipal Utilities* states the applicant is responsible for all coordination with the utility companies to assure that nonmunicipal utilities are installed in accordance with plans approved by the Board pursuant to these regulations, that all utilities shall be located underground through the subdivision, that existing above-ground utility facilities on the property proposed for subdivision shall be removed and placed underground, and utilities shall be located within street rights-of-way in accordance with the typical street cross-sections, as contained in Section 20 *Street Layout and Access Standards* and Section 21 *Design Standards for Streets and Private Drives*. Any deviations from what is shown on the utilities plan that is approved by the Planning Board shall require return to the Planning Board as an amendment in accordance with the regulations. Accordingly, it is strongly recommended that coordination with and approval from the nonmunicipal utilities is received on the current plan prior to the public hearing or action taken by the Planning Board.
- 2.8 The applicant has proposed constructing a new 235-foot long public roadway with a cul-de-sac turnaround to serve 5 of the 6 proposed lots. Section 20.24 *Length of Dead End Streets* of the Subdivision Regulations permits allows dead end streets up to a maximum length of 1,000 feet.

Staff also notes that the proposed subdivision will create a residual 9.96+/- acre parcel, shown as "Lot #1" on the subdivision plan.

Elm Street is a rural residential collector roadway. The speed limit along the frontage of the subject property is 35 miles per hour. Wherever possible, curb cuts are limited on collector and arterial roadways in order to reduce congestion and facilitate an efficient transportation system.

The Transportation Chapter of the City's 2030 Master Plan discusses the importance of facilitating a local street system which promotes interconnectivity between parcels in order to maintain an efficient street network.

Additionally, Section 3.07 of the Subdivision Regulations states that the purpose of the Subdivision Regulations is "*to provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the community, having particular regard to the avoidance of congestion in the streets and highways, to provide for connectivity between neighborhoods, to calm traffic within neighborhoods, to manage access from abutting land uses, to provide for pedestrian and bicycle circulation throughout the community, and to provide for appropriately designed bus stops along transit corridors.*"

Section 3.08 of the Subdivision Regulations states that the purpose of the Subdivision Regulations is *“to provide for the proper location and width of streets and building lines and for their proper arrangement and coordination within a subdivision or plan including along the frontage of the subdivision. To provide for adequate vehicular, bicycle and pedestrian access to the subdivision by the public and for adequate, redundant and timely access by public safety vehicles.”*

Staff also notes that Section 20.21 *Procedure for Subdivision Where Further Subdivision Is Possible* states whenever a parcel of land is subdivided and where there is the possibility that further subdivision may occur on the property or on the immediately adjacent properties, the Planning Board may require that rights-of-way for the future layout or extension of streets be shown on the plat and easements be recorded for the future streets.

Additionally, Section 20.23 *Temporary Dead-End Streets* states: *“If the adjacent property is undeveloped and the street(s) must temporarily be a dead end, the right-of-way shall be extended to the property line and the street(s) shall be constructed to the property line or the maximum allowable length of a dead-end road or common private driveway or combination of both. A temporary T-shaped turnabout shall be provided on all temporary dead-end streets, and the easements shall be designed to revert to the abutting lots once the roadway is extended.”*

Recognizing the future development potential of Lot #1 (9.96 acres), and given that Elm Street is a collector roadway, and understanding that the applicant is proposing to construct a new cul-de-sac roadway to serve a portion of the development, it is important that the subdivision be designed to accommodate future extension of the new cul-de-sac to serve future development at Lot #1, thus negating the need for potential future driveway or roadway curb cuts on Elm Street. While the applicant has shown a 50-foot wide “public drainage and utility easement” from the proposed cul-de-sac to Lot #1, this is not a public highway easement.

The configuration of the proposed cul-de-sac roadway is not conducive to future extension to Lot #1. Specifically, the project as currently design, will cause future development at Lot #1 to be disconnected from the other 5 newly created lots at the development. This is inconsistent with the goals of the City’s Master Plan, as well as the Subdivision Regulations and good planning practice regarding pedestrian and vehicular connectivity between developments, as well as subsequent phases of development which may occur at Lot #1 in the future. Additionally, rather than relying on the new cul-de-sac being constructed for the other 5 lots for access, future development at Lot #1 would require additional curb cuts on Elm Street. This is also inconsistent with goals of the City’s Master Plan, as well as the Subdivision Regulations and good planning practice for access management on collector roadways. Staff notes that the Planning Board, in accordance with Section 20.21 has the authority to require that rights-of-way for the future layout or extension of streets be shown on the plat and easements be recorded for the future streets. In accordance with Section 20.23, the Board also has the authority to require the applicant to design and construct the proposed cul-de-sac roadway so that it will serve Lot #1. Therefore, in accordance with these provisions, the Board has authority to require the applicant to revise its proposed design to address these concerns.

- 2.9 Staff notes that Hardy Brook runs through the property. Hardy Brook is part of the Contoocook River Water Shed. A portion of the brook expands into a 1+/- acre pond. Staff also notes that this parcel directly abuts a conservation easement to the west, and that other portions of Hardy Brook are also protected by conservation easements/City fee owned conservation land in the area (see aerial photo below). Given these considerations, the Board may consider requesting that portions of the subject property encumbered by Hardy Brook be protected by a conservation easement.



- 2.10 The Assessing Department reviewed the application and noted that the remaining area of lot 1, proposed to be 9.9637 acres would not meet the requirements to remain in current use. 10 qualifying acres are needed. If the lot is altered to satisfy the qualifying acres needed, any future development would likely again reduce the qualifying acres necessary and the property would fall out of current use assessment.

Staff also notes that any amendment to a lot area or frontage by more than 2%, prior to final approval, will be considered as a major amendment, per Section 35.19(2) of the Subdivision Regulations, and require a public hearing before the Planning Board.

- 2.11 The Engineering Services Division reviewed the application and noted that Section 6.03.G. of the Construction Standards and Details give the City Engineer the authority to require underdrain. Based on previously completed work in the area, a highwater table is likely to be encountered. If high groundwater is observed during construction and underdrain is determined to be necessary by the City Engineer, design and construction of the roadway will be revised accordingly.
- 2.12 The Fire Department reviewed the application and had no general comments.
- 2.13 The General Services Department reviewed the application and noted a preference for a private street.

- 2.14 On July 17, 2025, and in anticipation that the project would be determined a development of regional impact, the Town of Boscawen and Central New Hampshire Regional Planning Commission received, electronically, a copy of the application for review and comment.

The Town of Boscawen reviewed the application and had no comments.

As of the time of writing this report, a response from the Central New Hampshire Regional Planning Commission had not been received.

3. Subdivision Regulations Determination of Completeness:

The items below are missing from the submittal and **the Subdivision Regulations REQUIRE the items for the application to be deemed complete (unless a waiver from the requirement is otherwise approved).**

The required information is present, thus allowing for the application to be deemed complete.

Subdivision Regulations Compliance:

The submittal was found to be compliant with all other sections of the Subdivision Regulations except as listed below, noting that the items below are missing as required for full compliance but are **not required for the determination of completeness.**

- 3.1 Section 13.02(1) *Right-of-Way Easement* requires the submittal of deeds of easement for any new, extended, or expanded right-of-way of any public street shown on the plan or required to be dedicated by the Planning Board for review. No right-of-way easements were provided with the application submittal, though the plan appears to show the need for public right-of-way easements. The necessary right-of-way easements shall be provided for review and approval, prior to endorsement of the final plat, by the Planning Board Clerk, City Engineer, and the City Solicitor as to form and content. Properly executed easement documents and agreements shall be submitted for recording with the plat.
- 3.2 Section 13.02(2) *Utility, Drainage, and Slope Easements* requires the submittal of utility and drainage easement documents for review. No utility or drainage easements were included with this application submittal, though the plan appears to show the need for drainage easements. The necessary drainage easements shall be provided for review and approval, prior to endorsement of the final plat, by the Planning Board Clerk, City Engineer, and the City Solicitor as to form and content. Properly executed easement documents and agreements shall be submitted for recording with the plat.
- 3.3 Section 13.02(5) *Municipal Utility Extension* states approval from City Council for the extension of municipal utilities shall be obtained where required. Section 9-5-1 *Minor Water and Sewer Extensions* of the General Code states that the Director of Water Resources is authorized to extend the City water or sewer system within the boundaries of the City of Concord to permit the hook-up of not more than two users. With more than two users proposed, the extension of the municipal sewer system will require approval from the City Council.
- 3.4 Section 13.02(10) *State and Federal Permits* requires copies of all required state and federal permits prior to endorsement of the plat by the Chair and the Clerk of the Planning Board. Note 8, on sheet 2 lists the anticipated state permits which will be required as part of the development. Copies of these permit approvals shall be required prior to endorsement of the plat by the Chair and the Clerk of the Planning Board.

- 3.5 Section 21.01(2) *Residential Rural Cluster Street Section* requires that residential rural cluster streets shall be constructed to the standard contained in Table 21-1, Local Residential Street Standards and the cross-section set forth in Figure 21-2 at a minimum. Specifically, on the Grading Detail, on sheet 12 *Construction Details*, the two spot grades (F394.99 and F394.92) located at the driveway for the access easement, appear to disrupt the gutter lines consistent slope, and create a high point, preventing the street from draining correctly toward CB #4. These grades shall be revised so a consistent 3% cross slope, minimum of 1% running slope, and proper drainage toward the catch basin takes place.
- 3.6 Section 21.01(2) *Residential Rural Cluster Street Section* requires that residential rural cluster streets shall be constructed to the standard contained in Table 21-1, Local Residential Street Standards and the cross-section set forth in Figure 21-2 at a minimum. Specifically, on the Grading Detail, on sheet 12 *Construction Details*, the spot grades where the driveway for lot 4 meets the roadway appear to disrupt the gutter lines consistent slope, and create a high point, preventing the street from draining correctly toward CB #4. These grades shall be revised so a consistent 3% cross slope, minimum of 1% running slope and proper drainage between CB #4 and the driveway for Lot 3 takes place.
- 3.7 Section 21.04 *Construction Standards and Details* requires streets shall be constructed in conformity with the design standards contained in the Subdivision Regulations and the Construction Standards and Details. There are items currently shown that do not comply with the Construction Standards and Details that need to be reviewed for compliance, as follows:
- a. Construction Note 10, on sheet 5 shall be revised to remove the reference of thermoplastic with the double yellow centerline. The City of Concord Construction standards requires thermoplastic for all road marking symbols, stop bars and crosswalks, but not long lines.
 - b. The reference to “Shaker Rd” in Construction Note 11 shall be revised accordingly.
 - c. DMH 2, located at the utility easement driveway access, shall be adjusted away from the vertical granite curbing so as to not conflict with the proper installation and tip down of the vertical granite curbing around the driveway radius.
- 3.8 Section 24.03 *Design Standards for Municipal Water Supply* requires that, **except** for subdivisions located within the jurisdiction of the Penacook and Boscawen Water Precinct, which are addressed in Section 24.07, the standards in Sections 24.03(1) through (11) shall govern. The subject site, however, is within the jurisdiction of, and proposed to be serviced by, the Penacook and Boscawen Water Precinct. Accordingly, Section 24.07 shall govern the design and construction of the proposed municipal water system.
- Section 24.07 *Requirements and Design Standards for Municipal Water Supply in Portions of Penacook* requires submittal of plans prepared, signed, and sealed by a New Hampshire licensed professional engineer, of facilities for the supply and distribution of water, including fire protection capabilities, in a manner and to the standards prescribed by the Penacook and Boscawen Water Precinct and the New Hampshire Department of Environmental Services (NHDES). Specifically, the applicant shall submit to the Planning Division written confirmation from the Penacook and Boscawen Water Precinct and the NHDES stating the proposed plan is feasible and their standards have been met.
- 3.9 Section 31.01 *Completion of Required Improvements* requires that the Planning Board in its approval of the subdivision plat specify the period within which the public improvements and

common private improvements shall be completed. The completion period shall be incorporated into the financial guarantee and shall not exceed two years from the date of plat recordation.

New Hampshire House Bill HB 413, signed into law on July 15, 2025, and effective as of July 1, 2025 extends the time period that substantial work shall commence to within 3 years of approval, and the project shall be substantially completed within 7 years of approval.

As stated previously noted in this staff report, the applicant has stated that there is only one phase to the project. Accordingly, all public and common private improvements shall be completed within three years from the date of plat recordation.

- 3.10 The Assessing Department reviewed the application and had no compliance comments.
- 3.11 The Engineering Services Division reviewed the application and had the following compliance requirements:
 - a. On the Grading, Drainage, and Utilities Plan, the emergency spillway at SWMB #2 Infiltration Basin on Lot 26-5 will be concentrating flows offsite, draining water onto the abutting parcel known as 132 Elm Street. Drainage rights shall be secured from 132 Elm Street. An easement deed from 132 Elm Street shall be secured, or the drainage easements shall be extended to a natural watercourse or other drainage facility in accordance with Section 23.12 *Drainage Easements*, or the basin shall be redesigned or redirected in another direction.
 - b. Install a fence around SWMB#2 Infiltration Basin. Detention Basin is in an easement and not on City property. If this is to become City infrastructure, delineation and security needs to be provided. For these reasons a fence is required, pursuant to Section 2.02 of the Subdivision Regulations.
 - c. Note 19 on Sheet 6 has been added to the plan set. However, on Sheet 9 *Willow Run Plan & Profile*, the required insulation shall be shown in the profile for the stormwater pipe at STA 0+25 and the storm drain between CB #4 and DMH #2 where there does not appear to have the required 4-foot minimum cover.
 - d. On Sheet 10 *Elm Street Plan and Profile*, a note shall be added above the profile stating full depth is 12 inches reclaim with 4 inches of HMA.
 - e. On Sheet 19 Construction Details. Note 3 under Erosion Control Notes shall be revised to state that no areas shall remain idle for more than 14 days without being stabilized, including stockpiles, pursuant to Section 28.05(2) of the Subdivision Regulations.
 - f. In the Stormwater Management Plan, test pit information in the Test Pit Report is for SWMB #5, TP 1 and 2. However, there is no SWMB #5 on site. Also, the permeability test 1-3 on p. 2 appear to be for one test pit. Ensure the permeability tests and the Ksat calculations are shown for all 6 test pits. Show the locations of these test pits and the test pit information on Sheet 5, pursuant to CCSR 23.09(2). Staff notes the applicant states they are in the process of performing additional test pits on the site and will update the report and plans when complete.
 - g. In the Stormwater Management Plan, in the Project Narrative, Post-Development Drainage Conditions, Overview Section, it mentions SWMB #1 releases to a new overflow catch basin. However, the plans do not show an overflow spillway to this structure (CB 6), or clearly show that the detention pond is graded so that overflow would be directed to CB 6. to direct flows to this catch basin. Pursuant to Section 23.08(3), SWMB #1 shall be graded to clearly show that overflow would be directed to CB 6, or add a spillway to meet the same intent.
 - h. A leader for the proposed hydrant no longer is directed at the proposed new hydrant at the end of the cul-de-sac, and instead is directed at an open space near DMH #2. The leader for this callout shall be adjusted to accurately point at the intended hydrant on sheet 9.

- i. On Sheet 5 *Layout Plan*, the granite curbing shall be indicated if it is curved and not straight. Additionally, for curved granite, the radii shall be provided, pursuant to Section 16.04(2)(a) *Roadway Plan*.
 - j. On Sheet 5 Grading, Drainage & Utilities Plan, the underground utilities appear to be closer than 5 feet from the municipal utilities. Ensure a minimum separation of 5 feet is maintained between all utilities.
 - k. Grading has been shown for 5 of the 6 driveways. Spot grades and slopes are needed for the drive within the public drainage and utilities easement and shall be shown in accordance with Section 20.09 of the Subdivision Regulations.
 - l. Sheet 5 *Layout Plan* shall also include the required curb radii provided in Detail D-4
- 3.12 The Fire Department reviewed the application and had no compliance comments.
- 3.13 The General Services Department reviewed the application and had no compliance comments.

4. Variances:

- 4.1 Variances are not required for this application.

5. Waivers:

- 5.1 The applicant requests waivers from the following sections of the Subdivision Regulations:
- a. Section 16.02(2) *Copies* and Section 16.04 *Construction Plans* to not require paper sets of plans to be submitted as part of the application, and instead submit all files as .pdf's through the City's online permit portal.
 - b. Section 16.04(3) *Grading and Drainage Plan*, Section 16.04(4) *Utility Plan*, and Section 16.04(5) *Erosion Control*, to not require construction plans to be prepared at the same scale as the final plat.
 - c. Section 16.04(3)(b), to not require that stormwater runoff calculations be shown on the Grading Plan, and instead they shall be provided in the separate Stormwater Management Report.
 - d. Section 16.04(7) *Landscape Plan*, Section 16.04(1)(d), and Section 28.01 *Landscape Plans*, to not require that the Landscape Plan be prepared, signed, and stamped by a NH Licensed Landscape Architect.
 - e. Section 28.04(6)(c), a waiver from the requirement that no more than 25% of street trees be classified as ornamental trees, and to allow up to 39% of proposed trees to be ornamental.
 - f. Section 16.03(4) *Topography*, to not require existing topographic conditions and all proposed changes in ground elevations to be shown on the final recordable plan.
 - g. Section 16.03(10) *Access and Driveways*, to not require that all proposed driveways along the subdivision frontage be shown on the final recordable plat.
 - h. Section 16.03(13) *Municipal Sewer*, to not require that the location, size, and invert elevations of existing and proposed sanitary and storm sewers including manholes, catch basins, and culverts be shown on the final recordable plan.
 - i. Section 16.03(15) *Municipal Water Supply*, to not require that the location and size of all existing and proposed water mains, including hydrants, gates, valves, and blowoffs to be shown on the final recordable plan.
 - j. Section 16.03(18) *Other Utilities*, to not require that the location and size of all existing and proposed underground and overhead non-municipal utilities to be shown on the final recordable plat.
 - k. Section 21.04 *Construction Standards and Details*, to allow for the construction of a street cul-de-sac which meets the dimensional requirements of Section 21.11 *Cul-de-sacs*, and to

not require the more restrictive dimensional requirements of City of Concord Construction Detail R-9 *Roadway Termination Cul-De-Sac*.

For items 5.1(a) through 5.1(k), the applicant provided an analysis of the five waiver criteria listed in Section 35.08 of the Subdivision Regulations, and the criteria in RSA 674:36(II)(n). Staff reviewed the criteria and found the criteria to be satisfactorily addressed and supports granting these waivers.

- l. Section 21.16 *Street Lights*, to not require that street lights be installed at all intersections.
- m. Section 23.02 *Construction Standards*, to allow the use of HDPE pipe throughout the development, including within the existing and proposed public rights-of-way, where normally it is only permitted on private sites in accordance with Section 6.02.B.4 of the City of Concord Construction Standards.

For item 5.1(l) through 5.1(m), the applicant provided an analysis of the five waiver criteria listed in Section 35.08 of the Subdivision Regulations, and the criteria in RSA 674:36(II)(n). Staff reviewed the criteria and found the criteria are not satisfactorily addressed, and does not support granting of this waiver.

6. Conditional Use Permits:

- 6.1 Conditional use permits are not required for this application.

7. Architectural Design Review:

- 7.1 Architectural design review is not required for major subdivisions.

8. Conservation Commission:

- 8.1 Appearances before the Conservation Commission are not required for this application.

9. Recommendations:

- 9.1 Staff recommends that the Planning Board **adopt 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.
- 9.2 Based on the findings of fact, staff recommends that the Planning Board continue the public hearing to a date certain of October 15, 2025, so that the applicant, in accordance with Section 20.21 *Procedure for Subdivisions Where Further Subdivision Is Possible*, may revise the application to accommodate additional right-of-way and design configuration for future layout of a subdivided lot 1 and extension of the new public street. The redesigned new public street would be considered as a temporary dead end until said future subdividing of lot 1 takes place, so Section 20.23 *Temporary Dead-End Streets* shall also be considered. The design shall mitigate the need for unnecessary driveways or roadway curb cuts on Elm Street to allow for future development, and bring the application into conformance with the intent of the master plan, subdivision regulations, and good planning practices regarding neighborhood connectivity and management of curb cuts on collector roadways. The applicant shall submit the revised application by Wednesday, September 17, 2025, at 4:00 p.m. to allow staff time to review the revised application and prepare a staff report for the Board's consideration accordingly. In addition to addressing these design issues, the continuance would also grant the Central New Hampshire Regional Planning Commission time to respond to the Development of Regional Impact notice for this application, as well as provide the applicant to consider potential conservation easement at Hardy Brook.

Alternatively, if the Planning Board chooses to act on the application as submitted, the Board could proceed as follows: **(This alternative option is not recommended by staff)**

- 9.3 **Adopt 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.
- 9.4 **Grant the waiver requests below** from the listed sections of the Subdivision Regulations, based on the evidence provided showing that the criteria of RSA 674:36(II)(n) and Section 35.08 of the Subdivision Regulations are met:
- a. Section 16.02(2) *Copies* and Section 16.04 *Construction Plans* to not require paper sets of plans to be submitted as part of the application, and instead submit all files as .pdf's through the City's online permit portal.
 - b. Section 16.04(3) *Grading and Drainage Plan*, Section 16.04(4) *Utility Plan*, and Section 16.04(5) *Erosion Control*, to not require construction plans to be prepared at the same scale as the final plat.
 - c. Section 16.04(3)(b), to not require that stormwater runoff calculations be shown on the Grading Plan, and instead they shall be provided in the separate Stormwater Management Report.
 - d. Section 16.04(7) *Landscape Plan*, Section 16.04(1)(d), and Section 28.01 *Landscape Plans*, to not require that the Landscape Plan be prepared, signed, and stamped by a NH Licensed Landscape Architect.
 - e. Section 28.04(6)(c), a waiver from the requirement that no more than 25% of street trees be classified as ornamental trees, and to allow up to 39% of proposed trees to be ornamental.
 - f. Section 16.03(4) *Topography*, to not require existing topographic conditions and all proposed changes in ground elevations to be shown on the final recordable plan.
 - g. Section 16.03(10) *Access and Driveways*, to not require that all proposed driveways along the subdivision frontage be shown on the final recordable plan.
 - h. Section 16.03(13) *Municipal Sewer*, to not require that the location, size, and invert elevations of existing and proposed sanitary and storm sewers including manholes, catch basins, and culverts be shown on the final recordable plan.
 - i. Section 16.03(15) *Municipal Water Supply*, to not require that the location and size of all existing and proposed water mains, including hydrants, gates, valves, and blowoffs to be shown on the final recordable plan.
 - j. Section 16.03(18) *Other Utilities*, to not require that the location and size of all existing and proposed underground and overhead non-municipal utilities to be shown on the final recordable plat.
 - k. Section 21.04 *Construction Standards and Details*, to allow for the construction of a street cul-de-sac which meets the dimensional requirements of Section 21.11 *Cul-de-sacs*, and to not require the more restrictive dimensional requirements of City of Concord Construction Detail R-9 *Roadway Termination Cul-De-Sac*.
- 9.5 **Deny the waiver request below** from the listed section of the Subdivision Regulations, because the request does not meet the criteria of RSA 674:36(II)(n)(1) or (2) or Section 25.08 of the Subdivision Regulations:
- a. Section 23.02 *Construction Standards*, to allow the use of HDPE pipe throughout the development, including within the existing and proposed public rights-of-way, where normally it is only permitted on private sites in accordance with Section 6.02.B.4 of the City of Concord Construction Standards. Additionally, Note 15 on Sheet 6 Grading, Drainage and

Utilities Plan shall be revised to reflect the correct pipe materials due to the denial of this waiver.

- b. Section 21.16 *Street Lights*, to not require that street lights be installed at all intersections.

9.6 **Grant major subdivision approval** for the six-lot subdivision of unaddressed Elm St, identified as Tax Map Lot 15P 26/1, subject to the following precedent and subsequent conditions:

- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the subdivision plat by the Chair and Clerk of the Planning Board, unless otherwise specified.
1. For compliance with the Subdivision Regulations, revise the subdivision plat and plan set as follows:
 - a. Provide necessary right-of-way easements for review and approval. (Section 13.02(1))
 - b. Submit the necessary drainage easements for review and approval, prior to endorsement of the final plat, by the Planning Board Clerk, City Engineer, and the City Solicitor as to form and content. Properly executed easement documents and agreements shall be submitted for recording with the plat. (Section 13.02(2))
 - c. Obtain City Council approval of the municipal sewer system extension. (Sections 13.02(5) Subdivision Regulations and 9-5-1 of the General Code)
 - d. Submit copies of all state and federal permits. (Section 13.02(10))
 - e. Revise street grades at the driveway for the access easement to obtain a 3% cross slope, a minimum 1% running slope, and proper drainage toward catch basin #4. (Section 21.01(2))
 - f. Revise the street grades at the driveway for lot 4 to obtain a 3% cross slope, a minimum 1% running slope, and proper drainage toward catch basin #4 between Lot 3 and catch basin #4. (Section 21.01(2))
 - g. Per Section 21.04 *Construction Standards and Details*, revise the following:
 - 1) Construction Note 10, on sheet 5 shall be revised to remove the reference of thermoplastic with the double yellow centerline. The City of Concord Construction standards requires thermoplastic for all road marking symbols, stop bars and crosswalks, but not long lines.
 - 2) The reference to “Shaker Rd” in Construction Note 11 shall be removed and revised accordingly.
 - 3) DMH 2, located at the utility easement driveway access, shall be adjusted away from the Vertical Granite Curbing so as to not conflict with the proper installation and tip down of the vertical granite curbing around the driveway radius.
 - h. Submit to the Planning Division written confirmation from the Penacook and Boscawen Water Precinct and the New Hampshire Department of Environmental Services stating that the proposed plan is feasible and their standards have been met. (Section 24.07))
 2. For compliance with the Subdivision Regulations and compliance comments provided from the Engineering Services Division, revise the subdivision plat and plan set as follows:
 - a. The existing water course, and direction of flow, shall be shown on the grading and drainage plan where the emergency spillway at SWMB #2 Infiltration Basin on Lot 26-5 is provided. Additionally, the emergency spillway at SWMB #2 Infiltration Basin on Lot 25 shall be revised accordingly:
 - b. The existing water course, and direction of flow, shall be shown on the grading and drainage plan. Additionally, the emergency spillway at SWMB #2 Infiltration Basin

- on Lot 26-5 appears to be concentrating flows offsite, draining water onto the abutting parcel known as 132 Elm Street: an easement deed from 132 Elm Street shall be secured; or the drainage easements shall be extended to a natural watercourse or other drainage facility in accordance with Section 23.12 *Drainage Easements*; or the basin shall be redesigned or redirected in another direction,
- c. Install a fence around SWMB#2 Infiltration Basin pursuant to Section 2.02 of the Subdivision Regulations.
 - d. On Sheet 9 *Willow Run Plan & Profile*, the required insulation shall be shown in the profile for the stormwater pipe at STA 0+25 and the storm drain between CB #4 and DMH #2 where there does not appear to have the required 4-foot minimum cover.
 - e. On Sheet 10 *Elm Street Plan and Profile*, a note shall be added above the profile stating full depth is 12inches reclaim with 4inches of HMA.
 - f. On Sheet 19 *Construction Details*, Note 3 under Erosion Control Notes shall be revised to state that no areas shall remain idle for more than 14 days without being stabilized, including stockpiles, pursuant to Section 28.05(2) of the Subdivision Regulations.
 - g. Pursuant to Section 23.09(2) of the Subdivision Regulations, the following revisions in the Stormwater Management Plan shall be made: identify or remove reference to SWMB #5, not found on the plan; the permeability test 1-3 on p. 2 appears to be for one test pit and shall be clarified; The permeability tests and the Ksat calculations shall be shown for all 6 test pits; and, the locations of these test pits and the test pit information shall be shown on Sheet 5, pursuant to CCSR 23.09(2).
 - h. Pursuant to Section 23.08(3), SWMB #1 shall be graded to clearly show that overflow would be directed to CB 6, or add a spillway to meet the same intent.
 - i. The leader, on Sheet 9, near DMH #2, and the end of the cul-de-sac, shall be adjusted to accurately point to the proposed hydrant it was intended for.
 - j. On Sheet 5 *Layout Plan*, the granite curbing shall be indicated if it is curved and not straight. Additionally, for curved granite, the radii shall be provided, pursuant to Section 16.04(2)(a) *Roadway Plan*.
 - k. On Sheet 5 *Grading, Drainage & Utilities Plan*, the underground utilities appear to be closer than 5feet from the municipal utilities. A minimum separation of 5feet shall be maintained between all utilities.
 - l. Spot grades and slopes for the drive within the public drainage and utilities easement shall be shown in accordance with Section 20.09 of the Subdivision Regulations.
 - m. Sheet 5 *Layout Plan* shall also include the required curb radii provided in Detail D-4
3. The plat shall list all approved variances, waivers, and conditional use permits with the section numbers and description, and date of approval.
 4. A New Hampshire licensed land surveyor shall place permanent reference monuments in the subdivision, as required by the Subdivision Regulations and as approved by the City Engineer. (Section 19.04)
 5. Upon notification from the Planning Division that the project complies with the precedent conditions, Zoning Ordinance, and Subdivision Regulations, the applicant shall deliver to the Planning Division for signature one mylar of the subdivision plat that contains the signature and seal of the appropriate licensed professionals as required by the Subdivision Regulations and two full size plan sets, for endorsement by the Planning Board Chair and Clerk and subsequent recording of the mylar at the Merrimack County Registry of Deeds. (Section 9.08(7))
 6. At the time of recording, provide the recording fees required by the Merrimack County Registry of Deeds for all plans and documents to be recorded. (Section 13.02(13))

7. Ensure that the subdivision plat to be recorded complies with the current standards of the Merrimack County Registry of Deeds, including materials, font size, plan size, margins, and plat layout. (Section 15.02(12))

(b) Subsequent Conditions

1. The applicant is responsible for compliance with the municipal code, Subdivision Regulations, and Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit is granted.
2. No building permit shall be issued prior to the recording of the subdivision plat in the Merrimack County Registry of Deeds by the Clerk of the Planning Board.
3. A financial guarantee shall be provided to secure the installation of public and common private improvements. (Section 30.01)
4. The amount of the financial guarantee shall be approved by the City Engineer, as sufficient to secure to the City the satisfactory construction and installation of required public and common private improvements, including contingency and inflation factors. A New Hampshire licensed professional engineer shall submit a construction cost estimate acceptable to the City Engineer, which includes breakdowns by quantity of material and unit costs, along with contingencies, prior to the presentation of any financial guarantee. (Section 30.03)
5. All financial guarantees shall comply with all statutory requirements and shall be satisfactory to the City Solicitor as to form, sufficiency, and manner of execution. (Section 30.04)
6. The release of a financial guarantee shall not be undertaken until the City Engineer has submitted a certificate stating that all required public improvements and common private improvements have been satisfactorily completed, an acceptable as-built plan has been approved, a maintenance guarantee has been provided, and the public improvements are ready for acceptance by the City Council. (Section 30.05)
7. A partial release of a financial guarantee may be authorized by the City Engineer in accordance with Section 30.06 of the Subdivision Regulations.
8. A maintenance guarantee shall be provided in accordance with Section 30.07 of the Subdivision Regulations.
9. A site stabilization guarantee shall be provided in accordance with Section 30.08 of the Subdivision Regulations and the Construction Standards and Details.
10. In accordance with Section 30.09 of the Subdivision Regulations, no construction or land clearing may occur prior to recording of the subdivision plat until the construction plans are approved by the Clerk and the City Engineer, inspection fees are paid, state and federal permits are obtained, all preconstruction conditions of the Board are addressed, and a site restoration bond is in place. Where work is occurring in an existing City right-of-way or involves municipal infrastructure, the site restoration bond shall include a guarantee sufficient to complete and/or restore the right-of-way and municipal infrastructure to pre-existing conditions.
11. All public improvements and common private improvements shall be completed within three years from the date of plat recordation and this time period shall be incorporated in the financial guarantee. The Planning Board may, upon proof of difficulty, extend the completion date as set forth in such financial guarantee for a maximum period of one additional year. At any time during the period of such financial guarantee, a substitute guarantee may be accepted by the City provided that the guarantee conforms to the requirements of Section 30. (Section 31.01)

12. All required improvements shall be made by the applicant, at the applicant's expense, without reimbursement by the City. (Section 31.03)
13. If the required improvements are not completed within three years from the date of plat recordation, the approval shall be deemed to have expired. The Clerk may thereupon declare the financial guarantee to be in default and may use the proceeds to have the improvements installed, regardless of the extent of the building development at the time the financial guarantee is declared to be in default. (Section 31.04)
14. The Clerk and the City Engineer shall be responsible for inspecting the required public and common private improvements and may assess the applicant all or a portion of the cost, including overhead, of the necessary inspections. If the City Engineer finds, upon inspection, that any of the public or common private improvements have not been constructed in accordance with the plans as approved by the Board and the Construction Standards and Details, the applicant shall be responsible for reconstructing the improvements and the cost of same. (Section 31.05)
15. The applicant shall request acceptance of the public street upon completion of work in accordance with Sections 31.06, 31.07, 31.08, and 31.09.
16. The applicant's engineer or surveyor shall submit to the City Engineer a detailed as-built survey of the subdivision, indicating location, dimensions, materials, and other information required by the City Engineer. The as-built survey shall also be submitted in digital format and media conforming to the City's as-built checklist. A New Hampshire licensed professional engineer shall certify to the City Engineer that the layout of the line and grade of all public improvements is in accordance with the construction plans for the subdivision as approved by the Board. (Section 31.10)
17. No certificate of occupancy for any building in the subdivision shall be issued prior to the completion of the improvements and acceptance, or conditional acceptance, of the public street by the City Council. (Section 31.13)
18. No public improvements will be considered for acceptance by the City, until such time as all improvements have been carried out as shown on the final plat, in accordance with the Subdivision Regulations, and subject to any conditions established by the Planning Board at the time of final plat approval. (Section 35.12)
19. No street or utility construction shall be started until a plat prepared in accordance with the requirements of the Subdivision Regulations has been approved by the Board. No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any parcel before the plat of such subdivision has been approved by the Planning Board in accordance with the provisions of these regulations and recorded and filed with the Merrimack County Registry of Deeds. (Section 35.17)
20. Per RSA 674:36 III(b) and 674:36 IV, the Planning Board shall not require letter of credit, cash, or passbook as the only method securing the completion of the work. In lieu of completion of street work and utility installations, the Planning Board shall accept a performance bond, irrevocable letter of credit, or other type or types of security.
21. Per RSA 674:36 IV, the Planning Board shall allow road and utility construction to start without a bond; however, a bond for the infrastructure, roads, and utilities must be in place prior to the sale of any parcel of land within the subdivision or a request for a building permit for structures for human occupation.
22. If high groundwater is observed, or some other condition which requires the installation of underdrain, as determined by the City Engineer, design and construction of the roadway will be revised accordingly in accordance with the City of Concord Construction Standards and to the satisfaction of the City Engineer.