

City of Concord Planning Board

August 16, 2023

Minutes - DRAFT

The regular monthly meeting of the City Planning Board was held on August 16th, 2023, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Attendees: Chairman Richard Woodfin, Councilor Erle Pierce, Teresa Rosenberger (Ex-Officio for City Manager), Members Susanne Smith-Meyer, Amanda Savage, David Fox, and Jeff Santacruce.

Absent: Vice-Chairman Carol Foss, Councilor Byron Champlin, Member Matthew Hicks, and Alternates Chiara Dolcino and Frank Kenison

Staff: Heather Shank (City Planner), Alec Bass (Senior Planner), Alicen Twardosky (Administrative Specialist II), and Peter Kohalmi (Associate City Engineer), Michael Bezanson (City Engineer).

1. Call to Order

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

2. Roll Call

Chairman Richard Woodfin, Councilor Erle Pierce, Teresa Rosenberger, Amanda Savage, Jeff Santacruce, Susanne Smith-Meyer, David Fox.

3. Approval of Meeting Minutes

On a motion made by Mr. Fox, seconded by Ms. Rosenberger, the Board voted unanimously to approve the July 19th, 2023 Planning Board Meeting minutes, as written. All in favor. Motion passed.

Mr. Santacruce abstained.

4. Agenda Overview

Chairman Woodfin informed the public that there would be no public testimony on items 11 and 12. They have been postponed to the September 20th Public Hearing.

5. Determination of Completeness

- 5A. Wilcox & Barton, Inc. on behalf of First Church Holdings, LLC, request Major Site Plan approval for the conversion of a church into 30 residential units and related site improvements, and a Conditional Use Permit (CUP) to allow alternative parking at 177 N. Main Street in the Urban Commercial (CU) District. (2023-122)

On a motion by Councilor Pierce, seconded by Ms. Smith-Meyer, the Board voted unanimously to determine item 5A complete, not a Development of Regional Impact and **set the public hearings for September 20th, 2023.**

All in favor. Motion passed unanimously.

6. Design Review Applications by Consent

- 6A. Classic Signs requests ADR approval for a new 36 sf internally illuminated wall sign at 8 Merchants Way in the Gateway Performance (GWP) District. This sign received a variance to allow 76 sf of building signage where 45 sf is allowed.

Architectural Design Review Committee recommended the Planning Board approve the application as submitted.

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- 6B. SAR Concord, on behalf of Sugar River Bank, requests ADR approval for a new 1.625 sf non-illuminated sign at 150 North Main Street in the Central Business Performance (CBP) District.

Architectural Design Review Committee recommended the Planning Board approve the application as submitted with the suggestion to increase the spacing between the logo and graphics on the right-hand side and make sure all the images, including the left side image of the people holding a key are in focus.

- 6C. Signs, on behalf of Playabowls NH, requests ADR approval for a new 53.3 sf internally illuminated wall sign at 70 Storrs Street in the Opportunity Corridor Performance (OCP) District. This sign received a variance to allow 69.8 sf where 21 sf is allowed.

Architectural Design Review Committee recommended the Planning Board approve the application with the stipulation that this second sign facing the parking lot be subject to the same conditions imposed on the previously approved first sign facing Storrs Street.

On a motion made by Ms. Smith-Meyer, and seconded by Mr. Fox, the Planning Board voted unanimously by consent to approve items 6A through 6C subject to Architectural Design Review recommendations.

Public Hearings:

7. Site Plan, Subdivision and Conditional Use Permit Applications

- 7A. ReVision Energy and Horizons Engineering, Inc, on behalf of Breezeline, requests a Conditional Use Permit (CUP) for a ground mounted solar array for on-site use at 264-268 Sheep Davis Road in the Gateway Performance (GWP) and Open Space Residential (RO) Districts. (2023-121)

The application was determined complete and a Development of Regional Impact at the July 19th, 2023 Planning Board meeting.

A staff report was provided by Mr. Bass. Staff received a response back from the Town of Pembroke asking the Planning Board to consider any impacts to wetlands, or to buffer to bluffs.. The Town of Pembroke also wants staff to review the stormwater report. An Alteration of Terrain (AoT) application has been submitted. Mr. Bass is asking that the AoT review be a condition of approval. Staff asks the Board to determine whether the site is a viewshed of significant value due to its proximity to the Soucook River. Staff also recommends the Board have the Applicant place additional plantings in the buffer area. The National Heritage Bureau supported this.

The Applicant is seeking a waiver to not have to vegetate with native seed mix, rather allow the growth to generate / mature naturally. Both, NHB and Staff are in support of this.

Chairman Woodfin opened the public hearing. Scott Bartholomew and Corey Foster (Breezeline), and Drew MacDermott (Horizons Engineering) presented the application.

Breezeline entered into Concord about 18 months ago and bought two parcels of land. The intent is to build a 165K solar farm. It would provide enough energy to power the building, ultimately serving their ESG goals. There was an impromptu meeting with NHB. According to the Applicant, NHB was in favor of what they were doing, including taking care of the vegetation and limiting disturbance of native species.

Councilor Pierce sought clarification on the Applicants desire to not disturb natural vegetation. The Applicant assured the Board that vegetation would be maintained and trimmed back to not cover the solar panels. The Applicant is being careful to not disturb existing native species.

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The existing building is about 900 square feet. Mr. Bass confirmed for the Board that the solar coverage calculation of 5,600 square feet in the Applicant's report submitted in response to Staff's inquiry.

Mr. Santacruce asked the design to incorporate more vegetative buffering along Route 106 to fill in the gaps in the sight line. The Applicant is happy to comply. He also advised the Applicant to return to Department of Transportation for the slight change of use with the driveway permit to confirm whether they need to update their driveway permit.

Staff has not reviewed the storm water report yet. However, Mr. Bass does not have great concern given the flat nature of the land. As part of the AoT design, there is a low 6-inch swale below the arrays. According to the Applicant, runoff is not being increased.

With no additional comments from Staff, members of the Board, or public, Chairman Woodfin closed the public hearing.

The Board adopted the findings of fact which were discussed and determined to include information provided by the applicant, in staff reports and testimony provided during the public hearing.

On a motion by Ms. Smith-Meyer, seconded by Councilor Pierce, the Board voted to **grant the waiver** to Section 27.10 (6) of the Site Plan Regulations, utilizing the criteria of RSA 674:44, III(e)(2), which states that "Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations" and allow the Applicant to not revegetate with native seed mix, and instead an initial seeding of annual oat be placed and allow natural regeneration to occur. If natural regeneration has not begun prior to completion of ground disturbance the Applicant will consult with NHB for recommendation.

All in favor. Motion passed unanimously.

On a motion by Mr. Santacruce, seconded by Ms. Smith-Meyer, the Board voted to **grant Conditional Use Permit approval** in accordance with Section Article 28-9-4 of the Zoning Ordinance to allow for a ground mounted solar collection system at 268 Sheep Davis Road, subject to the following conditions noted below:

- a) **Precedent Conditions** – to be fulfilled within one (1) year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk and the commencement of site construction, unless otherwise specified:
 - (1) Address Planning comments to the satisfaction of Planning Division.
 - (2) Address Engineering Comments to the satisfaction of the Engineering Division.
 - (3) Waiver(s) granted are to be noted and fully describe on the plan, including the date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), or the applicant cannot meet conditions of the waiver, the applicant shall comply with said submission requirements.
 - (4) The Applicant will address any comments provided upon the City Engineering's review of the Stormwater Report provided with their AoT application. The Applicant will provide City Staff verification of Alteration of Terrain Permit approval once received.
 - (5) Prior to the issuance of the commencement of any clearing/construction activity or issuance of a building permit, whichever comes first, the clearing limits and buffer to the bluff will be

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clearly identified and verified by staff. Buffers need not be marked in areas where disturbance is unlikely.

(6) Submit three (3) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.

(7) Work with Staff to provide additional landscape buffer from view of Sheep Davis Road.

b) **Subsequent Conditions** – To be fulfilled as specified:

(1) Prior to final construction sign-off, staff shall be contacted to inspect the buffer area.

(2) If the construction authorized by the Conditional Use Permit does not commence within a two (2) year period from the date of the decision of the Planning Board, the CUP shall be deemed to have expired.

All in favor. Motion passed unanimously.

7B. Wilcox & Barton, Inc, on behalf of Havenwood Heritage Heights, requests Major Site Plan approval for construction of three new residential buildings and related site improvements, along with a Conditional Use Permit (CUP) for disturbance of a bluff buffer at 149 East Side Drive in the Medium Density (RM) District. (2023-120)

This application was determined complete at the July 19th, 2023 Planning Board meeting.

A Staff report was provided by Mr. Bass. This is Phase 2 of the development. It will be similar to Phase One. They are seeking a CUP to impact the buffer to the bluff. They are also seeking two waivers. One waiver is to omit the vertical granite curbing along a portion of the roadway because a future phase goes through this same location. The second is to not provide additional architectural elevations since they provided them for Phase 1. They did provide detailed elevations.

Chairman Woodfin opened the public hearing. Erin Lambert (Wilcox & Barton) and Mike Palmieri (President & CEO of Havenwood Heritage Heights) presented the application.

Ms. Lambert confirmed that in Phase 1 there was a similar CUP granted for the buffers. Mr. Palmieri gave an overview of Havenwood campuses. They are finding that the current development is not meeting the needs of the people / residents. The north end redevelopment took place around 2014-2015, and has received positive feedback.

In 2019-2020, the redevelopment began for Phase 1. They plan to carry the same redevelopment process through the south end of the campus. They are establishing a new road running through the campus. Currently buildings 38, 39, and 40 surround a central parking lot. The proposal removes the parking lot and has the building fronting on the street. This phase includes three buildings, numbers 41, 45, 46, with a unit reduction from 17 to 13 units. Building 41 will have five units, with the two remaining units having four.

The developers would like to continue the streetscape from the north end into the south end to provide more of a neighborhood feel. They are planning to build a new road through the campus that units will front on, allowing for a front door and porch for each unit with a perimeter walkway. The next phases will include building on the same road. Their goal is to provide as much day-lighting as possible.

Ms. Lambert stated that each unit has a front porch and two dedicated parking spots, one being a garage space. The rear of each unit has a patio or the option for a screen porch. Maintenance will have a separate entrance and not have to enter residences to maintain the property. Each residence has its own access to the basement. The front of each home has an accessible walkway that goes to the front door.

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They are seeking to delay a section of curbing to prevent them being damaged by driveway cuts in future phases. The Applicants are asking to provide this section of sidewalk when the phases are complete.

They are seeking the CUP for the sidewalk that runs along the buffer to the bluff, no trees will be removed. Architectural Design Review Committee was hoping that the back sidewalk, behind building 45 and 46 could have some curvature. The design team didn't feel this wise for maintenance and safety. They are providing an ornamental fence to protect the residents from East Side Drive.

They are proposing a pavilion placed in the back of the property. Lot and storm water calculations have all been accounted for. Utilities have been planned for. Storm water runoff is being reduced in the post condition. They do not have room underground to build a large stormwater gallery. In Phase 1 they were able to disconnect completely. They are building two infiltration galleries flanking Building 41, upsized to account for the future road. Each building is surrounded by a perimeter drip edge.

There are four new streetlights proposed. They match Phase 1. There are fourteen light poles, one at the entrance to each unit. There will be lighting around the buildings as well, including porches/patios and entrances. These are consistent with the City's lighting requirements.

The developers are keeping the same Landscape Architect to replicate the Phase 1 design.

There is new pavement being placed, but even with this addition, they are reducing the pavement in the buffer by about 95 square feet. Ms. Lambert is asking to defer the curbing along cottages 39 and 40. These will be put in during Phase 4. They are also asking to waive the requirement to provide the color rendering that would show the landscaping. Lavallee Brensinger's renderings showed everything but this.

The project was granted two variances. First, the buildings are separated by 30 feet as opposed to the required 40 feet. They are fully sprinklered. Lot coverage is allowed to be up to 65%. After Phase 2, they will still be under the allowance though they got this variance in case it was needed.

Electrical and plumbing is in the basement of each unit. The basement has the option to be finished.

Mr. Santacruce inquired about Building 41's infiltration basin running just inside the buffer. He questioned whether this is permissible according to regulations. He also mentioned the sewer manhole that lay within the buffer of the bluff. Ms. Lambert agreed to relocate them outside the buffer.

Mr. Santacruce mentioned a driveway that runs out to East Side Drive, intersecting a new roadway forming a 0+25 left. He feels the rendering is unclear at the southeast corner of the T-intersection as to whether or not there will be an ADA ramp. Ms. Lambert confirmed that it does today. Mr. Santacruce is concerned that it does not line up with the sidewalk on the plan. Ms. Lambert noted that there has been discussion on shifting the grading to ensure the catch basin was not at the bottom of the ramp on the north side. They will make sure it all lines up, even if it requires redoing it.

Mr. Santacruce drew attention to the two ramps in front of Building 41, beside the two driveways. He noted that the appearance of the grade at the curb line and the grade at the ramp (25 right, -25 right on the rendering) show that the water will drain toward the ramp rather than toward the road. He asked Ms. Lambert to work with Engineering to make sure this is not the case.

At Chairman Woodfin's request, Ms. Lambert assured the Board that they will provide spot grades and drip edge all around the pavilion.

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With no additional comments from Staff, members of the Board, or public, Chairman Woodfin closed the public hearing.

Chairman Woodfin noted that there were lots of technical review comments and confirmed with Staff that they have been addressed or are in the process. Mr. Bass confirmed that the Applicant did provide a resubmission between the Determination of Completeness and this hearing. The Applicant took care of a lot of them and anything on the current report is still yet to be resolved.

Chairman Woodfin reminded the Board of the ADRC recommendations, including the curvature of the sidewalk. He noted the Applicants desire to waive this. Chairman Woodfin suggested striking that ADRC recommendation.

The Board adopted the findings of fact which were discussed and determined to include information provided in staff reports, applicant's submission and testimony provided during the public hearing.

On a motion by Mr. Santacruce, seconded by Councilor Pierce, the Board voted to **grant Architectural Design Review Approval** of the building and site plan as submitted without the curvature recommendation.

All in favor. Motion passed unanimously.

On a motion by Mr. Santacruce, seconded by Councilor Pierce, the Board voted to **Grant the following waiver(s) to the Site Plan Regulations** using the 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:

- Section 19.01 Compliance with Zoning Regulations, to not provide vertical granite curbing on the common private drive in front of Cottages 39 and 40 where it would normally be required. The curbing for this area is to be constructed during Phase 4 of the master campus project.
- Section 16.03 (9) Colored Renderings, to not provide colored renderings normally required for each building elevation.

All in favor. Motion passed unanimously.

On a motion by Mr. Santacruce, seconded by Councilor Pierce, the Board voted to **Grant the Conditional Use Permit (CUP)** in accordance with Section 28-4-4(d) of the Zoning Ordinance (ZO) to allow disturbance to the buffer of a bluff for the demolition and construction of building 41 and associated surface facilities with the condition that storm or sanitary sewer structures are located outside the buffer.

All in favor. Motion passed unanimously.

On a motion by Mr. Santacruce, seconded by Councilor Pierce, the Board voted to **Grant Major Site Plan approval** for the proposed site redevelopment plan which will include demolition and reconstruction of three buildings, a connection for a future internal road, a pavilion, and additional site improvements at 149 East Side Drive, subject to the following precedent and subsequent conditions noted below:

- (a) **Precedent Conditions** – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building permits, or the commencement of site construction, unless otherwise specified:

- (1) Address all review comments to the satisfaction of the Planning Division.

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- (2) Address all review comments to the satisfaction of the Engineering Services Division.
 - (3) Waiver(s) granted are to be noted and fully describe on the plan, including the date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), or the applicant cannot meet conditions of the waiver, the applicant shall comply with said submission requirements.
 - (4) 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), applicant shall comply with said submission requirements.
 - (5) Final plans shall be signed and sealed by the NH Registered Land Surveyor, Landscape Architect, and Professional Engineer.
 - (6) 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 items to be addressed.
 - (2) Prior to issuance of a Certificate of Occupancy for each phase, 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.

All in favor. Motion passed unanimously.

- 7C. Nobis Group, on behalf of Dakota Partners, requests Major Site Plan approval for construction of 3 new 3-story multifamily buildings totaling 98 units and related site improvements and a Conditional Use Permit (CUP) for construction of fewer parking spaces than is required at 103 Old Loudon Road in the Medium Density (RM) District. (2023-124)

This application was determined complete and not a Development of Regional Impact at the July 19th, 2023 Planning Board meeting.

A Staff report was provided by Ms. Shank. Staff has issues that are outstanding, i.e. the traffic study. Staff is requesting approval subject to conditions that any issues discovered in the traffic review will be addressed. Water study is also being completed by Wright Pierce. Sewer permits are a first come / first serve issue. They are requesting a waiver and a CUP. Staff is in support of both of these. The condominium plat was not accurate and removed from Staff approval. Staff suggested to the Applicant to return next month for approval for the Major Subdivision Condominium plat. Ms. Shank provided the Board with a revised recommendation.

Chairman Woodfin opened the public hearing. Morgan Dunson (Nobis), Mark Pilotte (Dakota Partners), and Bob Duval (TF Moran, Traffic Engineer) presented the application.

Currently there are three existing buildings on this site, including a small residential house, a barn with a residential unit attached, and another barn. There is a brook running through the property that is in the Shoreland Protection District and has a 75-foot setback, which leaves the property through a culvert under Old Loudon Road. They are also bounded by another wetland area to the west that has a 50-foot buffer setback.

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The Applicant is proposing multifamily dwellings. This project will be phased. The first phase is buildings A and B. Phase 2 will be buildings C and D (30-unit buildings). The Applicant is proposing land condo units for the existing buildings. They are historic.

Ms. Dunson pointed out that they will have one driveway that circles around back to Old Loudon Road. They are removing one driveway on the east side. The first phase will include 38 units, a majority affordable housing, and ten being market rate. In the second phase, involving 60 units, they will all be affordable units.

On the east side, there is land that is sloped and vegetated. He is considering putting it into a Conservation Easement.

The Applicant is asking for a waiver to Section 22:07 (2), Storm Water Design, to allow three-feet of separation to storm water, where four feet are required because of the significant cut and being on a large hill. If separation can't be made, they will be redesigning the systems as a filtration gallery with a sand filter layer and a liner.

They are also seeking a CUP in accordance with Section 28-7-11(b) to allow for fewer parking spaces to be constructed. The City requirement is two spaces. They are proposing 1.5 spaces with the ability to build an additional 49 spaces. The additional 49 parking spaces would be constructed with porous asphalt and require multiple retaining walls.

For utilities they are providing connections to City sewer, water, and connecting to electric. Propane tanks will be utilized gas. The condos will have separate connections for sewer and water. There is no existing sewer within Loudon Road. There are multiple culvert crossings in the road. This prevents them from doing gravity sewer.

They are asking to pay a fee in lieu of the sidewalks. There is a significant brook and culverts that run through the site that creates an obstacle for sidewalk development. Ms. Dunson stated they are unable to figure the best location for the sidewalk at this time of the project.

They received two variances from ZBA to allow for multifamily dwelling units in this district as well as permission to increase the density of the unit per acre allowance.

There are sidewalks that connect all the parking areas and driveways. There will be two subsurface galleries total, Phase 1 having its own. They are not increasing peak flows in post conditions. For Phase 2 they are proposing an additional subsurface gallery.

The landscape plan proposes shade trees along the perimeter and a tree barrier screening between the proposed development and surrounding houses. There is a significant tree buffer between 393 and the development. It is densely forested area.

Mr. Santacruce would like to see additional turning movements provided on the truck turning plan for emergency vehicles. It currently shows left in and right out of the site. He'd like it to include reverse direction in case the emergency vehicles take a different route.

Mr. Kohalmi (Assistant City Engineer) confirmed that they should have separate connections for the sewer main to the street. The plan indicates separate buildings to have separate connections to the sewer. There are easements for where they cross the property.

Mr. Santacruce asked what the profile of the driveway is. It appears to go up and down. He wondered if the manhole catch basins were at a low point 100-feet up the road. Ms. Dunson confirmed that the road goes up all the way. There are four catch basins total. Ms. Dunson will make sure it is a ditch designed to hold the water so it doesn't flow to Loudon Road.

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Mr. Santacruce questioned whether the waiver for the sidewalk is because it can't be built or that because of the culvert it makes it difficult. After a site visit, he felt a sidewalk could be placed. Mr. Pilotte acknowledges that it can be built in some fashion but it would be difficult and fears it would be built to nowhere. Mr. Santacruce stated that if they built their portion of the sidewalk, the City could build the rest and add a crosswalk, therefore not being to nowhere. Ms. Shank informed the Board that this would not be consistent with past applicants as those developments had feasible placement scenarios. She she notes that there are many technical issues. She is unable, at this time, to confirm which side the City would place a sidewalk. Staff did not feel comfortable making the Applicant establish a sidewalk without this information.

Ms. Smith-Meyer stated that the planting details were not the City's. The City's show the current best management practices. She is asking that the burlap be removed from the root ball. She is also asking that a condition be placed requiring planting stakes be removed after the first full season.

The developers are not utilizing the gas line because it would not be cost effective to bring the line to the development. Propane is more cost effective, especially having to bring the gas line to the property. Mr. Santacruce asked if the developers have considered renewable energy. Mr. Pilotte didn't feel this option to be cost effective. They make their structures cost effective instead. There is seventy-five-foot shoreline buffer on one side and a fifty-foot wetland buffer on the other side, leaving limited space for solar panels, etc.

Public Comment.

Carl Sergeant is concerned about traffic and the increase there has been over the past couple of years. Sidewalks on the south side of Old Loudon Road would be helpful for the number of people that run, jog, and walk to the City and the trail system. He is concerned for the entrance design.

Eric Gallagher, from Concord Ward Six, is in support of additional housing. He is slightly concerned for the waiver regarding not doing the sidewalk. He feels the City needs these. He would like to see the sidewalk built with this development.

The Board adopted the findings of fact which were discussed and determined to include information provided in staff reports, the applicant's submission and testimony provided during the public hearing.

On a motion by Councilor Pierce, seconded by Mr. Fox, the Board voted to **grant the waiver** to Section 22.07 (2) the Site Plan Regulations, Stormwater Design Standards, to allow a minimum separation of 3 feet where 4 feet is required between the bottom of the stormwater system and water table, based on the soil conditions and permitted NHDES standards, utilizing the criteria of RSA 674:44(1) and (2), which state that strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.

All in favor. Motion passed unanimously.

On a motion by Councilor Pierce, seconded by Chairman Woodfin, the Board voted to **grant the Conditional Use Permit** in accordance with Section 28-7-11(b), Construction of Fewer Parking Spaces, of the Zoning Ordinance to construct fewer parking spaces than are required.

All in favor. Motion passed unanimously.

On a motion by Mr. Fox, seconded by Councilor Pierce, the Board voted to **grant ADR approval** for the architecture and site layout, with the condition that false windows be provided in areas where a blank wall is proposed adjacent to a utility room.

All in favor. Motion passed unanimously.

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On a motion by Ms. Smith-Meyer, seconded by Councilor Pierce, the Board voted to **grant Major Site Plan approval** for the proposed multifamily development at 103 Old Loudon Road, subject to the following precedent and subsequent conditions noted below:

- (a) **Precedent Conditions** – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building permits, or the commencement of site construction, unless otherwise specified:
 - (1) Address all review comments to the satisfaction of the Planning Division.
 - (2) Address all review comments to the satisfaction of the Engineering Services Division.
 - (3) Submit an estimate for the fee in lieu of the sidewalk to Engineering Services Division for review and approval. The fee shall be based upon cost of design and constructing sidewalk in accordance with City standards along the frontage of the site. The fee shall be submitted prior to obtaining any Certificates of Occupancy.
 - (4) Address all traffic and utility issues to the satisfaction of the Engineering Division, or return to the Board to discuss alternatives.
 - (5) Resubmit for review and approval a condominium plat clarifying land unit condominiums 1, 2, 3, and 4, and a separate plat indicating sub unit building condominiums. Revise declaration of condominium documents to refer to the correct property addresses and land units.
 - (6) Condition 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), applicant shall comply with said submission requirements.
 - (7) Waiver(s) granted are to be noted and fully describe on the plan, including the date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), or the applicant cannot meet conditions of the waiver, the applicant shall comply with said submission requirements.
 - (8) Final plans shall be signed and sealed by the NH Registered Land Surveyor, Landscape Architect, and Professional Engineer.
 - (9) 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 items to be addressed.
 - (2) Prior to issuance of a Certificate of Occupancy for each phase, 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) Traffic and recreation impact fees shall be assessed for any residential construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained

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in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.

a. Recreational Facilities – Multi-unit/Apartment

b. Transportation Facilities - Multi-unit/Apartment

All in favor. Motion passed unanimously.

- 7D. Keach Nordstrom, on behalf of James Palmisano, requests Major Site Plan approval for construction of a new 144-unit age restricted residential development consisting of three new 3-story multifamily buildings, a clubhouse, and related site improvements and a Conditional Use Permit (CUP) for disturbance of a wetland buffer at 33 Old Loudon Road in the Medium Density (RM) District. (2023-113)

Chairman Rich Woodfin recused himself. Councilor Pierce acted as Chairperson.

This application was determined complete at the June 21, 2023 Planning Board meeting. At the July 19, 2023 Planning Board meeting, the Applicant requested to have their public hearing continued to August 16th, 2023.

A staff report was provided by Mr. Bass. Staff added a note regarding the sewer indicating the capacity issues. These issues do not guarantee a sewer connection permit based on capacities and flows. The Architectural Design Review Committee is recommending approval with the condition that lighting be provided by the waste receptacles, pickleball court, and pool areas.

The Applicant is requesting a Conditional Use Permit for the impact to the wetland buffers. Conservation Commission requested that the stone rip-rap be extended to the base of the slopes. The Applicant has since revised their plans. Staff has reviewed and revised their reports. Three waiver requests have been submitted. The first waiver request is for three feet of separation where four are required. Staff is in support of this waiver.

Second, they are requesting to not extend the sanitary sewer connection to the middle of their property frontage. Staff is in support of this waiver because the feasibility to continue a sewer main is not conducive. Staff wants to indicate that the sewer that is extended be in the middle of the roadway.

The Applicant is also requesting a waiver for a driveway width of 56 feet wide, where normally a maximum of 28 feet is permitted. Their driveway also has 50-foot radii, exceeding the limit by 25 feet, to allow for the turning movements. Staff is recommending that the Board discuss the driveway layout. Staff is in support of this waiver as it is for emergency vehicles.

The Applicant has proposed a 15-foot wide trail easement along their property. Staff recommended the Board discuss the possibility of coordinating with the abutting property owner to provide a full pedestrian access easement between Portsmouth Street and Old Loudon Road.

Staff would also like the Board and Applicant to discuss implementing renewable energy equipment.

The Applicant had proposed a crosswalk from their site to the proposed sidewalk on the southern side of the road. Staff requested they add a street light if there is not already one there. The Applicant has been asked to confirm presence and operation.

Councilor Pierce opened the public hearing. Matt Peterson (Keach Nordstrom Associates), Nick Palmisano (33 Old Loudon Road LLC), and Bob Best (Sulloway & Hollis, PLLC) presented the application.

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The Applicant would like to address the landscaping questions regarding where the house was removed. The Landscape Architect added more greenery behind the units. The sidewalk has been discussed on the south side of the property (Old Loudon Road). The developers feel it makes the most sense with keeping the internal loop and the residential proximity. As far as the driveway entrance, the right turn lane needs to be a 50-foot radius to accommodate emergency vehicles. If they removed the center island, it would reduce their waiver down to 48 feet instead of 56.

The Applicants are amenable to placing the sewer at their driveway entrance as requested by Engineering. The grade reduces too much for covering the pipe down the road.

The separation waiver is for the front retention pond within a low depression area. They have been working with AoT and staff on this.

Ms. Smith-Meyer encouraged the developers replace the crab apple trees with more shade trees, and get rid of the shrubs that surround the tree bases.

Mr. Santacruce noted an abundance of signage at the main entrance. He reminded the Applicant that the W-11-2A cross walk signs are no longer acceptable. They are required to be the 11-2. He went further to state that the stop signs should be standing / mounted alone. He feels it would be preferable to show the R-4-F-7, the symbol to keep right, as opposed to the wording.

Mr. Santacruce would like to see snow storage added to the plans in the correct places. Mr. Peterson was amenable to adding this to the renderings, located in the sediment basin.

Mr. Santacruce feels the sidewalk should be on the side of the residential buildings. Staff felt that the wetlands that abut the road would cause issue with adding a sidewalk on that side.

The Applicants did attend a Zoning Board meeting for the length and height of the building.

Public Comment:

Carl Sergeant is encouraged by the entrance being moved. He is also encouraged by Ms. Smith-Meyer's request for shade trees.

He is concerned about the Philips property and the development's back lawn. He would like the developers to place a hedge of trees at the top of the ravine.

Councilor Pierce asked if the Applicants would be willing to talk to the Philips. Mr. Peterson noted that there is an existing substantial buffer of trees and a cell tower. Mr. Sergeant noted that Ms. Philips is not able to be here because she is not well and her son would have to fly in. He suggested staggering some white pines at the top of the bluff.

With no additional comments from staff, members of the Board, or public, Chairman Woodfin closed the public hearing.

The Board adopted the findings of fact which included the information provided in staff reports and the applicant's submission materials, and testimony provided during the public hearing.

On a motion by Ms. Rosenberger, seconded by Ms. Savage, the Board voted to **grant Architectural Design Review Approval** of the building and site plan as submitted with the condition that lighting be provided by the solid waste receptacles, pickle ball court and the pool areas.

All in favor. Motion passed unanimously.

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On a motion by Ms. Rosenberger, seconded by Mr. Fox, the Board voted to **grant the following waiver(s)** to the Site Plan Regulations using the 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:

- Section 22.07 (2) Storm Water Recharge, to allow 3 feet of separation between the bottom of the infiltration system and groundwater for Infiltration Pond #1 where normally 4 feet is required.
- Section 18.10 Driveway Widths, to allow a maximum driveway width of 56 feet where normally 28 feet is required and to also allow driveway radii at the public street of 50 feet where normally a maximum of 25 feet is allowed to accommodate the turning motion required for fire truck access into the site.

All in favor. Motion passed unanimously.

On a motion by Ms. Rosenberger, seconded by Ms. Savage, the Board voted to **grant the following waiver(s)** to the Subdivision Regulations utilizing the criteria from RSA 674:36(II)(N)(2): Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations, and based on the fact that no new development is proposed:

- Section 25.02 Municipal Sanitary Sewers, to not require the sanitary sewer extension to extend to the middle of the parcel frontage on Old Loudon Road.

All in favor. Motion passed unanimously.

On a motion by Mr. Fox, seconded by Ms. Smith-Meyer, the Board voted to **grant the Conditional Use Permit (CUP)** in accordance with Section 28-4-3(d) of the Zoning Ordinance (ZO) to allow for four disturbances to the 50 ft wetland buffer for the construction of two walls and two drainage outlets with the condition that the stone rip rap at both drainage outlets extend to the base of the slopes to protect against erosion.

All in favor. Motion passed unanimously.

On a motion by Ms. Rosenberger, seconded by Mr. Fox, the Board voted to **grant Major Site Plan approval** for the proposed site redevelopment plan including 3 new multi-family, age restricted housing buildings, club house and other associated site improvements at 33 Old Loudon Road in the Medium Density Residential (RM) District.

(a) **Precedent Conditions** – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building permits, or the commencement of site construction, unless otherwise specified:

- (1) Address all review comments to the satisfaction of the Planning Division.
- (2) Address all review comments to the satisfaction of the Engineering Services Division.
- (3) Waiver(s) granted are to be noted and fully describe on the plan, including the date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), or the applicant cannot meet conditions of the waiver, the applicant shall comply with said submission requirements.
- (4) 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), applicant shall comply with said submission requirements.

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- (5) Dedication of the proposed 15' wide trail easement to the City of Concord shall be recorded at the Merrimack County Registry of Deeds prior to final plan approval.
 - (6) Final plans shall be signed and sealed by the NH Registered Land Surveyor, Wetland Scientist, Landscape Architect, Architectural Engineer and Professional Engineer.
 - (7) Submit three (3) copies of final plans for sign off by the Clerk and Chair of the Planning Board.
 - (8) Proposed crab apple trees placed behind buildings are to be replaced with shade trees and that planting stakes be removed after the first growing season.
 - (9) Applicant to work with Engineering to revise street signage at entrance to be compliant with current MUTCD recommendations.
- (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 items to be addressed.
 - (2) Prior to issuance of a Certificate of Occupancy for each phase, 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) Traffic and recreation impact fees shall be assessed for any residential construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.
 - a. Recreational Facilities – Multi-unit/Apartment
 - b. Transportation Facilities – Multiunit/Apartment

All in favor. Motion passed unanimously.

Chairman Woodfin resumed his role as Chairman.

Other Business

8. Council referral regarding a request to discontinue a portion of the Stickney Avenue right-of-way.

Before the Applicants were able to come for their site plan, they had to get the Stickney Ave existing right of way removed that ran through the frontage of their property. Council took an action to remove that right of way. Unfortunately, the plan the Council referred to only reflected the right of way going through the property in question, and not the State property as well. In order for the Applicants to get the full access they need, and have the City's right of way removed, there needs to be an updated Council motion.

Currently, the City has an easement up to the Applicant's property. Staff asked the Applicant to work with the State to obtain an easement that extends the rest of the length of their property. The Applicant seemed amenable to this idea.

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Chairman Woodfin sought clarification on where the easement currently ends. Chairman Woodfin does not want to see a gap in the trail system if this doesn't go through. Ms. Shank stated this action would prevent that from happening.

At the request of the Board, Chairman Woodfin motioned, seconded by Ms. Smith-Meyer, to recommend Council approve the release of the right of way subject to the 11 Stickney Ave property owner, securing a 5-foot easement with the State along the frontage of their lot in the location indicated on the plan presented by Staff during the 8/16/23 meeting for the purpose of potentially expanding an existing sidewalk to the future to accommodate the Merrimack River Greenway Trail.

All in favor. Motion passed.

9. Statutory Deadlines

Ms. Shank reviewed the handout she provided that covered the statutory deadlines. When staff receives a Determination of Completeness, it has 30 days to determine it complete or inform the Applicant that it is not complete so they can provide the information needed.

Complete means that you have enough information to consider the application and to make a decision. After the, application is determined complete, the Board has 65 days to act (95 days for Developments of Regional Impact) on that application unless the Applicant agrees to a waiver to extend after the 65 days.

If at the end of the 65 or 95 days, there still isn't enough information, the Application can request an extension or the Board can deny the application. The basis for the denial must be stated. If the Applicant does not agree to an extension and the Board does not make a motion, the Applicant can request that Council approve the application. If City Council doesn't approve the application, the Applicant has 30 days to ask the Superior Court to approve the application.

Chairman Woodfin suggested including where the application is in this timeline at the time of their hearing, maybe within the Findings of Fact. Knowing how many days are left would aid the Board in making time-appropriate, precise, decisions.

Members of the Board expressed frustration with the quality of plans being submitted. Ms. Rosenberger asked that Staff make a deadline for submissions when a vote is being required. It is hard to review last minute submissions prior to getting here. Ms. Shank noted that they cannot prevent applicants from showing up at the meeting with new plans. It is up to the Board to tell them that the time given is insufficient for review.

The Board would like to have Jim Kennedy, City Solicitor attend a meeting to review this.

10. Architectural Design Review Committee Member

On a motion Chairman Woodfin, seconded by Mr. Fox. Amanda Savage will be an Alternate for the Architectural Design Review Committee and Doug Proctor will become a permanent member.

All in favor. Motion passed unanimously.

11. T.F. Bernier, Inc, on behalf of Kevin Porter, requests Minor Subdivision approval for a 2-lot subdivision at 35 Reserve Place in the Open Space Residential (RO) Districts (2023-119). The applicant has requested to postpone to the September 20, 2023 meeting.

See below.

12. Eckman Engineering, on behalf of Continental Paving, requests a Conditional Use Permit (CUP) for disturbance of a wetland buffer at 320 Sheep Davis Road in the Gateway Performance (GWP)

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District. (2023-125) The Applicant has requested to be postponed to the September 20, 2023 Planning Board meeting.

On a motion by Councilor Pierce, seconded by Mr. Fox, the Board voted to continue items 11 and 12 to the September 20, 2023 Planning Board meeting.

All in favor. Motion passed unanimously.

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

Adjournment

At the request of Chairman Woodfin, Mr. Santacruce made a motion, seconded by Mr. Fox, to adjourn the meeting. All in favor. The motion passed unanimously at 9:15 PM.

Next regular monthly meeting is Wednesday, September 20th, 2023 at 7:00 p.m.

TRUE RECORD ATTEST:

Alicen Twardosky
Administrative Specialist II