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CITY OF CONCORD

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

Staff Report for Planning Board

Meeting on May 21, 2025
Project Summary – Minor Site Plan

Project: Minor site improvements (2025-045)
Property Owner: Cornerstone Realty Holdings LLC
Applicant: Nobis Group
Project Address: 119 Old Turnpike Rd
Tax Map Lot: 751Z 24

Determination of Completeness:

Per Section 7.06 *Determination of Completeness* of the Site Plan Regulations, a completed application will contain the required information listed in Section 15 *Minor Site Plan Submittal Requirements* of the Site Plan Regulations and will be legible and competently prepared. In making a determination of completeness, the Board shall consider the written recommendation of the Planning Division, as well as 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.** If 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.

Section 36.14(1) *Determination of Completeness* provides additional language regarding the determination of completeness, and states that a completed application shall contain all required information for each stage of the application process; shall be legible and properly prepared; shall accurately portray existing conditions; shall be accompanied by copies of special investigative studies; and shall contain sufficient information and detail for a full review and action by the Board.

The Planning Division reviewed the application for completeness based upon the criteria of the Site Plan Regulations and concludes that the application does contain sufficient information and detail for a full review and subsequent action by the Board.

Based upon the Planning Division's review of the application, the Planning Division recommends that the Board move to:

- Determine the application complete;
- State that the project does not meet the criteria for a development of regional impact per RSA 36:55; and
- Open the public hearing.

The Board has 65 days within which to consider and act on the application once the application is determined complete, per RSA 676:4(I)(c). The 65-day period shall commence upon the date of the

regular meeting of the Board at which the application was accepted as complete. If the Board determines the application complete on May 21, 2025, then the 65-day review period would end on July 25, 2025. If the applicant has not demonstrated compliance with the Site Plan Regulations by the end of the statutory timeline (July 25, 2025), the applicant may request a postponement or the Board may approve, approve conditionally, or deny the application based on the information provided.

Project Description:

The site is fully developed with a one-story building constructed in 1968, another one-story building constructed in 1969, a single-family dwelling toward the front of the property, 20 Conex storage containers along the southwesterly boundary, and a substantial portion of asphalt paving. The site is subject to a 30-foot-wide City sanitary sewer easement that runs from the southwesterly lot line through to the site's northeasterly lot line. A comparison between aerial photos from 2023 and 2024 shows that a large amount of the asphalt paving occurred in that time period, along with the installation of the aforementioned Conex storage containers. The installation of the Conex storage containers created additional impervious surface, which required submittal of a minor site application. Said submittal did not take place at the time, and the property owner now seeks the required minor site plan approval after the fact. Additionally, three of the Conex storage containers are within the City's 30-foot-wide sanitary sewer easement, and asphalt was poured over some of the manhole covers within the easement. This application also seeks to rectify those issues by relocating the three Conex storage containers outside of the easement and removing the asphalt over the manhole covers. Additionally, the applicant is proposing to remove pavement and other encroachments on the City's abutting property.

The IN District has minimum setback requirements of 50 feet front, 30 feet rear, and 25 feet sides, as well as a maximum lot coverage requirement of 75%. In this case, the southwesterly boundary is a side lot line, the northerly boundary is the rear lot line, and the Conex storage containers along that side lot line and the rear lot line are within the required setback areas. The property owner requested, and received approval for, an equitable waiver of dimensional requirement on February 5, 2025, to address the side and rear setback encroachments of the Conex storage containers.

Compliance:

The following analysis of compliance with the Zoning Ordinance and Site Plan Regulations is based on a 4-sheet civil plan set, dated April 16, 2025, prepared by Nobis Group and a narrative, dated April 16, 2025, prepared by Nobis Group.

1. Project Details and Zoning Ordinance Compliance:

Zoning District:	Industrial (IN) District
Existing Use:	Industrial
Proposed Use:	No change to existing use

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

Zoning Code Item	Required	Existing (per submitted site plan)	Proposed
Minimum Total Area	40,000 square feet	183,462 square feet (existing conditions plan shows 182,829 square feet)	No change
Minimum Buildable Land	20,000 square feet	125,264 square feet	No change
Minimum Lot Frontage	200 feet	291.57 feet	No change
Minimum Front Yard	50 feet	117 feet	No change
Minimum Rear Yard	30 feet	Varies	No change
Minimum Side Yard	25 feet	Varies	No change
Maximum Lot Coverage	85%	68% (per submitted site plan)	64%
Maximum Building Height	45 feet	One-story buildings Conex containers 9 feet 6 inches	No change

- 1.1 A review of compliance with the dimensional standards shows the following:
- The minimum total area and buildable land requirements are met.
 - The minimum lot frontage requirement is met.
 - The existing building identified as a house meets all setback requirements.
 - The Conex storage containers in their current location do not meet the minimum side or rear setbacks, but approval was granted by the Zoning Board of Adjustment on February 5, 2025, for an equitable waiver of dimensional requirements to address the encroachment issue of the storage containers.
 - The site plan shows that three of the Conex storage containers will be moved from their current location along the southwesterly boundary to the northernmost area of the site. The site plan shows that the containers will be placed to meet the minimum setback requirements
 - The most northerly corner of the rear building encroaches into the rear setback by two feet, but this is a legally nonconforming building and no increases to the nonconformity are proposed.
 - The front building encroaches into two side setbacks, but this building is also a legally nonconforming building and no increases to the nonconformities are proposed.
 - The site plan shows an existing lot coverage of 68%, which is under the maximum allowed. The site plan proposes removal of some of the existing asphalt along the rear property line, which will reduce the lot coverage to 64%. The lot coverage requirement is met.
 - The height of the buildings was not provided, but they are all identified as one-story buildings. No additions to existing buildings are proposed, and no new construction is proposed. The height requirement is met.
- 1.2 The site is in the IN District, and the use of Conex storage containers for storage rental is a permitted use.
- 1.3 Per Section 28-4-2(b)(1), in nonresidential districts, nonresidential uses on lots which directly abut a residential district boundary shall provide on the premises within the nonresidential district a buffer that is immediately adjacent to the residential district boundary, in accordance with the width standards contained in the table. Such width standards provide a requirement of a 15-foot-

wide buffer in the IN District for structures up to 20 feet in height or for a use with no structure. In this case, the site is surrounded on all sides by the IN District, except the northernmost property line, which is directly abutting a residential district boundary. The three Conex storage containers that will be placed in the northernmost corner do not exceed 20 feet in height; therefore, the placement of these containers triggers the requirement to install a 15-foot-wide buffer along the northernmost property line in accordance with Section 28-4-2(d). The submitted site plan shows installation of a 15-foot-wide landscape buffer along the northernmost property line.

- 1.4 Section 28-7-7(g)(2) *Setbacks from lot lines* of the Zoning Ordinances states that no off-street parking shall be located within five feet of any lot line. Most of the site appears to have been paved for a number of years. Between 2023 and 2024, the paving was refreshed, and also expanded to the rear property lines. Pavement and other encroachments were also expanded onto the City's landfill property to the north without permission. The portion of asphalt paving that was added appears to be being used for off-street parking. Accordingly, the portion of expanded asphalt paving that is being used for off-street parking needs to be removed to be compliant with this section of the Zoning Ordinance. The site plan shows removal of the expanded portion of asphalt paving such that it will be five feet from the property line to produce compliance with this section of the Zoning Ordinance. Any other portions of paving or off-street parking that are not compliant with the Zoning Ordinance are allowed to remain in their current state per Section 28-8-4(a)(1). To be clear, the reason the portion of paving along the rear property lines needs to be removed is because it is paving that was not in place and is an enlargement or increase that occupies a greater area of land that was occupied prior to the paving taking place.

- 1.5 Section 28-8-4(a)(1) states that nonconforming characteristics of a use such as off-street parking and loading, lighting, landscaping, or similar features may continue so long as they remain otherwise lawful and provided that no nonconforming characteristics are enlarged, increased, or extended to occupy a greater area of land. In this case, any features of the site that are nonconforming are allowed to remain. The only features that need to be removed are those that expanded, which are specifically the expansion of asphalt paving for off-street parking along the rear property lines.

2. Comments:

- 2.2 Per Section 6.01(1) *Application Required*, whenever any development, redevelopment, or change of use of land, buildings, or structures is proposed, before any building permit for the erection or modification of an existing structure in such proposed development shall be granted, the property owner, or authorized agent, shall apply for and secure site plan approval in accordance with Section 28-9-4(d) *Site Plan Review* of the Zoning Ordinance. The impervious surface added because of the addition of the 20 Conex storage containers between 2023 and 2024 requires site plan approval, pursuant to Section 28-9-4(d)(2)(d) which requires site plan review for installation of 1,500 square feet or more of impervious surface for a nonresidential use.
- 2.3 Per Section 6.01(4) *Conformity with Zoning*, for an application to be determined complete, the proposed application must be in conformity with the Zoning Ordinance. The application as presented conforms with the Zoning Ordinance. Staff notes that the site is an existing site that is fully developed with landscaping, lighting, off-street parking, and buildings. Section 28-8-4(a)(1) provides for continuation of nonconforming characteristics of a use provided that such nonconforming characteristics are not enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of this ordinance. No expansions to lighting, off-street parking, or buildings are taking place. Landscaping will be added to the northernmost

property line adjacent to the residential district to comply with buffer requirements, which are triggered because three of the Conex storage containers are being moved to this northernmost corner of the site. With the removal of the added asphalt within five feet of the rear property line, the installation of the required buffer along the northernmost property line, coupled with the approved equitable waiver, these improvements will bring the site into compliance with the Zoning Ordinance.

- 2.4 Per Section 6.01(5), where conditional use permits are required in conjunction with the proposed site plan application, a completed conditional use permit application shall be made at the same time as the site plan application. Where a conditional use permit is required, no site plan application may be considered complete without the complete conditional use permit application. No conditional use permits are required for this application.
- 2.5 Per Section 12.01, applicants are responsible for familiarizing themselves with all City, State, and Federal regulations relative to zoning, site plan design and approval, 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 The Assessing Department reviewed the application and noted that Tax Map Lot 751Z 21 is owned by the City of Concord and not leased to Casella.
- 2.7 The Engineering Services Division reviewed the application and had no general comments.
- 2.8 The Fire Department reviewed the application and had no general comments.
- 2.9 The General Services Department reviewed the application and noted that the previously paved-over sewer manholes should be raised to grade.

3. Compliance with Site Plan Regulations:

The following items from Sections 12, 13, 15, and/or 16 of the Site Plan Regulations are missing from the application, all of which are minimum components necessary to determine the application complete:

- 3.1 Per Section 15.03 *Existing Condition Plan*, existing conditions may be shown on the site plan where existing and new information can be legibly and clearly shown. Where minimal changes are proposed to the site, the Clerk of the Planning Board may allow the applicant to reduce the amount or extent of the information to be provided in Section 15.03 *Existing Condition Plan*, provided that the proposed extent and impacts of the proposed improvements to the site, and the City at large, can be satisfactorily reviewed and sufficient information is provided for the Planning Board to act on the application. In this case, the site is fully developed, no new or additional construction is taking place, no exterior modifications to the buildings are proposed, and no changes to the site are proposed other than relocating three of the containers, installing a landscape buffer, and removing some asphalt. Accordingly, the information provided in the submitted existing conditions plan is sufficient for the Planning Board to act on the application, and no further comment is needed regarding Section 15.03 *Existing Condition Plan*. Additionally, the applicant requests a waiver from this section.
- 3.2 The submitted plan set provides all information needed for a complete review and action by the Planning Board. Certain items required by Sections 12, 13, 15, and/or 16 for a complete

determination are missing from the submittal, but the applicant requests waivers accordingly, and the items are minor in nature and not necessary for a review of the application.

The items below are missing from the application, but they are not required as part of the determination of completeness and are, therefore, allowed to be addressed as conditions of approval.

- 3.3 The site plan shall be revised to revise the 15-foot-wide landscape buffer to state which of the required five buffer options from Section 28-4-2(d) *Buffer Landscape and Improvement Standards* of the Zoning Ordinance is being utilized **and** to clearly illustrate and note how the stated option is being met.
- 3.4 For accuracy, revise the abutter information for Tax Map Lot 751Z 21 to accurately note the lot as being owned by the City of Concord and not leased to Casella.
- 3.5 Revise Sheet C-1.0 as follows:
 - a. Show the address of the site buildings.
 - b. Show the storm drain line connection of catch basin 2582. If the location is within the City's sewer easement, provide documentation for its approval by the City.
 - c. Show a detail for inlet protection.
 - d. Add Detail SD-5 from Concord Construction Standards and Details for adjusting frames to grade.

4. Variances:

- 4.1 No variances are requested. An equitable waiver of dimensional requirement was granted by the Zoning Board of Adjustment on February 5, 2025, to allow Conex storage containers within the 25-foot side and 30-foot setback areas.

5. Waivers:

- 5.1 The applicant requests waivers from the following sections of the Site Plan Regulations:
 - a. Section 12.02(1)(b), to not show the address of the applicant on the existing conditions plan;
 - b. Section 12.03(3), to not provide a signature and seal of a New Hampshire licensed landscape architect on a landscape plan;
 - c. Section 12.04 *Location Plan*, to not provide a location plan on the site plan;
 - d. Section 12.06(3), (4), and (5), to not provide plan references on the site plan;
 - e. Section 12.08 *Electronic Submission*, to not provide a digital site plan prior to final approval;
 - f. Section 12.09 *As-Built Drawings*, to not provide as-built drawings prior to issuance of a certificate of occupancy;
 - g. Section 15.01(1), (3), (4), (5), and (7), to not provide all items from Sections 12 and 15 as per the requested waivers;
 - h. Section 15.03 *Existing Condition Plan*, to only provide the items shown on the submitted existing conditions plan;
 - i. Section 15.04(10), (11), (13), (14), (21), (24), (25), and (26), (27), and (28), to only provide the items shown on the submitted site plan;
 - j. Section 16.02(12), (13), and (22), to not provide these items required for a major site plan; and

- k. Sections 18, 19, 22, 27.03, and 27.07, to not provide these items required for a major site plan.

The applicant provided an analysis of the five waiver criteria listed in Section 36.08 of the Site Plan Regulations, and the criteria in RSA 674:44(III)(e)(2).

Staff reviewed the evidence submitted and supports the waiver requests. The information provided in the application materials is all that is needed to review the project, given that there are no changes proposed to the site other than relocating three of the Conex storage containers; no changes to the existing landscaping or off-street parking other than adding a required landscape buffer and removing a portion of asphalt paving as depicted on the site; no changes or renovations to the exterior of the existing buildings and none required; no new impervious surface and none required, thus no need for a stormwater management plan, grading and drainage plan, or erosion control plan; and, no building additions or expansions. Accordingly, staff concurs with the applicant's statement that strict conformance with providing all the data required by the Site Plan Regulations provides little to no informational value in reviewing the application to show relocation of three storage containers, the addition of a landscape buffer, and removal of a small area of asphalt paving.

6. Conditional Use Permits:

- 6.1 No conditional use permits are requested.

7. Architectural Design Review:

- 7.1 Architectural design review is not necessary for this application.

8. Conservation Commission:

- 8.1 No appearances before the Conservation Commission are necessary for this application.

9. Recommendations:

- 9.1 Staff recommends that the Planning Board discuss and adopt the findings of fact, which include: information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and, other documents or materials provided in the public hearing.

Based on the adopted findings of fact, staff recommends that the Planning Board make the motions outlined below:

- 9.2 **Grant the waiver requests below** from the listed sections of the Site Plan Regulations, based on evidence provided showing that the criteria of RSA 674:44(III)(e) and Section 36.08 of the Site Plan Regulations are met, to not show all information required by the section and to instead only show the information provided on the plan set submitted for the public hearing on May 21, 2025:

- a. Section 12.02(1)(b), to not show the address of the applicant on the existing conditions plan;
- b. Section 12.03(3), to not provide a signature and seal of a New Hampshire licensed landscape architect on a landscape plan;
- c. Section 12.04 *Location Plan*, to not provide a location plan on the site plan;
- d. Section 12.06(3), (4), and (5), to not provide plan references on the site plan;
- e. Section 12.08 *Electronic Submission*, to not provide a digital site plan prior to final approval;
- f. Section 12.09 *As-Built Drawings*, to not provide as-built drawings prior to issuance of a certificate of occupancy;

- g. Section 15.01(1), (3), (4), (5), and (7), to not provide all items from Sections 12 and 15 as per the requested waivers;
- h. Section 15.03 *Existing Condition Plan*, to only provide the items shown on the submitted existing conditions plan;
- i. Section 15.04(10), (11), (13), (14), (21), (24), (25), and (26), (27), and (28), to only provide the items shown on the submitted site plan;
- j. Section 16.02(12), (13), and (22), to not provide these items required for a major site plan; and
- k. Sections 18, 19, 22, 27.03, and 27.07, to not provide these items required for a major site plan.

9.3 **Grant minor site plan approval** for the placement of 20 Conex storage containers at 119 Old Turnpike Rd, as submitted, and subject to the following:

- a. Precedent Conditions – Per Section 7.08(9) *Expiration of Approval*, approved site plans shall meet all precedent conditions and obtain the signature of the Chair and Clerk of the Planning Board within one year of the date of the Planning Board meeting where conditional final approval was granted; otherwise said plans shall be null and void.
 - 1. Unless a specific variance, waiver, or conditional use permit is granted stating otherwise, revise the plan sheet to fully comply with the Site Plan Regulations, Zoning Ordinance, and Concord Construction Standards and Details, including but not limited to the following:
 - a. The site plan shall be revised to revise the 15-foot-wide landscape buffer to state which of the required five buffer options from Section 28-4-2(d) *Buffer Landscape and Improvement Standards* of the Zoning Ordinance is being utilized **and** to clearly illustrate and note how the stated option is being met.
 - b. Revise the abutter information for Tax Map Lot 751Z 21 to accurately note the lot as being owned by the City of Concord and not leased to Casella.
 - 2. Revise Sheet C-1.0 as follows:
 - a. Show the address of the site buildings.
 - b. Show the storm drain line connection of catch basin 2582. If the location is within the City's sewer easement, provide documentation for its approval by the City.
 - c. Show a detail for inlet protection.
 - d. Add Detail SD-5 from Concord Construction Standards and Details for adjusting frames to grade.
 - 3. The plan sheet shall list all approved variances, waivers, and conditional use permits with the section numbers and description, and date of approval.
 - 4. Upon notification from the Planning Division that the plan set complies with Planning Board conditions, the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details, the applicant shall deliver to the Planning Division two full-size plan sets for endorsement by the Planning Board Chair and Clerk of the Planning Board.
- b. **Subsequent Conditions** – to be fulfilled as specified:
 - 1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, the municipal code, Site Plan Regulations, and Concord Construction Standards and Details, unless a variance, waiver, or conditional use permit is granted.

2. Deviations from the Site Plan Regulations are only authorized with a waiver approval from the Planning Board. Deviations from the Zoning Ordinance are only authorized with a variance/special exception approval from the Zoning Board of Adjustment or a conditional use permit approval from the Planning Board as applicable.
3. Per the Concord Construction Standards and Details, all work performed in the City shall, as a minimum, conform to the requirements of the latest edition of the manual and the standards contained therein. The more stringent criteria shall apply in the case of conflicts. Deviations from the standards are only authorized with a waiver approval from the Planning Board.
4. Per Section 36.02 *Conditions*, the applicant has the duty to comply with the approved site plan and any reasonable conditions set forth by the Planning Board for design, dedication, improvement, and restrictive use of the land.
5. Per 36.15 *Compliance with Regulations*, no site construction, or change of use of land, shall occur in violation of the Site Plan Regulations and the Zoning Ordinance. No building permits may be issued for any building, structure, site improvement, or change of use prior to site plan approval and the satisfactory completion of any pre-construction conditions of Planning Board approval. The Clerk shall not approve any certificate of occupancy, nor shall any use of a building or site commence, unless the proposed improvements, and the proposed use of land or buildings, is found to comply with the approved site plan and the conditions of Planning Board approval.
6. Per Section 36.17 *Minor and Major Amendments*, the Clerk may approve minor amendment to a site plan previously approved by the Planning Board, if the amendments are not substantive in nature and are fully in compliance with the standards, and are consistent with any condition imposed by the Board. Other changes shall be considered by the Planning Board at the next regular meeting as a further consideration item with appropriate abutter notice. A major change to a previously approved plan shall require a new public hearing before the Board as required for a new application.

Prepared by: KOB