

**Application for Comprehensive Development Plan per Article 28-9-4(e)
City of Concord, NH – Planning Board**

Applicant: Onyx Partners, Ltd.

Owners: Onyx Steeplegate Concord, LLC, Map 611Z, Lot 40
Onyx Regal Concord, LLC, Map 611Z, Lot 39
Onyx TD Concord, LLC, Map 611Z, Lot 9

Project Description

Applicant's comprehensive development plan and associated documents are filed herewith. Applicant's mixed-use redevelopment proposal includes multi-family residential apartments along with retail and restaurant uses. The overall development site will be consolidated and resubdivided to place the existing Applebee's Restaurant and the existing TD Bank facilities upon separate lots with separate ownership as those owners/properties are not part of the redevelopment. The entirety of the redevelopment site is within the City's Gateway Performance District (GWP).

Internally, the redevelopment site will be served by private roadways and drive aisles, with frontage upon and connectivity to multiple City and State public roadways. The redevelopment site is also served by public water and sewer infrastructure.

Owner has commissioned a revised traffic study to explore the function of the nearby intersections, which will consider the reconfiguration of the site with a different mixture of uses and traffic generation. The traffic study will propose potential mitigation upgrades for consideration.

DATED: April 2026



CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department
Zoning Board of Adjustment

March 6, 2026

Ari Pollack, Esq. Gallagher, Callahan, & Catrell, P.C.,
214 N. Main Street
Concord, NH 03301

RE: Notice of Decision – ZBA 0360-2026

Dear Attorney Pollack:

At a meeting of the Concord Zoning Board of Adjustment, held on March 4, 2026 the Board voted on the following application:

With a vote of 5 in favor (Carley, Spector-Morgan, Monahan, Perkins, and Wallner) and 0 opposed, the Board granted the variance request from *Article 28-4 Development Design Standards, Section 28-4-1 Dimensional Standards, (h) Table of Dimensional Regulations, Minimum Lot Frontage*, to allow a new lot of record to be created with 99' feet of frontage on a public street where 300' feet is required because all of the criteria under RSA 674:33 have been met based on the record before the Board, and the Board adopted the applicant's findings as the Board's findings of fact as follows:

1. *The variance will not be contrary to the public interest.*
"The public interest in redeveloping underperforming properties (i.e., the Steeplegate Mall) greatly outweighs any concern relating to the requirement that road frontage be located along one public street instead of one public and one private where the outcome reflects the existing condition."
2. *The spirit of the ordinance is observed by granting the variance.*
"The requested variances would be consistent with the spirit and intent of the ordinance in that mixed-use redevelopment in the GWP district is encouraged, and the variances facilitate an otherwise conforming and desirable project in a recognized performance district."
3. *Granting the variance would do substantial justice*
"The requested variances would be consistent with the spirit and intent of the ordinance in that mixed-use redevelopment in the GWP district is encouraged, and the variances facilitate an otherwise conforming and desirable project in a recognized performance district."

4. *If the variance were granted, the values of the surrounding properties would not be diminished because:*

“There is no evidence to suggest that the immediately surrounding properties will suffer any material devaluation as a result of otherwise compliant frontage requirements being derived from one public street and one private street rather than one unbroken public street. Put differently, there is no reason to conclude that frontage requirements cannot accommodate a corner lot functioning well in an existing condition. Additionally, redevelopment of the long-neglected Steeplegate Mall site would only enhance market values by facilitating an attractive, allowed mixed-use infill redevelopment.”

5. *Unnecessary Hardship*

- A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:*

- i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;*

“i: The proposed Lot 9 would accommodate the existing TD Bank facility, which is to remain as currently improved and to be located on independent parcels. Shaping the proposed lot to accommodate 300’ of frontage along Sheep Davis Road would be inconsistent with current and proposed parking and driveway improvements, and would result in oddly-shaped parcels that would complicate the adjacent redevelopment plan. A variance would recognize the unique circumstance of this “corner lots” being located at existing intersection and that has adequate frontage if measured along two streets, one public and one private.”

and

- ii. *The proposed use is reasonable*

“ii: The variance would allow an existing land condominium unit to be divided from the adjacent unit, both of which are under common control.”

- B. *Explain how, if the criteria in subparagraph (A) above are not established, an unnecessary hardship will be deemed to exist, if and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

If the use or construction authorized by this approval has not commenced by **March 4, 2028**, it shall be deemed to have expired and authorization shall be considered null and void as specified in Section 28-9-3(c)(6) of the Zoning Ordinance and a new complete variance application will need to be submitted unless a one-time extension has been granted.

Granting of an extension does not authorize construction or use prior to the application for and approval of site plan review, architectural design review, and/or subdivision review, as applicable. Granting of a variance does not authorize construction or use prior to the application for and issuance of a building permit or sign permit, if applicable.

For the Zoning Board of Adjustment,



Stephanie N. Verdile
Assistant City Planner-Zoning

CC: Onyx TD Concord, LLC



CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department
Zoning Board of Adjustment

March 6, 2026

Ari Pollack, Esq. Gallagher, Callahan, & Catrell, P.C.,
214 N. Main Street
Concord, NH 03301

RE: Notice of Decision – ZBA 0359-2026

Dear Attorney Pollack:

At a meeting of the Concord Zoning Board of Adjustment, held on March 4, 2026 the Board **voted 5 in favor (Carley, Spector-Morgan, Monahan, Perkins, and Wallner) and 0 opposed, to grant a one-year extension request** for ZBA Case 0133-2023 for the following variance approvals:

- *Article 28-4-1(h), Table of Dimensional Regulations, Maximum Height, to allow a maximum height of 59-feet 8-inches where 45' is allowed;*
- *Article 28-2-4(j), Table of Principal and Accessory Uses, to allow a Tire Center (J-8) where prohibited in a GWP;*
- *Article 28-4-1(c), Table of Dimensional Regulations, Minimum Lot Frontage, to allow frontage to be calculated based on the combination of frontages on a corner lot rather than the calculation along "one" street as required;*
- *Article 28-4-1(h), Table of Dimensional Regulations, Maximum Lot Coverage, to allow 91% coverage where 85% is allowed;*
- *Article 28-7-7(f), Driveway Widths, to allow a 30' driveway width where 28-feet is the maximum; Article 28-7-7(j), Illumination of Parking Areas, to allow light posts at 36-feet and 6-inches in height where 25-feet is the maximum;*
- *Article 28-7-13(c), Design Standards for Loading Spaces, to allow 12-feet wide loading spaces where 14-feet is the minimum; and*
- *Article 28-7-14(e), Screening of Refuse Containers, to not screen trash compactors where screening around three sides is required.*

At a meeting of the Concord Zoning Board of Adjustment, held on March 4, 2026 the Board **voted 5 in favor (Carley, Spector-Morgan, Monahan, Perkins, and Wallner) and 0 opposed, to grant a one-year extension** for ZBA Case 0142-2024 for the following variance approvals:

- *Article 28-7-2(e), Table of Off-Street Parking Requirements, to allow fewer spaces than required*
(a) Lot 40 and 40-1 (Costco/JC Penney) 943 spaces where 1131 are required;
- *(b) Lot 40-2 (Mixed-use residential/fitness/recreational/retail) 1019 spaces where 2,055 are required;*
- *and (c) Lot 41 (Applebee's Restaurant) 56 spaces where 68 are required.*

According to Section 28-9-3(c)(6) of the Zoning Ordinance, once an extension has been granted, should the use or construction so authorized by a variance not be commenced within the one-year extension period ending **May 8, 2027**, then the variance shall be deemed to have expired and the ZBA's decision rendered null and void.

Granting of an extension does not authorize construction or use prior to the application for and approval of site plan review, architectural design review, and/or subdivision review, as applicable. Granting of a variance does not authorize construction or use prior to the application for and issuance of a building permit or sign permit, if applicable.

For the Zoning Board of Adjustment,



Stephanie N. Verdile
Assistant City Planner-Zoning

CC: Onyx TD Concord, LLC



85 Portsmouth Avenue, PO Box 219, Stratham, NH 03885
603.772.4746 - JonesandBeach.com

April 14, 2026

Concord Planning Board
Attn. City Planning Department
41 Green Street
Concord, NH 03301

**RE: Response Letter – December 2024 Staff Report for Planning Board
270 Loudon Road, 277 Sheep Davis Road, & 282 Loudon Road, Concord, NH
Tax Map 611Z, Lots 39, 40 & 41
Tax Map 61Z, Lot 9
JBE Project No. 23031**

Dear City Planning Staff,

This response letter serves to “pick up where we left off” with the CDP process for the Steeplegate & Regal Cinemas redevelopment projects. We see this as beneficial to both our development team and City staff to understand what changes have been addressed in this new CDP filing. The comments below were received as a Staff Report for the Planning Board, dated December 4, 2024, when this project was last before the Board. Comments are listed below with our responses in bold.

1. *Subdivision Regulations:*

- a. *Section 6.03(2)(b) Design Review Phase: The applicant may enter into non-binding discussions with the Planning Board, which involve specific design and engineering details. Public and abutter notice shall be provided in the same manner as for a final plat. Applicants are encouraged to submit proposals for consideration at the design review phase. Public notice is required and abutters are noticed by certified mail, for all meetings where the Planning Board considers an application during the design review phase.*

The legal notice was posted on December 2, 2024, and abutters were noticed by certified mail on December 2, 2024. Additional notification was provided to the Central New Hampshire Regional Planning Commission, Chichester, Loudon, Bow, and Pembroke.

RESPONSE: No response necessary.

- b. *Section 8.01 Extent of Consideration: A Design Review Phase discussion with the Planning Board may be sought pursuant to RSA 676:4(II)(b) for the purpose of discussing the subdivision design and layout before preparing the final plat for a major subdivision. The applicant may discuss with the Planning Board the procedure for application of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, utilities, fire protection, and similar matters, as well as the availability of existing services.*

The Planning Board may provide comments to the applicant regarding the general layout of streets, reservations of land, street improvements, drainage, utilities, fire protection, and availability of existing services, including water, sewer, and storm water drainage facilities, parks and open space, recreation facilities, and pedestrian amenities.

RESPONSE: Noted.

- c. *Section 8.02 Process: The prospective applicant may seek the advice of the Planning Board only at a regularly scheduled meeting when the agenda category of "Design Review Plans" or "other business" is called. Public notice is required, and abutters are noticed by certified mail, for all meetings where the Planning Board considers subdivisions during the Design Review Phase. A public hearing shall not be held for the Design Review but comments may be received from abutters or other parties of interest.*

The request is on the agenda under "other business." Staff reiterates that a public hearing is not held for the design review phase, but comments may be received from abutters or other parties of interest.

RESPONSE: Noted.

- d. *Section 8.03 Fees: Fees shall be required as adopted from time to time by the Planning Board as set forth in Appendix A Fees.*

The applicant paid the required fees upon receipt of the invoice.

RESPONSE: No response necessary.

- e. *Section 8.04 Schedule: Submissions shall conform to the deadlines established for major subdivisions. The developer may seek the advice of the Planning Board only at a regularly scheduled meeting of the Board.*

The deadline for appearing at the Planning Board's regular meeting on December 18, 2024, was November 20, 2024. The application was submitted on November 20, 2024.

RESPONSE: Noted.

- f. *Section 8.05 Design Review Phase Application Requirements: The applicant shall file with the Planning Board in accordance with the established application deadlines, a request for consideration of a Design Review Plan for a proposed major subdivision. The following items consist of a completed application: completed authorization form; application fee; abutters list; and plan drawings.*

The submittal included a completed authorization form, the application fee, the abutters list, and a plan set, thus making a completed application for the purposes of Section 8.05 Design Review Phase Application Requirements.

RESPONSE: Noted.

- g. *Section 8.06 Determination of Completeness: A completed application will contain the required information listed in Section 14.02 Design Review Phase Requirements and will be legible and competently prepared. If it is determined that the application is complete, the Board shall accept the application for consideration, which may take place at the same meeting as the determination of completeness.*

An assessment of the required information listed in Section 14.02 Design Review Phase Requirements follows starting with item 1.11. Staff notes that not all required items (traffic study, drainage study, sewer and water studies, off-site improvement plans, etc.) and pieces of information are contained in the plan set, and Planning Board comments will thus be limited to the material presented.

RESPONSE: We believe the new application satisfied the City's requirements and can be determined complete.

- h. *Section 8.07(1) Design Review Phase Consideration Site Visit: A site visit may be scheduled by the Planning Board to inspect the site of the proposed major subdivision, accompanied by the applicant or his/her representative. Temporary staking along the centerline of all proposed roads in the subdivision will be required in time for such field trip or, if impractical, the Planning Board shall permit a suitable alternative procedure.*

A scheduled site visit remains as an option should the Board so choose. Staff notes that any such scheduled site visit must be legally noticed and abutter notifications sent by certified mail of the date, time, and place of the site visit.

RESPONSE: Noted.

- i. *Section 8.07(2) Board Action on the Design Review Phase: Pursuant to 676:4(II)(b), statements, comments, suggestions, and recommendations made by the Planning Board are non-binding statements. Representations, comments, suggestions, and alternatives made by the applicant or the applicant's agents are equally non-binding. After reviewing and discussing the design review plan, the Planning Division report and other reports as submitted by invited agencies and officials, the Planning Board may advise the applicant of the specific changes or additions, if any, in the layout and the character and extent of required improvements and reservations, which it will require as a prerequisite to the approval of the subdivision plat.*

Staff reiterates that the statements, comments, suggestions, and recommendations made by the Planning Board are non-binding, and likewise, the representations and alternatives made by the applicant are equally non-binding.

RESPONSE: Noted.

- j. *Section 8.07(3) End of Design Review Phase: The Design Review Phase shall be complete at the end of the public meeting, unless the Planning Board elects to table consideration of the Design Review Phase to allow the applicant to submit additional information and for additional staff review and comment. If, within 65 days of the tabling by the Board, the applicant has not submitted the requested information for further consideration by the Board, the Design Review Phase shall automatically be terminated. The one-year vesting period, established pursuant to RSA 676:12(VI), shall commence at the close of the public meeting. Notice of the Planning Board decision shall be provided to the applicant pursuant to RSA 676:4.*

Staff notes that, unless the Board specifically makes a motion to table the design review phase consideration, the design review phase for Case 2024-086 shall terminate at the end of the public meeting on December 18, 2024. Should additional design review be desired, a new application for another design review phase shall be submitted. Comprehensive development plan review, site plan review, and/or subdivision review shall require submittal for each of the respective applications, noting that the comprehensive development plan application shall be submitted first, followed by the site plan and subdivision review applications. The applications may be processed simultaneously with consecutive public hearings occurring at the same meeting.

- k. *Section 14.02(1)(a) Design Review Phase Requirements Authorization of the Property Owner: The applicant for the subdivision review must either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner. All applications shall include written evidence that the fee simple owner of the property is aware of the application and does not object to the application being made. Evidence shall include either the owner's signature on the application or a letter signed by the owner authorizing the submittal of the application.*

The application was made by Ari B. Pollack, P.C. with Gallagher, Callahan & Gartrell. Property owner authorization was granted by Onyx Steeplegate Concord, LLC, Onyx Regal Concord, LLC, and Onyx TD Concord, LLC authorizing the following agents to act on their behalf: Onyx Partners, Ltd, Jones & Beach Engineers, Inc., Embarc Design, VAI, and Gallagher, Callahan & Gartrell, P.C.

- l. *Section 14.02(1)(b) Application Form: A completed application form endorsed by the owner, or submitted by his/her agent where written authorization has been provided by the owner. A copy of the owner's written authorization needs to be attached to those applications signed by the agent.*

The required application form and written owner authorization was submitted as required by this section.

- m. *Section 14.02(1)(c) Application Fees: Application fees as set forth in Appendix A Fees, which are due and payable upon submission.*

The application fees were paid as required.

- n. *Section 14.02(1)(d) Abutters List: An abutters list including a list of names and addresses of all abutters as indicated in the records of the City Tax Assessor not more than five days before the filing of the application.*

The required abutters list was submitted as required by this section.

- o. *Section 14.02(1)(e) Boundary and topographic plan from either a site survey or the City's geographic information system or other approved source.*
The application included an overall existing conditions plan that appears to be a boundary and topographic plan from a site survey.

- p. *Section 14.02(1)(f) All items set forth in Section 12 General Requirements for All Drawings.*

Staff's assessment of the application's compliance with Section 12 General Requirements for All Drawings follows below.

- q. *Section 12.02 All Plans: The following information shall be required on all plans, plats and drawings for minor subdivisions, design review plans, major subdivisions and CDPs: (1) Title Block: (a) Title of plan; (b) Name and address of the owner and applicant; (c) The date the plan was prepared and date of subsequent revisions; and (d) Name, address, seal and signature of the licensed professional who prepared the plan or plat. (2) Scale. (3) Standard Notes as set forth in Appendix B. (4) Conditions of Planning Board Approval which remain to be fulfilled after the recording of the plat.*

The following information will need to be included on all the plan sheets, plat, and drawings for the comprehensive development plan set, subdivision plat and plat set, and site plan set:

- *Every sheet in the entire plan set must contain the same title block with a title in the title block that is the same and consistent throughout the plan set.*

RESPONSE: The plan set has been updated to have a consistent title block throughout its entirety.

- *The name and address of the owner and applicant is different throughout the sheets included with this application. Various portions of the application materials list different applicants and different property owners. The name and address of the applicant must be consistent on every title block on every sheet throughout the plan set. Additionally, the property owner information is inconsistent throughout the submitted plan set. Some sheets list the property owners as only those of 270 and 282 Loudon Rd, some sheets add the property owner for 277 Sheep Davis Rd, and one sheet includes the property owner of 260 Loudon Rd. It is unclear from the presented materials if 260 Loudon Rd, 270 Loudon Rd, 282 Loudon Rd, and 277 Sheep Davis Rd are all part of the subdivision plat. If any portion of any of the four lots are being adjusted (lot lines, division, ownership, condominium, etc.) that lot must be included in the plat and the property owner must be included in the title block, along with the address of that property owner. Specifically, it appears that the lot line of 260 Loudon Rd is being adjusted, which means that 260 Loudon Rd is part of the plat and needs to be included as a property owner in the title block. Owner authorization is also needed for 260 Loudon Rd to be part of the application.*

RESPONSE: The ownership information for subject parcels has been updated/checked within the project plan set.

- *Ensure that all drawings contain the seal and signature of the applicable licensed New Hampshire professional.*

RESPONSE: All drawings have been drafted under the direction of the applicable, licensed individual who the plan pertains to. Our Licensed Land Surveyor has overseen the existing & boundary survey & plans. Our subcontracted wetland scientist has reviewed the plans showing wetland limits. The Engineer of Record has overseen the preparation of the entire CDP project plan set. It is expected that these individuals will stamp & sign project plans when the Site and Subdivision Applications are filed.

- *Ensure that all drawing sheets contain both a scale and a bar scale.*

RESPONSE: All drawing sheets contain both a scale and a bar scale.

- *Ensure that the site plan sheet and the subdivision plat sheet contain an organized, clear, and concise list of all the notes required by Appendix B.*

RESPONSE: The Subdivision plat sheets contain all necessary notes. A list of all waivers, variances and permits have been listed on the G1 sheet. A note has been added to the C2 sheet on where to find the above-mentioned information.

- *Ensure that the site plan sheet and the subdivision plat sheet include the note requiring subsequent conditions of approval pertinent to the case.*

RESPONSE: We expect that this note will be further coordinated as the CDP, Site Plan, and Subdivision processes continue.

- r. *Section 12.03 Plats and Construction Plans: The following information shall be required on plat drawings and construction plans as noted below: (1) North Arrow and Bar Scale shall be provided on all construction plans, subdivision plans and plats, but are not required on construction details, roadway, cross-sections and profile drawings; (2) Plats. A NH Licensed Land Surveyor shall prepare the subdivision plat and shall certify the Error of Closure; (3) Planning Board Approval Block shall be provided on all subdivision plats, but is not required for construction plans and details; (4) Construction Plan Drawings shall be prepared by a NH Licensed Professional Engineer who shall sign and seal each construction plan drawing, except for landscape plans which shall be prepared by a NH Licensed Landscape Architect who shall sign and seal the landscape plan(s); Concord, NH Subdivision Regulations Page 30 (5) Wetland boundaries shall be delineated by a NH Certified Wetland Scientist who shall sign and seal the plan upon which the wetland boundaries are mapped; and (6) Soils. Where soils are required to be mapped, the identification, classification, and delineation shall be performed by a NH Certified Soil Scientist who shall sign and seal the plan upon which the soils are mapped.*

Staff notes that submittal of the plat and construction plans is not required for the design review phase application. However, as a reminder, when preparing the plat and construction plans for submittal with the comprehensive development plan, site plan, and subdivision plat applications, the applicant shall ensure that the site plan, subdivision plat, and construction plan drawings include the following:

- *North scale*
- *Bar scale and scale*
- *Plat prepared by New Hampshire licensed land surveyor with an error of closure certification*
- *Planning Board approval signature block on the subdivision plat sheet and site plan sheet*

RESPONSE: Planning Board approval signature block has been provided on the necessary site plan sheets.

- *Construction plan drawings shall contain the signature and seal of the licensed New Hampshire licensed professional engineer who prepared the drawings*

RESPONSE: It's expected that the project surveyor, engineer & wetland scientist will stamp & sign all plans at time of submission for Site Plan and Subdivision Applications.

- *Landscape plan sheets shall contain the signature and seal of the New Hampshire licensed landscape architect who prepared the plan sheets*

RESPONSE: A full landscape plan set will be provided in conjunction with the project Site Plan Applications. The visuals provided as part of the CDP process are master plan/discussion level.

- *The site plan sheet, existing conditions plan, and subdivision plat shall all contain the wetland delineation boundary along with the date of the delineation, as well as the signature and seal of the New Hampshire certified wetland scientist who performed the delineation*

- s. *Section 12.04 Location Plan: Each subdivision application shall have on the subdivision plat, or a cover sheet, a detailed location plan prepared at a minimum scale of 1" = 400' showing clearly the following information: (1) Proposed subdivided property; (2) Property lines existing prior to subdivision applications; (3) Abutter's property lines; (4) Names and locations of nearby and adjacent City streets; (5) Names and locations of adjacent water bodies and watercourses; (6) Names and locations of nearby and adjacent parks, schools, churches, and other significant physical and man-made features; (7) Nearest street intersections; (8) The tax assessor's map, block and lot number for abutters and the properties to be subdivided; (9) Zoning district designations and boundaries; and (10) Other special information which may be required by the Planning Board. The applicant shall ensure that the subdivision plat sheet or the cover sheet, as well as the comprehensive development plan cover sheet, shall include a location plan that includes all the information required by this section.*

RESPONSE: A location plan has been included on the cover sheet and meets the required information provided above.

- t. *Section 12.05 Vicinity Plan: Each subdivision application shall have on the subdivision plat or the cover sheet a vicinity plan prepared at a scale between 1" = 1000' and 1" = 2000' clearly showing the following: (1) The location of the subdivision plat; and (2) Streets, water bodies, city limits, parks, schools, and other significant physical and man-made features. The applicant shall ensure that the subdivision plat sheet or the cover sheet, as well as the comprehensive development plan cover sheet, contain a vicinity plan that meets the requirements of this section.*

RESPONSE: The required sheets provide the necessary vicinity plan that meets the requirement of this section.

- u. *Section 12.06 Plan References: The following references shall be included on the subdivision plat: (1) Certificate of Ownership: A certificate of ownership identifying each parcel, including which property is owned by each owner and a deed citation for each deed from the Merrimack County Registry of Deeds; Concord, NH Subdivision Regulations Page 31 (2) Easements: Plan or deed references for recorded easements, whether public or private, on the properties proposed for subdivision and existing easements on abutting properties, which are for the purposes of providing access, utilities and drainage to the properties proposed to be subdivided; (3) Existing Restrictions: Deed reference and statement of any existing recorded covenants or restrictions relating to the use of the land proposed to be subdivided; (4) Prior Subdivisions or Surveys: Plan references for prior recorded subdivisions or surveys on the properties proposed for subdivision or abutting said properties proposed to be subdivided; and (5) Other Plans: Plan references for applicable road, utility or site improvement plans, which are available in City records or are available to the surveyor for establishing property and easement boundaries. The applicant shall ensure that all five references are clearly stated on the subdivision plat.*

- v. *Section 12.07 Wetland Delineations: Wetland delineations are to be prepared by a NH Certified Wetland Scientist who shall sign and seal the existing condition plan and subdivision plat. The date of the wetland delineation shall be noted on the plans.*
Staff notes that the application for the design review phase did not include the required wetland delineation signed and sealed by a New Hampshire certified wetland scientist. Such delineation must be contained on the existing conditions plan, subdivision plat, and site plan.
RESPONSE: Noted. When we file for the Site Plan and Subdivision Applications, we will include this certification on the existing conditions plans.
- w. *Section 12.08 Existing Conditions Plan: The existing condition plan shall contain the following information: (1) Property Lines: The property lines of the parcels to be subdivided; (2) Abutters: The full names and addresses of all property owners and abutters as indicated in the records of the City Tax Assessor not more than five (5) days before the filing of the application, and the Tax Assessor's Map-Block-Lot number for each parcel; (3) Topography: Existing topographic conditions and all proposed changes in ground elevation at a contour interval of two (2) feet, as referred to sea level datum of the North American Vertical Datum 1988 (NAVD88). Where the land slopes less than two percent (2%), spot elevations shall be shown at all breaks in grade, along all drainage channels or swales, and at selected points not more than one hundred (100) feet apart in all directions. For minor subdivisions with large remnant parcels and for Concord, NH Subdivision Regulations Page 32 open space parcels where no development is proposed, the Clerk may allow the applicant to submit topographic information for only that portion of the site to be developed or redeveloped, or where site construction may occur; (4) Soils: The identification and classification of the extent and type of soils using the USDA Natural Resources Conservation Service system; (5) Natural Features: The location of all significant natural features including, but not limited to, ledge outcroppings, streams and water bodies, wetlands, bluffs and ravines, and steep slopes in excess of fifteen (15%) percent and twenty-five (25%) percent; (6) Community Features: Existing adjacent public buildings, parks or open space, or any historic structures or features; (7) Buildings and Structures: The location, layout, and use of existing buildings and structures with exterior dimensions; (8) Parking, Loading and Access: The location and layout of existing driveways, curb cuts, parking lots, and loading areas; (9) Easements or Right-of-way: The location, dimensions, and purpose of any easements or rights-of-way within or adjacent to the subdivision; (10) Municipal Utilities: The location, size, material, and type of municipal utilities currently serving the subdivision, including all structures, valves, hydrants, meters, and other appurtenances; (11) Non-municipal Utilities: The location, type and size, where applicable, of the non-municipal utilities which currently serve the subdivision, including transformers, switch boxes, and other appurtenances; (12) Wells and Septic Systems: The location of existing wells and subsurface waste disposal systems on the property and on immediately adjacent property, if new wells and septic systems are proposed; (13) Flood Hazard: A notation as to whether or not the property is located in a FH – Flood Hazard Zoning Overlay District. The location of the boundary line of the Flood Hazard District if it transects the property, and the required finished floor elevation if all or a portion of the property is located within a flood hazard area; (14) Aquifers: Where present, the boundaries and label for each Water Systems Protection Area established in Article 28-3-6, Aquifer Protection (AP) Overlay District of the City of Concord Zoning Ordinance; (15) Shoreland Protection: Where present, the boundary of the Shoreland Protection (SP) Overlay District and the boundaries and label for the Natural Vegetative and Woodland Buffers established in Article 28-3-3, Shoreland Protection (SP) Overlay District of the City of Concord Zoning Ordinance; (16) Signs: The location and size of existing ground signs; (17) Solid Waste and Outside Storage: The type and location of existing solid waste disposal facilities. All existing outside storage areas noting dimensions, height, and types of material or equipment stored; (18) Lighting: The type and location of existing outdoor lighting; (19) Setbacks and Buffers: Setbacks and buffers shall be shown and dimensioned, including wetland buffers, Shoreland Protection District buffers, buffers to bluffs, and Residential District buffers; (20) Existing Vegetation: The location, type, and size of existing trees on the site, or in the case of heavily wooded portions of the site, the edge of clearing; (21) Restrictions: Each subdivisions shall contain notations of all covenants, easements, self-imposed restrictions, and any other restrictions in place at the time of application; (22) Abutting Properties: Existing abutting properties, including intersecting property lines, buildings, driveways, wells, and septic systems; (23) Tabulations: The following tabulations including: (a) Gross acreage in square feet and acres; (b) Square footage of each existing building broken down by floor and use category; (c) Impervious surface coverage in square feet and percent; Concord, NH Subdivision Regulations*

Page 34 (d) Useable land area calculations for residential development and net land area calculations for non-residential development; and, (e) Other tabulations that may be required by the Clerk in order to determine compliance with the City's Zoning Regulations or Subdivision Regulations. (24) Zoning: Zoning District Boundary lines, including Overlay Districts with labels. The existing conditions plan included with the application submitted for the design review phase was missing a number of items required by this section. Ensure that the existing conditions plan included with the comprehensive development plan, subdivision, and site plan applications includes all the information required by this section. The information must be clearly shown, labeled, and/or noted in a concise and organized notes list. Items not on the site need to be noted in the notes list as not on the property.

- x. **Section 14.02(2) Project Statement:** A statement describing the proposed phasing of the subdivision including the timeframe, percentage of total residential and non-residential uses, and the improvements and facilities, included in each stage.

The project statement included with the submittal for the design review application was missing the following information that will need to be included with the submittal for the comprehensive development plan: anticipated or estimate timeframe for completion of each phase, the percentage of total residential and non-residential uses in each phase, and a list of the improvements and facilities that will be constructed in each phase.

As the Planning Board is aware from other recent development applications, the capacity of the municipal sanitary sewer system is of concern along Loudon Road and throughout the Gateway Performance District in the Heights neighborhood of the City. Capacity is limited due to physical constraints of certain sanitary sewer mains located within the Loudon Road sewershed, the physical capacity of the existing municipal sewer pump station located at the former Steeplegate Mall, as well as a 1988 sewer agreement concerning allocation of capacity within the existing sewer pump station to certain properties located on the Heights. Real estate located at 270 Loudon Road and 277 Sheep Davis Road (the former Steeplegate Mall and TD Bank property) is party to the 1988 sewer agreement and has rights to 52,000 gallons per day of capacity. However, property located at 282 Loudon Road (the former Regal Cinema property) is not, and therefore does not have any special capacity rights regarding the current sewer pump station.

On October 10, 2023, the City Council approved Resolutions #9586 and #9587 which appropriated the sum of \$1,900,000 to design sewer improvements associated with Capital Improvement Projects #91 (sewer mains) and #275 (sewer pump stations) to increase capacity of the municipal sanitary sewer system in this area of the City. As part of the City's FY2025 Budget, the City Council appropriated the additional sum of \$23,150,000 for Capital Improvement Projects #91 (sewer mains) and #275 (sewer pump stations), combined, to replace the existing municipal sewer pump station located at the former Steeplegate Mall, as well as to replace sewer mains located within Loudon Road, Branch Turnpike, and Pembroke Road to address capacity issues. These proposed sewer improvements currently under design and tentatively scheduled for completion in late 2026/early 2027.

A preliminary estimate prepared by Wright Pierce Engineering (the City's water and sewer Loudon Road and 282 Loudon Road, combined) may require approximately 144,940 gallons per day of capacity at full buildout. The existing sewer pump station does not have sufficient capacity to serve this demand. However, the new pump station presently being planned by the City will have capacity to serve this proposed development, as well as future development in this area of the community. Once the new pump station is completed, sewer capacity reservations allocated to the Steeplegate Mall in the 1988 sewer agreement will become null and void.

Due to limited capacity of the system, the applicant may need to phase its proposed development project based upon its capacity rights associated with the existing pump station per the 1988 sewer agreement, as well as future sewer capacity to support its proposed development which will be created by the City's forthcoming new sewer pump station and related sewer main improvements. The phasing issue will be further reviewed when the applicant submits formal comprehensive development plan, subdivision, and site plan applications to ensure that there is sewer capacity for each phase and at full buildout.

- y. *Section 14.02(3) Site Analysis Plan: The site analysis plan shall contain all the information listed in Section 14.02(3)(a) through (e). It did not appear as though a site analysis plan was included in the submittal. A sheet titled "site analysis plan" needs to be included that shows all the items required by this section. If an item does not exist on the site, a note shall be placed on the site analysis plan stating that such feature does not exist on the site. The photographs required by Section 14.02(3)(f) were missing from the submittal for the design review phase and must be submitted as part of the comprehensive development plan application.*

RESPONSE: All items required under the site analysis plan requirements are shown/identified on the existing conditions plans and the site, grading & drainage, and utility plans. Due to the complexity of the existing and proposed conditions, a single plan for this plan is not feasible. A photo log can be provided if the Board feels it is warranted considering the widespread familiarity with the subject parcels.

- z. *Section 14.02(4) Proposed Site Layout Plan: A proposed site layout plan or conceptual subdivision layout plan showing: the approximate location, width, and length of proposed streets; the approximate location and distribution of proposed lots, buildings, and structures; tabulations of the gross land area, buildable land area, number of lots, range of lot sizes, required open space, number of dwelling units, residential density, approximate square footage of non-residential uses, and approximate lot coverage of buildings and impervious surfaces; the approximate location and area of all parcels of open space land proposed to be set aside for park or playground use, other public use, or for the use of property owners in the proposed subdivision; and any proposed impacts to wetlands and bluffs and buffers to bluffs and wetlands.*

The proposed site layout plan submitted with the comprehensive development plan application must include the labeled dimensions of the width and length of all proposed streets, along with each street labeled as public or private. A neat and concise list of the tabulations shall be presented on the site layout plan. Any areas to be set aside for open space, park or playground use, other public use, or for the use of property owners in the proposed subdivision need to be very clearly shown and labeled, as well as listed in a note. The square footage of such open space, park or playground use, other public use shall be labeled on the applicable area, and the amenities provided in each of the areas needs to be listed. The expectation for a development of this size is the provision by the developer on the site and as part of the development for park and playground use of the residents. A statement needs to be included on the site layout plan describing proposed impacts to wetland and buffers of wetlands. If there are no impacts, the statement shall indicate as much and briefly explain why there are no impacts.

RESPONSE: The updated CDP plans present information on a clear & concise manner relative to the updated design.

- aa. *Section 14.02(5) Site Utility and Drainage Layout Plan: A site utility and drainage layout plan shall show the following: the location of existing sanitary sewers and/or on-site septic systems, water mains and/or potable wells, and existing utility poles; existing utility rights-of-way; existing drainage facilities and the approximate layout of all proposed storm drainage facilities, including detention and retention ponds and drainage swales; preliminary proposals for connection with existing water supply and sanitary sewage systems or alternative means of providing water supply and sanitary waste treatment and disposal; and existing non-municipal utilities on or adjacent to the site and the approximate layout of non-municipal utilities proposed.*

For staff to provide an assessment of the proposed utility provisions, a complete and detailed site utility and drainage layout plan must be included with the comprehensive development plan, subdivision plan, and site plan review applications. The site utility plan and drainage plan must show all existing and proposed items identified in Section 14.02(5), as well as any other items required by the Subdivision Regulations, Site Plan Regulations, and Concord Construction Standards and Details.

The applicant's utility plan will need to be designed to accommodate and facilitate the City's aforementioned proposed sanitary sewer pump station and related sewer main improvements.

RESPONSE: The plans have been designed as such but we expect additional, detailed conversations with City engineering staff to sort out some of the complex utility infrastructure requirements.

- bb. *Section 14.02(6) Other Requirements: The Board may require further detailing of information and additional meetings, before advising the applicant to proceed with a formal application for a major subdivision.*

For staff to review any comprehensive development plan, subdivision, or site plan application, a revised traffic study will need to be submitted that addresses all of the comments and additional study intersections and corridors from VHB, the City, and New Hampshire Department of Transportation. A drainage study will also need to be submitted. Water and sewer studies from the City's consultant will need to be completed and the plans will need to show how the project will safely, adequately, and efficiently provide sewer, water, and storm drainage services to the site, as well as addressing and/or mitigating identified traffic and transportation issues as a result of the project.

- cc. *The Engineering Department reviewed the plan sheets that were submitted for the design review phase and identified some missing items. The missing items are listed in a memorandum, dated December 4, 2024. The memorandum is attached to this staff report.*

RESPONSE: Additional coordination is expected with the Engineering Department throughout our future design phases that will be covered under the future Site Plan applications.

- dd. *The Fire Department noted that fire hydrant locations and the locations of fire department locations must be shown on the utility plan in compliance with the fire code. Access and turning movements shall also show compliance with the fire code.*

RESPONSE: The utility plans have been updated to show the locations of the proposed fire hydrants on site. Fire Truck turning has been shown on the truck turning plans. We will coordinate with the Fire Department on hydrant spacing as this project moves forward.

- ee. *The Assessing Department had no comments on the design review phase materials.*

- ff. *The General Services Department had no comments on the design review phase materials.*

2. Variances:

- a. *Although copies of the decision were not provided as part of the application, the submitted plan set lists a number of variances that were granted by the Zoning Board of Adjustment as follows:*

- *Article 28-4-1(h) to allow a maximum height of 59 feet 8 inches where 45 feet is allowed;*
- *Article 28-2-4(j) to allow a tire center where prohibited in the GWP District;*
- *Article 28-4-1(c) to allow frontage to be calculated on the combination of frontages of a corner lot rather than along one street as required;*
- *Article 28-4-1(h) to allow 91% coverage rather than the required 85%;*
- *Article 28-7-7(f) to allow driveway widths of 30 feet where 28 feet is the maximum;*
- *Article 28-7-7(j) to allow light poles at 36 feet 6 inches in height where 25 feet is the maximum;*
- *Article 28-7-13(c) to allow 12 feet wide loading spaces where 14 feet is the minimum;*
- *Article 28-7-14(e) to not screen trash compactors where screening on three sides is required;*
- *Article 28-7-2(e) to allow fewer parking spaces than required; and,*

• *Article 28-7-11(b) to allow the Planning Board to authorize the construction of fewer parking spaces without showing that a sufficient land area is allocated and shown on a site plan for the full number of spaces required.*

RESPONSE: A list of variances have been added to the G1 sheet in the CDP Plan set.

3. *Waivers:*
 - a. *No waivers are requested as part of the design review phase.*
4. *Conditional Use Permits:*
 - a. *Any required conditional use permit applications shall be submitted as part of the subdivision application.*
5. *Architectural Design Review:*
 - a. *Appearance before the Architectural Design Review Committee is not required for the design review phase. Staff notes that any appearances before the Architectural Design Review Committee as part of the comprehensive development plan, subdivision, or site plan review applications must take place prior to the Planning Board public hearing.*
6. *Conservation Commission:*
 - a. *No appearances before the Conservation Commission are necessary for the design review phase.*
7. *Recommendations:*
 - a. *Staff recommends that the Planning Board proceed to:*
 - *Determine the application for the design review phase as complete and proceed with holding the public meeting (not a public hearing);*
 - *Discuss the proposed project with the applicant and provide non-binding statements, comments, suggestions, and recommendations; and,*
 - *State that the design review phase shall be complete at the end of the public meeting.*
 - b. *There are no motions or actions needed for the design review phase.*

General Comments

1. *Pursuant to City of Concord Subdivision Regulations Section (CSRS) 13.01(6), provide a copy of any application made to a State or Federal agency required for approval of this subdivision.*
2. *A Stormwater Management Study has not been submitted. Please submit.*
3. *A water supply study will be required to evaluate provision of domestic and fire flows to the proposed development. Please work with the City to arrange for this study through the City's consultant.*
4. *Per recent emails between the City, State and the developer, an updated traffic study will be required.*

Sheet C1 Overall Existing Conditions Plan

1. *Pursuant to CSRS 12.08(9) and 12.08(21), show existing easements, right of ways, and restrictions. Provide the ALTA/NSPS Land Title Survey stated in Note 2. The City's sewer easement is not clearly shown nor are private easements. This information shall be depicted and labelled on Existing and Proposed work plans. Confirm that all applicable plan and deed references are listed on sheet C1.7.*
RESPONSE: Existing easements, right-of-ways, and restrictions are shown on the C1 sheets which are now all included within the CDP set.

2. *Include the size and material of utilities and all structures, valves, hydrants, meters, and other appurtenances pursuant to CSRS 12.08(10).*
RESPONSE: Additional existing conditions sheets have been provided to show existing utility naming convention, along with an additional utility structure sheet.

Sheet C4 Overall Utility Plan

1. *Show existing utility right-of-way pursuant to CSRS 18.03(7)(b).*
RESPONSE: Existing utility right-of-ways are shown on the C1 sheets.
2. *Show proposed easements and covenants pursuant to CSRS 18.05(4).*
RESPONSE: Proposed easements are shown on the C4 Sheets.
3. *On the north portion of the site adjacent to Loudon Road, loop the water service lines from the Proposed Bank lot to the Proposed Retail #2 lot, pursuant to CSRS 24.03(7).*
RESPONSE: These water service lines are to be privately maintained and therefore do not need to be looped together per CSRS 24.03(7). This will be further coordinated with the Engineering Department.
4. *Utility layout as proposed under Road #1 will be problematic given the limited width to work with. Proposed landscaping further reduces usable utility space. A certain amount of space must be given between each utility to allow for future repairs and maintenance.*
RESPONSE: The utility layout within the roadways was a recent topic of discussion with the City Engineer and we will be working with staff on revisions.
5. *Separate sewer services must be provided for each building on lot 39.*
RESPONSE: Separate Sewer services have been provided for each building on lot 39.
6. *The routing and construction timing of the existing sewer main and force main will need to be coordinated with the City.*
RESPONSE: Noted.
7. *Location of the City's proposed sewer pump station is to be coordinated with the City. Proposed Retail Building #1 as currently shown appears to hinder the currently-desired pump station layout.*
RESPONSE: We believe the current limits of the retail building and retaining wall for the site are in line with the limits the City asked for but expect City Staff to take another look now that the pump station project is well underway.
8. *Will the proposed water and sewer mains within this development continue to be privately owned?*
RESPONSE: A majority of the proposed water and sewer mains on the site will continue be privately owned.

Thank you very much for your time.

Very truly yours,
JONES & BEACH ENGINEERS, INC.

Ian MacKinnon, P.E.
 Associate Principal | Project Manager