



AnneMarie Skinner, AICP
City Planner

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

Staff Report for Planning Board

Meeting on November 20, 2024
Project Summary – Minor Subdivision

Project: Rose Riley Lot Line Adjustment (2024-070)
Property Owner: Charles J. Jr. and Joyce Rose and Kristen M. Riley
Applicant: Hoyle Tanner & Associates, Inc.
Property Address: Unaddressed Runnels Rd and 129 Horse Hill Rd
Tax Map Lot: 36Z 11 and 33Z 32

Determination of Completeness:

Per Section 9.06 *Determination of Completeness* of the Subdivision Regulations, a completed application will contain the required information listed in Section 15.01 *Required Information* and Section 15.02 *Plat Requirements* of the Subdivision 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 said 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 35.16(1) *Determination of Completeness* of the Subdivision Regulations 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 Subdivision Regulations and concludes that all criteria have been met, and that the application contains sufficient information and detail for a full review and 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 New Hampshire RSA 36:55; and,**
- **Open the public hearing.**

If the Board chooses to deem the application incomplete, the Board would move to:

- Determine that the application is incomplete;
- State the reasons why and list the items needed for a complete determination; and,
- State that the application may be revised and resubmitted to a subsequent hearing of the Board for another determination of completeness.

The Board has 65 days within which to consider and act on the application once the application is determined complete, per New Hampshire 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 on November 20, 2024, and end on January 24, 2025. If the applicant has not demonstrated compliance with the Subdivision Regulations by the end of the statutory timeline (January 24, 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 applicant is seeking minor subdivision approval, along with certain waivers, for a lot line adjustment to exchange 2.27 acres in an even land swap between unaddressed Runnells Rd (Tax Map Lot 36Z 11) and 129 Horse Hill Rd (Tax Map Lot 33Z 32) in the Open Space Residential (RO) District.

Compliance:

The following analysis of compliance with the Zoning Ordinance and Subdivision Regulations is based on a narrative, dated September 24, 2024, prepared by TF Bernier, A Division of Hoyle Tanner; and, a 2-sheet plat, dated September 2024, prepared by TF Bernier, A Division of Hoyle Tanner.

1. Project Details and Zoning Ordinance Compliance:

Zoning District: Open Space Residential (RO) District
 Existing Use: Lot 36Z 11 - Vacant land
 Lot 33Z 32 - Single Family Residential
 Proposed Use: Lot 36Z 11 - Vacant land
 Lot 33Z 32 - Single Family Residential
 Overlay Districts:
 Flood Hazard (FH) District Yes
 Shoreland Protection (SP) District None
 Historic (HI) District None
 Penacook Lake Watershed (WS) District None
 Aquifer Protection (AP) District Yes (ADP-3)

Zoning Code Item	Required	Existing	Proposed
Minimum Total Area	2 acres	36Z 11 – 178 acres 33Z 32 – 4.063 acres	36Z 11 – 178 acres 33Z 32 – 4.063 acres
Minimum Buildable Area	20,000 square feet	36Z 11 – Not Provided 33Z 32 – Not Provided	36Z 11 – Not Provided 33Z 32 – Not Provided
Minimum Lot Frontage	200 feet	36Z 11 – 0 feet 33Z 32 – Not Provided	36Z 11 – Not Provided 33Z 32 – Not Provided

Minimum Front Yard	50 feet	36Z 11 – Not Applicable 33Z 32 – Not Provided	36Z 11 – Not Provided 33Z 32 – Not Provided
Minimum Rear Yard	50 feet	36Z 11 – Not Applicable 33Z 32 – Not Provided	36Z 11 – Not Provided 33Z 32 – Not Provided
Minimum Side Yard	40 feet	36Z 11 – Not Applicable 33Z 32 – Not Provided	36Z 11 – Not Provided 33Z 32 – Not Provided
Maximum Lot Coverage	10 %	36Z 11 – 0% 33Z 32 – Not Provided	36Z 11 – 0% 33Z 32 – Not Provided

1.1 Staff determined that the application as submitted conforms with the Zoning Ordinance.

2. Subdivision Regulations Compliance and Comments:

2.1 Per Section 2.02, land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities, open space, public safety services, and transportation facilities exist and proper provisions have been made for stormwater drainage, sewage disposal, potable water supply, and capital improvements such as schools, parks, recreation facilities, transportation improvements, and public safety facilities.

2.2 Per Section 2.03, the existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Master Plan and Official Map of the municipality, and it is intended that the regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing code, health codes, and zoning ordinances.

2.3 Staff notes that, per Section 4.04, the Subdivision Regulations shall apply to re-subdivisions, minor lot line adjustments, and condominiums. Since the applicant is requesting approval for a condominium, the Subdivision Regulations apply.

2.4 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 at the time the notices are mailed to the abutters notifying them of the Board’s consideration of completeness. Notices were mailed on November 4, 2024, for the Board’s consideration of completeness on November 20, 2024.

The application was considered by staff to conform with the Zoning Ordinance at the time of the mailing.

2.5 Staff notes that, per Section 6.01(5) *Conditional Use Permits*, where conditional use permits are required in conjunction with a proposed subdivision, a completed conditional use permit application shall be made at the same time as the subdivision application. Where a conditional use permit is required, no subdivision application may be considered complete without a complete conditional use permit application.

The project does not require any conditional use permit applications, and no conditional use permit applications were submitted.

2.6 Section 6.02 *Classification of Subdivisions* identifies the classification of subdivisions as minor or major subdivisions. Subdivisions not classified as a minor subdivision shall be major subdivisions. Existing developments proposed for conversion to condominiums, where there will be no change in the use of land and no change in the site layout shall be classified as minor subdivisions. Developments proposed for conversion to condominiums involving a change of use of the land or a change in the site layout shall be classified as major subdivisions.

Staff notes that the site is an existing development, there will be no change in the use of land, and there will be no change in the site layout; therefore, the subdivision application shall be classified as a minor subdivision by the Clerk.

2.7 Per Section 9.02 *Minor Subdivision Application Requirements*, the applicant shall file certain items for a completed application. These items are a completed application form endorsed by the owner or submitted by the owner's agent with written authorization from the owner; application fee; abutters list; copies of the final plat meeting the requirements in Section 15 *Minor Subdivision Requirements*; complete conditional use permit applications, where applicable; copies of permit applications to state and federal agencies, where applicable; and, any requests for waivers from Subdivision Regulations as set forth in Section 35.11 *Waiver Petition*.

Staff notes that the application form, owner authorization, application fee, and abutters list were submitted as required. An assessment of compliance with Section 15 *Minor Subdivision Requirements* follows. No conditional use permit applications were required. No permit applications to state and federal agencies are necessary. The application included requests from waivers as described in Item 4 of this staff report.

2.8 Per Section 12.01 *Research*, applicants shall familiarize themselves with all city, state, and federal regulations relative to zoning, subdivision, land sales, utilities, drainage, health, buildings, roads, and other pertinent data so that the applicants are aware of the obligations, standards expected, and documents to be submitted.

2.9 The Engineering Division reviewed the application and noted concerns about monumentation for the boundary survey. As such, the applicant shall set monuments at all property corners where existing monumentation has not been held. For instance, at the property corner which is shown as Detail A, a calculated property corner is 4.34 feet from a found iron pipe. All monumentation shall be installed as required by the Subdivision Regulations.

2.10 The Fire Department reviewed the application and had no comments.

2.11 The Assessing Department reviewed the application and noted that the mailing address for 129 Horse Hill Rd is PO Box 610, Warner, NH 03278-0861. Additionally, the transmittal letter indicates that 129 Horse Hill Rd has 200.02 feet and 154.38 feet of frontage. The letter goes on to state there is no change in lot frontage. However, it appears that 154.38 feet of frontage is being transferred to 36Z 11. This shall be noted and indicated on the plat so that it is very clear that the transfer gives the parcel access to Horse Hill Rd. Finally, with respect to current use designation of the subject parcels, the applicant needs to be aware that the acreage being added to 129 Horse Hill Rd will shall be subject to land use change tax.

2.12 The General Services Department reviewed the application and had no comments.

The following items from Sections 12, 13, and 15 of the Subdivision Regulations appear to be missing from the application, all of which are minimum components necessary to determine the application complete.

- 2.13 Section 15.01(1) and Section 15.01(2) require all items set forth in Section 12 *General Requirements for All Drawings*, Section 13.01 *All Applications*, and Section 13.02 *Documentation Required Prior to Recording of Plans*. Information missing from those sections is noted below in numbers 2.14 through 2.41.
- 2.14 Section 12.02(1)(a) *Title Block* requires that the title of the plan be included in the title block. This information either appears to be missing or is inconsistent throughout the sheets of the plan sets. Specifically, on sheet 2, the text box “and” has been moved and is behind the text of “Kristen M. Riley” and shall be moved up to match sheet 1.
- 2.15 Section 12.02(3) *Standard Notes* requires listing the notes set forth in Appendix B. The plat does not appear to contain all information as required by Appendix B, including minimum lot area, frontage, and setback dimensions required for the zoning district(s) and for wetland buffers, bluff setbacks, and the Shoreland Protection Overlay District; required tabulations of use, area, lot coverage, parking existing and proposed, useable and building land area, etc, as applicable; source of sanitary sewer and potable water supply; list of Planning Board waivers; and, a list of those conditions of Planning Board approval which remain to be fulfilled after the recording of the plat.
- 2.16 Section 12.02(4) *Conditions of Planning Board Approval* requires listing conditions of approval which remain to be fulfilled after plat recording. The plat does not appear to contain any notes regarding subsequent conditions of approval. This requirement can be satisfied by adding a note that states: “The development is subject to all subsequent conditions of Planning Board approval from Case 2024-070.”
- 2.17 Section 12.03(1) *North Arrow and Bar Scale* requires that the 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. This required information appears to be missing. Specifically, sheet 2 of 2 does not appear to contain the required north arrow.
- 2.18 Section 12.04 *Location Plan* requires a detailed location plan to be on the subdivision plat or a cover sheet, prepared at a minimum scale of 1” = 400’. A location plan with a scale of 1” = 1,000 feet is provided on sheet 2 but does not conform to the required minimum scale.
- 2.19 Section 12.06(2) *Easements* requires showing on the plat the plan or deed references for recorded easements for the purposes of providing access, utilities, and drainage. A note needs to be added to the plat for the recorded access easement for Map 36Z Lot 11 described in the project narrative letter.
- 2.20 The plat gives no indication of any existing restrictions on the property for compliance with Section 12.06(3) *Existing Restrictions* and Section 12.08(21) *Restrictions*. If not applicable, then a note needs to be added to the plat stating that there are no existing recorded covenants or restrictions relating to the use of the land for clarification and confirmation that there are no existing restrictions.
- 2.21 Section 12.08(6) *Community Features* requires that the existing adjacent public buildings, parks, open space, and any historic structures or features be shown on the existing conditions plan. This information appears to be missing from the existing conditions plan. If there are no existing adjacent community features, a note needs to be added to the existing conditions plan stating that there are no existing adjacent public buildings, parks, open spaces, or historic structures or features.

- 2.22 Section 12.08(7) *Buildings and Structures* requires that the existing conditions plan show the location, layout, and use of existing buildings and structures with exterior dimensions. This required information is missing from the existing conditions plan. Specifically, the location of existing buildings and structures is shown, but the layout, use, and exterior dimensions appear to be missing.
- 2.23 Section 12.08(13) *Flood Hazard* requires that a notation as to whether or not the property is located in a Flood Hazard Zoning Overlay District be noted on the existing conditions plan, along with the location of the boundary line of the Flood Hazard Zoning Overlay 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. This required information appears to be missing from that plan. Specifically, a note, which shall be added to the end of Note 6 on sheet 1, stating that the property is located within the City of Concord Flood Hazard Overlay (FH) District, and the boundaries lines shall be shown on the plat as well.
- 2.24 Section 12.08(14) *Aquifers* requires that the existing location plan show the boundaries and label for each water systems protection area. This information appears to be missing from that plan. If the site does not contain any water system protection area, a note shall be added to the existing conditions plan stating that the site does not contain any water systems protection areas. Staff notes Map 36Z Lot 11 is located within, and within 400 feet of, the Aquifer Protection Zone 3 (APD-3) as defined by Section 28-3-6(c)(1)(a) *Community Water Systems Protection Area* of the Zoning Ordinance.
- 2.25 Section 12.08(15) *Shoreland Protection* requires that the existing conditions plan show the boundaries and label for the shoreland protection overlay district and the natural vegetative and woodland buffers associated with that district. The information appears to be missing from that plan. If the site does not contain any shoreland protection overlay districts, a note shall be added to the existing conditions plan stating that the site does not contain any shoreland protection overlay districts.
- 2.26 Section 12.08(16) *Signs* requires that the location and size of existing ground signs be shown and labeled on the existing conditions plan. This required information appears to be missing from the existing conditions plan. If the site does not contain any existing ground signs, a note shall be added to the existing conditions plan stating that the site does not contain any existing ground signs.
- 2.27 Section 12.08(19) *Setbacks and Buffers* requires that setbacks and buffers shall be shown and dimensioned, including wetland buffers, shoreland protection district buffers, buffers to bluffs, and residential district buffers. This required information appears to be missing from the existing conditions plan, specifically, wetland buffers. If the site does not require or contain any of the stated buffers, a note shall be added to the existing conditions plan stating as much.
- 2.28 Section 12.08(21) *Restrictions* requires that the existing conditions plan shall contain notations of all covenants, easements, self-imposed restrictions, and any other restrictions in place at the time of application submittal. This required information appears to be missing from the existing conditions plan. Specifically, the access easement from Runnells Rd and the self-imposed land use restriction for Map 36Z Lot 11 are not shown as required. Staff notes that the 2.274 acres identified as Parcel "A" is in current use, will be considered removed from current use and subject to land use change tax, and shall be noted as such on the plans. If the site does not contain any of the aforementioned items, a note shall be added to the existing conditions plan stating which items are not in place.

- 2.29 Section 13.01(6) *State and Federal Permits* requires that a copy of any application made to a state or federal agency required for the approval of the subdivision, including those required for the development of the individual lots, be submitted with the application. The submittal did not include copies of any state and federal permits, nor are there any notes on the subdivision plat indicating if any state or federal permits are required. A note shall be added to the subdivision plat listing the required state and federal permits or stating that there no such permits are required for the subdivision.
- 2.30 Section 13.02(2) *Utility, Drainage, and Slope Easements* requires the submittal of utility and drainage easement documents for review. It is unclear from the site plat how ownership and maintenance of the old box culvert used to convey water from the brook is to be handled now that it will be bisected by property lines of Map 36Z 11 and Map 33Z Lot 32, and no easement documents were included in the submittal. The applicant shall prepare and submit a drainage and maintenance easement for review and approval by the City Solicitor.
- 2.31 Section 15.01(3) requires that the application provide a wetland delineation and wetland buffers, where applicable. If the site does not contain any wetland or wetland buffers, a note shall be added to the subdivision plat stating as much.
- 2.32 Section 15.02(6) *Error of Closure* requires an error of closure of not less than 1 in 10,000. The stated error of closure is not shown on the plan notes and shall be added to Note 3 on sheet 1.
- 2.33 Section 15.02(10) *Easements and Restrictions* requires notations of all easements, covenants, and restrictions. The plat does not appear to have any notes regarding easements, covenants, and/or restrictions. Specifically, the access easement from Runnells Rd and the self-imposed land use restriction for Map 36Z Lot 11 shall be shown. Staff notes that the 2.274 acres identified as Parcel "A" is in Current Use, will be considered removed from Current Use, and thus shall be subject to land use change tax. This circumstance shall be noted on the plan set. If the site does not contain any of the aforementioned items, a note shall be added to the existing conditions plan stating which items are not in place.
- 2.34 Section 15.03(5) *Monumentation* requires the type and location of existing and required monuments be shown on the plat at the corners of lots, points of curvature, tangency, and deflection points along the street rights-of-way. This required information appears to be missing from the plat. Specifically, the applicant shall show required monumentation to be set at all property corners where existing monumentation has not been held. Additionally, all bounds shall be identified as either found or to be set, and shall include materials. See additional notes in Item 2.9 of the staff report.
- 2.35 Section 15.03(7) *Zoning* requires that the zoning district boundary lines, including overlay districts, be shown on the plat with labels. This required information appears to be missing from the plat. Specifically, the boundaries of the Aquifer Protection (AP) District, as defined in Article 28-3-6(c) shall be shown.
- 2.36 Section 15.03(8) *Setbacks* requires that setbacks shall be shown and dimensioned, including those required for yards, shoreland protection, bluffs, and wetlands, on the plat. This required information appears to be missing from the plat. Specifically, wetlands and wetland buffer setbacks shall be shown on the plat.
- 2.37 Section 15.03(12) *Septic Systems* requires that where municipal sewer service is not available, that soil data and test results sufficient for submitting an application for subdivision approval to the State of New Hampshire Department of Environmental Services (NHDES), including a plan showing the location of test pits, the soil profiles, ground water elevation, and seasonal highwater

table elevation at each test pit be provided. The required 4,000-square-foot septic drain field area required by the NHDES shall be shown on the subdivision plat. The applicant shall meet this requirement, or show the location of any existing septic systems on site and demonstrate the existing septic system either complies, or can comply, with the required 4,000-square-foot septic drain field location.

- 2.38 Section 15.03(14) *Wells* requires showing the on the plat the location of all existing and proposed wells and required wellhead protection radii on the site and on abutting properties. This required information appears to be missing from the plat and shall be added for existing wells and associated wellhead protection radii.
- 2.39 Section 15.03(16) *Easements* requires that the location, width, and metes and bounds description of all existing and proposed easements and other rights-of-way, except slope and temporary grading and construction easements, be shown on the plat. This required information appears to be missing from the plat. Specifically, the access easement for Map 36Z Lot 11 from Runnells Rd shall be shown, as well as the location of the required trail easement discussed in Item 2.41 of this staff report.

Additionally, the location of the required trail easement must be shown. The subject properties are encumbered by the former Concord-Claremont railroad corridor. This corridor is being redeveloped into the Concord-Lake Sunapee Rail Trail. Portions of this rail trail have already been completed. The rail trail has important local and regional recreational, economic development, and multi-modal transportation benefits. In accordance with Section 22.11 *Trails*, the applicant shall provide the City with an easement, no less than 60 feet in width, to facilitate continuation of the Concord-Lake Sunapee Rail Trail and associated improvements through the subject properties.

- 2.40 Section 15.03(17) *Conditions of Approval* requires that the conditions of approval as set forth by the Planning Board which remain to be fulfilled after the recording of the plat shall be duly noted on the plat. This required information appears to be missing from the plat, and can be satisfied with a note stating: “The development is subject to all subsequent conditions of Planning Board approval from Case 2024-070.”
- 2.41 The subject properties are encumbered by the former Concord-Claremont railroad corridor. This corridor is being redeveloped into the Concord-Lake Sunapee Rail Trail. Portions of this rail trail have already been completed. The rail trail has important local and regional recreational, economic development, and multi-modal transportation benefits. In accordance with Section 22.11 *Trails*, the applicant shall provide the City with an easement, no less than 60 feet in width, to facilitate continuation of the Concord-Lake Sunapee Rail Trail and associated improvements through the subject properties. Per Section 22.11 *Trails*, the easement location shall be established to avoid wetlands; shall be subject to the approval of the Planning Board as to design; shall be shown on the plat; and, shall be set aside in perpetuity.

2 Variances:

- 3.1 No variances are requested.

3 Waivers:

- 3.41 The applicant requests waivers from the following sections of the Subdivision Regulations:
- a. Section 12.07 *Wetlands*, to not show wetlands;

- b. Section 12.08(3) *Topography* and Section 15.03(4) *Topography*, to not show topography or spot elevations;
- c. Section 12.08(4) *Soils*, to not show soils data;
- d. Section 12.08(5) *Natural Features* and Section 15.03(6) *Natural Features*, to not show natural features, ledge, steep slopes, etc.;
- e. Section 12.08(1) *Property Lines* and Section 15.03(2) *Dimensions*, to only show boundary information in the vicinity of the lot line adjustment;
- f. Section 12.08(20) *Existing Vegetation*, to not show existing vegetation;
- g. Section 12.08(22) *Abutting Properties* and Section 15.03(1) *Abutting Property*, to not show required abutting properties information;
- h. Section 12.08 (23a-e) *Tabulations* and Section 15.03(3) *Tabulations*, to not tabulate lot areas, floor areas, impervious area, or useable land;
- i. Section 15.03(5) *Monumentation*, to only show monumentation in the vicinity of the lot line adjustment, and to set an iron rod on Horse Hill Rd; and,
- j. Section 15.03(12) *Site Improvements*, to not show site improvements.

The applicant provided an analysis of the five waiver criteria listed in Section 35.08 of the Subdivision Regulations and New Hampshire RSA 674:36(II)(n)(1).

Staff reviewed the evidence submitted, and supports the following waiver requests:

- a. Section 12.08(3) *Topography* and Section 15.03(4) *Topography*, to not show topography or spot elevations;
- b. Section 12.08(4) *Soils*, to not show soils data;
- c. Section 12.08(5) *Natural Features* and Section 15.03(6) *Natural Features*, to not show natural features, ledge, steep slopes, etc.;
- d. Section 12.08(1) *Property Lines* and Section 15.03(2) *Dimensions*, to only show boundary information in the vicinity of the lot line adjustment;
- e. Section 12.08(20) *Existing Vegetation*, to not show existing vegetation;
- f. Section 12.08(22) *Abutting Properties* and Section 15.03(1) *Abutting Property*, to now show abutting properties information;
- g. Section 12.08 (23a-e) *Tabulations* and Section 15.03(3) *Tabulations*, to not tabulate floor areas and useable land;
- h. Section 15.03(5) *Monumentation*, to only show monumentation in the vicinity of the lot line adjustment; and,
- i. Section 15.03(12) *Site Improvements*, to not show site improvements.

Staff reviewed the evidence submitted and does not support the waiver requests below, noting that the materials provided do not show compliance with either New Hampshire RSA 674:36(II)(n)(1) or (2) and do not meet the burden of proof for Section 35.08(1), (2), (3), or (4) of the Subdivision Regulations.

- a. Section 12.07 *Wetlands*, to not show wetlands;
- b. Section 12.08 (23a-e) *Tabulations* and Section 15.03(3) *Tabulations*, to not tabulate lot areas or impervious land; and,
- c. Section 15.03(5) *Monumentation*, to set an iron rod on Horse Hill Rd.

4 Conditional Use Permits:

4.41 No conditional use permits are requested.

6. Architectural Design Review:

6.1 No architectural design review is required for a subdivision.

7. Conservation Commission:

7.1 No appearances before the Conservation Commission are necessary for a subdivision application.

8. Recommendations:

8.1 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:

8.2 **Grant the waiver requests below** from the listed sections of the Subdivision Regulations, using the criteria of New Hampshire RSA 674:36(II)(n)(1) and Section 35.08 of the Subdivision Regulations:

- a. Section 12.08(3) *Topography* and Section 15.03(4) *Topography*, to not show topography or spot elevations;
- b. Section 12.08(4) *Soils*, to not show soils data;
- c. Section 12.08(5) *Natural Features*, and Section 15.03(6) *Natural Features*, to not show natural features, ledge, steep slopes, etc.;
- d. Section 12.08(1) *Property Lines* and Section 15.03(2) *Dimensions*, to only show boundary information in the vicinity of the lot line adjustment;
- e. Section 12.08(20) *Existing Vegetation*, to not show existing vegetation;
- f. Section 12.08(22) *Abutting Properties* and Section 15.03(1) *Abutting Property*, to not show abutting properties information;
- g. Section 12.08 (23a-e) *Tabulations* and Section 15.03(3) *Tabulations*, to not tabulate floor areas and useable land;
- h. Section 15.03(5) *Monumentation*, to only show monumentation in the vicinity of the lot line adjustment; and,
- i. Section 15.03(12) *Site Improvements*, to not show site improvements.

8.3 **Deny the waiver requests below** from the listed sections of the Subdivision Regulations, because the request does not meet either New Hampshire RSA 674:36(II)(n)(1) or (2), nor does it meet Section 35.08(1), (2), (3), or (4) of the Subdivision Regulations.

- a. Section 12.07 *Wetlands*, to not show wetlands;
- b. Section 12.08 (23a-e) *Tabulations* and Section 15.03(3) *Tabulations*, to not tabulate lot areas and impervious land; and,
- c. Section 15.03(5) *Monumentation*, to set an iron rod on Horse Hill Rd. Monumentation to be set shall be identified as such on the plans, including material, and shall be compliant with the requirements of Section 19.04 *Monuments* of the Subdivision Regulations.

8.4 **Grant minor subdivision approval** for the lot line adjustment to exchange 2.27 acres in an even land swap between unaddressed Runnells Rd (Tax Map Lot 36Z 11) and 129 Horse Hill Rd (Tax Map Lot 33Z 32), as submitted, subject to the following precedent and subsequent conditions:

- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the final plat by the Planning Board Chair and Clerk, unless otherwise specified:
1. Unless a specific variance, waiver, or conditional use permit is granted stating otherwise, revise the plan set to fully comply with the Subdivision Regulations, Zoning Ordinance, and Concord Construction Standards and Details, including but not limited to the following:
 - a. Section 12.02(1)(a) *Title Block* requires that the title of the plan be included in the title block. This information either appears to be missing or is inconsistent throughout the sheets of the plan sets. Specifically, on sheet 2, the text box “and” has been moved and is behind the text of “Kristen M. Riley” and shall be moved up to match sheet 1.
 - b. Section 12.02(3) *Standard Notes* requires listing the notes set forth in Appendix B. The plat does not appear to contain all information as required by Appendix B, including minimum lot area, frontage, and setback dimensions required for the zoning district(s) and for wetland buffers, bluff setbacks, and the Shoreland Protection Overlay District; required tabulations of use, area, lot coverage, parking existing and proposed, useable and building land area, etc, as applicable; source of sanitary sewer and potable water supply; list of Planning Board waivers; and, a list of those conditions of Planning Board approval which remain to be fulfilled after the recording of the plat.
 - c. Section 12.02(4) *Conditions of Planning Board Approval* requires listing conditions of approval which remain to be fulfilled after plat recording. The plat does not appear to contain any notes regarding subsequent conditions of approval. This requirement can be satisfied by adding a note that states: “The development is subject to all subsequent conditions of Planning Board approval from Case 2024-070.”
 - d. Section 12.03(1) *North Arrow and Bar Scale* requires that the 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. This required information appears to be missing. Specifically, sheet 2 of 2 does not appear to contain the required north arrow.
 - e. Section 12.04 *Location Plan* requires a detailed location plan to be on the subdivision plat or a cover sheet, prepared at a minimum scale of 1” = 400”. A location plan with a scale of 1” = 1,000 feet is provided on sheet 2 but does not conform to the required minimum scale.
 - f. Section 12.06(2) *Easements* requires showing on the plat the plan or deed references for recorded easements for the purposes of providing access, utilities, and drainage. A note needs to be added to the plat for the recorded access easement for Map 36Z Lot 11 described in the project narrative letter.
 - g. The plat gives no indication of any existing restrictions on the property for compliance with Section 12.06(3) *Existing Restrictions* and Section 12.08(21) *Restrictions*. If not applicable, then a note needs to be added to the plat stating that there are no existing recorded covenants or restrictions relating to the use of the land for clarification and confirmation that there are no existing restrictions.
 - h. Section 12.08(6) *Community Features* requires that the existing adjacent public buildings, parks, open space, and any historic structures or features be shown on the existing conditions plan. This information appears to be missing from the existing conditions plan. If there are no existing adjacent community features, a note needs to

- be added to the existing conditions plan stating that there are no existing adjacent public buildings, parks, open spaces, or historic structures or features.
- i. Section 12.08(7) *Buildings and Structures* requires that the existing conditions plan show the location, layout, and use of existing buildings and structures with exterior dimensions. This required information is missing from the existing conditions plan. Specifically, the location of existing buildings and structures is shown, but the layout, use, and exterior dimensions appear to be missing.
 - j. Section 12.08(13) *Flood Hazard* requires that a notation as to whether or not the property is located in a Flood Hazard Zoning Overlay District be noted on the existing conditions plan, along with the location of the boundary line of the Flood Hazard Zoning Overlay 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. This required information appears to be missing from that plan. Specifically, a note, which shall be added to the end of Note 6 on sheet 1, stating that the property is located within the City of Concord Flood Hazard Overlay (FH) District, and the boundaries lines shall be shown on the plat as well.
 - k. Section 12.08(14) *Aquifers* requires that the existing location plan show the boundaries and label for each water systems protection area. This information appears to be missing from that plan. If the site does not contain any water system protection area, a note shall be added to the existing conditions plan stating that the site does not contain any water systems protection areas. Staff notes Map 36Z Lot 11 is located within, and within 400 feet of, the aquifer protection zone 3 (APD-3) as defined by Article 28-3-6(c)(1)(a) *Community Water Systems Protection Area* of the Zoning Ordinance.
 - l. Section 12.08(15) *Shoreland Protection* requires that the existing conditions plan show the boundaries and label for the shoreland protection overlay district and the natural vegetative and woodland buffers associated with that district. The information appears to be missing from that plan. If the site does not contain any shoreland protection overlay districts, a note shall be added to the existing conditions plan stating that the site does not contain any shoreland protection overlay districts.
 - m. Section 12.08(16) *Signs* requires that the location and size of existing ground signs be shown and labeled on the existing conditions plan. This required information appears to be missing from the existing conditions plan. If the site does not contain any existing ground signs, a note shall be added to the existing conditions plan stating that the site does not contain any existing ground signs.
 - n. Section 12.08(19) *Setbacks and Buffers* requires that setbacks and buffers shall be shown and dimensioned, including wetland buffers, shoreland protection district buffers, buffers to bluffs, and residential district buffers. This required information appears to be missing from the existing conditions plan, specifically, wetland buffers. If the site does not require or contain any of the stated buffers, a note shall be added to the existing conditions plan stating as much.
 - o. Section 12.08(21) *Restrictions* requires that the existing conditions plan shall contain notations of all covenants, easements, self-imposed restrictions, and any other restrictions in place at the time of application submittal. This required information appears to be missing from the existing conditions plan. Specifically, the access easement from Runnells Rd and the self-imposed land use restriction for Map 36Z Lot 11 shall be shown. Staff notes that the 2.274 acres identified as Parcel "A" is in current use, will be considered removed from current use, subject to land use change

- tax, and shall be noted as such on the plans. If the site does not contain any of the aforementioned items, a note shall be added to the existing conditions plan stating which items are not in place.
- p. Section 13.01(6) *State and Federal Permits* requires that a copy of any application made to a state or federal agency required for the approval of the subdivision, including those required for the development of the individual lots, be submitted with the application. The submittal did not include copies of any state and federal permits, nor are there any notes on the subdivision plat indicating if any state or federal permits are required. A note shall be added to the subdivision plat listing the required state and federal permits or stating that there no such permits are required for the subdivision.
 - q. Section 13.02(2) *Utility, Drainage, and Slope Easements* requires the submittal of utility and drainage easement documents for review. It is unclear from the site plat how ownership and maintenance of the old box culvert used to convey water from the brook is to be handled now that it will be bisected by property lines of Map 36Z 11 and Map 33Z Lot 32, and no easement documents were included in the submittal. The applicant shall prepare and submit drainage and maintenance easements concerning said culvert for review and approval by the City Solicitor.
 - r. Section 13.02(4) *Other Public Easements*, requires the submittal of deeds of easement for any public use shown on the plat or required by the Planning Board. This includes the trail easement that is required by Section 22.11 *Trails*. The deed of easement for the trail easement shall be submitted for review by the Clerk and City Engineer, and the City Solicitor as to form and content, for recording with the plat.
 - s. Section 15.01(3) requires that the application provide a wetland delineation and wetland buffers, where applicable. If the site does not contain any wetland or wetland buffers, a note shall be added to the subdivision plat stating as much.
 - t. Section 15.02(6) *Error of Closure* requires an error of closure of not less than 1 in 10,000. The stated error of closure is not shown on the plan notes and shall be added to Note 3 on sheet 1.
 - u. Section 15.02(10) *Easements and Restrictions* requires notations of all easements, covenants, and restrictions. The plat does not appear to have any notes regarding easements, covenants, and/or restrictions. Specifically, the access easement from Runnells Road and the self-imposed land use restriction for Map 36Z Lot 11 is not shown. Staff notes that the 2.274 acres identified as Parcel "A" is in Current Use, will be considered removed from Current Use, and thus shall be subject to land use change tax. This circumstance shall be noted on the plan set. If the site does not contain any of the aforementioned items, a note shall be added to the existing conditions plan stating which items are not in place.
 - v. Section 15.03(5) *Monumentation* requires the type and location of existing and required monuments be shown on the plat at the corners of lots, points of curvature, tangency, and deflection points along the street rights-of-way. This required information appears to be missing from the plat. Specifically, the applicant shall show required monumentation to be set at all property corners where existing monumentation has not been held. Additionally, all bounds shall be identified as either found or to be set, and shall include materials, all to be shown on the plat.
 - w. Section 15.03(7) *Zoning* requires that the zoning district boundary lines, including overlay districts, be shown on the plat with labels. This required information appears to be missing from the plat. Specifically, the boundaries of the Aquifer Protection

- (AP) District, as defined in Article 28-3-6(c) of the Zoning Ordinance shall be shown.
- x. Section 15.03(8) *Setbacks* requires that setbacks shall be shown and dimensioned, including those required for yards, shoreland protection, bluffs, and wetlands, on the plat. This required information appears to be missing from the plat. Specifically, wetlands and wetland buffer setbacks are not shown and shall be shown for compliance with this section.
 - y. Section 15.03(12) *Septic Systems* requires where municipal sewer service is not available, that soil data and test results sufficient to submit an application for subdivision approval to the State of New Hampshire Department of Environmental Services (NHDES), including a plan showing the location of test pits, the soil profiles, ground water elevation, and seasonal highwater table elevation at each test pit, be provided. The required 4,000-square-foot septic drain field area required by the NHDES shall be shown on the subdivision plat. The applicant shall meet this requirement, or show the location of any existing septic systems on site and demonstrate that the existing septic system either complies, or can comply, with the required 4,000-square-foot septic drain field location.
 - z. Section 15.03(14) *Wells* requires showing on the plat the location of all existing wells and required wellhead protection radii on the site and abutting properties. This required information appears to be missing from the plat and shall be added.
 - aa. Section 15.03(16) *Easements* requires that the location, width, and metes and bounds description of all existing and proposed easements and other rights-of-way, except slope and temporary grading and construction easements, be shown on the plat. This required information appears to be missing from the plat. Specifically, the access easement for Map 36Z Lot 11 from Runnells Rd shall be shown.
 - bb. Section 15.03(17) *Conditions of Approval* requires that the conditions of approval as set forth by the Planning Board which remain to be fulfilled after the recording of the plat shall be duly noted on the plat. This required information appears to be missing from the plat, and can be satisfied with a note stating: “The development is subject to all subsequent conditions of Planning Board approval from Case 2024-070.”
 - cc. The subject properties are encumbered by the former Concord-Claremont Railroad corridor. This corridor is being redeveloped into the Concord-Lake Sunapee Rail Trail. Portions of this rail trail have already been completed. The rail trail has important local and regional recreational, economic development, and multi-modal transportation benefits. In accordance with Section 22.11 *Trails* of the Subdivision Regulations, the applicant shall provide the City with an easement, no less than 60 feet in width, to facilitate continuation of the Concord-Lake Sunapee Rail Trail and associated improvements through the subject properties. The easement location shall be established to avoid wetlands. The easement shall be subject to the approval of the Planning Board as to design; shall be shown on the plat to be recorded at the Merrimack County Registry of Deeds; and, shall be set aside in perpetuity. The easement shall be acceptable to the City Solicitor.
2. It appears that 154.38 feet of frontage is being transferred to 36Z 11. This shall be noted and indicated on the plat so that it is very clear that the transfer gives the parcel access to Horse Hill Rd.
 3. The plat shall list all approved variances, waivers, and conditional use permits with the section numbers and description, and date of approval.

4. Prior to the recording of the plat and as required by Section 12.09 *Electronic Submission* of the Subdivision Regulations, digital information from the plat shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. The layers listed in Section 12.09(1) through (8) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
 5. Upon notification from the Planning Division that the final plat complies with Planning Board conditions, the Zoning Ordinance, and Subdivision Regulations, the applicant shall deliver to the Planning Division one mylar, one full-size plan set, and one 11x17 plan set for endorsement by the Planning Board Chair and Clerk and subsequent recording of the mylar at the Merrimack County Registry of Deeds. Per Section 15.02(1) *Licensed Land Surveyor*, the final plat drawings shall contain the signature and stamp of the New Hampshire licensed land surveyor who prepared the plat.
 6. Per Section 13.02(13) *Recording Fees*, the applicant is responsible for submittal of required recording fees.
 7. Per Section 4.02, no land shall be subdivided or portions of a lot transferred within the corporate limits of the City, until a subdivision plat for said land has been prepared in accordance with the regulations, approved by the Board, endorsed by the Chair and Clerk of the Planning Board, and filed at the Merrimack County Registry of Deeds.
 8. Per Section 15.02(12) *Registry Requirements*, the applicant is responsible for ensuring that the plat to be recorded complies with the current standards of the Merrimack County Registry of Deeds.
- (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, Subdivision Regulations, and Concord Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit is granted.
 2. Per Section 19.04 *Monuments*, a New Hampshire licensed land surveyor shall place permanent reference monuments in the subdivision, as required by the Subdivision Regulations and as approved by the City Engineer. All monuments shall be inspected by the City of Concord. All such monuments shall be set flush with the proposed grade and planted in such a manner that they will not be removed by frost.

Prepared by: ATB



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

Michael Bezanson, P.E.
City Engineer

MEMORANDUM

TO: Alec Bass, Assistant City Planner
FROM: Peter Kohalmi, PE, Associate Engineer
DATE: October 25, 2024
SUBJECT: 129 Horse Hill Rd and unaddressed Runnells Rd—Lot Line Adjustment –
Engineering Review
Map 36Z Lot 11 and 33Z Lot 12 Project No. 2024-70

The Engineering Services Division (Engineering) has received the following items for review:

- Lot Line Adjustment Plan prepared by T F Bernier, Inc, revision dated September, 2024
- Application and Waiver Request Letter prepared by T F Bernier, Inc., dated September 24, 2024

As a supplement to any comments offered by the Planning Division, Engineering offers the following design related comments. With subsequent submissions, the applicant shall provide a response letter that acknowledges or addresses each of these comments and discusses any additional changes to the plans.

1. General Comments

- a. Please indicate monuments to be set at all property corners where existing monumentation has not been held. For instance, at the property corner which is shown as Detail A, a calculated property corner is 4.34' from a found iron pipe.