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

Staff Report for Planning Board

Meeting on May 21, 2025
Project Summary – Conditional Use Permit

Project: Driveway (2025-042)
Property Owner: 2 Granite Place LLC
Applicant: Richard D. Bartlett & Associates, LLC
Project Address: Unaddressed Penacook St
Tax Map Lot: 651Z 68

Determination of Completeness:

Per Section 34.05 of the Site Plan Regulations, a completed application for a conditional use permit without a companion site plan application will contain the required information listed in Section 14.02 *Design Review Phase* of the Site Plan Regulations and will be legible and competently prepared.

In making a determination of completeness, the Board shall consider the written recommendation of the Planning Division, as well as any written communications from the applicant, abutters, and parties of interest; **however, no hearing shall be opened nor shall testimony be received on a determination of completeness. If the application is determined complete, the Board shall then open the public hearing.**

Section 36.14(1) *Determination of Completeness* of the Site Plan 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 Site Plan Regulations and concludes that all criteria for completeness 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 that the application is complete;
- State that the project does not meet the criteria for a development of regional impact per RSA 36:55; and,
- Open the public hearing.

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

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

Project Description:

The 106.72-acre site is undeveloped and unaddressed with a small southerly portion being in the Single-Family Residential (RS) District and the bulk of the site being in the Open Space Residential (RO) District. The site has 238.97 feet of frontage on Penacook St, and another 48.13 feet of frontage on Penacook St farther west. Even farther to the west, the site has 50 feet of frontage on Little Pond Rd. All areas of the site's frontage are in the RS District. The area with the 238.97 feet of frontage on Penacook St provides a location for a driveway that meets the separation distance requirement, but has sight distance issues because of the curve to the east. Neither of the two remaining areas have enough frontage to provide a driveway that meets the separation distance requirement, so the applicant chose the frontage area that is most suited and practical for a driveway and requests conditional use permit approval in accordance with Section 28-7-11(f) *Driveway Separation Alternatives* to construct a driveway that is 30 feet from the driveway on the abutting lot, rather than the required 40 feet of separation.

Compliance:

The following analysis of compliance with the Zoning Ordinance and Site Plan Regulations is based on a 1-page narrative; a 1-sheet driveway separation plan; and, a 2-sheet existing conditions plan, dated March 2025, prepared by Richard D. Bartlett & Associates, LLC.

1. Project Details and Zoning Ordinance Compliance:

Zoning District:	Open Space (RO) District
Existing Use:	Undeveloped
Proposed Use:	Driveway for future unknown use
Overlay Districts:	
Flood Hazard (FH) District	None
Shoreland Protection (SP) District	Yes
Historic (HI) District	None
Penacook Lake Watershed (WS) District	None
Aquifer Protection (AP) District	None

- 1.1 The Planning Division conducted a zoning compliance review of the application and determined that the project as submitted is compliant with the Zoning Ordinance.

2. Comments:

- 2.1 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 of the Board's consideration of completeness. To be determined complete where a variance is being requested from the Zoning Board of Adjustment, the site plan application must either be in compliance with the Zoning Ordinance, or the applicant must have obtained favorable approval of the required variances prior to the time the notices are mailed to the abutters notifying of the Board's consideration of completeness. The Planning Division determined that the application conforms with the Zoning Ordinance, and that determination was made prior to abutter notifications.

- 2.2 Per Section 34.04 *Independent Application*, where no subdivision or site plan approval would otherwise be required, the application and review procedure for conditional use permits shall be in accordance with the requirements of the Site Plan Regulations for a minor site plan application with respect to the requirements for the submittal of abutters notices, public notice, determination of completeness, public hearings, and timing of decisions by the Planning Board. Section 34.05 *Application Requirements* immediately follows and provides the requirements for a complete application, stating that the requirements contained in Section 14.02 *Design Review Phase* shall be used to determine if conditional use permit applications without a companion site plan application are complete. Accordingly, staff utilized the procedures for a minor site plan application in the processing of the stand-alone conditional use permit applications and items from Section 14.02 *Design Review Phase* in the review for determining completeness.
- 2.3 Section 34.05(4) authorizes the Clerk of the Planning Board to determine that certain requirements of Section 14.02 *Design Review Phase* may not be relevant for the particular circumstances of the site or proposed use, for which a conditional use permit is requested. Unless otherwise noted below that an item is missing and relevant to a review of the application, the Clerk of the Planning Board has determined that the requirements of Section 14.02 *Design Review Phase* have either been provided, or are not relevant for this particular stand-alone conditional use permit application.
- 2.4 The Assessing Department reviewed the application and had no comments.
- 2.5 The Engineering Services Division reviewed the application and had no comments.
- 2.6 The Fire Department reviewed the application and had no comments.
- 2.7 The General Services Department reviewed the application and had no comments.

3. Compliance with Site Plan Regulations:

The following items from Section 14.02 are missing from the application, and are relevant to a complete review of the application; thus, the following items are required to determine the application complete:

- 3.1 None.

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

- 3.2 Add the Planning Board approval block to sheet 1 of 1, titled, "RESIDENTIAL DRIVEWAY PREPARED FOR 2 GRANITE PLACE, LLC."



- 3.3 The Assessing Department had no compliance requirement comments.
- 3.4 The Fire Department had no compliance requirement comments.
- 3.5 The Engineer Services Division had no compliance requirement comments.
- 3.6 The General Services Department had no compliance requirement comments.

4. Variances:

- 4.1 No variances are requested.

5. Waivers:

- 5.1 No waivers are requested.

6. Conditional Use Permits:

- 6.1 The applicant requests approval for a conditional use permit pursuant to Section 28-7-11(f) *Driveway Separation Alternatives* and Section 28-9-4(b) *Conditional Use Permits* to permit a reduction in driveway separation distance from the required 40 feet to the proposed 30 feet.

When compliance cannot be achieved with the standards for driveway separation, the Planning Board may permit a reduction in the dimension or dimensions that cannot be achieved in order to allow the establishment of driveway access to a lot, provided that the Planning Board finds that the reduction in dimension is the most minimal reduction which will still allow the access to be established to the lot while minimizing to the greatest extent possible the potential conflicts of turning movements into and out of the driveway with other turning and through traffic movements on the adjacent street. The site has 238.97 feet of frontage on Penacook St, and another 48.13 feet of frontage on Penacook St farther west. Even farther to the west, the site has 50 feet of frontage on Little Pond Rd. While the area with the 238.97 feet of frontage on Penacook St provides a location for a driveway that meets the separation distance requirement, there are sight distance issues because of the curve to the east. Neither of the two remaining areas have enough frontage to provide a driveway that meets the separation distance requirement, so the applicant chose the frontage area that is most suited and practical for a driveway and provides the greatest separation possible.

Per Section 28-9-4(b) *Conditional Use Permits*, the Planning Board shall approve an application for a conditional use permit if it finds, based on the information submitted with respect to the application, that:

- a. The use is specifically authorized in this ordinance as a conditional use;

Review: Staff notes that the reduction in separation distance is allowed through a conditional use as stated in Section 28-7-11(f) of the Zoning Ordinance.

- b. If completed as proposed by the applicant, the development in its proposed location will comply with the requirements of this article, and with the specific conditions of standards established in this ordinance for the particular use;

Review: The applicant states that “the driveway as proposed, with the exception of the required distance between driveways, will meet all other requirements...” Staff notes that the site meets the dimensional standards for both the RO and RS Districts.

- c. The use will not materially endanger the public health or safety;

Review: The applicant states, “The proposed driveway has ample sight distance and will not have an adverse impact on highway or pedestrian traffic.” Staff is unaware of any public health or safety dangers posed by the proposed reduction in driveway separation.

- d. The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;

Review: The applicant states, “Residential uses are permitted by right in the RO and RS districts and the driveway as proposed, with the exception of the required distance between driveways, will meet all other requirements and be compatible with abutting uses.” Staff notes that the site is bordered to the north, south, west, and northeast by the RO and RS Districts. The southeast portion of the site is bordered by Institutional (IS) District and RS District. Staff further notes that the conditional use request is for a driveway that does not meet the required separation distance from adjacent driveways.

- e. The use will not have an adverse effect on highway or pedestrian safety;

Review: The applicant states, “The proposed driveway has ample sight distance and will not have an adverse impact on highway or pedestrian traffic.” Staff concurs and finds no evidence that the driveway in the proposed location will have an adverse effect on highway or pedestrian safety.

- f. The use will not have an adverse effect on the natural, environmental, and historic resources of the City; and

Review: The applicant states, “The proposed driveway has ample sight distance and will not have an adverse impact on highway or pedestrian traffic. The residential use will be adequately serviced by necessary public utilities and by community facilities services of a sufficient capacity to ensure the proper operation of the proposed use, and will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity.” Staff note that the request condition use is for a specific driveway location, not for a principal use. The principal use of a house is permitted by right and no conditional use permit approval is needed for such. Staff further notes that the proposed driveway location that is the topic of the requested conditional use permit will not have an adverse effect on the natural, environmental, or historic resources of the City because there are no natural, environmental, or historic resources in the location of the proposed driveway.

- g. The use will be adequately serviced by necessary public utilities and by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use, and

will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity.

Review: The applicant states, “The proposed driveway has ample sight distance and will not have an adverse impact on highway or pedestrian traffic. The residential use will be adequately serviced by necessary public utilities and by community facilities services of a sufficient capacity to ensure the proper operation of the proposed use, and will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity.” Staff again notes that the requested conditional use is for a specific driveway location, not for a principal use. The principal use of a house is permitted by right and no conditional use permit approval is needed for such. Staff further notes that the proposed driveway location that is the topic of the requested conditional use permit will not necessitate any public expenditures to provide any facilities and services because no facilities and services are needed for this driveway other than a public street from which the driveway can take access. Such public streets exist in the form of Penacook St and Little Pond Rd.

7. Architectural Design Review:

7.1 Architectural design review is not necessary for this application.

8. Conservation Commission:

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

9. Recommendations:

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

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

9.2 **Grant the conditional use permit** for a driveway to be located 30 feet from the adjacent driveway, rather than the 40 feet required, in accordance with Section 28-7-11(f) *Driveway Separation Alternatives*, at Tax Map Lot 651Z 68, unaddressed Penacook St, because the criteria from Section 28-7-11(f) *Driveway Separation Alternatives* and Section 28-9-4(b)(4)(a) through (g) have been met, and subject to the following precedent and subsequent conditions:

(a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the final plans by the Planning Board Chair and Clerk, unless otherwise specified:

1. For compliance with the Site Plan Regulations, revise the plans as follows:

a. Add the Planning Board approval block to sheet 1 of 1, titled, “RESIDENTIAL DRIVEWAY PREPARED FOR 2 GRANITE PLACE, LLC.”

<p>APPROVED</p> <p><small>UNDER THE PROVISIONS OF R.S.A. 674:35 & R.S.A. 674:36</small></p> <p>CITY PLANNING BOARD</p> <p><small>CITY OF CONCORD, NEW HAMPSHIRE</small></p> <p><small>In accordance with vote of the board dated:</small></p> <p>_____</p> <p><small>Approval of this plan is limited to the lots as shown</small></p> <p>_____</p> <p><small>Chair</small> <small>Clerk</small></p>

2. The plans submitted for final approval shall contain the signature and seal of the appropriate licensed professional responsible for preparing the plans as outlined in Section 12.03(1) through (6), as applicable.
 3. Upon notification from the Planning Division that the final plan set complies with Planning Board conditions, Zoning Ordinance requirements, and the Site Plan Regulations, the applicant shall deliver to the Planning Division two full-size plan sets for endorsement by the Planning Board Chair and Clerk of the Planning Board.
- (b) **Subsequent Conditions** – to be fulfilled as specified:
1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, the municipal code, Site Plan Regulations, and Concord Construction Standards and Details, as applicable, unless a variance, waiver, or conditional use permit is granted.
 2. Per Section 36.19 of the Site Plan Regulations, it shall be the duty of the Clerk to enforce the regulations and to bring any violations or lack of compliance herewith, to the attention of the City Solicitor and Code Administrator.
 3. In accordance with Section 28-9-4(b)(7) *Expiration of a Conditional Use Permit* of the Zoning Ordinance, if the use or construction so authorized by granting a conditional use permit has not commenced within a two-year period from the date of the decision of the Planning Board, then the conditional use permit shall be deemed to have expired and the Planning Board's decision shall be considered null and void.
 4. Driveways shall adhere to Section 9: Site Work 01. Requirements A. Driveways of the Concord Construction Standards and Details.
 5. The applicant shall comply with Section 5-1-8 *Permit for Driveways* of the Zoning Ordinance: "All applications for a permit to repair, widen, reconstruct, or construct a driveway on residential or commercial property, to ensure conformance with the City of Concord's zoning laws pertaining to driveway locations, shall include the fee listed in Schedule I of Chapter 1 per permit application."