



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

Staff Report for Planning Board

Meeting on November 19, 2025
Project Summary – Minor Subdivision

Project: Phenix Block – Lot Line Adjustment and Phenix Ave Discontinuance (2025-122)
Property Owner: Phenix Hall, LLC & Ciborowski Associates, LLC
Applicant: Northpoint Engineering, LLC
Project Address: 34-42 North Main St & 56 North Main St
Tax Map Lot: 6443Z 28 & 6443Z 27

Determination of Completeness:

To determine completeness of a minor subdivision application, the Board shall consider the requirements of Sections 9.06, 15.01, 15.02, and 35.16(1) of the Subdivision Regulations, the written recommendation of the Planning Division, and 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.

The Planning Division reviewed the application for completeness based upon the criteria of the Subdivision Regulations and concluded that, even though the criteria for completeness are not totally met, 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 RSA 36:55; and**
- **Continue the public hearing for this application to a date certain of December 17, 2025 so that the public hearing takes place on the same night as the two accompanying major site plan applications for the Phenix Block project. Additionally, it would allow the applicant time to address any staff comments by revising the plat and providing a response narrative. Unless otherwise agreed to in writing by the City Planner, any revisions shall be submitted no later than Friday, November 21, 2025 at 4:00pm to allow time for staff to review and revise the staff report for the December 17, 2025 Planning Board meeting accordingly.**

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). Provided the Board determines the application complete, the 65-day period shall commence on November 19, 2025, and end on **January 23, 2026**. If the applicant has not demonstrated compliance with the Subdivision Regulations by the end of the statutory timeline (**January 23, 2026**), the applicant may waive the requirement for Planning Board action within the 65-

day time period and consent to an extension of the public hearing as may be mutually agreeable, or the Board may approve, approve conditionally, or deny the application based on the information provided at that time.

Project Description:

The applicant is proposing the complete redevelopment of the Phenix Block (Lot 27) along with a new building connection to Phenix Hall (Lot 28). Based on the applicant's proposed design, this new connection requires the discontinuance of the existing Phenix Ave which currently lies between the two parcels. The redevelopment of the area surrounding Phenix Hall has been a significant economic development aspiration of the applicant and has been identified as a key redevelopment location by the City as well, to the extent that the project location is specifically discussed in the City's 1997 Downtown Master Plan. In addition to this application, the overall project involves two accompanying major site plan applications for each lot (PL-SPR-2025-0049 and PL-SPR-2025-0050). The project is proposing that the City discontinue the entirety of Phenix Ave while reserving the right for pedestrian access and for the underground water and sewer mains. The discontinued Phenix Ave right-of-way is proposed to be reapportioned between the two subject parcels, with the majority being added to the Phenix Hall parcel (Lot 28) to the south. This will necessitate a lot line adjustment between the subject parcels.

Compliance:

The following analysis of compliance with the Zoning Ordinance and Subdivision Regulations is based on a 1-sheet subdivision plat, dated October 2025, prepared by Richard D. Bartlett & Associates, LLC and an undated 2-page project narrative.

1. Project Details and Zoning Ordinance Compliance:

Zoning District:	Central Business Performance (CBP) District
Existing Use:	Retail and Office
Proposed Use:	Mixed Use
Overlay Districts:	
Flood Hazard (FH) District	None
Shoreland Protection (SP) District	None
Historic (HI) District	None
Penacook Lake Watershed (WS) District	None
Aquifer Protection (AP) District	None
Wetlands:	None
Wetlands Buffers:	None

Zoning Code Item	Required	Lot 6443Z 28	Lot 6443Z 27
Minimum Total Area	N/A	Existing: 9,550-square-feet Proposed: 11,863-square-feet	Existing: 14,454-square-feet Proposed: 14,711-square-feet
Minimum Buildable Land	N/A	Not Provided	Not Provided
Minimum Lot Frontage	22 feet	Not Provided	Not Provided
Minimum Front Yard	N/A	Not Provided	Not Provided
Minimum Rear Yard	N/A	Not Provided	Not Provided
Minimum Side Yard	N/A	Not Provided	Not Provided
Maximum Lot Coverage	N/A	Not Provided	Not Provided
Maximum Building Height	80 feet	Not Provided	Not Provided
Off-street Parking	N/A	Not Provided	Not Provided

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

2. General Comments:

- 2.1 Section 6.01(4) *Conformity with Zoning* requires compliance with the Zoning Ordinance at the time the abutter notifications were mailed. Staff was unaware of any nonconformities with the Zoning Ordinance at the time of the mailing.
- 2.2 Section 6.01(5) *Conditional Use Permits* requires submittal of a completed conditional use permit application, if one is required, at the same time as the subdivision application. Staff reviewed for compliance and determined that no conditional use permits are required.
- 2.3 Per Section 6.02(2) *Minor Subdivisions*, a subdivision is classified as a minor subdivision where it contains three or fewer lots fronting on an existing street, not involving the creation of any new street or road, the extension of municipal facilities, or the creation of any public improvements and does not adversely affect the remainder of the parcel or adjoining property. For the purposes of these regulations all resubdivisions or minor lot line adjustments shall be classified as minor subdivisions. The submitted plat shows street discontinuance and a lot line adjustment between two lots, each fronting on existing streets, and with no extension of municipal facilities or creation of any public improvements.
- 2.4 Section 9.02 *Minor Subdivision Application Requirements* requires the filing of certain items for a completed application. 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 in Item 3 of this staff report, no conditional use permits are required, no state or federal agency permits are required, and requested waivers are described in Item 5 of this staff report.
- 2.5 Staff notes that, 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.
- 2.6 The Assessing Department reviewed the application and had no general comments.
- 2.7 The Engineering Services Division reviewed the application and had no general comments.
- 2.8 The Fire Department reviewed the application and had no general comments.
- 2.9 Because the application involves a proposed discontinuance of a City Street, the City's Code of Ordinances requires the input and a recommendation from the Planning Board to the City Council prior to any formal action on the discontinuance. Please refer to item 3.12 of this memo for additional details and requirements related to the discontinuance process.

3. Subdivision Regulations Determination of Completeness:

The items below are missing from the submittal and **the Subdivision Regulations REQUIRE the items for the application to be deemed complete (unless a waiver from the requirement is otherwise approved).**

- 3.1 Section 12.02(4) *Conditions of Planning Board Approval* and Section 15.03(17) *Conditions of Approval* require listing conditions of approval which remain to be fulfilled after plat recording. There do not appear to be any indications on the subdivision plat regarding conditions of approval. For compliance with these sections, a note shall be added to the subdivision plat that states: "The development is subject to all subsequent conditions of Planning Board approval granted on INSERT ACTUAL DATE HERE for application 2025-122."
- 3.2 Section 12.08(3) *Topography* and Section 15.03(4) *Topography* requires on the final plat, existing topographic conditions and all proposed changes in ground elevation at a contour interval of 2-

feet, as referred to sea level datum of the North American Vertical Datum 1988 (NAVD88). Where land slopes are less than 2%, spot elevations shall be shown at all breaks in grade, along drainage channels or swales, and at selected points not more than 100-feet apart in all directions. The final plat does not appear to provide any topographical information and unless a waiver is requested and approved by the Planning Board, it shall be added.

- 3.3 Section 12.08(7) *Buildings and Structures* requires to be shown on the final plat, the location, layout, and use of existing buildings and structures with exterior dimensions. Specifically, the existing use and exterior dimensions are not provided and shall be added to the final plat, unless a waiver has been requested and approved by the Planning Board.
- 3.4 Section 12.08(9) *Easement or Right-of-Way* requires to be shown on the final plat the location, dimensions, and purpose of any easements or rights-of-way within or adjacent to the subdivision. Specifically, the dimension and purpose of the public rights-of-way on Phenix Ave and Low Ave shall be shown on the final plat.
- 3.5 Section 12.08(23) *Tabulations* requires certain tabulations to be provided on the final plat. Specifically, the following tabulations shall be provided:
 - a. Section 12.08(23)(b), square footage of each existing building broken down by floor and use category;
 - b. Section 12.08(23)(c), impervious surface coverage in square feet and percent;
 - c. Section 12.08(23)(d), useable land area calculations for residential development and net land area calculations for non-residential development.
 - d. Section 12.08(23)(e), other tabulations that may be required by the Clerk in order to determine compliance with the City's Zoning Regulations or Subdivision Regulations. Specifically, the applicant shall include existing and proposed frontage in the Lot Synopsis to clearly demonstrate conformity with the required lot frontage of the Zoning Ordinance.
- 3.6 Section 15.03(16) *Easements* requires the location, width, and metes and bounds description of all existing and proposed easements and other rights-of-way, except for slope and temporary grading and construction easements. Specifically, the plat shall provide the details for the existing Phenix Ave right-of-way. Staff notes that for the access and utility easements proposed, staff is recommending a separate easement plan to be recorded with the deeds which shall contain the required easement information, including location, width, metes and bounds, and description.

Subdivision Regulations Compliance:

The submittal was found to be compliant with all other sections of the Subdivision Regulations **not otherwise required for the determination of completeness** except as listed below, noting that the items below are missing as required for full compliance.

- 3.7 Section 13.02(2) *Utility, Drainage and Slope Easements* requires Deeds of Easements for new, extended, or expanded utility and drainage rights-of-way located outside of any existing or proposed street right-of-way including slope easements, and flowage easements for drainage across property not within a defined pipe, channel, or watercourse. Specifically, the discontinuance of Phenix Ave will leave the city with a water main and sanitary sewer main which will require easements. Utility easements and easement plans shall be prepared by the applicant and approved by the Planning Board Clerk, City Engineer, and the City Solicitor as to form and content, and recorded with the plat.
- 3.8 Section 13.02(4) *Other Public Easements* requires Warranty Deeds or Deeds of Easement for any other public use shown on the plat or required by the Planning Board. Note 13 on the final plat indicates the applicant intends to convey an Access Easement to the City of Concord with the

final configuration to be determined. Staff notes that this application has been submitted in conjunction with two major site plan applications and conditional use permits for the development of 34-42 North Main St & 56 North Main St. No public access easement is proposed as part of this minor subdivision for the lot line adjustment and Phenix Ave discontinuance. Prior to final approval of this subdivision application, both major site plan applications (PL-SPR-2025-0049 and PL-SPR-2025-0050) shall receive final approval and an access easement and plan, reviewed and approved by the Clerk of the Planning Board, City Solicitor, and City Engineer as to form and content, shall be prepared and recorded with the final minor subdivision plan.

- 3.9 Section 13.02(9) *Agreement to Convey a Private Easement* requires an agreement to convey a private easement shall be provided where easements or common facilities are to benefit the future owners of the individual lots including, but not limited to, vehicular and pedestrian access. Specifically, staff believes that certain properties on Low Ave may have, or will continue to have access rights through Phenix Ave. The applicant shall be responsible for maintaining or modifying any existing private access rights from Low Ave to North Main Street through what will become the discontinued portion of Phenix Ave, and shall prepare and enter into an agreement to indemnify, and hold harmless the City from any loss or harm which occurs from the discontinuation of Phenix Ave.
- 3.10 The Assessing Department reviewed the application and had no compliance requirements.
- 3.11 The Fire Department reviewed the application and had no compliance requirements.
- 3.12 The Engineering Services Division reviewed the application and had the following compliance requirements:
- a. The City owns in fee, two strips of land within the public highway limits of Phenix Avenue, with both being 6.81 feet wide. The northerly strip abuts the southerly line of Map 6443Z, Lot 27, and the southerly strip abuts the northerly line of Map 6443Z, Lots 28 & 28A. See MCRD Book 898, Page 344.
 - b. The Resubdivision Plat contemplates a public highway discontinuance of Phenix Avenue, and a lot line adjustment between Map 6443Z, Lot 27 and Map 6443Z, Lots 28 & 28A. Prior to the lot line adjustment occurring, the Concord City Council will need to vote on the public highway discontinuance of Phenix Avenue, and vote on the conveyance of the two strips of land to Ciborowski Associates, LLC (Map 6443Z, Lot 27) and Phenix Hall, LLC (Map 6443Z, Lots 28 & 28A).
 - c. Any discontinuance of a city street requires input and a recommendation from the Planning Board. See Concord Code of Ordinances 30-2-20(d)(10).
 - Section 30-2-20 - Community Development Department of the Code of Ordinances:
 - (d) The Division of Community Planning shall be under the immediate supervision of the City Planner. It shall perform the following functions:
 - (10) Make recommendations of Mapped Line of Future Streets, street acceptances or discontinuances, and disposition of tax deeded properties on behalf of the Planning Board.
 - d. A draft petition and resolution of the proposed discontinuance will need to be submitted to the City Council.
4. **Variances:**
- 4.1 No variance applications have been submitted as part of this application.
5. **Waivers:**
- 5.1 The applicant requests waivers from the following sections of the Subdivision Regulations:
- a. Section 12.03(5) *Wetland*

- b. Section 12.07 Wetland Delineations
- c. Section 15.01(3)

The applicant indicated on the final plat the request for the 3 listed waivers, however provided no analysis of the five waiver criteria listed in Section 35.08 of the Subdivision Regulations or the criteria in RSA 674:36(II)(n). **With no supporting information as to how these criteria are satisfied, staff recommends the Board deny the waiver requests.**

6. Conditional Use Permits:

- 6.1 Conditional use permits are not required for this application.

7. Architectural Design Review:

- 7.1 Architectural design review is not required for minor subdivisions.

8. Conservation Commission:

- 8.1 Appearances before the Conservation Commission are not required for this application.

9. Recommendations:

- 9.1 Staff recommends the Planning Board vote to **continue the public hearing for this application to a date certain of December 17, 2025** so that the public hearing takes place on the same night as the two accompanying major site plan applications for the Phenix Block project. Additionally, it would allow the applicant time to address any staff comments by revising the plat and providing a response narrative. Unless otherwise agreed to in writing by the City Planner, any revisions shall be submitted no later than **Friday, November 21, 2025 at 4:00pm** to allow time for staff to review and revise the staff report for the December 17, 2025 Planning Board meeting accordingly.

However, if the Planning Board, after determining the application complete open a public hearing, close the public hearing, and wish to proceed with a vote on the application **despite staff's recommendation above, then:**

- 9.2 The Planning Board would need to **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, the Planning Board should then make the motions outlined below:

- 9.3 **Deny the waiver requests below** from the listed sections of the Subdivision Regulations, because the request does not meet the criteria of RSA 674:36(II)(n) or Section 35.08 of the Subdivision Regulations:

- a. Section 12.03(5) *Wetland*
- b. Section 12.07 Wetland Delineations
- c. Section 15.01(3)

- 9.4 **Grant minor subdivision approval** for the lot line adjustment between Tax Map Lot 6443Z 28, addressed as 34-42 North Main Street and Tax Map Lot 6443Z 27, addressed as 56 North Main Street, and the discontinuance of Phenix Ave, subject to the following precedent and subsequent conditions:

- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the subdivision plat by the Chair and Clerk of the Planning Board, unless otherwise specified.
1. Revise the subdivision plat as follows:
 - a. Per Section 12.02(4) *Conditions of Planning Board Approval* and Section 15.03(17) *Conditions of Approval*, a note shall be added to the subdivision plat that states: “The development is subject to all subsequent conditions of Planning Board approval granted on INSERT ACTUAL DATE HERE for application 2025-122.”
 - b. Per Section 12.08(3) *Topography* and Section 15.03(4) *Topography*, topographical information at a contour interval of 2-feet shall be provided on the final plat. Additionally, spot elevations where land slopes are less than 2% shall be provided every 100-feet, and at all breaks in grade.
 - c. Per Section 12.08(7) *Buildings and Structures* the existing use and exterior dimensions shall be added to the final plat
 - d. Per Section 12.08(9) *Easement or Right-of-Way* the dimensions and purpose of the public rights-of-way on Phenix Ave and Low Ave shall be shown on the final plat.
 - e. Per Section 12.08(23) *Tabulations* the following certain tabulations shall be provided on the final plat: per section 12.08(23)(b), square footage of each existing building broken down by floor and use category; per section 12.08(23)(c), impervious surface coverage in square feet and percent; per section 12.08(23)(d), useable land area calculations for residential development and net land area calculations for non-residential development; and, per section 12.08(23)(e), existing and proposed frontage shall be added to the Lot Synopsis table to clearly demonstrate conformity with the required lot frontage of the Zoning Ordinance.
 - f. Per Section 15.03(16) *Easements* the plat shall provide the location, width, metes and bounds, and description for the existing Phenix Ave right-of-way.
 - g. Per Section 13.02(2) *Utility, Drainage and Slope Easements*, utility easements and easement plans, for the municipal water main and sanitary sewer main shall be prepared by the applicant and approved by the Planning Board Clerk, City Engineer, and the City Solicitor as to form and content, and recorded with the plat.
 - h. Per Section 13.02(4) *Other Public Easements*, prior to final approval of this subdivision application, both major site plan applications (PL-SPR-2025-0049 and PL-SPR-2025-0050) shall receive final approval and an access easement deed and easement plan, reviewed and approved by the Clerk of the Planning Board, City Solicitor, and City Engineer as to form and content, shall be prepared and recorded with the final minor subdivision plat.
 - i. Per Section 13.02(9) *Agreement to Convey a Private Easement* the applicant shall be responsible for maintaining or modifying any existing private access rights from Low Ave to North Main Street through what will become the discontinued portion of Phenix Ave, and shall prepare and enter into an agreement to indemnify, and hold harmless the City from any loss or harm which occurs from the discontinuation of Phenix Ave.
 2. Revise the subdivision plat to show compliance with the Concord Municipal Code, Subdivision Regulations, and Construction Standards and Details based off comments made by the City Engineering Services Division:
 - a. The City owns in fee, two strips of land within the public highway limits of Phenix Avenue, with both being 6.81 feet wide. The northerly strip abuts the southerly line of Map 6443Z, Lot 27, and the southerly strip abuts the northerly line of Map 6443Z, Lots 28 & 28A. See MCRD Book 898, Page 344.
 - b. The Resubdivision Plat contemplates a public highway discontinuance of Phenix Avenue, and a lot line adjustment between Map 6443Z, Lot 27 and Map 6443Z, Lots

28 & 28A. Prior to the lot line adjustment occurring, the Concord City Council will need to vote on the public highway discontinuance of Phenix Avenue, and vote on the conveyance of the two strips of land to Ciborowski Associates, LLC (Map 6443Z, Lot 27) and Phenix Hall, LLC (Map 6443Z, Lots 28 & 28A).

- c. Any discontinuance of a city street requires input and a recommendation from the planning board. See Concord Code of Ordinances 30-2-20(d)(10).
 - d. A draft petition and resolution of the proposed discontinuance will need to be submitted to the City Council
3. At the time of recording, provide the recording fees required by the Merrimack County Registry of Deeds for all plans and documents to be recorded. (Section 13.02(13))
 4. Ensure that the subdivision plat to be recorded complies with the current standards of the Merrimack County Registry of Deeds, including materials, font size, plan size, margins, and plat layout. (Section 15.02(12))
 5. 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. (Section 19.04)
 6. Upon notification from the Planning Division that the project complies with the precedent conditions, Zoning Ordinance, and Subdivision Regulations, deliver to the Planning Division for signature one mylar and one full size plan of the subdivision plat that contains the signature and seal of the appropriate licensed professionals as required by the Subdivision Regulations. (Section 9.08(7))

(b) Subsequent Conditions

1. The applicant is responsible for compliance with the municipal code, Subdivision Regulations, and Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit is granted.