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

Staff Report for Planning Board

Meeting on January 15, 2025
Project Summary – Minor Subdivision

Project: 310 South Main Condominium Amendment (2024-072)
Property Owner: Alden Place Condominium Owners Association
Applicant: Richard D. Bartlett & Associates, LLC
Property Address: 310 S Main St, 1 Matthew St, and 6 McKinley St
Tax Map Lot: 7942Z 31

Determination of Completeness:

At the applicant's request, the Planning Board voted to continue the determination of completeness for this application from November 20, 2024, to a date certain of December 18, 2024.

At the applicant's request, the Planning Board voted to continue the determination of completeness for this application from December 18, 2024, to a date certain of January 15, 2025.

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 enough information has been provided to allow for a full review and action by the Board, even though there are missing items.

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 January 15, 2025, and end on March 21, 2025. If the applicant has not demonstrated compliance with the Subdivision Regulations by the end of the statutory timeline (March 21, 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 for a condominium subdivision amendment to eliminate platted convertible land area and make it platted common area, and certain waivers from the Subdivision Regulations, at 6 McKinley St, 1 Matthew St, and 310 S Main St in the Neighborhood Residential (RN) District.

Tax Map Lot 7942Z 31 is addressed as 310 S Main St and contains the condominium land ownership of the site, buildings, and common areas.

Tax Map Lot 7942Z 31 A1-5 is addressed as 6 McKinley St and is a 5-unit condominium building for units 1-5.

Tax Map Lot 7942Z 31 B6-10 is addressed as 1 Matthew St and is a 5-unit condominium building for units 6-10.

Tax Map Lot 7942Z 31 C11-16 is addressed as 310 S Main St U-11 and is an undeveloped convertible land area proposed to be converted to common area.

Compliance:

The following analysis of compliance with the Zoning Ordinance and Subdivision Regulations is based on a 1-page, undated narrative, prepared by Richard D Bartlett & Associates, LLC; a 1-sheet condominium plat, dated October 2024, revised on December 18, 2024, prepared by Richard D. Bartlett & Associates, LLC; three 1-sheet waiver requests, dated October 16, 2024, prepared by Richard D. Bartlett & Associates, LLC; and, five 1-sheet additional waiver requests, dated December 18, 2024, prepared by Richard D. Bartlett & Associates, LLC.

1. Project Details and Zoning Ordinance Compliance:

Zoning District: Neighborhood Residential (RN) District
 Existing Use: Multifamily Residential
 Proposed Use: Multifamily Residential
 Overlay Districts:
 Flood Hazard (FH) District: None
 Shoreland Protection (SP) District: None
 Historic (HI) District: None
 Penacook Lake Watershed (WS) District: None
 Aquifer Protection (AP) District: None

Zoning Code Item	Required	Proposed
Minimum Total Area	10,000 square feet	Not provided
Minimum Buildable Land	5,000 square feet	Not provided
Minimum Lot Frontage	80 feet	Not provided
Minimum Front Yard	15 feet	Not provided
Minimum Rear Yard	25 feet	Not provided
Minimum Side Yard	10 feet	Not provided
Maximum Lot Coverage	50 %	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 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 had no comments.
- 2.10 The Fire Department reviewed the application and had no comments.
- 2.11 The Assessing Department reviewed the submitted declaration and noted that Article 1-130 refers to Article 12 which was intentionally omitted; and the unit owners listed at the start of the declaration do not align with assessing records.
- 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 2.19.

- 2.14 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 notation appears to be missing, but can be added to the end of Note 6 on the site plan.
- 2.15 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 the existing conditions 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.
- 2.16 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 the existing conditions 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.
- 2.17 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. 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.
- 2.18 Section 15.02(6) *Error of Closure* requires an error of closure of not less than 1 in 10,000. Note 1 on the site plan states the original error of closure conducted was less than the required closure of 1 in 10,000, adding that additional survey work was conducted through August 1995. The note does not clearly demonstrate if the additional survey work met the requirements of this section. The applicant shall provide a survey plan that meets the requirements of this section.
- 2.19 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. Any missing bounds shown to be set shall include the type of bound to be used in accordance with Section 19.04 *Monuments* of the Subdivision Regulations. Monuments set at street rights-of-way are required to be granite bounds.

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

- 2.20 Section 17.06 *Condominium Declaration and By-Laws* requires two copies of all condominium documents, including the declaration of condominium and by-laws shall be provided for review and approval as to form and content by the City Solicitor and the Clerk of the Board. The approved condominium documents shall be considered part of the official approval and shall not be altered to be inconsistent with the recorded plat, without further review and approval by the Board of a revised subdivision application.

Staff reviewed the condominium declaration and by-laws prior to final review by the City Solicitor, and the following items must be reviewed and revised as applicable: Article 1-130 refers to an Article 12, which is stated as being intentionally omitted on page 31 of the declaration document; and, several unit ownership discrepancies have been identified based on

city assessing records and what is listed on page 1 of the declaration of condominium and shall be reviewed and revised to correct accordingly.

3 Variances:

3.1 No variances are requested.

4 Waivers:

4.1 The applicant requests waivers from the following sections of the Subdivision Regulations:

- a. Section 12.07 *Wetland Delineations*, to not provide wetland delineations;
- b. Section 12.08(23) *Tabulations*, to not provide tabulations;
- c. Section 15.03(4) *Topography*, to not provide topographic information;
- d. Section 12.08(3) *Topography*, to not provide topographic information;
- e. Section 12.08(10) *Municipal Utilities*, to not provide the location, size, material, and type of all municipal utilities currently serving the subdivision;
- f. Section 12.08(11) *Non-municipal Utilities*, to not provide the location, type, and size, where applicable, of the non-municipal utilities currently serving the subdivision;
- g. Section 12.08(16) *Signs*, to not provide the location and size of existing ground signs;
- h. Section 12.08(20) *Existing Vegetation*, to not show the location, type, and size of existing trees throughout the site;
- i. Section 15.03(11) *Municipal Sewer*, to not provide the location, size, rim, and invert elevations of existing and proposed sanitary and storm sewers including manholes, catch basins, and culverts; and
- j. Section 15.03(15) *Utilities*, to not provide the location and size of all existing and proposed underground and overhead non-municipal utilities on the plat.

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)(2).

Staff reviewed the evidence submitted and supports the waiver requests.

5 Conditional Use Permits:

5.1 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)(2) and Section 35.08 of the Subdivision Regulations:
- a. Section 12.07 *Wetland Delineations*, to not provide wetland delineations;
 - b. Section 12.08(23) *Tabulations*, to not provide tabulations;
 - c. Section 15.03(4) *Topography*, to not provide topographic information;
 - d. Section 12.08(3) *Topography*, to not provide topographic information;
 - e. Section 12.08(10) *Municipal Utilities*, to not provide the location, size, material, and type of all municipal utilities currently serving the subdivision;
 - f. Section 12.08(11) *Non-municipal Utilities*, to not provide the location, type, and size, where applicable, of the non-municipal utilities currently serving the subdivision;
 - g. Section 12.08(16) *Signs*, to not provide the location and size of existing ground signs;
 - h. Section 12.08(20) *Existing Vegetation*, to not show the location, type, and size of existing trees throughout the site;
 - i. Section 15.03(11) *Municipal Sewer*, to not provide the location, size, rim, and invert elevations of existing and proposed sanitary and storm sewers including manholes, catch basins, and culverts; and,
 - j. Section 15.03(15) *Utilities* to not provide the location and size of all existing and proposed underground and overhead non-municipal utilities on the plat.
- 8.3 **Grant minor subdivision approval** for the condominium subdivision amendment to eliminate platted convertible land and make it platted common area at 6 McKinley St, 1 Matthew St, and 310 S Main St, 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. Per Section 12.08(13) *Flood Hazard* a notation as to whether or not the property is located in a Flood Hazard Zoning Overlay (FH) District shall be noted on the plan, along with the location of the boundary lien 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 note can be added to the end of Note 6 on the site plan.
 - b. Per Section 12.08(14) *Aquifers* the plan shall show the boundaries and label for each water systems protection area. If the site does not contain any water system protection area, a note shall be added to the plan stating that the site does not contain any water systems protection areas.
 - c. Per Section 12.08(15) *Shoreland Protection* the plan shall show the boundaries and label for the shoreland protection overlay district and the natural vegetative and woodland buffers associated with that district. If the site does not contain any shoreland protection overlay districts, a note shall be added to the plan stating that the site does not contain any shoreland protection overlay districts.

- d. Per Section 12.08(19) *Setbacks and Buffers*, setbacks and buffers shall be shown and dimensioned, including wetland buffers, shoreland protection district buffers, buffers to bluffs, and residential district buffers. 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.
 - e. Per Section 15.02(6) *Error of Closure*, an error of closure of not less than 1 in 10,000 is required. Note 1 on the site plan states the original error of closure conducted was less than the required closure of 1 in 10,000, adding that additional survey work was conducted through August 1995. The note does not clearly demonstrate if the additional survey work met the requirements of this section. The applicant shall revise the note accordingly, or provide a survey plan that meets the requirements of this section.
 - f. Per Section 15.03(5) *Monumentation*, the type and location of existing and required monuments shall be shown on the plat at the corners of lots, points of curvature, tangency, and deflection points along the street rights-of-way. Specifically, missing bounds to be set shall include the type of bound to be set, noting that bounds along street rights-of-way are required to be granite, and installed in accordance with City Subdivision Regulations and Construction Details.
 - g. Per Section 17.06 *Condominium Declaration and By-Laws*, condominium documents, including the declaration of condominium and by-laws shall be provided for review and approval as to form and content by the City Solicitor and the Clerk of the Board. Prior to final review by the City Solicitor, the submitted condominium documents shall be reviewed and revised accordingly: Article 1-130 refers to an Article 12, which is stated as being intentionally omitted on page 31 of the declaration document; and, several unit ownership discrepancies have been identified based on city assessing records and what is listed on page 1 of the declaration of condominium and shall be reviewed and revised to correct accordingly.
2. The plat shall list all approved variances, waivers, and conditional use permits with the section numbers and description, and date of approval.
 3. 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).
 4. 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.
 5. Per Section 13.02(13) *Recording Fees*, the applicant is responsible for submittal of required recording fees.
 6. 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.

7. 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 4.03 of the Subdivision Regulations, no building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and which is not in conformity with, the provisions of the Subdivision Regulations.
3. Per Section 17.06 *Condominium Declaration and By-Laws*, the approved condominium documents shall be considered part of the official approval and shall not be altered to be inconsistent with the recorded plat, without further review and approval by the Board of a revised subdivision application.
4. 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