

City of Concord Planning Board
December 15, 2021
Minutes - DRAFT

The regular monthly meeting of the City Planning Board was held on December 15, 2021, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Attendees: Chairman Richard Woodfin, Vice-Chair Carol Foss, Councilor Byron Champlin, Teresa Rosenberger (Ex-Officio for City Manager), Members Matthew Hicks, Jeff Santacruce, and David Fox.

Absent: Councilor Erle Pierce, Teresa Rosenberger (Ex-Officio for City Manager), Susanne Smith-Meyer, David Fox, Alternate Chiara Dolcino and Alternate Frank Kenison.

Staff: Heather Shank (City Planner), Beth Fenstermacher (Assistant City Planner), Sam Durfee (Senior Planner), Lisa Fellows-Weaver (Administrative Specialist) and Gary Lemay (Associate City Engineer).

1. Call to Order

Chairman Woodfin called the meeting to order at 7:00 p.m.

2. Roll Call

Chairman Richard Woodfin, Vice-Chair Carol Foss, Councilor Byron Champlin, Teresa Rosenberger, Matthew Hicks, Jeff Santacruce, and David Fox.

3. Approval of Planning Board Meeting Minutes

November 17, 2021 Minutes

On a motion made by Mr. Santacruce, and seconded by Ms. Foss, the Board voted unanimously to approve the November 17, 2021, Planning Board Meeting Minutes, as written.

4. Planning Board Chair Overview

Chairman Woodfin stated there were no other changes to the agenda.

5. Design Review Applications by Consent

Item 5C was pulled from the Consent Agenda.

5A. Barlo Signs, on behalf of CP Concord LLC., requests ADR approval for the installation of three internally-illuminated wall signs and an internally-illuminated freestanding sign at 306 Loudon Road in the Civic Performance (CVP) District.

On a motion made by Councilor Champlin, and seconded by Ms. Foss, the Board voted unanimously to approve the design as submitted, by consent, with the recommendation that an opaque backer panel be applied to the freestanding panel sign.

5B. Barlo Signs, on behalf of Interchange Development, requests ADR approval for the installation of four new internally-illuminated wall signs at 11 Merchants Way in the Gateway Performance (GWP) District.

On a motion made by Councilor Champlin, and seconded by Ms. Foss, the Board voted unanimously to approve the design as submitted, by consent, with the recommendation that the total amount of signage be compliant with City regulations with the understanding that the State of NH is not required to comply with City regulations.

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Design Review Applications

- 5C. Nobis Group, on behalf of Brixmor Capitol, requests the Board sign off on Architectural Design Review conditions of approval for a Major Site Plan for construction of three new buildings for restaurant, retail, and coffee shop use with a drive-through facility at 80 Storrs Street in the Opportunity Corridor Performance (OCP) District.

Mr. Durfee gave an update of the application stating the applicant appeared before the Architectural Design Review Committee (ADRC) on November 30 to present revisions to the 110 Grill design at 80 Storrs Street. The Committee was pleased with the revisions and façade changes noting it was a big improvement. He added that there are a few outstanding comments regarding ADA requirements and landscaping; these are minor items that can be addressed by Staff. A comment was made regarding the “flying awning” on the top of the Starbucks building. Staff is recommending approval of the revised proposal.

Chair Woodfin reminded the Board that the applicant appeared before the Planning Board on June 30, 2021, at which time the Planning Board granted to approve the application, including ADR approval, subject to the condition that revisions be made to the materials and architecture of the 110 Grill building including the orientation of an entrance on Storrs Street, relocation of the sign on the east side of the coffeeshop, wood cladding on the middle building be replaced with spandrel glass, and Option A for the south elevation of the middle building be used. Any building proposed along the frontage of Storrs Street shall have a main entrance facing Storrs Street. A

Chris Nadeau of Nobis Group represented the application along with Mark Newman of Brixmor, and Shawn Laug of CREATE Architecture Planning and Design.

Representatives provided an overview of the new layout of the 110 Grill noting the entrance layout presented at the corner. Grade changes were explained with regard to the building and sidewalk. The building is well connected to the street and very visible now to pedestrian traffic. Mr. Laug spoke to the material changes, which include red brick with accents of longboard aluminum metal siding. He added that the canopy of Starbucks has been revised. In addition, they are now proposing to extend the brick onto the middle building as well as adding granite stone/tile. Mr. Newman added that they would like to incorporate permanent artwork from local artists along the sides of the Starbucks building.

Mr. Santacruce asked why the entrance of the 110 Grill was not changed to directly face Storrs Street as stated in the approval. Mr. Nadeau replied that due to the site’s grading, descending stairs would be needed if the entrance were placed on Storrs Street. He added that the placement proposed creates an active corner.

Chairman Woodfin commented that the revised proposal looks great now without an entrance facing a parking lot. He stated that looking down from Pleasant Street onto Storrs Street, pedestrians will know it is the front of the building.

Mr. Hicks commented that he appreciated the change and the visual interest is no longer on the parking lot side.

Councilor Champlin expressed frustration with the fact that the entrance is not facing Storrs Street; however, he is sympathetic with the comments regarding the site. He is not sure of what the issue is as to why the entrance is not able to be Storrs Street and asked if this proposal conforms to the conditions upon which the approval was based. Mr. Nadeau stated that the issue is mainly the grading; the most important thing is to activate the corner. Councilor Champlin replied if granting the revision would be setting a precedent for all future development on Storrs Street. Chairman Woodfin stated that the roof lines present as an entrance on Storrs Street.

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Mr. Santacruce stated that the ADA conditions at the intersection are not conforming specifically with the distance to ramps and accessible push buttons. He also noted that there are inconsistencies with the landscaping and drainage plans. He spoke to the grading issue with there being only one foot of a difference for the grading. He suggested making a slope and stated that he does not fully agree with the applicant that the grading is an issue.

With no further comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

Ms. Shank stated that there has been a great deal of effort put forth for this project with the tenant and she wanted to thank the applicant for their time and work to get this project to fruition.

On a motion made by Chairman Woodfin, and seconded by Mr. Hicks, the Board **voted unanimously to grant ADR approval** for the revisions to the 110 Grill and coffee shop facades as presented, subject to the Applicant continuing to work with Staff to address outstanding landscaping, ADA, and plan inconsistency comments, and the Applicant returning to ADR with a sign package with the signs being of a pedestrian-scale.

Public Hearings

6. Site Plan, Subdivision and Conditional Use Permit Applications

- 6A. Wilcox & Barton, on behalf of Havenwood-Heritage Heights, request an amendment to a previously approved Minor Site Plan for the relocation of a sidewalk at 149 East Side Drive in the Medium Density Residential (RM) District.

Mr. Durfee provided an update explaining that the applicant is requesting an amendment to relocate a sidewalk that was built consistent with the Minor Site plan approval, which was granted in 2019.

Erin Lambert of Wilcox and Barton represented the application.

Ms. Lambert stated that the proposal is a minor amendment to relocate the sidewalk closer to the tree line to allow for additional privacy and screening to residents along the highly utilized walkway of the campus. She explained that the relocation will encroach into the bluff buffer; however, there is ample room to slide the sidewalk over without any impacts to the tree line or bluff. She added that the Conservation Commission recommended approval of the encroachment into the bluff at their December 9th meeting. The sidewalk, if approved, will be removed and reconstructed in the spring.

Chairman Woodfin opened the public hearing.

Ms. Foss asked about potential drainage problems. Ms. Lambert explained that there will be three to four inches of pavement as well as gravel.

Abutter Donna Paris, 34 Sugarball Road, expressed concern with runoff. She explained that there have been some changes with drainage at the bottom of the hill with the swamp. Chairman Woodfin asked what the elevation change is in the area. Ms. Fenstermacher replied that it is 130 feet.

Ms. Lambert replied they do share in the same concerns and recognize the importance of the buffer. She explained that they are only using the area that has been cleared and will not be removing any additional trees. Overall, there is a net reduction in runoff for the site to the bluff and to the river.

Mr. Santacruce asked if the sidewalk is pitched. Ms. Lambert replied that the sidewalk is at grade and they do not have any steps off the units. She added that they are intending to keep all drainage away from the entrances to avoid icing; they may even line with stone as well.

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With no further comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Mr. Santacruce, and seconded by Ms. Foss, the Board **voted unanimously to grant the amendment** to the previously approved Minor Site Plan application for the relocation of a previously constructed sidewalk in the south end of the Havenwood-Heritage Heights campus at 33 Christian Avenue in the Medium-Density Residential District, subject to the following conditions:

- a) Precedent Conditions – to be fulfilled within one (1) year and prior to issuance of any building permits, or the commencement of site construction, unless otherwise specified:
 - (1) Any CUP(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny the CUP request(s), applicant shall comply with said submission requirement(s).
 - (2) Submit 3 sets of final plans to be signed by the Clerk and Chair of the Planning Board, prior to issuance of any permits or commencement of construction activities.
- b) Subsequent Conditions – to be fulfilled as specified:
 - (1) Prior to commencement of construction activity, payment of any required inspection fees in an amount approved by the City Engineer shall be made.
 - (2) A pre-construction meeting shall be required prior to the start of any construction activities onsite if requested by the City Engineer.
 - (3) Prior to the issuance of a Certificate of Occupancy or final construction sign-off, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.08 of the Site Plan Review Regulations and all information shall be converted to a vertical datum of NAVD 88.

6B. Wilcox and Barton, on behalf of 3G Eagle, LLC, requests an amendment to a previously approved Major Site Plan for the expansion of 16 parking spaces to accommodate trucks and the construction of three additional spaces at 25 Henniker Street in the Industrial (IN) District.

Mr. Durfee provided an update for the project stating that this is an amendment to a conditionally approved Major Site Plan for the expansion of 16 parking spaces, which will provide additional truck parking. Three additional parking spaces are proposed at the north side of the building as well as relocation of the dumpster pad to accommodate more parking spaces.

Erin Lambert of Wilcox and Barton represented the application.

Ms. Lambert stated that the proposal is an amendment to add 16 parking spaces to allow for truck spaces and then add three additional spaces and relocate the dumpster location. She stated that they would also like to add a snow brush to clean off the trucks. Turning area would now limit the area to 14 feet wide so they will change the traffic pattern to be one way. She noted that one tree will need to be removed.

Mr. Durfee stated that the net increase of the site is 2,000 sq. ft., an additional tree will be required. Ms. Lambert replied that they need a total of 12 trees and they are proposing 14.

Chairman Woodfin opened the public hearing. With no comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

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On a motion made by Councilor Champlin, and seconded by Mr. Hicks, the Board **voted unanimously to grant the amendment** to the previously approved Major Site Plan application for the expansion of 16 parking spaces to provide truck parking and the addition of three parking spaces to the north of the building and the relocation of the dumpster pad to accommodate more parking spaces and **to grant** the requested addition of pavement around the truck snow brush to allow two-way traffic in that location, as presented at the meeting, subject to review for compliance by staff, at 25 Henniker Street in the Industrial (IN) District, subject to the following precedent and subsequent conditions noted below:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building permits, or the commencement of site construction, unless otherwise specified:
 - (1) Address all Review comments to the satisfaction of the Planning and Engineering Divisions. For all subsequent submissions, applicant shall provide a response memo addressing/acknowledging all comments.
 - (2) CUP(s) granted are to be noted and fully described on the plan including date granted and applicable Article number(s) of the Zoning Ordinance. Should the Board vote to deny the CUP(s), the applicant shall comply with said submission requirement(s).
 - (3) Final plans shall be signed and sealed by the NH Registered Land Surveyor, Landscape Architect, and Professional Engineer.
 - (4) Submit three (3) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.
 - (5) Confirm the uses of all three tenant spaces.
- (b) Subsequent Conditions – to be fulfilled as specified:
 - (1) Prior to commencement of construction activity, payment of inspection fees in an amount approved by the City Engineer shall be made.
 - (2) A pre-construction meeting shall be required prior to the start of any construction activities onsite. The applicant shall pick up one (1) set of signed plans at the Planning Office to make copies for the pre-construction meeting. A total of five (5) copies of the signed plan set shall be provided by the applicant at the pre-construction meeting.
 - (3) Prior to issuance of the final Certificate of Occupancy or final construction sign-off, as-built drawings shall be provided to the City Engineer in accordance with Section 12.09 of the Site Plan Regulations. The as-built drawings shall be surveyed on NH State Plane coordinates and NAVD 88 Datum.

6C. H.L. Turner Group, on behalf of Johnny Prescott & Son Oil Company, requesting Minor Site Plan approval to install a 1,750 sf roof structure at 122 Airport Road in the Industrial (IN) District.

On a motion made by Ms. Foss, and seconded by Councilor Champlin, the Board voted unanimously to determine the application complete and that the application does not meet the criteria for a Development of Regional Impact, and open the public hearing.

Ms. Fenstermacher provided an overview of the project explaining that the proposal is to construct a 35' x 50' open steel roofing system. She stated that a site plan was required due to the fact that the roofing system meets the criteria of a structure. Waivers to the application and submission requirements were requested. No site disturbance is proposed, and drainage calculations were provided indicating that there will be no off-site stormwater flows and no recent digital files were

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available for the site; therefore, the cost for a new survey for engineered drawings would pose a financial hardship. Engineering did not have any concerns with the findings of the updated drainage report.

Bill Hickey of the H.L. Turner Group represented the application.

Mr. Hickey explained that the intent of the structure is to cover the trucks. The structure is an open air roof structure 35'x50' with the purpose for parking two propane trucks. This will also allow for outdoor training and there will be no need for clearing off snow from the trucks in the winter months. He added that the drainage analysis indicated that there would be no additional run off.

With no further comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion by Mr. Fox, and seconded by Mr. Santacruce, the Board voted unanimously to **grant the following waivers** to the Site Plan Regulations utilizing the criteria of RSA 674:44(1) which states that strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations:

- Sections 12.03 through 12.09
- Sections 15.01 through 15.05

On a motion by Mr. Fox, and seconded by Ms. Foss, the Board voted unanimously to **grant Minor Site Plan** approval for the proposed 35' x 50' steel roofing system at 122 Airport Road.

- 6D. Richard D. Bartlett & Associates, on behalf of JTA Realty Investments and ATG Corporation, requests Minor Subdivision approval for a lot line adjustment to annex land from 102 Hall Street to 96 Hall Street in the Opportunity Corridor Performance District.

On a motion made by Mr. Santacruce, and seconded by Mr. Fox, the Board voted unanimously to determine the application complete and that the application does not meet the criteria for a Development of Regional Impact, and open the public hearing.

Ms. Fenstermacher explained that the proposal is a lot line adjustment of 0.25 acres from 793Z/21 to 793Z/23 at 96 & 102 Hall Street; overall the frontage is being increased for lot 23. She added that the proposal does not create any non-conforming lots. She stated that they are requesting a few waivers and staff is in support of granting the waivers as this is a large parcel. She also noted that there was an error in the staff report attached to the agenda, and only the comment regarding noting the waivers on the plan applied.

Mark Sargent of Richard D. Bartlett & Associates, represented the application.

Mr. Sargent provided an overview of the proposal noting the current lot sizes and frontages and the proposed changes.

With no comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board **voted to grant the following waivers from the Subdivision Regulations**, utilizing the criteria from RSA 674:36(II)(n)(2): Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

1. Section 12.03(5) Wetlands and Section 12.07 Wetland Delineation, to not provide a wetland delineation.

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2. Section 12.08(3) Topography, to not provide topography for the entire site
3. Section 12.08(5) Natural Features, to not depict natural features
4. Section 12.08(23)(d) Useable land, to not provide useable land area

On a motion made Mr. Santacruce, and seconded by Mr. Fox, the Board **voted unanimously to grant Minor Subdivision approval** for the lot line adjustment to annex 0.25 acres from Map 793Z Lot 23 to Map 793Z Lot 21 at 96 and 102 Hall Street, subject to the following precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

1. Address Technical Review comments to the satisfaction of Planning Division and Engineering Services Division staff.
 2. The monumentation for the proposed lot lines shall be set prior to recording.
 3. The final plat shall be signed and sealed by the NH Licensed Land Surveyor.
 4. Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
 5. The Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
 6. Upon confirmation from staff that the review comments have been addressed, The Applicant shall deliver to Planning two (2) plan set(s) and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
 7. Applicant shall prepare deeds for the transfer of the property, and submit for recording at the same time as the plat.
- 6E. Richard D. Bartlett & Associates, on behalf of Douglas & Kathleen Pelland and Matthew & Jennifer Abrams, requesting Minor Subdivision approval for a lot adjustment to annex land from 51 Runnells Road to 55 Runnells Road in the Residential Open Space District.

On a motion made by Ms. Foss, and seconded by Mr. Fox, the Board voted unanimously to determine the application complete and that the application does not meet the criteria for a Development of Regional Impact, and open the public hearing.

Ms. Fenstermacher explained that the proposal is a lot line adjustment of 0.5 acres from Map 36, lot 11 51 Runnells Road to Map 37, Lot 12 55 Runnells Road. A revised plan has been received addressing all Staff comments. There are no waivers requested for this project.

Dan Mullen of Richard D. Bartlett & Associates, represented the application.

With no comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Mr. Hicks, and seconded by Councilor Champlin, the Board **voted unanimously to grant Minor Subdivision approval** for the lot line adjustment to annex 0.5 acres from Map 36Z Lot 11 to Map 37Z Lot 12 at 51 & 55 Runnells Road, subject to the following precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

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- 1) Address Technical Review comments to the satisfaction of Planning Division and Engineering Services Division staff.
 - 2) The monumentation for the proposed lot lines shall be set prior to recording.
 - 3) The final plat shall be signed and sealed by the NH Licensed Land Surveyor and NH Certified Wetland Scientist.
 - 4) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
 - 5) The Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
 - 6) Upon confirmation from staff that the review comments have been addressed, The Applicant shall deliver to Planning two (2) plan set(s) and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
 - 7) Applicant shall prepare deeds for the transfer of the property, and submit for recording at the same time as the plat.
- 6F. Richard D. Bartlett & Associates, LLC, on behalf of Patrick J. Lafave & Kelly A. Mulroy, request Minor Subdivision approval for a 3 lot subdivision at 569 Mountain Road in the Medium Density Residential (RM) District.

On a motion made by Mr. Hicks, and seconded by Ms. Foss, the Board voted unanimously to determine the application complete and that the application does not meet the criteria for a Development of Regional Impact, and open the public hearing.

Ms. Fenstermacher explained that the proposal is a minor subdivision of a 6.3 acre lot into two new lots. One waiver has been requested for this project.

Mark Sargent of Richard D. Bartlett & Associates, represented the application.

Mr. Sargent provide an overview of the proposal. He stated that the proposal is a subdivision to create two additional lots. The road is a State maintained road. They have not received the driveway permits yet or State subdivision approval to date, but have applied for both.

Mr. Hicks suggested shared driveways. Mr. Sargent replied they meet all the necessary criteria to allow two driveways and the applicant would prefer not to have a shared driveway.

Mr. Santacruce asked if the site lines for the existing driveways were looked at. Mr. Sargent replied yes.

With no further comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Mr. Santacruce, and seconded by Ms. Foss, the Board **voted unanimously to grant the waiver to Section 12.08(3) Topography** of the Subdivision Regulations to not provide topography for the entire site, utilizing the criteria of RSA 674:44(1) which states that strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.

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On a motion made by Ms. Foss, and seconded by Mr. Fox, the Board **voted unanimously to grant Minor Subdivision approval** for the 3-lot subdivision, subject to the following precedent and subsequent conditions noted below:

- (a) Precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:
 - 1) Address comments to the satisfaction of Planning Division staff and Engineering Services Division staff.
 - 2) The monumentation for the proposed lot lines shall be set prior to recording.
 - 3) Wetland buffers shall be clearly and permanently marked with City of Concord Wetland Buffer disks (available through the Planning Division) in accordance with Section 28.07 (SDR) prior to recording.
 - 4) Waivers granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations.
 - 5) Applicant shall provide copy of subdivision approval form NHDES.
 - 6) The final plat shall be signed and sealed by the NH Licensed Land Surveyor and NH Certified Wetland Scientist.
 - 7) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
 - 8) Upon confirmation from staff that the review comments have been addressed, The Applicant shall deliver to Planning two (2) plan set(s) and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
 - 9) The Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
- (b) Subsequent Conditions, to be fulfilled prior to the issuance of any building permit for the new lots:
 - (1) Traffic and Recreation fees shall be assessed for each new dwelling unit in the subdivision. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.
 - a. Recreational Facilities – Single Family Residence (per dwelling unit)
 - b. Transportation Facilities – Single Family Residence (per dwelling unit)

6G. TFMoran, Inc, on behalf of Perry William H. Family Trust & Perry Barbara M. Trust, requests Comprehensive Development Plan and Major Site Plan approval for a multifamily residential development consisting of approximately 123 two-bedroom units in (3) three story buildings; also

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requested are three Conditional Use Permits to allow a residential development without a commercial component in a GWP District, to allow construction of fewer parking spaces than are required, and to allow less than the required separation between driveways; along with associated site improvements, for property off of Pembroke Road in the Gateway Performance (GWP) District.

Chairman Woodfin opened the public hearing noting that the Determination of Completeness component has been addressed at a previous meeting.

Mr. Durfee provided an overview of the project. He explained that the driveway has been relocated and the water main and overhead utility easement transecting the property has been updated due to the proposed development. A waiver has been submitted to reduce the parking, which Staff supports. The application also includes a CUP for driveway separations and an additional CUP to not include a commercial component in the development. Mr. Durfee stated that the applicant has met with the ADRC twice and he reviewed their comments relative to expanding the common area between the buildings and adding entrances/exits to improve access specifically to the open space area.

Nick Golon of TF Moran represented the application along with Vernon Apgar, and Joe Tamposi of Brookline Opportunities.

Mr. Tamposi explained the proposal is for 123, 2-bedroom units. Two bedroom units are in the highest demand and allow for work at home as well. The apartments are planned as affordable housing units; there is a great need for workforce housing. The parcel is 10.8 acres. He reviewed rental costs in other cities in New Hampshire. He stated that this is creating a great project for the residents in Concord.

Mr. Golon gave an overview of the three buildings. He stated that there are 39 units proposed building one; buildings two and three will be 42 units. He stated that the lot is very flat and he reviewed the drainage. The water table is 4 ½ feet down. Parking was mentioned and the area not being utilized for parking will be loamed and seeded. He mentioned the proposed dog park and stated that they are offering to grant a 10 ft easement to the City to allow the City to have a sidewalk along Pembroke Road in conjunction with the waiver request to not have to build the sidewalk. Mr. Golon stated that there is a Pitch Pine Scrub Oak forest on the property, which is on the endangered species list and that the heritage bureau needs to issue an approval for the impacts to the site. He added that there will be a maintained vegetated buffer. The Natural Heritage Bureau recommended they use a conservation wildlife seed mix, which will help the ecology of the area. Dumpster pads were noted to be located appropriately throughout the site and will be properly screened. All lighting will be via light poles provided along the parking areas. The site is serviced by municipal services. Regarding traffic, Mr. Golon stated that the traffic study indicated that there will be minimal impacts.

Mr. Golon provided a more in depth overview of the drainage. He explained that there will be detention areas provided to handle stormwater. There is a series of leaching catch basins with downspouts and gutters to provide recharge.

Mr. Apgar gave an overview of the architecture proposed. He stated that the three buildings will be tan and white with one of three accent colors of red, blue, and green for way finding. The siding will be vinyl with PVC for the trim. Vinyl windows are proposed.

Mr. Apgar spoke to the ADRC comments relative to the entrances. He explained that they are amenable to increasing the size of the entrances as ADRC recommended. Each building will have elevators and central hallways.

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Ms. Shank asked what the intent of the courtyard space. Mr. Apgar replied that they have designed an area for a playground, a patio area, and a fire pit. Mr. Golon added that the area has been defined as an open area. Ms. Shank suggested that they add more aesthetic features that would not make it appear as austere. She suggested adding building foundation shrubs that would make the building more inviting and be of aesthetic value for pedestrian use. Mr. Golon stated that they have proposed adding deciduous shrubs like winter berry and could add evergreens.

Additional discussion was held regarding adding a sidewalk through the middle of the courtyard and connections throughout the site. Members expressed some concern with the fact that there is not an additional entrance at the north end of the two rear buildings and connecting the buildings. Mr. Apgar stated that all egress requirements for fire have been met.

Ms. Shank stated that formerly, this district did not allow multi-family housing; there is no restriction on the length of a building. This size of building was intended to require a variance. It was an oversight when amending the district to allow this use, therefore adding another entrance would make sense from a visual and connectivity standpoint.

Public transportation was discussed along with the addition of a bus stop. Mr. Golon stated that there have been some discussions held regarding public transportation. Ms. Foss stated that there really should be some sort of public transit connection. Chairman Woodfin commented that he is not sure that the Board can regulate where public transit stops are; he encouraged the applicant to work with staff and Concord Area Transit. Mr. Santacruce stated that he continues to feel that there should be a bus stop and if there is public transportation there may be a need for a crosswalk as well. Ms. Foss added that there should be accommodations for a school bus as well. William Hebert, Bektash Temple, stated that currently school buses use their parking lot to turn around. Mr. Golon stated that they will continue to discuss with Staff and explore options for a bus stop at this property.

Mr. Santacruce noted that the center lines of the driveway and Industrial Park Drive, across Pembroke Road do not line up, and that the lanes are wider. He suggested that the driveway be shifted east for better alignment. Mr. Golon replied that the curvature of the road makes the cars naturally slow down in this area. He added that there is an extreme unnecessary cost to relocate the utility poles and it is not necessary to shift the driveway.

Mr. Golon reviewed the trip generation for the site. He stated that queuing was not an issue.

Mr. Santacruce stated that the sight distance should be using 3.5' and 14 foot setbacks to meet AASHTO sight distances versus the NHDOT requirements; currently uses 2' snow clearance, should be 3.5'.

Chairman Woodfin asked about snow removal. Mr. Golon replied that they have allocated a space on the property for the snow storage.

Bike racks were noted to be at each entrance.

A discussion was held regarding handicapped accessible spaces being provided throughout the property. Mr. Santacruce asked about placement of the ADA spaces, the shortest route should be right by the door. Mr. Golon stated that he will make sure that the spaces are appropriately placed.

Mr. Golon noted that they are proposing maples, oaks, and elms, which are a nice contrast for the site. He added that all percentages have been met.

William Hebert, Pembroke Shriners, 189 Pembroke Road, stated that his main concern is the request for the reduction in parking as the Shriners parking lot has had some issues with overflow

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parking. In addition, they are also concerned with pedestrian access and would like to request a fence to deter trespassing onto their property as it is a liability issue. He added that having a bus stop is a good idea; however, suggested lining up the intersection. He noted that this development will add to the already ongoing traffic issues.

Roy Schweiker commented on the demographics of the State of NH and the housing shortage issues. He stated that adding three buildings of apartments without a commercial component is a mistake; a project should pay for itself by providing some type of tax base. He suggested a daycare facility be built on the site to help with the tax base. He added that this is a Gateway Performance District and the project should be mixed-use. He stated that applicants should pay for any upgrades to the City roads. He agreed that a sidewalk should be built and connect in all directions.

Councilor Champlin CBC stated that some adult children are having to live with their parents as they are not able to afford the current living costs. Mr. Schweiker replied that the taxpayers cannot keep paying for everything. Councilor Champlin replied that employers cannot find employees because there are not enough apartments. Mr. Schweiker replied, yes, however, subsidizing this project is not the best use of taxpayer funds.

Chairman Woodfin asked how the tax payers are subsidizing this project. Mr. Schweiker explained that this area is a mixed-used district and that it will result in more kids in school, all housing developments cause increases in taxes. This district now has three buildings of apartments proposed. He stated that it is inappropriate and the City should stop allowing housing to be built on commercial and industrial lands; this is not a reasonable use.

Councilor Champlin stated that he understands the balance and maximizing the land; however, statistics show that apartment buildings do not generate as many children as single-family homes and he referenced the tannery site, a 34-unit development, with only three children.

Matt Turant, 95 Pembroke Road, expressed concern with sidewalks. He too agreed that there should be some type of sidewalk connection. He stated that Pembroke Road is not a safe place for walking or walking dogs. He noted that sometimes it takes days for the sidewalks to be plowed. He added that a bus stop would be beneficial.

Mr. Golon stated that they will work with staff to provide a solution regarding the sidewalks. Chairman Woodfin commented that this has been an ongoing issue. He noted that a sidewalk may be better on the other side of the road. Staff noted that the Applicant had offered to grant to the City a 10-foot-wide sidewalk easement along the property's frontage. The City would accept this easement if the waiver not to construct the sidewalk is granted.

Mr. Golon spoke to the fence request and parking issues at the Pembroke Shriners. He stated that the applicant needs parking to assure that the complex works for the residents. He stated that the parking ratio is 1.65 on the high end; Brookline Opportunities has found they are only typically need to have 1.3 spaces per unit. With regards to the fence, Mr. Golon stated that this may be difficult due to the topography and design of site. They are working to incorporate all the needs for the residents, which will keep them within the site.

Mr. Hicks asked how the development will be managed. Mr. Golon stated that Hodges Company will be providing management staff on call 24/7. Mr. Hicks stated that parking overflow could realistically be a problem.

Councilor Champlin asked if there is any precedent for escrow funds for sidewalks. Ms. Shank replied that the ordinance allows the Board to request an escrow; however, currently there is no

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process established and it has not been used before; it is a great idea and could help solve the problem.

Ms. Shank commented that based on feedback from developers and current research, 1.25 is the current standard for parking spaces and is consistent with best planning practice. She encouraged all of the neighbors to reach out to the City Zoning Administrator should there be any parking issues, since the Zoning Administrator has the power to require the spaces to be built if parking issues occur

With no further comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Chairman Woodfin, and seconded by Mr. Fox, the Board **voted unanimously to grant the following Conditional Use Permits:**

- Article 28-7-11(f) *Driveway Separation Alternatives* to provide a driveway separation of 160 feet from the driveway of 189 Pembroke Road, 162 feet the Pembroke Road driveway of 2 Industrial Park Drive, 101 feet from the driveway of 212 Pembroke Road, and 150 feet from the Pembroke Road driveway of 249 Sheep Davis Road, where 200 feet of separation is required.
- Article 28-7-11(b) *Construction of Fewer Parking Spaces* to provide 204 parking spaces where 246 would be required.
- Article 28-4-5(e)1 *Mixed Use Component Required* to not provide a commercial component in this development.

On a motion made by Chairman Woodfin, and seconded by Ms. Rosenberger, the Board **voted unanimously to grant the waivers** utilizing the criteria from RSA 674:36(II)(N)(2): Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations to Section 16.03(11) to provide a signage submission at a later date and Section 22.07(2) Stormwater Recharge to provide a 2.5-foot separation between the bottom of an infiltration system and the groundwater table where a 4-foot minimum separation is required.

On a motion made by Chairman Woodfin, and seconded by Mr. Fox, the Board **voted 5 in favor, 2 opposed to grant the wavier** utilizing the criteria from RSA 674:36(II)(N)(2): Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations to Section 21.02 Sidewalks Required to not build or provide escrow funds for the construction along the Pembroke Road lot frontage on the condition that a 10-foot-wide sidewalk easement along the property's frontage be granted to the City. It was noted that the Board will need to begin to work on this as well as administration to get something established. Mr. Hicks and Ms. Foss were opposed.

On a motion made by Chairman Woodfin, and seconded by Councilor Champlin, the Board **voted 6 in favor, 1 opposed, to grant ADR approval** for the building design, landscaping, and site layout with the conditions that the Applicant submit a revised landscape plan showing additional shrub and evergreen plantings within the central courtyard and along the building foundations and to provide lighting for the dog park. The Board struck the ADR conditions requiring the sidewalks on the northern end of the building entrances to curve into the courtyard, and requiring to review the site drainage for the "human element". Ms. Foss was opposed.

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board **voted unanimously to grant Major Site Plan approval** for the proposed 3-building, 123-unit

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development and associated site improvements at 195 Pembroke Road in the Gateway Performance (GWP) District, subject to the following precedent and subsequent conditions noted below:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building permits, or the commencement of site construction, unless otherwise specified:
 - (1) Address all Review comments to the satisfaction of the Planning and Engineering Divisions. For all subsequent submissions, applicant shall provide a response memo addressing/acknowledging all comments.
 - (2) CUP(s) and waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Article number(s) of the Zoning Ordinance and Section number(s) of the Site Plan Regulations, respectively. Should the Board vote to deny the CUP(s) and/or waiver(s), the applicant shall comply with said submission requirement(s).
 - (3) Final plans shall be signed and sealed by the NH Registered Land Surveyor, Landscape Architect, and Professional Engineer.
 - (4) Submit three (3) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.
 - (5) Confirm the updated waterline easement has been executed and recorded.
 - (6) Work with City Staff, Concord Area Transit, and the Concord School District to explore establishing a bus stop at this development.
- (b) Subsequent Conditions – to be fulfilled as specified:
 - (1) Prior to commencement of construction activity, payment of inspection fees in an amount approved by the City Engineer shall be made.
 - (2) A pre-construction meeting shall be required prior to the start of any construction activities onsite. The applicant shall pick up one (1) set of signed plans at the Planning Office to make copies for the pre-construction meeting. A total of five (5) copies of the signed plan set shall be provided by the applicant at the pre-construction meeting.
 - (3) Prior to issuance of the final Certificate of Occupancy or final construction sign-off, as-built drawings shall be provided to the City Engineer in accordance with Section 12.09 of the Site Plan Regulations. The as-built drawings shall be surveyed on NH State Plane coordinates and NAVD 88 Datum.

7. Amendments

- 7A. Proposed ordinance amending the CODE OF ORDINANCES, Title IV, Zoning Code; Chapter 28, Article 28-2, Zoning Districts and Allowable Uses to remove clinics and outpatient health care services as permitted uses in the Central Business Performance (CBP) and Neighborhood Commercial (CN) Districts.

Deputy City Manager Carlos Baia presented a proposed ordinance amendment to Chapter 28, Article 28-2, Zoning Districts and Allowable Uses to remove clinics and outpatient health care services as permitted uses in the Central Business Performance (CBP) and Neighborhood Commercial (CN) Districts.

Mr. Baia explained that currently the Table of Uses includes a use category, E3, allowing offices of healthcare including clinics and outpatient healthcare in nine of the City's zoning districts. The

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proposed amendment will change the E3 use category to be “Offices of healthcare practitioners”. Also recommended is to create a new category, E6, which would be “Clinics providing outpatient procedures, walk-in services, urgent care, and other substance abuse treatment.” The new E6 would be permitted in the E3 districts except for the CBP District located in downtown Concord and Penacook, and the CN District.

Annika Stanly-Smith, Director of Substance Misuse Prevention for the Capital Area Public Health Network (CAPHN) provided an overview of CAPHN, which serves Concord and 23 surrounding towns. She explained some services provided by CAPHN include vaccination clinics, smaller clinics that assist with substance misuse disorders, assist with suicide prevention, as well as work with the partners in the downtown area including the Concord Coalition to End Homelessness, Riverbend’s The Doorways, etc. Ms. Stanley-Smith expressed concern with the proposed ordinance feeling it may limit the ability to serve the people in Concord that are typically difficult to reach; this is a public health issue and it is important to keep the availability. She explained that CAPHN does not have a permanent location downtown; however, many clinics are held at the area partner’s locations. She added that many diseases are public health issues and spread throughout the population, and as a public health network they want to ensure that they are able to get people into services as soon as possible for prevention, treatment, and recovery.

Chairman Woodfin asked how they feel that this change is limiting. Ms. Stanley-Smith referenced the location of the Concord Coalition to End Homelessness where they have held clinics for both Covid-19 and flu vaccines in the past as well as Narcan clinics; they feel that this change would limit offering this opportunity as well as affect Riverbend’s Doorway. In addition, she explained Pop-Up clinics provided in the CBP District for vaccines for walk-ins. She commented that Concord is a recovery friendly workplace.

She stated that they want to do whatever they can to work with the City and help the citizens. Ms. Stanly-Smith also expressed concern with the language and noted that terms used in the ordinance are not what are currently used in the field. She suggested using the term “substance use disorder” instead of “substance abuse disorder”.

Lauren McGinly, Executive Director for the NH Harm Reduction Coalition, (NHHRC) explained that the NHHRC is a Statewide coalition with services operating in Concord, Manchester, Strafford County and soon in Laconia/Tilton. Ms. McGinly spoke to the fact that the clinics are medical treatments for walk-ins and services. She requested that there be more specific definitions provided; some areas are gray and broad which could be stigmatizing. She also gave an overview of The Doorway, which opened up approximately 2½ years ago, as a substance use disorder treatment plan through the Bureau of Drug and Alcohol Services. There are eight doorways, including one in Concord, and one overnight doorway at Dartmouth-Hitchcock. The Doorway at Concord is within the CBP District, located at 40 Pleasant Street. There really is no ability to move them. She added the Equality Health Center on Thompson Street would also be included. She referenced the Crisis Treatment Center as well in this District, which is self-identified as a walk-in mental health crisis treatment center. She noted that existing facilities that become “nonconforming” would face greater challenges if they want to expand their services in the future, including needing to get special exceptions and/or possibly variances from the Zoning Board of Adjustments. Ms. Shank stated that they are already considered non-conforming.

Mr. Baia stated that existing facilities located in the CN and CBP would be grandfathered, if adopted by City Council, though they would become nonconforming. He also noted that the intent was not to disallow pop up clinics as accessory uses to primary uses that provide other services. Facilities that provide accessory services would not be affected by the proposed change.

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Additional discussion was held regarding the change of principle use on a site.

With no further comments, Chairman Woodfin closed the public hearing.

Councilor Champlin made a motion, seconded by Ms. Foss, to include the General Commercial (CG) District in the proposal.

Councilor Champlin stated that similar to the CN District, given their size and scale, the uses in the CG District would be negatively affected. For this reason, this use is not appropriate for the CG District either.

Ms. Rosenberger commented that she is uncomfortable having not had a complete presentation regarding the effects of adding the CG to the proposal.

Councilor Champlin amended the motion, seconded by Ms. Foss, to recommend approval of the proposed amendment, with the addition that Council consider the addition of the CG District. The motion passed; 5/2. Mr. Hicks and Ms. Rosenberger were opposed.

8. Other Business

Hotel Concord - Lighting

The Hotel Concord would like to get an amendment for multi-color, static lights. They plan to appear before the ADRC in January.

On a motion made by Councilor Champlin, and second by Mr. Fox, the Board voted unanimously to allow the Hotel Concord to run multi-color, static lights on Christmas Eve as a trial run. This change is to be publicized by the applicant in an effort to allow citizens to be made aware of the request and provide feedback.

Adjournment

At the request of Chairman Woodfin, Ms. Rosenberger made a motion to adjourn, seconded by Mr. Santacruce. The motion passed unanimously at 10:04 PM.

A TRUE RECORD ATTEST:

Lisa Fellows-Weaver,
Administrative Specialist