Civil Engineers
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December 21, 2022

Heather R. Shank, PLA, AICP - City Planner
Concord City Hall
41 Green Street
Concord, NH 03301

RE: Conditional Use Permit – Disturbance to a Wetland Buffer - UPDATED
Proposed Hospitality Venue
3 – 7 Break O' Day Drive
Concord, NH 03301
Tax Map 46Z Lots 36 & 37

On behalf of our Client, Concord Commitment, LLC, and the Property Owner, Big Step, LLC, a conditional use permit for disturbance to a wetland buffer for the siting of a proposed phased Hospitality Venue, associated parking and access located at 3-7 Break O' Day Drive is requested.

The phased development will include a sit-down restaurant and lounge, charitable gaming hall, brewpub, hotel, conference center and events area. A comprehensive development plan of the prospective full site buildout has been provided with this submittal, as have the phase 1 site plans which includes the charitable gaming hall with integral restaurant, lounge and bar, with space allocated for parking, access, and stormwater management.

To accommodate all phases of the development approximately 26,692 sf. (0.6+/- acres) of Palustrine Forested and Emergent wetlands are proposed to be impacted, with a corresponding 37,105 sf. of wetland buffer disturbance. A functional evaluation of these wetlands has been conducted noting that the wetland receives surface runoff from the land to the north and stormwater from Interstate-393 via 24-inch and 36-inch culverts. At the outflow of the culverts, a forested wetland, extending in a southerly direction, is hydrologically connected to an emergent wetland. The emergent wetland has the appearance of once being a wet-meadow as upland grasses are present on its perimeter. The emergent wetland extends southerly where its waters are then conveyed through an 18-inch culvert below Break O' Day Road and the adjacent commercial property. Overall, the wetland is a relatively low functioning, low value resource, with its principal functions capable of being recreated/mitigated by the implementation of sound stormwater management practices.

Section 28-4-3 of the Concord Zoning Ordinance requires the submittal of a conditional use permit application for "the recontouring or grading of the land, or the placement of impervious surfaces" within a wetland buffer. Conditional Use permits may be granted under the circumstance that the proposed buffer impact meets the following conditions:

- The disturbance of the buffer is necessary to the establishment of an allowable principal or accessory use on the buildable land area of the lot. Charitable gaming (assembly use),

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restaurant/bar, office space, hotel and conference center and events area (assembly use), are all allowable uses in the Gateway Performance (GWP) District. The disturbance to the buffer and associated wetlands is necessary to accommodate all phases of the development and the project could not otherwise be considered if not sited as shown.

- The proposed disturbance to the buffer cannot practicably be located otherwise on the lot to eliminate or reduce the impact to the buffer and represents the minimum extent of disturbance necessary to achieve the reasonable use of those portions of the lot consisting of buildable land. The existing topography of the parcel reflects a large elevational change from approximate elevation 446 just beyond the northern property line to approximately elevation 360 along the southern property line (86-feet of grade change), noting the highpoint of the site sits approximately 50-feet above the adjacent elevation of I393. Although the vast majority of the site would ultimately be impacted by the future phases of the development through a coordinated effort with the NHDOT, the first phase utilizes the more low-lying areas adjacent to Break O' Day Drive to establish the allowable principal use.
- The proposed disturbance to the buffer minimizes the environmental impact to the abutting wetland, and to downstream property and hydrologically connected water and wetland resources. The project has been refined to propose the least impacting layout to accommodate the proposed phased development. Overall, the wetland and associated buffer are relatively low functioning, low value resource. While it possesses the principal functions of Sediment/Toxicant/Pathogen Retention and Nutrient Removal/ Retention/ Transformation and it serves to treat some stormwater before it reaches a much larger, higher value, higher functioning wetland system to the south, these losses will be mitigated through the implementation of sound stormwater management practices.
- Where applicable, wetland permit(s) have been received or are obtained from the NHDES and USACOE. A wetlands permit will be filed with both NHDES and USEACOE for the anticipated impacts.
- Where applicable, permits or proof of compliance with all other state and/or federal regulations have been received or are obtained. Copies of applicable state and federal permits will be provided once received.

All conditions have been or are in the process of being met at this time. All standards of review have been considered and any supplementary engineering studies or analysis will be provided per Section 28-9-4.

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

(a) The use is specifically authorized in this ordinance as a conditional use;
A conditional use permit for wetland buffer disturbances is authorized by Section 28-4-3(d).

(b) If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this Article, and with the specific conditions or standards established in this ordinance for the particular use;

Pending approval by NHDES the development in its proposed location will comply with all requirements of this Article, and with the specific conditions or standards established in this ordinance for the particular use.

(c) The use will not materially endanger the public health or safety;
The authorization of this request would not materially endanger the public health or safety in that appropriate stormwater and sediment erosion controls have been incorporated consistent with State and industry standards/requirements.

(d) The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;
The wetland buffer impacts will not create an incompatibility with the adjoining/abutting uses in the area.

(e) The use will not have an adverse effect on highway or pedestrian safety;
The wetland buffer impacts will not have an adverse effect on highway or pedestrian safety in that appropriate stormwater and sediment erosion controls have been incorporated consistent with State and industry standards/requirements.

(f) The use will not have an adverse effect on the natural, environmental, and historic resources of the City; and
As established in the Wetlands Functions and Values report prepared for the project, impact to the low functioning, low value wetland will not have an adverse effect on the natural, environmental and historic resources of the City.

(g) The use will be adequately serviced by necessary public utilities and by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use, and will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity.
The proposed wetland buffer impact will not require additional public utilities, services, or expenditures. The lot will be serviced by municipal water, sewer, and electricity, and will have adequate access for fire, police, and emergency vehicles.

Should there be any questions or concerns regarding this submittal or the project in general please do not hesitate to contact the undersigned at 472-4488 or ngolon@tfmoran.com.

Sincerely,
TFMoran, Inc.

Nicholas Golon, P.E.
Principal