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# CITY OF CONCORD

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**Community Development Department**

## Planning Board

June 21, 2017

### **Project Summary – Major Site Plan Amendment**

Project: Eversource Energy Farmwood Substation (2013-45)  
Property Owners: Public Service Co. of NH, aka Eversource Energy, LLC  
Address: 40 Farmwood Road  
Map/Block/Lot: 122/2/28

### **Project Description:**

The applicant is requesting modification to a previously approved Conditional Use Permit (CUP). The CUP approved with the Major Site Plan in 2013 includes a condition that states “prior to the issuance of a certificate of occupancy or use of the site, the area of the property located north of Farmwood Road, and westerly of the existing power line right-of-way, shall be conveyed to the City for conservation purposes as mitigation for the extensive wetland buffer impacts.” The applicant is requesting to convert the previously planned in-fee land transfer via subdivision to a conservation easement.

### **Background:**

The Planning Board granted Major Subdivision approval to Public Service Co. of New Hampshire (PSNH) on September 18, 2013, for the construction of a four terminal 115 kV switching station within a fenced 330' x 345' gravel yard. A CUP was granted for the disturbance of 101,713 square feet of wetland buffer for the construction of the station and access roads, and for disturbance required for the connection to the Oak Hill Substation and existing transmission lines. The Conservation Commission recommended that the Planning Board seek mitigation for the extensive wetland buffer impacts related to the project. City staff suggested that the two areas of the property located north and south of Farmwood Road and westerly of the existing power line right-of-way be conveyed to the City for conservation purposes as mitigation for the wetland buffer impacts. This conservation land would connect already protected lands to the north and south.

Based on recommendations from the Conservation Commission and City staff, the Planning Board placed the condition to convey the land for mitigation for wetland buffer impacts on the Conditional Use Permit. In compliance with this condition, PSNH proposed to subdivide from their existing 64.44 acre lot a 12.507 proposed conservation parcel and convey said parcel to the City of Concord. The Conservation Commission reviewed the donation of land and voted unanimously to recommend that the land be accepted. The subdivision plan was approved by the Planning Board at the December 18, 2013 meeting. City Council passed a resolution on January 13, 2014 authorizing the City Manager to accept a gift of 12.507 acres of land from PSNH for conservation purposes and to merge the parcel with adjacent City properties.

In May 2017, Eversource Energy submitted a Major Site Plan and CUP application to expand the existing

substation. It was discovered that the subdivision plan and executed Warranty Deed with Conservation Restrictions were never recorded. Planning staff notified the applicant that the subdivision plan shall be recorded to meet the conditions of the previous site plan application. In addition, tabulations for the 2017 site plan application shall be based on the subdivided lot size and not the original 64.44 acre lot size.

## **1. Discussion**

- 1.1 The applicant submitted a Major Site Plan Application in May 2017 to expand the existing substation and gravel area. The application tabulated the proposed lot coverage as 10% utilizing the 64.44 acre lot size, which meets the maximum lot coverage for the Residential Open Space District. The proposed lot coverage tabulated with the correct 51.93 acres would be 13%, exceeding the maximum lot coverage allowance. Planning staff recommended that the applicant either re-design the expansion to reduce lot coverage or request a variance for lot coverage. The Applicant indicated that re-design was not possible, and instead is requesting this amendment to convey an easement on the 12.507 acres so that the entire 64.44 acre lot can be accounted for in the lot coverage tabulations. If this request is approved, a variance will not be required.
- 1.2 The Applicant appeared before the Conservation Commission at their June 14, 2017 meeting. Members of the Conservation Commission expressed concern about the lower value of the easement to the City versus the value of the in-fee ownership of the land. Also, there was concern about increased monitoring and management responsibilities associated with an easement, which could potentially incur additional costs for the City in the long run. Additionally, members had concern that a decision was made and accepted on behalf of the public in 2013, and we should uphold that decision. Other members felt that the easement was more desirable, but agreed there would be an increase in costs for monitoring. It was suggested that the City request payment of stewardship fees. There was considerable discussion about the benefits of the City's ownership of the land versus holding an easement.

In response to these discussions, the Eversource representative made a proposal to provide monetary compensation in the form of stewardship fees and the difference between the in-fee land ownership and easement value, in addition to conveying the Conservation Easement. They also agreed to pay for the appraisal to determine the difference in value.

At the conclusion of the discussions, the Commission members were presented with 2 options:

1. Move forward with the original plan to subdivide and convey the land via in-fee transfer with conservation restrictions, or
2. Accept the Conservation Easement along with stewardship fees and a monetary contribution equal to the difference in value between the land and the easement value.

Under either option, the Conservation Commission would oversee either the management of the land or of the easement. Initially, a majority of the members were in favor of Option 2. However, when a motion was made to require the subdivision and in-fee land transfer to be consistent with the 2013 agreement (Option 1), the Commission voted 5-3 to approve the motion. If the Planning Board supports this decision, the Applicant would need to obtain a variance for the lot coverage requirement.

- 1.3 Per Section 9.08(8) of the Subdivision Regulations, since the subdivision was not recorded within 2 years of Planning Board Approval, the subdivision approval expired on December 18, 2015.

Therefore, **if the Planning Board votes to deny the Applicant's request, a new Minor Subdivision approval would also be required.**

**2. Recommendations**

- 2.1 **Vote with respect** to the Applicant's request to modify the conditions of the 2013 Conditional Use Permit to convey a Conservation Easement on the 12.507 acres in lieu of the in-fee land transfer.

Prepared by: BAF