

## City of Concord Planning Board

April 15, 2020

### Minutes - DRAFT

The regular monthly meeting of the City Planning Board was held on April 15, 2020, via Zoom, at 7:00 p.m.

Attendees: Chairman Richard Woodfin, Vice-Chair Carol Foss, Councilor Erle Pierce, Teresa Rosenberger (Ex-Officio for City Manager), Members Susanne Smith-Meyer, Matthew Hicks, and John Regan.

Absent: 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 David Cedarholm (City Engineer).

#### 1. Call to Order

Chairman Woodfin called the meeting to order at 7:10 p.m.

#### 2. Roll Call

Chairman Richard Woodfin, Vice-Chair Carol Foss, Councilor Erle Pierce, Teresa Rosenberger (Ex- Officio for City Manager), Members Susanne Smith-Meyer, Matthew Hicks, and John Regan.

#### 3. Planning Board Chair Overview

As Chair of the Planning Board, due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

*a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;*

We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through the Zoom platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through clicking on the following website address: <https://zoom.us/j/754076629>, or by dialing the following phone # 1-929-205-6099 and entering the password 754076629. For those calling in who want to provide public testimony, dial \*9 to alert the host that you want to speak. The host will unmute you during the public hearing portion of the meeting.

*b) Providing public notice of the necessary information for accessing the meeting;*

We previously gave notice to the public of how to access the meeting using Zoom, and instructions are provided on the City of Concord's website at: <http://concordnh.gov/273/Planning-Board>

*c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access;*

If anybody has a problem, please call 603-225-8515 or email at: [planning@concordnh.gov](mailto:planning@concordnh.gov).

*d) Adjourning the meeting if the public is unable to access the meeting.*

In the event the public is unable to access the meeting; we will adjourn the meeting and have it rescheduled at that time.

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Please note that all votes taken during this meeting shall be done by Roll Call vote.

In addition, there were no changes made to the agenda.

#### **4. Approval of Planning Board Meeting Minutes**

##### **4A. February 19, 2020 Minutes**

On a motion made by Mr. Regan, and seconded by Ms. Foss, the Board voted unanimously by a Roll Call Vote to approve the February 19, 2020, Planning Board Meeting Minutes, as written.

##### **4B. March 30, 2020 Minutes**

On a motion made by Councilor Pierce, and seconded by Mr. Hicks, the Board voted unanimously by a Roll Call Vote to approve the March 30, 2020, Planning Board Meeting Minutes, as amended, to include a statement noting that Councilor Champlin attended the meeting; however, was a non-voting participant.

#### **5. Design Review Applications by Consent**

*Ms. Rosenberger announced that she would be abstaining from the vote on the Applications by Consent, as she has a conflict as she is a member of a board involved with one of the applications presented.*

##### **5A. John J. Pappas Revocable Trust, on behalf of CB Coldwell Banker | Lifestyles, requests ADR approval to replace a wall sign at 84 North Main Street in the Central Business Performance (CBP) District.**

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, by a Roll Call Vote as follows:

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

##### **5B. Capital Hotel Company VI, LLC, requests ADR approval to replace a freestanding sign and add a new wall sign at 406 South Main Street in the General Commercial (CG) District.**

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, with a Roll Call Vote as follows:

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce – in favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

##### **5C. Associated Enterprises Inc., on behalf of Erised Aesthetics, requests ADR approval to add a new externally illuminated projecting sign, and add vinyl graphics to the windows at 146 North Main Street in the Central Business Performance (CBP) District.**

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, with a Roll Call Vote as follows:

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

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- 5D. PFP Associates LTD Partnership, on behalf of Concord Medspa, requests ADR approval to replace two externally illuminated roof signs at 24 Bridge Street in the Opportunity Performance Corridor (OCP) District.

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, with a Roll Call Vote as follows:

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

- 5E. 107 Storrs Street, LLC, on behalf of Shaheen & Gordon, requests ADR approval to replace an internally illuminated monument sign, replace an existing awning, and add two internally illuminated wall signs at 107 Storrs Street in the Central Business Performance (CBP) District.

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, with the condition that the awning be the purple color of the background of the sign or the blue color of the ampersand in the sign.

Roll Call Vote: Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

- 5F. Warrenstreet Architects, on behalf of Christ the King Parish, requests ADR approval to install three new freestanding signs and replace four existing wall signs at 72 South main Street in the Urban Transitional (UT) District.

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, with the condition that all wall signs be matching with borders, that capitalization of letters be consistent, that sign 23 be located closer towards Thorndike Street and reduced by 10-14% in size with a black background and white text.

Roll Call Vote: Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

- 5G. FourKph, LLC, on behalf of the NH Division of Personnel, requests ADR approval to install a new awning and wall sign and to replace a panel on an existing monument sign at 54 Regional Drive in the Office Park Performance (OFP) District.

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, by a Roll Call Vote as follows:

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

- 5H. Ledyard National Bank requests ADR approval for the construction of a new freestanding sign and the installation of two new wall signs at 74 South Main Street in the Urban Commercial (CU) District.

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, by a Roll Call Vote as follows:

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

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- 5I. Ciborowski Associates, LLC, on behalf of NBT Bank, requests ADR approval to install a new projecting sign at 118 North Main Street in the Central Business Performance (CBP) District.

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, by a Roll Call Vote as follows:

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

- 5J. Ciborowski Associates, LLC, on behalf of Rich Ruel, requests ADR approval to install a new wall sign and awning at 9 North Main Street in the Central Business Performance (CBP) District.

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, with the recommendation that the word “Gifts” be moved to the left to better balance the text on the awning.

Roll Call Vote: Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

- 5K. Sanel Napa requests ADR approval for the installation of a new wall sign at 102 Old Turnpike Road in the Industrial (IN) District.

On a motion made by Mr. Hicks, and second by Mr. Regan, the Board approved the design as submitted by consent, by a Roll Call Vote as follows:

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – abstained. Motion passed; 6/0/1.

### **Public Hearings**

#### **6. Design Review Applications**

- 6A. Oakstream Properties, on behalf of Conservation Law Foundation, requests ADR approval to add a new projecting sign at 27 North Main Street in the Central Business Performance (CBP) District.

On a motion made by Councilor Pierce, and second by Ms. Foss, the Board voted unanimously by a Roll Call Vote, to table the application to the May 20, 2020 meeting pending clarification on the style, location and materials of the mounting bracket and location, the thickness of the sign, and the addition of a border around the sign.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

#### **7. Site Plan, Subdivision and Conditional Use Permit Applications**

- 7A. Richard D. Bartlett and Associates, LLC, on behalf of Winter Street Investments, LLC, requests Minor Subdivision approval for the conversion of an existing duplex to a 2-unit condominium at 1-3 Bye Street in the Neighborhood Residential (RN) District.

Dan Mullen of Richard D. Bartlett and Associates, LLC, and Joe Whitten represented the application.

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

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Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

Chairman Woodfin opened the public hearing.

Mr. Durfee provided an overview of the project noting that the project is a request to for a conversion of a duplex into a two unit condominium. Two waivers have been requested. One waiver is requesting to not show the final plan to scale as the lot is small and requires a larger scale to show details, which is supported by staff. The second waiver is relative to municipal sewer. The applicant has requested to not show the rim and invert elevations of existing and proposed sanitary and storm sewers as the intent is to utilize the existing utilities, which already service the building. There are no changes proposed to the municipal utilities. Mr. Durfee stated that staff does not support this waiver as it is not applicable given the building will need to be serviced by the existing sanitary sewer main located in Bye Street. He noted that there have been discussions with General Services and Engineering.

City Engineer David Cedarholm explained the current sewer connections noting that this connection involves a portion of asbestos pipe. A video inspection has not been conducted along the entire length of the pipe, which needs to be done before engineering will support the waiver. Mr. Cedarholm noted that Martha Drukker has met with the plumber.

Joe Whitten, property owner, stated that he has met with Martha Drukker who did stop by the site. Mr. Whitten explained that the plumber has done a video inspection and has tested the water level through the pipes; no defects or flaking were found. There are other units that do connect into the pipes. He stated that the plumbers noted that 40 CFU's are currently being used by the units. The system actually supports 182 CFU's; 23% of capacity of what the sewer line can hold. The property is 120 years old, and is in great condition. All electrical and internal plumbing are being updated. He stated that the full 220 feet of the pipes were not visible as there is a "Y" connector for the other unit. The water testing ran for two hours without any problems and without any backup.

Mr. Cedarholm commented that the videoing was only done for 20 feet of the 220 feet service. There is still 200 feet that is not visible. He stated that this system was built in the 1940's and he is not comfortable with approvals until the condition of the rest of the system can be determined. There may be ample capacity; however, that is different than the condition.

Chairman Woodfin asked if the project would still be viable without the waiver. Mr. Whitten replied no.

Mr. Whitten stated that Ms. Drukker had asked about the responsibility of repairs to the sewer line. He stated that the condominium documents and by-laws would both indicate that the unit owners would both be responsible for any sewer lines needing repairs. An attorney and a title company are currently working on these documents.

Mr. Cedarholm stated that the applicant has only made one attempt on the status of the lines. He stated that the rest of the system may be fine. He explained that the current standard is to have independent services for each unit. Whether there is sufficient capacity is irrelevant. Allowing the connections for the four units to utilize the one pipe is non-conforming; this is a deviation from the standards. It is unclear what the pipe materials are and the condition for the entire length. Mr. Cedarholm suggested the applicant find another company who has the appropriate equipment to complete a video of the entire line.

Mr. Cedarholm stated that here is another option, as there is another system on Bye Street and the units could be re-plumbed to Bye Street.

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Mr. Regan asked if it is necessary to see the entire plan based on the sewer lines. Mr. Durfee stated that the waiver is requested because of the lack of sewer information on the plan.

There being no additional comments from staff or members of the public, Chairman Woodfin closed the public hearing.

Mr. Cedarholm stated that there is currently only one water service to all of the units. The standard is that each unit should have their own. Code has suggested a solution that does not meet the City standards. He asked if the waiver request would address any water service issues. Chairman Woodfin replied no. Councilor Pierce requested that staff address the water service with the applicant and provide any necessary information to the Board for the next meeting.

On a motion made by Ms. Rosenberger, and second by Councilor Pierce, the Board voted unanimously by a Roll Call Vote to **table the application** until the May 20, 2020 Planning Board meeting, pending further investigation of the sewer line.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

7B. Richard D. Bartlett & Associates on behalf of Mary F. & Christopher R. Miller request Minor Subdivision approval for a 2-lot subdivision at 25 Portsmouth Street in the neighborhood Residential (RN) District.

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

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

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

Chairman Woodfin opened the public hearing.

Ms. Fenstermacher stated that a revised plan was submitted on Friday with all planning and engineering comments addressed.

Mr. Sargent provided an overview of the project. He explained that the existing lot is .75 acres with 241.19 feet of frontage on Portsmouth Street, serviced by municipal water and sewer. The proposal is to create a new lot of .25 acres with 80 feet of frontage.

Councilor Pierce asked if the project conforms to all proposed zoning changes. Ms. Shank replied she did not evaluate that; however, the proposed criteria are more lenient than the existing.

There being no additional comments from staff or members of the public, Chairman Woodfin closed the public hearing.

On a motion made by Councilor Pierce, and second by Ms. Foss, the Board voted unanimously, with a Roll Call Vote, to **grant Minor Subdivision approval** for the 2 lot subdivision at 25 Portsmouth 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 and recording of the plan, unless otherwise specified:

1. Address Engineering Review comments to the satisfaction of the Engineering Division.
2. Address Technical Review comments to the satisfaction of the Planning Division.

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3. 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.
4. Monumentation for new lot lines shall be set.
5. The Licensed Land Surveyor shall sign and seal final plans and mylars.
6. The Applicant shall deliver to Planning, two plan sets and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
7. 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.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

- 7C. Kevin Laro and Sara Hughes requesting a Conditional Use Permit (CUP) in accordance with Article 28-7-8(b) to allow for a driveway separation of 24 ft where 40 ft is required at 48 Auburn Street in the Single Family Residential (RS) District.

Sara Hughes represented the application.

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

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

Ms. Fenstermacher provided an overview of the project. She explained that the applicant is requesting to expand the driveway width from 12 feet to avoid parking in the street. There is an existing non-conformity as the separation from the abutter is approximately 30 feet where 40 feet is required, and they hope to make the separation 24 feet. Ms. Fenstermacher added that the original request was for a larger driveway. After discussions with staff and engineering, the applicant has reduced the size of the driveway from 28 feet to 20 feet. She added that staff is recommending the approval include a condition that the driveway be smaller and the separation be increased during the driveway permit process.

There being no additional comments from staff or members of the public, Chairman Woodfin closed the public hearing.

On a motion made by Ms. Smith-Meyer, and second by Mr. Regan, the Board voted unanimously, with a Roll Call Vote, to **grant a Conditional Use Permit** in accordance with Section 28-7-8(b) of the Zoning Ordinance to allow for 24 feet driveway separation at 48 Auburn Street where 40 feet is required, subject to condition that the Applicant work with Engineering staff during the Driveway Permit review process and reduce the width of the driveway to the extent possible.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

- 7D. S & H Land Services, LLC, on behalf of Bethany Z. and Ray H. Marier, requests Minor Subdivision approval for a 2-lot subdivision at 73 Hoit Road in the Medium Density Residential (RM) and Open Space Residential (RO) Districts.

Robert Deggan of S & H Land Services, LLC, represented the application.

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

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce – favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

Mr. Durfee provided an overview of the project. He explained that the applicant is proposing a two lot subdivision. A waiver has been requested to not provide a field soil test, which staff supports as the applicant has provided soils data from the USDA Web Soil Survey. There have been additional comments relative to the well location and the encroachment of the radius.

Mr. Degan explained that the lot is 4.75 acres. Both lots exceed the requirements of the zoning ordinances. There is an issue with the well. At the request of the engineering department, an easement is being prepared. In addition, a note will be added to the plan stating that should the well need to be re-dug, the well will then be placed within the lot. Mr. Degan added that State subdivision approval has been received.

Chairman Woodfin asked for public comment.

Abutter Alwin Heuer, 70 Hoit Road, expressed concern with privacy. He stated that he would like to ensure that any structures to be built will meet the setback requirements to ensure privacy. Mr. Durfee replied that the minimum setback required is 25 feet for the front and rear, which will be adhered to. Mr. Degan stated that it is his understanding that the property owner's intent is to build in the rear of the property.

Mr. Durfee added that he received an email from the Chases, abutters directly across the street, indicating their strong support for the project and they felt that the project fits within the character of the neighborhood.

There being no additional comments from staff or members of the public, Chairman Woodfin closed the public hearing.

On a motion made by Councilor Pierce, and second by Ms. Smith-Meyer, the Board voted unanimously by a Roll Call vote, to **grant the waiver** from Section 12.03(6) – Soils of the Subdivision Regulations to not provide the following information on the subdivision plat, 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, and **grant Minor Subdivision** approval for the two lot subdivision at 73 Hoit 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:

- (1) Address Technical Review Comments to the satisfaction of the Planning Division.
- (2) Address Review Comments from Bryant Anderson, P.E., to the satisfaction of the Engineering Division.
- (3) Waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), the applicant shall comply with said submission requirement(s).
- (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.



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- (5) The Licensed Land Surveyor shall sign and seal final plans and mylars.
- (6) A NH Certified Wetland Scientist shall sign and seal the final plans and mylars.
- (7) 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.
- (8) The Applicant shall deliver to Planning one (1) plan set(s) and one (1) mylar(s) for endorsement by the planning Board Chairman & Clerk and recording at the Registry of Deeds.
- (9) Prior to the issuance of any building permits, the 50' wetland buffer shall be marked with discs available at the Planning Division.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

- 7E. Steel Brick, LLC, requests Minor Subdivision approval and an amendment to a previously approved Major Site plan for a Condominium, to add one unit to a previously approved 7 unit multi-family structure at 12 Cross Street in the Neighborhood Residential (RN) District.

Nawaz Azam of Steel Brick, LLC, represented the application.

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

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

Mr. Durfee gave an overview of the project. He explained that this is a request to amend a previously approved Major Site Plan and to grant Minor Subdivision to construct an eighth residential condominium unit. Seven were originally approved in 2015, with three units on the first floor, four units on the second story with lofts, and now an eighth unit to be added to the third floor.

Mr. Azam stated that this is a great project and a great neighborhood. He stated that there are two units on the second floor that are quit large and with the review of the plan there was an option to now add an additional unit to the third floor.

Chairman Woodfin asked for public comment.

Kevin Hanks, abutter on the corner at 7 Steepleview, referenced prior water and sewer concerns noted in the prior proposal materials. He stated that there does not appear to be any additional information for the new unit relative to water and sewer. He added that there were also prior concerns regarding parking and privacy.

Mr. Cedarholm stated that there is a new fire service being installed. There are still questions as to where the fire service will be coming from Cross Street or Summer Street. He noted that there is also a moratorium on Cross Street.

Mr. Azam stated that he will be addressing the water and sewer issues. Water services will be coming from Summer Street. He added that the parking plan has been updated. A fence will be installed on both sides to address the privacy issues.

Mr. Hanks stated that until the water and sewer issues are addressed there is no reason to approve the project. He added regarding privacy construction has been going on for at least nine

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months and there is no privacy. As it sits there is much construction debris around the site and it is not appealing to the neighborhood.

Mr. Azam apologized for the debris and offered to install a temporary fence for privacy. He stated that there has been much work ongoing and all necessary permits have been obtained.

David Hall, Code Administrator, commented that the building inspector has stated that the third floor unit is not viable due to life safety issues relative to egress distance. Mr. Azam stated that he is aware of the issue and is working with his engineer. He stated that he understood that a permit will not be obtained until the matter is addressed.

There being no additional comments from staff or members of the public, Chairman Woodfin closed the public hearing.

On a motion made by Councilor Pierce, and seconded by m. Hicks, the Board voted unanimously by Roll Call Vote, to **grant Minor Subdivision approval and Site Plan Amendment approval** for the addition of an eighth condo unit and associated reallocation of parking 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 the Planning Division.
- (2) Address Review Comments from Bryant Anderson, P.E., to the satisfaction of the Engineering Division.
- (3) 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.
- (4) 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.
- (5) The Applicant shall deliver to Planning one (1) plan set(s) and one (1) mylar(s) for endorsement by the planning Board Chairman & Clerk and recording at the Registry of Deeds.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

- 7F. CLOAS Realty Management, LLC, on behalf of Capital Regional Development Council, request Major Site Plan approval to construct a 15,300 sf structure and associated site improvements for the purpose of an environment testing laboratory at 51 Antrim Avenue in the Industrial (IN) District.

Chris Nadeau, of Nobis Group, along with Michael Swett of Eastern Analytical, and Chris Drobat and Anne Ketterer of Lavallee Brensinger Architects represented the application.

Ms. Fenstermacher gave a brief overview of the project for a testing lab in the Industrial District. She stated that the applicants have addressed the majority of the staff's comments. There are two Conditional Use Permits (CUP) needed and have been requested for the aquifer protection district and the driveway separation. Staff recommends approval of the applications, as submitted.

Mr. Nadeau provided an overview of the project. He explained that the proposal is to construct a 15,300 sf building with associated parking and equipment storage at 51 Antrim Avenue in the Industrial and Aquifer Protection Overlay Districts. The site is currently undeveloped with the

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exception of a municipal pump station owned and operated by the City of Concord. The business has outgrown their existing facility on Chennell Drive. They are proposing 75 parking spaces. The site is over 8 acres with some of the property encumbered by a utility easement. He reviewed the CUP requests for the aquifer protection due to the fact that they have more than 2,500 sf of impervious surface. The other CUP is for the driveway separation to the pump station.

Chairman Woodfin opened the public hearing.

Chairman Woodfin asked about the comments from ADR. Ms. Ketterer stated that ADR's feedback was positive. The Committee did have a comment requesting to add landscaping to the parking area. She is looking into that.

Ms. Smith-Meyer stated that staff has done a great job on this application. She suggested that the applicant refer to the City's planting details for shade trees and reconsider using the Quaking Aspen as it spreads rapidly similarly to Japanese bamboo. She noted that the shade trees need to be placed accordingly in order to provide the shade.

There being no additional comments from staff or members of the public, Chairman Woodfin closed the public hearing.

On a motion made by Mr. Regan, and seconded by Ms. Rosenberger, the Board voted unanimously by Roll Call Vote, to the following:

- **Grant Architectural Design Review (ADR) approval** for the site plan and building elevations; and,
- **Grant approval of the following Conditional Use Permits:**
  1. CUP per Article 28-3-6(d)(4) for Certain Uses in the Aquifer Protection District to allow more than 2,500 sf of impervious area, with the condition that the Applicant complies with the Performance Standards as outlined in Section 28-6-3(d)(1).
  2. CUP per 28-7-11(f) Driveway Separation Alternatives to allow the proposed driveway to be 35 feet from the adjacent driveway where 100 feet is required.
- **Grant Major Site Plan** approval for the proposed 15,300 sf building with associated parking and equipment storage area at 51 Antrim Avenue in the Industrial and Aquifer Protection Overlay Districts, 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.
    - (2) Conditional Use Permit(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Zoning Ordinance.
    - (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.
  - (b) Subsequent Conditions – to be fulfilled as specified:

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- (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.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

- 7G. Abbott Farm LLC, requesting approval of a proposal to address the Abbott house restoration in accordance with the Planning Board conditions dated September 18, 2019, and requesting release of restrictions on remaining building permits and certificates of occupancy for the property at 382 N. State Street in the Neighborhood Residential (RN) District.

Atty. Liz Nolan of Nolan, PLLC represented the application along with Jason Garland developer, and Steven Bedard of Bedard Preservation & Restoration LLC,

Ms. Fenstermacher stated that she heard from the applicant today noting that they have addressed all additional items in Mr. Bedard's report as noted at the March 30<sup>th</sup> meeting, including the drainage, overspray on the windows, and the small roof overhang.

Chairman Woodfin welcomed Councilor Byron Champlin to participate for his background with the project; however, he is will not be voting on the project.

Atty. Nolin stated that this meeting is to address the issuance of the building permits and CO's. They feel that the conditions from the September 18, 2019, meeting have all been met. She stated that the first two conditions have been addressed and all parties agree that those items are complete. Items three and four are still to be addressed; no additional CO's or building permits are to be issued until exterior improvements are completed and a satisfactory plan has been provided to the Board. They believe that these items have been addressed and a secondary report has been completed.

Atty. Nolin summarized the plan submitted. She explained that relative to item 1, they have now completed all exterior renovations. Item 2, they are proposing to subdivide the Abbott House from Abbott Village to make it its own marketable plot. They are actively looking into the best way to make the area marketable. Item 3, they will make any changes required by City Boards to add an additional unit in order to still have the full 80-unit development, which the condo is approved for; the Abbott House is the 80<sup>th</sup> unit. Item 4, is to convey the Abbott House to a third party for renovations and/or reconstruction, understanding that it is important for the community to keep the property for historic preservation.

Chairman Woodfin asked for confirmation that all of the exterior renovations have been completed and are to the satisfaction of Mr. Bedard. Atty. Nolin replied yes. Mr. Bedard confirmed yes the renovations have been completed to his satisfaction. He added that the current drainage system on the east side of the roof is adequate at this time and is moving the water away from the building; however, it will eventually need to be updated to a permanent system.

Chairman Woodfin mentioned Atty. Nolin's comment relative to subdivision of the Abbott House.

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He asked staff to comment to the process and creating an additional unit. Ms. Fenstermacher explained that the process is an amendment to a previously approved site plan along with a subdivision application.

Chairman Woodfin asked about the moth balling process in order to make sure that the house stays safe and secure as it is marketed. Ms. Fenstermacher stated that the National Park Service created a process for mothballing Historic Buildings, and has a recommended process. There are maintenance checklists and reporting requirements to follow.

Discussion ensued regarding marketing the property. Atty. Nolin noted that the property would be marketed locally and regionally. Mr. Garland stated that one individual has expressed some interest in the property. Mr. Bedard commented that the intent is to make it a viable property and it has been discussed to sell the house for \$1 so it can be sold and repaired.

Chairman Woodfin asked about the assurances to make it a viable marketable property with a front and back yard, driveway, etc. The Board will need a fully vetted plan and make sure that what is being proposed is good for the area. He asked what the vision is for the property. Atty. Nolin replied that they have a call tomorrow with the homeowner's association to express their points of view as to what will be good for the abutting community. She explained that they would like to see a separate driveway and will do the process to obtain those permits. They do not have a proposed subdivision plan drafted at this time. What is being presented now is a concept for moving forward.

Chairman Woodfin stated that he would like to see some type of leverage or protection for the City that the historic building will be maintained in perpetuity. Atty. Nolin agreed to create covenants in the deed agreeable to the City. She will provide a draft and submit it to the City Solicitor for review.

Councilor Pierce asked about the marketing timeframes. Atty. Nolin replied that they would like to market the property as soon as possible; however, not until the subdivision was approved.

Additional discussion was held regarding the land. Atty. Nolin stated that they want the land to be comparable to the neighboring properties and have as much land allocated as possible and will know better once there has been a plan submitted. Mr. Garland added that the conceptual plan submitted from Brown engineering included a ½ acre of land.

Councilor Pierce noted that the site plan is approved for 80 units on approximately 15 acres. Mr. Garland replied that this is correct, prior to a subdivision, which meets the density requirements. If there were not 80 units there would be a change required to the condominium declaration; the previous units sold were sold with the understanding that the development would consist of 80 units. Councilor Pierce referred to the declaration and stated that each unit owns a portion of the property, which would change should the area of the property change. Mr. Garland stated that an amended site plan would be required and the declaration may be amended to reflect a small change in the area of the property. He believes that the association is agreeable to the subdivision.

Ms. Rosenberger stated that the request is for the Board to agree to the concept of a subdivision of the property. Atty. Nolin stated that the condition imposed is that there be no further issuance of building permits or CO's until a general plan be submitted agreeable to the Board relative to the Abbott House. She explained that they request the Board to determine that the general plan submitted in the February 19 letter satisfies the condition; upon approval they will then submit a subdivision application as a separate item. Ms. Rosenberger stated that she believes the condition is for a plan submitted to the Board, not a general plan. Atty. Nolin stated that it is costly for them to submit an application for subdivision without knowing if the plan is reasonable and satisfy the condition. They believe what has been provided is reasonable and do not want to proceed without some assurance from the Board that a subdivision is what the Board wants. It is an extremely costly

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burden for the applicant. She stated that what has been provided is the best option.

Ms. Shank stated that at the time of the condition for a “plan” there were many varieties of proposals and items discussed. In the September meeting, the request for a plan was intended to be a document outlining what the applicant felt was to be a solution, not an actual approvable “site plan”. They will still need to return to the Board with an actual subdivision application; the Board will be able to grant an approval of an actual plan at that time. She added that neither Planning nor Engineering staff would support a secondary access to the property; it should be a shared access with an easement granted.

Ms. Rosenberger asked if there have been any comments or concerns received from the homeowners association. Ms. Shank stated that the City had not received comments from the HOA. Atty. Nolin stated that there is a meeting tomorrow with the HOA. She added that the HOA is in support of the subdivision and what they are doing is trying to make it easy for the owners. There will be collaborative efforts between the attorneys.

Alan Herschlag stated that what has been provided by the applicant is barely a plan; barely a concept. He stated that in March 2, 2005 the development was proposed as a 79 unit townhouse/condominium and preserve the Abbott House at the 80<sup>th</sup> unit.. He noted that different uses would entail different development and maintenance costs.

Regarding the subdivision, Mr. Herschlag stated that he feels that no additional building permits should be issued and the project should be tabled until a new plan is submitted. He suggested the following be conditions for the Board to consider, should there be a new owner, a purchase and sales agreement should be provided; any conditions in the deeds should be agreed to prior to any building permits being granted; all paperwork should be approved by the State; the berm should be completed according to the site plan, and any additional sign offs – the City should be able to sign off, not a third party. He noted that there is some paint that is peeling on the clapboards as well. He asked what would happen if the house was subdivided and there was not a buyer.

Mr. Garland commented that a plan was submitted that they felt was beneficial to the HOA and City. There have been many restrictions and items imposed that have been addressed. They have met all of the contingencies based on the last meeting. The original approval required the completion of the renovations and restoration to the Abbott House, which they have addressed. The subdivision is what they feel is in everyone’s best interest. If not, it is the 80<sup>th</sup> unit of the project. He stated that it seems like every time there is a meeting there is more requirements. They want to move forward with the subdivision. Everything has been completed. He expressed frustration with the fact that nothing is being given to them in return after they continuously meet the conditions.

Mr. Herschlag referred to prior minutes referencing the Abbott House as the 80<sup>th</sup> unit prior to the last phase being completed.

Mr. Bedard stated that the subdivision plan was his idea. After talking with parties involved, it was clear to him that the only way to likely save the building was to do a subdivision. He added that preservation by mothballing is a very extensive process. He stated that the Board can require preservation easements on the structure to protect the house.

Councilor Champlin stated that a subdivision is an attractive option. He added that this is only a concept, not a plan. He would like to see more definition provided. He notes that Mr. Herschlag’s suggestion to table is also something to consider. Find a path to preserve the building and take it off the hands of Abbott Village; they do not have a solid interest. He would like to see a plan submitted before making any further decisions.

Chairman Woodfin referred to condition 4 requiring a plan agreeable to the Board before any

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additional CO's and building permits are issued. He asked if the Board feels that the plan submitted is a viable plan.

Mr. Hicks commented the subdivision is a good option. He stated that the applicant needs to follow the subdivision approval process like any other applicant. He feels that it does not make any sense for the applicant to not follow the typical process. Doing the process will remove the Abbott House from the project entirely.

Ms. Shank stated that the applicant still needs to submit a subdivision plan and an amendment to their site plan. She stated that their submission was not intended to be a physical plan but a concept for moving forward.

Ms. Smith-Meyer stated she feels the applicant is acting in good faith. She added that they have done everything that the Board has asked and they want to do what is best for their property. The Board should have some flexibility. Selling is a benefit to the property owners, applicant, and City, and there should be some flexibility given.

Mr. Hicks stated that he disagrees with Ms. Smith-Meyer and added that the property cannot be sold if it is not subdivided. He stated that the only way that the items got done was with conditions requested by the Board.

Ms. Fenstermacher stated that the berm is being addressed and will be planted this spring.

Ms. Rosenberger agreed with Mr. Hicks and added that the subdivision needs to be done in order to put the property on the market. She added that the Board does not know anything proposed regarding parking, curb cuts, etc. She added that the applicant is making progress. They are honorable in doing what they think is best; however, she cannot agree to it in a process perspective.

Councilor Champlin respectfully disagreed with Ms. Smith-Meyer and added that there is a solid relationship with the applicant now only because of the leverage and after this Board obtained a second opinion on the house and found it a historical structure that was salvageable. He stated that he appreciates the applicant's efforts; however, he hesitates to be too quick to sacrifice the leverage.

Ms. Shank stated that it would be a good idea to retain leverage. The applicant needs more building permits to continue with the work. She suggested allowing the issuance of the building permits to allow the project to move forward, keep momentum to provide housing and keep people working. She stated that the Board is essentially agreeing with the applicant to pursue the subdivision avenue but wants more information before releasing all permits and COs. Ms. Shank stated that they would need to come back to the Board for subdivision approval again.

Mr. Hicks stated that he agreed with Ms. Shank in that the applicant needs to satisfy the conditions of the Abbott house. It is in the city's best interest to not have the Abbott House a part of the project.

Chairman Woodfin stated that staff has recommended the Board review the information and make a determination if the plan addresses the future development of the Abbott House. He stated that he is not comfortable with the future development based on tonight's discussions but that the Board should make a recommendation that the subdivision is the best option and is a viable option.

Ms. Smith-Meyer agreed with Ms. Shank and the concept of what they are doing. She understands the approach and believes that it is the best way to proceed until a subdivision plan has been provided. It has to be a conceptual agreement at this time. She does not want to hold up their process.

Councilor Pierce commended Mr. Garland and what he has done to preserve the property. He asked if it would be beyond the Boards purview to not issue the CO's until the subdivision application is approved.

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Ms. Shank stated, in her opinion, they are invested and want to finish the project. If the Board gives approval, the applicant will come back. She explained that they still need 29 building permits; 12 for two buildings. She added that there is still leverage for the Boards.

Ms. Rosenberger stated she is uncomfortable approving anything without hearing from the homeowner's association; they are impacted by this project. Ms. Shank replied that the associations concern throughout discussions was that they did not want to be financially responsible for the house. The subdivision would address that concern.

Chairman Woodfin stated that the Board needs to determine if the right course of action is the subdivision. He added that no leverage is lost as the Board has not agreed or disagreed with anything.

Ms. Smith-Meyer stated that conceptually the idea of the subdivision is the best process. She added that at this time, there is nothing to be lost by allowing the building permits to be issued so that the work can continue.

Ms. Rosenberger suggested only releasing seven building permits, not twelve. Ms. Fenstermacher stated that they have recently applied for permits for the foundations for two buildings. She noted that it is sometimes easier for development projects to work on a larger scale than on just one building. She requested that the Board consider approving building permits for 12 units for the two buildings.

On a motion made by, Chairman Woodfin, and seconded by Ms. Smith-Meyer, the Board voted unanimously by a Roll Call vote, authorizing the issuance of building permits for 12 units within the Abbott Village Development, with no additional building permits or certificates of occupancy to be issued at this time until the Applicant submits a Subdivision application agreeable to the Board, along with a Site Plan Amendment, in accordance with the Zoning Ordinance and applicable regulations, and the subdivision should include provisions for covenants in the deed that require the Abbott House to be maintained as a historic building, and a preservation easement should be considered.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

#### **8. Other Business**

Ms. Smith-Myer commented on how great the trails have been recently. She stated that she is very proud of the City with the Concord trails; amazing work.

#### **Adjournment**

At the request of Chairman Woodfin, Mr. Regan made a motion to adjourn at 10:25 PM, seconded by Ms. Smith-Meyer.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce - favor, Ms. Smith-Meyer – in favor, Mr. Hicks – in favor, Mr. Regan – in favor, and Ms. Rosenberger – in favor.

The motion passed unanimously; 7/0.

A TRUE RECORD ATTEST:

Lisa Fellows-Weaver,  
Administrative Specialist