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City Planner

CITY OF CONCORD

New Hampshire's Main Street™
Community Development Department

Planning Board

October 20, 2021

Project Summary – Amendment to Major Site Plan

Project: Interchange Development, LLC Mixed Use Development Plan (2020-40)
Property Owners: Interchange Development, LLC
Address: Merchants Way and Interchange Drive (1 Whitney Road)
Map/Block/Lot: Map 06P, Lot 5

1. General Comments:

- 1.1 The Applicant is requesting an amendment to the previously approved Major Plan to allow for the issuance of one Certificate of Occupancy for 11 Merchants Way (NH Liquor & Wine Outlet) prior to the completion of off-site improvements.
- 1.2 As part of the request, the Applicant also requests a waiver to Section 7.08(7) of the Site Plan Regulations (SPR) to allow for the issuance of a CO prior to completion of all public and private improvements.
- 1.3 This review is based on a letter to the Planning Board from Interchange Development LLC, dated September 15, 2021, and a sketch plan titled Expected Site Improvements to be Completed by Mid-January 2022, dated October 7, 2021.
- 1.4 Please see comments from Engineering Services Division in the attached memo from Gary Lemay, P.E., dated October 13, 2021.

2. Project Background:

- 2.1 At the December 16, 2020, meeting the Planning Board conditionally approved the Major Site Plan application for the proposed multi-phased development, including site and building improvements associated with a 80,775 sf supermarket with attached 22,483 sf retail pad, and a separate 13,554 sf retail building (NH Liquor & Wine Outlet) under Phase 1.
- 2.2 As part of the approval, the Board placed several subsequent conditions to be fulfilled as part of the construction phase. The following conditions specifically address the issuance of the first Certificate of Occupancy:
 - 1) Prior to the issuance of the first Certificate of Occupancy, all off-site vehicular and pedestrian transportation improvements shall be substantially completed and operational as determined by the City Engineer. No financial guarantee shall be required for any

incomplete off-site improvements, which might be undertaken by the City as set forth in a Development Agreement between the City and the Applicant.

- 2) Prior to the issuance of the first Certificate of Occupancy, any other off-site improvements to be undertaken by the Applicant (if any) shall be completed to the satisfaction of the City Engineer, or a financial guarantee shall be provided as approved by the City Manager.
- 2.3 The public off-site improvements are being constructed by the City. Due to permitting delays, the schedule of completion for the proposed Hoit Road/Whitney Road roundabout has been delayed until 2022. The retail store will be completed in late 2021.

3. Discussion

- 3.1 The Applicant provided a Temporary Traffic Condition memo to analyze traffic conditions should the liquor store open prior to the supermarket and other retail space. The memo was reviewed by the Engineering Division, and forwarded to NHDOT with a request to amend the City's driveway permit (for Whitney Road, which outlets onto the state road - Hoit Road). NHDOT issued an amended driveway permit, which supports the issuance of a CO for NH Liquor & Wine Outlet prior to the completion of the Hoit Road/Whitney Road roundabout.
- 3.2 Staff has had weekly meetings with the Developer through-out the process, and understands that there have been several construction delays due to widespread, unprecedented construction material shortages. This has delayed the completion of all on-site private improvements.
- 3.3 The Applicant has provided a plan showing the on-site improvements that will be completed at the time they will be requesting a CO. Staff supports the issuance of the CO with several conditions noted under the Recommendations below. The conditions are in line with Section 36.18 Winter Certificate of Occupancies (SPR). While this Section permits the issuance of a temporary CO, given that the remaining portions of the site are actively under construction, Staff supports the issuance of a permanent CO for 11 Merchants Way upon receipt of a financial guarantee per Section 36.18(3) to cover the cost of the deferred items. In addition to the improvements for 11 Merchants way, staff recommends that the guarantee include all remaining work for Phase I, with the exception of the proposed Market Basket Site, as that work does not have a material impact on 11 Merchants Way.

4. Recommendation

- 4.1 Staff recommends that the Planning Board **grant the waiver to Section 7.08(7) of the Site Plan Regulations** to allow for the issuance of a Certificate of Occupancy for the NH Liquor & Wine Outlet prior to the completion of public and private off-site improvements, subject to the conditions stated under Recommendation 4.2(1) thru (3).
- 4.2 Staff recommends that the Board **amend the conditions of the Major Site Plan approval**, authorizing the issuance of the first Certificate of Occupancy for 11 Merchants Way (NH Liquor & Wine Outlet) prior to the completion of off-site improvements subject to the conditions below. *No other COs within this development shall be issued until all site improvements in the original approved Site Plan approval are constructed.*

1. The following improvements shall be completed to the satisfaction of the Engineering Division and City Fire Department:
 - a. The water mains on Interchange Drive and Merchants Way shall either be fully installed, tested, and operational, or a NH Fire Protection Engineer shall certify (via a stamped letter) that the single water main feed along Merchants Way meets the fire flow requirements for the sprinkler system and will provide sufficient flow to all

proposed hydrants along Merchants way. The Concord Fire Department must agree with the fire protection engineer's conclusions.

- b. Base pave the entirety of Interchange Drive, or receive confirmation from the Concord Fire Department that emergency access to the site is sufficient.
 - c. Any additional items that the City Planner, City Engineer, and City Fire Marshall determine at the time of inspection are required for safe use of and access to the Site.
- 2. Provide a financial guarantee in accordance with Section 36.18(3) (SPR) for the remaining deferred work. Prior to issuing the financial guarantee, the City Planner, City Engineer, and City Manager shall approve the estimate to be provided by the Applicant for the deferred work (including, but not limited to, finish paving, final pavement markings, utilities, and landscaping) for Phase 1 (not including items within the Market Basket site) and any off-site improvements to be undertaken by the Applicant (if any).
 - 3. Provide an interim as-built plan to the satisfaction of the Engineering Division in accordance with Section 12.09 (SPR).
 - 4. The site shall be in compliance with any other local, state, or federal permits or regulations for occupancy.

Prepared by: BAF

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CITY OF CONCORD
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Community Development Department

David Cedarholm, PE
City Engineer

MEMORANDUM

TO: Beth Fenstermacher, Assistant City Planner
FROM: Gary Lemay P.E., Associate Engineer
DATE: October 13, 2021
SUBJECT: Interchange Development, October 2021 Amendment and Waiver Request – Engineering Plan Review, 1 Whitney Road; Map 06P, Lot 5; Project 2020-040

The Engineering Services Division (Engineering) has received the following items for review:

- *Letter Requesting CO for the Liquor & Wine Outlet, prepared by Interchange Development LLC, dated September 15, 2021*

Engineering understands the Applicant is requesting issuance of a Certificate of Occupancy (CO) for 11 Merchants Way in late December 2021, prior to completion of all public off-site improvements (Hoit/Whitney Roundabout) and has the following comments on the developer's request.

1. Engineering understands that NH DOT (who holds the City's driveway permit where Whitney Road outlets to Hoit Road) is agreeable to opening the future NH Liquor & Wine Outlet currently under construction at 11 Merchants Way prior to completion of the Hoit/Whitney Roundabout. Engineering anticipates that the Whitney Road roundabout serving the site will be substantially complete (base paved, utilities installed) prior to the end of the 2021 construction season. Engineering has no further comments or concerns on that item at this time.
2. Engineering supports granting a waiver of Site Plan Regulation (SPR) 7.08 (7) for 11 Merchants Way, which, among other requirements, states "No Certificate of Occupancy [CO] shall be issued until all public and private improvements have been completed." Engineering has held weekly construction update meetings with the Developer and their General Contractor since spring 2021 and understands that the Project has been subject to considerable construction delays due to widespread, unprecedented construction and building material shortages, particularly for water main pipe meeting City standards (zinc-coated, double cement-lined ductile iron pipe). These delays have

pushed the paving schedule (which is not typically completed until all underground utilities are complete) beyond the recommended paving window for finish (i.e., wearing course) paving, though it appears that base paving will still be accomplishable.

3. SPR 36.18 (Winter Certificate of Occupancies) provides granting a temporary CO during the winter season under certain conditions, including substantial completion of base paving, temporary striping and signage, safe temporary walkways to/from the site and a functional drainage system. The Applicant is requesting relief from additional items not explicitly allowed in SPR 36.18, including not having base paving complete on one of the two major access roads to the site (Interchange Drive), as well as some utilities on the site (but not serving 11 Merchants Way) left to be completed in the spring.
4. Engineering supports granting waivers for 11 Merchants Way for SPR 7.08 (7), SPR 36.18, and the Board's subsequent approval requiring completion of off-site improvements, subject to the following conditions:
 - a. All work on Merchant's Way, the NH Liquor & Wine Outlet, and the rest of the proposed Phase I improvements will meet the requirements of SPR 36.18, unless otherwise specified below.
 - b. The water mains on Interchange Drive and the connector road between Interchange Drive and Merchants Way will either: 1) be fully installed, tested, and operational before granting the CO for 11 Merchants Way; or 2) a NH fire protection engineer will certify (via a stamped letter) that the single water main feed along Merchants Way will meet the fire flow requirements for the sprinkler system at 11 Merchants Way and will provide sufficient flow to all proposed hydrants along Merchants way. Engineering and the Concord Fire Department must review and agree with the fire protection engineer's conclusions.
 - c. Interchange Drive does not necessarily need to be base paved if Merchants Way is appropriately paved, striped, and signed is installed, pending review and concurrence by the Concord Fire Department that emergency access to the site will not be impaired.
 - d. Per SPR 36.18 (3), the developer shall provide a financial guarantee (cash bond, letter of credit, or surety bond) for the remaining deferred work. Engineering recommends the bond be equal to the value of all deferred work on Merchants Way, 11 Merchants Way, and the rest of the Phase I work area with the exception of the proposed Market Basket Site, as that work does not have a material impact on 11 Merchants Way. This would include any deferred landscaping, finish paving, and utility work.
 - e. Any other items not explicitly mentioned above that are required for safe use and access of the site in the opinion of the City Planner, City Engineer, and City Fire Marshall shall be completed prior to CO issuance at 11 Merchants Way.

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- f. Consistent with the intent of SPR 12.09, Engineering recommends an interim digital as-built is completed to the satisfaction of Engineering prior to CO issuance at 11 Merchants Way.
5. Engineering recommends that all private and public improvements will be completed, consistent with SPR 7.08 (7), prior to issuing any other COs for the site.