

**City of Concord Planning Board
December 16, 2020
Minutes**

The regular monthly meeting of the City Planning Board was held on December 16, 2020, via Zoom, at 7:09 p.m.

- Attendees: Chairman Richard Woodfin, Councilor Erle Pierce, Teresa Rosenberger (Ex-Officio for City Manager), Members Susanne Smith-Meyer, John Regan, Matthew Hicks, and Jeff Santacruce. Vice-Chair Carol Foss and David Fox arrived at 7:15 p.m.
- Absent: Alternate Frank Kenison and Alternate Chiara Dolcino.
- Staff: Heather Shank (City Planner), Beth Fenstermacher (Assistant City Planner), Sam Durfee (Senior Planner), Lisa Fellows-Weaver (Administrative Specialist), David Cedarholm (City Engineer) and Gary Lemay (Associate Engineer).

Chairman Woodfin read the following statement: 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.

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.

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

1. Call to Order

Chairman Woodfin called the meeting to order at 7:09 p.m.

2. Roll Call

Chairman Richard Woodfin, Councilor Erle Pierce, Teresa Rosenberger, Members Susanne Smith Meyer, John Regan, Matthew Hicks, and Jeff Santacruce.

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Non-Public Session

Chairman Woodfin apologized for the delay in opening the meeting; the Board held a non-public session prior to the meeting.

On a motion made by Councilor Pierce, and seconded by Mr. Regan, the Board voted to seal the minutes of the non-public session, by a Roll Call vote as follows:

Councilor Pierce – in favor, Ms. Rosenberger – in favor, Mr. Hicks – in favor, Ms. Smith-Meyer – in favor, Mr. Regan – in favor, and Mr. Santacruce – in favor. Mr. Woodfin – abstained as he was not in the non-public session.

3. Approval of Planning Board Meeting Minutes

November 18, 2020 Minutes

On a motion made by Councilor Pierce, and seconded by Mr. Hicks, the Board voted to approve the November 18, 2020, Planning Board Meeting Minutes, as written, by a Roll Call vote as follows:

Mr. Woodfin – in favor, Councilor Pierce – in favor, Ms. Rosenberger – in favor, Mr. Hicks – in favor, Ms. Smith-Meyer – in favor, and Mr. Regan – in favor. Mr. Santacruce abstained as he was not a member of the board for that meeting.

4. Planning Board Chair Agenda Overview

There were no changes made to the agenda; however, Chairman Woodfin noted that the applicant for Item 7H Northpoint Engineering LLC, on behalf of Barbara Mariano, LLC, has requested to table their application to no date or time certain; and Item 7I Brixmore Capitol SC, LLC, has requested to postpone their application to the next meeting, January 20, 2021.

On a motion made by Mr. Woodfin, and seconded by Councilor Pierce, the Board voted unanimously, by a Roll Call vote, to grant the applicant's request to table the Northpoint Engineering LLC application to no date or time certain.

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

On a motion made by Mr. Woodfin, and seconded by Councilor Pierce, the Board voted unanimously, by a Roll Call vote, to grant the applicant's request to continue the Brixmore Capitol SC, LLC, application to the January 20, 2021 Planning Board meeting.

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

Vice Chair Foss and David Fox joined the meeting, 7:15 p.m.

5. Determination of Completeness

5A. Jarbel Realty, LLC requests Major Site Plan approval for conversion of an existing nonresidential structure to a five unit residential and commercial use at 189 N. Main Street in the Urban Commercial (CU) District.

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 the application does not meet the criteria for a Development of Regional Impact, and set the public hearing for January 20, 2021.

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

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6. Design Review Applications by Consent

- 6A. Sienna Investment on behalf of T-Mobil requests ADR approval for the installation of two new internally illuminated wall signs and the replacement of a panel on an internally freestanding sign at 273 Loudon Road in the Gateway Performance (GWP) District.

On a motion made by Councilor Pierce, and seconded by Mr. Regan, the Board unanimously approved the design as submitted by consent, by a Roll Call Vote as follows:

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

- 6B. Fred Potter on behalf of Legacy Wise requests ADR approval for the installation of a new externally illuminated monument sign at 135 North State Street in the Neighborhood Residential.

On a motion made by Councilor Pierce, and seconded by Mr. Regan, the Board unanimously approved the design as submitted by consent, by a Roll Call Vote as follows:

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

- 6C. LensCrafters requests ADR approval for the replacement of an internally illuminated panel on a freestanding sign at 240 Loudon Road in the Gateway Performance (GWP) District.

On a motion made by Councilor Pierce, and seconded by Mr. Regan, the Board unanimously approved the design as submitted by consent, by a Roll Call Vote as follows:

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

- 6D. Crestwood requests ADR approval for the replacement of an externally illuminated freestanding sign at 14 Crestwood Drive in the High-Density Residential (RH) District.

On a motion made by Councilor Pierce, and seconded by Mr. Regan, the Board unanimously approved the design as submitted by consent, by a Roll Call Vote as follows:

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

Public Hearings

7. Site Plan, Subdivision and Conditional Use Permit Applications

- 7A. Landmark Sign, on behalf of Genesis Health Care Company, requests Conditional Use Permit approval for two previously installed freestanding directional signs at 227 and 239 Pleasant Street in the Institutional (IS) District.

Ms. Shank explained that the application is a retroactive request for two Conditional Use Permits for two directional signs that have been installed. The signs have been presented to the Architectural Design Review Committee and the designs have been revised in response to the ADR comments.

Jason Moorehead of Landmark Signs represented the application.

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Abutter Jim Hochberg, asked about the location of the signs. Mr. Durfee stated that the signs are installed and this is a retroactive approval; the signs will remain in the current sign locations. Mr. Hochberg stated that he had no concerns with the signs if they are being relocated.

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

On a motion made by Ms. Foss, and seconded by Mr. Hicks, the Board unanimously voted to **grant ADR** approval for the design of the two directional signs, as submitted, by a Roll Call Vote as follows:

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

On a motion made by Mr. Regan, and seconded by Mr. Fox, the Board voted unanimously to **grant the Conditional Use Permits** for the two, non-illuminated directional signs at 227 and 239 Pleasant Street, by a Roll Call Vote as follows:

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

- 7B. TFMoran, on behalf of Unitil, requests two Conditional Use Permits (CUP) to allow wetland buffer impacts and Shoreland Protection District buffer impacts for replacement of utility poles and wires within the Line 37 utility right of way between MacCoy Street and Village Street in the Industrial (IN), Open Space Residential (RO), Medium Density Residential (RM), and Neighborhood Residential (RN) Districts.

Carol Foss recused herself from this discussion as she is an abutter.

On a motion made by Councilor Pierce, and second by Mr. Regan, the Board voted by a Roll Call Vote 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.

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

Ms. Fenstermacher provided an update explaining that the CUP is needed to allow for a disturbance to the Shoreland Protection District buffer and wetland buffer in the existing utility right of way corridor. She stated that the Conservation Commission has reviewed the application; however, there were some technical difficulties with the Commission's Zoom meeting and the meeting was not official. Although the Commission could not motion to recommend approval, individual Commission members had no comments or concerns.

Jeremy Belanger of TF Moran represented the application along with Nate Sherwood from Unitil.

Mr. Belanger stated that the impacts to the Shoreland and wetland buffer are due to the replacement of utility poles and wires within the existing Line 37 utility right of way between MacCoy and Village Streets. He explained there will be approximately 21,130 square feet of temporary impact to the 50 foot wetland buffer and approximately 4,035 square feet of disturbance to the Shoreland Protection District buffer at Hoyt Brook. In addition, 3,660 square feet of the buffer along the Contoocook River will be disturbed; 48 square feet will be a permanently disturbed for the poles and guy wires. He noted that all applicable State permits have been obtained.

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Councilor Pierce asked if there are any other utilities connected to the new poles. Mr. Belanger replied no.

Abutter Ms. Foss asked about the access and expressed concern with the impacts to the vegetation during the entire project. Mr. Belanger explained that they will be utilizing the existing utility corridor and adding matting. He continued to provide an overview of the different types of matting they will use and the minimal impact they cause. He provided examples of other similar projects where these mats were used, and indicated that there was minimal impact to existing vegetation, and it was able to recover very quickly. He noted that they plan to begin the project by May. Mr. Sherwood commented that Unutil will begin working from both ends of the right of way throughout the process.

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

On a motion made by Mr. Hicks, and second by Councilor Pierce, the Board voted to **grant the two Conditional Use Permits** in the existing utility right of way Line 27 located between MacCoy Street and Village Street in Penacook, subject to the precedent conditions noted below:

- CUP in accordance with Article 28-4-3(d) to allow for temporary disturbance of wetland buffer
 - CUP in accordance with Article 28-3-3(f) to allow for temporary and permanent disturbance within the Shoreland Protection District Buffer for the replacement of utility poles and overhead wires
- (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 the commencement of site construction, unless otherwise specified:
- (1) Address Staff review comments to the satisfaction of the Planning and Engineering Divisions.
 - (2) Submit two (2) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.

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

Ms. Foss returned to the Board as a voting member.

7C. Downs Rachlin Martin, PLLC, on behalf of AT&T requests Conditional Use Permit approval for the installation of telecommunications equipment on top of a building at 29 Hazen Drive in the Institutional (IS) District.

On a motion made by Councilor Pierce, and second by Ms. Smith-Meyer, the Board voted unanimously, by a Roll Call Vote 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.

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

Mr. Durfee provided an overview of the project. He explained that the CUP applications are for the installation of three separate antenna arrays atop the State of NH Public Health Laboratory located at 29 Hazen Drive. The three arrays will begin at approximately 51 feet aboveground level. They will not be higher than 62 feet. In addition, information was provided relative to FAA requirements.

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Attorney Will Dodge of Downs Rachlin Martin, PLLC, represented the application.

Atty. Dodge stated that this is a nationwide buildout for AT&T and FirstNet for better service for first responders. Atty. Dodge gave a presentation showing the heights and locations of the three antennas. He explained that there is a need for these arrays because of overload of cell service. He explained that this will help to prevent dropped calls and improve cell service. Atty. Dodge continued and explained the FAA correspondence, required due to the crane and extensions used to mount the antennas. Sign off from the FAA has been obtained. He noted that per Staff comments, all notes have been added to the plans and revised plans have been submitted.

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

On a motion made by Councilor Pierce, and second by Mr. Fox, the Board voted unanimously, by a Roll Call Vote to **grant the Conditional Use Permit** for the installation of telecommunications equipment at 29 Hazen Drive in the Institutional (IS) District subject to the following conditions:

- (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) AT&T’s lease agreement with the State of New Hampshire shall be executed by the Governor and Council.
 - (3) Final plans shall be signed and sealed by the NH Licensed 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:
 - (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.

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

7D. Joe Wichert, on behalf of Sally Stouten Hatch, requests Minor Subdivision approval for a three-lot subdivision at 233 Hopkinton Road in the Open Space Residential (RO) District.

On a motion made by Mr. Fox, and second by Mr. Regan, the Board voted unanimously, by a Roll Call Vote 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.

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

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Mr. Durfee gave an overview of the proposed project. He stated that there has been much discussion relative to the useable lot area. Two waivers have been submitted for irregular shape and size of the useable lot area due to existing site constraints as well as a waiver from the requirement to provide a drainage or storm water easement to the City for Ash Brook. Staff supports both of the wavier requests.

Joe Wichert represented the application.

Mr. Wichert described the layout of the property. He stated that while the proposed lot has more than the required amount of useable area, it is not able to provide the required amount of useable area within the required dimensions of the useable area rectangle per Section 19.05(4) of the Subdivision Regulations He noted the location of wetlands and Shoreland Protection buffers, which is between the house lots. The new lots will have on site wells and septic. He stated that he is working with NHDOT for two curb cuts. He has not received any approval from NHDES to date.

Ms. Foss expressed concern with the stream and extent of the wetlands and asked if Conservation Commission has viewed the application. Ms. Fenstermacher replied that the Conservation Commission did not review the application; however, any impacts to buffers would be required to go before the Conservation Commission. Ms. Shank stated that the project is not encroaching into the wetland buffers. She added that the woodland buffers can be impacted up to 50%.

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

On a motion made by Mr. Regan, and second by Ms. Smith-Meyer, the Board voted unanimously, by a Roll Call Vote to **grant the waivers** from Section 19.05(4) of the Subdivision Regulations for size and shape of the useable area rectangle for New Lot 2 and from Section 23.11 to not provide a drainage or storm water easement to the City, 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.

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

On a motion made by Councilor Pierce, and second by Ms. Smith-Meyer, the Board voted unanimously, by a Roll Call Vote to **grant Minor Subdivision** approval for the three-lot minor subdivision at 233 Hopkinton Road, subject to the following 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, noted above, to the satisfaction of the Planning Division.
- (2) Address Engineering Review Comments, 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.
- (5) The Licensed Land Surveyor shall sign and seal final plans and mylars.

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- (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 – in favor, Ms. Rosenberger – in favor, Mr. Hicks – in favor, Ms. Smith-Meyer – in favor, Mr. Santacruce – in favor, Mr. Fox – in favor, and Mr. Regan – in favor.

7E. Jon Rokeh, on behalf of Whittmore Holdings, requests Major Site Plan approval for the expansion of a vehicular storage area, the construction of a new storage yard, and a second driveway at 45 Chenell Drive in the Industrial (IN) District.

This application was previously determined complete at the September meeting, at which time the public hearing was opened. The application was continued to allow additional review of materials.

Mr. Durfee provided an update for this project. He stated that the applicant is proposing to expand the existing vehicle storage area and a new storage yard, along with adding a second driveway. A revised plan was submitted and engineering has since reviewed the amended plan. A waiver has been submitted requesting relief from tying the City's drainage system, which the Engineering Department does not support.

Jon Rokeh represented the application.

Mr. Rokeh stated that he has since widened the proposed 20-foot driveway to be 24 feet. The Engineering Department had some concerns with the detention pond in the rear of the property and those issues have since been addressed. He explained that he has increased the detention pond to hold a 100-year event, which is a significant revision to the pond. He explained that the waiver request is for the existing pond in the front by Chenell Drive. This pond was built in 1985 and has never been connected to the municipal system. He explained that addressing the concern would require cutting into Chenell Drive. He stated that he is complying with the regulations regarding all new structures and new detention ponds in the rear of the property.

Mr. Woodfin asked if the detention pond issue is a result of the new driveway. Mr. Rokeh replied that it was not, as that driveway drains to a different detention pond.

Gary Lemay stated that he and Mr. Rokeh worked together with the other engineering staff and have resolved the outstanding drainage issues. He stated that the waiver request regards a regulation in the Site Plan Regulations meant for emergency overflow. He stated that it is designed to handle the 100-year storm event as well as an event where the ground is frozen. Larger storm events do occur and emergency overflows are very important to have, and although the occurrences are rare, Best Management Practice states that there should be an overflow. He explained that the pond could flood out with a significant portion of the parking lot being flooded. Mr. Cedarholm added that there are areas in the City where there are issues. He noted that there have been intense rainfalls and that rain needs a place to drain to.

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Mr. Santacruce asked if the overflows that drain into the parking lot would affect neighboring properties. Mr. Lemay stated that the water would first flood the parking lot and then eventually into the neighbor's pond, which is tied into the City's drainage system. He noted that there is no drainage easement for that property.

Mr. Rokeh commented that the pond has been there for 40 years and the pond in the rear would take all of the drainage away from the front pond. Any water flow would go towards the front pond on Chenell Drive. He is not aware of any issues that have occurred with drainage in the past.

Mr. Woodfin noted that the front pond is an existing condition that is not affected by the proposed disturbance and that he is inclined to grant the waiver.

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

On a motion made by Mr. Regan, and second by Mr. Hicks, the Board voted unanimously, by a Roll Call Vote to **grant ADR approval** for the site layout and landscaping.

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

On a motion made by Mr. Woodfin, and second by Mr. Hicks, the Board voted, by a Roll Call Vote to **grant the waiver** to Section 22.03 the subdivision regulations to not connect the detention pond to the City's drainage system, 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.

Mr. Woodfin – in favor, Ms. Foss – in favor, Councilor Pierce – in favor, Ms. Rosenberger – in favor, Mr. Hicks – in favor, Ms. Smith-Meyer – in favor, Mr. Santacruce – in favor, Mr. Fox – in favor. Mr. Regan was opposed.

On a motion made by Mr. Fox, and second by Councilor Pierce, the Board voted unanimously, by a Roll Call Vote to **grant the Major Site** approval for the expansion of an existing storage yard, the construction of a new driveway and a new storage yard at 45 Chenell Drive subject to the following conditions:

- (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) 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).
 - (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.

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(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.

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

- 7F. TFMoran, on behalf of Bradley Whitney, Jennifer Habel, & Interchange Development, is requesting Major Site Plan approval and an amendment to a Comprehensive Development Plan (CDP) for a 3 phased development consisting of a grocery store, liquor store, medical offices, financial services, retail stores, restaurants, and industrial uses; also requested is a Conditional Use Permit (CUP) to allow a driveway closer than is otherwise permitted, for property off of Whitney Road in the Gateway Performance (GWP) District.

This application was previously determined complete. Chairman Woodfin opened the public hearing.

Ms. Fenstermacher stated that there is a partnership with the City and the developer for offsite improvements and the City is still working on a development agreement. Some of the noted comments and conditions of approval are dependent on that development agreement and the Right-of-Way for the proposed roundabout is also still being determined. These will be addressed through future negotiations. She also noted that VHB is working on the final roundabout designs. One item, not discussed, is the sidewalk between Merchant Drive and Interchange Drive which is not shown on the plans, but is required by the Site Plan Regulations. If the Board is amendable, based on conversations with City Administration and the developer she suggested that this be a condition to not be completed until Phase 2 begins.

The following people represented the application:

Jason Hill - TFMoran

Eric Brown – PCA Architects (architect for Market Basket and Liquor Commission)

Jim Lamp and Carmine Tomas – LT Development Corp (Market Basket Representative)

Andy Davis - NH Liquor Commission

Laurie & David Rauseo – Interchange Development

Ms. Rauseo commented that they have much appreciation of all of the City Staff and the Consultants for their work on this project. They hope to begin construction on Phase 1 in April.

Mr. Hill, of TF Moran, gave an overview of the site plan and the layout of the development for a proposed 80,775 square foot supermarket, along with a 113,554 square foot liquor and wine outlet store, and approximately 22,483 square feet of mixed size pad sites to include fast food restaurants, bank, medical offices, general retail, as well as an industrial area. Based on comments received from Staff he provided an update as to the progress made over the past few months specifically with the connectivity and the internal design. He added that they believe that they have addressed those

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issues and feel that the layout will be easily accessible now. He noted the open space passive recreation element that will be used for outdoor seating. They feel that this is an attractive aspect and will be a successful tool for this project. He noted that a 20-25 ft high earthen berm has already been constructed along the southern boundary. This will help reduce noise and views of the Wheelabrator facility.

Mr. Hill continued to review the road networks within the site which are proposed to be wider than required to provide paved shoulders to allow for bike and pedestrian traffic throughout the development. There will also be a bus stop in the proximity of the open space. He stated that the roundabout is being designed and is planned to be completed in 2021. This must be operational before the supermarket can open.

Mr. Hill explained that the second phase of the development will include a combination of retail and commercial, and the third phase will be industrial. All future phases will require new applications and will need to go through the Planning Board review process.

Mr. Brown, of PCA Architects, described the Market Basket proposal explaining the architecture being proposed, which they feel reflects the community and the environment. He stated that this area is a rural site and the proposed detailing is clapboard and trim with metal roofing. He noted that they like to break up the scale at the different entrances. The building will also have a separate retail tenant, which is not known at this time. He added that the rear of the building is not seen due to a heavily tall wooded area.

Mr. Brown also provided an overview of the liquor store, which is also designed with NE architecture; heavy timber towers are proposed at the entrance, and granite bases. He noted some changes due to a proposal to adding solar panels to the roof.

Councilor Pierce asked about the road striping. Mr. Hill replied that there will be a 4 foot shoulder area designated and a double yellow line with a 5 foot sidewalk.

Mr. Santacruce asked about the accommodations for bicycle storage noting locations and safety. Mr. Hill noted the locations for the bicycle storage and explained that the locations are all centrally located throughout the site; on the back side of liquor store-east side, and in front of the Market Basket. He added that they will continue to work on this.

Mr. Santacruce also mentioned the lighting relative to safety in and around the crosswalk areas as it appears that the lighting may be lower than standard lighting. Mr. Hill stated that they will continue to look into this and will work with Engineering staff.

Ms. Smith-Meyer asked about the use proposed for the artificial turf area. Mr. Hill explained that this is proposed to be an outdoor seating area or a pocket park. Ms. Smith-Meyer suggested that they consider incorporating more shade trees especially in the corners of artificial turf. Mr. Hill stated that they will look into this. Ms. Rauseo commented to the planting and landscaping. She stated that this will be addressed more in Phase 2. Ms. Shank commented on the number of ornamental trees, and suggested looking increasing the soil volume for the tree plantings to allow for growth and improved longevity, especially in the parking areas.

Mr. Santacruce requested that the development team look at the density layout and placement to avoid numerous requests for waivers and permits for Phase 2. This will make the process easier for all.

Mr. Woodfin opened the public hearing.

Karen Poulin, a resident on Fox Run, expressed much concern about the entire project. She stated that she is concerned with the trees, drainage, and wetlands as these have been prior issues with this area. She asked about permits specifically if there are prior permits that have issues that have not

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been addressed and the same with any issues with wetlands that have not been addressed for prior impacts. She stated that there is a safety issue with any bicycle traffic as there are not lanes for the bikes and no sidewalks. She stated that there is no bicycle traffic now coming from the roundabout; it is a good intention. Ms. Poulin expressed concern with policing the area as there will be more vehicular traffic and pedestrian traffic along with more businesses. She stated that there will need to be more officers allocated for this part of the City, which will then be an increase in taxes for residents. She explained that the area has increased with 85 new homes in the past 10 to 15 years and there have not been any traffic improvements. There are continuous traffic back-ups at the off ramps. This is a school bus route and with weekend and holiday traffic these highway and back roads many times are gridlocked, which is a safety issue. She does not believe that the traffic study has been done accurately as the gridlocked traffic is not included in the report. In addition, this side of the highway was not included in the traffic study either. She stated that she is trying to protect her taxes and the tax payers of the future. Also noted was the night sky glow from the development and how the lights will be seen from her home. She stated that the effects of the additional lighting were not considered and this will also be an impact to her and her neighborhood.

Mark Varney, Chairman of the Boscawen Planning Board, commented that the majority of the Boscawen Planning Board's comments are positive comments. He stated that this will be a positive addition to the community. He noted that there will be an increase in traffic and an increase in pedestrian and bicycle traffic from the Penacook area. He did mention that lighting is a concern for the Boscawen residents.

Ms. Fenstermacher stated that there are wetlands on the property. A permit was obtained by NHDES to fill them, all other wetlands are protected by buffers.

Mr. Woodfin stated that the bicycle traffic will need to be addressed for future developments. Mr. Cedarholm explained that there will be a 10 foot wide shoulder on Rte. 4 coming from Boscawen and 8 foot shoulders on the other side.

Mr. Hill provided an overview of the lighting noting that they are proposing cut off fixtures and there will not be any spillage into the right of way. He stated that the proposed lighting will be nighttime friendly.

Mr. Cedarholm commented that the I-93 widening project will address the traffic and gridlock issues.

Ms. Smith-Meyer asked about planting details and the sites for the trees expressing concern with sustainability. She added that she is appreciative of the Staffs review and comments and suggested that there be a requirement that the planting areas be trenched out. She asked for the landscaping plan to be amended to address any dead trees.

Ms. Poulin commented that the lighting should be dark sky compliance lights. She stated that the road is not wide enough for bikes and when discussing any traffic, the traffic at the off ramps should be considered. She invited all to take a bike ride on the road; it is not safe for bicycles and needs to be addressed and any upgrades should be done without incurring costs to the tax payers.

Ms. Fenstermacher referenced a letter of support for the roundabout sent in from Central NH Regional Planning Commission (CNHRPC). In addition, the letter recommended pedestrian connections to the existing network west of the development site to guarantee a safe pedestrian corridor. It also recommended that all wiring be underground. There was concern expressed relative to signage and noise. Ms. Rauseo stated that they are working with Unil and all conduits will be underground.

A brief discussion was held regarding the waiver request to allow the construction of the sidewalk south on Merchants Way to be done in Phase 2 of the development. Mr. Santacruce suggested that

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the sidewalk should be connected as part of Phase 1 to avoid having it be a dead end awaiting future Phases. Chair Woodfin recommended adding a precedent condition #10 to require the sidewalk be constructed along Whitney Road south of Merchants Way to the end of the property.

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

On a motion made by Councilor Pierce, and second by Mr. Fox, the Board voted unanimously, by a Roll Call Vote to **grant the following waivers** to the Site Plan Regulations utilizing the criteria of RSA 674:44(1) and (2), which state 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, and 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:

- Waiver to Section 19 Access and Driveway Standards to allow for a 30 ft wide drives (Merchants Way and Interchange Drive) where 28 ft is required to accommodate a 4 ft wide bicycle lane, and better circulation and turning movements for larger trucks and emergency vehicles.
- Waiver to Section 16.03(11) Signs to provide the sign package at a later date.
- Waiver to Section 27.06 Placement of Landscape Material to not provide street trees along a portion of the northern side of Interchange Drive, with the condition that the trees be planted as part of Phase 2, or by November 15, 2024, whichever is sooner.

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

On a motion made by Councilor Pierce, and second by Mr. Hicks, the Board voted unanimously, by a Roll Call Vote to **grant the Conditional Use Permit** in accordance with Section 28-7-11(f) of the Zoning Ordinance to allow for a 130 ft separation from an existing driveway where 200 ft of separation is required.

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

On a motion made by Councilor Pierce, and second by Mr. Hicks, the Board voted unanimously, by a Roll Call Vote to **grant ADR approval** for the site plan and building elevations for Phase 1 of the multi-phased development.

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

On a motion made by Mr. Regan, and second by Mr. Fox, the Board voted unanimously, by a Roll Call Vote to **grant approval of the Comprehensive Development Plan (CDP) amendment**.

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

On a motion made by Councilor Pierce, and second by Ms. Smith-Meyer, the Board voted unanimously, by a Roll Call Vote to **grant Major Site Plan approval** for the proposed multi-phased development, including site and building improvements associated with 80,775 sf supermarket with attached 22,483 sf retail and a separate 13,554 sf retail pad under Phase 1;

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concept for 8 mixed commercial buildings for Phase 2; and concept for industrial development and a cell tower under Phase 3, at 1 Whitney Road in the Gateway Performance and Industrial 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 Division. For all subsequent submissions, applicant shall provide a response memo addressing/acknowledging all comments.
 - (2) Address all review comments to the satisfaction of the Engineering Services Division. If revisions require significant site layout revisions, the Applicant shall come before the Planning Board for Major Site Plan Amendment Approval.
 - (3) Condition 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. Should the Board vote to deny the Conditional Use Permit(s), applicant shall comply with said submission requirements.
 - (4) Waiver(s) granted are to be noted and fully describe on the plan, including the date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), applicant shall comply with said submission requirements.
 - (5) Final plans shall be signed and sealed by the NH Registered Land Surveyor, Landscape Architect, and Professional Engineer.
 - (6) The lot merger to combine Lots 06P/5 and 06P/6 shall be recorded.
 - (7) The Development Agreement for off-site improvements between the Applicant and City of Concord for off-site improvements shall be approved by the City Council and fully executed.
 - (8) No plans shall be signed until after April 1, 2021, and the Penacook Village TIF District is amended.
 - (9) Submit three (3) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.
 - (10) Comply with Section 21.01 of the Site Plan Regulations to continue the sidewalk along the Whitney Road for the entire length of the property.
- (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) The applicant or designated agent shall contact the Engineering Services Division to schedule a pre-construction meeting prior to the start of any construction activities onsite.
 - (4) Applicant shall submit Site Plan applications and any applicable Conditional Use Permits for any proposed development within Phases 2 and 3. Approval of this plan does not constitute approval of building or site improvements in these future phases.

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- (5) 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.
- (6) 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.
- (7) 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.

7G. TFMoran, on behalf of Bradley Whitney, Jennifer Habel, & Interchange Development, is requesting a Major Subdivision approval to create 5 condominium units for property off of Whitney Road in the Gateway Performance (GWP) District.

This application was previously determined complete.

Ms. Fenstermacher updated the Board explaining that this is now a revised application; five units are being proposed rather than six condominiums. She added that the right of way is being addressed by the City as part of the roundabout design.

The following people represented the application.

Jason Hill - TFMoran Laurie & David Rauseo – Interchange Development

Chairman Woodfin opened the public hearing.

Mr. Santacruce noted that it appears that there is a corner of the exiting property that encroaches into Whitney Road and Rte. 4. He asked if the roundabout will require any deeding to the State. Mr. Cedarholm stated that there will be an adjustment to the right of way on Whitney Road because the roundabout is wider on Merchant Way. He does not believe that there will be any adjustments necessary by NHDOT; however, will look into this further. Ms. Fenstermacher indicated that this will be addressed as part of final review by staff.

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

On a motion made by Councilor Pierce, and second by Mr. Hicks, the Board voted unanimously, by a Roll Call Vote to **grant conditional Major Subdivision approval** for the lot merger and 5-unit condominium subdivision at Whitney 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 Planning Review Comments to the satisfaction of the Planning Division.
2. Address Engineering Review Comments to the satisfaction of the Engineering Division.
3. Condominium documents, including declaration of condominium and by-laws, shall be submitted to and approved by the City Solicitor, City Assessor, and Clerk of the Board.
4. Upon transfer of the property, Applicant shall provide a copy of the deed(s). The mylar will not be signed until the two lots are owned by the same entity.
5. The Licensed Land Surveyor shall sign and seal final plans and mylars.

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6. The Development Agreement for off-site improvements between the Applicant and City of Concord for off-site improvements shall be approved by the City Council and fully executed.
7. No plans shall be signed or recorded until after April 1, 2021, and the Penacook Village TIF District is amended.
8. The Applicant shall deliver the following to Planning:
 - a. Two plan sets and one mylar(s) of the Condominium Subdivision Plan for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
 - b. Final condominium documents, to be recorded at the same time as the Condominium Subdivision Plan.
 - c. Checks for recording the plan and condominium documents 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.
9. 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) tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations

Other Business

8. Lilise Designer Resale requests ADR approval for the installation of a non-illuminated wall sign and a new non-illuminated blade sign at 7 North Main Street in the Central Business Performance (CBP) District. The applicant has requested to postpone this application.
9. Any other business which may legally come before the Board.

Ms. Shank followed up on last month's discussion regarding the design standards for windows, front doors, and garages. After speaking with members of the Design Review Committee and the chair of the ZBA, all of whom are architects, she presented an alternative proposal. It included removing any regulation on windows, and allowing, through Design Review, flexibility in the location of front doors and garages. Without Design Review, front doors would be required on the street facing facade of new residential structures, and garages would be required at a minimum of six feet behind the front façade.

7 of the 9 Board members present were in favor of the revised proposal.

Adjournment

At the request of Chairman Woodfin, Mr. Santacruce made a motion to adjourn at 10:48 PM, seconded by Mr. Regan.

The motion passed unanimously; 9/0.

A TRUE RECORD ATTEST:

Lisa Fellows-Weaver,
Administrative Specialist