

City of Concord Planning Board
February 15, 2023
Minutes

The regular monthly meeting of the City Planning Board was held on February 15th, 2023, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Attendees: Chair Carol Foss, Councilor Byron Champlin, Members Jeff Santacruce, Amanda Savage, David Fox, Matthew Hicks, and Teresa Rosenberger (Ex-Officio for City Manager)

Absent: Chairman Richard Woodfin, Councilor Erle Pierce, Member Susanne Smith-Meyer, Alternates Chiara Dolcino and Frank Kenison.

Staff: Heather Shank (City Planner), Beth Fenstermacher (Assistant City Planner), Alec Bass (Senior Planner), Alicen Twardosky (Administrative Specialist), and José Lovell (Associate City Engineer).

1. Call to Order

Chair Foss called the meeting to order at 7:01 p.m.

2. Roll Call

Chair Carol Foss, Councilor Byron Champlin, Teresa Rosenberger (Ex-Officio for City Manager), Members David Fox, Matthew Hicks, Amanda Savage, Jeff Santacruce

3. Approval of Meeting Minutes

January 18th, 2023 Minutes

On a motion made by Councilor Champlin, seconded by Ms. Savage, the Board voted unanimously to approve the January 18, 2023 Planning Board Meeting minutes, as written.

4. Agenda Overview

On a motion made by Ms. Savage, seconded by Mr. Hicks, the Board voted unanimously to postpone agenda items 7C and 7H at the request of the applicants until the March 15th, 2023 meeting.

5. Determination of Completeness

- 5A. NH Land Consultants, PLLC, on behalf of Richmond Penacook, LLC, requests Major Site Plan and Major Subdivision approval for a 68-unit townhome development at 150 Fisherville Road in the General Commercial (CG) District. (2023-83).

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board voted unanimously to determine the application complete, that it is not a Development of Regional Impact, and set the public hearing for the March 15, 2023 Planning Board meeting.

- 5B. Granite Engineering LLC, on behalf of Amoskeag Realty, LLC, requests Major Site Plan approval for construction of a 13,822 square foot building addition, a new 5,000 square foot building, and two Conditional Use Permits (CUPs) for disturbances to wetland buffers and the Shoreland Protection District at 138 Hall Street in the Industrial (IN) District. (2023-87).

On a motion made by Councilor Champlin, and seconded by Mr. Hicks, the Board voted unanimously to determine the application complete, that it is a Development of Regional Impact due to the location on the Bow Town line, and set the public hearing for the March 15th, 2023 Planning Board meeting.

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- 5C. Jeff Lewis, on behalf of The City of Concord and United Therapeutics, requests Major Site Plan approval for construction of an approximate 35,000 square foot aircraft hangar and a Conditional Use Permit (CUP) to allow a 20-foot wide driveway where a 24-foot wide driveway is otherwise required at 65 Regional Drive in the Industrial (IN) District (2022-82).

On a motion made by Councilor Champlin, and seconded by Mr. Fox, the Board voted unanimously to determine the application complete, that it is a Development of Regional Impact due to the proximity to the Pembroke Town line, and set the public hearing for the March 15, 2023 Planning Board meeting.

6. Design Review Applications by Consent

- 6A. Robyn Casey, on behalf of Capital Hotel Company, requests ADR approval for replacement of a 72.05 square foot internally illuminated wall sign and an 88.1 square foot internally illuminated panel in a freestanding sign at 4 Gulf Street in the Gateway Performance (GWP) District. Reference ZBA Case 62-2005 for variance to allow 26' sign height.
- 6B. Robyn Casey, on behalf of Duprey Hospitality, requests ADR approval for replacement of a 73.27 square foot internally illuminated wall sign, replacement of an 88.43 square foot internally illuminated free standing sign and replacement of an 80 square foot internally illuminated monument sign at 91 Hall Street in the Opportunity Corridor Performance (OCP) District. Reference ZBA Case 16-2010 for variance to allow 2nd freestanding sign and increased area.
- 6C. Mary Stanton, on behalf of Cafua, requests ADR approval for replacement of a 15.6 square foot internally illuminated wall sign, a new 20.7 square foot non-illuminated wall sign, replacement of a 46 square foot internally illuminated panel in a freestanding sign, and a new 19 square foot non-illuminated wall sign at 98 Fisherville Rd in the General Commercial (CG) District. Additionally, replacement of sign changes to existing directional signs, a new non-illuminated gateway vehicle height detector and an illuminated drive thru canopy sign.
- 6D. Lauren Delarda, on behalf of Crumbl Cookies, requests ADR approval for a new 16 square foot internally illuminated wall sign at 98 Fort Eddy Rd, in the Gateway Performance (GWP) District.
- 6E. Jason Gagnon, on behalf of Michael Cail, requests ADR approval for a new 36 square foot internally illuminated free standing sign, a new 65.6 square foot internally illuminated wall sign, a new 35.4 square foot internally illuminated wall sign and a new 19.9 square foot internally illuminated wall sign at 134 Manchester Street, in the Highway Commercial (CH) District.

On a motion made by Ms. Savage, and seconded by Mr. Santacruce, the Board voted unanimously by consent to approve designs 6A-6E as submitted per the ADR recommendations.

Public Hearings

7. Site Plan, Subdivision and Conditional Use Permit Applications

- 7A. Richard D. Bartlett & Associates, on behalf of Nancy Mellitt and Sandra Longfellow, request Minor Subdivision approval for the purpose of a lot line adjustment between 11 Perkins and 13-15 Perkins Street in the Neighborhood Residential (RN) District.

On a motion by Mr. Hicks, seconded by Councilor Champlin, the Board voted unanimously to determine the application complete, and not a development of regional impact.

Chair Foss opened the public hearing. Mr. Mark Sargent (Richard Bartlett & Associates) presented the application.

Both properties sit within the neighborhood residential zoning district. Proposing a lot line adjustment that runs more perpendicular to the street, annexing 221 square feet of 11 Perkins to 13

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and 15 and annex 110 square feet of 13 and 15 to 11 Perkins, resulting in 11 gaining 6.53 feet of frontage. Both are existing non-conforming lots, requiring going before the Zoning Board. This was done in December resulting in variances.

With no additional comments from staff, members of the Board, or public, Chairman Foss closed the public hearing.

On a motion made by Mr. Santacruce, seconded by Councilor Champlin, the Board voted to grant the waivers from the following Sections of the Subdivision Regulations 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 based on the fact that no new development is proposed:

- Section 12.08(3) Existing topography
- Section 12.08 (4) Soil data

On a motion made by Councilor Champlin, seconded by Mr. Hicks, the Board voted unanimously to approve grant Minor Subdivision approval for the lot line adjustment at 11 and 13-15 Perkins St, subject to the following precedent conditions noted below:

- (a) 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 Planning Division.
 - 2) Address Engineering Comments to the satisfaction of the Engineering Division.
 - 3) The monumentation for the proposed lot lines shall be set prior to recording of the plat.
 - 4) Waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny the waiver(s), the applicant shall comply with said submission requirement(s).
 - 5) 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.
 - 6) The licensed Land Surveyor shall sign and seal 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) Upon confirmation from staff that the review comments have been addressed, 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.

- 7B. Liberty Woods, LLC requests a Conditional Use Permit (CUP) for disturbance of a wetland buffer at 58 Reserve Place in the Open Space Residential (RO) District.

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On a motion by Mr. Hicks, seconded by Councilor Champlin, the Board voted unanimously to determine the application complete, and not a development of regional impact.

Chair Foss opened the public hearing. The Applicant was not present.

Ms. Fenstermacher provided an update, the proposal is for approximately 1,200 square feet of wetland buffer impacts. Its an existing lot of record that was approved in 2005 by the Board showing the driveway in the wetland buffer. The applicants are trying to put a new driveway in for a single-family home and due to other constraints on the site, the grading at the back portion of the property will require buffer impacts. The Conservation Commission did not have any concerns and did not oppose the CUP application.

With no additional comments from staff, members of the Board, or public, Chair Foss closed the public hearing.

On a motion made by Mr. Hicks, and seconded by Mr. Fox, the Board voted unanimously to approve the Conditional Use Permit in accordance with Article 28-4-3(d) to allow for disturbance of wetland buffers associated with the construction of a driveway and single-family residence, subject to the 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, unless otherwise specified:

(1) Please note on the plan that the disturbed areas shall be seeded with a restoration or conservation seed mix with native species appropriate for a wetland buffer.

(2) Submit two (2) 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 the issuance of the commencement of clearing/construction work, or issuance of the building permit, whichever comes first, wetland buffers shall be clearly and permanently marked using City of Concord wetland buffer signs, available through the Planning Division. The signs shall be in place before, during, and after construction. Buffers need not be marked in areas where disturbance is unlikely.

(2) Applicant shall obtain appropriate permits from the Engineering Services Division prior to construction.

(3) If the construction authorized by the Conditional Use Permit does not commence within a two-year period from the date of the decision of the Planning Board, the CUP shall be deemed to have expired.

7C. SMRT Architects and Engineers, on behalf of the State of New Hampshire Department of Health and Human Services, requests nonbinding review under RSA 674:54 for a new two-story structure with a footprint of 31,115 square foot for the purpose of a forensic psychiatric hospital at 36 Clinton Street in the Institutional (IN) District.

The applicant has requested this be postponed to the March 15th Planning Board meeting (2023-86).

7D. Richard D. Bartlett & Associates, on behalf of Swenson Granite Company, LLC and Sean Anderson, request Minor Subdivision approval for the purpose of a lot line adjustment between 9-11 Lake Street and 369 N. State Street in the Open Space Residential (RO) District.

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On a motion by Mr. Santacruce, seconded by Councilor Champlin, the Board voted unanimously to determine the application complete, and not a development of regional impact.

Chair Foss opened the public hearing. Mark Sargent (Richard D. Bartlett & Associates), Ari Pollack, Esq. (Gallagher, Callahan, & Gartrell, PC), Sean Anderson (Swenson Granite) presented the application.

Mr. Bass gave a staff report. This application went before Zoning for a variance regarding their lot frontage. Ms. Shank confirmed that this is simply a lot line adjustment, changing the boundaries of the line and has nothing to do with new uses or conditions of the site. If and when they come back for some other use related approvals, the City will look at that. For this meeting, it is straightforward and simply consideration of the lot line adjustment.

This lot line adjustment application is to annex 10.02 acres of the Anderson property to the Swenson property, leaving the Anderson property with 2.39 acres and increases the Swenson property to 197.29 acres. There will be no changes to the frontage. A variance was granted from the Zoning Board at the beginning of February 2023. The Anderson lot is considered a non-conforming lot because it has less than the 80 feet of frontage required. At the zoning board meeting neighbors did come and voice concerns. The applicant is aware that any uses would need to come before the Planning Board in the future. The current use of the applicant's property has not changed because of this adjustment.

Abutter David Gallagher (13 Lake Street), wanted to confirm that proposed changes in the use of this property will be required to go before the Board as a public hearing.

Trevor Barry presented concerns regarding how this affects the City of Concord's Master Plan. Ms. Shank stated that the Master Plan is not referred to in order to confirm or deny applications. It pertains specifically to when the Board does Master Planning activities. When they are looking at a particular application that relates to a site plan or subdivision regulations, they have to evaluate the application in accordance with the site plan or subdivision regulations. There needs to be a basis within regulations to deny an application. She stated that his concerns could be brought forward in a future public hearing that pertains to the use of the property. The City does not oversee the private transactions between residents, and the use has nothing to do with the approval of the lot line adjustment. Councilor Champlin clarified that this lot line adjustment simply redefines a lot and creates new boundaries.

With no additional comments from staff, members of the Board, or public, Chair Foss closed the public hearing.

On a motion made by Councilor Champlin, and seconded by Mr. Hicks, the Board voted unanimously to grant waivers from the following Sections of the Subdivision Regulations 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 based on the fact that there is no new development proposed as part of this application:

- Section 12.07 – Wetland Delineation
- Section 12.08 (3) – Existing topography
- Section 12.08 (4) – Identification and classifications of soils
- Section 12.08 (5) – Existing natural features

On a motion made by Ms. Savage, and seconded by Mr. Fox, the Board voted unanimously to grant Minor Subdivision approval for the lot line adjustment at 9-11 Lake Street and 369 North State

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Street, 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 Comments to the satisfaction of the Engineering Division.
- (3) The monumentation for the proposed lot lines shall be set prior to recording of the plat.
- (4) Waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny the waiver(s), the applicant shall comply with said submission requirement(s).
- (5) 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.
- (6) The Licensed Land Surveyor shall sign and seal 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) Upon confirmation from staff that the review comments have been addressed, 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.

- 7E. ROI Irrevocable Trust for discussion of a mixed residential and commercial development consisting of (5) new 5-story multifamily buildings, a gas station, car wash, sandwich shop, and convenience store in Phase 1; and an assisted living facility, (24) independent living townhomes, grocery store, commercial building, and drive through service in subsequent phases, for property off Manchester Street in the Gateway Performance (GWP) District.

Chair Foss reminds the Board that this is an update and does not require any action.

Ms. Fenstermacher reminds the Board that the applicant was before them about one and a half years ago for the Comprehensive Development Plan, the Board tabled that hearing pending traffic studies. She stated that the City has completed their review, and NHDOT is almost finished. Next step is the FEMA determination. Residential use is not allowed within the floodway; therefore, they would need a map revision request pending with FEMA in order to move forward with any approvals from the City. The Applicant would like more information before this Board before moving forward.

Chair Foss opened the public hearing. Ari Pollack, Esq. (Gallagher, Callahan, & Gartrell, PC) and Bob Duval (TFMoran) presented the application.

The immediate and pending application before the Board is for a comprehensive development plan to develop seven assembled parcels off of Manchester Street and off Black Hill Road, in the vicinity of Exit 13. An exhibit packet was handed out showing the overall site. The site is partially in the flood plain marked by FEMA. They are requesting a map revision to fill certain areas within the flood plain to be able to be built upon. Exhibit Two is the same map as Exhibit One but indicates uses. The multifamily rental buildings housing 266 units will be developed by Ron Dupont. The senior living area housing 122 units will be developed by Ducal Development, LLC. All uses are permitted in the Gateway District. All are under lease or purchase agreement. There are

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more uses to come in phase two. The comprehensive development plan will involve a right of way for construction of the Greenway Trail along the river. The applicant team has worked with staff to scope and conduct a traffic analysis, city road, state road and interstate ramp. They have received and commented on a peer review from the City's third party consultant, VHB. NHDOT also commented preliminarily, and feel the study is comprehensive enough that this could move forward. A summary of the traffic activity was presented and a presentation was shown of recommended improvements. Mr. Duval reviewed a presentation to show traffic activity including removing driveways to reduce friction, turning lanes added, widening Black Hill Rd. approach, improvements to the Old Turnpike Road side, and making improvements to bus / pedestrian / bicycle routes.

Councilor Champlin vetted the factors they've considered for mitigation and parking and voiced his support of this project.

Mr. Santacruce is concerned regarding the lack of medians on Manchester Street for safety with regards to the turn-in/turn-out only driveway. He encourages them to be ready to present how the traffic design will eliminate illegal movements when they attend their next meeting. Mr. Santacruce felt wetland and buffers are not sufficiently indicated in this plan. Developers stated they comply of the Shoreland Act with the exception of the trail. They will be asking for the City's support when they apply to DES and explain why that is a necessary encumbrance of the first 150 feet of the Shoreland buffer.

Chair Foss sought clarification on terrain alterations. Concern was raised by her and Mr. Santacruce regarding flood storage, and the possibility of it going downstream. She voiced her desire for reducing the flood plane area. FEMA has voiced the same chief concern. The elevation change is just above flood plain, in most cases as much as a foot above, and a little more in others. The alteration of terrain is quite modest.

Mr. Lovell questioned the source of the flood plain work and whether the compensatory flood storage would be on site or off site. They do not know yet.

Public Comment:

Jeff Evans, Energy & Environment Advisory Committee, wondered whether there is any consideration for electric charging stations. Ms. Fenstermacher said that this would be the purview of the Major Site Plan application review down the road.

Ron Rayner proposed ideas that would coordinate with the I-93 widening project. He suggested a roundabout would allow greater access and seamless traffic patterns instead of traffic lights.

With no additional comments from staff, members of the Board, or public, Chair Foss closed the public hearing.

There were no motions made.

- 7F. Michael Durant, on behalf of ARCK TEJ Realty, LLC, requests Conditional Use Permit (CUP) approval to allow the use of a gas station at 188 Pleasant Street in the Neighborhood Commercial (CN) District. (2022-67).

On a motion by Mr. Fox, seconded by Councilor Champlin, the Board voted unanimously to determine the application complete, and not a development of regional impact.

Chair Foss opened the public hearing. Ari Pollack, Esq. (Gallagher, Callahan, & Gartrell, PC), Mike Durant (Nouria Energy Corp.), and Heather Monticup (GPI) presented the application.

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Ms. Shank noted the Applicant's attendance at the Zoning Board where they received several variances because the use lost its grandfather status due to inoperation of the facility for more than one year. Staff is not in support of the request due to the not meeting the criteria for approval of the CUP, or the standards of review relative to CIP projects and consistency with master plans.

Nouria is leasing the property currently. Mr. Pollack stated a full site plan application was deemed unnecessary. They are here to reestablish the current use of and refurbish the property. No reconfigurations or redevelopments are in the plan.

Mr. Durant spoke to the quality and atmosphere of the site and their management as the Corporate Operators. Ms. Monticup spoke to a traffic study completed that was submitted to the City for review. They intend on improving crosswalks, faulty traffic and pedestrian signals, and increasing signage. ZBA did issue the approvals needed. They are committed to doing any fuel deliveries on off-peak hours.

Mr. Santacruce voices concern regarding the frontage on the road not being conducive to cars not encroaching and suggests increasing the curb height to allow the sidewalk be put into ADA compliance. He would also like to see some greenspace in here, particularly the tip of the property adjacent to the intersection. This is the entry way to the community. Mr. Pollack seeks clarification on whether or not these suggestions are conditions of approval or would they be more suited as a discussion to have with Staff. He also voices apprehension regarding plantings fearing creating visual obstructions.

Mr. Fox feels this property is an eye sore. He encourages taking consideration in beautifying the tip of the lot adjacent to the intersection. There is a lack of employee parking. He sees pedestrian traffic to be a problem down the road.

Mr. Champlin has concerns regarding this development. He noted the Engineering Department indicated this development is a bad idea. The reconfiguration of this intersection would be affected. Hicks voices his support of this project and cleaning it up. He doesn't remember any catastrophic conflicts. Ms. Rosenberger voiced her support. Ms. Savage is supporting this, finding it to be an improvement. She feels that this is not a new use. Mr. Hicks also commented on the signals being fixed and questioned why they aren't already done. Chair Foss wants to know if the slip around from Pleasant Street to Warren poses a problem. She feels there is a lot more traffic going through this area as well as emergency vehicle traffic that travel through that area. Ms. Shank stated that the City is looking into revising the larger intersection, with considerations for a roundabout.

Public Comment:

Nicole Fox, member of the Concord Greenspace, is against this development. Driveways are too wide and close to the intersection. She feels they would preclude the effectiveness / possibility of a roundabout. They ask that this parcel not be returned to a gas station use.

Meredith Cooley, Concord Greenspace has safety concerns. Many parents of Concord High School voiced concerns, along with the Superintendent, indicating that the development of this parcel would pose safety issues.

Ian McGregor, Concord Greenspace, has issue with health and safety components. He feels that opening this up is knowingly increases safety concerns. He noted that voices increased size of vehicles compromises the safety of pedestrians.

Stacey Brown lives a half mile from the site. She voices concern over the traffic lights taking so long to change, encouraging traffic to cut through this property to avoid them. She would rather see a more pedestrian friendly site.

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Donald Jewel voices concern over CHS's evening activities promoting pedestrian activity. It is not a well-lit area. He asks that the City consider redoing the lighting.

Mr. Champlin expressed concern by traffic flow issues. Mr. Hicks noted that we have an opportunity to do something different. To invest the money to buy this space and then do green space is not practical. Ms. Shank said there are many different uses that could be on the site. This use is the most vehicular intense for this location. Engineering is asking for easements if this use is passed. She encourages the premise of approving on the thought of "Let's give it a shot" is not wise. There is not sufficient space for a comprehensive traffic pattern. Though they are not making it any worse, it's already bad. Ms. Shank reminds the Board that this is the chance to change the use and safety of the area. Ms. Rosenberger seeks clarification on this being a hazardous waste site for other uses. Mr. Pollack clarifies that there are no known contamination issues on the site.

With no additional comments from staff, members of the Board, or public, Chair Foss closed the public hearing.

A motion was made by Mr. Champlin, and seconded by Chair Foss, to deny the CUP. The motion fails with a 2 in favor and 5 opposed.

Mr. Santacruce suggested a motion to forward his comments to Staff and allow staff to work through the issues. Ms. Shank noted that there should be a more specific identification of the issues. She suggested stating in the motion "items discussed as referenced in the meeting. Mr. Santacruce opted to identify the issues specifically.

On a motion made by Mr. Santacruce and seconded by Mr. Champlin, The Board voted unanimously to grant Conditional Use Permit approval pursuant to Article 28-2-4(c) of the Zoning Ordinance to allow a fueling station at 188 Pleasant Street in the Neighborhood Commercial (CN) District, subject to the 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 the commencement of site construction, unless otherwise specified:
 - (1) Address Staff review comments to the satisfaction of the Planning and Engineering Division.
 - (2) Address comments brought up during the February 15, 2023 public hearing, including:
 - a. Fix the sidewalk along the Pleasant Street and Warren Street frontages to meet current City standards, including for curb height and ADA accessibility;
 - b. Remove extraneous materials at the corner adjacent to the intersection and create an appropriate landscape area, including bringing it out to the sidewalk so it defines the pedestrian route;
 - c. Remove the pavement in the triangular wedge of Pleasant Street that is not functioning as a parking space and landscape that area;
 - d. Add a lane use sign and striping improvement to City standard to indicate lane usage for approaching the intersections;
 - e. Add a "no left turn" on Warren Street opposite the slip ramp;
 - f. Fix the brick retaining wall on Pleasant Street; and
 - g. Remove the parking spot in front of the dumpster.

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- (3) Work with staff to provide an easement to the City along the frontage to support improvements associated with the future intersection.
- (4) Submit two (2) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.

7G. Andy Sanborn, on behalf of Big Step, LLC, requests Major Site Plan approval to construct a charitable gaming hall, restaurant, and microbrewery, along with a Conditional Use Permit approval for disturbance of wetland buffers, at 7 Break O' Day Drive in the Gateway Performance (GWP) District, (2022-59).

Ms. Shank advised the Board that Staff recommended this be determined complete at the last public hearing in January. Staff receive additional feedback from Central NH Regional Planning Commission (CNHRPC) and the Pembroke Planning Board. Due to a number of outstanding issues, Staff is not recommending a motion be made tonight to afford time to address the issues.

Chair Foss opened the public hearing. Nick Golon (TFMoran), Andy Sanborn (Concord Commitment, LLC), and Jeremiah Goulet (Banwell Architects) presented the application.

Mr. Golon provided an overview and scope of this phased project located at 3-7 Break O' Day Drive. He stated that the road itself needs rehabilitation. Mr. Golon also provided an update on revisions they have made over the last month to meet City requirements such as fire department access, landscaping modifications to maximize greenspace to 10% with additional plantings and oversized islands, and placement for snow storage. The perimeter buffer has been increased to 15 feet. Lighting has been addressed per ADR recommendations.. Mr. Golon stated the windows on the Interstate 393 side are being addressed to be more visually appealing for passer-byers. The developers' desire a design that increases parking without retaining walls. Mr. Goulet reviewed the façade and elevations. A follow up meeting has been planned with ADR. Mr. Duval spoke on traffic patterns and phase one improvements to include the widening of and placing a turnaround at the end of Break O' Day Drive.

Mr. Golon addressed the various state permits, first one being with New Hampshire Division of Historical Resources. It has been confirmed that there are no historical properties being affected. They also filed a NHDS wetlands permit. They sought to utilize a City of Concord project for the purposes of the mitigation of their impacts. The Army Corps of Engineers shot both of those applications down. An "in-lieu" fee payment will be made that will go into the Aquatic Resource Management Fund. After addressing additional items, they are confident they will also receive the Alteration of Terrain. permit in the coming weeks.

Ms. Shank addressed Mr. Hick's question regarding traffic, stating that Staff had just received the CNHRPC report the day before, so the applicant has probably not had time to review it through the agenda link copy. Mr. Fox voiced concern over exiting traffic, particularly a large flatbed truck turning left, who could not exit Break O' Day drive. Mr. Golon stated that the left turn lane will be widened to avoid turning traffic from taking up the entire entrance / exit. Currently, turning left from Break O' Day Drive requires crossing four lanes of traffic. Mr. Fox also voiced concern over the current water infrastructure, particularly the collection of storm water / snow melt, and whether or not it will be adequate to support the water that collects there today. Mr. Champlin addressed a concern from Pembroke regarding the appeal of Concord's gateway and the signage being conspicuously absent in their renderings of the project. He recognizes that it is not part of this application, however the impact of it needs to be taken into consideration. Mr. Golon stated that he is not able to comment on the signage at this time.

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The property is under Big Step, LLC, a probate property. They are obligated to seek approvals before closing on the purchase and ownership.

Mr. Santacruce is concerned regarding traffic turning right because they are unable to go left in a timely fashion. He wants to see an eight-hour evaluation of traffic done as part of the reevaluation for traffic signals. Mr. Santacruce asks the developers to consider placing the conduit for street lights under the road in phase one to have it done for future use. As the developers consider phase two, he encouraged them to consider bus parking for venue events.

Mr. Santacruz voiced his concern over one sentence in the DOT letter that states “this would still leave a buffer for I393 and shield the adjoining property.” He would like to see these renderings show a realistic and accurate view of trees and how much is being removed. Mr. Santacruce acknowledges that the developers are unable to give specifics on signage but would like to see something regarding shape and placement. He asked for a copy of the renderings showing the cut through location that the DOT was provided. Mr. Golon stated that these images were established with a worst-case scenario mentality. They will not be removing all those trees. Though tree removal is phase two, grades are being dictated in phase one. Alternative traffic patterns will be considered and the report sent to the Planning Board.

Ms. Shank wants to see elevations and site lines from more angles, with relationship to / from buildings and gradings from Loudon Road to the highway. Mr. Santacruce voiced concern over the Staff and Board’s limited understanding of future developments including opening up views along I393. Mr. Golon and Mr. Sanborn are extremely hesitant to share anything regarding phase two and anticipates coming back for that. Ms. Shank encourages them to show generalities if needed but something is better than nothing. Mr. Santacruce asked the developers when they plan on going to the DOT for approvals on doing something in the right of way. Mr. Golon stated it would be part of a future phase. Mr. Golon pointed out to the Board that this grading doesn’t facilitate views, rather the purpose is to create parking without having to use retaining walls.

Public Comment:

Judith Kurtz, Co-Director of Concord Greenspace presented over 150 petition signatures against this project and has had about 10 per hour streaming in since being here. She is concerned for public safety and the draw on emergency services. She asked the Board to please review police reports and compare to Belmont and Manchester. She addressed the gas line through the lot and asked how it will be managed. She asked the Board to consider if this turned into another abandonment of a large project like the Steeplegate Mall. She posed questions for consideration such as how much of a reserve fund does the owner plan to have in case it is not successful. Is there the possibility of the owner selling to someone who does not have the same vision as he does?

Carl Sargent, who lives in the last house on Portsmouth Street, voiced concern over those that try to avoid Loudon Road, and rather go around it. This would pose increased danger for pedestrians given the added traffic in the surrounding neighborhoods.

Andrew Walton lives 1.2 miles away from this development. He stated that restaurants can’t be compared to this proposal. He also states that the Board should not give weight to whether businesses will succeed or fail.

Normand Levesque, abutter, references the discussion from the last meeting addressing the culvert that runs under I393. It begins in his yard. He is concerned about the watershed drainage. He is also concerned about potential noise. Chapel Tractor recently changed their sign, giving Mr. Levesque concern regarding what additional light pollution will be created by their signage. He also asked if a screen or quality fencing could be put up to prevent people from illegally crossing the highway.

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Kassey Cameron, who lives near Cole Gardens, appreciates the request for a 12-hour study. She voiced concern over no sidewalks on the entrance side of the proposed venue. She is also concerned about pedestrian safety in the area of the two schools Millbrook and Broken Ground, where traffic will be increased. She feels the success or failure of a business does matter to the taxpayers and should be considered, not to mention the “cannibalization” of other businesses. Ms. Shank stated that the City does have the authority in the site plan regulations to request market studies. Ms. Cameron also posed the question regarding where the staff would be housed.

Tom Sedaris, 34 Pine Acres Road, feels a casino is an extremely short sited solution to bringing in new revenue. He seconded what someone else said regarding possibility of selling the property to someone who does not have the values Mr. Sanborn does.

Carl Nolin, representing non-profit organizations. He voiced that funding from this establishment to the Legion and Lions Clubs have helped many kids do sports.

Norman Roberge, Concord Lions Club and non-profits, feels this will encourage support of the community.

Charles McGee, Ward 10, speaks in favor of the casino. He stated that the Mall traffic didn’t pose any problems. He encourages the Board to go to the Manchester casino. He states that there are no traffic problems, and crime incidents are minimal.

Jeff Smarr, Smarr Scholarship Fund, is currently involved with Andy Sanborn. He has been encouraged by their relationship with Mr. Sanborn’s business.

Timothy Lanphaer is in favor of the Casino.

Siri Pellegrino, Peace and Paws nonprofit, who is supported by venues like this is in support of the casino.

Tim Robson voiced disappointment in the legislation that allows casinos. We should not be funding charities and support services that should be paid for by regular taxes. It is very regressive taxation system.

Cathy Bernhard reiterates how difficult it is to make a left-hand turn coming out of Loudon Road. She has a traffic concern. She has not heard anything regarding the possible light pollution. She doesn’t understand how there can be no impact to runoff water with all that parking spaces.

With no additional comments from staff, members of the Board, or public, Chair Foss closed the public hearing.

Given the concerns regarding municipal services, particularly police and fire, Staff recommends a continuance of this application. Ms. Shank suggested inviting the Police Chief to hear what their concerns are first hand and noted that the concerns of other municipalities were raised by CNHRPC and the letter from the Pembroke Planning Board. Mr. Champlin motioned to continue this application to the March 15th hearing to allow Staff time to work on issues that have been outlined and make a request of Chief Osgood as well as the Fire Chief and officials from adjacent municipalities to appear or provide input at that meeting to give an overview of what they think would be the impact of this project. Mr. Hicks seconded Mr. Champlin’s motion. All in favor. Motion passed unanimously.

- 7H. Hayner/Swanson, LLC, on behalf of Brady Sullivan Properties LLC, requests Major Site Plan and Conditional Use Permit (CUP) approval for conversion of existing buildings into an 80-unit multifamily complex at 11 Stickney Ave in the Opportunity Corridor Performance (OCP) District.

The applicant has requested to be postponed to the March 15th Planning Board meeting. (2022-78).

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Other Business

8. No other business came before the Board.

Adjournment

At the request of Chairman, Hicks made a motion, seconded by Champlin, to adjourn the meeting. The motion passed unanimously at 11:45 PM.

Next regular monthly meeting is Wednesday, March 15th, 2023

TRUE RECORD ATTEST:

Alicen Twardosky
Administrative Specialist II