

City of Concord Planning Board
May 17, 2023
Minutes

The regular monthly meeting of the City Planning Board was held on May 17th, 2023, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Attendees: Chairman Richard Woodfin, Councilor Byron Champlin, Teresa Rosenberger (Ex-Officio for City Manager), Members Jeff Santacruce, Amanda Savage, David Fox, Susanne Smith-Meyer, and Matthew Hicks

Absent: Vice-Chairman Carol Foss, Councilor Erle Pierce, Alternates Chiara Dolcino and Frank Kenison.

Staff: Heather Shank (City Planner), Beth Fenstermacher (Assistant City Planner), Alec Bass (Senior Planner), Alicen Twardosky (Administrative Specialist), Martha Drukker (Acting City Engineer), and Peter Kohalmi (Associate City Engineer).

1. Call to Order

Chairman Woodfin called the meeting to order at 7:00 p.m.

2. Roll Call

Chairman Richard Woodfin, Councilor Byron Champlin, Teresa Rosenberger (Ex-Officio for City Manager), Members Matthew Hicks, Susanne Smith-Meyer, Amanda Savage, Jeff Santacruce, and David Fox

3. Approval of Meeting Minutes

April 19th, 2023 Minutes

On a motion made by Councilor Champlin, seconded by Mr. Hicks, the Board voted unanimously to approve the April 19th, 2023 Planning Board Meeting minutes, as written.

Ms. Rosenberger and Mr. Santacruce recused themselves.

4. Agenda Overview

On a motion made by Councilor Champlin, seconded by Mr. Hicks, the Board voted unanimously to postpone agenda items 9 & 10 at the request of the Applicants until the June 21st, 2023 Planning Board meeting. All in favor. Motion passed unanimously.

Chair Woodfin read Item 8, Joseph Alosa requests a one-year extension of a conditional approvals of a Major Site Plan and Conditional Use Permit for the construction of a parking lot at 96 Hall Street in the Opportunity Corridor Performance (OCP) District. On a motion by Councilor Champlin, and seconded by Mr. Hicks, the Board granted a 1 year extension for the conditional approvals. All in favor. Motion passed unanimously.

5. Determination of Completeness Items by Consent

5A. Northpoint Engineering, on behalf of Mark Boucher, requests Major Subdivision approval for a 4-lot subdivision on property off Elm Street in the Medium Density (RM) District. (2023-104).

5B. Northpoint Engineering, on behalf of ZV Investments, requests Major Site Plan approval for the addition of six residential units to a 3-unit building, expansion of parking areas, and Conditional Use Permits (CUP) for driveway width reduction and driveway separation alternatives at 5 Thomas Street in the High Density Residential (RH) District. (2023-103).

5C. Greenman-Pederson, Inc, on behalf of the City of Concord, requests review under RSA 674:54 for the proposed Canal Street Riverfront Park, which includes walking paths, a pavilion, scenic

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overlooks, and an expanded parking area at 11 Canal Street in the Opportunity Corridor Performance (OCP) District. (2023-107).

On a motion made by Councilor Champlin, and seconded by Ms. Savage, the Board voted to determine agenda items 5A and 5C complete and Developments of Regional Impact and set the public hearing for the June 21st, 2023 Planning Board meeting. All in favor. Motion passed unanimously.

On a motion made by Councilor Champlin, and seconded by Ms. Savage, the Board voted to determined agenda item 5B complete, not a Development of Regional Impact, and set the public hearing for the June 21st, 2023 Planning Board meeting. All in favor. Motion passed unanimously.

Public Hearings:

6. Design Review Applications

- 6A. Rebuilding California On & Off Electric, on behalf of Capital Hotel Company I, LLC, requests ADR approval for replacement of a 47.18 sf internally illuminated building sign and replacement of a 12 sf internally illuminated monument sign at 70 Constitution Ave in the Opportunity Corridor Performance (OCP) District.

A Staff update was given by Ms. Shank. No one attended the Architectural Design Review Committee meeting. The ADR recommended this application be tabled to June 21, 2023 because they had questions. Staff found that they were presenting a sign on a façade that had not been constructed and for which the previous ADR approval had expired. The applicant was advised that they needed to return with plans that show an existing façade or a valid approval.

On a motion by Councilor Champlin, seconded by Mr. Santacruce, the Board voted to postpone this Application to the June 21st, 2023 meeting. All in favor. Motion passed unanimously.

7. Site Plan, Subdivision and Conditional Use Permit Applications

- 7A. Joia Hughes requests a Conditional Use Permit (CUP) for driveway separation alternatives to allow for a second driveway where only one is otherwise permitted at 174 Village Street in the Downtown Residential (RD) District. (2023-100).

On a motion by Councilor Champlin, seconded by Mr. Santacruce, the Board voted unanimously to determine the application complete, and not a Development of Regional Impact.

Chairman Woodfin opened the public hearing. Joia and Thomas Hughes, property owners, presented the application.

A Staff report was provided by Mr. Bass. The property is on the corner of Bonney Street, Village Street and Winter Street. The applicant currently has a shared driveway to the south of the building, and over time created a second driveway to the north of the building. The second driveway to the north currently is an unsafe condition which requires vehicles to back out onto Bonney at the intersection with Village and Winter Street. The City's CIP #78 Paving program is currently resurfacing roadways in that area and worked with applicant to move this driveway to Winter Street to remove this unsafe condition. A conditional use permit is required, as they do not have 250 ft required to have a second driveway. The applicant originally proposed an 18ft wide driveway to reduce the footprint, but that would have required another CUP request so the applicant will instead have a 24 ft wide driveway as required by regulation. Mr. Santacruce wanted to make sure that the extra 6 ft added going from 18 ft to 24 ft was also added to the rear dimension to maintain a 24 drive aisle extending through the parking areas, allowing larger vehicles room to turn without having to back into the street.

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Ms. Hughes stated that they purchased this 4-unit multi-family a few years ago. It has three one-bedroom units and one three-bedroom unit. Mr. Hicks and Chairman Woodfin clarify for the public that typically the Board takes issue with single family units requesting multiple driveways but this is a multi-family unit.

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

The Board adopted the findings of fact which included information provided in the Staff reports, Applicant submission materials, testimony provided during the public hearing, or other documents or materials provided in the public hearing.

On a motion made by Councilor Champlin, seconded by Ms. Smith-Meyer, the Board voted to:

Grant the following Conditional Use Permit approval in accordance with Section 28-7-11(f) of the Zoning Ordinance to allow for an additional 24 ft wide driveway with only 227 ft of frontage, where 250 ft is required for two driveways, at 174 Village Street, subject to the following conditions.

- (a) All work shall be performed in accordance with the City of Concord Construction Standards and Details (latest edition)
- (b) Applicant shall obtain appropriate permits from the Engineering Services Division.
- (c) All Engineering Services comments are to be addressed prior to the issuance of a Driveway Permit.
- (d) 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.

All in favor. Motion passed unanimously.

Board Member, David Fox, entered the public meeting at 7:13 pm.

- 7B. VHB, on behalf of Eversource, requests approval for three Conditional Use Permits (CUP), for disturbance of wetland buffers and the Shoreland Protection District, to allow improvements to the V182 and F139 utility lines in the Open Space Residential (RO) District. (2023-106).

Ms. Fenstermacher clarified for the Board that they were would be voting on three CUP's (correctly listed in the staff report and application), not two as noted in the agenda title.

On a motion by Councilor Champlin, seconded by Mr. Santacruce, the Board voted unanimously to determine the application complete, and not a Development of Regional Impact.

Chairman Woodfin opened the public hearing. Ashley Friend and Alex Green (Eversource), and Andrew Mahoney (VHB) presented the application.

Ms. Fenstermacher provided a Staff update for the Board. This application is for three CUP's that span from Farmwood Station headed north towards Canterbury. They went before the Conservation Commission last week. The Conservation Commission recommended approval.

This utility maintenance project covers property along a 14.3-mile-long Right of Way from Webster Substation in Franklin, down to Farmwood Substation in Concord. The Applicant proposed to replace outdated wooden structures with new weathered steel structures consistent with the current industry standards to ensure reliability and prevent customer outages. The construction period is estimated to last from the Summer of 2023 to Winter of 2024. The Right of Way will be accessed from intersecting public roadways. There are wetland impacts. Timber mats will be used

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to disperse weight and prevent rutting in the wetlands. Streams will be spanned with bridges. Erosion controls will be installed. All work will occur in accordance with the BMP Manual.

Mr. Santacruce confirmed a State DOT access permit has been or will be obtained because this project runs along Route 132

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

The Board adopted the findings of fact which included the information provided in staff reports provided during the public hearing.

On a motion made by Councilor Champlin, seconded by Mr. Hicks, the Board voted to:

Grant the following Conditional Use Permit approvals in the existing utility right of way for the Eversource V182 and F139 Line Structure rebuild project located between Farmwood Road and the Canterbury town line, subject to the subsequent conditions noted below:

- CUP in accordance with Article 28-4-3(d) for *Disturbance of Wetland Buffers*;
- CUP in accordance with Article 28-3-3(f) for *Disturbance of Buffers in the Shoreland Protection District*; and,
- CUP in accordance with Article 28-2-4(c) *Uses Permitted by CUP* to allow for the construction of Essential public utilities within the Open Space and Medium Density Residential Districts with the condition that existing vegetative buffers be maintained.

(a) Subsequent Conditions – to be fulfilled prior to commencement of site construction, unless otherwise specified:

- (1) All work shall be performed in accordance with the City of Concord’s Construction Standards and Details (latest edition).
- (2) Applicant shall meet the pre- and post-construction requirements outlined in the Engineering Services Division Memo.
- (3) The Applicant shall submit copies of any state and/or federal permits associated with the n once they are issued.

All in favor. Motion passed unanimously.

7C. Wilcox & Barton, on behalf of Arts Alley, LLC, requests an Amendment to a Previously Approved Major Site Plan, to reduce the proposed building to a four-story building for use as a restaurant on the first floor, residential units on the second and third floors, and an event space on the fourth floor, at 22 South Main Street in the Central Business Performance (CBP) District (2022-47).

A Staff update was provided by Ms. Fenstermacher. She advised the Board that this application had come before the Board as a 5-story structure and has since been reduced to reflect a 4-story building with residential on the second and third floors and some minor site changes. There are existing waivers that are needed that have already been approved. They are requesting one additional waiver. Staff is recommending approval of the amendment.

Chairman Woodfin opened the public hearing. Erin Lambert (Wilcox & Barton) and Steve Duprey (Foxfire Properties) presented the application.

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The Applicant is proposing to reduce the building height because it seemed too large and out of place. The office space is being replaced with market rate apartments to reduce the development cost. A minor site change included a 5-foot sidewalk as opposed to the prior 4-foot between the development and the existing Coop building. The change to residential use requires additional entrances. The additional pavement required for the entrances triggers the need for an additional waiver for drainage. This pavement in this area will be heated to eliminate the need for snow removal. Ms. Lambert provided a revised waiver letter to address Staff's request for additional supporting information defining why they couldn't infiltrate on the site. She further explained that the soils on site are urban fill and they are unable to determine where seasonal high ground water is to acceptably design an infiltration system. A detention system will be placed. The Applicant will be attending the June 2023 Architectural Design Review Committee meeting to show the changes they have made regarding the window size, glazing, and façade changes.

Mr. Santacruce sought clarification on the parking. The Applicant has a long-term lease on 250 parking spaces in Storrs St. garage. In negotiations with City will change the number of spaces that are leased versus permitted. Some spaces will be 24-hour spaces for tenants. There are too many spaces for office use needed in the Smile Building. At most, the residential building will need 20 spaces. Mr. Santacruce asked if the Applicant would consider converting a portion of the roof to be a green roof. Mr. Duprey responded that the roof will be used a functional event space and there will be an old air stream trailer that will be functioned as a bar. With that and the mechanical equipment, there is not opportunity for a green roof. However, he currently owns the back row of parking at the Coop and is considering bartering with them to add a "green roof" and solar to their building.

The (new) portico entrance is the primary entrance for the apartments. Lighting will be within the canopy. Lighting has not been planned for the roofline but up lighting is being considered. Wall art is being designed for the blank wall adjacent to the Coop. The design included carving out some indoor bike/kayak storage in the northwest corner.

Public Comment:

Mr. Ron Rayner initially wanted the approval of this project to be deferred because he did not see the parking addressed. He now feels an "in lieu of" fee should be a condition of approval in case parking cannot accommodated according to Mr. Duprey's intentions. He voiced the building to be complimentary to the area.

Chairman Woodfin reminded the public that the City does not have parking requirements for this district.

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

The Board adopted the findings of fact which included the information provided in staff reports, testimony from the Applicant, and testimony provided by the public during the public hearing.

On a motion made by Councilor Champlin, seconded by Ms. Savage, the Board voted to:

Grant amended Architectural Design Review approval with the condition that the Applicant address comments regarding the design cohesiveness, and return for ADR review prior to final approval.

On a motion made by Councilor Champlin, seconded by Mr. Santacruce, the Board voted to:

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Grant the waiver to Section 22.08(2), *Storm Water Recharge*, of the Site Plan Regulations to allow for the decrease in storm water recharge for the 10-year storm event, per RSA 674:44- III(e)(1), *strict conformity would pose an unnecessary hardship to the applicant and the will properly carry out the spirit and intent of the regulations.*

On a motion made by Councilor Champlin, seconded by Mr. Fox, the Board voted to:

Grant the amendment to the conditionally approved Major Site Plan approval for the construction of a new four-story building, along with two outdoor patio areas, at 22 South Main Street, indicating that all precedent and subsequent conditions from the original approval shall remain in full force and effect.

All in favor. Motion passed unanimously.

- 7D. 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).

A Staff updated was provided by Ms. Shank. There were a number of issues two months ago and no public hearing last month for this application. They returned to Architectural Design Review and the changes made were acceptable. The traffic study and offsite improvements were sufficient. Staff had concerns regarding the proposed elevations on the reconstruction of Break O' Day Drive with regard to the continuity of access by the abutter. The abutter confirmed in an email that they were okay with the elevations and access. The water study confirmed that Phase One was fine. Staff wanted the Board to know that the margin is so thin in regards to pressure and availability that the impact on the system in the Heights should be looked at carefully and reevaluated prior to approval of Phase Two. The public services impact report was provided to the Board, along with Ms. Shank's report. The last issue that hadn't yet been discussed was the provisions of sidewalks. Staff has consistently recommended providing the required sidewalk. The Applicant has asked for a waiver for this requirement.

This application was previously determined complete, and a Development of Regional Impact.

Chairman Woodfin opened the public hearing. Nick Golon (TFMoran), John Cronin (Applicant Attorney), and Andy Sanborn (Applicant) presented the application.

Mr. Golon provided summary of resolved issues to date. Conservation Commission recommended approval for wetland impacts. The Architectural Design Review Committee has recommended approval. The traffic study issues were resolved in accordance to comments from VHB and DOT. The Division of Historical Resources verified there would be no adverse impacts relative to this project. The Alteration of Terrain and wetlands permits are approved. The City Engineering review is down to a handful of comments. The Applicant provided the water study retainer of \$7,000.00.

Mr. Cronin questioned the request that the Public Service Impact Study cover both Phase 1 and Phase 2. He feels that the Phase 1 analysis is speculative, and to require analysis including Phase 2 wouldn't provide any meaningful data since it may never get built and may be a very different concept. He stated that he didn't think there were any facilities comparable to Phase 1. According to the Lottery Commission, there are currently 14 gambling-type facilities in NH, the bigger ones being in Manchester and Seabrook (400 gaming seats or more). This development proposes 300.

Both the Fire and Police Chiefs provided reports for the March 15th meeting. They did not communicate any specific concerns given the information provided. Attorney Cronin provided email dialogue between he and Chief Aldenberg of the Manchester Police Department He

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summarized his experience with the Manchester casino. Mr. Cronin went on to reference past projects in the City of Concord, such as Pitco, and couldn't find any reports similar to what they were being asked to provide. Mr. Cronin referenced Section 31.02 of the Site Plan Regulations. He doesn't feel the scattered and premature regulation applies in this case.

Chairman Woodfin read from the review given at the March 15th meeting requesting the Applicant provide emergency services assessments. He noted that they see Police data but nothing from Fire or EMS. Mr. Cronin stated that they are there. Ms. Shank clarified that the Chief's letter from the March Planning Board meeting was resubmitted but no data was provided. There has been no additional discussion with Fire or EMS since March. Chairman Woodfin felt what had been provided is anecdotal. Chairman Woodfin is concerned about the lack of detailed information regarding public safety. He doesn't feel the report sufficiently followed the request from the Board. . Councilor Champlin reminded Mr. Cronin that part of this report was to include statements from a Fire and EMT services from other facilities such as that in Maine, the Oxford Casino. Mr. Cronin doesn't feel the Maine facility, which has 400 seats and a hotel, is comparable to what is being proposed in Phase 1. He does not feel the Board's concerns regarding fire safety will ever be met and asked for clarification on what addressing those concerns would entail.

Councilor Champlain noted that the report that was submitted had Phase 2 off the table, while Staff and Board specifically asked for both Phases to be considered. Councilor Champlin reminded the Applicants that the Board takes very seriously the applications they are given and meticulously goes through the information provided. He feels the Applicant and the representatives took it upon themselves to make decisions about what information to provide, rather than do what the Board asked. He also stated that the report was not provided in a timely manner and that the Applicant expected the Board to rush through and accept the report without having time to read it. Attorney Cronin noted that the information they requested from the Police Department was not provided until the Thursday before the hearing.

Attorney Cronin reiterated that Phase 2 is not before the Board. He feels that to require studies for this portion of the project is unfair and is not in keeping with the regulations. Councilor Champlin reminded the Attorney that the Board works in the best interest of the City and its residents. Chairman Woodfin read from Section 31 of the Site Plan regulations, and cited RSA 676:4 I(g) and 673:16, II, allowing the Board to request special investigative studies and to impose reasonable fees to cover its administrative expenses and costs of third-party review.

Mr. Hicks asked if the Oxford Casino is charitable gaming. Mr. Cronin answered not specifically but they do contribute to charities. Ms. Smith-Meyer quoted a portion of the Applicant's report that refer to secondary means of emergency access to the facility and notes that life safety evaluations would likely be triggered as part of Phase 2. She stated that by the time Phase 2 begins, it would be too late. The design requirement for this access needs to happen in Phase 1. Mr. Santacruce referred to the Fire Department's recommendations in paragraph two indicating the need for third party studies regarding the impacts of similar facilities. At that point the Fire Department would be able to comment more confidently on their ability to absorb the call volume or impacts. The report goes on to conclude that based on the limited data available in the plans that construction of Phase 2 may introduce enough additional occupant capacity that a life safety evaluation and additional emergency planning would be mandated for code requirements. Both Phase 1 and Phase 2 would then be subject to these additional provisions. The Fire Department recommends that this be made clear to the developer and Phase 1 move forward with this in mind, and encourage the developer to integrate considerations for the life-safety plan into the project. Mr. Golon acknowledged that the current studies did not meet these requirements. The Applicant is stating that they are willing to complete this study and asking for a condition.

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Mr. Fox referenced a prior public comment regarding the viability of this project and the likelihood of it not making it to Phase 2. He asked how Phase 1 would be impacted if Phase 2 doesn't happen. Mr. Golon stated that Phase 1 is sustainable on its own.

Chairman Woodfin sought clarification on why the Applicant felt there was no need for sidewalks. Mr. Golon stated that he felt sidewalks should be provided as part of Phase 2. They also note that staff recommended other pedestrian connections, including across Loudon Road and connections to existing sidewalks, which they felt should not be the Applicant's responsibility. The site plan regulations require a sidewalk down Break O' Day Drive. Ms. Shank stated that Staff wants a crosswalk to be provided to provide safety for pedestrians and employees for this facility. Ms. Drukker concurred with Mr. Golon that a sidewalk from the entrance to the dead end would not be necessary, would impact wetlands unnecessarily and would not serve the general population. Ms. Shank stated that the requirement for a sidewalk from the entrance to the Break O' Day intersection and across it is consistent with the City's Complete Streets policy. The Transportation Advisory Committee prioritized sidewalk gaps across the City, this 500-foot gap on Loudon Road is ranked in the top 10. Mr. Golon stated that cost could be \$150,000 or more to complete a 500-foot sidewalk. The City already required restructuring Break O' Day Drive.

Mr. Hicks cautioned the Board to be fair and consistent if requiring the Applicant to pay for City sidewalks and a crosswalk. Ms. Drukker clarified that the development necessitates the sidewalks and crosswalk. Ms. Shank agreed, noting that the Applicant is creating the destination and therefore the need. Mr. Santacruce suggested providing the sidewalk from their entrance to Loudon Road and grant the waiver for the section that runs to the end of Break O' Day Drive. He noted that this piece is approximately the length of the section they are being asked to construct to complete the connection on Loudon Road.

Mr. Sanborn suggested dividing the cost of the crosswalk and sidewalk with other developments that are proposed in the vicinity. He offered a reserve of \$50,000. Ms. Shank stated that this would not be possible, since those projects are not directly contributing to the need.

Ms. Savage agreed with Mr. Santacruce and asked that the City meet the Applicant in the middle and remove the requirement for the sidewalk from the facility entrance to the end of Break O' Day but leave the portion on Loudon Road.

Public Comment:

Ron Rayner. Public safety does not feel he has heard any reference to internal security to protect Concord PD from the impact. He feels this casino will be a novelty for 3 to 5 years and is concerned with what happens after that. He feels it prudent for the Applicant to divulge who their financial backers are. Lastly, he recommends the Applicant put the casino in his own hometown of Bedford.

Gary Christie is concerned with traffic and safety in that area. He feels the prior comparisons made by the Applicant to the Steeplegate Mall are insignificant. He listed alternate means of entertainment.

Chairman Woodfin asked the Applicant to address the security concern posed by Mr. Rayner. Mr. Sanborn stated that several discussions with the Board, Chief, and Deputy Chiefs regarding security have been had. There will be full time internal security and EMT staff 80% of the population in this casino is anticipated to be 45-85-year-old women. Adding a hotel to a gaming institution only increases business by 35%, making it only an accessory. Phase 1 is what makes the money, leaving it sustainable with or without Phase 2. Mr. Sanborn stated that Phase 2 hotel room capacity is going to be largely based on Phase 1 activity. The Applicant stated the calls the Draft gets are

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significantly lower than other businesses in the City like KFC, Walmart, etc. He asks for perspective in considering these comparisons.

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

Members wanted to see the Public Services Impact Study resubmitted. They discussed the alternatives including making it a condition of approval or holding off on approval until a report could be submitted and reviewed. Ms. Shank stated that we have on-call consultants that might be able to assist. We need to go through the proper channels within the City. After hiring this person, the scope and fee would be communicated to the Applicant.

Councilor Champlin moved to accept item 3 that states engage a qualified third-party consultant to review the Applicant's study, as well as provide data and analyses omitted from the applicant's study so as to comply with the Board's original objectives of the public safety services impact assessment. In accordance with the City's development review regulations, the consultant would be engaged by the City at the Applicant's expense without it becoming a condition of approval until the Board sees the result of the report.

There was no second. Motion did not carry.

Chairman Woodfin proposed accepting the Applicant's public impact report with the condition that they provide additional information on Fire and EMS. Councilor Champlin noted that this wording seems to be in option 2 that reads: Require the applicant to revise its report to accomplish the original objectives of the study as previously established by the Board and reiterated below:

- a. Review demand for public safety services (police, fire, and ems) for comparable facilities of similar size and function;
- b. Project potential demand for public safety services for the proposed facility (Phase I and II); and,
- c. Estimate potential impacts of the project on the City's Police and Fire Departments, as well as those of surrounding communities

Chairman Woodfin suggested rewording this motion to include "revising this report to accomplish its original objectives established by the Board which are to give us [the Board] additional information on EMS and Fire." This removes the request for a report from the Police.

Councilor Champlin noted that they would simply receive the same kind of report already received, which did not provide the comparative analysis requested. Councilor Champlin would like to see the Board go to a third-party professional to obtain a report that has the expertise to get the Board what they asked for.

Ms. Shank noted that the idea that the City has never asked these types of questions before has been stated multiple times. She notes that she's only been here 8 years and cannot attest to what happened before that. However, she is aware that these questions have come up in other contexts and that the questions are not atypical for a Board to consider.

The Board adopted the findings of fact which included the information provided in staff reports, submission and data information received from the Applicant, all the testimony taken over the past several months for the public hearings, and the documentation that has been provided.

The Board determined that they would motion to approve everything except the major site plan, holding off on that approval until the study could be resubmitted by a third-party consultant.

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On a motion made by Councilor Champlin, seconded by Chairman Woodfin, the Board voted to:

Direct Planning Staff to engage a qualified third-party consultant to review the application study as well as provide data and an analysis omitted from the Applicant study so as to comply with the Board's original objectives of the public safety services impact assessment in accordance with the City's development review regulations. The consultant would be engaged by the City at the Applicant's expense. Councilor Champlin amended his motion to specify by next month's public meeting. Chairman Woodfin accepted this amendment.

Five members were in favor. Three opposed. Motion carried.

On a motion made by Chairman Woodfin, seconded by Mr. Hicks, the Board voted to:

Grant the following waiver: Section 16.03(11) Signs, to allow the Applicant to submit sign applications separately, per RSA 674:44-III(e)(1), strict conformity would pose an unnecessary hardship to the applicant and the will properly carry out the spirit and intent of the regulations, and based on the fact that providing sign applications after approval of site plans is a common practice.

All in favor. Motion passed unanimously.

On a motion made by Chairman Woodfin, seconded by Mr. Santacruce, the Board voted to

Grant the waiver from Section 22.07(2) Stormwater Recharge, to allow 3 feet of separation between the bottom of the infiltration system and the groundwater instead of four (4) feet, per RSA 674:44-III(e)(2) 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., and based on the fact that the 3-foot separation complies with the NHDES Alteration of Terrain regulations.

All in favor. Motion passed unanimously.

On a motion made by Mr. Santacruce, seconded by Councilor Champlin, the Board voted to

Grant the waiver from Section 21.02 Sidewalks Required: To not provide sidewalks along the frontage from the facility entrance east to the dead end of Break O' Day Drive, subject to the condition that the Applicant provide the sidewalk from their entrance a pedestrian crossing across the Loudon Road intersection and a sidewalk connection to the existing sidewalk to the west along the south side of Loudon Road.

All in favor. Motion passed unanimously.

On a motion made by Councilor Champlin, seconded by Ms. Savage, the Board voted to:

Grant ADR approval subject to the condition that the applicant return to the ADR Committee to review the mural proposed for the southeast façade of the building.

All in favor. Motion passed unanimously.

On a motion made by Mr. Santacruce, seconded by Mr. Fox, the Board voted to:

Grant the Conditional Use Permit (CUP) in accordance with Article 28-4-3(d) to allow for disturbance of wetland buffers based on the criteria of Section 28-9-4(b)(4) of the Zoning Ordinance and the mitigation required by DES.

All in favor. Motion passed unanimously.

On a motion made by Mr. Santacruce, seconded by Ms. Savage, the Board voted to continue the public hearing to the June 21st, 2023 Planning Board meeting.

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Seven votes were taken. Motion passed unanimously. (Ms. Savage was out of the room.)

Ms. Smith-Meyer dismissed herself from the public meeting.

- 7E. NH Land Consultants, PLLC, on behalf of Penacook Realty Partners 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).

This application is continued from last month.

A Staff update was provided by Ms. Shank. There is a new waiver and a traffic study currently underway. The Application has been determined complete, and not a Development of Regional Impact on April 19th, 2023.

Chairman Woodfin opened the public hearing. Scott Frankiewicz (NH Land Consultants) and Jake McManus (North & South Construction Services) presented the application.

Mr. Frankiewicz gave an overview of the 68-unit condominium development. The application was continued in April pending Engineering review. That has been received. The traffic scoping review has been completed. They are seeking a waiver for the storm water separation. Mr. Santacruce questioned how snow removal will occur for catch basins 2, 3, and 4. Mr. Frankiewicz stated they will provide the information as needed. Mr. Santacruce addressed the lighting on back patios. Mr. Frankiewicz answered the normal door light will be the only lighting.

Mr. McManus stated that single phase transformers are four years out limiting the option for underground utilities. They are seeking alternates to keep the project on track. Their anticipated direction is to go three phases to accommodate the temporary utility fixtures needed.

Shade trees will be placed in the open spaces according to the new landscape plans.

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

The Board adopted the findings of fact which included the information provided in staff reports, the Applicant's submission and the data they provided.

On a motion made by Mr. Santacruce, seconded by Mr. Fox, the Board voted to:

Grant the waiver from Section 22.07(2) (SPR) Storm Water Recharge, to allow a minimum separation of one foot, provided Engineering comments are addressed, since a portion of the water is being pre-treated, and the NHDES Alteration of Terrain permit accepts the proposed solution, and utilizing the criteria of RSA 674:44, III (e)(2), which states that 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.

All in favor. Motion passed unanimously.

On a motion made by Councilor Champlin, seconded by Ms. Savage, the Board voted to:

Grant ADR approval subject to the condition that the applicant return to an ADR meeting to review plan revisions regarding buildings, landscaping, and pedestrian layout.

All in favor. Motion passed unanimously.

On a motion made by Mr. Santacruce, seconded by Mr. Fox, the Board voted to:

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Grant Major Site Plan and Major Subdivision approval for the 68-unit townhome condominium development and related site improvements at 150 Fisherville Road, subject to the following precedent and subsequent 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) Address all comments that arise from the traffic study.
- (3) Applicant shall provide copies of all required State permits.
- (4) Final plans shall be signed and sealed by the NH Licensed Land Surveyor, NH Licensed Professional Engineer, and Certified Wetland Scientist.
- (5) The Applicant shall submit two checks for recording the plats 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. Applicant shall determine the dollar amount for easement and deed documents, which shall be recorded at the same time as the plats.
- (6) Upon confirmation from staff that the review comments have been addressed, The Applicant shall deliver to Planning two (2) plan set(s) and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
- (7) The Applicant shall provide snow removal procedures on their plans to Staff to include how to remove snow off of the catch basins in the corners for their review.

(b) Subsequent Conditions – to be fulfilled as specified:

- (1) Prior to commencement of construction activity, if applicable, payment of inspection fees in an amount approved by the City Engineer shall be made.
- (2) Coordinate with the City Engineer to determine if a pre-construction meeting shall be required prior to the start of any construction activities onsite
- (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 31.10 of the Subdivision Regulations.
- (4) Prior to the issuance of the final Certificate of Occupancy or final construction sign-off, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps.
- (5) Traffic and recreation impact fees shall be assessed for any residential construction contained within the limits of the approved subdivision. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.

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- a. Recreational Facilities – Single-family residence
- b. Transportation Facilities - Single-family residence

Seven votes were taken. Six Members were in favor. Motion passed unanimously.

- 7F. The Dubai Group, on behalf of Signature Homes LLC, requests Major Subdivision approval for a 5-lot cluster subdivision and a Conditional Use Permit to utilize frontage lots for property off of Curtisville Road in the Open Space residential (OS) District. (2023-94).

At Staff's request, the Applicant postponed their April determination of completeness hearing to afford time to complete the storm water report, as recommended by staff. Ms. Fenstermacher stated that the Applicant is asking for tonight's meeting to be both the public hearing and Determination of Completeness, and indicated staff is in support of this waiver due to the nature of the project and staff has had sufficient time to review the materials. Chairman Woodfin motioned, seconded by Mr. Hicks, to grant a waiver to Section 10.06 of the Subdivision Regulations to hold the Public Hearing done on the same night as the Determination of Completeness.

All in favor. Motion passed unanimously.

On a motion by Councilor Champlin, seconded by Mr. Fox, the Board voted to deem this Application complete and not a Development of Regional Impact.

All in favor. Motion passed unanimously.

Ms. Fenstermacher provided a Staff update to the Board. This is a 5-lot subdivision on Curtisville Road. They are requesting a Conditional Use Permit to do the standard frontage lots rather than a cluster subdivision because it is more in character with the neighborhood. As part of that, they attended a Conservation Commission meeting last week to review the layout because they still have to provide the 60% of the property as open space. Conservation Commission was supportive of the proposal. This would be the least amount of impact on that area. Conservation Commission asked the Applicant to deed the property to the City rather than placing an easement on it because we have adjacent conservation land and this would provide contiguous open space that is owned by the City. There will be conservation restrictions placed on the Deed. The Applicant is amendable to this arrangement.

Chairman Woodfin opened the public hearing. Doug Maguire (Dubay Group) presented the application.

Mr. Maguire stated the property was evaluated under the cluster subdivision requirements, and the site could accommodate a development of about nine units with shared cul-de-sac. The developers felt the development would better as frontage lots with no additional roadway infrastructure, therefore reducing the unit number to five, standard, single family homes. They still meet all the open space requirements. They found that the larger portion of property able to be reserved was wetland area, visible on the plans, being fed by a cross-culvert under Curtisville Road, also included in the open space. They have been working closely with Staff, reflecting a majority of Planning and Engineering review comments in the revised plans.

Mr. Santacruce asked if profiles of the driveways have been submitted to Staff. He is concerned with the drainage plan. He feels the large outcrop that impedes runoff should be removed by the Applicant. He would also like to see sight line drawings. Mr. Maguire stated that they did not complete final profiles of each lot, only for Lot 1, but there are extensive prototypical lot grading plans. Ms. Drukker assured the Board that driveway permits will not be issued until they meet Engineering's standard.

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

The Board adopted the findings of fact which included the information provided in staff reports and testimony provided during the public hearing.

On a motion made by Mr. Santacruce, seconded by Mr. Hicks, the Board voted to:

Grant the Conditional Use Permit pursuant to Section 28-5-46 of the Zoning Ordinance to allow a conventional subdivision layout where a cluster development is otherwise required, subject to the Applicant conveying the common open space parcel to the City of Concord for conservation purposes, per Section 28-4-7(j)(2)(c) of the Zoning Ordinance.

All in favor. Motion passed unanimously.

On a motion made by Mr. Hicks, seconded by Ms. Savage, the Board voted to:

Grant Major Subdivision approval for the proposed 5-lot residential subdivision with a remainder open space lot on Curtisville Road, subject to the following precedent and subsequent conditions noted below:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building permits, or the commencement of site construction, unless otherwise specified:
- (1) Address all Review comments to the satisfaction of the Planning and Engineering Divisions. For all subsequent submissions, applicant shall provide a response memo addressing/acknowledging all comments.
 - (2) Conditional Use Permit(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Zoning Ordinance. Should the Board vote to deny the Conditional Use Permit(s), applicant shall comply with said submission requirement(s).
 - (3) Applicant shall provide copies of all required State permits.
 - (4) Final plans shall be signed and sealed by the NH Licensed Land Surveyor, NH Licensed Professional Engineer, and Certified Wetland Scientist.
 - (5) An editable digital copy of all easement documents and deeds shall be provided for review and approval as to form and content by the City Engineer, Conservation Commission, City Solicitor and Clerk of the Board. Final easement documents and deeds shall be recorded at the same time as the subdivision plat.
 - (6) The Applicant shall submit two checks for recording the plats 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. Applicant shall determine the dollar amount for easement and deed documents, which shall be recorded at the same time as the plats.
 - (7) Upon confirmation from staff that the review comments have been addressed, The Applicant shall deliver to Planning two (2) plan set(s) and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
- (b) Subsequent Conditions – to be fulfilled as specified:

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- (1) In accordance with Section 19.04(3) and 28.07 of the Subdivision Regulations, prior to the commencement of construction activity, the wetland buffers shall be marked with signs available through the Planning Division. The buffers shall be clearly and permanently marked before, during, and after construction of the lots.
- (2) Monuments shall be set in compliance with Section 19.04 of the Subdivision Regulations. In addition, Conservation Boundaries shall be marked with signs available through the Planning Division.
- (3) Prior to commencement of construction activity, if applicable, payment of inspection fees in an amount approved by the City Engineer shall be made.
- (4) Coordinate with the City Engineer to determine if a pre-construction meeting shall be required prior to the start of any construction activities onsite
- (5) 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 31.10 of the Subdivision Regulations.
- (6) Prior to the issuance of the final Certificate of Occupancy or final construction sign-off, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps.
- (7) Traffic and recreation impact fees shall be assessed for any residential construction contained within the limits of the approved subdivision. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.
 - a. Recreational Facilities – Single-family residence
 - b. Transportation Facilities - Single-family residence

All in favor. Motion passed unanimously.

- 7G. Nobis Group, on behalf of St. Paul’s School, request Major Site Plan approval for construction of a new 10,000 sf 2-story building and related site improvements for the purpose of an Admission Center at 325 Pleasant Street in the Institutional (IS) District. (2023-98).

Ms. Fenstermacher gave a Staff update. This application is for a new admission building. They have gone before Architectural Design Review. There are some conditions that were requested by the Demolition Review Committee and Heritage Commission regarding the reuse of some of the features of the building and existing fencing. The Applicants are seeking a Conditional Use Permit to not construct all of the parking spaces, reducing pavement. Additionally, Staff is supporting a couple of other waivers for stormwater and reduced extent of information shown on the plan since this project area is set within the St. Paul’s School Campus.

Chairman Woodfin opened the public hearing. Chris Nadeau (Nobis Group). Lonnie Ash (CBT), and Casey Russo (CSL Consulting) presented the application.

Three comments from Staff relating to 1) The historic fence out front: St. Paul’s wasn’t interested in preserving this fence. Asking to not have to do what Heritage Commission recommended. Some

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of the material from the house will be incorporated into the new building but the fence is not desired to be preserved. The Applicant will discuss this with Staff. Ms. Shank is asking that the granite posts be relocated but not destroyed. 2) The additional sidewalk: There is a sidewalk that runs down the east side of the campus along Dunbarton Road with a cross walk. The Applicant is proposing to run a non-ADA sidewalk into the parking lot. Per Staff request, there is a possibility of running it all the way to the main entrance of the building. The Applicant feels this particular parking area is overflow and the additional sidewalk is not necessary. A majority of staff will be parking in the large existing parking lot. Mr. Santacruce would like to see a sidewalk that connects to the back side of the building because one is being removed. The connection from the barn to the residence will be cut (across the front and connect to the main entrance). 3) Mechanical screening of mechanical equipment: There will be a screen of wooden fence to cover the cluster of equipment and trash. The intent is to not screen the transformer, the erroneous note on the plan will be removed.

The Applicant is seeking two waivers: 1) To not show the property lines in the plan. They are inside their campus. 2) To allow off-site discharge. They are unable to infiltrate in this location because the soils and groundwater don't allow it requiring a very small increase in the ten-year-storm, .02 acre feet.

Mr. Santacruce asked if they would be willing to put the parking spaces back that they are removing in the lot north of the building to avoid the need to construct them in the future. The applicant has determined those spots are not needed. Mr. Santacruce would like to see a tree replaced in the island located on the northside of the lot between parking spaces with the callouts "5" & "14".

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

The Board adopted the findings of fact which includes the information provided in staff reports received, the Applicants submission materials, and the presentation materials they provided.

On a motion made by Councilor Champlin, seconded by Mr. Hicks, the Board voted to:

Grant Architectural Design Review Approval of the building and site plan as presented. (with the desire for the granite posts be reused.)

All in favor. Motion passed unanimously.

On a motion made by Councilor Champlin, seconded by Mr. Santacruce, the Board voted to:

Grant the following waivers to the Site Plan Regulations using the criteria of RSA 674:44 III(e)(2) as guidance, specific circumstances relative to the site plan, or conditions of the land in such site place, indicate that the waiver will properly carry out the spirit and intent of the regulations.

- Section 15.03(1) *Property Lines* to not show property lines with bearings and dimensions for the entire parcel.
- Section 22.07(3) *Off-Site flows* to allow off-site discharge to exceed pre-development conditions.

All in favor. Motion passed unanimously.

On a motion made by Councilor Champlin, seconded by Mr. Hicks, the Board voted to:

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Grant the Conditional Use Permits (CUP) in accordance with Section 28-7-11(b) of the Zoning Ordinance (ZO) to allow for the construction of 87 spaces where 153 are required.

All in favor. Motion passed unanimously.

On a motion made by Councilor Champlin, seconded by Mr. Hicks, the Board voted to:

Grant Major Site Plan approval for the construction of a new 10,100 sf 2-story Admission Center building, and associated landscaped areas, parking, sidewalks, and stormwater improvements at 16 Dunbarton Road on the St. Paul's School Campus, 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 and Engineering Services Division.
- (2) Final plans shall be signed and sealed by the NH Registered Land Surveyor, Landscape Architect, and Professional Engineer.
- (3) Submit three (3) copies of final plans for sign off by the Clerk and Chair of the Planning Board.
- (4) The Applicant shall extend the sidewalk coming off Dunbarton Road to the building entrance, and coordinate with staff for the final design and location.
- (5) The Applicant shall replace the tree in the island on the north side of the parking lot between parking spaces 5 & 14 if feasible.

(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.
- (3) The amount and form of financial guarantee shall be proposed by the Applicant and approved by the Clerk of the Board and City Engineer. The guarantee shall be provided prior to the issuance of the Certificate of Occupancy.
- (4) 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.
- (5) The Applicant or their successors shall be responsible for the regular maintenance of all plantings and other landscape features. Plant materials shall be maintained alive, healthy and free from pests and disease.

All in favor. Motion passed unanimously.

Other Business

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8. Joseph Alosa requests a one-year extension of a conditional approvals of a Major Site Plan and Conditional Use Permit for the construction of a parking lot at 96 Hall Street in the Opportunity Corridor Performance (OCP) District. This plan was previously approved on May 18, 2022.

The Applicant requested a ~~one year~~one-year extension. Please see the above motion under Agenda Overview.

9. Kalapa Realty Trust, LLC requests Major Site Plan approval and Minor Subdivision Approval for an age restricted residential development consisting of attached condominium units, along with a Conditional Use Permit (CUP) for disturbance to a wetland buffer at 61 Borough Road in the Single Family (RS) and Medium Density (RM) Districts. (2022-44) Applicant requests to be postponed to the June 21, 2023 Planning Board meeting.

The Applicant requested to postpone this Application. Please see the above motion under Agenda Overview.

10. Nobis Group, on behalf of Roman Catholic Bishop of Manchester / St. Johns Church requests Major Site Plan approval for the demolition of the existing food pantry and construction of a new 5,300 square-foot food pantry building with other associated site improvements at 60 South Main Street in the Urban Transitional (UT) District. The applicant requested to be continued to the June 21st, 2023.

The Applicant requested to postpone this Application. Please see the above motion under Agenda Overview.

Adjournment

At the request of Chairman Woodfin, Mr. Hicks made a motion, seconded by Mr. Santacruce, to adjourn the meeting. All in favor. The motion passed unanimously at 10:56 PM.

Next regular monthly meeting is Wednesday, June 21st, 2023

TRUE RECORD ATTEST:

Alicen Twardosky
Administrative Specialist II