

City of Concord Planning Board
June 21, 2023
Minutes

The regular monthly meeting of the City Planning Board was held on June 21st, 2023, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Attendees: Chairman Richard Woodfin, Vice-Chairman Carol Foss, Teresa Rosenberger (Ex-Officio for City Manager), Members Jeff Santacruce, Amanda Savage, David Fox, and Matthew Hicks.

Absent: Councilor Erle Pierce, Councilor Byron Champlin, Member Susanne Smith-Meyer, Alternate Chiara Dolcino and Alternate Frank Kenison

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

1. Call to Order

Chairman Woodfin called the meeting to order at 7:01 p.m.

2. Roll Call

Chairman Richard Woodfin, Vice-Chair Carol Foss, Matthew Hicks, Teresa Rosenberger, Amanda Savage, Jeffrey Santacruce, and David Fox

3. Approval of Meeting Minutes

May 17th, 2023 Minutes

On a motion made by Mr. Hicks, seconded by Mr. Fox, the Board voted unanimously to approve the May 17th, 2023 Planning Board Meeting minutes, as written. All in favor. Motion passed.

4. Agenda Overview

Chair Woodfin moved item 9 to Public Hearings as Item 7H.

5. Determination of Completeness

- 5A. Keach Nordstrom, on behalf of James Palmisano, requests Major Site Plan approval for construction of a new 144-unit age restricted residential development consisting of three new 3-story multifamily buildings, a clubhouse, and related site improvements and a Conditional Use Permit (CUP) for disturbance of a wetland buffer at 33 Old Loudon Road in the Medium Density (RM) District. (2023-104).

On a motion made by Mr. Hicks, and seconded by Ms. Savage, the Board voted to determined agenda item 5A complete, not a Development of Regional Impact, and set the public hearing for the July 19th, 2023 Planning Board meeting. All in favor. Motion passed unanimously.

- 5B. TFMoran Inc, on behalf of Interchange Development, requests Major Site Plan approval for construction of two new buildings, including a 4,940-square foot urgent care facility, and an approximate 30,000 sf mixed use office/retail building, and a Conditional Use Permit (CUP) for shared parking at 1, 5, 7 and 9 Interchange Drive in the Gateway Performance (GWP) District. (2023-105).

On a motion made by Mr. Hicks, and seconded by Vice-Chair Foss, the Board voted to determine agenda item 5B complete and a Development of Regional Impact, and set the public hearing for the July 19th, 2023 Planning Board meeting. All in favor. Motion passed unanimously.

6. Design Review Applications by Consent

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- 6A. Sousa Signs, LLC, on behalf of Bank of New Hampshire, requests ADR approval for replacement with a new, double sided 40 square foot internally illuminated tenant panel on a free-standing sign and replacement with a new 30 square foot internally illuminated wall sign at 9-11 Triangle Park Drive located in the Gateway Performance (GWP) District.
- 6D. Sousa Signs, LLC, on behalf of Granite State Credit Union, requests ADR approval for a new 16 square foot internally illuminated wall sign and a new 76.4 square foot internally illuminated wall sign at 311 Sheep Davis Road located in the Gateway Performance (GWP) District.
- 6E. Expedite the Diehl, on behalf of T-Mobile, requests ADR approval for a new 25.6 square foot internally illuminated wall sign at 72 Storrs Street located in the Opportunity Corridor Performance (OCP) District.
- 6F. Portsmouth Sign Company, on behalf of Brixmore Property Group requests ADR approval for a new 22.34 square foot internally illuminated wall sign at 74 Storrs Street located in the Opportunity Corridor Performance (OCP) District. Reference Zoning Board case #40-2023 for to allow 47 square foot of signage where normally 23.5 is allowed.
- 6G. NEOPCA Signs, on behalf of Circle T Car Wash, requests ADR approval for replacement with a new 40 square foot pylon sign and replacement with a new 24 square foot non-illuminated wall sign at 109 Manchester Street located in the Highway Commercial (CH) District.
- 6I. Barlo Signs, on behalf of Morrill Mill Pond, LLC, requests ADR approval for a new 57.81 square foot internally illuminated wall sign at 2 Whitney Rd located in the Industrial (IN) District.

On a motion made by Mr. Hicks, and seconded by Vice-Chair Foss, the Board voted unanimously by consent to approve items 6A, 6D – 6G, and 6I as submitted with the Architectural Design Review comments. All in favor. Motion passed.

Public Hearings:

- 6B. Sousa Signs, LLC, on behalf of Bank of New Hampshire requests ADR approval for replacement with a new 12.5 square foot sign cabinet, replacement with two new 7.1 square foot wall signs on the building tower and replacement with a new 9.1 square foot wall sign over the building entrance at 167 North Main Street located in the Civic Performance (CVP) District.

Mr. Santacruce requested to have this application pulled from the consent agenda and heard as a public hearing.

Ms. Shank responded to Mr. Santacruce’s concern over one image in the application reflecting a dollar sign, voicing that it appeared to simply be a Google maps image, not part of the application. She suggested the Board make it part of the condition to not have the dollar sign image.

Mr. Santacruce motioned, seconded by Mr. Fox to approve the two signs shown at right with ADR recommendations and with the condition that the dollar sign is not part of the approval. All in favor. Motion passed unanimously.

- 6C. Sousa Signs, LLC, on behalf of Bank of New Hampshire, requests ADR approval for replacement with a new 10.4 square foot non-illuminated wall sign and replacement with a new 24 square foot non-illuminated wall sign at 3 Eagle Square located in the Central Business Performance (CBP) District.

Mr. Santacruce requested to have this application pulled from the consent agenda and heard as a public hearing.

Mr. Santacruce noted that the logo shown is not consistent between images. The one on 167 North Main Street had a blue element with no tag-line. The Eagle Square location won’t fit the same

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signage and has uniform coloring. The Wealth Management sign is newly added. Mr. Santacruce does not agree with the branding color scheme not being the same throughout. Other members noted that this does happen occasionally.

Chairman Woodfin motioned, seconded by Mr. Hicks to approve the signs as submitted with ADR recommendations. Motion passed with a 6 / 1 majority vote.

- 6H. Burr Signs, on behalf of Interchange Development, LLC, requests ADR approval for a new 25 square foot internally illuminated wall sign and replacement with a new 2 square foot internally illuminated tenant panel at 4 Merchants Way located in the Gateway Performance (GWP) District.

Mr. Santacruce requested to have this application pulled from the consent agenda and heard as a public hearing.

The description describes one 2 sf sign and one 25 sf sign, but the application graphics show three signs total. Ms. Shank explained that the second and third signs were the same size. The applicant was seeking a variance for the third sign the day after ADR met, and the Zoning Administrator recommended ADR make a motion on both signs so the applicant wouldn't need to come back. ADR recommended approval subject to the variance being granted, which it was the next day.

Mr. Santacruce motioned, seconded by Ms. Savage to approve the sign as submitted with ADR recommendations. All in favor. Motion passed unanimously.

- 6J. Concord Coalition to End Homelessness, requests an amendment to ADR approval for exterior elevation changes on a residential structure at 120-122 Pleasant Street in the Institutional (IS) District. (2022-33).

Mr. Hicks requested to have this application pulled from the consent agenda and heard as a public hearing.

A Staff update was provided by Ms. Shank. Greg Lessard of Concord Coalition reached out to Ms. Shank to indicate the original porch was beyond repair. Ms. Shank told them they needed to return to ADR and the Board for approval. The Applicant's initial request was to amend the original ADR approval in order to remove the porch. No other façade changes were discussed. ADR reviewed, and had no issues with the removal of the porch. Chris Makris, a Concord resident, subsequently reached out to staff with the concern that the elevations submitted to ADR were drastically different from the original façade of the structure, though the applicant had claimed during their original Site Plan approval hearing that no changes to the façade were proposed. Differences noted included the removal of a cupola, shutters, window lintels, and certain windows.

Chairman Woodfin opened the public hearing. Jonathan Halle (Warren Street Architects) presented the application.

Mr. Halle stated that this project was originally to be funded in February of 2022. The project included work that was only supposed to happen on the interior, converting a single-family dwelling with two apartments in the garage into eight units. The project didn't come together in a timely fashion, and accrued costs that were not anticipated, and the owner was not able to continue. This resulted in loss of funding. In 2023 HUD funding was applied for, which required removal of lead paint.

The team responsible for the abatement mistakenly removed much more of the façade and features than were required, leaving the main house and carriage house essentially stripped. The applicant now has a \$250,000-400,000 funding gap, with funding terminating in mid-July. They are now struggling to put the property back the way it was before the funding runs out and are seeking relief from the Board.

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Mr. Halle noted that the carriage house should be completely replaced because it – as well as the main house – now need to meet Code requirements that were previously grandfathered prior to abatement. However, they don't have time to go through the site plan review process and are currently sistering every post and placing concrete footings and stainless-steel rods.

Mr. Halle also shared that there is an existing bump out of the building that is essentially tacked on. He asked if the Board would support removal since it is not structurally sound or architecturally important. The Board was not opposed.

The Board discussed the missing features and how to proceed. Mr. Halle stated that some features, such as shutters and grills, are going to be replaced as best they can to match the original design. Members discussed the applicant returning to ADR to discuss all the changes and work out a solution that addresses the concerns of the neighborhood.

Mr. Halle was not in favor of this solution. He stated that they would lose their funding if they waited that long. They are scheduled to close on the construction of the building in the middle of July. He pointed out that this was brought to Division of Historic Resources and they found no historical significance. He requested the Board make a motion to approve and put whatever conditions on they wanted to keep the project moving.

Mr. Hicks voiced concern from Mr. Makris that it would not keep in line with the architectural nature of the neighborhood Ms. Shank noted that an eye brow window on the east elevation is missing. Vice Chair Foss asked about the chimneys. Mr. Halle confirmed they were covered and wrapped in asbestos and had to be removed. Ms. Rosenberger voiced concern over it not going back to what it once was. It is a gateway to that neighborhood. Ms. Rosenberger asked that the ADR Committee be consulted because of all the changes and the location of the property as a gateway to the neighborhood. Ms. Savage pointed out that if the project loses funding, how it sits right now could be how it sits indefinitely and could get worse.

Mr. Santacruce would like to see the chimneys go back to give the feel of an old colonial. He would like to see the shutters and lentils replaced in a different color so that not everything is white. He would like to see the half-moon window put back. The cupula should be recreated. The third window be placed back on the south base, where the overhang is removed. The Board is okay with the porch being gone due to the overwhelming task list at hand.

Ms. Foss seeks clarification that the overhang is being completely removed. The third window should be replaced.

Chairman Woodfin motioned, seconded by Mr. Santacruce, to approve the application with the conditions that lentils over the windows and doors of the main house be replaced, shutters on the windows be replaced, chimneys replaced, a cupula in similar size, mass, and street appeal be reviewed by Staff and replaced, the third window in the front be replaced, the eyebrow window be replaced, and that the carriage house and main house match what previously existed.

All in favor. Motion carries unanimously.

7. Site Plan, Subdivision and Conditional Use Permit Applications

- 7A. Riverbend Community Mental Health Inc. requests Minor Subdivision approval for a lot line adjustment between 3 N. State Street and 40 Pleasant Street in the Central Business Performance (CBP) District. (2023-109)

On a motion by Mr. Santacruce, seconded by Vice-Chair Carol Foss, the Board voted unanimously to determine the application complete, and not a Development of Regional Impact.

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Ms. Shank stated that this was approved two years ago. The plat simply wasn't recorded. Nothing has changed.

Chairman Woodfin opened the public hearing. Scott Walker (Premier Properties) stated that there was nothing new to present.

The Board adopted the findings of fact which were discussed and determined to include the information provided in the application and staff reports.

On a motion made by Vice-Chair Carol Foss, seconded by Mr. Hicks, the Board voted to **grant the following requests for waivers from the Subdivision Regulations**, based on the nature of the application as a lot line adjustment for existing lots already built upon, and no further development is intended, 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:

- 12.08(3) & 15.03(4) Topography, to not provide topography.
- 12.08(4) Soils, to not provide soils information.
- 12.08(2) Existing Vegetation, to not show existing vegetation
- 12.08(10), 15.03(11) & (13) Municipal Utilities to not show existing water and sewer locations.
- 15.03(15) Other Utilities to not show other existing non-municipal utilities servicing the site

All in favor. Motion passed unanimously.

On a motion made by Mr. Santacruce, seconded by Vice-Chair Carol Foss, the Board voted to **grant Minor Subdivision approval** for the lot line adjustment at 3 North State Street and 40 Pleasant Street, subject to the following precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, and recording of the plan, unless otherwise specified:

1. Address Engineering Review Comments to the satisfaction of the Engineering Division.
2. Waivers granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the Waivers, applicant shall comply with said submission requirement(s).
3. Digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
4. Monumentation for new lot lines shall be set.
5. The Licensed Land Surveyor shall sign and seal final plans and mylars.
6. The Applicant shall deliver to Planning, two plan sets and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
7. Applicant shall provide an agreement to convey an easement for proposed access, drainage, and utility easements, to be recorded at the same time as the final plat.
8. 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.

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All in favor. Motion passed unanimously.

- 7B. T.F. Bernier, on behalf of Thomas & Carrie Murphy and David & Cynthia Caron, requests Minor Subdivision approval for a lot line adjustment to transfer 2 acres from 118 to 110 Peaceful Lane in the Open Space Residential (RO) Districts. (2023-112)

On a motion by Mr. Hicks, seconded by Vice-Chair Carol Foss, the Board voted unanimously to determine the application complete, and not a Development of Regional Impact.

Ms. Fenstermacher provided a Staff update. She noted the supplemental documentation to clarify the lot line adjustments associated with this application and the application under Item 7C. Staff's only condition is the timing of how they are recorded because the second submission needs to reflect the new lot configuration.

Chairman Woodfin opened the public hearing. No one presented the application.

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 staff reports and the applicant's submission material.

On a motion made by Mr. Hicks, seconded by Mr. Fox, the Board voted to **grant the following waivers to the Subdivision Regulations**, utilizing the criteria of RSA 674:36, II (n), criteria (2), which states that "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" with the condition that this information be provided for any future development proposed on the parcels.

- Section 12.08(3) Existing Topography to not provide topography since no development is proposed
- Section 12.07 Wetland Delineations, to not delineate wetlands
- Section 12.08(4) Soils, to not provide soil data
- Section 12.08(5) Natural Features, to not show natural features on the plat
- Section 12.08(23) (b, c, & d) Tabulations, to not provide tabulations for natural features, useable land, and lot coverage.
- Section 12.08(1) Property Lines and 15.01(2) Dimensions to not show property lines with bearings and dimensions for the entire parcel

All in favor. Motion passed unanimously.

On a motion made by Vice-Chair Carol Foss, seconded by Mr. Hicks, the Board voted to **grant Minor Subdivision approval** for the lot line adjustment between 110 and 118 Peaceful Lane, subject to the following precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

1. Address Technical Review comments to the satisfaction of Planning Division and Engineering Services Division staff.
2. The monumentation for the proposed lot lines shall be set prior to recording.
3. The final plat shall be signed and sealed by the NH Licensed Land Surveyor.

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4. Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
5. 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.
6. Applicant shall prepare deeds for the transfer of the property, and shall be ready for recording at the same time as the plat. If the lot line adjustment between 265 Elm Street and 118 Peaceful Lane is approved, that plat and deed shall be recorded first, and reflected in this plat.
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.

All in favor. Motion passed unanimously.

- 7C. J.E. Belanger Land Surveyors, PLLC, on behalf of Thomas & Carrie Murphy and F.U.S.E. LLC, requests Minor Subdivision approval for a lot line adjustment to transfer 4.24 acres from 118 Peaceful Lane to 265 Elm Street in the Open Space Residential (RO) Districts. (2023-112)

On a motion by Vice-Chair Carol Foss, seconded by Mr. Hicks, the Board voted unanimously to determine the application complete, and not a Development of Regional Impact.

Chairman Woodfin opened the public hearing.

Chairman Woodfin confirmed that the Staff update is the same as item 7B. Jacques Belanger (J.E. Belanger Land Surveying) represented the application.

Mr. Belanger confirmed the proper acreage to be 4.24 acres, not 2 acres, is being transferred from 22 to 28. Ms. Fenstermacher confirmed that it is listed properly in the report.

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 staff reports and packets provided to the Board.

On a motion made by Mr. Hicks, seconded by Mr. Fox, the Board voted to **grant the following waivers to the Subdivision Regulations**, utilizing the criteria of RSA 674:36, II (n), criteria (2), which states that “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” with the condition that this information be provided for any future development proposed on the parcels.

- Section 12.08(3) Existing Topography to not provide topography since no development is proposed
- Section 12.07 Wetland Delineations, to not delineate wetlands
- Section 12.08(4) Soils, to not provide soil data
- Section 12.08(5) Natural Features, to not show natural features on the plat
- Section 12.08(6) Community Features, to not show community features

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- Section 12.08(23) (b, c, & d) Tabulations, to not provide tabulations for natural features, useable land, and lot coverage.

All in favor. Motion passed unanimously.

On a motion made by Vice-Chair Carol Foss, seconded by Mr. Hicks, the Board voted to **grant Minor Subdivision approval** for the lot line adjustment between 265 Elm Street and 118 Peaceful Lane, subject to the following precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

- (1) Address Technical Review comments to the satisfaction of Planning Division and Engineering Services Division staff.
- (2) The monumentation for the proposed lot lines shall be set prior to recording.
- (3) The final plat shall be signed and sealed by the NH Licensed Land Surveyor.
- (4) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
- (5) 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.
- (6) Applicant shall prepare deeds for the transfer of the property, and shall be ready for recording at the same time as the plat. If the lot line adjustment between 110 and 118 Peaceful Lane is approved, this plat and deed shall be recorded first.
- (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.

All in favor. Motion passed unanimously.

7D. TFMoran Inc, on behalf of Interchange Development, requests Conditional Use Permit approval for construction of a new wireless telecommunications facility at 23 Interchange Drive in the Industrial (IN) District. (2023-105)

On a motion by Vice-Chair Carol Foss, seconded by Mr. Hicks, the Board voted unanimously to determine the application complete, and a Development of Regional Impact. Public notice to the affected communities has been made.

Chairman Woodfin opened the public hearing. David & Laurie Rauseo (Interchange Development, LLC) and Martin Lavin (C² Systems) presented the application.

Beth Fenstermacher provided a Staff update. The CUP was pulled from the Major Site Plan application and made its own entity to allow them to expedite the project faster. Ms. Fenstermacher stated that she reviewed the most recent wireless facility application, which was an application submitted in 2010 by St. Paul's School. At that time, City Staff had recommended that the Applicants hire a third-party consultant to review the Engineering report. She noted that Staff does not have the expertise to determine if what was presented with this application is correct, and is asking the Board to determine if they want to rely on the testimony tonight, or hire a third-part consultant. She further noted that for the St. Paul's School review, the third-party consultant made recommendations for a monopole, and gauged the height requirements carefully against the needs

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in that area. The application is required to go before Architectural Design Review so this won't be a vote for approval tonight.

Mr. Rauseo reviewed the proposal, stating that they have decided to relocate the tower to a more remote part of the property than what was shown in the previous Comprehensive Development Plan. It will be at the end of an existing haul road with a gravel drive. It was placed as far back as possible, avoiding the wetland and buffer setbacks. The haul road will lead to a fenced in area that holds three propane tanks for future use and five boxes set out for co-tenants. The Zoning Ordinance states that the height of the tower becomes the setback to the property boundary.

The design height is at 185 feet with the lighting rod bringing height to 191 feet.

The distance to surrounding residences calculate as .34 miles or 1,800 feet to residences on the east side (Pine Crest Circle), 1,800 feet to the north (Shoe String Road), about 1,800 feet to the west (Hannah Dustin Drive), and about 1.36 miles or 7,200 feet to residents to the south (Nickerson Drive).

Mr. Lavin presented the RF report that was produced to assess the impact of having a monopole tower at this location. Coverage in different categories were considered. Maps reflect that the existing coverage, based on the placement of surrounding area, is weak. Studies showed that reducing the height from 180 to 140 feet would lose close to 29% of population coverage, 26% of the area coverage, and 15% of roadway coverage. For comparison of heights, the Wheelabrator smokestack is 235 feet. After consideration was made and research done, it was determined that placing the unit on top of the smoke stack would not be a viable option for reasons such as heat index and safety concerns.

Mr. Santacruce questioned what the Applicant's contingency would be if they could not obtain a ground mount transformer. Mr. Rauseo stated that companies are rebuilding them now and the wait times are quite a bit less than the two-year average. They identify the need for their transformers as early as possible and send the request in, reserving them. Mr. Santacruce inquired about the color of the pole. Mr. Rauseo responded that it would be galvanized steel, designed to blend to the sky and requires lower maintenance.

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

Ms. Fenstermacher informed the Board that an abutter from 6 Whitney Rd supports the application and looks forward to the improved service this tower will provide for cell phone coverage.

Mr. Hicks motioned, seconded by Mr. Santacruce, **to grant the CUP approval for the telecommunications tower**, contingent on approval by the Architectural Design Review Committee. The Applicant will not be required to return to the Board if ADR approval is granted.

All in favor. Motion passed unanimously.

- 7E. 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 overlooks, and an expanded parking area at 11 Canal Street in the Opportunity Corridor Performance (OCP) District. (2023-107)

Chairman Woodfin opened the public hearing. Matt Walsh (Deputy City Manager) presented the application.

Ms. Fenstermacher stated that while this is a City project and approvals are not required, they are seeking the Board to make a recommendation to City Council on the discontinuance of a portion of Canal Street.

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Mr. Walsh stated this is the final phase of a 20-year effort to renovate the leather tannery site. The City is proposing to build a 2.5-acre park on the corner of Canal and Village Streets. Mr. Walsh reviewed the aspects of the park to include a 34-space parking lot, scenic overlook, fishing pier, 24x36 pavilion with restrooms, and large grassed knoll that will serve as an amphitheater. The development is atop a cap of approximately that covers approximately an acre of contaminated material limiting what can be done for amenities. Significant streetscape improvements between Village and Crescent Streets are proposed. They are attempting to go with a ten-foot wide path instead of a standard sidewalk to connect with the future development of the Merrimack River Greenway Trail, requiring acquiring additional right of way from the Caleb property. The goal is to begin the streetscape improvements in July. The development would also include changes to the right of way on Canal Street, which requires discontinuance for the underlying land to be merged with the park property for parking.

Chairman Woodfin would like to see improvements made to the entrance and dumpster area behind Chiefs. Mr. Walsh stated the design is trying to provide a pseudo private access way to the adjacent apartments and restaurant. The City is responsible for all the street scape improvements, to be completed by General Services as part of the paving project.

Mr. Santacruce is concerned about the intersection striping of the lanes on Canal Street and suggested pushing up the curb line. He felt there were some concerns with driveways not being depicted in the renderings. Mr. Santacruce confirms that the corner walkway is ADA accessible but the design is weird.

Chairman Woodfin sought clarification for those that want to utilize the parking for fishing and leisure. Mr. Walsh confirmed that this parking lot will not be exclusive to park use and a portion of it is leased to the adjacent properties under existing agreements.

Vice-Chair Carol Foss inquired about the fencing design and land / water interface being protected. There is an agreement with Briar Hydro, regarding requirements for fencing for safety purposes, due to the presence of the dam. They are considering features such as vertical membered, unclimbable, black, metal, and ornamental.

With no additional comments from Staff, members of the Board, or public, Chairman Woodfin closed the public hearing and thanked the applicant for the opportunity to provide feedback to the consultants relative to the overall concept and design of the project.

Vice-Chair Carol Foss motioned, seconded by Mr. Hicks, to **recommend to the City Council that a portion of Canal Street be discontinued, that a Right-of-Way easement deed be accepted from Caleb Penacook Limited Partnership to widen a portion of Canal Street, and that a sanitary sewer easement be conveyed by the City to Caleb Penacook Limited Partnership.**

All in favor. Motion passed unanimously.

7F. 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)

This application was previously determined complete and the board voted unanimously to open it for public hearing.

Mr. Bass provided a Staff update. This is a subdivision for three new house lots and one parent lot to remain. The Applicant is requesting a waiver regarding submitting landscape plans signed by a licensed landscape architect (Section 28.01). Staff would like considerations made whether or not to have shared driveways and clarify restoration within Elm Street. Engineering has concerns about

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mill and overlay and existing pavement that will be left. Staff would like this to be a full reclaim and complete restoration.

Chairman Woodfin opened the public hearing. Joe Wichert (Joe Wichert LLS, Inc.) and Ian McGregor (Northpoint Engineering) presented the application.

Mr. Wichert gave an overview of the project. They are asking for one waiver for the landscape plans. They were agreeable to the street trees but asking to do it less formally. They have addressed the latest comments from Staff.

They are working through technical comments. The Applicants prefer to not have to share a driveway. There would only be one less curb-cut if shared. Full width overlay is being recommended by Engineering while the street is being ripped up. There is a third of an acre to each of these properties. Each driveway is on the right-hand side of the lot. Mr. Santacruce noted that the Board is being asked to approve four curb-cuts, not three.

Vice-Chair Carol Foss voiced that individual driveways keep in sort with the rest of the neighborhood. In this case, Mr. Santacruce is not in favor of the shared driveway.

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 Vice-Chair Carol Foss, the Board voted to **grant the waiver** to Section 28.01 to not have the plans be stamped by a licensed landscape architect.

All in favor. Motion passed unanimously.

On a motion made by Mr. Santacruce, seconded by Vice-Chair Carol Foss, the Board voted to **grant Major Subdivision approval** for the proposed 4-lot residential subdivision 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) 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.

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- (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) Restoration of Elm Street will be a 12” reclaim with 4” of pavement on top meeting the requirements of City Engineering and City of Concord Construction Standards.
- (b) Subsequent Conditions – to be fulfilled as specified:
 - (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.
 - (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. 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)

This application was previously determined complete.

A Staff update was provided by Alec Bass. The site currently has a 3-unit residential building and six-bay garage. The Applicants are proposing to renovate the inside existing multi-family unit and through phases add on to this unit, rebuild the detached garage for storage space, and add apartments on the second floor of the garage. Architectural Design Review is not recommending approval without the applicant coming back to address concerns with colors, materials, and layout.

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The Applicant is asking for three waivers: 1) To allow for a 53-foot wide driveway, where only a 28 is permitted. Staff is not in support of this. 2) To not have to establish a sidewalk along the frontage and pay a fee in lieu. Staff is not in support of this 3) To not require all the impervious area stormwater runoff to be treated. Staff does support this waiver.

The Applicant is also requesting two CUP permits. 1) To allow a 22-foot wide driveway where 24 is required. Staff supports the CUP. . 2) To allow two driveways with only 247.35 feet of frontage, where 250 is required. Staff is in support of the CUP.. The Applicant has provided a revision that Staff has not completely reviewed. Staff has recommended reorientation of the new structure to relocate the access to the parking lot side of the building.

Chairman Woodfin brought the Board's attention to the supplemental attachment. He noted that the plans and architectural renderings are stunning. He asks the Board to note the parking area in front of the garage, with street level parking.

Chairman Woodfin opened the public hearing. Jeff Lewis and Aaron Thibault (Northpoint Engineering) and Dan Martin (Property Owner) presented the application.

Mr. Martin reviewed the project design and history. Currently the property is an eyesore and severely underused. It makes up a little bit less than a third of street frontage of Thomas Street, giving it a large street presence. It required a handful of variances. This property has direct exposure to Loudon Road and Hazen Drive. Mr. Martin's vision is to turn this property from the current eyesore it is into a building code compliant development with curb appeal and street presence.

Mr. Lewis began this project in the Spring of 2020. They are looking to expand the building and add additional units. He is currently permitted nine units on the property. He decided to hold off for a year, now two, in hopes that he could have 10 units. This past fall, Mr. Martin decided to move forward with the nine units. He has received five variances. The only one he did not obtain was for the 10th unit. The Applicants would like the 10th unit considered for future building.

The property is located on a dead-end road. Two units would be placed on top of the rebuilt garage. They are proposing to lose one of the bays and move the garage out of the 10-foot setback slightly. The existing residential building would have six units on two stories, three on the first and three on the second. A future addition (3rd phase) on the north end of the building, adding two more units, would equal ten units. The design shows a looped driveway. All the parking is currently in the front of the existing house. The parking would be relocated to the back of the garage structure. They are asking to access and extend the dead-end part of Thomas Street and add more parking to avoid an additional curb-cut. The City owns it so a license is needed from Council. The intent for the spaces in front of the garage are meant to provide curb appeal and access into the garage bay but not meant for designated parking spaces. There are currently 20 parking spaces, two per unit (anticipating the future 10th unit). There are five garages, intended to be used as storage for extracurricular equipment and extra cars. The renderings show parked cars in front of the garage doors encroaching the City right-of-way, but that is incorrect, it is not the intended use.

Architectural Design Review members requested the Applicant return to provide materials and colors.

Mr. Lewis stated the Applicant does not feel a sidewalk is merited, being on a dead-end street, but they are willing to put one in if it means not holding up the project.

A concern was raised regarding snow storage. The design assigns two of the twenty parking spaces for this.

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In prior communication, Engineering addressed the need for trash removal. The desire of the Applicants is to have curb-side pick-up. There is a City code regarding solid waste that indicates any curb side trash pick-up is for less than eight units. Eight or more indicates a dumpster. Ms. Shank noted that General Services was asked for clarification regarding the language. The Board prefers curb-side pick-up to avoid views of a dumpster from Loudon Road. Ideally placement would be away from snow storage areas but they are willing to work with the Board on placement.

All the services will be upgraded, including water and sewer. Two residential style lighting fixtures will be placed in the parking area.

Chairman Woodfin voiced concern over the driveway being placed where parking is not permitted. Mr. Santacruce stated eliminating the driveway and design the doors to be more of storage looking doors to avoid the temptation of parking. He is not in favor of waiving the sidewalk because of the connection to Loudon Road. Ms. Savage requested some form of natural screening to block the site line of dumpsters from Loudon Road.

Ms. Savage asked if the units on top of the garage require a front facing door. Ms. Shank stated there is currently not a code requirement for this. Mr. Santacruce noted there is no sidewalk or internal access to the garage area from the units above. Vice-Chair Foss asked if it would behoove the designer to consider moving the access doors to the garage / storage units to the back side.

Vice-Chair Foss posed a question regarding where the drainage of snow water at that end of the parking lot will flow into. Mr. Lewis stated it would flow down into the catch basins in the parking lot.

The lighting will be full cut-off. Vice-Chair Foss urges Staff to find a way to approve the Applicant's ability to use curb-side disposal, especially for recycling. Ms. Shank does not see anywhere else that the dumpster can go, if this is the route they need to take. She noted that it can be screened.

Mr. Santacruce confirmed whether the hammerhead on City property is less than 24 feet, requiring a pinch point. Mr. Lewis noted having a variance allowing for a 22-foot wide driveway.

Mr. Martin addressed Ms. Savage's concern regarding the noise of the garage doors, stating that they make whisper belts. Mr. Fox stated the advantages of a garage bay vs. storage door styles.

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. Hicks, seconded by Vice-Chair Carol Foss, the Board voted to **grant the following waiver 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 22.07 (5) Water Quality Standards, to allow impervious stormwater runoff in the parking area at the end of Thomas Street to not be captured and treated as required.

All in favor. Motion passed unanimously.

On a motion made by Chairman Woodfin, seconded by Mr. Hicks, the Board voted to **grant the waiver** to Section 19.03 Residential Driveway and Access Standards (SPR) to allow a 53 feet wide driveway where a maximum width of 28 is allowed.

Motion passed with a 6 / 1 majority vote.

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On a motion made by Chairman Woodfin, seconded by Mr. Hicks, the Board voted to **grant the waiver** to Section 21.02 Sidewalks Required, of the Site Plan Regulations to not provide a sidewalk along the full frontage of the property and instead provide a sidewalk connecting Loudon Road to the Southern part of property. The applicant shall pay a fee in lieu of constructing the remainder of sidewalk along their frontage.

All in favor. Motion passed unanimously.

On a motion by Mr. Hicks, seconded by Mr. Fox, the Board vote to **grant ADR approval**, Staff recommends granting the approval subject to the applicant returning to ADR to review colors, materials, window styles, and shutters; and revising application materials to match the plan.

All in favor. Motion passed unanimously.

On a motion by Mr. Hicks, seconded by Vice-Chair Foss, the Board vote to **grant the following Conditional Use Permits** in accordance with Section 28-7-11 Alternative Parking Arrangements of the Zoning Code of Ordinances (ZO).

- Section 28-7-11(g) Driveway Width Reduction where the total traffic will be less than 35 vehicle trip ends on a weekday to allow for a 22 ft two-way access driveway where normally 24 ft would be required.
- Section 28-7-11(f) Driveway Separation Alternatives where compliance cannot be achieved in order to allow the establishment of two driveways having only 247.35 ft of frontage where 250 ft is required and the separation of 17.77 ft from proposed and existing driveways where 40 ft is normally required.

All in favor. Motion passed unanimously.

On a motion by Mr. Hicks, seconded by Vice-Chair Foss, the Board vote to **grant Major Site Plan approval** for the proposed multi-family use at 5 Thomas Street, 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.
 - (2) Address all review comments to the satisfaction of the Engineering Services Division.
 - (3) Obtain a license from City Council for encroachment and construction of the parking area on the City owned parcel and also to create an access easement for the City snow plow operations.
 - (4) Condition Use Permit(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Zoning Ordinance. Should the Board vote to deny the Conditional Use Permit(s), applicant shall comply with said submission requirements.
 - (5) Waiver(s) granted are to be noted and fully describe on the plan, including the date granted and applicable Section number(s) of the Site Plan Regulations. Should the Board vote to deny the waiver(s), or the applicant cannot meet conditions of the waiver, the applicant shall comply with said submission requirements.
 - (6) Final plans shall be signed and sealed by the NH Registered Land Surveyor, Landscape Architect, and Professional Engineer.

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(7) Submit three (3) copies of final plans for sign off by the Clerk and Chair of the Planning Board.

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

- (1) The applicant or designated agent shall contact the Engineering Services Division to schedule a pre-construction meeting prior to the start of any construction activities onsite. See Engineering memo for additional pre-construction items to be addressed.
- (2) Prior to issuance of a Certificate of Occupancy for each phase, 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.
- (3) Traffic and recreation impact fees shall be assessed for any residential construction contained within the limits of the approved site plan. 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 – Multi-unit/Apartment

b. Transportation Facilities - Multi-unit/Apartment

All in favor. Motion passed unanimously.

7H. 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 provided a Staff update. There is concern that this application was not listed on the agenda for a public hearing. Ms. Shank was acting on the assumption that an agreement was made at the previous public hearing that this project would undergo a municipal services study. The City was in the process of obtaining a consultant and did not feel there was anything new to present, thus advised the public that it would not be a public hearing. She notified the Applicant of this the week before.

The Applicant advised Ms. Shank at 4:30 p.m., the day of the meeting that they wanted a public hearing. Since the public hearing was technically continued at the May meeting to the June meeting date, it is considered to have been noticed. She reiterated that members of the public who called were told that there would be no public hearing, and as a result, chose not to attend. In addition, Staff has not received anything from the Applicant to make available to the public for review. Ms. Shank reminder the Board that everything was approved last month except for the major site plan, contingent on the public municipal services concern at hand.

The public hearing was continued from the May meeting. John Cronin (Bisson & Zalinsky, PC), Mark Fougere (Fougere Planning & Developing Inc.), and Andy Sanborn (Applicant) presented the application.

Mr. Cronin provided a recap of last month's public meeting to include submission of a public service impact statement. The Board had some concerns with the lack of EMS and Fire services. The Applicant was concerned that a consultant would not be found by the City in a timely manner

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so enlisted the services of Mr. Fougere. Mr. Cronin stated not hearing back until Friday that the City had elected to go with an alternative consultant that would require a payment of \$15,000.00 and a 60-day window from when payment was received. The Applicant asked Mr. Fougere to move forward with his evaluation. Mr. Fougere was contacted as a result of a suggestion from Staff in April. The data in the table submitted includes Phase 2 of the project proposal in its analysis.

Ms. Shank confirmed that this application was continued to the current meeting and not “tabled to no date certain.” Mr. Cronin stated that the City’s 95-day clock ran out in April and they were just here tonight to provide the information the Board asked for with respect to Fire and EMS.

Mr. Sanborn recalled for the Board that the May minutes specify Ms. Rosenberger’s request for this report to be available for the June meeting.

Mr. Fougere received concerns from Mr. Cronin stating Staff and Board concerns regarding the municipal impacts this project may have on emergency services. He provided a report stating that the City receives roughly 53,000 calls per year for service and the Fire Department, roughly 5,800. He considered four projects / casinos in this region: Oxford, ME, Boston Billiards in Nashua, Casa Blanca in Belmont, and The Brook in Seabrook. The report reflects information and totals received by phone call from all four locations. Mr. Fougere anticipates, based on his findings, that Phase 1 of this project will bring in 110 calls annually, equaling two calls per week, 14 fire calls 40 EMS calls.

The future Phase 2 calls for an expansion. Those calls would increase to 130 for police, 17 for Fire, and 47 for EMS. Mr. Fougere also looked at other commercial uses in the region because of the other uses Phase 2 proposes. The Grappone / Marriott Conference Center defined as a 21,00 square foot - 90 room hotel. Emergency services receive roughly 35 calls per year and 5 fire calls.

Oxford Maine has a hotel which is attached to the casino. It holds 107 rooms. They receive about 20 police calls and 4 Fire EMS. The Draft in Concord is 26 and 5. Wal Mart receives 421 police calls per year and 42 Fire and Police. Comparably, the Olive Garden and 99 restaurants list data as well on the report.

Mr. Fougere received a call from the Tupelo Music Hall in Derry, NH (700 seats) to compare to the anticipated Phase 2 venue allowing 800 seats. The Derry Police Department does not receive a lot of activity regarding this location, 11 calls per year and 4 EMS.

Mr. Fougere reviewed his process of the analysis. He feels this project will provide economic opportunity on Loudon Road. He noted a decrease in value in this neighborhood, particularly the Mall losing over \$70,000,000.00 from the last 15 years which equates to over 1.5 million in tax revenue. He feels this project will help fill that void.

Chairman Woodfin confirmed the table Mr. Fougere provided was submitted to City Staff. He noted going from a 90-page report last month to one-page this month. Mr. Cronin asked Mr. Fougere to attend the Planning Board hearing to review his conclusions and share his professional opinion as to whether he feels this particular project will create an unusual risk on public safety services. Mr. Sanborn reminded the Board that they were seeking more information specifically regarding Fire and EMS response, resulting in Mr. Fougere’s report focusing on that. Mr. Sanborn feels that, month after month, they’ve fulfilled the Board’s and Staff’s requests for information in support of the project to the best of their ability.

Ms. Rosenberger confirmed the date of the report data provided: Oxford Maine, Casa Blanca in Belmont and The Brook in Seabrook cover the annual period of 2022-2023 and Boston Billiards in Nashua covered 2018-2019.

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Chairman Woodfin reminded the Applicant that the public was notified that there would not be a public hearing tonight and that he did not feel it wise to offer approvals or feedback without the public's ability to give feedback. He asked what the expectations are of the Applicants at tonight's meeting. Mr. Cronin stated that the information provided warrant an approval.

Mr. Santacruce is not comfortable with making motions on information brought before the Board the night of the meeting, not giving the Staff, Board, and public time to review and comment on it, especially when it was the public that had concerns. He is also concerned that back up data was not provided. Mr. Fougere stated being able to provide this. Mr. Sanborn addressed Chairman Woodfin's concern regarding the current contract the City has to complete a similar study with a different contractor and being invoiced for it by stating he has not paid Staff for this new analysis. It has been his experience that studies would not be completed prior to being paid for, therefore no invoice would be generated. Mr. Sanborn voiced concern over not receiving information until three and a half weeks after the meeting, leaving little time to get things done for this meeting. Mr. Sanborn voiced his understanding to be that Planning Board's approval of this plan should be not be decided upon contingent on the reports he is being asked for over the past three months, including June. The Applicant recalled a comment from Mr. Hicks regarding the timeline of approving this application and Ms. Rosenberger's comment for the analysis results to be done by the June meeting.

Ms. Shank reminded the public and the Board that Ms. Rosenberger's comment reflected the desire to see some activity happen in a timely manner. She stated that there was blatant understanding that Staff would not be able to hire a consultant and receive a report in time for June's meeting which is why it was suggested to table it until no date certain. Mr. Sanborn disagrees. He remembered it as Mr. Fougere being able to complete the study for June's meeting and Staff not hiring him. Ms. Shank stated that is irrelevant if Mr. Fougere was ready when the City's process requires three submittals. She stated having on-call consultants eliminating the need for three submittals. All of these consultants were approached first. If the City used Mr. Fougere's submittal, Staff would still be required to obtain two additional proposals per policies of our Purchasing Department. Only one of the three on-call consultants approached were able to entertain the request. The proposal ascertained from this consultant covered everything requested by the Board, with concise methodology of what they were going to do. Another proposal was received from a private consultant, and was similar in quality. Both of these proposals were \$15,000.00, negotiated down from a higher price. Mr. Fougere also submitted a proposal that did not address all of the things that the Board asked for. It had the least amount of information that addressed what was being asked for. Ms. Shank advised the Applicant of the fee last Friday, June 16th, when the contract was signed, and let them know that the analysis would be completed in two months, and potentially by the August Planning Board hearing, if payment was submitted. She stated the proposals were not requested by the Applicant, or it would have been provided. Mr. Cronin asked about the timeline for the proposals. Ms. Shank stated that Mr. Fougere submitted his report the first week after the May Planning Board meeting, the second one was submitted the second week after the May meeting, and the third, the third week after the May meeting. Ms. Shank reached out to consultants the day after the meeting and informed them of the time sensitivity of these reports being completed. Mr. Nolon (TFMoran Engineer) was made aware of all of this.

Chairman Woodfin is not comfortable with making decisions tonight without public comment and enough time for the public to evaluate. Ms. Shank noted the report is a table of information. It lacks methodology and breakdown of the numbers, leaving Staff at a loss as to how to evaluate or process them. Her report would pose more questions based on how Mr. Fougere's findings were submitted.

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Chairman Woodfin seeks the Board's pulse on the situation. Ms. Shank addressed Mr. Fox's concern over mutual liabilities if a vote is taken at this hearing, stating that at the last meeting the Planning Board postponed the public hearing to June 21st. As the Staff person, Ms. Shank was operating under the assumption that everyone was on the same page and nothing new would be reported tonight. Therefore, she informed a half dozen people that there would not be a public hearing.

Ms. Rosenberger clarified that Staff made the determination to tell the public it wasn't a public hearing, not the Board. The fact is the application was postponed, leaving the Board in an awkward position.

Chairman Woodfin felt that it would be wise to get public input before approving the application. Ms. Shank reminded the Board that no one was aware that the Applicant would go ahead with their own study until 4:30 p.m. and the Applicant received notice last Friday that the City hired a consultant. After clarifying that the study the City contracted out would take up to 60 days from when the consultants receive payment from Mr. Sanborn, Ms. Shank offered two options to decide on: 1) Accept Mr. Fougere's analysis tonight or at next month's hearing or 2) For Staff to proceed with the third-party consultant.

Mr. Hicks asked when the 95 days began, what that means, and the default approval date should be. Ms. Shank responded that from a regulatory perspective, Mr. Cronin, believed the clock ran out at the April 2023 meeting. The City does not agree with this. Mr. Sanborn asked for postponement at the May meeting, allowing the time to not run out. This was received as permission to postpone the hearing until the June meeting.

Chairman Woodfin clarified the Board's options to be 1) The Board accept the data from this meeting and go to public hearing in July with full anticipation of proposing the information and inform the public of their last chance to be heard, then make their determination. 2) Wait to hear back from the City consultants, or 3) Move forward with approval or denial tonight. Chairman Woodfin asked the Board to consider whether or not they are comfortable with the data they received tonight.

Ms. Rosenberger would like to expedite the study for the July meeting. Ms. Savage is concerned about the date ranges of the data proposed tonight, ranging from 2018 to 2022, and would like to see specific details. When Mr. Fougere ran statistics, he avoided COVID years. His stated that his data does include what the Board asked for.

Mr. Santacruce stated that he wants written documentation, rather than verbal reports from a phone call to validate study information, otherwise the information is considered hearsay. Mr. Fougere stating that would be easy to do. Mr. Hicks is uncomfortable asking for this for the purpose of relevance. He disagrees over the Board's ongoing issue of needing information and then disputing how it was completed. He asked how a study from RKG (City's consultant) be any different. He felt the Applicant should ask the Board to vote tonight. Ms. Rosenberger asked if the agreement we signed with RKG is contingent upon work being completed. Ms. Rosenberger also confirmed that the Applicant is willing to provide the data and specifics regarding the tables.

Chairman Woodfin reviewed the options on the table, now down to two. 1) Ask the Applicants to agree to postpone to the July meeting, notice it, and give the public an opportunity to weigh in on the new data proposed tonight or 2) Vote on it now.

Mr. Hicks confirmed whether or not we had to Notice this meeting to the public. Ms. Shank stated that the notice was when the Board continued from the May meeting. Mr. Hicks reminded the Board that a mistake was made in telling the public they would not be heard tonight and whatever

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consequence that brings should not fall on the Applicant. Ms. Shank responded that the outcome tonight ultimately reflects on the Board. Mr. Hicks felt this has gone on long enough and made a motion to approve.

Ms. Rosenberger suggested asking Mr. Fougere to break down the data he provided and call RKG (the consultant the City hired) to see if they could complete their report by the July meeting.

Mr. Sanborn reviewed the options the Board has. He claims he never asked the Board to extend his application. He reminded the Board that they voted on all the other waivers that were presented last month and then moved on without making a motion for the site plan until reminded by Mr. Sanborn to do so. At that time, the Board voted to continue to this month. The options as Mr. Sanborn sees them are 1) Force a continuance, 2) Approve, 3) Disapprove. Mr. Sanborn conceded to have Mr. Fougere complete the report per Board's request. Respectfully, Mr. Sanborn feels he is being picked on. He has complied with everything the City has requested.

Mr. Hicks advised the Board to take a vote.

The Board adopted the findings of fact based on the RSAs pertaining to deadlines regarding site plan regulations and information and public testimony the Board has received tonight.

On a motion by Mr. Hicks, seconded by Ms. Rosenberger, the Board moved to **grant Major Site Plan approval** for the construction of Phase 1, consisting of a new building of approximately 45,000 square feet and related site improvements, 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) Submit a traffic signalization plan to be reviewed by City staff, and address any staff comments as required.
- (3) As part of offsite improvements provide a sidewalk to the Loudon Road intersection, a pedestrian crosswalk across the intersection, and a sidewalk connection to the existing sidewalk to the west.
- (4) Provide documentation that wetland mitigation has been provided to the satisfaction of NHDES.
- (5) 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).
- (6) Final plans shall be signed and sealed by the NH Registered Land Surveyor, Landscape Architect, and Professional Engineer.
- (7) Submit three (3) copies of final plans for sign off by the Clerk and Chair of the Planning Board.

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

- (1) Prior to commencement of construction activity, payment of inspection fees in an amount approved by the City Engineer shall be made.

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- (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) Prior to issuance of the final Certificate of Occupancy or final construction sign-off, all on-site and off-site improvements shall be completed to the satisfaction of Engineering and Planning staff.
- (6) 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.

Motion passed with a 4 / 2 majority vote. Ms. Foss abstained from voting.

Other Business

8. Wilcox & Barton, LLC, on behalf of the Boys & Girls Club, requests an amendment to a conditionally approved Major Site Plan application approval for construction of a new structure to be used as a community center at 76 Community Drive. (2022-71)

The Applicant requested an amendment to a conditionally approved Major Site Plan.

Beth Fenstermacher provided the Staff update. Their application has been Conditionally Approved. They have been working with the Engineering Department. They cannot meet the City's stormwater regulations. They are requesting a waiver, with Engineering's support.

The Board adopted the findings of fact which included the information provided in staff reports and packets provided.

Motioned by Mr. Hicks, seconded by Mr. Santacruce, to grant the two drainage waivers and one survey data waiver subject to the conditions Staff noted in their report. Chairman Woodfin recused himself from voting. Of those who voted, all were in favor. Motion passed.

9. 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)

This item was moved to Public Hearings as Item 7H.

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. (2023-97)

The Applicant agreed to table the application to no date certain. They will re-notice when they get clarification from the church.

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Mr. Santacruce motioned, seconded by Vice-Chair Foss to table the application to no date certain. All in favor. Motion passed.

11. 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)

The Applicant requested to postpone to the July 19th, 2023 meeting.

Ms. Savage motioned, seconded by Vice-Chair Foss, to postpone until the July 19th Public Hearing. All in favor. Motion passed unanimously.

12. Architectural Design Review Appointments: Ms. Shank let the Board know that the ADR Committee now has 2 vacancies, and that meeting quorum is of concern. She asked that Board emembers assist with recruiting two new members or let staff know if they had any recommendations. Member Savage offered to be an alternate in the short term. Ms. Shank noted that the Board would need to amend the Site Plan Regulations to allow a Board member to serve as an alternate.

13. Any other business which may legally come before the Board.

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 10:58 PM.

Next regular monthly meeting is Wednesday, July 19th, 2023

TRUE RECORD ATTEST:

Alicen Twardosky
Administrative Specialist II