

City of Concord Planning Board
March 20, 2024
Minutes

The regular monthly meeting of the City Planning Board was held on March 20, 2024, at 7:00 p.m., in City Council Chambers at 37 Green St, Concord.

Attendees: Chair Richard Woodfin, Members Jeff Santacruce, Amanda Savage, David Fox, Matthew Hicks, Teresa Rosenberger (Ex-Officio for City Manager), Erle Pierce, and Councilor Brent Todd

Absent: Mayor Byron Champlin, Alternates Chiara Dolcino and Frank Kenison

Staff: AnneMarie Skinner (Acting City Planner), Alec Bass (Senior Planner), Krista Tremblay (Administrative Specialist II), Peter Kohalmi (Associate City Engineer), and Matt Walsh (Deputy City Manager – Community Development)

1. Call to Order

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

2. Roll Call

David Fox, Jeff Santacruce, Amanda Savage, Teresa Rosenberger, Matthew Hicks, Erle Pierce, Councilor Brent Todd, and Chair Richard Woodfin

2a. Nomination and election of Chair and Vice-chair for 2024

Mr. Hicks nominated Richard Woodfin as chair for the Planning Board. Mr. Santacruce seconded. All in favor. The motion passed unanimously.

Mr. Hicks nominated Erle Pierce as vice-chair for Planning Board. Ms. Rosenberger seconded. All in favor. The motion passed unanimously.

3. Approval of Meeting Minutes

On a motion made by Mr. Santacruce, seconded by Mr. Hicks, the Board voted in favor of approving the February 21, 2024, Planning Board meeting minutes, as written. The motion passed unanimously.

4. Agenda Overview

Chair Woodfin stated that agenda items 9a, 9c, and 9f were continued to April 17, 2024 at the request of the applicants.

Mr. Santacruce made a motion to continue agenda items 9a, 9c, and 9f to the April 17, 2024 Planning Board meeting. Ms. Savage seconded. All in favor. The motion passed unanimously.

5. Design Review Applications by Consent

5a. Linda Harrington, on behalf of BGOOD, requests Architectural Design Review approval for an existing 22.5-square foot internally illuminated building sign, 12 existing non-illuminated window signs of sizes 0.72 square feet, 4.1 square feet, and 2.9 square feet at 10 Fort Eddy Rd in the Gateway Performance (GWP) District.

5b. CED requests Architectural Design Review approval for an existing 36-square foot internally illuminated building sign at 254 Sheep Davis Rd in the Gateway Performance (GWP) District.

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- 5c. Harvey Signs, on behalf of Capital City Kia, requests Architectural Design Review approval for a new 130-square foot and a new 36-square foot internally illuminated freestanding sign at 158 Manchester St in the Highway Commercial (CH) District.
- 5d. Lexie Nguyen, on behalf of Signature Nails and Spa, requests Architectural Design Review approval for an existing 15-square foot externally illuminated building sign and an existing 21.67-square foot internally illuminated pylon tenant panel sign at 89 Fort Eddy Rd in the Gateway Performance (GWP) District.
- 5e. Sarah Leslie, on behalf of Luxe Nova Medical Aesthetics & Wellness, requests Architectural Design Review approval for a new 19.1-square foot internally illuminated building sign at 374 Loudon Rd in the Gateway Performance (GWP) District.
- 5f. Advantage Signs, on behalf of Century 21 North East, requests Architectural Design Review approval for an existing 1.25-square foot externally illuminated freestanding sign panel at 46 Pleasant St in the Civic Performance (CVP) District.
- 5g. Keith Baribeault, on behalf of Staples, requests Architectural Design Review approval for an existing 41-square foot non-illuminated building sign, an existing 41.5-square foot non-illuminated building sign and an existing 44-square foot internally illuminated building sign at 76 Fort Eddy Rd in the Gateway Performance (GWP) District.
- 5h. Rob Whiting, on behalf of H&R Block, requests Architectural Design Review approval for an existing 9-square foot internally illuminated window sign at 240 Loudon Rd in the Gateway Performance (GWP) District.
- 5i. Sousa Signs, on behalf of DSM MB II, LLC, requests Architectural Design Review approval for a new 16.3-square foot internally illuminated pylon tenant panel and a new 0.9-square foot non-illuminated door sign at 14 Loudon Rd in the Gateway Performance (GWP) District.
- 5j. Advantage Signs, on behalf of WB4, LLC, requests Architectural Design Review approval for three new internally illuminated building signs in the sizes of 50 square feet, 50 square feet, and 41.64 square feet, as well as a new 42-square foot non-illuminated door sign at 2 Home Ave in the Opportunity Corridor Performance (OCP) District.
- 5k. Marc Alger, on behalf of Roy Donlon, requests Architectural Design Review approval as part of a building permit application for exterior alterations at 63 Hall St in the Opportunity Corridor Performance (OCP) District.

On a motion made by Mr. Pierce, seconded by Mr. Hicks, the Board voted unanimously to approve applications 5a through 5k as submitted, subject to the recommendations of the Architectural Design Review Committee. All in favor. The motion passed unanimously.

6. Determination of Completeness Items by Consent

- 6a. Thomas E. Zajac, Jr. and Hayner/Swanson, Inc., on behalf of Stickney Avenue, LLC, request a one-year extension of conditional approvals of Major Site Plan, Architectural Design Review, and

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Conditional Use Permit applications for the redevelopment of five vacant New Hampshire Department of Transportation highway garage structures into 80 multi-family residential units. The side is addressed as 11 Stickney Ave in the Opportunity Corridor Performance (OCP) District. Original approve was received on March 15, 2023. (2022-78)

On a motion by Mr. Pierce, seconded by Mr. Hicks, the Board voted unanimously to approve the extension request to extend approval to March 15, 2024. All in favor. The motion passed unanimously.

7. Determination of Completeness Items by Consent

- 7a. Timothy S Blagden and the Friends of the Concord-Lake Sunapee Trail request Major Site Plan approval for construction of a multi-use stone gravel trail and approval for a Conditional Use Permit for wetland buffer disturbance in conjunction with the trail construction. The site comprises portions of four lots, which are identified as follows: Map 37Z 26, owned by City of Concord; Map 32Z 78, owned by City of Concord; Map 31Z 4, owned by Jerry-Wolcott Jocelyn A 1993 Trust; and Map 312Z 6, owned by Bull Meadow RE holdings, LLC. The site is generally located south of Bog Rd and east of the Carter Hill Rd/Broad Cove Dr intersection. (2024-007). This item was continued from February 21, 2024.

Mr. Pierce moved, and Mr. Hicks seconded, to determine the application complete, not a development of regional impact, and set the public hearing for April 17, 2024. All in favor. The motion passed unanimously.

Public Hearings

8. Design Review Applications

- 8a. NEOPCO Signs, on behalf of Nucar, requests Architectural Design Review approval for a new 32-square foot internally illuminated pylon panel at 13 Manchester St in the Gateway Performance (GWP) District. This public hearing was continued from February 21, 2024 at the request of the Planning Board.

Chair Woodfin reminded those present that the Board continued the February public hearing to March to allow the city solicitor the opportunity to provide the Board with a legal opinion regarding approving or disapproving phone numbers and website addresses on signs. Chair Woodfin noted that the city solicitor provided to the Board the requested legal opinion in the form of an attorney-client privileged memo. Chair Woodfin asserted that the memo was clear and concise. Chair Woodfin further stated that phones and website addresses are allowed on signs, but that the aesthetic of signs regarding color, background, the overall look of the sign, is open for review.

Glen Schadlick, the applicant, was present and inquired about the contents of the memo to which Chair Woodfin responded that the memo will not be read or made a part of the record due to its confidential nature.

Mr. Pierce moved, seconded by Mr. Santacruce, to approve the sign as submitted, which includes the website address. Chair Woodfin closed the public hearing. All in favor. The motion passed unanimously.

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9. **Site Plan, Subdivision, and Conditional Use Permit Applications**

- 9a. Erin Lambert and Wilcox & Barton, Inc, on behalf of B & L Transmissions, LLC requests Major Site Plan and Architectural Design Review approvals for construction of a new automotive repair shop and related site improvements, and Conditional Use Permit approvals for separation of driveways and wetland buffer impacts at 388 Loudon Rd in the Gateway Performance (GWP) District. (2023-143). The applicant requested a postponement of this public hearing to a date certain of April 17, 2024.

On a motion made by Mr. Santacruce, seconded by Ms. Savage, the Board approved postponing item 9a to April 17, 2024. All in favor. The motion passed unanimously.

- 9b. Altus Engineering, on behalf of Ryan Taber, requests Major Subdivision approval for an 8-unit residential condominium development at 15 Hot Hole Pond Rd in the Open Space Residential (RO) District). (2023-140)

Alec Bass, senior planner, provided a staff report. Mr. Bass stated that the applicant reduced the number of condominium units to eight for an eight-unit cluster condominium subdivision, along with a reduction in the length of the common private drive to less than 1,000 feet. Those two changes reduced the number of requested waivers to three. Mr. Bass noted that staff recommends approval of two of the waivers, but is not in support of the waiver to the underground utility requirement, due to lack of a technical challenge. Mr. Bass concluded by stating that the applicant appeared before the Architectural Design Review Committee.

Erik Sari from Altus Engineering and Ryan Taber, property owner, presented the application.

Mr. Sari stated that they reduced the unit count to eight and shortened the common private driveway to meet the fire department requirements of a length no greater than 1,000 feet. They removed the rain guard from the middle of the cul-de-sac and rearranged placement of the septic systems. They are requesting a maximum slope waiver from the required eight to the proposed ten. Mr. Sari noted that the site is very steep.

Mr. Sari also commented on the waiver to allow overhead power. Mr. Sari specified that it's only in a certain location where it is very narrow, there are no houses, and to minimize conflict with proposed street trees. All power in front of the dwelling units will be underground.

AnneMarie Skinner, acting city planner, explained that there are five criteria that need to be met for the granting of a waiver. Staff is unclear as to how the waiver from the underground utility requirement meets the five required criteria.

Mr. Sari responded by stating that the site is unique because of the existing topography and it's setting on a hill. Mr. Sari further noted that the entrance and area for the common private drive is a very narrow strip, with a steep grade, and it will be difficult to make the underground power and street trees work in the particular location being requested for the waiver.

Ms. Skinner asked if installation of the underground utilities would create an undue hardship.

Mr. Sari stated that it would be costly as well as difficult to get trees to work with underground power on such a narrow strip. They want to avoid putting underground power underneath the street because

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if something happens they will have to dig up the road. They want to keep the underground power in the shoulder.

Mr. Sari addressed the last waiver relating to slopes. They need to fit the slopes within the confines of the site four to one is the requirement and why asking for the waiver. Every other area where they are not constricted by the property they are doing 4:1 slopes. It is the restricted spot along the entrance and why asking for that waiver.

Mr. Santacruce asked about the City's comfort level with a 1:1 slope and long-term stability. Mr. Santacruce stated that rip rap is a given, but even with rip rap the 1:1 slope is very steep.

Pete Kohalmi, associated engineer, responded that he did comment on the slope in his comments.

Mr. Sari reiterated that Mr. Kohalmi did comment on it. Mr. Sari noted he has done one-to-one successfully with grass. In areas where they can go 1:1 ½ they will do that. Mr. Sari stated he felt it was consistent to do 1:1 all the way up.

Mr. Santacruce noted looking at the landscape plans in relation to the trees proposed on the 1:1 slope, and expressed his concern over the survivability of trees planted on a 1:1 slope.

Mr. Sari stated they will have to look at tree wells for those areas and will work with the landscape architect for the best solution.

Mr. Santacruce stated that the plans indicate the landscape architect is okay with trees and power lines. The Board has seen applications in the past where they have specifically said they do not want trees under power lines. Mr. Santacruce looked at where the power lines cross the street and transition to underground. There is a catch basin coming in from one side, a catch basin from another, a man hole, an outlet pipe, and they are then dropping a pole there and trying to go underground? Mr. Santacruce stated he is not sure that will all fit.

Mr. Sari stated it will be tight.

Mr. Santacruce pointed out if they have to come back to do drain work, if anything fails with that drain they will have to deal with that basin and there could be a pole issue.

Mr. Sari stated he agrees. Looking at that now he would put the pole on the other side of that line going to the bottom.

Mr. Santacruce suggested that the Board look at putting the pole in the shoulder on one side or the other. Mr. Santacruce stated he might not be in support of a waiver for not undergrounding.

Mr. Taber stated you do not want to put underground underneath a road. If something happens you will have to dig up the road. Mr. Taber stated Eversource dictates how you trench this, the width of the trench, and the size of the conduits.

Mr. Sari stated the tree selected by the landscape architect is a Japanese lilac and it does not get height like a normal tree.

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Mr. Taber stated the one reason they are going for overhead is because of engineering. You do not want to pave a road and have your shoulder curbing in. If something happened to the power or conduit for the houses you will have to rip it all up and it will impede the egress for everyone up there. Then they will have to redo everything along that whole stretch.

Mr. Pierce asked relative to the underground would they also be doing communications utilities such as cable.

Mr. Sari stated yes, in this section in the canyon they would be going with overhead and the underground would be from the pole location.

Mr. Pierce asked how many feet overhead?

Mr. Taber stated he will be two to three poles depending on how Eversource wants to lay it out.

Mr. Pierce stated he does have a few years involved with underground utilities and it is not if they fail it is when.

Mr. Sari stated it is about 410 feet.

Mr. Santacruce asked staff about the sight stopping distance for the driveway.

Mr. Kohalmi stated it hasn't been done yet.

Chair Woodfin asked if there are any other comments from staff?

Mr. Kohalmi stated it is a tough piece of land. He stated construction will be very challenging.

Chair Woodfin pointed out they do not have the issue with the turnaround for fire and safety because they have shortened the driveway. Chair Woodfin asked if it is essentially the same plan they saw before?

Mr. Sari stated for the most part yes.

Mr. Santacruce noticed there is frontage on Shaker Rd and asked if they thought about having the utilities come underground from Shaker Rd?

Mr. Sari stated no, he never looked at it. He noted it is pretty steep. He wanted to leave that buffer alone if he could.

Mr. Santacruce stated it was a suggestion as it is shorter and could solve a lot of the issues they are discussing.

Ms. Skinner wanted to make sure that they thoroughly read through staff comments.

Mr. Sari said they did.

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Ms. Skinner asked if they read all the subdivision regulations?

Mr. Sari said they did.

Chair Woodfin noted that there were comments from abutters at previous hearing regarding water sheeting and drainage. Chair Woodfin asked if any of those issues have been addressed?

Mr. Sari stated it is a little bit better. He pointed out a diversion berm and swale that will not have any run off. There is another area that will detain the water and treat it before releasing it.

Mr. Bass pointed out there is a staff comment about increasing the landscape buffer within the 100-foot setback behind unit eight and one for the Board to consider as a condition of approval. Mr. Bass explained that the site was previously logged prior to Mr. Tabor's ownership and wondered if the Board wanted to require the applicant to increase the landscaping to fortify the 100-foot buffer.

Chair Woodfin asked just unit one and unit eight?

Mr. Bass stated kind of behind units one and three and behind units seven and eight in those areas where there is the 100-foot buffer.

Mr. Sari pointed out where the logging had stopped and felt there was a pretty good buffer on that edge.

Mr. Taber stated that the logged areas are now re-vegetated and the intent was to leave it in the natural vegetation.

Mr. Sari stated it is thick second growth.

Mr. Bass stated he is using the landscape plan delineating the clearing limits.

Mr. Sari stated he did do some rough grading for leach fields and there is limited room in that area.

Mr. Kohalmi asked about the grading behind houses four and five because there is a huge difference between the finished floor elevation.

Mr. Sari stated they call it a double walkout. There is first floor access from the driveway and then two floors below it. Both will be exposed on the backside.

Mr. Kohalmi stated he does not know how they will do it.

Mr. Sari stated it is possible as he has done it before.

Mr. Taber stated some things will change as construction progresses in the field.

Mr. Kohalmi asked if the whole basement will be carved out 15 to 20 feet?

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Mr. Sari answered yes, that is the plan right now. He noted it depends on what the builder wants to do or whoever buys one of these units.

Mr. Taber stated there is extra material on the site and they can use that to bring up the elevation.

Mr. Sari stated they cut retaining walls out.

Mr. Kohalmi asked if they thought about retaining walls on the road near the entrance?

Mr. Sari prefers to use native material using the boulders on site and line them up.

Mr. Taber stated there is a good amount of large rock on site they can use as a retaining wall.

Mr. Kohalmi stated if they want to go more than one and a half they will need to show plans to him.

Mr. Santacruce stated in terms of gabions if you go on Route 3A South they have been there for over 20 years and they are right next to the road. He noted they do make them to retain. Mr. Santacruce wanted to point out they do work and not to discount if never used them before.

Chair Woodfin noted the plan on page 13 doesn't show a unit five. It just says four and six. He asked if those are the units they are discussing on the left?

Mr. Bass stated it is a typo.

Mr. Sari stated they are mislabeled.

Chair Woodfin asked if the ones they are asking for are units four and five as the sheet shows unit four and six?

Mr. Santacruce noted on that same sheet c4 the culvert that comes down from the road. He stated there is an outlet from the flared end, 544, and the immediate contour next to it is 543 on the right. Mr. Sari stated this is 543 wrapping around and this should be magenta.

Mr. Santacruce wants to make sure that will not spill over on that corner or the adjacent lot. He asked if they can soften it not to be a 90-degree angle to reduce erosion?

Mr. Sari can look at that. They want to get down the hill in a straight shot.

Chair Woodfin asked for comments from the public. There were none.

Chair Woodfin closed the public hearing.

Chair Woodfin stated the Board has heard from Staff on a couple concerns regarding the waiver requests. Chair Woodfin stated the adopted findings of fact include the information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing. Based on the adopted findings of fact adopted, staff recommends the Board make the motions outlined below:

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Approve the waiver request from Table 20-1, to allow a private common driveway slope of 10% where 8% is the maximum allowed to provide efficient access to the site. Staff supports this waiver request due to the unique topography which exists on the site, with the stipulation that curbing be provided as shown on Sheet C-3, issue date February 23, 2024.

Chair Woodfin made a motion to grant waiver the waiver of Table 20-1 from a maximum of 8% to 10% as outlined. Mr. Pierce seconded. All in favor. The motion passed unanimously.

Approve the waiver request from Figure 20-3, to allow common private driveway side slopes in excess of the 4:1 maximum to allow the construction of the private common driveway within the limits of the property and slope easement. Staff supports this waiver request only in the portion of the common private driveway that is restricted by the width of the property.

Mr. Pierce made a motion to grant the waiver request from Figure 20-3 as outlined. Chair Woodfin seconded.

Mr. Santacruce asked to amend the motion to say rather than leaving it a blanket “in excess of the 4:1” that there should be something providing review and approval by Engineering for the slopes.

Chair Woodfin asked if Mr. Kohalmi is comfortable with that request.

Mr. Kohalmi stated yes.

Chair Woodfin removed the motion on the table and recognized Mr. Santacruce’s comments.

Mr. Pierce made a motion to grant the waiver from Figure 20-3 to allow common private driveway side slopes in excess of the 4:1 maximum, providing approval of the proposed slopes is received from Engineering Division, and the waiver is only applicable to the portion of the common private driveway that is restricted by the width of the property, Chair Woodfin seconded. All in favor. The motion passed unanimously.

Chair Woodfin stated the last waiver request to allow overhead utilities on a portion of the common private driveway where underground is required, and noted that staff does not support this waiver request. Chair Woodfin asked staff if they were still opposed. Staff said yes they are still opposed to the waiver request.

Mr. Santacruce made a motion to deny the waiver request for overhead utilities. Ms. Savage seconded. 2 in favor and 5 against.

Chair Woodfin asked if someone wanted to make a motion to approve the overhead utilities on a portion of the common private driveway where underground is required.

Mr. Pierce made a motion to approve the overhead utilities on a portion of the common private driveway where underground is required. Mr. Hicks seconded. 5 in favor and 2 against. The motion passed.

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Mr. Pierce made a motion to grant Architectural Design Review approval as submitted with the following conditions: the front door for each unit is the primary design feature; garages must be either flush to the building or slightly recessed; and all conditions laid out at previous Architectural Design Review Committee meetings are satisfied to the satisfaction of staff. Mr. Hicks seconded. All in favor. The motion passed unanimously.

Mr. Pierce made a motion, seconded by Mr. Fox, to approve the major subdivision application for the 8-unit condominium cluster development at 15 Hot Hold Pond Rd, subject to the following precedent and subsequent conditions:

- a) Precedent Conditions – to be fulfilled within one year of March 20, 2024, and prior to signature of the Certificate of Approval 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 Planning comments to the satisfaction of Planning Division to show compliance with the Subdivision Regulations and Construction Standards and Details.
 - 2) Address Engineering comments to the satisfaction of the Engineering Division to show compliance with the Subdivision Regulations and Construction Standards and Details.
 - 3) Upon notification from the Planning Division that the precedent conditions have been satisfactorily addressed, the applicant shall deliver to the Planning Division one mylar set and two paper sets of the plat for endorsement by the Planning Board Chair and Clerk and recording at the Merrimack County Registry of Deeds. That final submittal shall also include any documents required by Sections 13.02 and 17 of the Subdivision Regulations.
- b) Subsequent Conditions – to be fulfilled as specified within the Subdivision Regulations
 - (1) Unless a waiver has been granted, the project shall comply with all applicable Subdivision Regulations, including but not limited to the following:
 - Section 30
 - Section 31
 - Section 35.17
 - (2) 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.

All in favor. The motion passed unanimously.

- 9c. Christ the King Parish requests Major Site Plan approval for the constructions of a new 5300 square foot building and related site improvements for the purpose of a food pantry at 60 S. Main St in the Urban Transitional (UT) District. (2023-97) This item was continued from February 21, 2024 at the request of the Planning Board.

On a motion made by Mr. Santacruce, seconded by Ms. Savage, the Board approved postponing application 9c to April 17, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

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- 9d. Tom Wilson and Wilson & Wilson Architects, on behalf of Paisano's Realty LLC, request Minor Site Plan and Architectural Design Review approval for an additional of 1200 square feet to an existing 8000 square foot building for the purpose of four additional dwelling units. The site is addressed as 59 S. Main St in the Central Business Performance (CBP) District. (2024-010)

Chair Woodfin asked for a staff update and noted that the applicant was not in attendance.

Mr. Bass stated the site is located on S Main St. There is a second floor currently that takes up a portion of the footprint of the building. The applicant is proposing to build out the second floor or to match the outline of the first floor and add four dwelling units. There are elements of a minor site plan that they did not submit for due to the nature of this proposal. The Site Plan Regulations allow the Clerk to reduce the amount of information provided, and staff is comfortable with what was provided in the submission. They provided the second-floor plan and building elevations.

Mr. Bass noted that the Architectural Design Review Committee recommended approval as submitted with some recommendations to the applicant. However, the applicant has chosen to stay with the submitted plan.

Chair Woodfin asked if this application is before Planning Board due to the location of the building?

Mr. Bass stated due to increase to the number of dwelling units it required minor site plan review.

Chair Woodfin asked how many units are there now?

Ms. Skinner stated there are seven units.

Mr. Pierce asked if the 1,200 square feet is for new units or are they incorporating with the existing apartments units?

Mr. Bass stated there have been renovations on the inside of the building previously and he would have to another look at the second floor for a plan to see what each unit's square footage is.

Mr. Pierce asked if the 1,200 square feet will be integrated with the existing?

Ms. Skinner stated yes, there are 7 ½ units now. The one unit that is a half will be reconfigured to be a whole. Most of the 1,200 square feet is for the three additional units and doing some reconfiguring to that half will then give them four additional units.

Mr. Pierce asked how many units?

Ms. Skinner stated eleven.

Mr. Santacruce asked about parking with the increase in the unit count. What is allowed in this zone?

Mr. Bass stated the site is in the Central Performance District and parking is not required.

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Ms. Skinner noted the first floor butts out and the roof is flat. The second floor sits back so there is a flat area that does not have second floor.

Chair Woodfin opened to the public for comment.

Sasa Chen asked how they are going to add the four units to the front of the building.

Ms. Skinner stated that the front portion of first floor has a flat roof and they are adding on a second floor on top of the flat roof.

Chair Woodfin closed the public hearing and asked for any other comments from the Board.

Mr. Santacruce stated he liked the ADR Committee's recommendation of removing the peaked roof and doing more of a flat roof. He noted that this side of the street contains flat-faced buildings.

Chair Woodfin stated it almost looks fake and there are no elevation drawings. Chair Woodfin does like the idea of bringing it flat.

Mr. Santacruce noted the upper store front.

Ms. Savage stated if you look at abutters they are flat facing. Ms. Savage stated she was at the ADR Committee meeting and agreed with the recommendations.

Chair Woodfin asked if the applicant attended the ADR Committee meeting?

Ms. Skinner stated yes.

Mr. Bass stated what the Board has before them is what went to ADR Committee. The applicant did toy around with some revisions. Ultimately, they wanted to come before Planning Board as originally submitted.

Chair Woodfin adopted the findings of fact as the information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing.

Based on the adopted findings of fact adopted,

3.2 Grant Architectural Design Review Approval for the exterior building modifications as submitted with the recommendation that horizontal siding be used on second floor and within the roof parapet, and the pitched element of the third-floor parapet be a straight horizontal cap. If these recommendations are incorporated into the revised plan set, then they are to be submitted to staff for review and would not require returning for ADR approval.

Mr. Bass stated that was an ADR recommendation and the applicant would not be bound by it. It could go forward as submitted. Unless the Planning Board makes the recommendation a condition of approval.

Chair Woodfin stated that is what they want to do to make it a condition of approval and re-submit plans to Staff for review the plans.

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Based on the adopted findings of fact, Mr. Santacruce made a motion to grant architectural design review approval with the condition that the exterior building elevations be modified to use horizontal siding on the second floor and within the roof parapet, and the pitched element of the third-floor parapet be a straight horizontal cap, all to be submitted to staff for review and no requirement to return for architectural design review approval. Mr. Fox seconded. The motion passed unanimously.

Based on the adopted findings of fact, Mr. Santacruce made a motion to grant minor site plan approval with the conditions noted below. Mr. Hicks seconded.

- a) Precedent Conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chair and Clerk, unless otherwise specified:
 - 1) Address Planning comments to the satisfaction of Planning Division.
 - 2) Address Engineering comments to the satisfaction of the Engineering Division.
 - 3) Submit three copies of final plans for sign off by the Clerk and Chair of the Planning Board. Final plans shall be a minimum size of 11"x17", and no larger than the preferred size of 24" x 36".
 - 4) Per Section 7.08(7) of the Site Plan Regulations, no building permit shall be issued where site plan approval is required until the site plan has been approved by the Planning Board and the pre-construction conditions of approval have been satisfactorily addressed as determined by the Clerk of the Planning Board.
- b) Subsequent Conditions – to be fulfilled as specified:
 - (1) Per Section 7.08(7) of the Site Plan Regulations, no Certificate of Occupancy shall be issued until all public and private improvements have been completed, and all conditions of a site plan approval established by the Planning Board have been satisfactorily addressed as determined by the Clerk of the Planning Board.
 - (2) 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. The motion passed unanimously.

- 9e. Richard D. Bartlett & Associates, LLC, on behalf of Douglas W. Hicks, Patricia R. Hicks, and the Douglas R. Hicks 2000 Trust, requests approval of a Minor Subdivision (minor lot adjustment). The Site is addressed as 95 Shaker Rd and 131 Shaker Rd in the Medium Density Residential (RM) District. (2024-011)

Mr. Hicks recused himself at 7:52 p.m.

Mark Sargent from Richard D. Bartlett & Associates was in attendance to answer questions.

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Chair Woodfin asked for a staff update.

Mr. Bass stated this is a lot line adjustment. Staff is recommending conditional approval. The applicant has since requested a waiver to not provide natural features on the plat. They have provided what they need to show usable and buildable area for the lots. Due to the size of the parcel, they are asking to not provide the natural features on the rest of the site. Mr. Bass noted that the lot line appears to go through a pond but that's immaterial to the approval of the lot line adjustment. Staff is fine with the waiver.

Mr. Sargent stated the sites are located at 95 and 131 Shaker Rd. Mr. Sargent noted 95 Shaker Rd is the Shaker Rd School and 131 Shaker Rd is the home of Douglas and Patricia Hicks. Mr. Sargent stated 95 Shaker Rd has an area of 50.29 acres with frontage both on Shaker Rd and Mountain Rd. Mr. Sargent stated 131 Shaker Rd has an area of 18.96 acres with frontage on Shaker Rd. Mr. Sargent stated they are before the Board this evening for a lot line adjustment which would annex 4.23 acres of 131 Shaker Rd to 95 Shaker Rd. Mr. Sargent stated that will leave 131 Shaker Rd, the Hicks family home, with a new area of 14.73 acres. Mr. Sargent stated 95 Shaker Rd will now have 54.25 acres. Mr. Sargent noted there is no change of frontage on either lot. Mr. Sargent stated they did request a waiver to section 12.08(5) of the Subdivision Regulations to depict significant natural features on the plans. Mr. Sargent stated they have shown enough topography and wetlands on 131 Shaker Rd to show a usable buildable lot and a general overview of 95 Shaker Rd.

Chair Woodfin asked for comments. Hearing none, Chair Woodfin closed the public hearing.

Mr. Bass stated he is happy to provide language for the waiver.

Chair Woodfin adopted the findings of fact as including the information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing.

Mr. Bass recommended granting the following waiver to 12.08(5) of the subdivision regulations utilizing the criteria of RSA 674:36(2n) criteria (1) which states that strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit of the regulations to not provide the location of significant natural features other than what has been shown on the plat to show the required buildable and usable areas.

Mr. Pierce made a motion to grant the waiver to 12.08(5) of the subdivision regulations utilizing the criteria of RSA 674:36(2n) criteria (1) which states that strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit of the regulations to not provide the location of significant natural features other than what has been shown on the plat to show the required buildable and usable areas. Ms. Savage seconded. All in favor. The motion passed unanimously.

Mr. Santacruse made a motion, seconded by Mr. Pierce, to grant minor subdivision approval for the lot line adjustment at 95 Shaker Rd and 131 Shaker Rd, subject to the following conditions:

- a) Precedent Conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chair and Clerk, unless otherwise specified:
 - 1) Address Planning comments to the satisfaction of the Planning Division.

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- 2) The monumentation for the proposed lot lines shall be set prior to recording of the plat.
- 3) Per Section 12.07 *Wetland Delineations* of the Subdivision Regulations, the final plat shall be signed and sealed by a NH Certified Wetland Scientist.
- 4) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
- 5) The licensed land surveyor shall sign and seal final plans and mylars.
- 6) The applicant shall be responsible for preparing the recording fees required by the Merrimack County Registry of Deeds, or the State of NH, for all plans and documents to be recorded.
- 7) Per Section 4.02 of the Subdivision Regulations, no land shall be subdivided or portions of a lot transferred within the corporate limits of the City of Concord, until a subdivision plat for said land has been prepared in accordance with the Subdivision Regulations, approved by the Board, endorsed by the Chair and Clerk of the Planning Board, and filed at the Merrimack County Registry of Deeds. Accordingly, upon confirmation from the Planning Division that the review comments have been addressed, the applicant shall deliver to the Planning Division two plan sets and one mylar for the required endorsements and recording.
- 8) Per Section 4.03 of the Subdivision Regulations, no building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and which is not in conformity with, the provisions of the subdivision regulations. Per Section 4.04 of the Subdivision Regulations, the subdivision regulations shall apply to re-subdivisions, minor lot line adjustments, and condominiums.
- 9) Waivers granted are to be noted and fully described on the plan, including date granted and applicable section numbers of the subdivision regulations. Should the Board vote to deny the waiver the applicant shall comply said submission requirements.

All in favor. Motion passed unanimously.

Mr. Hicks returned to the meeting.

- 9f. Erin Lambert and Wilcox & Barton, Inc., on behalf of First Church Holdings, LLC, request approval of a Minor Subdivision (minor lot adjustment) and an amendment to a Major Site Plan approval to reconfigure the parking lots to the north and west. Also requested is a waiver from Section 16.02(14)(a) and (b) of the Site Plan Regulations. The site is addressed as 177 N. Main St in the Urban Commercial (UC) District and Downtown Residential (RD) District. (2023-122)

On a motion made by Mr. Santacruce, seconded by Ms. Savage, the Board approved postponing application 9f to April 17, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

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10. **Other Items**

10a. Re-adopt Planning Board Rules

Ms. Skinner stated the Planning Board rules are officially adopted and there are no changes from last time. The adopted rules need to be signed and the signed rules will go on file at the City Clerk's office as per state statute.

Mr. Hicks made a motion to re-adopt the Planning Board rules. Ms. Rosenberger seconded. All in favor. The motion passed unanimously.

10b. Referral from City Council, at the request of Casey DeStefano, to consider amending definitions within the City's Code of Ordinances.

Chair Woodfin noted that this is not a public hearing and asked for a staff update.

Ms. Skinner stated that staff is in the middle of working on scope to revise and update the master plan. An overhaul of the zoning ordinance will take place after the master plan is updated. That is the proper order of doing things in the Planning world. The zoning ordinance enacts the master plan. The master plan is the blue print and the zoning ordinance codifies and enforces it. Staff would put forward that all of the definitions will be updated as a part of the zoning ordinance overhaul after the master plan update is completed. In the meantime, there will be some interim zoning ordinance amendments on a few items.

Mr. Pierce asked on this particular item is this something you will talk about on the master plan?

Chair Woodfin stated the master plan will outline some things that are in this particular piece.

Mr. Santacruce asked what impact these changes would have on properties? Is there going to be a plethora of zoning board applications to get relief from now until the new zoning ordinance comes out in the next couple of years?

Ms. Skinner stated no, she would not think so.

Mr. Walsh supplemented Ms. Skinner's comments by noting that City Council completed their priority setting session. As part of that process the direction to staff was to move forward with interim amendments to the zoning ordinance to clean up some of the things that are driving the traffic to the zoning board of adjustment such as signs, parking, and dimensional requirements. Mr. Walsh stated given how long the Concord Next process has taken, there was concern moving forward without a master plan update. They will move forward with the master plan process and it could take a couple years to complete. Then there will be a more comprehensive look at the zoning ordinance. Mr. Walsh stated to his knowledge this request was driven by an application whereby they went to the zoning board of adjustment for dwelling units that were geodesic domes on Pembroke Rd. Mr. Walsh stated given how it was reviewed by staff comment and the zoning board they went to court. The process cannot move forward because of some of the current definitions. The City prevailed and the project did not go forward. The request is they look at this as something to be cognizant of in looking at the interim zoning ordinance amendment. Given the policy nature of these definitions, it might be better to look at it later as part of the larger zoning ordinance changes in the future.

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Chair Woodfin stated the Board would want to punt this down the road and let the master plan take effect.

- 10c. Referral from City Council, at the request of Ciborowski Associates, LLC, and Ari Pollack, to consider amending Subsection 28-4-1 within the City's Code of Ordinances.

Chair Woodfin asked for a staff update.

Mr. Santacruce stated maybe they should wait for the master plan. This area may change and the zoning ordinance may change and that could be taken up at that time. In the meantime, the zoning board will have to deal with the individual requests as they come in.

Mr. Walsh stated to Mr. Santacruce he appreciates his thoughts. He noted in this particular one it would be specific to the Central Business Performance District. It has been to the zoning board and it was denied. There was a request for a rehearing which was also denied. The next step is to re-zone. Mr. Walsh stated he thinks the staff and the City administration are receptive to the concept of trying to be advanced here and the concept is to amend the zoning ordinance to create a provision whereby a conditional use permit could be granted that the Planning Board would control. They are able to develop performance criteria for when the Planning Board might think an applicant would request to go above the 8-foot height limit by 10 feet. The criteria associated there would likely be related to public safety concerns. Is there sufficient water pressure for fire protection? Is it a height the ladder truck can reach? Is there water for domestic purposes? That is the height piece of it. The dome obstruction piece is problematic because there are places on the 93 corridor between exit 13 and 393 where there are already obstructions of the dome as it is today. Those obstructions may change depending on what vegetation is out at the time of year. If you drive by the Ralph Pill building on 93 you cannot see the dome at the split second when driving by at 60 miles per hour. Given the language of the ordinance is so restrictive and simply written, "you shall not obstruct the dome" has created situations whereby it is unnecessarily restrictive and may hold back projects that may achieve certain community and economic development goals of the City. The applicant is trying to take the concept of a conditional use permit, which already exists, and would allow development on Storrs St to go above 80 feet given the location is 20 feet lower than Main St. Mr. Walsh stated they are receptive to it and open to moving forward. They see it as a relatively minor change and a part of this housekeeping effort.

Chair Woodfin is opposed to a change in the zoning, but a conditional use permit allows the Planning Board to have more control.

Mr. Walsh stated correct.

Mr. Hicks wondered if we are seeing interest in building taller, multi-use buildings for housing, retail, and office space and is that one of the reasons for economic impacts?

Mr. Walsh stated there would be some interest. There has been some development downtown already over the last 20 years – the Smile building, the Bindery building, Hotel Concord, the Flatley building – and the way the height ordinance reads it is from the average grade to the parapet. For example, if you look at Hotel Concord it actually is taller than 80 feet because they do not count the mechanical

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penthouse on the top of that building. Mr. Walsh stated in reference to Mr. Ciborowski he needed a variance for 8 feet and could not get it because of the way the ordinance is written.

Mr. Hicks asked if any of the existing buildings would have been taller if allowed?

Mr. Walsh stated it is difficult to say. Mr. Walsh noted the Flatley project is the most recent and they were comfortable with the height of their building. Mr. Walsh stated the topography works better for the Flatley building because the hill is going up. Mr. Walsh feels it is a regulation that is well intentioned but because of the way it is written it is having a negative impact on development of projects that might be good for downtown.

Councilor Todd stated he has heard from people on this issue. They have said they are concerned about this and are specifically concerned with item 6c and 6d exceeding height. There are already obstructions to the view of the dome. They do not want to see any further obstruction of the dome. Councilor Todd stated from what he just heard from Mr. Hicks question is that there could be developers out there seeking taller development projects. Councilor Todd stated this item does fall in the purview of the master plan process for several reasons. One is that there are people in the public that would like to speak on this to have their voices heard. The second is that Council just did a focus on historic preservation initiatives. Councilor Todd stated this is an area in which they should carefully proceed and the master plan process strikes him as the best way to go about doing that.

Chair Woodfin stated they can refer this to public hearing on April 17, 2024, they can make the decision, or they can wait for the master plan process.

Councilor Todd stated it is an important part of the process. Councilor Todd is concerned about the other elements he mentioned and is not sure if they will be prepared even with the public input to make a decision that might have longer term ramifications in terms of the historic heritage of the downtown corridor.

Mr. Pierce stated they can all agree the view of the golden dome from the highway adds distinction to our city. There are buildings that block the dome now. Mr. Pierce likes the idea of the conditional use because questions are going to come up if the Phenix building is eight feet taller or whatever the building is for how long is the view obstructed? Mr. Pierce is not in favor of waiting for a master plan update. The commercial and industrial in the City is at a minimum. They will get a tax base from building up. Mr. Pierce stated there are studies that the upper stories of Main St, both North and South Main St, are the greatest place they can get new property tax revenue. Mr. Pierce likes the idea of a public hearing to see how large an issue this is. Mr. Pierce is not in favor of waiting for a master plan in a couple of years for this particular one.

Mr. Santacruce in the ordinance for the proposed zoning amendment under item b it specifically talks about minimizing shadow impacts to solar access to public parks, open space, and adjacent buildings and properties. Mr. Santacruce can find no definition in our ordinance of what is a solar impact or impacts to solar access to abutters. Mr. Santacruce stated they need to tie in this what that means. If I have a nice three-story building and next door an 80-foot building is now looking at a wall and blocking the light that makes an impact. Mr. Santacruce stated that should be part of the zoning amendment or a part of the CUP process.

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Chair Woodfin stated he felt that would be a part of the master plan process. However, the CUP would give the ability to hear that.

Mr. Santacrucce asked how the Planning Board can vote for CUP if they do not know the definitions now. Mr. Santacrucce stated the Ralph Pill building is a historical building and not sure how long. Mr. Santacrucce noted a lot of the other buildings could have preceded the zoning ordinances in reference to height and visual blockage.

Ms. Skinner this is something the applicant has put together and nothing precludes the Planning Board from after a public hearing making recommended changes to the language presented and a definition for solar impact could certainly be included.

Chair Woodfin asked the Planning Board if they are comfortable recommending that they have a public hearing on this at the next meeting? Chair Woodfin asked if someone wanted to make a motion to push agenda item 10c to the April 17, 2024 Planning Board meeting and notice as a public hearing? Mr. Santacrucce asked what does the April 17, 2024 agenda look like as they have been moving a lot of stuff to April.

Ms. Skinner stated that it will be a very full agenda due to the number of applications that came in yesterday and today along with the applications that postponed to April.

Mr. Santacrucce stated a lot of times these items tend to be at the end of the agenda and these people sit through three hours. Mr. Santacrucce asked if they can consider having this first on the agenda? Chair Woodfin agreed.

Mr. Santacrucce made a motion to hold a public hearing on the proposed height/dome/conditional use permit zoning ordinance, and post it as such, on April 17, 2024, at the front of the agenda. Mr. Pierce seconded. All in favor. The motion passed unanimously.

10d. Discussion only – not a public hearing – Zoning Ordinance Amendment – Casinos/Gaming Facilities

Mr. Pierce recused himself at 8:25 p.m.

Chair Woodfin stated he has heard from people on this agenda item. Chair Woodfin stated there is some language that was referred by the City Council and would like to get some public testimony. Chair Woodfin would like to hear from the Lottery Commission.

Ms. Savage made a motion that the Planning Board hold a public hearing on the casinos/gaming facility zoning ordinance amendment, and post it as such, on May 15, 2024. Ms. Rosenberger seconded. All in favor. The motion passed unanimously.

Mr. Pierce re-entered the room at 8:29 p.m.

10e. Discuss date of June 19, 2024 Planning Board meeting. This is a federal holiday.

Chair Woodfin stated the June Planning Board meeting is scheduled on a federal holiday and the date needs to be changed.

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Ms. Savage asked about applications that would need any kind of timeline deadline that would be at risk of the 65 days?

Chair Woodfin did not know.

Ms. Skinner did not know as it will depend on what happens in April and May.

Mr. Santacruce stated if we are looking to move it can they move it in the same week?

Ms. Skinner stated that would be her recommendation to do in the same week.

Chair Woodfin stated let's shoot it back to staff and see if they can confirm the room is available for June 18, 2024.

10f. Architectural Design Review Committee Membership.

Chair Woodfin stated in the packet there is a list of individuals that need to be re-appointed to the Architectural Design Review Committee, and that they are all currently serving.

Ms. Savage made a motion to re-appoint Elizabeth Durfee-Hengen and Ron King, with term expirations on December 31, 2025; and to re-appoint Claude Gentilhomme and Jay Doherty, with term expirations on December 31, 2026. Mr. Santacruce seconded. All in favor. The motion passed unanimously.

Other Business

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

Adjournment

Mr. Fox made a motion, seconded by Ms. Rosenberger to adjourn the meeting at 8:50 p.m. All in favor. The motion passed unanimously.

The next regular meeting is Wednesday, April 17, 2024, at 7:00 p.m.

TRUE RECORD ATTEST:
Krista Tremblay
Administrative Specialist II