

City of Concord Planning Board
May 15, 2024
Minutes

The regular monthly meeting of the City Planning Board was held on May 15, 2024, at 7:00 p.m., in City Council Chambers at 37 Green St, Concord.

Attendees: Chair Richard Woodfin, Vice-Chair Erle Pierce, Members Dina Condodemetraky, David Fox, Matthew Hicks, Teresa Rosenberger (Ex-Officio for City Manager), and Councilor Brent Todd

Absent: Mayor Byron Champlin, Alternates Chiara Dolcino and Frank Kenison, Members Jeff Santacruce and Amanda Savage

Staff: AnneMarie Skinner (Acting City Planner), Alec Bass (Senior Planner), Krista Tremblay (Administrative Specialist II), Peter Kohalmi (Associate City Engineer), and Tim Thompson (Assistant Director Community Development)

1. Call to Order

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

2. Roll Call

The Clerk, AnneMarie Skinner, did the roll call, noting that a quorum is present.

3. Approval of Meeting Minutes

On a motion made by Mr. Fox, seconded by Mr. Hicks, the Board voted in favor of approving the April 17, 2024, Planning Board meeting minutes, as written. The motion passed unanimously.

4. Agenda Overview

Ms. Condodemetraky moved, seconded by Mr. Hicks, to continue agenda items 9b, 10a, and 10f to a date certain of June 18, 2024, at the request of the applicants. All in favor. The motion passed unanimously.

5. Design Review Applications by Consent

- 5a. Sousa Signs, LLC, on behalf of Salon Centric, requests architectural design review approval for a new 36.2 square foot internally illuminated building wall sign at 14 Loudon Rd in the Gateway Performance (GWP) District.
- 5b. Signarama Concord, on behalf of Revive Beauty, requests architectural design review approval for an existing non-permitted 16 square foot non-illuminated building wall sign at 230 N Main St in the Urban Commercial (CU) District.
- 5c. Signarama Concord, on behalf of Newbody Wellness, requests architectural design review approval for an existing non-permitted 13.5 square foot non-illuminated building wall sign at 1 Merrimack St (Penacook) in the Central Business Performance (CBP) District.
- 5d. Advantage Signs, on behalf of Concord Housing, requests architectural design review approval for a new 12-square-foot non-illuminated free-standing sign at 23 Green St in the Civic Performance (CVP) District.
- 5e. Angel Galvan, on behalf of The Light Of The World Church, requests architectural design review

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approval for an existing 12.8-square-foot non-illuminated building wall sign at 328 Village St in the Central Business Performance (CBP) District. The sign was installed prior to obtaining architectural design review approval and a sign permit.

- 5f. Michael Miller, on behalf of Center Point Church, requests architectural design review approval for an existing non-permitted 24-square-foot non-illuminated blade sign and two existing non-permitted window door signs of 3 square feet each at 20 N State St in the Central Business Performance (CBP) District.

On a motion made by Mr. Pierce, seconded by Councilor Todd, the Board voted unanimously to approve applications 5a through 5f 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. NH Land Consultants and NH Sustainable Communities, LLC, on behalf of Thomas Cheney, request approvals for a major site plan application, architectural design review, and a condominium subdivision application for an 83-unit condominium development. The site comprises 8.33 acres over four tax lots addressed as 169, 165, 159, and 153 Fisherville Rd in the General Commercial (CG) District. (2023-151) This item is for a determination of completeness on the consent agenda and is not a public hearing.

Mr. Pierce moved, seconded by Mr. Hicks, to determine the application complete, not a development of regional impact, and set the public hearing for June 18, 2024. All in favor. The motion passed unanimously.

7. Extension Applications by Consent

- 7a. JTA Realty Investments, LLC and Joseph T. Alosa request a one-year extension of a major site plan, architectural design review, and conditional use permit approval for the construction of a 17,400-square-foot, 38-space commercial parking lot with associated stormwater, landscape, and lighting improvements. The site is addressed as 96 Hall St in the Opportunity Corridor Performance (OCP) District. (2022-31)

Mr. Pierce moved, seconded by Ms. Condodemetraky, to grant a one-year extension of a major site plan, architectural design review, and conditional use permit approval. All in favor. The motion passed unanimously.

Public Hearings

8. Design Review Applications

- 8a. Jeffrey Burnham, Kathy Miller, and Capital City Billiards request that the Planning Board reconsider and reverse the Board's decision made on April 17, 2024, to deny the architectural design review application for signage located at 219 Fisherville Rd in accordance with Article 28-9-4(f)(8) of the Zoning Ordinance.

Ms. Skinner stated the sign went to the Architectural Design Review Committee and the Committee recommended the Planning Board approve as submitted with the condition that the lighting not be used and if the lighting was used then at that time they would need to come back for architectural design review to review the lack of opaque background. Ms. Skinner explained that the Board

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removed the item from the consent agenda on April 17, 2024, and disapproved the application rather than going along with the recommendation from Architectural Design Review Committee because the Board felt the guidelines indicate that an opaque background should be used.

Jeffrey Burnham and Kathy Miller appeared before the Board. Mr. Burnham stated they were told by the property management company they did not need a sign permit, and installed the sign in January 2024, two months before opening. The day after opening, they were made aware from the City that a sign permit was needed. They did not attend the Architectural Design Review Committee meeting, but were told by staff that the sign complied and the light did not need to be opaque because of the way the sign is now, but if the sign changes then they will need to apply for another permit. Mr. Burnham acknowledged that he was made aware by the City of the agenda for Planning Board and was told he did not need to attend but it is not a bad idea to come to the meeting. Mr. Burnham did not attend the Planning Board meeting on April 17, 2024, based on the favorable recommendation from the Architectural Design Review Committee.

Mr. Bass explained the process of notifying applicants about the Architectural Design Review Committee meeting, noting that the applicant's presence is not required, but attendance is strongly recommended.

Mr. Pierce asked Mr. Burnham if he is familiar with the architectural design review guidelines for signs?

Mr. Burnham stated no, he was not, stating he was told the sign was fine unless they outfitted it with brighter lights, and then they would need a new permit. Mr. Burnham noted they do not see needing a new sign in the future. Mr. Burnham stated he was also told by staff that they could remove the power from the sign, make the sign smaller, or appeal the Board's disapproval. Mr. Burnham requested the Board's approval according to the Architectural Design Review Committee.

Ms. Skinner clarified that Planning Board approval of architectural design review is required for signs in performance districts prior to installation of signs, and this sign did not receive such approval.

Mr. Burnham acknowledged his understanding of this.

Chair Woodfin closed the public hearing and made a motion to approve the sign as submitted.

Mr. Bass reminded the Board of the Architectural Design Review Committee's recommendation by reading it from the April 2, 2024, meeting minutes: "Mr. Gentilhomme made a motion to recommend approval as submitted with the condition that, due to the Committee's concern that the applicant installed the sign prior to receiving architectural design review approval and concern of the brightness of the sign without an opaque background, that if the lighting source is changed within the sign box an opaque background shall be installed behind the white, or the applicant shall return for a new architectural design review approval."

Chair Woodfin moved to approve as submitted with the condition that, due to the committee's concern that the applicant installed the sign prior to receiving architectural design review approval and concern of the brightness of the sign without an opaque background, if the lighting source is changed within the sign box an opaque background shall be installed behind the white, or the

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applicant shall return for a new architectural design review approval. Mr. Pierce seconded. All in favor. The motion passed unanimously.

- 8b. ABK Holdings, LLC, requests that the Planning Board reconsider and reverse the Board's decision made on April 17, 2024, to deny the architectural design review application for signage located at 108 Fisherville Rd in accordance with Article 28-9-4(f)(8) of the Zoning Ordinance.

Mr. Bass reminded the Planning Board of the recommendation from the Architectural Design Review Committee by reading it from the April 2, 2024, meeting minutes: "Mr. Gentilhomme made a motion to recommend approval of the signs as submitted, with the condition that if the signs or lighting source are replaced, the applicant must return for a new permit application and architectural design review approval prior to installation."

Chair Woodfin opened the public hearing, and with no one present to speak on the matter, closed the public hearing.

Chair Woodfin made a motion to approve the sign as submitted with the condition that if the signs or lighting source are replaced, the applicant must return for a new permit application and architectural design review approval prior to installation. Mr. Pierce seconded. All in favor. The motion passed unanimously.

- 8c. NEOPCO Signs, on behalf of Blodgett Supply, requests architectural design review approval for a new 37.5-square-foot internally illuminated building wall sign at 254 Sheep Davis Rd in the Gateway Performance (GWP) District.

Mr. Bass provided a staff update, noting the sign went before Architecture Design Review Committee on April 30, 2024, and received a recommendation to approve as submitted but with the stipulation that an opaque background be placed behind the white background to allow the letters to glow for compliance with Section 5.4(c) of the Architectural Design Review Guidelines.

Glen Schadlick spoke and expressed concerns about how the Architectural Design Review Committee and the Planning Board are interpreting the design guidelines and the ordinance. Mr. Schadlick suggested an update to the 1990 guidelines is needed, specifically regarding illumination and opaque backgrounds. Mr. Schadlick stated he will harp on the use of the word "should" in the guidelines because the word is not "shall" or "must," which makes it a suggestion rather than a requirement. Mr. Schadlick stated the Architectural Design Review Committee and the Planning Board are under the assumption that it needs to be an opaque background when there is illumination as proposed and that is incorrect. Mr. Schadlick stated the opaque background is a suggestion, noting that the higher law is the ordinance and the ordinance takes precedence over the guidelines. Mr. Schadlick stated the only thing the ordinance says in reference to internally illuminated signs being opaque is being in a Central Business Performance District. Mr. Schadlick stated all the other zones are not subject to the requirement for an opaque background. Mr. Schadlick stated in the guidelines there is only one requirement and that is for scale and proportion, reading that "scale and proportion of the sign shall not over power the building or obscure the buildings architecture features." Mr. Schadlick stated all of the design guidelines for signs are "should" and he does not feel the Planning Board is breaking a rule or setting a precedent by approving internally illuminated signs without

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opaque backgrounds based on the circumstance of the sign, including its illumination or location. Mr. Schadlick stated the sign he is representing is for Blodgett, that the building is 75 feet from the road, and the sign will not cast any illumination on drivers or passersby.

Chair Woodfin asked for clarification of Mr. Schadlick's concern with the recommendation.

Mr. Schadlick stated Architecture Design Review Committee recommended approval, but with an opaque background.

Ms. Skinner clarified that Mr. Schadlick would like approval of the sign as submitted.

Chair Woodfin opened the hearing to the public at 7:25 p.m. No one from the public came forward to discuss this application.

Mr. Pierce asked about the difference in cost between the opaque background and what is proposed.

Mr. Schadlick said the opaque background is approximately 35%-40% more, and the skill level is not present as this is a fairly new process.

Mr. Thompson stated from a procedural standpoint the reason why these are all "shoulds" and not "shalls" is because they are guidelines, not regulations. The recommended condition from the committee are simply that. That is why they are not universal across the City. Mr. Thompson stated the reason for doing the opaque background on the white background signs is to prevent light pollution from the overwhelming amount of white.

Chair Woodfin closed the public hearing at 7:27 p.m.

Chair Woodfin made a motion to approve as submitted without the recommendation from the Architectural Design Review Committee for an opaque background. Mr. Hicks seconded. All in favor. The motion passed unanimously.

- 8d. Poyant Signs, on behalf of Dunkin', requests architectural design review approval for a new 17.16-square-foot internally illuminated building wall sign and a new 10.93-square-foot internally illuminated tenant pylon panel at 1 Whitney Rd in the Gateway Performance (GWP) District.

Mr. Bass updated the Planning Board by explaining that the Architectural Design Review Committee recommended approval as submitted with the recommended condition that the tenant pylon panel have an opaque background behind the white background to highlight and allow the letters of "Dunkin" to glow.

Ms. Robichaud appeared before the Board to present the application, noting her agreement with Mr. Schadlick's testimony in the previous public hearing. Ms. Robichaud stated upon review of City of Concord sign ordinance that translucent faces are not prohibited in the Gateway Zone nor are white backgrounds on sign faces. Opaque faces are not required per sign the ordinance in the Gateway Zone nor within the Architectural Guidelines. Ms. Robichaud asked the Planning Board to consider approval of the application as submitted.

Chair Woodfin opened the public hearing at 7:30 p.m.

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Mr. Pierce asked staff for clarification on the types of backgrounds of the other signs on the pylon.

Mr. Bass stated on February 16, 2022, the Planning Board approved the 1 Whitney Rd sign and recommended opaque backgrounds.

Mr. Thompson stated it could be the software used in preparing the photo that was submitted in the application.

Mr. Pierce stated he was looking at the existing signs and if the Planning Board required opaque backgrounds for those.

Ms. Robichaud noted that the photos of the proposed sign are a mock up.

Chair Woodfin closed the public hearing.

Chair Woodfin made a motion to approve the sign as submitted. Mr. Hicks seconded. Mr. Pierce voted no. Motion passed with 7 in favor, 1 opposed.

- 8e. Carol Ellis, on behalf of Laborata Studios, requests architectural design review approval for two existing non-illuminated window signs of 14 square feet and 13 square feet at 1 Merrimack St (Penacook) in the Central Business Performance (CBP) District. The signs were installed prior to architectural design review approval and prior to obtaining sign permits.

Carol Ellis explained she did not know approval were needed prior to installation, noting that there is one sign on the window and another one behind it.

Ms. Skinner clarified that the Architectural Design Review Committee recommended to remove the white “Laborata Studio” and the white insignia from the front window sign.

Chair Woodfin opened the public hearing. No one had comments. Chair Woodfin closed the public hearing at 7:35 p.m.

Mr. Hicks made a motion to approve the sign as submitted. Ms. Condodemetraky seconded. All in favor. The motion passed unanimously.

- 8f. Gerry Carrier, on behalf of Little River Oriental Rugs, requests architectural design review approval for four existing non-permitted non-illuminated window signs of 0.95 square feet, 0.67 square feet, 2.64 square feet, and 0.61 square feet at 10 North Main St in the Central Business Performance (CBP) District. The signs were installed prior to architectural design review approval and prior to obtaining sign permits. The applicant requests approval for the signs as installed.

Gerry Carrier noted the recommendation from the Architectural Design Review Committee was to approve as submitted with the optional recommendation that the text in the middle window sign of “exceptional handmade rugs” and the website be removed. Mr. Carrier stated he reviewed the guidelines and cannot locate where it’s stated he cannot have the sign the way it is now and that he would like to leave it as it is now.

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Chair Woodfin opened the public hearing at 7:38 p.m.

Mr. Fox wondered if the sign is grandfathered.

Mr. Thompson explained that, since a sign permit was not obtained, grandfathering does not apply.

Chair Woodfin made a motion to approve the sign as submitted without the Architectural Design Review recommendations. Mr. Pierce seconded. All in favor. The motion passed unanimously.

- 8g. Shane Hustus, on behalf of Fox Hardware, requests architectural design review approval for an existing non-permitted 8.5-square-foot non-illuminated hanging blade sign at 325 Village St in the Central Business Performance (CBP) District. the sign was installed prior to receiving architectural design review approval and prior to issuance of a sign permit. The applicant requests approval as installed.

Mr. Bass provided a staff update noting that the sign is an existing non-permitted sign and that the photo provided to the Architectural Design Review Committee was not legible, resulting in the recommendation to disapprove. Mr. Bass explained that the applicant has since provided updated photos that are clear and legible.

Dave Mitchell spoke in favor of approving the sign as submitted.

Chair Woodfin opened the public hearing. No one spoke. Chair Woodfin closed the public hearing at 7:42 p.m.

Chair Woodfin made a motion to approve the sign as submitted in the updated materials provided by the applicant. Mr. Pierce seconded. All in favor. The motion passed unanimously.

- 8h. Kevin Rutter, on behalf of Smoking Turtle NH, requests architectural design review approval for an existing non-permitted 24-square-foot externally illuminated building wall sign at 9 Pleasant St Extension in the Central Business Performance (CBP) District.

Kevin Rutter spoke in favor of approving the sign as submitted, noting that the sign clearly states the name of the shop twice.

Chair Woodfin asked if the sign is vinyl.

Mr. Rutter stated yes.

Chair Woodfin stated he does not have a problem with the readability of the blade sign. However, he does have an issue with the readability of the vinyl sign.

Mr. Bass stated only the vinyl sign is before the Board.

Chair Woodfin stated he is inclined to agree with the Architectural Design Review Committee and feels sign needs to be redesigned.

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Mr. Pierce agrees.

Chair Woodfin made a motion to disapprove the sign as submitted because it needs to be redesigned for readability. Ms. Rosenberger seconded.

Discussion

Ms. Skinner noted that the logo and name of store needed to be more prominent than the social media advertising.

Mr. Hicks stated he will vote against the motion because the vinyl sign is more readable than the blade sign.

Chair Woodfin made motion for the sign to be disapproved for a variety of reasons. Ms. Rosenberger seconded.

Discussion.

Mr. Pierce asked if the sign in question is attached to the wall?

Mr. Rutter stated yes.

Mr. Bass suggested that the motion might want to list the reasons.

Chair Woodfin made a motion to deny the application because of the graphic design, readability of the sign, and its inconsistency with the blade sign on the front of the building. Ms. Rosenberger seconded. Mr. Hicks no. The motion passed with 7 in favor and 1 opposed.

9. Amendments

9a. Zoning Ordinance Amendment – Casinos/Gaming Facilities

Mr. Pierce recused himself at 7:50 p.m. and left Council Chambers.

Mr. Thompson provided a staff update noting that the recommendation from staff is to look at the proposed ordinance amendment and provide a recommendation to City Council for the public hearing in July 2024. Mr. Thompson said that one of the City Council's goals is to look at the issues regarding charitable gaming and the casino facilities within the City. City Council asked staff to look at options ahead of the master plan update. Staff recommends an interim regulation that would allow casinos\gaming facilities as accessory uses in six different zoning districts. Casinos\gaming facilities would not be allowed as a primary use anywhere within the City in the current proposal. The reason why this is necessary is because of the current interpretation by the zoning administrator that casinos\gaming facilities are classified as commercial indoor recreational facilities, and commercial indoor recreational facilities are permitted in a variety of different zoning districts that are not necessarily conducive casinos\gaming facilities.

Chair Woodfin opened the public hearing at 7:55 p.m.

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Roy Schweiker spoke regarding the proposed amendment stating voters have opposed casinos in the past, and that he supports the proposed ordinance in terms of limiting to charitable organizations.

Mr. Hicks asked for an explanation on why casinos cannot be completely prohibited.

Mr. Thompson explained that New Hampshire is a Dillon's Rule state, which means municipalities and local governments are only permitted to do that which is authorized by the legislature. New Hampshire has charitable gaming language in state law, so the city is preempted from prohibiting the use completely, but the city can regulate it.

Chair Woodfin closed the public hearing at 7:59 p.m.

Chair Woodfin made a motion to recommend approval of the proposed ordinance amendment to City Council.

Mr. Hicks made a motion to recommend approval to City Council of the report dated May 15, 2024, recognizing the change in the code ordinance Title 4 Zoning Code, Chapter 28-2-4 allowable, principal and accessory uses of zoning districts, Article 28-5 supplemental standards, and the glossary, all as written in the May 15, 2024, report. Ms. Rosenberger seconded. All in favor. The motion passed unanimously.

Mr. Pierce returned.

- 9b. Tom Zajac and Hayner/Swanson, Inc., on behalf of Stickney Avenue, LLC, request approval for an amendment to a major site plan approval to move precedent condition 2 to subsequent conditions as a new subsequent condition 6. The site is addressed as 5-13 Stickney Ave in the Opportunity Corridor Performance (OCP) District. (2022-78)

Ms. Condodemetraky made a motion to continue agenda item 9b to a date certain of June 18, 2024, at the request of the applicant. Mr. Hicks seconded. All in favor. The motion passed unanimously.

- 9c. Scott Donovan and Warrenstreet Architects, Inc., on behalf of Pleasant Street Residences, request an amendment to the major site plan approval to not replace window shutters on the exterior of the building. The site is addressed as 120 Pleasant St in the Institutional (IS) District. (2022-33)

Mr. Bass provided a staff update, explaining that the Planning Board required re-installation of the shutters as a condition of approval on June 21, 2023, and the applicant would like to remove that condition and not re-install the shutters.

Chair Woddfin opened the public hearing and noted that there are a lot of houses in the area that don't have shutters.

Scott Donovan and Karen Jutzen represented the application, noting that shutters would be out of character with the area and do not fit proportionally with the building.

Chair Woodfin closed the public hearing at 8:04 p.m.

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Chair Woodfin stated the findings of fact as including: 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. Hicks made a motion to grant approval of the amendment request to not require shutters and remove the June 21, 2023, Planning Board condition of approval (b) that there be shutters on the windows to match what was there before, but that the application is subject to all other previous conditions of approval. Mr. Fox seconded. All in favor. The motion passed unanimously.

- 9d. Altus Engineering, on behalf of Ryan Taber, requests an amendment to major subdivision approval for an 8-unit residential condominium development for waiver requests from Section 12.08(12) and (22), Section 16.03(1) and (16), Section 17.03, Figure 20-2, and Section 29.01 of the Subdivision Regulations. The site is addressed as 15 Hot Hole Pond Rd in the Open Space Residential (RO) District. (2023-140)

Ryan Taber summarized the waiver requests.

Chair Woodfin asked for Mr. Taber's explanation on the waiver from Figure 20-2 Private Common Drive with Three to Eight Units, to allow 3 inches of hot bituminous pavement be placed for the common private drive instead of the 4 inches required, noting that staff does not support this waiver.

Mr. Taber stated there is a contradiction between the detail and the verbiage in the regulations, with 4 inches required in the detail and 3 inches required in the verbiage. Mr. Taber emphasized he doesn't feel the additional inch is necessary because the drive will be privately-owned and maintained by the association and not the responsibility of the City.

Ms. Skinner provided clarification to the Board that there is in fact an inconsistency between the verbiage and the detail, noting that the strictest provision applies when there is an inconsistency.

Mr. Taber pointed out there are only 8 units, so will be low traffic.

Mr. Kohalmi stated there is inconsistency and theoretically it will not cost the City anything. However, he is concerned that if something goes wrong with the drive, people come to the City regardless of being privately-owned and maintained.

Ms. Skinner noted that this inconsistency is on her list of items to fix and the fix will be to change the verbiage to four inches. Ms. Skinner further noted that, even though it will be owned by the condo association, people don't realize the implications of that when purchasing and the 4-inch standard provides more protection to the public.

Mr. Hicks stated he would not support staff recommendation and that the waiver should be approved.

Chair Woodfin opened the public hearing 8:11p.m.

Roy Schweiker, an abutter, discussed the steep grade and that cars will grind up the pavement because of the grade. Accordingly, the thicker pavement is needed.

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Mr. Fox asked staff about the difference between the two from an engineering standpoint.

Mr. Kohalmi explained three inches is minimum for a rural residential road, and four inches is the depth Engineering would like to see for roads more than a rural residential road.

Mr. Fox asked if there are concerns with an oil truck delivering on the three inches of pavement?

Mr. Kohalmi stated after 10 years it will break down and will need maintenance.

Mr. Pierce asked for estimated cost difference between the three and four inches.

Mr. Taber stated there is a cost difference but that is not why is requesting the waiver.

Mr. Bass stated City of Concord places three inches of pavement for sidewalks.

Chair Woodfin closed the public hearing at 8:19 p.m.

Chair Woodfin the findings listed the findings of fact as including: 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.

Chair Woodfin moved to grant the following additional waivers as part of the amendment request, 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:

- Section 17.03 Building Floor Plans, to not require floor plans.
- Section 29.01 Residential Sprinklers Required, to not require residential sprinklers for any of the proposed detached single-family dwellings.
- Section 12.08(12) and (22) and Section 16.03 (1) and (16), to not require wells and septic systems on abutting properties to be shown on the existing conditions or site plans.

Mr. Fox seconded. All in favor. The motion passed unanimously.

Chair Woodfin moved to deny the following waiver request as part of the amendment request, noting that the criteria from Section 36.08 are not met for granting the waiver (conformance with the City of Concord Construction Standards and Details promotes consistency and quality, there is no technical reason to deviate from the standards) and the request does not meet either of the two criteria from RSA 674:36.

Mr. Pierce seconded. All in favor. The motion passed unanimously.

Mr. Pierce made a motion to grant approval of the amendment to the conditions of approval for the previous conditionally approved, 8-unit condominium cluster development major subdivision at 15 Hot Hold Pond Road, subject to the following conditions:

- (1) The application is subject to all previous conditions of approval.

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(2) Waivers granted as part of this amendment request are to be noted and fully described on the plan, including date granted and applicable section numbers of the Subdivision Regulations. Plans shall comply with the regulations for any waivers not granted.

Mr. Fox seconded. All in favor. The motion passed unanimously.

- 9e. Wilcox and Barton, Inc., on behalf of Morrill Mill Pond, LLC, requests approval for an amendment to a major site plan and architectural design review to replace the previously approved retail use with a second complementary restaurant to be generally located where the retail building was proposed, with some modifications to the building footprint, parking, and stormwater management system at 10 Whitney Rd in the Industrial (IN) District. (2022-54)

Ms. Skinner provided a staff update, noting that the previous approval was for a Walgreens and the amendment request is to change to a Chipotle. Ms. Skinner stated two waiver requests were submitted the day prior to the public hearing – one from Section 18.06 that requires accessible spaces of at least 19 feet long and 8 feet wide together with an access way of 5 feet in width, and the van space must be at least 19 feet long and 11 feet in width; and, the second to allow greater than 0.2-foot-candles beyond the property boundary. Staff has not had time to review the waiver requests.

Erin Lambert, David Rausio and Laurie Rausio represented the application. Ms. Lambert provided a summary of the changes as follows: a 2,300-square-foot restaurant (Chipotle); 27 parking spaces where 31 are required; and 5 stacking spaces for the drive-up window. Ms. Lambert noted this is a new model for Chipotle with a pick-up window only – no payments or ordering. Ms. Lambert explained the first waiver relates to ADA accessible parking requirements and that ADA parking space on the left needs to be 16 feet in total. Having an 8-foot-wide aisle allows for continuation of the pedestrian walkway. Ms. Lambert explained that the waiver request for the lighting is to exceed lighting levels at the Whitney Rd property boundary only, and the lighting levels proposed for that boundary are safe lighting levels. Ms. Lambert emphasized that the requirement is being met along the side and rear property lines, and there are only a couple of locations on the Whitney Rd property line that are exceeding the 0.2-foot-candle requirement.

Chair Woodfin closed the public hearing at 8:38 p.m.

Chair Woodfin listed the findings of fact as including 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. Pierce made a motion to grant architectural design review amendment approval as submitted. Mr. Hicks seconded. All in favor. The motion passed unanimously.

Mr. Pierce made a motion to grant the waiver request to Section 18.06 to allow for the accessible spaces dimensions as submitted, using RSA 674:44 III(e)(2) and Section 36.08 of the Site Plan Regulations. Mr. Hicks seconded. All in favor. The motion passed unanimously.

Mr. Fox made a motion to grant the waiver request from Section 29.07 *Nuisance and Glare* of the Site Plan Regulations to allow for greater than 0.2-foot-candles beyond the property boundary, using

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RSA 674:44 III(e)(2) and Section 36.08 of the Site Plan Regulations. Councilor Todd seconded. All in favor. The motion passed unanimously.

Councilor Todd moved to grant approval for the major site plan amendment for the construction of a 2,325-square-foot restaurant, subject to the following precedent and subsequent conditions. Mr. Fox seconded. All in favor. The motion passed unanimously.

(a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the certificate of approval by the Planning Board Chair and Clerk, unless otherwise specified:

1. Per Section 4.02 of the Site Plan Regulations, no building permit shall be issued for the purposes of constructing a new or renovated building or structure, or for the purpose of making exterior alterations to an existing building or structure, or for the purpose of changing the use of an existing use of land, building, or structure, unless a Certificate of Approval has first been issued by the Planning Board as required by the regulations.
2. Per Section 12.08 of the Site Plan Regulations, prior to the issuance of a certificate of approval, digital information from the site plan shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. Layers (see Section 12.08(a) through (i)) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
3. Per Section 13.02(11) of the Site Plan Regulations, prior to the issuance of a certificate of approval, digital information from the site plan drawings shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System and tax maps as specified in Section 12.08.
4. Revise the title block to reflect an accurate description of the development as a restaurant development.
5. Per Section 12.07 of the Site Plan Regulations, provide the signature and seal of the New Hampshire certified wetland scientist on both the existing conditions plan and the site plan, along with the date of the wetland delineation noted on the plans.
6. Per Section 16.03(1) of the Site Plan Regulations, architectural elevations shall be signed or sealed by a New Hampshire licensed architect, or a New Hampshire licensed professional engineer, as allowed by the State of New Hampshire professional licensing boards.
7. Per Section 17.01 of the Site Plan Regulations, in addition to the requirements established in the Site Plan Regulations, all site plan applications shall comply with all applicable state statutes and federal laws and rules; the Zoning and health Ordinances; Building Codes; all other applicable ordinances and regulations of the city; the Master Plan; Official Map; and, the capital improvements plan.
8. Update the accessible spaces to show and label the required dimensions of at least 19 feet long and 8 feet wide together with an access way of 5 feet in width. The van space must be at least 19 feet long and 11 feet in width. Place a note on the site plan describing the waiver received from this requirement.
9. Per Section 18.08, the required stacking spaces are shown, noting that a variance was granted to allow the 5 spaces shown rather than the 11 that are required; however, the typical dimensions are not shown and labeled.
10. Revise the lighting plan to comply with Section 29.07 to show no more than 0.2 foot-candle beyond any property boundaries. Place a note on the site plan describing the waiver received from

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this requirement.

11. Prior to the issuance of final approval, the applicant shall address all forthcoming engineering comments to the satisfaction of the City Engineer pertaining to local, state or federal standards and regulations.

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

1. Per Section 12.09 of the Site Plan Regulations, prior to the issuance of a certificate of occupancy digital as-built drawings shall be provided conforming to the Engineering Division's as-built checklist.
2. Prior to the start of construction, a pre-construction meeting shall be scheduled with the Engineering Division.
3. Prior to the start of construction, applicable permits shall be obtained from the Engineering Division.
4. In accordance with Article 17-6-10 of the Traffic Code, truck traffic for vehicles with a gross weight over nine tons shall be prohibited from travel on roads with posted load limits. Waivers for travel of overweight vehicles on posted roads shall not be considered unless requested by the Public Utilities Commission stating such waiver is requested for consideration of the city manager as an emergency to address public safety and wellbeing. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
5. In accordance with Article 5-1-4(d) of the General Code, excavation permits in newly constructed, reconstructed, rehabilitated, or overlaid pavements within the public right-of-way or on city property are prohibited for five years, except as permitted by the city engineer or in situations deemed by the city manager to be in the best interest of the general public. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
6. The application is subject to all previously imposed conditions of approval imposed by the Planning Board pertaining to project 2022-54, unless a variance, waiver, or conditional use permit has been granted.

10. Site Plan, Subdivision and Conditional Use Permit Applications

- 10a. Erin Lambert and Wilcox & Barton, Inc., on behalf of B&L Transmissions, LLC, request major site plan application 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. Also requested are waivers from two sections of the Site Plan Regulations. (2023-143)

Ms. Condodemetraky made a motion to continue agenda item 10a to a date certain of June 18, 2024, at the request of the applicant. Mr. Hicks seconded. All in favor. The motion passed unanimously.

- 10b. Erin Lambert and Wilcox & Barton, Inc., on behalf of Fred and Mertie Potter, 125 NSS LLC, 20 Franklin St Concord LLC, and 10 Bradley Street LLC, request approval for a minor site plan application for the expansion of an office building. The site is addressed as 125 N State St in the Neighborhood Residential (RN) District. (2024-015)

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Mr. Pierce made a motion to determine the application complete, not a development of regional impact, and open the public hearing. Ms. Condodemetraky seconded. All in favor. The motion passed unanimously.

Erin Lambert and Fred Potter represented the application. Ms. Lambert provided a summary stating that the property is located at 125 N State St and they were at last month's Planning Board for a lot line adjustment. The site plan application reflects the lot line adjustment. The site has an existing building, and the request is for a 2,035-square-foot addition that will include an elevator to provide ADA access not existing today. The property already has a parking lot. Ms. Lambert stated this is the same project that was approved by the Planning Board in June 2022. They are there tonight because of the additional land from the lot line adjustment, and because the June 2022 approval expired.

Chris Boldt, representing the Rollins Court abutters, spoke in opposition. Mr. Boldt stressed the abutters concerns in reference to catch basins, storm water retention, the amount of water run-off, easements, lighting and landscaping.

Chair Woodfin asked if the Board or another member of the public would like to speak about this application and with no response the applicant came back to the table.

Ms. Lambert stated there is a storm water report from the 2022 approval, and that report has not changed. Ms. Lambert stated the easement document breaks out the landscape easement, drainage easement, and easement for the foundation drain, noting that nothing can be connected to the foundation drain except another foundation drain.

Chair Woodfin asked if there is a lighting plan.

Ms. Lambert stated there is no new lighting proposed on the site.

Mr. Pierce asked about the tree removal.

Ms. Lambert said there are a couple of trees that interfere with the building footprint of the addition.

Chair Woodfin stated this plan was all approved, everything was done, and changes were made to scale it back.

Ms. Skinner stated the approval expired.

Ms. Lambert noted the waiver request to not provide the location and vicinity plans on the site plan.

Chair Woodfin closed the public hearing at 9:18 p.m.

Chair Woodfin listed the findings of fact as including 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.

Chair Woodfin moved, seconded by Mr. Fox, to grant the waiver request from Section 12.04 *Location Plan* and Section 12.05 *Vicinity Plan* of the Site Plan Regulations to not provide the required location

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plan, using RSA 674:44 III(e)(2) and Section 36.08 of the Site Plan Regulations. All in favor. The motion passed unanimously.

Chair Woodfin moved, seconded by Mr. Pierce, to grant minor site plan approval for the proposed addition to an existing office building, along with an elevator for accessibility, a two-car garage on the first floor, demolition of the existing exterior stair tower, and reconfiguration of the 28-space parking lot to include two accessible parking spaces at 125 N State St, subject to the following precedent conditions and subsequent conditions. All in favor. The motion passed unanimously.

- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the certificate of approval by the Planning Board Chair and Clerk, unless otherwise specified:
1. Unless a variance, waiver, or conditional use permit has been granted, this approval notwithstanding, the project shall fully comply with all applicable portions of the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details.
 2. Per Section 4.02 of the Site Plan Regulations, no building permit shall be issued for the purposes of constructing a new or renovated building or structure, or for the purpose of making exterior alterations to an existing building or structure, or for the purpose of changing the use of an existing use of land, building, or structure, unless a certificate of approval has first been issued by the Planning Board as required by the Site Plan Regulations.
 3. As required by Sections 12.08 and 13.02(11) of the Site Plan Regulations, prior to the issuance of a certificate of approval, digital information from the site plan shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineers. Layers (see 12.08(a) through (i) of the Site Plan Regulations) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
 4. Per Section 12.04, the site plan or cover sheet shall contain a location plan prepared at a minimum scale of 1" = 400'. **Place a note on the site plan describing the waiver received from this requirement.**
 5. Per Section 12.04, the site plan or cover sheet shall contain a detailed location plan showing clearly items 1 through 9 of Section 12.04. **Place a note on the site plan describing the waiver received from this requirement.**
 6. Per Section 12.05, the site plan or cover sheet shall contain a vicinity plan with to the scale required and with items clearly provided as required by the section.
 7. The site plan must contain the prior subdivisions or surveys information required by Section 12.06(4). **Place a note on the site plan describing the waiver received from this requirement.**
 8. Ensure that all abutting property information is shown, including the property address of the abutting property for compliance with Section 15.04(2).
 9. For compliance with Section 15.04(4), add a note that clearly states the existing use of all portions of the site, including the portions added from the lot line adjustment, and the proposed use of all portions of the site, including the portions added from the lot line adjustment.
 10. For compliance with Section 15.04(5), add the building address to the building footprint.

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11. For compliance with Section 15.04(6), add the topography information to the portions of the site added by the lot line adjustment.
 12. For compliance with Section 15.04(22), add the setback lines and setback dimensions to the portions of the site added by the lot line adjustment.
 13. The type of material for the solid waste enclosure does not appear to be shown on Sheet C5.2 as required by Section 15.04(24).
 14. For compliance with Section 15.04(25), add a note to the site plan that no outdoor storage is proposed.
 15. Submit a lighting plan as required by Section 15.04(26).
 16. For full compliance with Section 15.04(28), the site plan shall note the following: (b) square feet devoted to various land uses; (c) ground coverage of buildings and structures in percent; (d) ground coverage for parking and loading areas including aisles in percent; (f) net land area calculations for non-residential development; (i) square feet of floor area by type of use for all non-residential uses; (o) calculations of required trees to be provided on the landscape plan; and (p) residential buffer option selected, area of buffer yard required in square feet, and calculations of the buffer plantings required and provided.
 17. The address for the building needs to be noted on the building footprint for compliance with Section 17.04.
 18. Items required by Section 18 appear to be missing from the site plan including: labeled width of the parking lot aisle; labeled width of the driveway at the public street; labeled dimensions and square footage of the landscape buffers; tree plantings of one tree per 1,000 square feet of parking area; parking lot lighting; curbing; and snow storage.
 19. The submitted materials did not appear to include the storm water management plan required by Section 22.
 20. A utility plan showing compliance with Section 23, 24, and 25 shall be submitted. This shall include showing a separate and independent building sewer for every building as required by Article 9-6-6(d) of the General Code.
 21. All roof top and ground-mounted mechanical equipment must be screened as required by Section 26.02. If the project does not propose any roof top and/or ground-mounted mechanical equipment, add a note to the site plan stating as much.
 22. If no outside storage is proposed, add a note to the site plan stating as much for compliance with Section 26.03
 23. Add the classification of the trees to the landscape plan as either ornamental or deciduous shade trees and provide the necessary calculations and percentages to show compliance with Section 27.07(4).
 24. Submit a lighting plan showing compliance with Section 29.
 25. Upon notification from the Planning Division that the final plan set complies with applicable Zoning Ordinance requirements and the Site Plan Regulations, the applicant shall deliver to the Planning Division three plan sets (two full-size and one 11x17) for endorsement by the Planning Board Chair and Clerk.
- (b) **Subsequent Conditions** – to be fulfilled as specified:
1. The applicant is responsible for full knowledge of, and compliance with, all applicable portions of the municipal code, Site Plan Regulations, and Concord Construction Standards and Details for the project.

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2. Prior to the start of construction, a pre-construction meeting shall be scheduled with the Engineering Division.
3. Per Section 12.09 of the Site Plan Regulations, prior to the issuance of a certificate of occupancy digital as-built drawings shall be provided conforming to the Engineering Division's as-built checklist.
4. Prior to the start of construction, applicable permits shall be obtained from the Engineering Division.
5. Erosion control measures shall be installed and maintained in accordance with Section 27.09 of the Site Plan Regulations.
6. In accordance with Article 17-6-10 of the Traffic Code, truck traffic for vehicles with a gross weight over nine tons shall be prohibited from travel on roads with posted load limits. Waivers for travel of overweight vehicles on posted roads shall not be considered unless requested by the Public Utilities Commission stating such waiver is requested for consideration of the city manager as an emergency to address public safety and wellbeing. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
7. In accordance with Article 5-1-4(d) of the General Code, excavation permits in newly constructed, reconstructed, rehabilitated, or overlaid pavements within the public right-of-way or on city property are prohibited for five years, except as permitted by the city engineer or in situations deemed by the city manager to be in the best interest of the general public. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
8. In accordance with Section 36.15 of the Site Plan Regulations, no site construction, or change of use of land, shall occur in violation of the Site Plan Regulations and the Zoning Ordinance. No building permits may be issued for any building, structure, site improvement, or change of use prior to site plan approval and the satisfactory completion of any pre-construction conditions of Planning Board approval. The Clerk shall not approve any certificate of occupancy, nor shall any use of a building or site commence, unless the proposed improvements, and the proposed use of land or buildings, is found to be in compliance with the approved site plan and the conditions of Planning Board approval.

- 10c. TF Bernier, a division of Hoyle Tanner & Associates, Inc., on behalf of William Young Properties, LLC requests approval for a minor subdivision application to adjust lot lines between 38 Cross St and 44 Cross St in the Neighborhood Residential (RN) District. (2024-026)

Mr. Pierce made a motion to determine the application complete, not in a region of development impact and open the public hearing. Mr. Hicks seconded. All in favor. The motion passed unanimously.

Mr. Bernier represented the application, stating the proposal involves adjusting the common line between two existing lots of record on Cross St in Penacook. One lot is vacant, and the other has a house. The adjustment will transfer 3,786 square feet from lot with the house to the vacant lot. Mr. Bernier stated they asked for four waivers related to the lot line adjustment, noting that staff supports three of the four waivers. Mr. Bernier coordinated with staff on the fourth waiver and is okay with parts of it.

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Kyle Tilletson and Becky Tilletson, abutters, spoke in opposition to the application. They expressed concerns over the lot size, their existing water line easement, and the possibility of construction of a duplex on the vacant lot.

Chair Woodfin stated that the application is only for a lot line adjustment, not what is being built on the lot in the future.

Mr. Thompson stated that state law prohibits Planning Boards from regulating the installation of a single-family dwelling or duplex.

Chair Woodfin closed the public hearing at 9:26 p.m.

Chair Woodfin listed the findings of fact as including 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.

Chair Woodfin moved, seconded by Ms. Condodemetraky, to grant the waiver requests from Sections 12.08(3) *Topography* and 15.03(4) *Topography* of the Subdivision Regulations to not provide topography on the plat; Sections 12.08(5) *Natural Features* and 15.03(6) *Natural Features* of the Subdivision Regulations to not provide steep slopes on the plat; and, from Section 12.08(20) *Existing Vegetation* of the Subdivision Regulations to not provide existing vegetation on the plat, using the criteria of RSA 674:36(II)(n)(2) and Section 35.08 of the Subdivision Regulations. All in favor. The motion passed unanimously.

Chair Woodfin moved, seconded by Ms. Condodemetraky, to grant the partial waiver request from Section 12.03(23)(b) *Tabulations* of the Subdivision Regulations, using criteria of RSA 674:36(II)(n)(2) and Section 35.08 of the Subdivision Regulations to not provide tabulations for the square footage of each existing building on the plat. All in favor. The motion passed unanimously.

Chair Woodfin moved, seconded by Ms. Condodemetraky, to deny the partial waiver request from Section 12.03(23)(a), (c), (d) and (e) *Tabulations* of the Subdivision Regulations to not provide tabulations for impervious coverage, and usable and buildable land as the applicant and the plat should clearly show both lots will continue to be compliant with the Zoning Ordinance and remain legal lots of record. A waiver would be contrary to the spirit and intent of the regulations and thus does not meet the criterion of RSA 674:36(2)(n)(2). All in favor. The motion passed unanimously.

Mr. Pierce moved, seconded by Mr. Fox, to grant minor subdivision approval for the lot line adjustment between 38 and 44 Cross St, subject to the following precedent and subsequent conditions. All in favor. The motion passed unanimously.

- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the final lot line adjustment plat by the Planning Board Chair and Clerk, unless otherwise specified:
 - 1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, the Zoning Ordinance, Subdivision Regulations, and Concord Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit has been granted.
 - 2. Per Section 4.02 of the Subdivision Regulations, no land shall be subdivided or portions

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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.

3. A note shall be added to the final plat submitted for recording that states: "The project must comply with all subsequent conditions from Case 2024-026 for compliance with Section 12.02(4), Section 15.03(17), and Appendix B of the Subdivision Regulations."
4. The applicant shall address Engineering comments to the satisfaction of the Engineering Division.
5. Waivers granted are to be noted and fully described on the final plat to be recorded, including date granted and applicable section numbers of the Subdivision Regulations. Should the Board vote to deny the waivers, the applicant shall comply with said submission requirements.
6. Per Section 12.08(10), please provide the location, size, material, and type of municipal utilities currently serving the parcels. Should any municipal utilities cross the section of land being annexed, additional easements may be required prior to recording.
7. Per Section 12.08(11), please provide the location, type, and size, if applicable of any non-municipal utilities which currently serve the lots.
8. Per Section 12.08(13), please add to Note 4 that the parcel is also not located within the Concord FH – Flood Hazard Zoning Overlay District.
9. Per Section 15.03(1), please add property addresses to all abutting addresses. Additionally, please add, or more clearly represent, the abutting property line between lots 22 and 23.
10. Per Section 15.03(5), please add the type of existing and required monument bounds on the plat. Monuments shall conform with Section 19.04 of the Subdivision Regulations as well as the City of Concord Construction Standards.
11. Per Section 15.03(11), please provide location, size, rim, and invert elevations of existing sanitary sewers, including manholes.
12. Prior to recording of the plat, the New Hampshire licensed land surveyor shall sign and seal final plans and mylars.
13. Monuments shall be set in accordance with Section 19.04 of the Subdivision Regulations.
14. Prior to the recording of the plat and as required by Section 12.09 of the Subdivision Regulations, digital information from the plat shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. Layers (see 12.09(1) through (8)) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
15. Upon notification from the Planning Division that the final lot line adjustment plat complies with applicable Zoning Ordinance requirements and the Subdivision Regulations, the applicant shall deliver to the Planning Division one mylar, one full-size plan set, and one 11x17 plan set for endorsement by the Planning Board Chair and Clerk and recording of the mylar at the Merrimack County Registry of Deeds.
16. The applicant is responsible for confirming with the Merrimack County Registry of Deeds the fee checks necessary for recording the plat and associated documents. Checks are payable to the Merrimack County Registry of Deeds.

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

1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, all applicable portions of the municipal code, Subdivision Regulations, and Concord Construction Standards and Details, unless a variance, waiver, or conditional use permit has been granted.

- 10d. Peter Stoddard and S&H Land Services, LLC, on behalf of Norman and Betsey Lacoy, request approval for a minor subdivision application to divide one existing lot into three lots. Also requested is approval for a waiver from Sections 12.03(6) of the Subdivision Regulations. The site is unaddressed at Blackwater Rd (adjacent to 33 Blackwater Rd) in the Open Space Residential (RO) District. (2024-027)

Ms. Skinner provided a staff update, noting that the applicant is proposing to divide the existing undeveloped lot into three lots. The site fronts Blackwater Rd, which is not classified as a collector or an arterial in the Zoning Ordinance. The applicant requests a waiver from Section 12.03(6) *Soils* of the Subdivision Regulations to provide soils information from the USDA Web Soil Survey and on-site test pits, rather than from a soils map stamped by a New Hampshire licensed soil scientist. The applicant provided an analysis of the five waiver criteria from Section 35.08 of the Subdivision Regulations, which staff reviewed.

Mr. Fox made a motion to determine the application complete, not a development of regional impact, open the public hearing. Councilor Todd seconded. All in favor. The motion passed unanimously.

Peter Stoddard and Norm Lacoy represented the application. Mr. Stoddard stated this existing 50-acre lot is vacant and in current use. The parcel has about 945 feet of frontage. They are proposing to cut off two frontage lots. The 50 acres is mostly flat or gently sloping. There are no wetlands on the lot. Generally, there is well-drained sandy soil. They are seeking to have two buildable lots, with the remainder lot of 46 acres set aside for future development. The proposed lot 5-1 will be 2 acres with 225 feet of frontage, lot 5-2 will be 2 acres with 200 feet of frontage, and the remainder lot will have 520 feet of frontage.

Chair Woodfin closed the public hearing at 9:37 p.m.

Chair Woodfin listed the findings of fact as including 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. Pierce moved, seconded by Mr. Fox, to grant the waiver request from Section 12.03(6) *Soils* of the Subdivision Regulations, using the criteria of RSA 674:36(II)(n)(2) and Section 35.08 of the Subdivision Regulations, to provide soils information from the USDA Web Soil Survey and on-site test pits, rather than from a soils map stamped by a New Hampshire licensed soil scientist. All in favor. The motion passed unanimously.

Mr. Fox moved, seconded by Councilor Todd, to grant minor subdivision approval for the subdivision for the subdivision of unaddressed Blackwater Rd (Tax Map Block Lot 33Z 5, adjacent to 33 Blackwater Rd) into three lots, subject to the following precedent and subsequent conditions. All in favor. The motion passed unanimously.

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- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the final plat by the Planning Board Chair and Clerk, unless otherwise specified:
1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, the Zoning Ordinance, Subdivision Regulations, and Concord Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit has been granted.
 2. 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 these regulations, approved by the Board, endorsed by the Chair and Clerk of the Planning Board, and filed at the Merrimack County Registry of Deeds.
 3. Per Section 9.02(6), Section 13.01(6), and Section 13.02(10), copies of permit applications to state and federal agencies shall be submitted to the Planning Division.
 4. Per Section 9.08(6), the Chair and the Clerk of the Planning Board shall endorse each plan sheet of the plat after all conditions of approval have been satisfied.
 5. The address of the property owner shall be added to the title block of the final plat to be recorded for compliance with Section 12.02(1)(b) of the Subdivision Regulations.
 6. Per Section 12.02(3), some of the standard notes as set forth in Appendix B of the Subdivision Regulations appear to be missing, including the proposed street addresses of the parcels and the list of those conditions of the Planning Board approval which remain to be fulfilled after the recording of the plat.
 7. A note shall be added to final plat submitted for recording that states: “The project must comply with all subsequent conditions from Case 2024-027 for compliance with Section 12.02(4), Section 15.03(17), and Appendix B of the Subdivision Regulations.”
 8. Per Section 12.03(5) and Section 12.07, the wetland information on the final plat to be recorded needs to contain the signature and seal of the wetland specialist who determined the site does not contain wetlands.
 9. Per Section 13.02(13), the applicant is responsible for submittal of recording fees required by the Merrimack County Registry of Deeds for the plat to be recorded.
 10. Per Section 15.02(8), the final plat to be recorded must contain the address of the existing lot, as well as the address of the proposed lots as approved by the City Engineer.
 11. Per Section 15.03(1), the property addresses of existing abutting properties must be noted on the final plat to be recorded, as well as the owner’s names and addresses. The information for the abutting properties appears to include the owner’s names and addresses, and property addresses, for most of the abutting properties. However, it appears that the information for a few of the abutting properties only includes the property owner’s address and not the address of the abutting property itself. In instances where the abutting property does not have an address, the address of the abutting property can be noted as “unaddressed” with the street name. For example, “unaddressed Warner Rd.”
 12. Per Section 20.31, all addresses for each lot on a public street shall be approved by the City Engineer and shall be shown on the plan.
 13. A stormwater management plan showing compliance with Section 23 must be submitted, or a note placed on the topographic subdivision plan explaining the management of stormwater.
 14. The two references to the west abutting property owned by the State of New Hampshire need to be corrected to show as Tax Map 34Z Lot 8.

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15. Monuments shall be set in accordance with Section 19.04 of the Subdivision Regulations.
16. Prior to the recording of the plat and as required by Section 12.09 of the Subdivision Regulations, digital information from the plat shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. Layers (see 12.09(1) through (8)) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
17. Upon notification from the Planning Division that the plat and plans comply with applicable Zoning Ordinance requirements and the Subdivision Regulations, the applicant shall deliver to the Planning Division one mylar, one full-size plan set, and one 11x17 plan set for endorsement by the Planning Board Chair and Clerk and recording at the Merrimack County Registry of Deeds.
18. The applicant is responsible for confirming with the Merrimack County Registry of Deeds the fee checks necessary for recording the plat and associated documents. Checks are payable to the Merrimack County Registry of Deeds.

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

1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, all applicable portions of the municipal code, Subdivision Regulations, and Concord Construction Standards and Details, unless a variance, waiver, or conditional use permit has been granted.
2. Prior to the start of construction, applicable permits shall be obtained from the Engineering Division.
3. In accordance with Article 17-6-10 of the Traffic Code, truck traffic for vehicles with a gross weight over nine tons shall be prohibited from travel on roads with posted load limits. Waivers for travel of overweight vehicles on posted roads shall not be considered unless requested by the Public Utilities Commission stating such waiver is requested for consideration of the city manager as an emergency to address public safety and wellbeing. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
4. Per Section 24.05 of the Subdivision Regulations, the individual private wells shall comply with all standards of the New Hampshire Department of Environmental Services, and the construction of which shall comply with the applicable standards of the New Hampshire Water Well Board.
5. Per Section 25.04 of the Subdivision Regulations, sanitary sewage disposal shall be provided by individual waste disposal systems for each dwelling unit located on a lot and located on lots of sufficient size to assure an area appropriate for two leaching fields for each system, which meets requirements of the New Hampshire Department of Environmental Services.

10e. Granite Engineering, LLC, on behalf of Consolidated Communications of Northern New England Co, LLC, requests approval of a minor site plan application for expansion of an outdoor storage area. The site is addressed as 64 Regional Dr in the Industrial (IN) District. (2024-020)

Ms. Rosenberger recused herself from this public hearing at 9:40 p.m. and left Council Chambers.

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

Mr. Bass provided a staff update, noting that the applicant received an equitable waiver from the Zoning Board of Adjustment for a storage building/shed that was constructed around 1990 inside the setback. There are some nonconformities on the site, but Article 28-8-4 of the Zoning Ordinance provides for continuation of nonconforming uses of land, including existing parking lots, access, and driveways, provided the uses or characteristics are not being altered in a way to increase the nonconformity.

Mr. Merritt stated the proposal is for a minor site plan application at 64 Regional Dr. The 5-acre property is owned and occupied by Consolidated Communications in the Industrial District. In the early 1990s, the property was developed and there is one large building on the property. Access to property is on Regional Dr, with a curb cut on the east and one on the west. There is a parking lot between the main building and Regional Dr. Consolidated Communications has large items that need exterior storage such as cable reels, telephone poles, and utility trailers. The proposal is to add more exterior storage to the east of the existing building. The area would be fenced. They would add a few more pole-mounted lights, re-stripe the existing parking lot, and maintain the storm water system.

Chair Woodfin asked if there is a slide gate on Regional Dr?

Mr. Merritt stated there is a swing gate at two locations on the property.

Mr. Bass stated the plan shows a two-way drive that does not meet the required dimensions for a two-way drive.

Mr. Merritt stated they did speak with Consolidated Communications and will make the west driveway an entrance and the east driveway an exit.

Mr. Pierce asked if there are any changes to the traffic patterns for trucks in and out.

Mr. Merritt stated it is the identical use and operation.

Mr. Bass stated if there is existing fence to talk to Fire Department about access.

Chair Woodfin closed the public hearing at 9:48 p.m.

Chair Woodfin listed the findings of fact as including 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. Pierce moved, seconded by Councilor Todd, to grant minor site plan approval for the proposed expansion of outside storage space at 64 Regional Dr, subject to the following precedent and subsequent conditions. All in favor. The motion passed unanimously.

(a) Precedent Conditions – to be fulfilled within one year and prior to signature of the final lot

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line adjustment plat by the Planning Board Chair and Clerk, unless otherwise specified:

1. Unless a variance, waiver, or conditional use permit has been granted, this approval notwithstanding, the project shall fully comply with all applicable portions of the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details.
2. Per Section 4.02 of the Site Plan Regulations, no building permit shall be issued for the purposes of constructing a new or renovated building or structure, or for the purpose of making exterior alterations to an existing building or structure, or for the purpose of changing the use of an existing use of land, building, or structure, unless a certificate of approval has first been issued by the Planning Board as required by the Site Plan Regulations.
3. In accordance with Article 28-7-7 of the Zoning Ordinance, a minimum 24-foot-wide parking aisle width is required for two-way traffic flow. The plan dated December 9, 1991, recorded with the Merrimack County Registry of Deeds as Plan #12299 shows a one-way traffic flow through the site. The applicant shall conform to the required aisle widths for two-way traffic, or provide proof that the 20-foot-wide parking aisle is an existing legal non-conformity.
4. Per Sections 15.03(13) and 15.04(20) of the Site Plan Regulations, on Note 7 of the existing conditions sheet and Note 7 of the site plan sheet, please also indicate that the parcel is not located within the City Flood Hazard Zoning Overlay District as defined in Article 28-3-2 of the Zoning Ordinance.
5. Per Section 15.03(17) of the Site Plan Regulations, please add note of the dimensions, height, and types of material or equipment stored in outside storage areas on the existing conditions sheet.
6. Per Section 15.03(22) and 15.04(2) of the Site Plan Regulations, please add the property addresses of the abutting properties on the existing conditions and site plans.
7. Per Section 15.03(23)(g) of the Site Plan Regulations, please add a tabulation identifying the required, existing, and proposed outside storage ratios as required per Article 28-5-37 of the Zoning Ordinance.
8. Per Section 15.04(25) of the Site Plan Regulations, on the site plan, please show the dimensions, height, types of material or equipment stored, setbacks and type of screening for the existing and proposed outside storage areas along with construction details.
9. Screening of the outside storage areas shall be in accordance with Sections 20.06 and 26.03 of the Site Plan Regulations, as well as Article 28-5-37 of the Zoning Ordinance. Please note that screening is required around all sides of outside storage and that a chain link fence with privacy slats is not considered a solid, opaque fence and does not meet the screening requirement.
10. As required by Sections 12.08 and 13.02(11) of the Site Plan Regulations, prior to the issuance of a certificate of approval, digital information from the site plan shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineers. Layers (see 12.08(a) through (i) of the Site Plan Regulations) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
11. Address the compliance comments in the attached memorandum from the Engineering Division, dated May 7, 2024, such that the Engineering Division is satisfied that the project complies with applicable codes, regulations, standards, and details.

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12. Upon notification from the Planning Division that the final plan set complies with applicable Zoning Ordinance requirements and the Site Plan Regulations, the applicant shall deliver to the Planning Division three plan sets (two full-size and one 11x17) for endorsement by the Planning Board Chair and Clerk.

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

1. The applicant is responsible for full knowledge of, and compliance with, all applicable portions of the municipal code, Site Plan Regulations, and Concord Construction Standards and Details for the project.
2. Prior to the start of construction, a pre-construction meeting shall be scheduled with the Engineering Division.
3. Per Section 12.09 of the Site Plan Regulations, prior to the issuance of a certificate of occupancy digital as-built drawings shall be provided conforming to the Engineering Division's as-built checklist.
4. Prior to the start of construction, applicable permits shall be obtained from the Engineering Division.
5. Erosion control measures shall be installed and maintained in accordance with Section 27.09 of the Site Plan Regulations.
6. In accordance with Article 17-6-10 of the Traffic Code, truck traffic for vehicles with a gross weight over nine tons shall be prohibited from travel on roads with posted load limits. Waivers for travel of overweight vehicles on posted roads shall not be considered unless requested by the Public Utilities Commission stating such waiver is requested for consideration of the city manager as an emergency to address public safety and wellbeing. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
7. In accordance with Article 5-1-4(d) of the General Code, excavation permits in newly constructed, reconstructed, rehabilitated, or overlaid pavements within the public right-of-way or on city property are prohibited for five years, except as permitted by the city engineer or in situations deemed by the city manager to be in the best interest of the general public. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
8. In accordance with Section 36.15 of the Site Plan Regulations, no site construction, or change of use of land, shall occur in violation of the Site Plan Regulations and the Zoning Ordinance. No building permits may be issued for any building, structure, site improvement, or change of use prior to site plan approval and the satisfactory completion of any pre-construction conditions of Planning Board approval. The Clerk shall not approve any certificate of occupancy, nor shall any use of a building or site commence, unless the proposed improvements, and the proposed use of land or buildings, is found to be in compliance with the approved site plan and the conditions of Planning Board approval.

Ms. Rosenberger returned to Council Chambers.

- 10f. Granite Engineering, LLC and Brenton Cole, on behalf of Bradcore Holdings, LLC, request approvals for a major site plan application and architectural design review for an 8,250 square foot building addition and accompanying circulation and parking improvements, and conditional use permit application for disturbance to a wetland buffer, an alternative parking arrangement for the construction

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of fewer parking spaces than what is required. Also requested is a waiver of 22.03(2) of the Concord Site Plan Regulations. The site is addressed as 391 Loudon Rd, operating as Chappell Tractor Sales, LLC in the Gateway Performance (GWP) District. (2024-018)

Ms. Condodemetraky moved, seconded by Mr. Hicks, to postpone agenda item 10f to a date certain of June 18, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

- 10g. LSE Ursa Minor, LLC and GZA GeoEnvironmental, Inc., of behalf L.A. Brochu, Inc., request approval of a minor site plan and conditional use permit application for the installation of a solar array. The site is addressed as 67 W Portsmouth St in the Open Space Residential (RO) District. (2024-028)

Chair Woodfin asked for a motion declaring the application to be complete, not a development of regional impact, and to open the public hearing.

Mr. Hicks asked if this application is really complete based on the staff report and the items listed in Section 1.1 of that staff report.

Ms. Skinner stated those items are conditions of approval, but that the Board has the option of deeming the application incomplete. Ms. Skinner reminded the Board and those present that there is no public hearing if the application is not deemed complete.

Mr. Pierce stated he sees a lot of unfulfilled items noted in the staff report.

Chair Woodfin reminded the group that the determination of completeness starts the clock on 65-day decision period for the application.

Mr. Thompson stated Section 7.06 of the Site Plan Regulations determines the requirements for completeness.

Ms. Skinner stated a complete application will contain the required information listed in Section 15.

Mr. Thompson stated anything in Section 15 is needed to determine the application complete. Mr. Thompson stated according to the staff report, the application is not complete because there are items from Section 15 that are missing from the application. Mr. Thompson stated the Board find the application incomplete, or continue to a date certain and allow the applicant time to address completeness issues prior to the date certain.

Mr. Hicks asked if the Board could make them conditions of approval?

Ms. Thompson stated because the regulations specify what a completed application is the Board would need to waive that requirement in order to find the application complete.

Mr. Pierce asked if they determined the application complete if that will start the 65-day clock.

Mr. Thompson stated yes. Mr. Thompson stated in his experience he would suggest the applicant consent to a continuance so those items can be addressed without starting 65-day clock and without

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the need to start the process all over. Mr. Thompson stated the Planning Board would need to make a motion to continue the completeness and the public hearing for this application to a date certain. That would negate the need to notify the abutters in writing and stall the process. Mr. Thompson stated the Planning Board will need to come up with a statutory reason to justify the determination of completeness for the items that were not included.

Mr. Hicks made a motion to determine the application complete, seconded by Councilor Todd seconded. Motion failed with 3 in favor and 3 opposed.

Chair Woodfin moved, seconded by Mr. Pierce, to continue the application to a date certain of June 18, 2024. Motion passed with 5 in favor and 1 opposed.

- 10h. Jonathan Devine and TFMoran, Inc., on behalf of ROI Irrevocable Trust and Christine Windler, request approvals for a major site plan application and architectural design review for the construction of a new bank and associated site improvements. Also requested is a conditional use permit approval for driveway separation distance. The site is addressed as 16-22 Manchester St (Tax Map 792Z2) in the Gateway Performance (GWP) District. (2024-023)

Ari Pollock, Jonathan Devine, Kurt Lauer, and Alex Vailas represented the application. Mr. Pollock stated there has been a traffic study and that was peer reviewed. They engineered FEMA map revisions for the rear portions of the property behind Black Hill Rd. Mr. Pollock noted discussion tonight will be on development of the lots that front Manchester St. A water and sewer capacity study is in progress, but they would like to start the first phase of this project. Mr. Pollock stated there is little risk for a conditional approval, and they are working with staff for the project to progress.

Chair Woodfin recognized that staff provided an option to defer in the staff report and for an explanation.

Mr. Pollock stated they made a submission of a few items, including an off-site improvement plan, on May 10, 2024, which did not afford staff the opportunity to review. Mr. Pollock noted that the project is following what was approved in the comprehensive development plan.

Ms. Skinner stated the supplemental traffic analysis is in the process of being reviewed by staff and the New Hampshire Department of Transportation.

Chair Woodfin stated he is uncomfortable with the recommendation of the alternative course, while still being concerned about the comments from the supplemental traffic analysis and their impacts on traffic mitigation. Chair Woodfin noted, though, that the Planning Board did not want the project to hang until June 18, 2024, for approval simply because they have not heard from staff on the supplemental traffic analysis.

Mr. Pollock stated they will present details on the off-site improvement plan as part of their presentation.

Chair Woodfin stated there are two options for the Planning Board. The Planning Board can say they are not comfortable with proceeding, and have them return on June 18, 2024, or if they are comfortable moving forward and helping them to the finish line once hearing the testimony. Chair

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Woodfin asked if the Planning Board is amenable to hearing testimony, and the Board agreed to hear testimony.

Mr. Devine stated the goal was to design a modern bank facility that fits within the environment. The project proposes a 3,700-square-foot bank building with two ATM drive-up windows and 22 parking spaces. One access is a right-in only drive from Manchester St, and the other is a full-service drive from Black Hill Rd. The site will be serviced by municipal sewer and water with tie-ins on Manchester St. Natural gas and electricity will come in from Black Hill Rd. The application also has a waiver and conditional use permit request. The waiver is to delay the installation of the sidewalk along the site's Black Hill Rd frontage to Phase 1B. The conditional use permit is to allow driveways to be within 250 feet of a neighboring driveway or intersection.

Mr. Kohalmi asked about the work on Black Hill Rd and if that's only in connection with Phase 1A?

Mr. Devine confirmed that the Black Hill Rd work for this project is limited to that which is pertinent to Phase 1A.

Mr. Kohalmi said the sewer study has been issued, and the water study is in review by staff. Mr. Kohalmi stated he would be remiss not to mention the concern for traffic at the Black Hill Rd/Manchester St intersection. Mr. Kohalmi stated that the intersection at peak times of the day is failing now. The project will add traffic, and staff haven't had a chance to look at comments from the Department of Transportation on the supplemental analysis.

Mr. Pollock stated they accept those comments.

Chair Woodfin asked about daily traffic estimates for the site.

Mr. Duval stated most of the new traffic will be about 40 in the morning, 50 in the evening and 70 on a Saturday.

Chair Woodfin asked if they are coming in off of Manchester St?

Mr. Duval stated the bank is right-in only on Manchester St.

Mr. Hicks asked about the Department of Transportation and City roads.

Mr. Duval stated the primary concern for the Department of Transportation is how the project will affect the ramps.

Ms. Skinner reminded the Board that one of the precedent conditions of the conditional approval of the comprehensive development plan is the addressing of traffic issues. They cannot get final comprehensive development plan approval without that and they cannot get final site plan approval without final approval for the comprehensive development plan.

Chair Woodfin closed the public hearing.

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Chair Woodfin stated there are still a lot of open issues, with some key pieces of missing information. Chair Woodfin stated the Board needs to decide if they push this application forward or move to continue to June 18, 2024.

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

Mr. Pierce moved, seconded by Mr. Fox, to grant architectural design review approval of the building and site plan as depicted in the agenda packet materials, with the condition of approval that street trees are planted along the site's Manchester St frontage in compliance with Section 28.04(6) *Street Trees* of the Subdivision Regulations, noting that the applicant has the option of selecting low-growing, smaller street trees for the plantings. All in favor. The motion passed unanimously.

Mr. Hicks moved, seconded by Mr. Fox, to grant the waiver request from Section 21.02 *Sidewalks Required* of the Site Plan Regulations, using the criteria of RSA 674:44 III(e)(2) and Section 36.08 of the Site Plan Regulations, to not show on the plans or construct the required sidewalk along the site's Black Hill Rd frontage during Phase 1A, with the condition of approval that the sidewalk required along the site's Black Hill Rd frontage be constructed in accordance with Site Plan Regulations and Concord Construction Standards and Details as part of Phase 1B, and prior to the issuance of any certificates of occupancy for any structures or buildings in Phase 1B. All in favor. The motion passed unanimously.

Mr. Pierce moved, seconded by Councilor Todd, to grant the conditional use permit for Article 28-7-11(f) *Driveway Separation Alternatives* and Article 28-7-12(c)(2) *Standards for Performance Districts Other Than the CPB and CVP Districts* to allow for a right-in only driveway on the site's Manchester St frontage that is closer to the adjacent Manchester St driveway and intersection and a full-approach driveway on the site's Black Hill Rd frontage that is closer to the adjacent Black Hill Rd driveway than the required 250 feet, with the condition that the site's Manchester St driveway be designed, constructed, and signed as a right-in only driveway. All in favor. The motion passed unanimously.

Mr. Pierce moved, seconded by Mr. Fox, to grant major site plan approval for the construction of a new 3,691-square-foot bank and associated site improvements, subject to the following precedent and subsequent conditions. All in favor. The motion passed unanimously.

- (a) Precedent Conditions** – to be fulfilled within one year and prior to signature of the certificate of approval by the Planning Board Chair and Clerk, unless otherwise specified:
1. This approval notwithstanding, the project shall fully comply with all applicable portions of the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details, unless a variance, waiver, or conditional use permit has been granted.
 2. Per Section 4.02 of the Site Plan Regulations, no building permit shall be issued for the purposes of constructing a new or renovated building or structure, or for the purpose of making exterior alterations to an existing building or structure, or for the purpose of changing the use of an existing use of land, building, or structure, unless a certificate of approval has first been issued by the Planning Board as required by the Site Plan Regulations.

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3. As required by Sections 12.08 and 13.02(11) of the Site Plan Regulations, prior to the issuance of a certificate of approval, digital information from the site plan shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. Layers (see Section 12.08(a) through (i) of the Site Plan Regulations) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
4. All approved variances, waivers, and conditional use permits must be listed on the site plan with approval dates and section numbers.
5. Outstanding traffic issues from the traffic study and supplemental analyses that are pertinent to Phase 1A shall be addressed. Satisfaction of this condition includes submittal of a detailed offsite improvement plan that addresses Section 32.08, including but not limited to, Section 32.08(19) and (20), specifically regarding the safety of travel and travel conditions along Manchester St and the Manchester St/Black Hill Rd intersection.
6. Outstanding sewer and water issues from the Wright-Pierce sewer and water study that are pertinent to Phase 1A shall be addressed, including the installation of new water main piping in Black Hill Rd, as that will need to be accounted for and coordinated with the off-site improvement plan.
7. Show the proposed building address inside the building footprint on Sheet C-04 for compliance with Section 16.02(7).
8. The color of the light poles needs to be stated on the lighting plan and the detail on Sheet D-04 for compliance with Section 16.02(16).
9. Add to the site plan the dimensions and demarcation of each required stacking space to show compliance with Section 18.08 of the Site Plan Regulations and Article 28-7-7(d) of the Zoning Ordinance.
10. The landscaping plan and calculations table need to be revised to reflect the required 15-foot-wide perimeter landscaped area along the site's Manchester St frontage and to show compliance with Section 18.11 and 18.12 of the Site Plan Regulations and Article 28-7-12(c)(1) of the Zoning Ordinance.
11. For compliance with Section 18.17 of the Site Plan Regulations, update the calculations table on the landscaping plan to accurately reflect the 7 required shade trees at the 1 to 1,000 ratio and the 11 shade trees provided, for clarity and consistency with what is listed in the planting schedule and what is shown on the landscape plan.
12. Show all sidewalks as required by Section 21.02 of the Site Plan Regulations, unless a waiver is granted.
13. Prior to approval of the final plan set, information needs to be provided in enough detail regarding mechanical equipment placement and screening to show compliance with Section 26.02.
14. Section 27.07(4) requires no more than 25% of the trees to be planted in any development shall be of the same species. The submitted landscape plan depicts the planting of 11 trees both on the plan and in the planting schedule. With the proposed 11 planted trees, there shall be no more than 3 trees of the same species. The plan shows the planting of 4 spring flurry serviceberry trees, which exceeds the requirement. With 11 proposed trees, the landscape plan needs to be revised to show no more than 3 trees of any one species.

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15. Address the compliance comments in the attached memorandum from the Engineering Division, dated April 9, 2024, such that the Engineering Division is satisfied that the project complies with applicable codes, regulations, standards, and details.
16. Final approval of the comprehensive plan development for the portion of the tract containing Phase 1A (project 2021-26) must be obtained prior to submittal of the final major site plan set for the development of 16 Manchester St.
17. Upon notification from the Planning Division that the final plan set complies with applicable Zoning Ordinance requirements and the Site Plan Regulations, the applicant shall deliver to the Planning Division three plan sets (two full-size and one 11x17) for endorsement by the Planning Board Chair and Clerk.
18. In accordance with Section 36.15 of the Site Plan Regulations, no building permits may be issued for any building, structure, or site improvement, or change of use prior to site plan approval and the satisfactory completion of the pre-construction conditions of Planning Board approval.

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

1. The applicant is responsible for full knowledge of and compliance with all applicable portions of the municipal code, Site Plan Regulations, and Concord Construction Standards and Details for the project.
2. Prior to the start of construction, a pre-construction meeting shall be scheduled with the Engineering Division.
3. Per Section 16.02(19) of the Site Plan Regulations, if work will take place immediately adjacent to a travel way of a public street, a traffic control plan shall be submitted to the satisfaction of the City Engineer.
4. Prior to the start of construction, applicable permits shall be obtained from the Engineering Division.
5. Erosion control measures shall be installed and maintained in accordance with Section 27.09 of the Site Plan Regulations.
6. In accordance with Article 17-6-10 of the Traffic Code, truck traffic for vehicles with a gross weight over nine tons shall be prohibited from travel on roads with posted load limits. Waivers for travel of overweight vehicles on posted roads shall not be considered unless requested by the Public Utilities Commission stating such waiver is requested for consideration of the city manager as an emergency to address public safety and wellbeing. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
7. In accordance with Article 5-1-4(d) of the General Code, excavation permits in newly constructed, reconstructed, rehabilitated, or overlaid pavements within the public right-of-way or on city property are prohibited for five years, except as permitted by the city engineer or in situations deemed by the city manager to be in the best interest of the general public. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
8. Prior to the issuance of a certificate of occupancy, digital as-built drawings shall be provided conforming to the Engineering Division's as-built checklist, per Section 12.09 of the Site Plan Regulations.
9. In accordance with Section 36.15 of the Site Plan Regulations, no certificate of occupancy shall be approved, nor shall any use of a building or site commence, unless the

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proposed improvements and the proposed use of land or buildings, is found to comply with the approved site plan and the conditions of Planning Board approval.

10. In accordance with Section 36.25 of the Site Plan Regulations, the applicant's engineer or surveyor shall submit to the City Engineer a detailed "as-built" survey showing the location of buildings, structures, utilities, parking areas, driveways and access, as well as for any public improvement constructed indicating location, dimensions, materials, and other information required by the City Engineer. The as-built survey shall also be submitted in digital format and media conforming to the Engineering Division's as-built checklist.

- 10i. Jonathan Devine and TFMoran, Inc., on behalf of ROI Irrevocable Trust and Christine Windler, request approvals for a major site plan application and architectural design review for the construction of a gas station, convenience store, car wash, and associated site improvements, and conditional use permit applications for the number of driveways and driveway separation distances. The site comprises three tax lots addressed as 30 Manchester St (Tax Map 781Z30), 32 Manchester St (Tax Map 781Z29), and 33-35 Black Hill Rd (Tax Map 81Z32) in the Gateway Performance (GWP) District. (2024-024)

Ms. Skinner noted that almost everything discussed from the previous public hearing applies to this public hearing regarding outstanding issues.

Chair Woodfin asked the Board if they are okay to proceed with testimony and opened the public hearing.

Ari Pollock and Jonathan Devine represented the application. Mr. Pollock stated this is a part of the comprehensive development plan that was conditionally approved in December 2023.

Mr. Devine explained that the site comprises three individual lots that will be merged. The proposal features a convenience store with a drive-up window for prepared foods, gas pumps, electric charging stations, and a single-bay car wash with vacuum cleaners. The site will have access from Manchester St and Black Hill Rd with utility connections into Manchester St. They are requesting two waivers. The first waiver is to delay the sidewalk installation on Black Hill Rd to Phase 1B. The other waiver is to provide less than 3 feet of separation from a storm water infiltration basin to the estimated seasonal water table. Mr. Devine stated both waivers have been reviewed and outlined in the staff report. There is a conditional use permit application to allow for driveways less than 250 feet apart from each other and from the intersection. There is also a conditional use permit to allow more than one driveway for the site per frontage. The other item from the staff report is about the parking and stacking spaces. The fueling station use requires 1.5 stacking spaces per pump and with twelve pumps they would need 18 stacking spaces and have provided 14 stacking spaces. The other stacking requirements is for the drive-up window. They have additional parking where 37 spaces are required and they have provided 45 spaces. The loading area complies with the regulations.

Chair Woodfin asked about the location of the electric vehicle charging stations.

Mr. Devine stated they are on the right. There will be four universal charging stations and seven Tesla stations. The exact allotment is up in the air right now as it will be based on the market demand.

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Chair Woodfin asked if there is signage to direct people to the left.

Mr. Devine stated there is none proposed, but they can add it to the plan.

Chair Woodfin closed the public hearing at 11:01 p.m.

Chair Woodfin asked if anyone from the Board, member of the public would like to speak about this application, with no response Chair Woodfin closed the public hearing. Chair Woodfin stated there are still a lot of open issues and missing some key pieces of information. Chair Woodfin stated the Board needs to decide if they push this application forward or move until the June 18, 2024 Planning Board.

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

Mr. Pierce moved, seconded by Councilor Todd, to grant architectural design review approval of the convenience store and car wash as depicted in the agenda packet materials, with the condition of approval that the applicant submit revised elevations showing and noting the colors of all exterior materials on all elevations consistent with the recommendations of the Architectural Design Review Committee, and staff shall review for compliance. All in favor. The motion passed unanimously.

Mr. Hicks moved, seconded by Ms. Condodemetraky, to grant the waiver request from Section 21.02 *Sidewalks Required* of the Site Plan Regulations, using the criteria of RSA 674:44 III(e)(2) and Section 36.08 of the Site Plan Regulations, to not show on the plans or construct the required sidewalk along the site's Black Hill Rd frontage during Phase 1A, with the condition of approval that the sidewalk required along the site's Black Hill Rd frontage be constructed in accordance with Site Plan Regulations and Construction Standards and Details, and prior to the issuance of any certificates of occupancy for any structures or buildings in Phase 1B. All in favor. The motion passed unanimously.

Mr. Pierce moved, seconded by Council Todd, to grant the waiver request from Section 22.07(2) *Storm Water Recharge* of the Site Plan Regulations to allow for a three-foot separation between the bottom of an infiltration system and the groundwater, rather the four-foot separation required by the regulation, using the criteria of RSA 674:44(III)(e)(2) and Section 36.08 of the Site Plan Regulations. All in favor. The motion passed unanimously.

Mr. Pierce moved, seconded by Ms. Condodemetraky, to grant conditional use permit approval in accordance with Article 28-7-11(f) *Driveway Separation Alternatives* and Article 28-7-12(c)(2) *Standards for Performance Districts Other Than the CPB and CVP Districts* to allow for a right-out only driveway on the site's easternmost Manchester St frontage that is closer to the adjacent Manchester St driveways and full-approach driveways on the site's Black Hill Rd frontage that are closer to each other and adjacent Black Hill Rd driveways than the required 250 feet, with the condition that the site's easternmost Manchester St driveway be designed, constructed, and signed as a right-out only driveway.

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Mr. Hicks moved, seconded by Councilor Todd, to grant conditional use permit approval in accordance with the second portion of Article 28-7-12(c)(2) *Standards for Performance Districts Other Than the CBP and CVP Districts* of the Zoning Ordinance to allow for more than one driveway in a comprehensive development plan where only one driveway is permitted per comprehensive development plan for comprehensive development plans with up to 500 feet of frontage, with one additional driveway permitted for each additional 500 feet of frontage. All in favor. The motion passed unanimously.

Mr. Hicks moved, seconded by Ms. Condodemetraky, to grant major site plan approval for the construction of a new convenience store with a drive-up window, gas station, and one-bay automatic car wash, and associated site improvements, subject to the following precedent and subsequent conditions. All in favor. The motion passed unanimously.

(a) Precedent Conditions – to be fulfilled within one year and prior to signature of the certificate of approval by the Planning Board Chair and Clerk, unless otherwise specified:

1. As required by Sections 12.08 and 13.02(11) of the Site Plan Regulations, prior to the issuance of a certificate of approval, digital information from the site plan shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. Layers (see Section 12.07(a) through (i) of the Site Plan Regulations) shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88).
2. Unless a variance, waiver, or conditional use permit has been granted, this approval notwithstanding, the project shall fully comply with all applicable portions of the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details. Applicant shall secure variances for proposed driveways which exceed maximum width set forth in the Zoning Ordinance.
3. Per Section 4.02 of the Site Plan Regulations, no building permit shall be issued for the purposes of constructing a new or renovated building or structure, or for the purpose of making exterior alterations to an existing building or structure, or for the purpose of changing the use of an existing use of land, building, or structure, unless a certificate of approval has first been issued by the Planning Board as required by the Site Plan Regulations.
4. If approved, list all variances, waivers, and conditional use permits on the site plan with approval dates and section numbers.
5. Outstanding traffic issues from the traffic study and supplemental analyses that are pertinent to Phase 1A, including but not limited to, unacceptable levels of service at multiple approaches, shall be coordinated with New Hampshire Department of Transportation and applicable City of Concord staff for compliance with the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details.
6. Outstanding sewer and water issues from the Wright-Pierce sewer and water study that are pertinent to Phase 1A shall be coordinated with City of Concord staff for compliance with the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details.
7. Per 12.03(4), the architectural elevations shall be signed or sealed by a New Hampshire licensed architect.

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8. The color of the light pole detail does not appear to be stated on the lighting plan or on the lighting pole detail. The color of the light poles needs to be stated on one of the two sheets for compliance with Section 16.02(16).
9. The demolition and site preparation plan (Sheet C-03 of the plan set) does not show and note all erosion and dust control measures to be implemented as required by Section 16.02(18).
10. Section 16.02(19) requires the submittal of a traffic control plan where work is required or proposed within or immediately adjacent to a travel way of a public street. The submitted materials did not include a traffic control plan. The applicant states this needs to be a condition of approval.
11. Section 16.02(20) requires the submittal of an off-site improvement plan. The required off-site improvement plan does not appear to be present in the submitted materials, but the applicant requested submittal of the off-site improvement plan as a condition of approval.
12. Compliance with Section 16.03(1) requires that the architectural elevations shall be signed or sealed by a New Hampshire licensed architect, or a New Hampshire licensed professional engineer, as allowed by the licensing boards. The submitted architectural elevations are not signed or sealed by one of the required licensed professionals.
13. The size and spacing of all windows and door openings shall be noted on the elevations as per Section 16.03(5).
14. The proposed colors to be used for all siding, roofs, foundations, trim, doors, windows, mechanical equipment, and all other appurtenant features shall be noted on the architectural elevations for compliance with Section 16.03(7). The east, west, and south elevations of the convenience store do not contain colors. The elevations for the car wash do not contain colors. No elevations were provided for the canopy showing all elements required by Section 16.03(7).
15. Per Section 16.03(8), horizontal and vertical dimensions shall be provided on the architectural elevations including the maximum height to the top of the roof, any mansard, roof top structure, mechanical equipment cupola, flag pole or other appurtenant structure. A vertical dimension from the average ground level on each side of the building to the top of each floor shall also be provided.
16. A colored rendering of the elevations showing the proposed landscaping as expected five years after planting is required for compliance with Section 16.03(9).
17. Revise the site plan to show the required stacking spaces for the ordering stations and the gas pumps, along with the dimensions shown and labeled of 20 feet in length and 9 feet in width per stacking space.
18. Revise the site plan to show and label the dimensions of the stacking spaces for the car wash.
19. Revise the site plan so that the parking and stacking spaces shown are the same as what is noted in the parking calculations.
20. The site plan shows two parallel parking spaces with dimensions. The required length of 22 feet is shown, but the site plan shows the width of the parallel spaces as 8 feet where 9 feet in width is required for compliance with Section 18.04 of the Site Plan Regulations and Article 28-7-7(a) of the Zoning Ordinance.
21. The dimensions of the stacking spaces are not shown and labeled on the site plan as required by Section 18.08 of the Site Plan Regulations and Article 28-7-7(d) of the Zoning Ordinance.

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22. The required perimeter landscaped area width for the frontage along Manchester St is 15 feet, per Article 28-7-12(c)(1) of the Zoning Ordinance, but the site plan and landscape plan show and note it as 10 feet. The front perimeter landscape area needs to be changed to 15 feet on both the landscape plan and the site plan for compliance with Section 18.11 and Section 18.12 of the Site Plan Regulations and Article 28-7-12(c)(1) of the Zoning Ordinance, and the landscape calculations provided on the landscape plan need to be revised to reflect a 15-foot-wide front perimeter landscape area.
23. Compliance with Section 18.17 requires the number of trees to be planted around the parking areas as one tree per 1,000 square feet of proposed parking area. With 10,842 square feet of parking area, this equates to 11 trees required. The calculations on the colored landscape plan state that 11 trees are provided, so the requirement is met. However, the calculation incorrectly states a requirement of one tree per 2,000 square feet. The calculations for the tree requirement need to be updated to reflect the 1:1,000 requirement.
24. The site plan does not appear to show the required loading space as required by Sections 20.02, 20.03, 20.04, and 20.05. Specifically, the loading space shall be of a minimum width of 14 feet, have a minimum height clearance of 14 feet above grade, and contain an area of not less than 1,000 square feet, including space for maneuvering. The site plan shows a loading area, but does not label the dimensions and square footage of the loading area.
25. Clearly show, label, identify, and depict the required connections to the required Black Hill Rd public sidewalks as required by Section 21.03.
26. Information needs to be provided regarding mechanical equipment placement and screening to show compliance with Section 26.02. Staff notes that the site plan shows proposed fencing around a storage area, but the type of fencing does not appear to be noted and there is no indication that all the mechanical equipment will be inside the storage area. The fencing must be solid, opaque fencing, and all the mechanical equipment must be inside of the solid, opaque fencing to meet the screening requirement.
27. Address the compliance comments in the attached memorandum from the Engineering Division, dated April 10, 2024, such that the Engineering Division is satisfied that the project complies with applicable codes, regulations, standards, and details.
28. Final approval of the comprehensive plan development for the portion of the tract containing Phase 1A (project 2021-26) must be obtained prior to submittal of the final major site plan set for the development of 30 Manchester St.
29. Upon notification from the Planning Division that the final plan set complies with applicable Zoning Ordinance requirements and the Site Plan Regulations, the applicant shall deliver to the Planning Division three plan sets (two full-size and one 11x17) for endorsement by the Planning Board Chair and Clerk.
30. In accordance with Section 36.15 of the Site Plan Regulations, no building permits may be issued for any building, structure, or site improvement, or change of use prior to site plan approval and the satisfactory completion of the pre-construction conditions of Planning Board approval.

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

1. The applicant is responsible for full knowledge of and compliance with all applicable portions of the municipal code, Site Plan Regulations, and Concord Construction Standards and Details for the project.

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2. Prior to the start of construction, a pre-construction meeting shall be scheduled with the Engineering Division.
3. Per Section 16.02(19) of the Site Plan Regulations, if work will take place immediately adjacent to a travel way of a public street, a traffic control plan shall be submitted to the satisfaction of the City Engineer.
4. Prior to the start of construction, applicable permits shall be obtained from the Engineering Division.
5. Erosion control measures shall be installed and maintained in accordance with Section 27.09 of the Site Plan Regulations.
6. In accordance with Article 17-6-10 of the Traffic Code, truck traffic for vehicles with a gross weight over nine tons shall be prohibited from travel on roads with posted load limits. Waivers for travel of overweight vehicles on posted roads shall not be considered unless requested by the Public Utilities Commission stating such waiver is requested for consideration of the city manager as an emergency to address public safety and wellbeing. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
7. In accordance with Article 5-1-4(d) of the General Code, excavation permits in newly constructed, reconstructed, rehabilitated, or overlaid pavements within the public right-of-way or on city property are prohibited for five years, except as permitted by the city engineer or in situations deemed by the city manager to be in the best interest of the general public. The contractor/developer/applicant/property owners shall comply with this code and schedule work accordingly.
8. Prior to the issuance of a certificate of occupancy, digital as-built drawings shall be provided conforming to the Engineering Division's as-built checklist, per Section 12.09 of the Site Plan Regulations.
9. In accordance with Section 36.15 of the Site Plan Regulations, no certificate of occupancy shall be approved, nor shall any use of a building or site commence, unless the proposed improvements and the proposed use of land or buildings, is found to comply with the approved site plan and the conditions of Planning Board approval.
10. In accordance with Section 36.24 of the Site Plan Regulations, no certificate or occupancy, or other use permit, shall be issued until the development has been completed according to the approved plans.
11. In accordance with Section 36.25 of the Site Plan Regulations, the applicant's engineer or surveyor shall submit to the City Engineer a detailed "as-built" survey showing the location of buildings, structures, utilities, parking areas, driveways and access, as well as for any public improvement constructed indicating location, dimensions, materials, and other information required by the City Engineer. The as-built survey shall also be submitted in digital format and media conforming to the Engineering Division's as-built checklist.

Other Business

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

Adjournment

Mr. Hicks moved, seconded by Mr. Fox, to adjourn the meeting at 11:07 p.m. All in favor. The motion passed unanimously.

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The next regular meeting is **Tuesday**, June 18, 2024, at 7:00 p.m.

TRUE RECORD ATTEST:

Krista Tremblay

Krista Tremblay

Administrative Specialist II