

City of Concord Planning Board
July 17, 2024
Minutes

The regular monthly meeting of the City Planning Board was held on July 17, 2024, at 7:00 p.m., in City Council Chambers at 37 Green St, Concord.

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

Absent: Mayor Byron Champlin, Alternate Chiara Dolcino, Alternate Frank Kenison, Member Jeff Santacruce

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

1. Call to Order

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

2. Roll Call

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

3. Approval of Meeting Minutes

Vice-Chair Pierce moved, seconded by Member Condodemetraky, to approve the June 18, 2024, Planning Board meeting minutes, as written. The motion passed unanimously.

4. Agenda Overview

Vice-Chair Pierce moved, seconded by Member Hicks, to continue agenda items 8a and 9b to a date certain of August 21, 2024, at the request of the applicants. All in favor. The motion passed unanimously.

Member Savage moved, seconded by Vice-Chair Pierce, to continue agenda item 9a to a date certain of September 18, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

5. Design Review Applications by Consent

At the request of the applicant, Kevin Rutter, agenda item 5c was removed from the design review application consent agenda for a public hearing.

On a motion made by Member Pierce, seconded by Member Savage, the Board voted unanimously to approve applications 5a, 5b, and 5d through 5i as submitted, subject to the recommendations of the Architectural Design Review Committee. All in favor. The motion passed unanimously.

5a. Darcie Roy Sign Permits and PSCO Sign Groups, on behalf of Santander, request architectural design review approval for a new 45-square-foot internally illuminated freestanding pylon sign and two new 17.6-square-foot internally illuminated wall signs at 73 West St in the Neighborhood Commercial (CN) District.

5b. American Sign Inc., on behalf of Sierra, requests architectural design review approval for a new 90.65-square-foot internally illuminated wall sign, a new 2.5-square-foot hanging blade sign, and a

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new 24-square-foot internally illuminated tenant pylon panel sign at 10 Loudon Rd in the Gateway Performance (GWP) District.

- 5c. Kevin Rutter, on behalf of the Smoking Turtle, requests architectural design review approval for a new 24-square-foot externally illuminated wall sign at 9 Pleasant St Extension in the Central Business Performance (CBP) District.

This agenda item was removed from consent at the request of the applicant, Kevin Rutter.

Mr. Rutter stated he followed the suggestions from the Architectural Design Review Committee in the July meeting, revised the sign accordingly, and would like approval for the new design presented.

Member Hicks made a motion to approve as presented. Member Condodemetraky seconded. All in favor. The motion passed unanimously.

- 5d. NEOPCO Signs, on behalf of Field & Fire, LLC, requests architectural design review approval for a new 29-square-foot non-illuminated wall sign at 82 N Main St in the Central Business Performance (CBP) District.
- 5e. Signarama Concord, on behalf Bobcat, requests architectural design review approval for a new 59.95-square-foot non-illuminated wall sign at 309 Sheep Davis Rd in the Gateway Performance (GWP) District.
- 5f. Signarama Concord, on behalf of Newbody, requests architectural design review approval for a new 7.87 square-foot non-illuminated window sign at 1 Merrimack St (Penacook) in the Central Business Performance (CBP) District.
- 5g. Signarama Concord, on behalf of The Wedding Place, requests architectural design review approval for a new 7.8-square-foot and a new 3-square-foot non-illuminated window sign at 1 Merrimack St (Penacook) in the Central Business Performance (CBP) District.
- 5h. SRsolarNH, on behalf of 41 South Main Street, LLC, requests architectural design review approval for installation of solar panels at 41 S Main St in the Central Business Performance (CBP) District. (2024-035)
- 5i. ReVision Energy, on behalf of Fourkph, LLC, requests architectural design review approval for installation of a building-mounted solar collection system on a flat roof at 54 Regional Dr in the Office Park Performance (OFP) District. (2024-038)

6. Extension Applications by Consent

- 6a. Erik Jones, on behalf of Kalapa Realty Trust, requests approval for a one-year extension of the major site plan approval for a 21-unit elderly multi-family residential development at 61 Borough Rd in the Medium Density Residential (RM) District and the Single Family Residential (RS) District. (2022-44)

Member Savage moved, seconded by Member Todd, to **grant a one-year extension** to meet the conditions of the conditional approval granted on July 19, 2023, for the major site plan and

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conditional use permit applications for the proposed 21-unit elderly multi-family project at 61 Borough Rd. The request will extend the expiration date of the major site plan approval to July 19, 2025. All in favor. The motion passed unanimously.

Public Hearings

7. Design Review Applications

- 7a. Expose Signs, on behalf of The John Flatley Company, requests architectural design review for a new 200-square-foot internally illuminated pylon sign at 10 Ferry St in the Opportunity Corridor Performance (OCP) District.

Ms. Skinner reminded the Board that this agenda item was pulled from consent by Member Jeff Santacruce at the June meeting to discuss permitting requirements from the New Hampshire Department of Transportation. The applicant sent an email this morning, that was forwarded to the Planning Board, that contained the answer to the frequently asked question about permits being needed for sign installation. Notably, a permit may be needed if any businesses will be advertised on the sign other than businesses located on the site. In this case, all proposed advertising will be businesses located on the site. Accordingly, the applicant stated no permit is needed.

Vice-Chair Pierce questioned the source of the information.

Ms. Skinner stated the information was provided by the applicant, who used information from the DOT website. Ms. Skinner also noted that there a few items related to the sign that were not in compliance with the Zoning Ordinance, but that the applicant received variance approvals from the Zoning Board of Adjustment for those items, including size, height, setback, and number of freestanding signs on one property.

Discussion took place among the group regarding the source of the information about no permit being required not being received directly from a DOT employee, with the overall sentiment that the group would like the permitting information to come directly from DOT.

Member Rosenberger moved, seconded by Councilor Todd, to deny the application.

Further discussion regarding DOT permitting requirements for this sign ensued with suggestions to either table the application or approve with a condition regarding direct communication from DOT.

Member Rosenberger withdrew the motion, and Councilor Todd withdrew the second.

Chair Woodfin moved, seconded by Member Hicks, to approve the sign as submitted with Architectural Design Review Committee recommendations, contingent on written feedback from the State of New Hampshire Department of Transportation to City staff regarding the department's permitting requirements for the sign. All in favor. The motion passed unanimously.

- 7b. NEOPCO Signs, on behalf of Seth Hipple, requests architectural design review approval for a new 28-square-foot internally illuminated freestanding sign at 390 Loudon Rd in the Gateway Performance (GWP) District.

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Glenn Schadlick (5A Crosby St, Concord) represented the application and asked for approval of the sign as submitted.

Chair Woodfin asked Mr. Schadlick about the recommendation from the Architectural Design Review Committee.

Mr. Schadlick stated that the Architectural Design Review Committee cited Section 5a and 5b from the Architectural Design Guidelines as rationale for the recommendation condition of approval to remove both URL websites from the sign. Mr. Schadlick stated that Section 5b is titled *Materials*, and materials were not the Committee's concern. Mr. Schadlick noted that Section 5b does say that sign materials should harmonize with the design of the building, noting that it continues by stating that a simple and direct message in uppercase and lowercase letters is most effective. Mr. Schadlick stated nowhere in Section 5.4b does it say the content or colors of the sign can be limited, and thus, the approval cannot limit colors and content. Mr. Schadlick also reminded the group that the guidelines for materials use the word "should" for a suggestion, rather than "shall" as a directive.

Chair Woodfin asked why there are two URLs on the sign.

Mr. Schadlick stated the firm conducts two different types of law business, each represented by a different URL. Mr. Schadlick noted that the Committee felt that the two URLs were a lot of copy on the sign and would not be readable when driving at 35 miles per hour. Mr. Schadlick pointed out next door is a large property for sale. Mr. Schadlick stated there could be a parking lot where people could sit and read the content once a business is in the next lot.

Vice-Chair Pierce noted that the minutes from the Architectural Design Review Committee meeting show Mr. Hipple's consent to limiting the sign to one URL site, rather than the two proposed.

Mr. Schadlick stated that Mr. Hipple agreed to that suggestion not knowing that sign content cannot be limited.

Chair Woodfin closed the public hearing at 7:24 p.m.

Chair Woodfin moved, seconded by Member Hicks, to approve as submitted with no changes. All in favor. The motion passed unanimously.

8. Amendments

- 8a. 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)

On a motion made by Member Pierce, seconded by Member Hicks, the Planning Board voted to continue agenda item 8a to a date certain of August 21, 2024, at the request of the applicants. All in favor. The motion passed unanimously.

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

- 9a. 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 applications for disturbance to a wetland buffer and an alternative parking arrangement for the construction of fewer parking spaces than what is required. Also requested are waivers from certain 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) The applicant requested a postponement to a date certain of September 18, 2024.

Member Savage moved, seconded by Vice-Chair Pierce, to continue agenda item 9a to a date certain of September 18, 2024, at the request of the applicants. All in favor. The motion passed unanimously.

- 9b. Jonathan Devine and TFMoran, Inc., on behalf of West Street Keene, LLC, request approval for a minor site plan application and architectural design review for an 1,800-square-foot addition to an existing building at 313 Loudon Rd in the Gateway Performance (GWP) District. (2024-034) The applicant continued this application to a date certain of August 21, 2024.

Vice-Chair Pierce moved, seconded by Member Hicks, to continue agenda item 9b to a date certain of August 21, 2024, at the request of the applicants. All in favor. The motion passed unanimously.

- 9c. Richard D. Bartlett & Associates, LLC, on behalf of Thomas and Allison Kuepper requests approval for a minor subdivision application and certain waivers from the Subdivision Regulations to divide one existing lot into two lots at 61 Mountain Rd in the Single Family Residential (RS) District. (2024-043)

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

Mark Sargent (214 N Main St, Concord) represented the application. Mr. Sargent noted that the property is located at 61 Mountain Rd, with a total area of 15.24 acres, and 255 feet of Mountain Rd frontage. The site contains a house and backs up to Interstate 93, with a portion of a discontinued road comprising a portion of the boundary. The owners would like to create one additional lot of 2.61 acres in size and 100 feet of frontage on Mountain Rd. Access to the new lot would be through an easement running along the path of the discontinued road on the subject property. The proposed lot meets the requirements for both usable and buildable areas. The intention is to build a house on the new lot. The remainder lot with the existing single-family house will end up with 12.62 acres and 155 feet of frontage. The application includes two waiver requests.

Member Hicks asked about access to the new lot.

Mr. Sargent stated the access would initiate from Mountain Rd through the portion of discontinued Locke Rd that is on the subject property along the south boundary.

Chair Woodfin stated that Locke Rd was discontinued in June 1959.

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Mr. Sargent confirmed.

Lisa Denningham, an abutter (1 Tow Path Ln, Concord), expressed the following concerns: her belief that the prior owner made an arrangement so that no one could make a driveway or road on the subject property; Mr. Kuepper leveled 15 acres of trees and posted a sign advertising building lots for sale; and, Ms. Denningham does not want a road abutting her property.

Donald Gott, an abutter (5 Tow Path Ln, Concord), expressed the following concerns: a subdivision adjacent to his property; and, Mr. Kuepper's recent installation of a patio resulting in excess material being placed on Mr. Gott's property and the burying of existing trees. Mr. Gott stated he contacted Mr. Kuepper and Mr. Kuepper's contractor to remove the excess material about a month ago, and nothing has been done.

Greg Grace, an abutter (55 Mountain Rd, Concord), noted several factors that present difficulties in dividing the subject property. Mr. Grace listed those factors as being on a bluff, having a large drop off, and having a big grade. Mr. Grace does not want his property negatively affected with this project and expressed concern over setbacks, drainage, and size of the road for the new lot and future lots.

Ms. Skinner addressed the abutters' concern about the proposed driveway for one house turning into a road for more lots in the future by stating that the requirements for one driveway for one single-family house are much different than the requirements for a private common driveway to accommodate more than one lot. Ms. Skinner stated the proposed driveway for one lot does not meet the requirements for more than one lot.

Chair Woodfin reiterated that the application is for one new lot with a driveway requirement for only one house. Additional lots would have street requirements different from the driveway requirement for one lot.

Mr. Sargent provided rebuttal testimony and asserted the following: the property boundaries were properly surveyed and are accurate as shown; the only option for the applicant is to create the one proposed lot, and no additional lots, due to zoning code requirements and subdivision regulations; upon discontinuance of the old Locke Rd, from the centerline, the north half went with the Kuepper property and the south half went with the Grace property; and, the new driveway will be designed by an engineer in accordance with City standards and regulations and it will be provided to City of Concord Engineering Division to review for compliance.

Ms. Savage expressed concern about the elevation, grade, and drop off for the driveway.

Mr. Sargent reiterated that the driveway will be designed by an engineer and must be compliant with all City standards and requirements.

Mr. Kohalmi stated an application for a driveway permit must be submitted for review by the Engineering Division.

Chair Woodfin closed the public hearing.

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

Vice-Chair Pierce moved, seconded by Chair Woodfin to grant the waiver requests below from the listed sections of the Subdivision Regulations, using the criteria of New Hampshire RSA 674:36(II)(n)(2) and Section 35.08 of the Subdivision Regulations. All in favor. The motion passed unanimously.

- Section 15.01(3) Required Information, to not provide wetland delineation in the rear of the large parcel and where no development is proposed; and,
- Section 15.03(4) Required Information, to not provide topographic information on the area of both parcels beyond what is necessary to show that both lots meet the requirements for buildable and useable area.

Vice-Chair Pierce moved, seconded by Chair Woodfin, to grant minor subdivision approval for the two-lot subdivision at 61 Mountain Rd, subject to the precedent conditions 1 through 10 and subsequent conditions 1 through 6. All in favor. The motion passed unanimously.

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. For compliance with the Subdivision Regulations, revise the plat as follows:
 - a. Per Section 12.02(3) *All Plans*, please revise Note 4 to the correct zoning designation of Single Family Residential (RS) District. Additionally, setbacks in Note 4 and shown on the plat shall be revised to be compliant with the RS District as shown in Article 28-4-1 (h) *Table of Dimensional Regulations* of the Zoning Ordinance.
 - b. Per Section 12.02(3) *All Plans*, please add a note on the plat indicating the source of sanitary sewer and potable water supply for the new lot.
 - c. Per Section 12.02(3) *All Plans*, please combine the subdivision plat and topographical plan into a 2-sheet plan set, adding a note that only sheet 1 of 2 will be recorded and sheet 2 of 2 is available at the City of Concord Planning Division.
 - d. Per Section 12.03(3) *Planning Board Approval Block*, please provide the Planning Board approval block on the subdivision plat. Staff can provide a template as a .pdf, .dwg, or .jpg if requested.
 - e. Per Section 12.04(9) *Location Plan*, please provide zoning district designation and boundaries on the location plan.
 - f. Per Section 12.05 *Vicinity Plan*, please revise the vicinity plan to a scale between 1 inch = 1,000 feet and 1 inch = 2,000 feet.
 - g. Per Section 12.06(1) *Certificate of Ownership*, please add Allison Kuepper to note 3 as an additional owner of record.
 - h. Per Section 12.06(3) *Existing Restrictions*, please add a note to the final plat identifying that the land being subdivided is in current use and the proposed subdivision will result in a portion which will need to be removed from current use. Additionally, staff recommends the applicant create or amend the deeds of

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the properties to make it easier to understand the remaining portion of current use for the existing lot.

- i. Per Section 12.07 *Wetland Delineations*, the New Hampshire certified wetland scientist shall sign and seal the subdivision plat.
 - j. Per Section 12.08(4) *Soils*, please add on one of the two plan sheets the identification and classification of the extent and type of soils using USDA Natural Resources Conservation Service System.
 - k. Per Sections 12.08(10) *Municipal Utilities*, 15.03(11) *Municipal Sewer*, and 15.03(13) *Municipal Water Supply*, please add the location, size, and material of existing and proposed sanitary sewer and water services if serving the subdivision.
 - l. Per Sections 12.08(12) *Wells and Septic Systems* and 15.03(12) *Septic Systems*, please add location of existing wells and septic systems on the property and immediately adjacent property if new wells or septic systems are proposed. Where municipal sewer service is not available, soil data and test results sufficient to submit an application for subdivision approval to the State of New Hampshire Department of Environmental Services shall be provided and the required 4,000squarefoot septic drain field area shall be shown on the subdivision plat.
 - m. Per Sections 12.08(12) *Wells and Septic Systems* and 15.03(14) *Wells*, please add the location of existing wells and septic systems on the property and immediately adjacent property if new wells or septic systems are proposed. Where municipal water system is not available, the location of all existing and proposed wells, and required wellhead protection radii on the site and abutting properties shall be shown on the plat.
 - n. Per Section 12.08(13) *Flood Hazard*, please add to Note 7 that the parcel also is, or is not, located within the Concord FH-Flood Hazard Zoning Overlay District as described in Article 28-3-2 of the Zoning Ordinance.
 - o. Per Section 12.08(19) *Setbacks and Buffers*, please add the wetland line type to the legend for each sheet to make clear the purpose of the shown 50-foot buffer.
 - p. Per Section 12.08(22) *Abutting Properties*, please provide the location of existing buildings and driveways for abutting properties.
 - q. Per Section 15.02(7) *Lot Numbers*, please provide a sequentially numbered lot number for the existing and proposed new lots.
 - r. Per Section 15.02(8) *Addresses*, please provide addresses for both the existing and proposed new lots on the plat as approved by the City Engineer.
 - s. Per Section 15.03 (5) *Monumentation*, please provide the type of required monuments.
2. An agreement to convey an easement shall be provided for the benefit of future owners of the lots and shall be recorded with the Merrimack County Registry of Deeds with the subdivision plat. The agreement shall be reviewed by staff and prepared in accordance with Section 13.02(9) and Appendix C of the Subdivision Regulations, and may include, but is not limited to, vehicle and pedestrian access, drainage, utility, and access for maintenance purposes.
 3. The plat shall list all approved variances, waivers, and conditional use permits, with the section numbers and description, and date of approval.

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4. Per Section 9.02(6), Section 13.01(6), and Section 13.02(10) of the Subdivision Regulations, copies of permit applications to state and federal agencies shall be submitted to the Planning Division. For clarification, list the required state and federal permits for the project on the plat. If none, add a note to the plat stating that the project does not require any state or federal permits.
5. A note shall be added to the final plat submitted for recording that states: "The project must comply with all subsequent conditions from Case 2024-043 For compliance with Section 12.02(4), Section 15.04(17), and Appendix B of the Subdivision Regulations."
6. 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).
7. Address comments listed in the memorandum from the Engineering Division, dated July 5, 2024, to show compliance with the applicable section or standard.
8. Per Section 13.02(1), (2), (3), (4), (5), (6), (9), (11), and (12) of the Subdivision Regulations, the documents shall be submitted to the Planning Division for review and approval prior to the endorsement of the plat by the Chair and the Clerk of the Planning Board. Once approved by the Clerk, the City Engineer, and the City Solicitor as to form and content, property executed documents and agreements shall be submitted for recording with the plat.
9. Upon notification from the Planning Division that the final plat complies with Planning Board conditions, the Zoning Ordinance, and 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 subsequent recording of the mylar at the Merrimack County Registry of Deeds. The plans shall contain the signature and seal of the appropriate licensed professionals as outlined in Section 12.03 and Section 15.02(1) of the Subdivision Regulations.
10. Per Section 13.02(13) of the Subdivision Regulations, the applicant is responsible for submittal of recording fees required by the Merrimack County Registry of Deeds for the plat and deeds to be recorded.

Subsequent Conditions – to be fulfilled as specified:

1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, the municipal code, Subdivision Regulations, and Concord Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit is granted.
2. Per Section 9.08(10) of the Subdivision Regulations, no building permit shall be issued within a subdivision until the plat has been approved, the conditions of plat approval have been satisfactorily addressed, and the plat recorded in the Merrimack County Registry of Deeds.
3. Monuments shall be set in accordance with Section 19.04 of the Subdivision Regulations.
4. Per Section 24.05 of the Subdivision Regulations, if individual private wells are provided, they 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.

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5. Per Section 25.04 of the Subdivision Regulations, sanitary sewage disposal, if individual waste disposal systems for each dwelling unit are provided, they shall be 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.
6. Per Section 28.07 of the Subdivision Regulations, wetland buffers shall be clearly and permanently marked before, during, and after construction. Building permits shall not be issued until the wetland buffers are marked.

9d. Richard D Bartlett & Associates, LLC, on behalf of Boys & Girls Clubs of Central New Hampshire, Inc., requests approvals for a minor subdivision application and certain waivers from the Subdivision Regulations for a two-unit condominium subdivision at 76 Community Dr in the Neighborhood Residential (RN) District. (2024-040)

Member Savage recused herself and left the room, due to a conflict of interest in that she is on the Board of Directors for the Boys and Girls Club.

Chair Woodfin noted there will still be a quorum with Member Savage's recusal.

Vice-Chair Pierce moved, seconded by Mr. Hicks, 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, stating that the project was the subject of a major site plan a couple of years ago, and they are now requesting approval for a two-unit condominium subdivision to separate the Boys and Girls Club and the Penacook Library, with a waiver request to not provide the electronic submission as required by the Subdivision Regulations. Staff is in support of the request.

Mark Sargent (214 N Main St, Concord) and Beth Fenstermacher (41 Green St, City Hall, Concord) represented the application. Mr. Sargent stated the property is located at 76 Community Dr, with an area of 0.95 acre. The proposal before the Planning Board is to create a two-unit condominium with Unit 1 at the east end of the building with 1,480 square feet and common area outside the entrance. Unit 2 would be at the west end of building for the Boys and Girls Club, with 7,495 square feet and a limited common area for a playground. Mr. Sargent explained the waiver request by noting that the original survey was performed in 2001 and that, for cost-saving reasons, the same survey information is being used rather than the datum required by Section 12.09.

Chair Woodfin noted staff report lists missing items from Sections 11, 12, 13, and 15 of the Subdivision Regulations, wanting to ensure the Board being comfortable with those missing items.

Mr. Sargent explained that they wanted to get the condominium subdivision application done early and the site is still under construction, so there were some items they were not able to complete for the application.

Ms. Skinner noted that there are two different sections in the Subdivision Regulations that deal with completeness. One lists specifically Section 15 items, but the other does not list the any sections; rather, it states that enough information needs to be presented such that the Planning Board can give a

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full and detailed review. Staff's evaluation of the submittal concluded that the missing items for completeness are minor, and that the materials presented are sufficient for a full and detailed review by the Board.

Chair Woodfin opened the public hearing. No one was present to provide testimony, so Chair Woodfin closed public hearing.

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

Vice-Chair Pierce moved, seconded by Councilor Todd, to grant the waiver request below from the listed section of the Subdivision Regulations, using New Hampshire RSA 674:36(II)(n)(2) and Section 35.08 of the Subdivision Regulations. All in favor. The motion passed unanimously.

- Section 12.09 *Electronic Submission*; to not provide the electronic submission.

Councilor Todd moved, seconded by Vice-Chair Pierce, to grant minor subdivision approval for the two-unit condominium subdivision at 76 Community Dr, subject to precedent conditions 1 through 6 and subsequent condition 1. All in favor. The motion passed unanimously.

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. For compliance with the Subdivision Regulations, revise the plat as follows:
 - a. Per Section 12.02(1)(a) *Title Block*, the title of the plan between the 1-sheet condominium site plan and 2-sheet architectural plans is not consistent. Please revise so the title of the plan remains consistent.
 - b. Per Section 12.02(1)(d) *Title Block*, please add the seal and signature of the licensed professional who prepared the final architectural plans for recording.
 - c. Per Section 12.02(3) *Standard Notes*, please provide the Flood Insurance Rate Map sheets used to identify if the parcel is located within a designation zone.
 - d. Per Section 12.03(1) *North Arrow and Bar Scale*, please provide a North arrow and bar scale on the building floor plans.
 - e. Per Section 12.04 *Location Plan*, please revise the scale of the location plan from 1" = 200' to a minimum 1" = 400'.
 - f. Per Section 12.08(7) *Buildings and Structures*, please provide exterior dimensions of the building on the site plat.
 - g. Per Section 12.08(10) *Municipal Utilities*, please provide the size and material of municipal utilities currently serving the subdivision.
 - h. Per Section 12.08(11) *Non-municipal Utilities*, please provide location of other non-municipal utilities currently serving the subdivision, including transformers, switch boxes, and other appurtenances if applicable.
 - i. Per Section 12.08(13) *Flood Hazard*, please note on the plat as to whether or not the property is located in a City FH – Flood Hazard Zoning Overlay District as defined in Article 28-3-2 of the Zoning Ordinance.
 - j. Per Section 12.08(19) *Setbacks and Buffers*, residential district buffers shall be shown and dimensioned on the plan.

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- k. Per Section 15.02(8) *Addresses*, the address for each condominium unit shall be noted on the plat and approved by the City Engineer. Additionally, the plat references Unit 1 and 2, whereas the floor plan references Suites 1 and 2 for 76 Community Drive. Once this determination is made, plans should be revised accordingly.
 - l. Per Section 15.02(9) *Proposed Use*, the plat should indicate the type of uses.
 - m. Per Section 15.03(1) *Abutting Property*, please provide abutting property addresses on the plat.
 - n. Per Section 17.03 *Building Floor Plans*, please revise the condominium building floor plans scale from 1/8-inch = 1-foot to a required scale of 1" = 5', 1" = 10', or 1" = 20', showing the location and horizontal and vertical dimensions of each unit and common area.
 - o. Per Section 17.03(1) *Building Floor Plans*, the building floor plans shall be signed and stamped by a NH Licensed Land Surveyor, a NH Licensed Architect, or a NH Licensed Professional Engineer in a format suitable for filing in the Merrimack County Registry of Deeds.
 - p. Per Section 17.03(2) *Building Floor Plans*, the floor plans shall include the standard Planning Board approval block. Staff can provide a template as a .pdf, .dwg, or a .jpg if requested.
 - q. Per Section 17.04(3) *Common Facilities*, existing or proposed water and sewer service connections, including acceptable means for water metering, in accordance with Section 17.05, shall be shown on the plat and building floor plans. If existing services are substandard, the services shall be upgraded to City standards.
- 2. The plat shall list all approved variances, waivers, and conditional use permits, with the section numbers and description, and date of approval.
 - 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 #2024-040 for compliance with Section 12.02(4), Section 15.04(17), and Appendix B of the Subdivision Regulations."
 - 4. Per Section 13.02(11), of the Subdivision Regulations, the documents shall be submitted to the Planning Division for review and approval prior to the endorsement of the plat by the Chair and the Clerk of the Planning Board. Once approved by the Clerk, the City Engineer, and the City Solicitor as to form and content, property executed documents and agreements shall be submitted for recording with the plat.
 - 5. Upon notification from the Planning Division that the final plat complies with Planning Board conditions, the Zoning Ordinance, and 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 subsequent recording of the mylar at the Merrimack County Registry of Deeds. The plans shall contain the signature and seal of the appropriate licensed professionals as outlined in Section 12.03 and Section 15.02(1) of the Subdivision Regulations.
 - 6. Per Section 13.02(13) of the Subdivision Regulations, the applicant is responsible for submittal of recording fees required by the Merrimack County Registry of Deeds for the plat and deeds to be recorded.

Subsequent Conditions – to be fulfilled as specified:

- 1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, the municipal code, Subdivision Regulations, and Concord

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Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit is granted.

Ms. Savage reentered Council Chambers.

- 9e. Ari B. Pollack and Gallagher, Callahan & Gartrell, PC, on behalf of Onyx Steeplegate Concord, LLC, request approvals for an amendment to a major site plan approval and certain waivers from the Site Plan Regulations to demolish portions of the existing/former Steeplegate Mall at 270 Loudon Rd in the Gateway Performance (GWP) District. (2024-039)

Ms. Skinner stated there is a completeness component that the Planning Board will first need to address. Ms. Skinner informed the Planning Board that initially the applicant did not submit a complete demolition plan. Since the main portion of the request is to amend the major site plan approval for demolition, staff felt it was prudent to have a complete demolition plan. Subsequent to the publishing of the agenda, the applicant submitted a complete demolition plan that addresses all the items of completeness and which Ms. Skinner emailed to the Planning Board. Staff is comfortable reversing the recommendation of determining the application complete and opening the public hearing.

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

Ari Pollack (Gallagher, Callahan & Gartrell, PC, 214 N Main St, Concord) represented the application noting that the applicant is requesting an amendment to the existing site plan, as well as waivers and that staff supports the waivers. Mr. Pollack stated last fall that they presented to the Planning Board a comprehensive development plan that was tabled to a date uncertain. There is a substantial amount of work that needs to be completed before proceeding with the comprehensive development plan, including peer review of the traffic impact analysis. They also went to the Zoning Board of Adjustment for variances, and they were successful in receiving the variances. Mr. Pollack stated the property is in a difficult state of affairs. The interior spaces of the doors are boarded, and there are no operating tenants that need access to those interior boarded areas. There are tenants that will remain post development and they have their own entrance and parking area. Mr. Pollack stated there have been trespassers and vandalism at the mall. Mr. Pollack stated they want to protect parts of the existing structures. Mr. Pollack noted they received a recommendation of approval from the Architectural Design Review Committee to wrap the interior portions that will be exposed and established as exterior portions similar to the existing exterior facades.

Laura Gandia (111 Amherst St, Manchester), attorney with Devine-Millmet and representative of Silver Holding LLC, a direct abutter at 277 Sheep Davis Rd, Concord, and one of the three units in the Steeplegate Mall Condominium, spoke in opposition. Ms. Gandia emailed a letter to the Planning Board when she thought the application was considered not complete. Staff did forward her the updated demolition plan, and Ms. Gandia is now submitting additional information based on the updated demolition plan.

Ms. Gandia stated her client is in opposition to the approval of the amendment to the major site plan. Ms. Gandia stated the demolition plan lacks the necessary information that is crucial to hone in on

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what will happen when the 425,000-square-foot portion of the building is demolished. They believe the plan lacks staging areas, traffic circulation, and areas for equipment storage. Ms. Gandia noted the project is seeking over a dozen waivers, and those waivers impact drainage, grading, topography, lighting, access to driveway standards and erosion control. Ms. Gandia stated she did look at how a waiver should be granted and there is a lot there. Ms. Gandia referred to page two of her second letter for the questions that need to be asked and answered in granting a waiver.

Vice-Chair Pierce asked about the concern with drainage and if it's in relation to the demolition now or the future development.

Ms. Gandia stated she is not sure. Their concern is the drainage plan, and the plan is missing information.

Tom Grahan (son of the owners of 274 Sheep Davis Rd, Concord) stated that he grew up across the street of the mall. Since the mall began they have had two driveways and it is hard to get in and out of the driveways.

Chair Woodfin stated there will be several hearings throughout the development phase, noting that tonight's hearing is about an amendment to a major site plan previously approved to allow for demolition. Chair Woodfin reminded those present to watch the City of Concord website and abutter notifications.

Mr. Pollack provided rebuttal noting that staff reviewed the waiver requests and that the application included a letter that addresses the waiver criteria. Mr. Pollack stated the topography will not change due to the demolition. The building slabs and foundations will be left place to prevent changes in drainage. The utility and demolition plans must be revised to staff's satisfaction to show that the remaining sections of the building will be supported. Mr. Pollack stated the fences are installed now, there have been no complaints about driveway access to the site, and there is more than sufficient parking for the remaining uses.

Councilor Todd asked Mr. Pollack if other neighbors or tenants had expressed concerns with the proposed demolition.

Mr. Pollack stated no.

Ms. Skinner stated Member Santacruce called her earlier with two questions. Member Santacruce asked how the site will be screened and secured after demolition and before construction of the new development?

Mr. Pollack stated the fencing that's now in place will remain.

Ms. Skinner stated Member Santacruce noticed the roofs are flat and have roof drains. Once the roofs and roof drains are demolished, where will the water go?

Mr. Pollack stated the water will hit the slabs and gravity will take over running off of the slabs.

Chair Woodfin also asked about the roof drains and drainage in relation to their removal.

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Ian MacKinnon, applicant's engineer, (85 Portsmouth Ave, Stratham, Jones & Beach Engineers) stated that the two structures that will remain (Trampoline Park and adjacent old Bon Ton) are structurally separate. The roof drains and utilities are for both of those structures are now completely separate. The same holds true for the existing JCPenney in that it has its own power, sewer, and water. The updated plan submitted to staff shows rain water will be brought to the slabs, and there is no need to rip up utilities.

Chair Woodfin stated the rain will hit the slabs and then go somewhere other than the roof drains as it did before. Where will it go in lieu of the roof drains?

Mr. MacKinnon stated the water from the slabs will flow through the existing parking lot drainage.

Chair Woodfin asked if it's possible to keep the area around the slab to irrigate into the ground for a buffer.

Mr. Pollack said that is a helpful suggestion, and they will need to converse with staff, project engineer, and others.

Chair Woodfin closed the public hearing.

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.

Vice-Chair Pierce moved, seconded by Mr. Fox, to grant architectural design review approval for the demolition of approximately 425,000 square feet of the former Steeplegate Mall building at 270 Loudon Rd, subject to the following condition. All in favor. The motion passed unanimously.

- The new exposed elevations be designed with matching materials, such as brick and colors, to match existing facades.

Vice-Chair Pierce moved, seconded by Councilor Todd, to grant the waiver requests below from the listed sections of the Site Plan Regulations, 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.

- Section 12.03(3) *Plan Certification New Hampshire licensed landscape architect*, to not provide the signature and seal of a New Hampshire licensed landscape architect;
- Section 12.03(4) *Plan Certification New Hampshire licensed architect*, to not provide the signature and seal of a New Hampshire licensed architect;
- Section 12.03(6) *Plan Certification Soils*, to not provide the signature and seal of a New Hampshire certified soil scientist
- Section 12.04 *Location Plan*, to not provide the required location plan on a cover sheet or the amended site plan;
- Section 13.01(8) *Impact Studies*, to not provide impact studies;
- Section 15.02(3) *Site Plan Requirements Scale*, to not provide the amended site plan with the scale listed in the section;

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- Section 15.03(3) *Existing Condition Plan Topography*, to not provide topography on the overall existing conditions plan;
- Section 15.03(18) *Existing Condition Plan Lighting*, to not provide the type and location of existing outdoor lighting on the overall existing conditions plan;
- Section 15.03(23) *Existing Condition Plan Tabulations*, to not provide the required tabulations on the overall existing conditions plan;
- Section 15.04(28) *Proposed Site Plan Tabulations*, to not provide the required tabulations on the amended site plan;
- Section 16.02(12)(a) and (b) *Grading and Drainage Plan*, to not provide a grading and drainage plan;
- Section 16.02(13) *Erosion Control* and 16.02(15) *Landscape Plan*, to not provide an erosion control and landscape plan;
- Section 16.02(16) *Lighting Plan*, to not provide a lighting plan;
- Section 16.03(1) through (11) *Architectural Plans and Elevations*, to not provide architectural plans and elevations;
- Section 18 *Parking Lot Design Standards*, to not provide a parking lot plan because no new parking is proposed and no changes to the existing parking are proposed;
- Section 19 *Access and Driveway Standards*, to not provide an access and driveway plan because no new access or driveways are proposed and no changes to the existing accesses and driveways are proposed;
- Section 21 *Sidewalks, Multi-use Paths, and Trails*, to not provide a sidewalk plan because no new sidewalks, multi-use paths, or trails are proposed as part of the demolition, nor are any existing sidewalks proposed for removal as part of the demolition;
- Section 27 *Landscaping and Environmental Considerations*, to not provide a landscape plan because no changes to the existing landscaping are proposed and no new landscaping is proposed; and,
- Section 29 *Lighting*, to not provide a lighting plan or photometric analysis because no new exterior lighting is proposed.

Vice-Chair Pierce moved, seconded by Councilor Todd, to grant approval for the major site plan amendment for the demolition of approximately 425,000 square feet of the former Steeplegate Mall building at 270 Loudon Rd on Tax Map 611Z Lot 40, subject to precedent conditions 1 through 10 and subsequent conditions 1 through 6. All in favor. The motion passed unanimously.

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. For compliance with the Site Plan Regulations, revise the plan set as follows:
 - a. For compliance with Sections 11.01(7) and 13.01(6), provide a note on the amended site plan either listing the required state and federal agency permits or stating that no state or federal agency permits are required for the demolition.
 - b. Section 12.02(1)(b) requires the name and address of both the owner and the applicant in the title block. Provide the name and address of the applicant in the title block, as well as revising the name of the owner to only Onyx Steeplegate Concord, LLC.
 - c. Unless the requested waiver is granted, provide architectural elevations signed and sealed by a New Hampshire licensed architect, as required by Section 12.03(4).

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- d. Provide the signature and seal of the New Hampshire certified wetland scientist on both the overall existing conditions plan and the amended site plan as required by Section 12.03(5) and Section 12.07.
- e. Provide the soils information required by Section 12.03(6) on the amended site plan unless the requested waiver is granted.
- f. Provide the location plan required by Section 12.04 unless the requested waiver is granted.
- g. Provide the existing topographic conditions on the overall existing conditions plan as outlined in Section 15.03(3) unless the requested waiver is granted.
- h. On the overall existing conditions plan, show the cross hatching to the City's public storm drainage and sanitary sewer easement (the "pump station easement") recorded at the Merrimack County Registry of Deeds at Book 1762, Page 1025, as revised by MCRD Book 2209, Page 49.
- i. On the amended site plan show the use of existing and proposed buildings and structures, with exterior dimensions, as required by Section 15.04(10)
- j. On the amended site plan, show, label, and identify the 50-foot wetland buffer line as required by Section 15.04(22).
- k. On the amended site plan, show and label the zoning district boundary lines as required by Section 15.04(23).
- l. On the amended site plan, show the solid waste facilities as required by Section 15.04(24).
- m. On the amended site plan, show outside storage, or note that none is proposed, as required by Section 15.04(25).
- n. On the amended site plan, show the existing outdoor lighting that will remain, as required by Section 15.04(26).
- o. On the amended site plan, show the existing fire alarm service and fire suppression system as required by Section 15.04(27).
- p. On the amended site plan, add a note to the site notes that specifically states the subject of the application is Tax Map 611Z Lot 4.
- q. For compliance with Section 16.02(7), add the address of each existing and proposed building to the amended site plan, as approved by the City Engineer.
- r. For compliance with Section 16.02(8), provide a note on the amended site plan that includes a description of the type of uses proposed on the site after the demolition.
- s. For compliance with Section 16.02(14), submit a utility plan that provides all components required by the Site Plan Regulations, including but not limited to Sections 23, 24, 25, and 26, the municipal code, and Concord Construction Standards and Details, for the municipal and non-municipal utilities for the remaining buildings. The utility plan shall address individual services for each building and shall address all fire suppression and fire-related topics as noted by the Fire Department.
- t. Submit a detailed demolition plan that includes all information required by Section 16.02(18).
- u. The submitted utility plan shall include provisions for loading, solid waste, and disposal, for the remaining buildings as required by Section 20, and screening for such as required by Section 26.
- 2. The amended site plan shall list all approved variances, waivers, and conditional use permits, with the section numbers and description, and date of approval.

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3. The plans submitted for final approval shall contain the signature and seal of the appropriate licensed professional as outlined in Section 12.03(1) through (6), as applicable, unless a waiver to provide such signature and seal is requested and approved.
4. Both the overall existing conditions plan and the amended site plan shall contain the wetland delineation mapping, date of delineation, and signature and seal of the New Hampshire certified wetland scientist as required by Section 12.07 of the Site Plan Regulations.
5. 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 System (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. The following layers shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88): (a) through (i).
6. Per Section 13.01(6) of the Site Plan Regulations, copies of permit applications to state and federal agencies, where applicable, shall be submitted to the Planning Division. For clarification, list the required state and federal permits for the project on the site plan. If none, add a note to the site plan stating that the project does not require any state or federal permits.
7. 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 shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information (GIS) and tax maps as specified in Section 12.08.
8. Address comments listed in the memorandum from the Engineering Division, dated July 5, 2024, to show compliance with the applicable section or standard.
9. Upon notification from the Planning Division that the final plan set complies with Planning Board conditions, 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.
10. 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.

Subsequent Conditions – to be fulfilled as specified:

1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, the municipal code, Site Plan Regulations, and Concord Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit is granted.
2. In accordance with 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 the certificate of approval has first been issued by the Planning Board.
3. Erosion control measures shall be installed and maintained in accordance with Section 27.09 of the Site Plan Regulations.

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4. Per Section 36.15 of the Site Plan Regulations, the Clerk shall not approve any certificate of occupancy, nor shall any use of the 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.
 5. Per Section 36.19 of the Site Plan Regulations, it shall be the duty of the Clerk to enforce the regulations and to bring any violations or lack of compliance herewith, to the attention of the City Solicitor and Code Administrator.
 6. Per Section 36.24 of the Site Plan Regulations, no certificate of occupancy or other use permit shall be issued until the development has been completed according to the approved plans.
- 9f. Nobis Group and Warrenstreet Architects, on behalf of Riverbend Community Mental Health, Inc., and CATCH Neighborhood Housing, requests approvals for a major site plan application, architectural design review, and certain waivers from the Site Plan Regulations for a 28-unit multi-family residential building at 6 N State St (Tax Map Lot 7411Z 2) in the Central Business Performance (CBP) District. (2024-042)

Councilor Todd moved, seconded by Member Fox, to grant waivers from Section 6.03(2)(c) *Site Plan* and Section 11.05 *Determination of Completeness* of the Site Plan Regulations to have the determination of completeness and the public hearing take place in one step at the same meeting, rather than in two steps at two different meetings as required by the regulation. All in favor. The motion passed unanimously.

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

Ms. Skinner provided a staff update stating that the project received variances from the Zoning Board of Adjustment for density and to allow use other than commercial on the first floor. With the variance request approvals, the project meets the requirements of the Zoning Ordinance. The site is in a district that does not require parking, loading, building flush against the sidewalk, or screening for trash receptacles. The building itself is under the 80-foot maximum height, but the appurtenant structure on the roof is almost 8 feet tall, which requires conditional use permit approval. The applicant proposes a 28-unit multi-family residential project, with the first floor containing an office, club room facility, and trash room with direct egress to the outside. The staff report asks for the applicant to specify how trash will be collected from the site without impeding traffic.

Tom Furtado (105 Loudon Rd, Concord, CATCH Housing), Chris Nadeau (18 Chenell Dr, Concord, Nobis Group) and Jonathan Halle (142 W Parish Rd, Warrenstreet Architects) represented the application. Mr. Furtado stated they are seeking approval for a 28-unit, 8-story residential apartment building on 6 N State St for affordable and workforce housing.

Mr. Nadeau stated the site is a 0.15-acre lot that is currently a parking lot. There will not be off-street parking, but there will be on-street parking. They are asking for three waivers. Staff is not recommending approval for the traffic control plan waiver, and Mr. Nadeau clarified that they are not asking to waive the requirement for the traffic control plan just waive the requirement to submit it now and rather provide prior to construction once a general contractor has been procured.

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Mr. Halle stated that the building will be five feet from the property line and then an additional six feet. They are within five feet of the property line on three sides and ten feet from the front property.

Chair Woodfin asked about the change from five to six feet.

Mr. Halle explained that it relates to rating of the walls and the amount of allowed window openings. Mr. Halle also noted that the building will not block the view of the dome.

Mr. Pierce asked about the height of the adjacent yellow building.

Mr. Halle stated it's about four-and-a-half stories.

Mr. Halle wanted to address the Architecture Design Review Committee comments as he did not attend that meeting. The first one was in relation to the height of the proposed building not exceeding the height of the adjacent buildings. Mr. Halle stated in the CBP District the height is allowed to be 80 feet. Mr. Halle stated they are under that requirement. They do need a conditional use permit for the appurtenance on the roof that exceeds the 80-foot maximum, but the building itself is within the allowed height. The second comment is that the roof should relate to the adjacent structures. Mr. Halle stated there are other buildings in that area that have flat roofs and provided pictures of existing flat-roof buildings around the site.

Chair Woodfin stated he read the interpreted the comments as suggesting a roof treatment to finish off the roof, rather than just a flat roof. Chair Woodfin then asked why the windows are so small.

Mr. Halle stated Architectural Design Review Committee had an issue with scale and proportion based on the adjacent buildings. Mr. Halle stated on the towers they are within 3 to 5 feet of the property line, and they are allowed to have 15% of that area of the wall as openings. Openings beyond that require special fire sprinkler requirements.

Mr. Halle stated they would like to have two trees in the front. However, the Site Plan Regulations say you cannot have more than 25% of the same species. Mr. Halle stated there are no requirements for trees as there are no requirements for parking. They would like to have the two trees in the front be the same species. They did pick a tree that is a European hornbeam that will get as tall 45 feet but it only be 10 feet wide and will not be an issue with the utility lines in the front.

Mr. Halle stated the next issue was the off-street loading. There is no place for a dumpster receptacle. CATCH will hire a vendor and the vendor will remove the trash.

Chair Woodfin asked if any levels below grade?

Mr. Nadeau stated no.

Chair Woodfin asked if there is central air?

Mr. Nadeau stated yes.

Chair Woodfin asked if signage will be separate?

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Mr. Halle stated signage will be separate.

Councilor Todd asked about parking for residents with no off-street parking being provided as part of the project.

Mr. Furtado stated there is a City parking garage that is 417 feet from the front of the building. Mr. Furtado further noted that all the units will be one-bedroom apartments and they are anticipating tenants work downtown.

Councilor Todd stated the design of the proposed building makes it stick out like sore thumb and wondered if there is a way the building can be designed to blend better with the adjacent buildings.

Chair Woodfin stated it does stick out and it lacks character, but that is what the applicant wants.

Member Savage stated the Planning Board might be able to choose other colors that blend better with the colors of the adjacent buildings, but the property owner is the one making the color choices.

Ms. Skinner stated Member Santacruce asked about the purpose of the no parking zone.

Mr. Furtado explained it provides a place for people to unload their cars.

Chair Woodfin suggested it could be using for deliveries.

Ms. Skinner stated Member Santacruce wanted to make sure the lighting plan clearly shows the property lines to show there are zero foot-candles at the property lines. Member Santacruce also asked Ms. Skinner to inquire about the portions of internal sidewalk that are 4 feet wide, noting that the Site Plan Regulations require 5-foot-wide sidewalks. Ms. Skinner advised the applicant to add this as a waiver request.

Mr. Nadeau requested a waiver from the 5-foot-width sidewalk requirement for portions of the internal sidewalks to only be 4 feet wide.

Steve Duprey (Concord) testified in general about the process, noting that he cares about process and it would be a mistake for the Planning Board to approve a project and then send it back to the Architectural Design Review Committee.

Chair Woodfin closed the public hearing.

Matt Walsh, Deputy City Manager – Development, addressed the Board. He noted that the City has been a long-time supporter of CATCH Neighborhood Housing, and its mission to provide affordable housing in Concord and surrounding region. He also noted that the City has partnered with CATCH on several of its affordable housing projects, particularly with regard to securing Community Development Block Grant funds for many of their developments located in Concord. He noted that the City is proud to partner with CATCH on its affordable housing initiatives, and looks forward to doing so in the future.

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Mr. Walsh also noted that CATCH currently has two properties in Downtown Concord (Mennino Place and the Endicott Hotel). He noted that both make a positive contribution to the City's architecture.

Mr. Walsh stated that there had been lots of comparisons of CATCH's proposed 6 North State St development concerning exterior materials (insulated panels) with the new 64-unit apartment building being constructed at 32 South Main St. Mr. Walsh stated that he had special knowledge of the 32 South Main St project, as the City previously owned the property and selected the developer constructing the new apartment building. Mr. Walsh noted that the 32 South Main St project went to the City's Design Review Committee three times for review. He stated that the final design of 32 South Main St was greatly improved by that process. He also noted that 32 South Main St includes masonry materials in addition to insulated panels, which helps the façade integrate with, and compliment, other structures in the Downtown. Contrastingly, the proposed CATCH project is clad entirely with insulated panels.

Mr. Walsh discussed the need to ensure that new structures appropriately compliment downtown architecture. He suggested that good urban design entails building new structures to reference and memorialize the era in which they were constructed, while simultaneously using appropriate design vocabulary to ensure that such modern structures appropriately integrate with, and compliment, with pre-existing structures in the Downtown area which date to the 19th century.

Chair Woodfin noted that the Architectural Design Review Committee provides valuable feedback. If the Planning Board states they do not like it and want to change it, do they send it back to Architectural Design Review Committee? Can the Board change the character of the building? Can they do that?

Ms. Skinner stated the recommendation in the staff report is to deny Architectural Design Review approval, but grant major site plan approval with a precedent condition to revise the architectural elevations to address the concerns of the Architectural Design Review Committee including greater conformity with the Architectural Design Guidelines, and submit the revised architectural elevations for a new recommendation from the Architectural Design Review Committee, followed by an architectural design review decision from the Planning Board.

Chair Woodfin re-opened public hearing to obtain feedback from the applicant.

Mr. Furtado asked for a decision tonight on all elements of the request, including architectural design review, without going back to the Architectural Design Review Committee. Mr. Furtado requested that, if the Planning Board did choose to send it back to the Architectural Design Review Committee, the Board provide the Committee with clear guidance.

Chair Woodfin closed the public hearing again.

Member Rosenberger stated this building design is not great and needs tweaking. Member Rosenberger further stated she would like to approve the major site plan and deny architectural design review approval for the applicant to work with the Architectural Design Review Committee.

Chair Woodfin asked for Member Rosenberger's thoughts on the height.

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Member Rosenberger is not comfortable with the height or the windows.

Councilor Todd stated he supports CATCH and the project, but he is also sympathetic to what was just heard from Member Rosenberger. Councilor Todd noted the height does not need to be barrier if there was something that could be done to the roof line. Councilor Todd stated the metal panels are prominent and distracting and maybe the Architectural Design Review Committee could come up with suggestions to blend in more with the surroundings.

Vice-Chair Pierce stated he will not support sending the project back to the Architectural Design Review Committee. Mr. Pierce stated it is an 80-foot-tall building with 28 one-bedroom units, and he doesn't know what could be done to make it look smaller. He finally stated that there is a need for this type of housing.

Member Condodemetraky stated she mirrors Member Rosenberger's thoughts and feels like a 0.15-acre space is a small space for what is being proposed.

Member Fox agrees with Member Rosenberger that the building does not quite hit the mark, but that he is a supporter of CATCH and the project has all kinds of merit.

Councilor Todd noted that sending it back to the Architectural Design Review Committee for architectural design review does not affect the grant writing and does not see any harm in sending it back for architectural design review.

Chair Woodfin stated that the Planning Board can override the Architectural Design Review Committee based on the feedback and testimony heard tonight. Chair Woodfin does not see the value of anything other than look and colors and if they do send it back to Architectural Design Review Committee he wants to provide very clear direction to the Committee.

Member Hicks stated the Planning Board has the Architectural Design Review Committee minutes and read their concerns, noting that Mr. Halle addressed those concerns in tonight's presentation. Member Hicks noted that he is comfortable with Mr. Halle addressing those concerns and is not sure why they would send back to Architectural Design Review Committee, finally observing that he does not have an issue with the colors.

Chair Woodfin moved, seconded by Councilor Todd, to grant architectural design review approval as presented, but to send back to the Architectural Design Review Committee for color, texture, and general appearance questions only, not footprint and height.

Discussion

Member Rosenberger stated that the Planning Board has determined the application complete and opened the public hearing all in the same meeting, noting that there are no abutters here tonight to testify at this meeting. Member Rosenberger further stated that it seems like a substantial downtown project downtown, and she would like to hear from the abutters.

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Member Hicks noted that the height is only the stairwell piece on the roof, and stated that everything else is within the code. Member Hicks stated he would support part of the motion, but does not want to send the project back to the Architectural Design Review Committee.

Chair Woodfin stated it is important for the applicant to receive the feedback, but they do not want to hold up the applicant.

Ms. Skinner stated if they want the applicant to go back to the Architectural Design Review Committee, then they need to not grant architectural design review approval and grant major site plan approval with the precedent conditions as outlined in the staff report.

Chair Woodfin and Councilor Todd withdrew the motion and second, respectively.

Ms. Skinner stated the Board can revise the precedent condition regarding architectural design review to provide direction to the Architectural Design Review Committee, if the Board chooses.

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 Member Hicks, to grant architectural design review approval as submitted. The motion passed with 5 (Condodemetraky, Hicks, Pierce, Savage, Woodfin) in favor and 3 (Fox, Rosenberger, Todd) opposed.

Vice-Chair Pierce moved, seconded by Member Hicks, to grant the waiver requests below from the listed sections of the Site Plan Regulations, 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.

- Section 6.03(2)(c) *Site Plan* to allow the determination of completeness and public hearing in one meeting;
- Section 11.05 *Determination of Completeness* to allow the determination of completeness and public hearing in one meeting;
- Section 27.07(4) *Biodiversity* to allow for providing more than 25% of the same species; and,
- Section 21.05(2) *Width* to allow for portions of the interior sidewalks to be four feet in width rather than five feet in width.

Vice-Chair Pierce moved, seconded by Member Condodemetraky, to grant the waiver request below from the listed section of the Site Plan Regulations, 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.

- Section 16.09 *Traffic Control Plan* to defer providing the traffic control plan until prior to construction.

Member Fox moved, seconded by Member Hicks, to grant conditional use permit approval for Article 28-4-1(f)(3) *Maximum Height of Buildings or Structures*, pursuant to Article 28-9-4(b) *Conditional Use Permits* and in accordance with Article 28-9-4(f) *Architectural Design Review*, of the Zoning Ordinance to allow for a 7-foot-tall appurtenant structure to exceed the 80-foot maximum height. The

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motion passed with 7 (Condodemetraky, Fox, Hicks, Pierce, Savage, Todd, Woodfin) in favor and 1 (Rosenberger) opposed.

Member Hicks moved, seconded by Vice-Chair Pierce, to grant major site plan approval for the construction of a new 8-story, 28-unit multi-family residential building and associated site improvements, subject to precedent conditions 1 through 10 and subsequent conditions 1 through 10. The motion passed with 7 in favor (Condodemetraky, Fox, Hicks, Pierce, Savage, Todd, Woodfin) and 1 (Rosenberger) opposed.

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. For compliance with the Site Plan Regulations, revise the plan set as follows:
 - a. Provide indication on the site plan as to the method and location of collection of solid waste by the downtown solid waste district that shows no traffic obstructions during collection and documentation from the downtown solid waste district that such method and location is viable and approved by the district.
 - b. Revise the site plan and landscaping plan to show, label, and call out the distance between the front of the building and the overhead utility wires, such that there is at least 10 feet of separation between the front of the building and overhead utility wires, and provide documented approval from Unitil on the proposed utility plan.
 - c. Revise the site plan and landscaping plan to show, label, and call out the location of the underground utilities and the tree plantings, such that there is at least 10 feet of separation between existing and/or proposed underground utilities and any tree plantings.
2. The site plan shall list all approved variances, waivers, and conditional use permits, with the section numbers and description, and date of approval.
3. The plans submitted for final approval shall contain the signature and seal of the appropriate licensed professional as outlined in Section 12.03(1) through (6), as applicable.
4. 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 System (GIS) and tax maps. The digital information shall be submitted in a format and media conforming to standards promulgated by the City Engineer. The following layers shall be submitted referencing New Hampshire State Plane Grid Coordinates and shall be based on National American Vertical Datum 1988 (NAVD 88): (a) through (i).
5. Per Section 13.02(1), (2), (4) of the Site Plan Regulations, right-of-way easements, utility and drainage slope easements, and any warranty deeds or deeds of easement for any other public use shown on the site plan shall be submitted to the Planning Division for review and approval prior to the issuance of the certificate of approval. Once approved by the Clerk, City Engineer, and the City Solicitor as to form and content, properly executed easement documents and agreements shall be submitted for recording prior to the issuance of a building permit.
6. Per Section 13.02(5) of the Site Plan Regulations, a financial guarantee for all public improvements in the full amount approved by the City Engineer, and in a form acceptable to the City Solicitor, shall be submitted prior to the issuance of a certificate of approval. All construction cost estimates for any public improvements shall be submitted and

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- approved by the City Engineer prior to submission of a financial guarantee.
7. 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 (GIS) and tax maps as specified in Section 12.08.
 8. Address comments listed in the memorandum from the Engineering Division, dated July 3, 2024, to show compliance with the applicable section or standard, including but not limited to Section 23.04(8) of the Site Plan Regulations which prohibits piggy back service connections for multiple dwelling units or non-residential principal uses where more than one metered service are connected in a series.
 9. Upon notification from the Planning Division that the final plan set complies with Planning Board conditions, 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.
 10. 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.

Subsequent Conditions – to be fulfilled as specified:

1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, the municipal code, Site Plan Regulations, and Concord Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit is granted.
2. In accordance with 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 the certificate of approval has first been issued by the Planning Board.
3. Erosion control measures shall be installed and maintained in accordance with Section 27.09 of the Site Plan Regulations.
4. In accordance with Section 27.11 of the Site Plan Regulations, a site stabilization guarantee shall be provided to ensure that sites are properly stabilized. The guarantee shall be in the form of a cash deposit or a letter of credit from a New Hampshire bank. The City Engineer may call said financial guarantee, and stabilize a disturbed site if, upon notice, the applicant has not stabilized or restored the site.
5. Per Section 33.08 of the Site Plan Regulations, no certificate of occupancy or use permit may be issued prior to a determination by the Clerk that the proposed use is consistent with the Board's approval.
6. Per Section 34.07 of the Site Plan Regulations, no certificate of occupancy or use permit may be issued prior to a determination by the Clerk that the proposed use is consistent with the Board's conditional use permit approval.
7. Per Section 36.15 of the Site Plan Regulations, 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.
8. Per Section 36.19 of the Site Plan Regulations, it shall be the duty of the Clerk to enforce the regulations and to bring any violations or lack of compliance herewith, to the

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attention of the City Solicitor and Code Administrator.

9. Per Section 36.24 of the Site Plan Regulations, no certificate of occupancy or other use permit shall be issued until the development has been completed according to the approved plans.
10. Per Section 36.25 and Section 12.09 of the Site Plan Regulations, and 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. The applicant's engineer or surveyor shall submit to the City Engineer a detailed "as-built" survey of all major site plans showing the location of buildings, structures, utilities, parking and loading 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

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

Chair Woodfin presented the question to the Planning Board to change the meeting start time to 6:00 p.m. from the current 7:00 p.m. start time.

Chair Woodfin noted that Member Santacruz informed him he would not be able to arrive on time with a 6:00 p.m. start time.

Member Fox stated he struggles with the current 7:00 p.m. start time and, based on his schedule, he might not be able to arrive in time for a 6:00 p.m. meeting.

Members Condodemetraky, Hicks, and Rosenberger all indicated they would fine with moving the start time to 6:00 p.m.

Chair Woodfin will have staff will work on this and will check with the City Clerk.

Vice-Chair Pierce wondered about the availability of the public with an earlier start time and noted that needs to be considered as well.

Chair Woodfin discussed finding the application complete and holding the public hearing in the same meeting, noting that usually there is a 30-day period between the determination of completeness and the public hearing.

Ms. Skinner stated minor site plans, minor subdivisions, lot line adjustments, and amendments do not require a determination of completeness separate from the public hearing, and that for those types of applications the determination of completeness and public hearing occur in the same meeting, as per the Site Plan Regulations. The Site Plan Regulations and Subdivision Regulations have a requirement for major site plans and major subdivisions, however, to have the determination of completeness take place first in a separate meeting, with the public hearing taking place the following month. Ms. Skinner noted that the regulations allow for waivers, and anyone who wants to request a waiver from the two-step process for a major site plan or major subdivision application may do so. It is the Board's prerogative to approve or deny the waiver request. When a waiver request from the two-step process is received, staff ensures

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that the legal notice is correct for the date of the public hearing, and the abutters are notified of the application as a public hearing. Staff also reviews the application with that waiver request in mind to ensure that all required elements for completeness are present in the application.

Mr. Hicks noted his concern for the public and transparency.

Ms. Skinner reiterated that the Planning Board has the choice to approve or deny the waiver request, but that if the waiver request is made it must be brought forward to the Board.

Adjournment

Vice-Chair Pierce moved, seconded by Member Savage, to adjourn the meeting at 10:36 p.m. All in favor. The motion passed unanimously.

The next regular meeting is Wednesday, August 21, 2024, at 7:00 p.m.

TRUE RECORD ATTEST:

Krista Tremblay

Krista Tremblay

Administrative Specialist II