

City of Concord Planning Board
August 21, 2024
Minutes

The regular monthly meeting of the City Planning Board was held on August 21, 2024, at 7:00 p.m., in City Council Chambers at 37 Green St, Concord.

Attendees: Dina Condodemetraky, David Fox, Matthew Hicks, Amanda Savage, Councilor Brent Todd, Chair Richard Woodfin

Absent: Mayor Byron Champlin, Alternate Chiara Dolcino, Alternate Frank Kenison, Vice-Chair Erle Pierce, Member Jeff Santacruce, and Teresa Rosenberger (Ex-Officio for City Manager)

Staff: AnneMarie Skinner (City Planner), Alec Bass (Assistant City Planner – Community Planning), Krista Tremblay (Administrative Specialist II), and Peter Kohalmi (Associate City Engineer)

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

Member Hicks moved, seconded by Member Fox, to approve the July 17, 2024, Planning Board meeting minutes, as written. The motion passed unanimously.

4. Agenda Overview

Member Hicks moved, seconded by Member Savage, to continue agenda item 6a to a date certain of September 18, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

Chair Woodfin stated agenda item 8a was withdrawn by the applicant.

5. Design Review Applications by Consent

On a motion made by Member Savage, seconded by Member Hicks, the Board voted unanimously to approve agenda items 5a-5g as submitted, subject to the recommendations of the Architectural Design Review Committee. All in favor. The motion passed unanimously.

- 5a. Sousa Signs, on behalf of Lighthouse Credit Union, requests architectural design review approval for two new 3.9-square-foot non-illuminated wall signs (SP-0282-2024, SP-0283-2024), a new 9-square-foot externally illuminated hanging sign (SP-0284-2024), and a new 0.9-square-foot outdoor ATM graphic sign (SP-0285-2024) at 1-5 S Main St in the Central Business Performance (CBP) District.
- 5b. CT Signs and Graphics, on behalf of Princess Nails & Spa, requests architectural design review approval for a new 24.5-square-foot internally illuminated wall sign (SP-0287-2024) and a new 20.49-square-foot internally illuminated pylon tenant panel sign (SP-0288-2024) at 374 Loudon Rd in the Gateway Performance (GWP) District.

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- 5c. Spirit Halloween requests architectural design review approval for a new 75-square-foot non-illuminated wall sign (SP-0289-2024) at 24 Fort Eddy Rd in the Gateway Performance (GWP) District.
- 5d. American Sign Inc., on behalf of Sierra, requests architectural design review approval for a new 200-square-foot internally illuminated wall sign (SP-0270-2024) and a new 90.3-square-foot internally illuminated wall sign (SP-0271-2024) at 10 Loudon Rd in the Gateway Performance (GWP) District.
- 5e. Keystone Management, on behalf of Whitebridge, requests architectural design review approval for a new 42.5-square-foot externally illuminated freestanding sign (SP-0274-2024) at 91 N State St in the Civic Performance (CVP) District.
- 5f. Keystone Management, on behalf of Performance Health Spine & Sport Therapy, requests architectural design review approval for two existing non-permitted 16-square-foot non-illuminated awning signs (SP-0296-2024 and SP-0298-2024) at 91A North State St in the Civic Performance (CVP) District.
- 5g. KC Signs, on behalf of Starbucks, requests architectural design review approval, for a master sign plan as part of a major site plan, including two new 19.63-square-foot internally illuminated wall signs (SP-0301-2024, SP-0298-2024), and a new 26.85-square-foot internally illuminated wall sign (SP-0297-2024) at 8 Whitney Rd in the Industrial (IN) District.
- 6. Determination of Completeness Items by Consent**
- 6a. TFMoran, Inc., on behalf of Interchange Development, LLC, requests approvals for a major site plan, architectural design review, and certain waivers from the Site Plan Regulations for a full-service restaurant with an outdoor seating area, an attached retail space, and associated site improvements at 10-12 Merchants Wy in the Gateway Performance (GWP) District. (2024-047)

By previous motion, this agenda item was continued to a date certain of September 18, 2024, at the request of the applicant.

Public Hearings

7. Design Review Applications

- 7a. Signarama, on behalf of Flexible, requests architectural design review approval for a new 15-square-foot non-illuminated wall sign (SP-0293-2024) and a new 15-square-foot sign internally illuminated pylon tenant panel sign (SP-0294-2024) at 249 Sheep Davis Rd in the Gateway Performance (GWP) District.

Chair Woodfin asked for staff update.

Mr. Bass stated the application provided by the applicant has a rendering that doesn't show the recently-installed tenant panel for Signarama with a red background. The rendering in the application instead shows a white background for the Signarama sign, which was the old sign.

Kendra Price (249 Sheep Davis Rd, Concord) is present to represent this application. Ms. Price is seeking approval for the sign as submitted. Ms. Price stated the only issue was the non-opaque

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background with lighter lettering. Ms. Price stated that making the sign with an opaque background with the thin, small letters will make the letters look fuzzy. Ms. Price noted the sign will be 25 feet from the road and 10 to 15 feet tall. The black on the light gray background would make it more visible to drivers. Ms. Price noted there are five signs in the general area that have a white background and they were all approved. Ms. Price stated the background is not white, but a light medium gray.

Chair Woodfin made a motion to approve as submitted. Member Hicks seconded. All in favor. The motion passed unanimously.

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

- 8a. 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 withdrew this application.

This agenda item was withdrawn by the applicant.

- 8b. 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. Skinner stated the project received major site plan approval from the Planning Board on March 15, 2023, giving an expiration date of March 15, 2024. The applicant submitted an extension request for the March 2024 hearing, and the Planning Board approved the extension request thus extending the approval to March 15, 2025. Subsequent to the extension approval, the applicant submitted an amendment request on March 20, 2024, for the April Planning Board. The applicant then continued the application from April to May, May to June, June to July, and July to August all at the request of the applicant. The amendment request was submitted with no materials, narrative, or explanation. The exact statement was “to amend the precedent condition number 2 from the previously approved major site plan.” There was no additional information given to staff regarding what the applicant wanted to amend in precedent condition number 2. There was a meeting held on February 20, 2024, with staff and the applicant, in which staff was told verbally by the applicant that if they were going to do an amendment it would be to move the precedent condition number 2 to be a subsequent condition to allow for the final plan set to be signed and work to begin on the project while addressing the Engineering comments.

In an email subsequent to that meeting on February 20, 2024, Tom Zajac (applicant) indicated that the amendment was not going to be necessary after all. Ms. Skinner read precedent condition number 2: “Address all review comments to the satisfaction to the Engineering Division.” Staff has, not knowing what the exact intent or content of the requested amendment is, recommended against approving the amendment as precedent conditions are there for a reason and need to be satisfied before the project begins work.

Chair Woodfin asked for confirmation from Mr. Kohalmi that all Engineering comments have not been addressed and the project cannot advance to the construction phase, noting that one issue in

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particular is the video and all necessary repair and lining of existing storm drains under the site. The site sits on the oldest and largest storm drains in the City which are crucial to the function of the system in the downtown area. Given the importance of this section of the storm drainage, Engineering does not recommend approval of this request to amend precedent condition number 2. Chair Woodfin stated the video shows the current condition of the pipes.

Mr. Kohalmi stated that is correct. Mr. Kohalmi stated the Engineering Division has the video now, and Mr. Kohalmi noted the heart of the issue is that there are some things in the video that show the pipes need to be lined before any construction starts over the tops of the pipes.

No one is present to represent this application.

Chair Woodfin made a motion to table the agenda item to September 18, 2024. Member Savage seconded. All in favor. The motion passed unanimously.

- 8c. Granite Engineering, LLC, on behalf of Pitco Frialator, LLC, requests approvals for a waiver from Section 11.09(8) of the Site Plan Regulations to allow for an additional extension over the maximum two extensions, and a subsequent one-year extension of the major site plan and architectural design review approval for a 356,224-square-foot industrial building and associated site improvements in the Office Park Performance (OFP) District, Industrial (IN) District, and Open Space Residential (RO) District. (2021-34)

Mr. Bass provided a staff updated, stating that the project is a major site plan with two conditional use permits approved in September 2021. The applicant has requested and received the two allowed one-year extensions, which is the maximum allowed by the Subdivision Regulations. During this time the applicant has been working with the State of New Hampshire to obtain their alteration of terrain permit. Mr. Bass noted that the applicant is near completion for final plan approval, so they are asking for a waiver from the section of the regulations that limits to two one-year extensions so they can request a third. They submitted new conditional use permit applications for hearing in September 2024 as they have expired. Staff is in support of the waiver and granting the extension.

Dan Luker (57 North Main St, Concord) is representing PITCO and Jennifer McCart (42 Ezekiel Smith Rd, Henniker) is the engineer for the project. Mr. Luker stated they have encountered problems out of their control. The problems are largely because of the State of New Hampshire alteration of terrain permit. Legislation in 2021 provided a provision that the Fish and Game and New Hampshire Heritage Bureau can weigh in on every alteration of terrain permit application. This caused an 18-month delay on their permit application because of the additional requests. They provided a declaration of covenants and restrictions under which the 54-acre property will be limited to use of 23 acres for the facility and parking. The remaining acreage will remain undeveloped and largely a scrub pine forest. New Hampshire Fish and Game along with the Heritage Bureau want to preserve the scrub pine forest and asked for a conservation easement that dedicates 15 acres to those agencies. PITCO agreed to do the conservation easement as it is an area that will not be used for the plant. Once they had the declaration drafted in early 2023 it went to the State regulators and then the State of New Hampshire's office of the attorney general and after 18 months, they received comments. They worked through the comments and now have a final declaration that will create a 15-acre conservation easement off the development site which will be controlled by the State of New Hampshire. The declaration needs to be recorded before they can do any improvements at the

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property. It is almost in its final form. They are asking for another year, but don't anticipate needing the whole year.

Member Condodemetraky arrived at 7:23 p.m.

Chair Woodfin opened the public hearing. With no member of the public wanting to speak on this agenda item, Chair Woodfin closed the public hearing.

Chair Woodfin stated the findings of fact include: 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.

Member Fox made a motion to grant the waiver request from Section 11.09(8) *Extension of Approvals* from the Site Plan Regulations, using the criteria of RSA 674:44 III(e)(2) and Section 36.08 of the Site Plan Regulations, to allow for an additional (third), one-year extension to major site plan approval where normally only two, one-year extensions are permitted. Councilor Todd seconded. All in favor. The motion passed. Member Condodemetraky abstained from voting.

Member Fox made a motion to grant an additional (third), one-year extension to the major site plan approval at 15 Integra Drive, subject to all previous conditions of approval. Member Savage seconded. All in favor. The motion passed. Member Condodemetraky abstained from voting.

- 8d. Richard D. Bartlett & Associates, LLC, on behalf of Samantha Lydia Field and 4-6 Hutchinson Ave Condo Association, LLC, requests approvals for a minor subdivision application and certain waivers from the Subdivision Regulations for a lot line adjustment between 35 Downing St and 4-6 Hutchinson Ave in the Downtown Residential (RD) District. (2024-045)

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

Mr. Bass provided a staff update, noting that staff is in support of the lot line adjustment. The applicant is requesting two waivers, which staff also supports. Mr. Bass stated that this is a downtown lot, and staff is comfortable that there are no wetlands on Downing St. Mr. Bass noted that, should the Board look to conditionally approve this application, precedent condition 1a should be struck due to misinterpretation of the regulations. Mr. Bass stated 4-6 Hutchinson is a condominium and one of the precedent conditions is that the condominium association will apply for an amendment with a new plat and condominium documents.

Mark Sargent (214 North State Street, Concord) represented the property owners. Mr. Sargent stated 35 Downing Street has area of 0.38 acre with 56.34 feet of frontage and a single-family home on the property. The other parcel is located a little further down, owned by 4-6 Hutchinson Condominium Association, has an area of 0.17 acre with 142 feet of frontage, and contains a 2-unit condominium. The proposal before the Board this evening is to annex 0.11 acre of 35 Downing St to 4-6 Hutchinson. Mr. Sargent stated the new lot area for 35 Downing Street would decrease from the current 0.38 acre to 0.27 acre, and the new lot area for 4-6 Hutchinson would increase from 0.17 acre to 0.28 acre with no changes to the frontage. Mr. Sargent stated they are seeking two waivers.

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Chair Woodfin asked if any member of the audience would like to speak on this agenda item, and closed the public hearing after hearing no response.

Chair Woodfin stated the findings of fact include: 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.

Member Condodemetraky made a motion to grant the waiver requests, using the criteria of RSA 674:36(II)(n)(2) and Section 35.08 of the Subdivision Regulations, from Section 12.07 *Wetland Delineations*, to not provide a wetland delineation; and, Section 19.05(4) *Useable Lot Area Rectangle*, to not provide a contiguous useable lot area rectangle with no horizontal dimension of less than 60 feet. Member Hicks seconded. All in favor. The motion passed unanimously.

Councilor Todd made a motion to grant minor subdivision approval for the lot line adjustment between 35 Downing St and 4-6 Hutchinson Ave, subject to the following precedent conditions (a) 1(b) thru (i) and 2-6 and subsequent conditions 1-2 and strike precedent condition (a)1(a). Member Fox seconded. All in favor. The motion passed unanimously.

(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. For compliance with the Subdivision Regulations, revise the plat as follows:
 - a. ~~Section 12.04 *Location Plan* requires the location plan to have a minimum scale of 1" = 400'. Please revise and change the scale currently shown as 1" = 100' to 1" = 400'. Please also provide the zoning district designation, and any district boundaries which may be present as a result of changing the scale.~~
 - b. Section 12.08(13) *Flood Hazard* requires a notation as to whether or not the property is located in a FH – Flood Hazard Zoning Overlay District. Please include this reference as part of Note 8.
 - c. Section 12.08(22) *Abutting Properties*, Section 15.03(1) *Abutting Property*, and Section 15.03(9) *Access and Driveways* requires buildings and driveways of abutting properties to be shown on the plat. Please provide, if applicable the buildings and driveways for abutting properties of 32-34 Downing St, 28 Downing St, 33 Downing St, and 3 Spruce St.
 - d. Section 13.02(12) *Property Owners' Associations* requires subdivisions where some form of property owners' association will own and/or control common areas of the subdivision, copies of all proposed restrictions, covenants, and articles of incorporation and bylaws be submitted to the Planning Division for review and approval prior to endorsement of the plat by the Chair and the Clerk of the Planning Board.
 - e. Section 15.02(8) *Addresses* requires existing addresses to be noted on the plat. Please clearly delineate the ownership of 4-6 Hutchinson Ave Condo, 4 Hutchinson Ave, and 6 Hutchinson Ave.
 - f. Section 15.03(1) *Abutting Property* requires property addresses to be included on the final plat for all abutting properties. Please provide the property address for Map 7443Z Lot 121 – 33 Downing Street. Additionally, each unit owner of 32-34 Downing St and 4-6 Hutchinson Ave must be noted, not the condominium association.

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- g. Section 15.03(5) *Monumentation* requires the type and location of existing and required monuments (bounds). Please add the type of bounds, and if they are to be set or existing.
 - h. Section 15.03(11) *Municipal Sewer* requires the location and size of existing and proposed sanitary sewers. Please provide the size of the sanitary sewer service for 35 Downing Street, and the size and location of sewer service for 4-6 Hutchinson Ave.
 - i. Section 17.06 *Condominium Declaration and By-Laws* requires that approved condominium documents shall not be altered to be inconsistent with the recorded plat, without further review and approval by the Board of a revised subdivision application. Prior to final approval and recording of this minor subdivision for a lot line adjustment, a condominium amendment application for 4-6 Hutchinson Ave shall be submitted and receive final approval for a revised condominium site plat and declaration reflecting this lot line adjustment and to be recorded concurrently.
- 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 2024-045 for compliance with Section 12.02(4), Section 15.03(17), and Appendix B of the Subdivision Regulations.”
 - 4. Prior to the recording of the plat and as required by Section 12.09 *Electronic Submission* 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).
 - 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 *Plats and Construction Plans* and Section 15.02(1) *Licensed Land Surveyor* of the Subdivision Regulations.
 - 6. Per Section 13.02(13) *Recording Fees* 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.
- (b) **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 19.04 *Monuments* of the Subdivision Regulations, a New Hampshire licensed land surveyor shall place permanent reference monuments in the subdivision, as required in the regulations and as approved by the City Engineer. All monuments shall be inspected by the City of Concord. All such monuments shall be set flush with the proposed grade and planted in such a manner that they will not be removed by frost. All

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monuments shall be properly set prior to the time of the release of the performance guarantee.

- 8e. TF Bernier, a division of Hoyle Tanner & Associates, Inc., on behalf of Elinor E. Yeaton, Trustee, requests approvals for a minor subdivision application, a conditional use permit for driveway separation, and certain waivers from the Subdivision Regulations for a two-lot subdivision at 41-43 Concord St in the Downtown Residential (RD) District. (2024-046)

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

Ms. Skinner provided a staff update, stating that this is an existing tax lot with two existing single-family detached dwellings and existing driveways. The applicant wants to split the property so that each house will be on its own lot with its own driveway. Ms. Skinner noted that the applicant received the necessary variances, and applied for the conditional use permit needed for driveway separation. Staff is recommending approval.

Tim Bernier (50 Pleasant St, Concord) represented the property owner. Mr. Bernier stated they are asking for a few waivers, noting that nothing is changing. There is no new construction or alterations. The property owner no longer wants to be a landlord and would like to have owner-occupied dwellings instead of rental units.

Chair Woodfin asked if there was no new electrical, sewer, or curb cuts?

Mr. Bernier stated no.

Chair Woodfin asked if any member of the audience would like to speak on this agenda item, and closed the public hearing after hearing no response.

Chair Woodfin stated the findings of fact include: 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.

Member Savage made a motion to grant the waiver requests below from the listed sections of the Subdivision Regulations, using the criteria of RSA 674:36(II)(n)(2) and Section 35.08 of the Subdivision Regulations:

- Section 12.08(3) *Topography* and Section 15.03(4) *Topography*, to not show existing topographic conditions and spot elevations;
- Section 12.08(10) *Municipal Utilities*, to not show structure, rim, invert, and material;
- Section 15.02(3) *Scale*, to use a scale of 1" = 10';
- Section 19.04(2) *Lot Monuments*, to have the new front lot corner be an iron rod;
- Section 19.05(4) *Useable Lot Area Rectangle*, to not provide the useable lot area; and,
- Section 20.09(3) *Residential Single-Family Driveways*, to not provide the minimum 10-foot-wide driveway for each lot, exclusive of any parking or turnarounds.

Member Hicks seconded. All in favor. The motion passed unanimously.

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Member Savage made a motion to grant the conditional use permit from Article 28-7-11(f) *Driveway Separation Alternatives*, to allow for the existing driveway to be split into two independent and separate driveways, each for the exclusive use of the lot upon which it sits, and said driveways being adjacent to each other, rather than separated by the required 40 feet. Member Hicks seconded. All in favor. The motion passed unanimously.

Member Savage made a motion to grant minor subdivision approval for the subdivision of 41-43 Concord Street into two lots, as submitted, subject to the following precedent and subsequent conditions:

- (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. For compliance with the Subdivision Regulations, if any of the requested waivers or conditional use permit are not granted, revise the plat to address the items that were not approved.
 2. The plat shall list all approved variances, waivers, and conditional use permits with the section numbers and description, and date of approval.
 3. 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).
 4. If the waiver from the driveway requirements in the Subdivision Regulations and the conditional use permit for the driveway separation are not granted, then per Section 13.02(9) of the Subdivision Regulations, an agreement to convey a private access easement shall be provided that would burden and benefit both lots upon one or both lots being conveyed by the current property owner (Yeaton Elinor E. Revocable Trust, Yeaton Elinor E. Trustee). The format of an agreement to convey an easement shall be approved by the City Solicitor and the Clerk of the Planning Board and shall conform to the format contained in Appendix C of the Subdivision regulations and shall be recorded in the Merrimack County Registry of Deeds with the subdivision plat. If both the waiver from the driveway requirements in the Subdivision Regulations and the condition use permit for the driveway separation are granted, then this condition is not applicable.
 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 required recording fees.

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7. Per Section 15.02(12) of the Subdivision Regulations, the applicant is responsible for ensuring that the plat to be recorded complies with the current standards of 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, 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 19.04 of the Subdivision Regulations, a New Hampshire licensed land surveyor shall place permanent reference monuments in the subdivision, as required by the Subdivision Regulations and as approved by the City Engineer. All monuments shall be inspected by the City of Concord. All such monuments shall be set flush with the proposed grade and planted in such a manner that they will not be removed by frost.

Member Hicks seconded. All in favor. The motion passed unanimously.

- 8f. TFMoran, Inc., on behalf of Unitil, requests approvals for conditional use permit applications for disturbance of wetland buffer and disturbance of buffers in the Shoreland Protection (SP) District for the replacement of existing utility structures and reconductoring of existing overhead line crossings within the existing utility right-of-way off of W Portsmouth St and Commercial St in the Open Space Residential (RO) District. (2024-048)

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

Mr. Bass provided a staff update, stating that most of the conditions are precedent and will relate to showing the flood hazard district on the plans as well as some utilities in the area. Unitil has acknowledged that there are utility structures in the floodway, and Unitil has been asked to show compliance with the flood hazard overlay district as well as submitting any required permits from the State of New Hampshire.

Jeremy Belanger (48 Constitution Dr, Bedford) presented the application, noting that Unitil will be rebuilding what is known as the 15H street crossing located in northern Concord. They are replacing existing structures due to age and to be able to accommodate current and future load growths. There will be some wetland and shoreland impacts in order to get to the structures for replacement. They have requested two conditional use permits.

Chair Woodfin asked about the existing poles and if all are being replaced.

Mr. Belanger stated there are six poles total that will be replaced.

Chair Woodfin asked if any member of the audience would like to speak on this agenda item, and with no response, closed the public hearing.

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Chair Woodfin stated the findings of fact include: 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 made a motion to grant the conditional use permits from Article 28-4-3(d) *Conditional Use Permits Required for Certain Disturbance of Wetland Buffers*, to allow for temporary and permanent disturbance of the wetland buffers; and, Article 28-3-3(f) *Conditional Use Permits Required for Disturbance of Buffers in the SP District*, to allow for temporary and permanent disturbance of the shoreland vegetative and woodland buffers, for the replacement of existing utility pole structures and reconductoring of existing overhead line crossings within the existing utility right-of-way off of W Portsmouth St and Commercial St, subject to the following precedent and subsequent conditions:

- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the final plans by the Planning Board Chair and Clerk, unless otherwise specified:
1. For compliance with the Site Plan Regulations, revise the plans as follows:
 - a. Section 12.04 *Location Plan* requires a location plan to be provided on the cover sheet at a minimum scale of 1" = 400'. The location plan must also show the items listed in Section 12.04(1) through (10).
 - b. Section 12.05 *Vicinity Plan* requires a vicinity plan be shown on the cover sheet at a scale between 1" = 1000' and 1" = 2,000'.
 - c. Section 12.06(2) *Easements* requires plan or deed references for recorded easements, whether public or private, on the properties proposed for development; and existing easements on abutting properties, which are for the purposes of providing access, utilities, or drainage to the properties to be developed.
 - d. Section 13.01(6) *State and Federal Permits* requires submittal of a copy of any application made to a state or federal agency required for approval be submitted as part of the application package. Please provide any state or federal applications required for this project. The "Permits/Approvals" block on the cover sheet references potential NHDES wetland and NHDES shoreland permits.
 - e. Section 14.02(3)(a)(ix) *Natural Features* requires the identification and classification of the extent and type of soils using the USDA Natural Resources Conservation Service system.
 - f. Provide all the information required by Section 14.02(5)(a) *Site Utility and Drainage Layout Plan*, including the location of existing sanitary sewers, septic systems, water mains, potable wells, culverts, and existing utility poles. City GIS mapping shows two municipal water mains and one municipal sanitary sewer main crossing the Merrimack River in the general vicinity of the proposed project. Sheets C-04 Wetland Impact and C-05 Shoreland Impact appear to show an unidentified manhole structure with a rim elevation of 233.11. Please show these utility lines to ensure no conflict with the proposed construction of existing and new utility poles.
 - g. Provide the site utility and drainage layout plan showing existing utility rights-of-way, including dimensions and bearings, as required by Section 14.02(5)(b) *Site Utility and Drainage Layout Plan*.
 - h. Section 14.02(3)(b)(ii) *Man-made Features* requires identification of municipal special district boundaries to be shown. If the property is located in a FH – Flood

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Hazard Zoning Overlay District please add this note to the plan accordingly. If the property is within the Flood Hazard District, the boundaries shall be shown on the plans and the plans shall conform with Article 28-3-2 Flood Hazard (FH) District of the Zoning Ordinance.

- i. If the property is located within the Flood Hazard (FH) District as defined by Article 28-3-2 of the Zoning Ordinance the applicant shall show compliance with Article 28-3-2(f) *Development Standards in the FH District* and Article 28-3-2(g) *General Application Requirements within the FH District* of the Zoning Ordinance.
 - j. Applicant has verbally stated that two utility pole structures are located within the floodway. Clearly delineate the location of floodway in relation to the project site, and clearly show and note the installation of utility pole structures which occur within the floodway. Per Article 28-3-2 Flood Hazard (FH) District of the Zoning Ordinance, the applicant shall:
 - i. Submit a copy of a permit from the New Hampshire Department of Environmental Services in accordance with Article 28-3-2(e)(g) *Exemptions from Conditional Use Permits Requirements*.
 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. The 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 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.
 6. Address comments listed in the memorandum from the Engineering Division, dated August 7, 2024, to show compliance with the applicable section or standard.
 7. Per Section 36.28 of the Site Plan Regulations, wetland buffers shall be clearly and permanently marked before construction on the land within the approved site plan.
 8. 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.
- (b) **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. Erosion control measures shall be installed and maintained in accordance with Section 27.09 of the Site Plan Regulations.
 3. 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.

4. Per Section 36.28 of the Site Plan Regulations, wetland buffers shall be clearly and permanently marked during and after construction on the land within the approved site plan. Building permits shall not be issued until the wetland buffers are marked.

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

9. Other Business

- 9a. Planning Board discussion to schedule a joint work session with the Architectural Design Review Committee to review 1) August 12, 2024 City Council referral, as well as Design Review Committee memorandum, on recently adopted zoning amendments pertaining to conditional use permits for the obstruction of the State House Dome and to exceed maximum height limits within portions of the Central Business Performance and Opportunity Corridor Performance Districts, and 2) Architectural Design Review processes and procedures for signs and structures.

Chair Woodfin suggested a date and time for the joint work session of September 18, 2024, at 6 p.m. The work session will be between the Architectural Design Review Committee and the Planning Board to discuss the adopted zoning ordinance amendments pertaining to conditional use permits for referenced above. The work session will be open to the public to attend and listen, but no comments or testimony will be taken from the public.

The Board members agreed to the joint work session on September 18, 2024, at 6 p.m.

Ms. Skinner will notify all parties of the date and time for the joint work session.

- 9b. Any other business which may legally come before the Board.
Ms. Skinner noted that a letter of interest had been received from Merle Thorpe to become a member of the Architectural Design Review Committee.

Chair Woodfin made a motion to appoint Merle Thorpe to the Architectural Design Review Committee. Member Fox seconded. All in favor. The motion passed unanimously.

Adjournment

Member Fox moved, seconded by Councilor Todd, to adjourn the meeting at 7:57 p.m. All in favor. The motion passed unanimously.

The next regular meeting is Wednesday, September 18, 2024, at 7:00 p.m.

TRUE RECORD ATTEST:

Krista Tremblay

Krista Tremblay

Administrative Specialist II