

City of Concord Planning Board
November 20, 2024
Minutes

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

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

Absent: Vice-Chair Erle Pierce, Mayor Byron Champlin, Alternate Chiara Dolcino, and Alternate Frank Kenison

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

1. Call to Order

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

2. Roll Call

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

3. Approval of Meeting Minutes

- 3a. On a motion by Member Condodemetraký, seconded by Member Hicks, the Planning Board voted to approve the October 16, 2024, Planning Board meeting minutes, as written. The motion passed unanimously.
- 3b. On a motion by Member Savage, seconded by Member Santacruce, the Planning Board voted to approve the October 16, 2024, Joint Work Session Planning Board/Architectural Design Review Committee meeting minutes, as written. The motion passed unanimously. Member Condodemetraký abstained.

4. Agenda Overview

Chair Woodfin provided an agenda overview noting that items 6A, 9A, 9F, and 9G were all requested by the applicants to be continued to a date certain of December 18, 2024.

Chair Woodfin provided an agenda overview noting that items 9C and 9H were all requested by the applicants to be continued to a date certain of January 15, 2025.

Member Santacruce moved, seconded by Member Todd, to continue agenda items 6A, 9A, 9F, and 9G to a date certain of December 18, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

Member Santacruce moved, seconded by Member Condodemetraký, to continue agenda items 9C and 9H to a date certain of January 15, 2025, at the request of the applicant. All in favor. The motion passed unanimously.

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5. Design Review Applications by Consent

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

- 5A. Green Bear Signs and Graphic, LLC, on behalf of Luma Massage, request architectural design review approval to reface an existing 22-square-foot internally illuminated pylon panel sign (SP-0369-2024) and for an existing non-permitted 26.6-square-foot non-illuminated building wall sign (SP-0393-2024) at 341 Loudon Road in the Gateway Performance (GWP) District.

The Planning Board approved the applications as submitted, with the condition that the existing building sign be reportioned to fit within the allocated space of the portico.

- 5B. NEOPCO Signs, on behalf of Bektash Temple A.A.O.N.M.S., requests architectural design review approval for a new 32-square-foot externally illuminated pylon sign (SP-0373-2024) to replace an existing pylon sign at 189 Pembroke Road in the Gateway Performance (GWP) District.

The Planning Board approved the application as submitted.

- 5C. Advantage Signs, on behalf of Sulloway & Hollis PLLC, requests architectural design review approval for a new 2.52-square-foot non-illuminated building wall sign (SP-0376-2024) to replace an existing building wall sign at 19 Capitol Street in the Central Business Performance (CBP) District. (2024-071)

The Planning Board approved the application as submitted.

- 5D. Expose Signs & Graphics, on behalf of John Flatley Company, requests architectural design review approval for a new 26.83-square-foot non-illuminated building wall sign (SP-0378-2024) at 32 South Main Street in the Central Business Performance (CBP) District.

The Planning Board approved the application as submitted.

- 5E. Spectrum Signs, on behalf of B & L Transmission LLC, requests architectural design review approval for a new 25.67-square-foot non-illuminated window sign (SP-0379-2024) at 92 Manchester Street in the Highway Commercial (CH) District.

The Planning Board approved the application as submitted, with the condition that the white bars be removed and the graphics be extended up toward the AAMCO logo to more closely comply with Section 5.4(A) of the Architectural Design Guidelines that every sign should be an integral, subordinate element within the overall building and site design.

- 5F. Classic Signs Inc., LLC, on behalf of ROI Trust, requests architectural design review approval for a new 78.5-square-foot internally illuminated monument sign (SP-0380-2024) at 16 Manchester Street in the Gateway Performance (GWP) District. (2024-023)

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**** This item was pulled from consent by Member Santacruce ****

Member Santacruce stated the Architectural Design Review Committee was concerned about Planning Board approving all the panels with blue text and white background. Member Santacruce also asked about the location of the sign and its distance from the main entrance for all the whole development, noting that the sign does not have any addresses.

Ms. Skinner stated the sign location was already approved as part of the major site plan approval.

Member Santacruce wanted confirmation that the Planning Board's meant that all the panels would need to have the blue and white as shown.

Ms. Skinner confirmed that to be so.

There were no comments from the public.

Member Santacruce made a motion to approve the sign as submitted. Member Hicks seconded. All in favor. The motion passed unanimously.

5G. Signarama of Concord, on behalf of Who Doesn't Want That?, requests architectural design review approval for five existing non-permitted signs, non-illuminated window or door signs of 1.4-square-feet (SP-0362-2024), 1.3-square-feet (SP-0363-2024), 1.1-square-feet (Sp-0364-2024), 1.0-square-feet (SP-0366-2024), and 1.66-square-feet (SP-0368-2024), at 34 Warren Street, Unit 1, located in the Central Business Performance (CBP) District.

The Planning Board approved the application as submitted.

6. Determination of Completeness by Consent

6A. Wilcox & Barton, on behalf of The Arts Alley, LLC and 20 South Main Street, LLC, requests approvals for a major condominium subdivision and certain waivers from the Subdivision Regulations for a four-unit condominium subdivision, with two units in the Arts Alley building, one unit as the proposed diner car building, and the fourth unit being the renovated carriage house to be known as Duke's, at 20 S Main St, 20 1/2 S Main St, and 22 S Main St in the Central Business Performance (CBP) District. (2024-060) This application is continued to a date certain of December 18, 2024, at the request of the applicant.

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

Public Hearings

7. Design Review Applications

7A. Poyant Signs, on behalf of JS 155 Loudon Road LLC ET AL, requests architectural design review approval for three new internally illuminated wall signs of 72.87-square-feet (SP-0388-2024), 30.37-

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square-feet (SP-0390-2024), and 72.87-square-feet (SP-0389-2024), and two internally illuminated pylon panel signs of 35.51-square-feet (SP-0394-2024) and 49.51-square-feet (SP-0391-2024) to replace existing signage at 155 Loudon Road in the Gateway Performance (GWP) District.

Jenn Robichaud (125 Samuel Barnet Blvd, New Bedford, MA) is present to represent this application. Ms. Robichaud stated she is speaking about the two existing translucent face panels reading “CVS Pharmacy” and replacing the existing translucent with new translucent. Ms. Robichaud noted the existing Burger King sign on the same freestanding pylon is translucent. Ms. Robichaud asked to be allowed to replace like for like.

Chair Woodfin asked if the feedback from Architectural Design Review Committee was that an opaque background be used in the replacement sign.

Ms. Robichaud stated yes, Architectural Design Review Committee wanted an opaque background.

Chair Woodfin opened to the Planning Board and public for comments.

Member Savage stated the Architectural Design Review Committee routinely asks for signs to be opaque, even if the existing sign is not opaque. By continuing this practice, all newer signs will have opaque background.

Mr. Bass stated that the recommendation from the Architectural Design Review Committee is consistent with Architectural Design Review guidelines, and the committee is consistent in its recommendations to follow the guidelines regarding opaque backgrounds.

Chair Woodfin asked if the preference from CVS is a red background with white letters.

Ms. Robichaud stated she understands that is the preference. Ms. Robichaud pointed out that an opaque background would not match the existing sign for Burger King. Ms. Robichaud noted the Planning Board would be forcing two panels to be opaque when the other two signs are not opaque. Ms. Robichaud noted there is no data to show that the existing signs are offensive or have too much light. Ms. Robichaud asked the Planning Board to move forward as the signs exist today. Ms. Robichaud stated she understands the committee’s desire to move to opaque backgrounds and asks that they look at a code change to get that done.

Chair Woodfin thanked Ms. Robichaud for her testimony and closed the public hearing.

Member Santacruce stated they have been consistent in that, if a sign is getting replaced, the replacement sign is an opaque background. Member Santacruce understands there is more than one panel on the pylon at this location. Member Santacruce noted they do not know when or if these signs will ever get replaced. Member Santacruce stated now is the time to do it and if Burger King comes forward they will be required to do the same thing.

Member Santacruce made a motion, seconded by Member Savage, to require the opaque background for the CVS pylon sign.

Discussion

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Mr. Bass suggested citing the Architectural Design Review Committee's recommendation and the guidelines to justify the condition to have the white background white on the pylon sign.

Member Santacruce amended the motion to include the recommendation from Architectural Design Review Committee and the guidelines to have an opaque background for the white on the pylon sign.

Member Hicks asked if the opaque background is required.

Mr. Bass stated no, it is not a requirement. Mr. Bass noted in the zoning ordinance there are districts where there is no illumination or external illumination and there are restrictions on internal illumination. The Architectural Design Guidelines encompasses more, but the language in the guidelines is "should" not "shall".

Chair Woodfin stated there is a motion on the table with a second. Member Condodemetraky, Councilor Todd, Member Hicks, and Chair Woodfin voted against, and Members Fox, Santacruce, Savage, and Rosenberger voted in favor. With a tie vote of 4-4, the motion failed.

Member Hicks moved, seconded by Member Condodemetraky, to approve as submitted. Member Hicks, Member Condodemetraky, Councilor Todd, and Chair Woodfin voted in favor. Members Rosenberger, Fox, Santacruce, and Savage voted against. With a tie vote of 4-4, the motion failed.

Chair Woodfin asked for recommendations from staff on how to proceed.

Mr. Walsh stated the Planning Board can table to next month.

Councilor Todd asked if members of the Planning Board can ask questions?

Chair Woodfin stated yes.

Member Condodemetraky asked about the definition of opaque and if both signs are opaque.

Chair Woodfin stated it is so light does not transfer.

Member Santacruce stated both signs are not opaque.

Chair Woodfin stated if you look at the background on the existing sign there is a red background and only the white CVS letter would be illuminated.

Member Condodemetraky asked why they are moving to opaque signs.

Chair Woodfin stated to keep the light pollution down and control intense lighting. Chair Woodfin stated they are not looking at existing signs, but when existing signs are being replaced now and in the future. Chair Woodfin noted that present actions will dictate what may or may not be practice in the future.

Councilor Todd stated his concern about the language in the guidelines. Councilor Todd stated that, if this is the direction the Board would like to go, then the ordinance needs to be amended to say

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“shall.” Councilor Todd stated that would send a clear message to all and provide clear direction to everyone.

Member Hicks agreed.

Chair Woodfin opened for public comment.

Ms. Robichaud stated it you would look at the sign at night all you would see is the copy.

Chair Woodfin noted all you would see is the “CVS” and “Pharmacy.”

Ms. Robichaud stated the design would need to be changed as she was not sure if the applicant would want to light it in red. Ms. Robichaud stated opaque backgrounds are for a certain part of the community. Ms. Robichaud stated the signs exist now with no complaints from the community. Ms. Robichaud stated this is a perceived opinion of light pollution.

Chair Woodfin closed the public commenting.

Chair Woodfin made a motion to approve as submitted with the white background not opaque. Member Hicks seconded. Member Hicks, Member Condodemetraky, Councilor Todd, and Chair Woodfin voted in favor. Members Rosenberger, Fox, Santacruce, and Savage voted against. With a tie vote of 4-4, the motion failed.

Ms. Robichaud asked what can be done to receive resolution tonight?

Mr. Walsh stated the Board has nine members to avoid tie votes, wherein the motion fails. However, tonight there is an absent member. Mr. Walsh noted the Planning Board can table to the December 18, 2024, meeting in the hope that there will be nine members present at the December meeting.

Chair Woodfin moved, seconded by Council Todd, to table to the December 18, 2024, meeting. All in favor. The motion passed unanimously.

Ms. Robichaud asked about options if the applicant does not agree with the Planning Board’s decision.

Ms. Skinner stated that, once a decision is actually made, any decision of the Planning Board may be appealed to the Zoning Board of Adjustment within 30 days of the date of the decision. Ms. Skinner emphasized that, as of yet, there is no decision on this matter due to the tie votes on all motions.

7B. Signarama of Concord, on behalf of Oakstream Properties and Keeler Family Realtors, requests architectural design review approval for a new 7.83-square-foot externally illuminated pylon tenant panel (SP-0374-2024) to replace an existing pylon tenant panel at 21 Green Street in the Civic Performance (CVP) District. (2024-075)

Kendra Price and Caleb Price (249 Sheep Davis Rd, Concord) represented the application. Ms. Price stated the client agreed to most of the changes with the exception of the Capitol building. Ms. Price

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stated the sign if the Capitol building is not floating as recommended by the Architectural Design Review Committee.

Chair Woodfin asked the Board and public if there are any questions about this application.

Member Fox made a motion to approve the 2024-075 revised sign that was submitted on November 12, 2024, via email, specifically the top rendering without a green bar between the white band and the Capitol building image. Member Condodemetraky seconded.

Discussion

Member Santacruce asked for clarification on what the Planning Board is approving.

Ms. Price referred to the image project on the screen, noting that it shows what the sign would look like with all the requested changes with the exception of the floating Capitol, to which they do not agree.

Chair Woodfin asked who wanted to have the Capitol floating.

Ms. Price stated the Architectural Design Review Committee.

Chair Woodfin stated the top sign is the one the Planning Board is approving.

Mr. Bass noted they are voting to approve the 2024-075 revised sign submitted on November 12, 2024, the top rendering without a green bar between the white band and the Capitol building image.

The Planning Board agreed. All in favor. The motion passed unanimously.

- 7C. Signarama of Concord, on behalf of Cal's Cabinet Depot, requests architectural design review approval for a new 24.94-square-foot non-illuminated wall sign (SP-0375-2024) and an existing non-permitted 2.8-square-foot non-illuminated door sign (SP-0397-2024) at 254 Sheep Davis Road, Building 2, in the Gateway Performance (GWP) District.

Kendra Price and Caleb Price (249 Sheep Davis Rd, Concord) represented this application. Mr. Price stated the sign is being allowed because the committee does not feel it is simple enough. The Architectural Design Review Committee made a recommendation to remove the website and phone number at the top as well as to remove the words "kitchen and bathroom remodeling", and "quality and price", to make the bar the same color as the top, and to increase the size of the word "Cals." Mr. Price asked for a definition of what is considered simple? Mr. Price stated they are fine with removing the phone number and website and increasing the font size for the word "Cals." However, the client feels it is important to distinguish what kind of work takes place at the business.

Member Condodemetraky asked if the words "cabinets, granite, quartz, flooring, tile" imply remodeling for kitchen and bath and are thus not needed on the sign.

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Mr. Price stated that they can make that argument. However, you can make the argument that those words provide clarification on his specialty of kitchen and bath remodeling.

Chair Woodfin stated there is a difference between noting the specialty and having everything on the sign. Chair Woodfin noted there is so much information on the sign as submitted.

Mr. Price stated maybe “quality and price” could be removed. Mr. Price also mentioned the condition about the bottom color being changed. Mr. Price asked if the Planning Board would prefer to have the bottom color the navy color, and remove “quality and price” along with the website and phone number.

Chair Woodfin suggested the following: remove the center “kitchens, baths, quality, remodeling and price,” make it blue with “kitchen and bath remodeling” under “Cabinet Depot”, remove the blue line, and make the bottom dark blue, as well as removing the website and phone number.

Mr. Price thought that would be okay.

Chair Woodfin suggested also increasing the size of the word “Cals.”

Chair Woodfin moved, seconded by Member Rosenberger, to approve as submitted, but with the following conditions to more closely conform with Section 5.4(B) of the Architectural Design Guidelines by providing a more simple and direct message: the text containing “quality and price” be removed and the text containing “Kitchen and Bath” be centered on the band and be made the same blue text color as “Cabinet Depot” and the background of the band be made white; the text of the website and phone number in the corners be removed; the bottom light blue band background be made to the matching dark blue with light blue text; and, the text “Cal’s” be made larger if possible. 7 in favor, with 1 opposed (Member Santacruce). The motion passed.

8. Amendments

8A. Public Hearing on proposed amendments to Ordinance #3168 modifying provisions of the Zoning Ordinance pertaining to Conditional Use Permits in the Central Business Performance District and Opportunity Corridor Performance District regarding maximum building height, views of the State House Dome, and other development performance standards.

Mr. Walsh presented the report included in the agenda packet.

Chair Woodfin noted for the record that the Planning Board met the in September and October in joint work sessions with the Architectural Design Review Committee to discuss amendments to the ordinance that was adopted by City Council earlier this year. Chair Woodfin applauded the back-and-forth work and discuss to get to this point and opened the public hearing.

Ms. Savage stated that Mr. Walsh did a nice job accounting for all components that have been brought forward. Ms. Savage thanked Mr. Walsh for making this a good document and for helping the Planning Board.

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Mr. Walsh stated that, based on all the comments, the proposed ordinance presented at this public hearing is a better product than what was adopted in August 2024.

Ari Pollock (214 N Main St, Concord) represented Ciborowski Associates. Mr. Pollock stated he is working on a project for Mr. Ciborowski and would take advantage of some of the language that was inserted into the ordinance. Mr. Pollock stated staff has done a great job and made the document stronger. Mr. Pollock stated the Planning Board is being presented with two options regarding historic buildings. Mr. Pollock is aware that he and Mr. Ciborowski do not get a vote, but they ask the Planning Board to consider option one.

Ron Rayner (29 Rumford St, Concord) stated the ordinance is improved from what was adopted by City Council in August 2024. Mr. Rayner noted the late publication of the agenda and felt there would be more comments from the public if there was more advanced notice. Mr. Rayner stated that in section C (h, i, and j) he recommends the addition of the words “to seek” which is elsewhere in one of the paragraphs. This way there is no ambiguity down the road. Mr. Rayner likes option one for historic buildings. Mr. Rayner asked the Planning Board take a pause, not vote tonight, and have this at the December Planning Board meeting for the public to attend based on the date of release of the staff revisions.

Member Hicks asked if this has to go back to City Council.

Mr. Walsh noted that the recommendation from the Planning will go back to City Council for a public hearing. City Council will decide to approve or deny the amendment to the ordinance after that public hearing.

Chair Woodfin closed the public hearing.

Chair Woodfin asked for Mr. Walsh’s feedback on the testimony received from Mr. Rayner.

Mr. Walsh stated he appreciates Mr. Rayner’s suggestion to add “seek” and that he is not opposed to doing so. There will be a final review of the ordinance by the legal team that has not happened. Mr. Walsh can ask the city attorney if it’s appropriate to add the word “seek” for consistency with the rest of the sections.

Councilor Todd stated going forward that, using the earlier example of the CVS sign and opaque background issue, this is why adding language is necessary in making decisions and avoiding lawsuits from applicants. Councilor Todd noted this is it’s important to add the language about historic buildings. Councilor Todd stated he also wants to make sure the Planning Board and applicant have as much information as possible at their disposal.

Member Rosenberger asked about not having the historic register included in this document and if it is included in the master plan. Member Rosenberger asked if it will come out of the master plan?

Mr. Walsh noted staff is aware of the master plan and the national registry. When an applicant is coming forward the applicant will talk to staff in advance. Staff will look at the national register and the master plan in analyzing applications.

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Member Rosenberger asked about the values of the community and noted over the last 30 years the City and staff have done a great job with historic preservation. Member Rosenberger asked if this is a core value or if it will be removed from the master plan.

Mr. Walsh stated this is a core value.

Chair Woodfin asked about the historic preservation language in option one.

Mr. Walsh stated he does not feel that it is necessary to reference the national register, which is why it is not referenced in option one. Mr. Walsh stated staff knows the national register exists and will include a review of the national register as part of the review process.

Member Santacruce moved, seconded by Member Hicks, to recommend approval of the document, with option one, and to incorporate changes from the legal review, specifically about adding the word “seek” as requested by Mr. Rayner. All in favor. The motion passed unanimously.

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 the 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) This application has been continued to a date certain of December 18, 2024, at the request of the applicant.

Member Santacruce moved, seconded by Councilor Todd, to continue agenda item 9A to a date certain of December 18, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

- 9B. 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)

Ms. Skinner stated the major site plan was deemed complete at last month’s Planning Board meeting.

Laurie Rauseo (152 Morrill Rd, Canterbury) and Jason Hill (48 Constitution Dr, Bedford) presented the application. Ms. Rauseo noted this is Phase 2c with a full-service restaurant. The restaurant coming in is Viva Trattoria. It is a sister restaurant to the 110 Grill. Ms. Rauseo stated this would be the third location in New Hampshire. There is one in Rochester and one under construction in Bedford. The restaurant is approximately 5,500 square feet and adjacent will be a 2,000-square-foot retail space. The restaurant will also feature an 1,100-square-foot outdoor patio on the west side.

Member Santacruce asked about the pond.

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Ms. Rauseo stated the pond is temporary due to a phasing issue until a new tenant goes into phase 2b. The pond is to capture the rain from the roof. Ms. Rauseo stated it is a plan on paper and hopefully will never have to be constructed.

Mr. Hill stated it is designed to City standards.

Member Santacruce noted in the plan there is a sidewalk that connects where Jersey Mike is located. Mr. Santacruce asked if that is going to be built as part of this phase?

Ms. Rauseo stated there is already a connection on Merchant Way.

Mr. Hill stated that the sidewalk is not proposed to be constructed in this phase.

Member Santacruce asked why the sidewalk cannot be built as a part of this phase?

Mr. Hill noted it is a spec building and there are details that need to be designed for the building.

Member Santacruce asked the applicant to work with staff to have truck turning templates because the plan is showing turning into the phase 2b pond.

Mr. Hill stated they can do that.

Chair Woodfin closed the public hearing.

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

Based on the adopted findings of fact, Councilor Todd moved, seconded by Member Hicks, to **grant architectural design review approval** for a full-service restaurant with an outdoor seating area, an attached retail space, and associated site improvements, subject to the following condition to enhance the environment and improve conformance with Section 5.2 *Landscape and Site Treatment* of the Architectural Design Guidelines:

- a. Low-growing evergreen plantings along the northern part of the site against the building to provide screening from Merchants Way and to increase color and vegetation in the winter months for a more aesthetically pleasing view.

All in favor. The motion passed unanimously.

Based on the adopted findings of fact, Councilor Todd 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) and Section 36.08 of the Site Plan Regulations:

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- a. Section 16.02(22) *Construction Details*, to not provide the minimum four feet of cover over the drainage system as per the Concord Construction Standards and Details and instead provide less than four feet of cover where applicable;
- b. Section 16.03(9) *Colored Rendering*, to not provide the required colored rendering showing the proposed landscaping at the time of initial planting and as expected five years after planting;
- c. Section 16.03(11) *Signs*, to not provide a master sign plan with the site plan application and instead provide prior to installation of signs as part of the sign permitting process;
- d. Section 18.17 *Tree Plantings*, to not provide the required one tree per 1,000 square feet of parking area and instead provide 1 tree per 2,000 square feet of parking area, as well as street trees;
- e. Section 18.18 *Lighting* and Section 29 *Lighting*, to allow light trespass beyond property boundaries; and,
- f. Section 22.07(2) *Storm Water Recharge*, to not provide the required minimum separation of four feet between the bottom of an infiltration system and the groundwater and instead provide three feet of separation.

All in favor. The motion passed unanimously.

Based on the adopted findings of fact, Member Fox moved, seconded by Councilor Todd, to **grant major site plan approval** for a full-service restaurant with an outdoor seating area, an attached retail space, and associated site improvements, subject to the following precedent and subsequent conditions:

- a. Precedent Conditions – Per Section 7.08(9) *Expiration of Approval*, approved site plans shall meet all precedent conditions and obtain the signature of the Chair and Clerk of the Planning Board within one year of the date of the Planning Board meeting where conditional final approval was granted; otherwise said plans shall be null and void.

Precedent conditions are as follows:

1. Unless a specific variance, waiver, or conditional use permit is granted stating otherwise, revise the plan set to fully comply with the Site Plan Regulations, Zoning Ordinance, and Concord Construction Standards and Details, including but not limited to the following:
 - a. Per Section 15.03(22) *Existing Condition Plan Abutting Properties*, the actual property address of the site shall be shown on the existing conditions plan, as well as showing the actual property addresses of abutting properties. The five sheets titled “Existing Conditions Plan” shall be revised to list the actual property address of the abutting properties to the tax map lot and owner name and address already provided.
 - b. Section 15.04(2) *Abutting Property* requires that the site plan show the existing abutting properties, along with the owner names and addresses, tax map lot numbers, and the address of the properties themselves. The site plan does not show the actual address of the abutting properties as required.

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- c. The index of sheets on Sheet C-1 does not match the sheet numbers and sheet titles contained in the plan set. Specifically, the index lists Sheet C-12 as “Stormwater Management Plan” and Sheet C-12 itself is titled as “Erosion Control Plan.” Additionally, the index lists under C-2 the following items: notes & legend; 2020 existing conditions plan (by others); as-built plan – Concord Crossing; and as-built plan – 8-10 Merchants Way. Sheet C-2 is titled “notes & legend” and the sheet following is the 2020 existing conditions plat prepared by others. However, what follows is five sheets that are titled “existing conditions plan.” The index needs to be revised to reflect these five sheets of existing conditions plans, rather than the listing of as-built plans. The index also lists architectural elevations, but architectural elevations are not included in the civil plan set so the listing of architectural elevations needs to be removed from the index on Sheet C-1.
- d. A lighting plan was submitted in accordance with Section 18.18 *Lighting* and Section 29 *Lighting* of the Site Plan Regulations and Article 28-7 *Access, Circulation, and Parking* of the Zoning Ordinance. The submitted lighting plan, however, appears to show light trespass beyond property boundaries greater than 0.2 foot-candles and needs to be revised to be compliant with Section 29.07 *Nuisance and Glare* and not have any foot-candles greater than 0.2 beyond property boundaries. Additionally, a detail for light poles was included on Sheet C-21, but Sheet C-5 does not appear to show any proposed light poles. Confirm that the project at 10 Merchants Wy will, in fact, be installing light poles as part of the project and show the location of the proposed installations on Sheet C-5 or remove the light pole details from Sheet C-21. **A waiver was granted for light trespass.**
- e. Compliance with Section 18.21 *Snow Storage* requires provisions for snow storage designed to avoid damage to landscaping. Sheet C-5 shows the proposed snow storage areas in landscaped areas that contain trees and shrubs with no apparent explanation of how the snow storage area is avoiding damage to landscaping.
- f. Section 20.06 *Solid Waste Facility Screening* requires a solid opaque fence not less than 6 feet nor more than 8 feet in height around the solid waste facility area. Chain link fencing with slats is not solid opaque fence. Add more information to Note 22 on Sheet C-5 to provide the height of the fence and the type of the fence around the solid waste facility for compliance with this requirement.

Additionally, the detail on Sheet C-21 is for a single dumpster pad and Sheet C-5 shows two dumpsters; therefore, the M-8 detail shown on Sheet C-21 needs to be removed and replaced with the M-9 Multiple Dumpster Pad detail. Additionally, there is a second detail on Sheet C-14 for a compactor/dumpster/loading pad. This needs to be removed or a waiver needs to be requested to use a dumpster pad detail other than M-9, noting that the enclosure portion of M-9 will be utilized, and move the detail on Sheet C-14 to Sheet C-21 so both details are on the same sheet.

- g. Per Section 25.02 *Non-Municipal Utilities Design Standards*, all utility facilities shall be located underground throughout the proposed development. When existing utility facilities are located above ground, except where existing on

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public roads and rights-of-way, they shall be removed and placed underground. Service connections to the non-municipal utilities shall be constructed to Concord Construction Standards and Details, and the standards established by the private utility company responsible for the service. Additionally, it is unclear if coordination with the private utility companies has taken place regarding the proposed connections depicted on Sheet C-9. Provide communication from the applicable utility companies indicating approval with the proposed plan shown on Sheet C-9.

- h. Section 26.02 *Mechanical Equipment* requires full screening from abutting properties and public rights-of-way for all roof-top and ground-mounted mechanical equipment. The architectural elevations show that roof-top mechanical equipment is proposed, but no indication is given as to the type of screening. Roof-top mechanical equipment shall be provided with solid opaque or louvered screens designed to block views, glare, and noise from abutting properties, and shall be as high as the tallest mechanical unit. The architectural elevations need to be revised to show and detail compliance with the screening requirement for the roof-top mechanical equipment.
- i. Section 27.07(4) states that no more than 25% of the trees to be planted shall be of the same species. The landscape plan submitted on September 30, 2024, shows the planting of five trees, which equates to no more than one tree being of the same species. The landscape plan shows the proposed planting of two October glory red maple trees, one bloodgood London plane tree, one green pillar pin oak tree, and one crimson cloud hawthorn tree. To meet the requirement, one of the two October glory red maple trees needs to be replaced with a tree other than any other tree proposed for planting.
- j. The Engineering Division provided comments addressing compliance with the Site Plan Regulations in a memorandum dated October 29, 2024. The plan set shall fully comply with the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details prior to final approval.
- 2. The site plan sheet shall list all approved variances, waivers, and conditional use permits with the section numbers and description, and date of approval.
- 3. A truck turning template shall be provided showing turning movements for large vehicles and fire trucks at the entrances to the restaurant and through the parking lot of the restaurant, avoiding the pond.
- 4. Upon notification from the Planning Division that the plan set complies with Planning Board conditions, the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details, the applicant shall deliver to the Planning Division two full-size plan sets and one 11x17 plan set for endorsement by the Planning Board Chair and Clerk. The plan sets shall contain the signature and seal of the appropriate licensed professionals as outlined in the Site Plan Regulations.
- a. **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.

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2. Per Section 4.02 no building permit shall be issued for the purposes of constructing a new building or structure unless a certificate of approval has first been issued by the Planning Board as required by the Site Plan Regulations.
3. Per Section 7.08(7) *Building Permits and Certificates of Occupancy*, no certificate of occupancy shall be issued until all public and private improvements have been completed, and all conditions of a site plan approval established by the Planning Board have been satisfactorily addressed as determined by the Clerk of the Planning Board.
4. Per Section 27.07(8) *Maintenance*, the applicant or their successors shall be responsible for the regular maintenance of all plantings and other landscape features. Plant materials shall be maintained alive, healthy, and free from pests and disease. Tree stakes and guys shall be removed after the first growing season.
5. Per Section 27.11 *Site Stabilization Guarantee*, a site stabilization guarantee shall be provided to ensure the site is properly stabilized. The guarantee shall be in a 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.
6. Per Section 36.02 *Conditions*, the applicant has the duty to comply with the approved site plan and any reasonable conditions set forth by the Planning Board for design, dedication, improvement, and restrictive use of the land.
7. Per 36.15 *Compliance with Regulations*, no site construction, or change of use of land, shall occur in violation of the Site Plan Regulations and the Zoning Ordinance. No building permits may be issued for any building, structure, site improvement, or change of use prior to site plan approval and the satisfactory completion of any pre-construction conditions of Planning Board approval. The Clerk shall not approve any certificate of occupancy, nor shall any use of a building or site commence, unless the proposed improvements, and the proposed use of land or buildings, is found to comply with the approved site plan and the conditions of Planning Board approval.
8. Per 36.24 *Inspections*, the Community Development Department shall be responsible for inspecting the site plan improvements for conformity with the approved plans and conditions of Planning Board approval. The City may assess the application for all or a portion of the cost, including overhead, of the necessary inspections. No certificate of occupancy shall be issued until the development has been completed according to the approved plans.
9. Per Section 36.25 *As-Built Plans*, the applicant's engineer or surveyor shall submit to the City Engineer a detailed as-built survey for all site plans showing the location of buildings, structures, utilities, parking and loading areas, driveways and access, as well as for any public improvement 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.
10. Per Section 36.27 *Release of Financial Guarantees*, a release of any financial guarantee assurance shall not be undertaken until the Clerk of the Planning Board and the City Engineer have ascertained that all site related improvements, or required public improvements, have been constructed in conformance with the approved plans and specifications.

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Mr. Santacruce asked to add to provide truck turning templates for the restaurant building and parking lot entrances and work with Engineering to provide a temporary sidewalk provision for the north-south connector toward the building and bus stop area.

All in favor. The motion passed unanimously.

- 9C. Nobis Group, on behalf of SARP Realty, LLC, requests approvals for a minor site plan and certain waivers from the Site Plan Regulations for a 2,598-square-foot addition to the south side of the existing Red Blazer restaurant building at 72 Manchester St in the Highway Commercial (CH) District. (2024-059) This application has been continued to a date certain of January 15, 2025, at the request of the applicant.

Member Santacruce moved, seconded by Member Condodemetraky, to continue agenda item 9C to a date certain of January 15, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

- 9D. Dundee Investment Associates, LLC, and Raising Cane's request approval for a site plan and architectural design review, a conditional use permit for a reduced number of stacking spaces in a drive-thru lane, and certain waivers from the Site Plan Regulations, including the bypass lane requirement, for a new 3,404-square-foot drive-thru restaurant at 287 Loudon Rd in the Gateway Performance (GWP) District. (2024-069)

Ms. Skinner stated this application was continued from last month to this month to address the incompleteness items. They requested a conditional use permit and revisions to stacking spaces so they are not crossing over the required crosswalk. They provided a more detailed explanation of the bypass lane waiver request explaining that they are not requesting the waiver for the entire bypass lane, but for a portion of the bypass lane. Staff is in support of both of the requests with the additional information they provided. Ms. Skinner noted the staff report goes into detail about the sewer capacity issue and options provided to the developer.

Chair Woodfin asked if they are good to determine the application complete.

Ms. Skinner stated yes, provided they approve the waivers and staff is in support of the waivers.

On a motion made by Member Santacruce, seconded by Councilor Todd, the Board voted to determine the application complete, not a development of regional impact, per New Hampshire RSA 36:55, and open the public hearing. All in favor. The motion passed unanimously.

John Sokul (997 Ocean Blvd, Hampton, NH), Michelle Robinson (1123 S 51, Philadelphia, PA) and Matthew Ashley (352 Turnpike Rd, Southboro, MA) represented the application. Mr. Sokul stated this is on Loudon Rd to the immediate left of Aldi's. Mr. Sokul stated this was approved by Planning Board in 2017 as a three-unit land condominium. Aldi's is unit one, this project is unit two, unit three is not yet constructed. Mr. Sokul stated they are making some changes to the original plan to have a double drive-thru, parking lot changes, and outdoor seating. Mr. Sokul stated they have read the staff report and are in support of the conditions. Mr. Sokul stated they will be able to work with Engineering on the sewer capacity.

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Chair Woodfin there is no capacity for sewer on the Loudon Rd corridor.

Mr. Sokul stated they do have Aldi's usage for the last 12 calendar months and they are using less than was allocated to them. They have also looked at other Raising Caine's restaurants' actual sewer usage and feel confident that between the less-usage of Aldi's and the actual usage of actual Raising Caine's restaurants, that they will come in under the amount permitted in the sewer connection permit.

Ms. Robinson stated Raising Caine's is a fast-casual dining drive-thru establishment. Ms. Robinson noted there is interior seating. However, 70% of the sales are through the drive-thru. Mr. Robinson noted they have a very focused menu with five items. There are a little more than 800 locations nationwide. This has the potential to be the second location in New Hampshire. Ms. Robinson noted the transaction time is quick. Ms. Robinson stated there are cameras that can show staff to get more chicken going as people are in line inside or at the drive-thru.

Mr. Ashley noted this is a quick serve restaurant 3,400-square-foot building and outdoor patio seating in the front. The site was previously approved for a quick serve restaurant with drive thru. They are proposing a dual drive-thru lane. Cars will have the option to go to two order points. During non-peak hours it will be a single lane. The outside lane during non-peak hours will be open for a full bypass. They received a variance for parking. Utilities are stubbed by the parcel. There is no new site access proposed.

Chair Woodfin asked about the landscape plan.

Ms. Robinson stated Raising Caine's takes pride in the landscaping making sure from day one and beyond that it is maintained.

Mr. Ashley stated the landscaping will have color in winter.

Member Santacruce asked about the new cut thru parking lot. Member Santacruce asked why it is needed if there is a signalized entrance that leads to the drive-thru?

Mr. Ashley stated that was in coordination with Aldi's and controlling traffic. It will not congest the Aldi's area.

Member Santacruce asked if traffic needs to be two-way to reduce the congestion at Aldi's?

Mr. Ashley stated that is a good question.

Chair Woodfin closed the public hearing.

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

Based on the adopted findings of fact, Councilor Todd moved, seconded by Member Condodemetraky, to **grant architectural design review approval** for the 3,404-square-foot drive-

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thru restaurant, subject to the following conditions:

- a. The approval does not include architectural design review approval for any signage, whether shown or not. Architectural design review approval of signage shall be considered at the time of sign permit application submissions and in conjunction with a prepared sign master plan.
- b. The One Love Heart (XL) artwork shared by the applicant during the October 1, 2024, Architectural Design Review Committee meeting shall be used in place of the originally-proposed Canes sign on the front elevation.
- c. The dog artwork on the side elevation shall be approved as presented to the Architectural Design Review Committee, unless it is determined to be a sign, in which case approval will be for the same dog image but with removal of the words "Cane 1."
- d. Artwork shall be added to the rear elevation.
- e. The approval does not include the "One Love" sign/art on the front elevation and will instead be included and considered as part of the master sign plan approval.
- f. The approval includes the flame depicted on the drive-thru elevation as presented to the Architectural Design Review Committee, but the words "Drive Thru" shall be removed.

All in favor. The motion passed unanimously.

Member Santacruce moved, seconded by Councilor Toddy, to **deny the waiver request below** from the listed section of the Site Plan Regulations because the request does not meet the criteria of New Hampshire RSA 674:44(III)(e)(1) or (2) or Section 36.08 of the Site Plan Regulations.

- a. Section 16.02(14)(b) *Utility Plan*, to not provide profiles of all municipal utilities.

All in favor. The motion passed unanimously.

Member Hicks moved, seconded by Member Santacruce, to **grant the waiver requests below** from the listed section of the Site Plan Regulations, based on the criteria from New Hampshire RSA 674:44(III)(e)(2) and Section 36.08 of the Site Plan Regulations:

- a. Section 16.03(5) *Windows, Doors, and Roofs*, to not provide the type and pitch of roofs and size and spacing of windows and door openings on the architectural elevations;
- b. Section 16.03(8) *Dimensions*, to not provide the required horizontal and vertical dimensions on the architectural elevations;
- c. Section 16.03(10) *Photographs*, to not submit the required colored photographs of the existing site and adjacent buildings and properties; and,
- d. Section 18.08 *Design of Stacking Spaces*, to not provide the full length of the 8-foot-wide bypass lane as required.

All in favor. The motion passed unanimously.

Member Savage moved, seconded by Member Santacruce, to **grant the conditional use permit** from Section 28-7-4 *Requirements for Stacking Spaces for Drive-Through Facilities* of the Zoning

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Ordinance to allow only 10 stacking spaces rather than the 11 that are required, based on the criteria being met, and subject to the following condition:

- a. Applicant shall ensure that no vehicle shall stop on or over the crosswalk in the drive-thru lanes.

All in favor. The motion passed unanimously.

Based on the adopted findings of fact, Member Hicks moved, seconded by Councilor Todd, to **grant minor site plan approval** for the construction of a new 3,404-square-foot drive-thru restaurant at 287 Loudon Rd, subject to the following precedent and subsequent conditions:

- a. Precedent Conditions – Per Section 7.08(9) *Expiration of Approval*, approved site plans shall meet all precedent conditions and obtain the signature of the Chair and Clerk of the Planning Board within one year of the date of the Planning Board meeting where conditional final approval was granted; otherwise said plans shall be null and void.

Precedent conditions are as follows:

1. Unless a specific variance, waiver, or conditional use permit is granted stating otherwise, revise the plan set to fully comply with the Site Plan Regulations, Zoning Ordinance, and Concord Construction Standards and Details, including but not limited to the following:
 - a. The site plan sheet shall be revised to contain all information required by Section 15.04 *Proposed Site Plan*, rather than being spread out over numerous different sheets in the plan set.
 - b. The site plan sheet shall be revised to show, list, and note, in a legible and clear manner, the following: plan or deed references for recorded easements on the property proposed and existing easements on abutting properties as required by Section 12.06(2) *Easements*; Section 12.06(3) *Existing Restrictions*, deed reference and statement of any existing recorded covenants or restrictions as required by Section 12.06(3) *Existing Restrictions*; Section 12.06(4) *Prior Subdivisions or Surveys*, plan references for prior recorded subdivisions or surveys as required by Section 12.06(4) *Prior Subdivisions or Surveys*; a note stating that no state or federal agency permit applications are required OR a note listing the state and federal agency permits that are required as required by Section 13.01(6) *State and Federal Permits*; and, notations of all easements, covenants, and self-imposed restrictions as required by Section 15.02(5) *Easements and Restrictions*.
 - c. The site plan sheet shall be revised to clearly and legibly show, label, depict, and/or note on the site plan sheet all the information required by Section 15.04 *Proposed Site Plan* to be shown on the site plan sheet.
 - d. Recorded easements shall be noted on the site plan sheet for compliance with Section 17.02 *Self-Imposed Restrictions*, including notation of the condominium declaration and the easements contained therein.
 - e. The site plan sheet shall contain all the information from Section 18 *Parking Lot Design Standards* and Section 19 *Access and Driveway Standards*, including dimensions clearly labeled of driveway widths, drive aisle widths, accessible spaces, parking spaces, stacking spaces, bypass lane, compact parking space signage, striping and markings, perimeter buffers, perimeter landscaping, interior parking lot landscaping, tree plantings,

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lighting, curbing and guard rails. Information shall be clearly identifiable and easily and readily located on the site plan.

- f. Required information from Section 20 *Loading and Solid Waste Facility Standards*, Section 21 *Sidewalks, Multi-use Paths, and Trails*, Section 22 *Storm Water Management*, Section 23 *Water Supply*, Section 24 *Sanitary Sewage Disposal*, Section 25 *Non-municipal Utilities*, Section 26 *Buffers and Screening*, Section 27 *Landscaping and Environmental Considerations*, and Section 29 *Lighting* shall be contained in the plan set, and shall be clearly identifiable and easily and readily located on identified sheets of the plan set.
- g. As required by the Site Plan Regulations, construction details shall be provided for all utilities, driveways, parking areas, pavement markings, sidewalks, patios, drainage facilities and structures, information, regulatory, and directional signage; common mailboxes; solid waste receptacles; buffer walls and fences; retain walls; landscaping; and, site lighting. Unless specifically waived by the Planning Board, construction details shall be provided which conform to the Concord Construction Standards and Details. There are details in the plan set that are not from the Concord Construction Standards and Details. Where the Concord Construction Standards and Details does provide such a detail, that detail must be used.
- h. Section 21.05 *Design Standards* requires sidewalks constructed in conformity with Concord Construction Standards and Details. The submitted plan set does not appear to include the sidewalk detail from the Concord Construction Standards and Details as required. This includes accessible sidewalks on the site, curb ramps provided in compliance with the Architectural Barrier Free Design Code for the State of New Hampshire and the ADA Standards for Accessible Design, minimum sidewalk width of five feet exclusive of curbing, and minimum transverse slope of 2% and maximum slope of 8%.
- i. Section 22.02 *Construction Standards* requires all public and private storm water drainage facilities to be constructed to the standards of the Site Plan Regulations and the Concord Construction Standards and Details. It doesn't appear that the Concord Construction Standards and Details were used for the details shown in the submitted plan set.
- j. Section 23.04 *Design Standards for Service Connections* requires the installation of facilities for water in accordance with the Concord Construction Standards and Details. It doesn't appear that the details shown in the submitted plan set are the details from the Concord Construction Standards and Details.
- k. Section 24.04 *Design Standards for Service Connections* requires service connections to the municipal sanitary sewer system to be constructed in accordance with the Concord Construction Standards and Details. It does not appear that the details shown in the submitted plan set are the details from the Concord Construction Standards and Details.
- l. Section 25.02(1) *Underground Utilities* and (2) *Service Connections* requires service connections to non-municipal utilities to be constructed in accordance with the Concord Construction Standards and Details, and the standards established by the private utility company responsible for the service. It doesn't appear that the details shown in the submitted plan set are the details from the Concord Construction Standards and Details, nor was any documentation provided from private utility companies showing approval for the proposed non-municipal utility design.

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- m. It's unclear from the submitted materials if the project proposes any roof-top or ground-mounted mechanical equipment. If there is no roof-top or ground-mounted mechanical equipment proposed, add a note to the site plan stating as much. If any such equipment is proposed, add the required screening details to the detail sheets, and reference the sheet number on the site plan sheet, to show compliance with Section 26.02 *Mechanical Equipment*.
 - n. For compliance with Section 27.06(5) *Underground Utilities*, a note shall be added to the site plan sheet, utility plan sheet, and landscaping plan sheet stating that no trees shall be planted within 10 feet of an existing or proposed underground utility line.
 - o. Section 27.07(4) *Biodiversity* allows for no more than 25% of the trees to be planted to be of the same species. The landscape plan shows that three trees are being planted and all three are of the same species, which doesn't meet the requirement. With three trees being planted to meet this requirement, each tree will need to be a different species. Alternatively, an analysis can be provided of all three land units listing the number of existing trees by species, as well as the number of trees to be planted by species, such that no more than 25% of all the trees (existing and to be planted) are of the same species.
 - p. Section 27.07(6) *Planting Specifications* requires the use of Concord Construction Standards and Details. It doesn't appear that the details presented in the landscaping plan are from the Concord Construction Standards and Details as required.
 - q. Section 29.07 *Nuisance and Glare* allows for no more than 0.2 foot-candles beyond property boundaries. The submitted lighting plan appears to show greater than 0.2 foot-candles beyond the lot lines.
 - r. Revise sheets as applicable to address all compliance comments in the memorandum from the Engineering Division, dated November 1, 2024, attached hereto.
- 2. A note shall be added to the site plan sheet and the utility plan sheet stating that maximum sewer utilization from all development located at 285-289 Loudon Rd shall not exceed 6,469 gallons per day (GPD), combined, until such time as aforementioned sewer improvements associated with Capital Improvement Projects 91 and 275 are operational, or sufficient capacity is determined to exist within the sanitary sewer system as determined by the City Engineer (whichever occurs first). If the applicant is unable to demonstrate to the City Engineer that sufficient sewer capacity exists within the aforementioned 6,469 GPD limit, the applicant shall be eligible to receive a building permit for the Raising Cain's project; however, said building permit shall be subject to the following conditions:
 - a. The applicant's Raising Cain's building shall not be connected to the municipal sanitary sewer system until such time as aforementioned sewer improvements associated with Capital Improvement Projects 91 and 275 are operational, or sufficient capacity is determined to exist within the municipal sanitary sewer system as determined by the City Engineer (whichever occurs first).
 - b. No certificate of occupancy shall be issued for the applicant's Raising Cain's building until such time as aforementioned sewer improvements associated with Capital Improvement Projects 91 and 275 are operational, or sufficient capacity is determined to exist within the municipal sanitary sewer system as determined by the City Engineer (whichever occurs first);
 - 3. The site plan sheet 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. If the waiver from the bypass lane required in the Site Plan Regulations and the conditional use permit for the reduced stacking spaces are not granted, then all applicable sheets in the plan set shall be revised to show full compliance with the requirements for the bypass lane and stacking spaces.
 5. Upon notification from the Planning Division that the plan set complies with Planning Board conditions, the Zoning Ordinance, Site Plan Regulations, and Concord Construction Standards and Details, the applicant shall deliver to the Planning Division two full-size plan sets and one 11x17 plan set for endorsement by the Planning Board Chair and Clerk. The plan sets shall contain the signature and seal of the appropriate licensed professionals as outlined in the Site Plan Regulations.
- 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. Per Section 4.02 no building permit shall be issued for the purposes of constructing a new building or structure unless a certificate of approval has first been issued by the Planning Board as required by the Site Plan Regulations.
 3. Per Section 7.08(7) *Building Permits and Certificates of Occupancy*, no certificate of occupancy shall be issued until all public and private improvements have been completed, and all conditions of a site plan approval established by the Planning Board have been satisfactorily addressed as determined by the Clerk of the Planning Board. Additionally, issuance of building permit and certificate of occupancy shall be expressly subject to Precedent Condition 2 herein.
 4. Per Section 27.07(8) *Maintenance*, the applicant or their successors shall be responsible for the regular maintenance of all plantings and other landscape features. Plant materials shall be maintained alive, healthy, and free from pests and disease. Tree stakes and guys shall be removed after the first growing season.
 5. Per Section 27.11 *Site Stabilization Guarantee*, a site stabilization guarantee shall be provided to ensure the site is properly stabilized. The guarantee shall be in a 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.
 6. Per Section 36.02 *Conditions*, the applicant has the duty to comply with the approved site plan and any reasonable conditions set forth by the Planning Board for design, dedication, improvement, and restrictive use of the land.
 7. Per 36.15 *Compliance with Regulations*, no site construction, or change of use of land, shall occur in violation of the Site Plan Regulations and the Zoning Ordinance. No building permits may be issued for any building, structure, site improvement, or change of use prior to site plan approval and the satisfactory completion of any pre-construction conditions of Planning Board approval. The Clerk shall not approve any certificate of occupancy, nor shall any use of a building or site commence, unless the proposed improvements, and the proposed use of land or buildings, is found to comply with the approved site plan and the conditions of Planning Board approval.
 8. Per 36.24 *Inspections*, the Community Development Department shall be responsible for inspecting the site plan improvements for conformity with the approved plans and

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conditions of Planning Board approval. The City may assess the application for all or a portion of the cost, including overhead, of the necessary inspections. No certificate of occupancy shall be issued until the development has been completed according to the approved plans.

9. Per Section 36.25 *As-Built Plans*, the applicant's engineer or surveyor shall submit to the City Engineer a detailed as-built survey for all site plans showing the location of buildings, structures, utilities, parking and loading areas, driveways and access, as well as for any public improvement 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.
10. Per Section 36.27 *Release of Financial Guarantees*, a release of any financial guarantee assurance shall not be undertaken until the Clerk of the Planning Board and the City Engineer have ascertained that all site related improvements, or required public improvements, have been constructed in conformance with the approved plans and specifications.

All in favor. The motion passed unanimously.

- 9E. Jonathan Crowdes and TF Bernier, a division of Hoyle Tanner, on behalf of Charles J. Rose, Jr., Joyce Rose, and Kristen M. Riley, request approvals for a minor subdivision (lot line adjustment) application, and certain waivers from the Subdivision Regulations, to exchange 2.27 acres in an even swap between unaddressed Runnels Rd (Tax Map Lot 36Z 11) and 129 Horse Hill Rd (Tax Map Lot 33Z 32) in the Open Space Residential (RO) District. (2024-070)

On a motion made by Councilor Todd, seconded by Member Savage, the Board voted to determine the application complete, not a development of regional impact, per New Hampshire RSA 36:55, and open the public hearing. All in favor. The motion passed unanimously.

Mr. Bass stated this application is for a lot line adjustment. Staff is recommending conditional approval. The applicant has requested a number of waivers. The applicant yesterday provided a revised waiver narrative that is not included in the agenda. The revision had three additional waiver requests.

Tim Bernier (50 Pleasant St, Concord) and Tim Blagden (PO BOX 610, Warner) represented this application. Mr. Bernier stated this is a lot line adjustment between the Riley and Rose properties. Mr. Bernier stated Mr. Blagden has been working with the property owners to create a connection to Lehtinen Park. This will give better access to property by gaining access on Horse Hill Rd. There are 2.75 acres being transferred to the Rose property. As a result of this lot line adjustment both lots will be more conforming for zoning. Mr. Bernier stated the house lot will end up with 1.25 acres of additional continuous useable upland and a half acre of buildable area is being added to the lot. The Roses will have better access to their property. There is no proposed development. This is a step in a bigger plan. Mr. Bernier stated the wetland waiver is being requested because there will be no changes to either site as a result of the lot line adjustment.

Mr. Blagden (PO BOX 610, Warner, NH) stated there is no construction proposed. They are trying to keep cost for the private land owners as low as possible. Both parties have agreed to an easement for the trail and will do the trail easement at the same time as the lot line adjustment. Mr. Blagden stated

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the Friends of the Concord-Sunapee Rail Trail will take on the cost of the mapping the wetlands and the layout of the rail trail when a trail project moves forward. Mr. Blagden stated the Concord-Sunapee Rail Trail is the one that has requested the lot line adjustment.

Chair Woodfin asked about waiver request for monumentation?

Mr. Bernier stated they are fine to set monumentation materials as required if that request is not granted, but still request the Board grant a partial waiver to not require monumentation at the corners that are already monumented with monuments that are not right on the corner. Mr. Bernier stated that it is unethical by surveying standards.

Mr. Bernier stated they will be taking 2.74 acres out of current use. Mr. Bernier stated there is a staff recommended condition that 4.5 acres be deeded to the City in an easement. Mr. Bernier stated that will not work for this lot line adjustment as it will prevent the owner from using the land the way they would prefer.

Chair Woodfin asked for an update from staff on the trail easement and timing to create.

Mr. Bass stated the 2010 Bike Master plan does note a Concord-Clairmont Trail going through this area. It is a practice of the City for future anticipated rights-of-way or improvements to acquire easements or deeds, to make the construction of those facilities possible in the future, as part of development. These parcels are in the trail corridor in the master plan. It is important to note that both parties are striving for the same thing.

Chair Woodfin stated he understands the importance of needing the easement. Chair Woodfin noted the easement is only important if the rail trail is built.

Mr. Bass stated yes, it is putting pieces together so it can be built at a future date.

Mr. Walsh agreed with the information provided by Mr. Bass. Mr. Walsh noted the 2021 Concord Trails Plan does include the Concord-Sunapee Rail Trail. The staff concern is that they want to ensure there is connectivity through the property to get over the bridge to Hopkinton as that is the goal. Mr. Walsh stated if both parties can work with Mr. Blagden on a location that is acceptable. If that could be on the plat before it is recorded that would be acceptable. Mr. Walsh asked who is intended to hold the easement.

Mr. Blagden stated the Friends of the Concord-Sunapee Rail Trail has recorded easements for 24 parcels with the Merrimack County Registry of Deeds. Mr. Blagden has another nine parcels that are the Friends of the Concord-Sunapee Rail Trail license agreements through the City (7) and State of New Hampshire (2).

Chair Woodfin asked if there are adequate areas conducive for the trail as to not disturb the existing topography?

Mr. Blagden stated yes, on the eastern end of this land that will go to the Rose property the railroad grade is usable. However, as you get farther west behind the Riley house the railroad grade was filled in at the time when the house was being built. To the west of that is another parcel where the railroad

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grade was also filled in. To the south is favorable terrain of buildable space and to provide privacy for both owners and a connection to Lehtinen Park.

Mr. Walsh suggested if the Planning Board wanted to rework the condition to say the two parties will come to an agreement to convey an easement for the Concord-Sunapee Rail Trail or to show the location on the plan when the plan is recorded.

Mr. Bernier stated they cannot define an easement in a fixed location. The Roses have no plans to develop the property at this time. Mr. Bernier stated they want to make sure they can move it the trail.

Chair Woodfin asked if they wanted to develop the land if they need to cross the rail trail.

Mr. Bernier stated they would need two access points if they wanted to develop the land.

Member Condodemetraky asked about the larger portion of land and asked if there is something planned for the land.

Mr. Bernier stated no, currently the Roses use it as a wood lot.

Mr. Bass recommended the Board consider a precedent condition that a private easement deed to the Concord-Sunapee Rail Trail establishing a corridor for the use of a multi-use trail shall be established and noted on the final plat.

Mr. Bass noted proposed precedent condition a(v) is the monumentation where the City Surveyor commented that the shown lot lines do not line up with the bounds and they should set.

Mr. Bernier stated if there are two bounds four feet apart it will confuse people and is unethical.

Chair Woodfin stated there has got to be a way to fix it.

Mr. Bernier stated they would need to remove the bounds and receive written permission from all four land owners. Mr. Bernier noted it can be done; however, it outside of the scope of this project and excessively expensive.

Chair Woodfin stated he is not comfortable approving a plan that the City Surveyor noted needs to be fixed.

Mr. Bernier stated it is monumented; however, they are not at the right location for the corners.

Member Santacruce stated NHDOT does it all the time and they do not necessarily put the bounds on the exact corner but will purposely offset so they do not set a precedent of the property line.

Chair Woodfin asked Member Santacruce if it is a deal breaker, and Member Santacruce said no.

Kyle Lawson (91 Horse Hill Rd, Concord, NH) stated he owns the corner piece on the edge of the property bordering Horse Hill Rd. Mr. Lawson stated he is not in favor of the adjustment. Mr. Lawson stated it was discussed about developing the large parcel of land. Mr. Lawson stated he

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bought his property because it is secluded. Mr. Lawson does not want a trail. Mr. Lawson stated his back porch is approximately 20 feet away from the property and does not want to see cars driving in and out all day.

Nick Domzrici (80 Runnels Rd, Concord, NH) stated his property abuts the large parcel. Mr. Domzrici noted the swap is to get Roses into the property to develop. Mr. Domzrici is confused about the trail because there is the Jim Hill River Walk. Mr. Domzrici suggested to build the trail from Jim Hill River Walk to Lehtinen Park.

Chair Woodfin stated the connection to go from Concord to Lake Sunapee is the goal to be able to ride a bike on a paved trail.

Mr. Blagden stated the trail will be stone dust, not paved. Mr. Blagden stated no motorized wheeled vehicles are allowed. Snowmobiling is left to the land owner.

Mr. Domzrici asked where the connection is coming off of this land swap?

Member Santacruce stated the start is on Fisherville Rd parking lot.

Chair Woodfin stated the intent is to connect the Concord-Lake Sunapee Rail Trail with the Merrimack Greenway Trail.

Nancy Parker (99 Horse Hill Rd, Concord, NH) asked Mr. Blagden if there are other options that have been vetted instead of right-of-way to preserve that land? Ms. Parker stated there is an access point off Runnels Rd for the Rose property.

Mr. Blagden stated they are trying to get east-west connectivity. They are either 300 or 500 feet short. Mr. Blagden stated there is one lot to the west at 139 Horse Hill Rd to the west of the Riley property. In order to reach Lehtinen Park they need a connection and the only piece of land that is there is the Rose property. It also has good topography and is a practical solution.

Ms. Parker asked if this is all done with owner approval?

Mr. Blagden stated yes.

Chair Woodfin asked how many parcels are missing to connect to get to this one and Fisherville Rd?

Mr. Blagden stated there are three pieces of property between Carter Hill Rd and Horse Hill Rd. The City of Concord owns two of the three parcels and have added to the license agreement. Mr. Blagden stated there is one privately-owned parcel.

Ms. Parker stated it is important to see if the Engineering Department has looked at studies for the road. Ms. Parker stated if you go down the road at any time you do a hail mary coming out of any driveway. Ms. Parker stated that will increase cost and will need upgrades.

Chair Woodfin stated it is putting the cart before the horse and there will be several opportunities to discuss when and if development is proposed.

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Cindy Domenece (80 & 71 Runnells Rd, Concord, NH) noted people could use the Jim Hill River Walk parking lot and that will increase traffic on Runnells Rd. Ms. Domenece stated people fly down Runnells Rd and it is in deplorable condition.

Chair Woodfin stated if there is a development that comes forward they will look at it Runnells Rd as part of that development. Tonight, they are looking at a lot line adjustment with no plans to develop.

Chair Woodfin closed the public hearing.

Mr. Bass reminded the Board when they make their motions to consider the additional waivers requested by the applicant, as well as the requested wetland and monumentation waivers based on the discussion during the public hearing.

Mr. Bass added based on the public hearing, the Board should consider when making their motion for precedent conditions, if they wish to include precedent conditions (a)(1)(r), (a)(1)(s), (a)(1)(v), and (a)(1)(cc).

Chair Woodfin listed the findings of fact, which included 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.

Member Santacruce moved, seconded by Member Fox, 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)(1) and Section 35.08 of the Subdivision Regulations:

- a. Section 12.08(3) *Topography* and Section 15.03(4) *Topography*, to not show topography or spot elevations;
- b. Section 12.08(4) *Soils*, to not show soils data;
- c. Section 12.08(5) *Natural Features*, and Section 15.03(6) *Natural Features*, to not show natural features, ledge, steep slopes, etc.;
- d. Section 12.08(1) *Property Lines* and Section 15.03(2) *Dimensions*, to only show boundary information in the vicinity of the lot line adjustment;
- e. Section 12.08(20) *Existing Vegetation*, to not show existing vegetation;
- f. Section 12.08(22) *Abutting Properties* and Section 15.03(1) *Abutting Property*, to not show abutting properties information;
- g. Section 12.08 (23a-e) *Tabulations* and Section 15.03(3) *Tabulations*, to not tabulate floor areas and useable land;
- h. Section 15.03(5) *Monumentation*, to only show monumentation in the vicinity of the lot line adjustment;
- i. Section 15.03(10) *Site Improvements*, to not show site improvements;

All in favor. The motion passed unanimously.

Member Santacruce moved, seconded by Member Fox, to **grant the waiver requests below** from the listed sections of the Subdivision Regulations, using the criteria of New Hampshire RSA

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674:36(II)(n)(1) and Section 35.08 of the Subdivision Regulations:

- a. Section 12.04 *Location Plan*, to show a location plan at 1" = 1,000' instead of the requirement minimum of 1" = 400';
- b. Section 15.03(8) *Setbacks*, to not show wetland buffers;
- c. Section 15.03 (12) *Septic Systems*, to not dig a test pit or show a 4,000-square-foot area for lot 11;

The motion passed with 7 members in favor and Member Condodemetraky opposed.

Member Santacruce moved, seconded by Member Fox, to **grant the waiver request below** from the listed section of the Subdivision Regulations, using the criteria of New Hampshire RSA 674:36(II)(n)(1) and Section 35.08 of the Subdivision Regulations:

- a. Section 12.07 *Wetlands*, to not show wetlands as part of this lot line adjustment but with the understanding that wetlands will be delineated and shown at the time of any development; and,

The motion passed with 7 members in favor and Member Condodemetraky opposed.

Chair Woodfin moved, seconded by Member Condodemetraky, to **deny the waiver requests below** from the listed sections of the Subdivision Regulations, because the request does not meet either New Hampshire RSA 674:36(II)(n)(1) or (2), nor does it meet Section 35.08(1), (2), (3), or (4) of the Subdivision Regulations.

- a. Section 12.08 (23a-e) *Tabulations* and Section 15.03(3) *Tabulations*, to not tabulate lot areas and impervious land; and,
- b. Section 15.03(5) *Monumentation*, to set an iron rod on Horse Hill Rd. Monumentation to be set shall be identified as such on the plans, including material, and shall be compliant with the requirements of Section 19.04 *Monuments* of the Subdivision Regulations.

All in favor. The motion passed unanimously.

Member Santacruce moved, seconded by Chair Woodfin, to **grant the waiver request below** from the listed section of the Subdivision Regulations, using the criteria of New Hampshire RSA 674:36(II)(n)(1) and Section 35.08 of the Subdivision Regulations:

- a. Section 15.03 (5) *Monumentation*, to not require monumentation to be set at all property corners where existing monumentation has not been held.

All in favor. The motion passed unanimously.

Member Santacruce moved, seconded by Member Hicks, to **grant minor subdivision approval** for the lot line adjustment to exchange 2.27 acres in an even land swap between unaddressed Runnells Rd (Tax Map Lot 36Z 11) and 129 Horse Hill Rd (Tax Map Lot 33Z 32), as submitted, subject to the following precedent and subsequent conditions:

The Board discussed and crafted a motion which excluded the recommended staff conditions (a)(1)(r), (a)(1)(s), (a)(1)(v), and (a)(1)(cc).

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- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the final plat by the Planning Board Chair and Clerk, unless otherwise specified:
1. Unless a specific variance, waiver, or conditional use permit is granted stating otherwise, revise the plan set to fully comply with the Subdivision Regulations, Zoning Ordinance, and Concord Construction Standards and Details, including but not limited to the following:
 - a. Section 12.02(1)(a) *Title Block* requires that the title of the plan be included in the title block. This information either appears to be missing or is inconsistent throughout the sheets of the plan sets. Specifically, on sheet 2, the text box “and” has been moved and is behind the text of “Kristen M. Riley” and shall be moved up to match sheet 1.
 - b. Section 12.02(3) *Standard Notes* requires listing the notes set forth in Appendix B. The plat does not appear to contain all information as required by Appendix B, including minimum lot area, frontage, and setback dimensions required for the zoning district(s) and for wetland buffers, bluff setbacks, and the Shoreland Protection Overlay District; required tabulations of use, area, lot coverage, parking existing and proposed, useable and building land area, etc, as applicable; source of sanitary sewer and potable water supply; list of Planning Board waivers; and, a list of those conditions of Planning Board approval which remain to be fulfilled after the recording of the plat.
 - c. Section 12.02(4) *Conditions of Planning Board Approval* requires listing conditions of approval which remain to be fulfilled after plat recording. The plat does not appear to contain any notes regarding subsequent conditions of approval. This requirement can be satisfied by adding a note that states: “The development is subject to all subsequent conditions of Planning Board approval from Case 2024-070.”
 - d. Section 12.03(1) *North Arrow and Bar Scale* requires that the north arrow and bar scale shall be provided on all construction plans, subdivision plans and plats, but are not required on construction details, roadway, cross-sections, and profile drawings. This required information appears to be missing. Specifically, sheet 2 of 2 does not appear to contain the required north arrow.
 - e. Section 12.04 *Location Plan* requires a detailed location plan to be on the subdivision plat or a cover sheet, prepared at a minimum scale of 1” = 400’. A location plan with a scale of 1” = 1,000 feet is provided on sheet 2 but does not conform to the required minimum scale.
 - f. Section 12.06(2) *Easements* requires showing on the plat the plan or deed references for recorded easements for the purposes of providing access, utilities, and drainage. A note needs to be added to the plat for the recorded access easement for Map 36Z Lot 11 described in the project narrative letter.
 - g. The plat gives no indication of any existing restrictions on the property for compliance with Section 12.06(3) *Existing Restrictions* and Section 12.08(21) *Restrictions*. If not applicable, then a note needs to be added to the plat stating that there are no existing recorded covenants or restrictions relating to the use of the land for clarification and confirmation that there are no existing restrictions.
 - h. Section 12.08(6) *Community Features* requires that the existing adjacent public buildings, parks, open space, and any historic structures or features be shown on the existing conditions plan. This information appears to be missing from the existing conditions plan. If there are no existing adjacent community features, a note needs to be added to the existing conditions plan stating that there are no existing adjacent public buildings, parks, open spaces, or historic structures or features.

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- i. Section 12.08(7) *Buildings and Structures* requires that the existing conditions plan show the location, layout, and use of existing buildings and structures with exterior dimensions. This required information is missing from the existing conditions plan. Specifically, the location of existing buildings and structures is shown, but the layout, use, and exterior dimensions appear to be missing.
- j. Section 12.08(13) *Flood Hazard* requires that a notation as to whether or not the property is located in a Flood Hazard Zoning Overlay District be noted on the existing conditions plan, along with the location of the boundary line of the Flood Hazard Zoning Overlay District if it transects the property, and the required finished floor elevation if all or a portion of the property is located within a flood hazard area. This required information appears to be missing from that plan. Specifically, a note, which shall be added to the end of Note 6 on sheet 1, stating that the property is located within the City of Concord Flood Hazard Overlay (FH) District, and the boundaries lines shall be shown on the plat as well.
- k. Section 12.08(14) *Aquifers* requires that the existing location plan show the boundaries and label for each water systems protection area. This information appears to be missing from that plan. If the site does not contain any water system protection area, a note shall be added to the existing conditions plan stating that the site does not contain any water systems protection areas. Staff notes Map 36Z Lot 11 is located within, and within 400 feet of, the aquifer protection zone 3 (APD-3) as defined by Article 28-3-6(c)(1)(a) *Community Water Systems Protection Area* of the Zoning Ordinance.
- l. Section 12.08(15) *Shoreland Protection* requires that the existing conditions plan show the boundaries and label for the shoreland protection overlay district and the natural vegetative and woodland buffers associated with that district. The information appears to be missing from that plan. If the site does not contain any shoreland protection overlay districts, a note shall be added to the existing conditions plan stating that the site does not contain any shoreland protection overlay districts.
- m. Section 12.08(16) *Signs* requires that the location and size of existing ground signs be shown and labeled on the existing conditions plan. This required information appears to be missing from the existing conditions plan. If the site does not contain any existing ground signs, a note shall be added to the existing conditions plan stating that the site does not contain any existing ground signs.
- n. Section 12.08(19) *Setbacks and Buffers* requires that setbacks and buffers shall be shown and dimensioned, including wetland buffers, shoreland protection district buffers, buffers to bluffs, and residential district buffers. This required information appears to be missing from the existing conditions plan, specifically, wetland buffers. If the site does not require or contain any of the stated buffers, a note shall be added to the existing conditions plan stating as much.
- o. Section 12.08(21) *Restrictions* requires that the existing conditions plan shall contain notations of all covenants, easements, self-imposed restrictions, and any other restrictions in place at the time of application submittal. This required information appears to be missing from the existing conditions plan. Specifically, the access easement from Runnells Rd and the self-imposed land use restriction for Map 36Z Lot 11 shall be shown. Staff notes that the 2.274 acres identified as Parcel “A” is in current use, will be considered removed from current use, subject to land use change tax, and shall be noted as such on the plans. If the site does not contain any of the aforementioned items, a note shall be added to the existing conditions plan stating which items are not in place.

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- p. Section 13.01(6) *State and Federal Permits* requires that a copy of any application made to a state or federal agency required for the approval of the subdivision, including those required for the development of the individual lots, be submitted with the application. The submittal did not include copies of any state and federal permits, nor are there any notes on the subdivision plat indicating if any state or federal permits are required. A note shall be added to the subdivision plat listing the required state and federal permits or stating that there no such permits are required for the subdivision.
- q. Section 13.02(2) *Utility, Drainage, and Slope Easements* requires the submittal of utility and drainage easement documents for review. It is unclear from the site plat how ownership and maintenance of the old box culvert used to convey water from the brook is to be handled now that it will be bisected by property lines of Map 36Z 11 and Map 33Z Lot 32, and no easement documents were included in the submittal. The applicant shall prepare and submit drainage and maintenance easements concerning said culvert for review and approval by the City Solicitor.
- t. Section 15.02(6) *Error of Closure* requires an error of closure of not less than 1 in 10,000. The stated error of closure is not shown on the plan notes and shall be added to Note 3 on sheet 1.
- u. Section 15.02(10) *Easements and Restrictions* requires notations of all easements, covenants, and restrictions. The plat does not appear to have any notes regarding easements, covenants, and/or restrictions. Specifically, the access easement from Runnells Road and the self-imposed land use restriction for Map 36Z Lot 11 is not shown. Staff notes that the 2.274 acres identified as Parcel "A" is in Current Use, will be considered removed from Current Use, and thus shall be subject to land use change tax. This circumstance shall be noted on the plan set. If the site does not contain any of the aforementioned items, a note shall be added to the existing conditions plan stating which items are not in place.
- w. Section 15.03(7) *Zoning* requires that the zoning district boundary lines, including overlay districts, be shown on the plat with labels. This required information appears to be missing from the plat. Specifically, the boundaries of the Aquifer Protection (AP) District, as defined in Article 28-3-6(c) of the Zoning Ordinance shall be shown.
- x. Section 15.03(8) *Setbacks* requires that setbacks shall be shown and dimensioned, including those required for yards, shoreland protection, bluffs, and wetlands, on the plat. This required information appears to be missing from the plat. Specifically, wetlands and wetland buffer setbacks are not shown and shall be shown for compliance with this section.
- y. Section 15.03(12) *Septic Systems* requires where municipal sewer service is not available, that soil data and test results sufficient to submit an application for subdivision approval to the State of New Hampshire Department of Environmental Services (NHDES), including a plan showing the location of test pits, the soil profiles, ground water elevation, and seasonal highwater table elevation at each test pit, be provided. The required 4,000-square-foot septic drain field area required by the NHDES shall be shown on the subdivision plat. The applicant shall meet this requirement, or show the location of any existing septic systems on site and demonstrate that the existing septic system either complies, or can comply, with the required 4,000-square-foot septic drain field location.
- z. Section 15.03(14) *Wells* requires showing on the plat the location of all existing wells and required wellhead protection radii on the site and abutting properties. This required information appears to be missing from the plat and shall be added.

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- aa. Section 15.03(16) *Easements* requires that the location, width, and metes and bounds description of all existing and proposed easements and other rights-of-way, except slope and temporary grading and construction easements, be shown on the plat. This required information appears to be missing from the plat. Specifically, the access easement for Map 36Z Lot 11 from Runnells Rd shall be shown.
 - bb. Section 15.03(17) *Conditions of Approval* requires that the conditions of approval as set forth by the Planning Board which remain to be fulfilled after the recording of the plat shall be duly noted on the plat. This required information appears to be missing from the plat, and can be satisfied with a note stating: “The development is subject to all subsequent conditions of Planning Board approval from Case 2024-070.”
- 2. It appears that 154.38 feet of frontage is being transferred to 36Z 11. This shall be noted and indicated on the plat so that it is very clear that the transfer gives the parcel access to Horse Hill Rd.
 - 3. The plat shall list all approved variances, waivers, and conditional use permits with the section numbers and description, and date of approval.
 - 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. The layers listed in Section 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. Per Section 15.02(1) *Licensed Land Surveyor*, the final plat drawings shall contain the signature and stamp of the New Hampshire licensed land surveyor who prepared the plat.
 - 6. Per Section 13.02(13) *Recording Fees*, the applicant is responsible for submittal of required recording fees.
 - 7. Per Section 4.02, no land shall be subdivided or portions of a lot transferred within the corporate limits of the City, until a subdivision plat for said land has been prepared in accordance with the regulations, approved by the Board, endorsed by the Chair and Clerk of the Planning Board, and filed at the Merrimack County Registry of Deeds.
 - 8. Per Section 15.02(12) *Registry Requirements*, the applicant is responsible for ensuring that the plat to be recorded complies with the current standards of the Merrimack County Registry of Deeds.
 - 9. A private easement deed to the Concord Lake Sunapee Rail Trail, establishing a corridor for the use of a multiuse trail shall be established, and noted on the final plan.
- (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.

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2. Per Section 19.04 *Monuments*, 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.

The motion passed with 7 in favor and 1 opposed (Member Condodemetraky).

- 9F. Richard D. Bartlett & Associates, LLC, on behalf of Alden Place Condominium Owners' Association, requests approvals for a minor subdivision application to eliminate platted convertible land area and make it platted common area, and certain waivers from the Subdivision Regulations, at 6 McKinley St, 1 Matthew St, and 310 S Main St in the Neighborhood Residential (RN) District. (2024-072)

Member Santacruce moved, seconded by Member Todd, to continue agenda item 9F to a date certain of December 18, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

- 9G. Christine Gray and Loureiro Engineering Associates, Inc., on behalf of 128 Airport Rd, LLC, request approvals for a minor site plan application, and certain waivers from the Site Plan Regulations, for construction of a new 4,000-square-foot outdoor storage yard and associated site improvements to a developed site, at 128 Airport Rd in the Industrial (IN) District (2024-073)

Member Santacruce moved, seconded by Member Todd, to continue agenda item 9G to a date certain of December 18, 2024, at the request of the applicant. All in favor. The motion passed unanimously.

- 9H. Ian MacKinnon and Jones & Beach Engineers, Inc., on behalf of Aaron LeClerc and Cara Scala, request approvals for a minor site plan application to construct a detached workshop building for a home-based business and an associated detached single-family dwelling, conditional use permit application for disturbance to a wetland buffer to construct a driveway, and certain waivers from the Site Plan Regulations, at unaddressed Shaker Rd (Tax Map Lot 411Z 49) in the Medium Density Residential (RM) District. (2024-074)

Member Santacruce moved, seconded by Member Condodemetraky, to continue agenda item 9H to a date certain of January 15, 2025, at the request of the applicant. All in favor. The motion passed unanimously.

Other Business

- 10A. Review and approve 2025 meeting calendar

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

- 10B. Any other business which may legally come before the Board.
Chair Woodfin stated he wanted to provide clarification on the 65-day clock.

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Ms. Skinner stated it is a 65-day clock based on state statute. Once the application has been deemed complete, the Planning Board has 65 days to approve, approve with conditions, or deny the application.

Member Santacruce noted that is the Planning Board's process; however, the applicant can ask for a continuation.

Ms. Skinner stated yes. If the applicant does not want to push the clock, then the Planning Board needs to approve or deny. Ms. Skinner stated if they miss the deadline then the application is automatically approved.

Adjournment

Member Santacruce moved, seconded by Member Savage, to adjourn the meeting at 10:20 p.m. All in favor. The motion passed unanimously.

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

TRUE RECORD ATTEST:

Krista Tremblay

Krista Tremblay

Administrative Specialist II