

City of Concord Planning Board
January 15, 2025
Minutes

The regular monthly meeting of the Concord Planning Board was held on January 15, 2025, at 7:00 p.m., in City Council Chambers at 37 Green St, Concord.

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

Absent: 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), and Peter Kohalmi (Associate City Engineer)

1. Call to Order

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

Elect Chair and Vice-Chair for 2025

Member Hicks made a motion to elect Member Woodfin as Chair of the Planning Board. Member Fox seconded. All in favor. The motion passed unanimously.

Chair Woodfin made a motion to elect Member Hicks as Vice-Chair of the Planning Board. Member Rosenberger seconded. All in favor. The motion passed unanimously.

2. Roll Call

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

3. Approval of Meeting Minutes

On a motion by Member Fox seconded by Member Hicks, the Planning Board voted to approve the December 18, 2024, Planning Board meeting minutes, as written. The motion passed unanimously.

4. Agenda Overview

Chair Woodfin provided an agenda overview noting that items 8B and 8D were requested by the applicant to be continued to a date certain of February 19, 2025.

Chair Woodfin further noted that item 8A was requested by the applicant to be continued to a date certain of March 19, 2025.

Member Condodemetraký moved, seconded by Member Savage, to continue agenda items 8B and 8D to a date certain of February 19, 2025, at the request of the applicant. All in favor. The motion passed unanimously.

Member Savage moved, seconded by Member Condodemetraký, to continue agenda item 8A to a date certain of March 19, 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 Savage, seconded by Member Hicks, the Board voted unanimously to approve agenda items 5A-5D as submitted, subject to the recommendations of the Architectural Design Review Committee. All in favor. The motion passed unanimously.

- 5A. Signarama, on behalf of Pembroke Road Apartments and Housing Land Partners NH, LLC, requests architectural design review for a new non-illuminated, freestanding sign consisting of two panels - an 18-square-foot panel (SP-0415-2024) and a 4.26-square-foot panel (SP-0429-2024), at 195 Pembroke Rd in the Gateway Performance (GWP) District. (2024-092)

The Planning Board approved the application as submitted with the following conditions: that the 4.26-square-foot sign content be reduced with fewer words and numbers, and a larger font is used to achieve greater visibility and simple messaging per Section 5.4(B) of the Architectural Design Guidelines, that a simple and direct message, with upper and lower case letters is most effective, and with the suggestion that the majority of the text be removed, and instead the Hodges branding logo or name be placed on the sign with the phone number to the right; and, that the street address number of “197” be lowered to be in line with the “195” and “199”, and dashes be added between them on the 18-square-foot sign to achieve a more simple and direct message per Section 5.4(B) of the Architectural Design Guidelines.

- 5B. Signarama, on behalf of New Season and FLO Hampshire Commons, LLC, requests architectural design review approval for a new 32-square-foot, externally illuminated freestanding sign (SP-0416-2024), to replace an existing freestanding sign at 100 Hall St in the Opportunity Performance (OCP) District.

The Planning Board approved the application as submitted with the condition that the tall side of the sign will be on the street side of the slope.

- 5C. NEOPCO Signs, on behalf of Coldwell Banker Lifestyles and IJMW LLC, requests architectural design review approval for a 13.5-square-foot, non-illuminated wall sign (SP-0427-2024) to replace an existing wall sign and a 4.2-square-foot non-illuminated tenant panel sign (SP-0428-2024), to replace an existing tenant panel sign in an existing freestanding sign, at 30 S Main St Bldg. 1 in the Central Business Performance (CBP) District. (2024-090)

The Planning Board approved the application as submitted.

- 5D. NEOPCO Signs, on behalf of Hope Vision and Ekstrom Harold E & Judith A, requests architectural design review approval for a 7.4-square-foot, externally illuminated tenant panel sign (SP-0426-2024), to replace an existing tenant panel sign, at 21 Green St in the Civic Performance (CVP) District. (2024-093)

The Planning Board approved the application as submitted.

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Public Hearings

6. Determination of Completeness Items by Consent

- 6A. Nobis Group, on behalf of Bangor Savings Bank, requests approvals for a major site plan application, architectural design review, a conditional use permit application for driveway separation, and certain waivers from the Site Plan Regulations, for the new construction of a 3,672-square-foot bank at 111 Loudon Rd, in the General Commercial (GC) District. (2024-091)

Member Savage recused due to a business conflict of interest.

Chair Woodfin stated this is a determination of completeness and there is no public hearing. Chair Woodfin noted there are pages of concerns in the staff report regarding determination of completeness and the Board's ongoing efforts to find applications complete only when they are complete and not move forward unless the application is complete. Chair Woodfin pointed out there are extensive items missing on this application. Chair Woodfin noted the Planning Board received notification from the Nobis Group that the missing information was minor and the Planning Board should determine the application complete due to hardship for the applicant. Chair Woodfin stated the application needs to be complete. Chair Woodfin noted it is not one or two little items that Planning Board could have Staff decide. Chair Woodfin made a motion to not find the application complete because it did not contain all the elements required by the Site Plan Regulations for a complete determination and not set the public hearing until the application is complete. Member Rosenberger seconded. All in favor. The motion passed unanimously.

Member Savage re-entered the room.

7. Design Review Applications

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

- 8A. 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) The applicant has requested to continue this application to a date certain of February 19, 2025.

Member Savage moved, seconded by Member Condodemetraky to continue agenda item 8A to a date certain of March 19, 2025, at the request of the applicant. All in favor. The motion passed unanimously.

- 8B. 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) This application has been continued to a date certain of February 19, 2025, at the request of the applicant.

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Member Condodemetraky moved, seconded by Member Savage, to continue agenda items 8B and 8D to a date certain of February 19, 2025, at the request of the applicant. All in favor. The motion passed unanimously.

- 8C. 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) This application was continued to a date certain of January 15, 2025, at the request of the applicant.

On a motion made by Member Hicks, 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 staff is recommending approval of the requested waivers and conditional approval of the application.

Mark Sargent (214 North State St, Concord) is present to represent this application. There are 10 existing condo units. The owners want to revise the condo plan and eliminate the convertible property area.

Chair Woodfin closed the public hearing.

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

Member Rosenberger moved, seconded by Member Condodemetraky, to **grant the waiver requests below a through j** from the listed sections of the Subdivision Regulations, using the criteria of New Hampshire RSA 674:36(II)(n)(2) and Section 35.08 of the Subdivision Regulations. All in favor. The motion passed unanimously.

- a. Section 12.07 *Wetland Delineations*, to not provide wetland delineations;
- b. Section 12.08(23) *Tabulations*, to not provide tabulations;
- c. Section 15.03(4) *Topography*, to not provide topographic information;
- d. Section 12.08(3) *Topography*, to not provide topographic information;
- e. Section 12.08(10) *Municipal Utilities*, to not provide the location, size, material, and type of all municipal utilities currently serving the subdivision;
- f. Section 12.08(11) *Non-municipal Utilities*, to not provide the location, type, and size, where applicable, of the non-municipal utilities currently serving the subdivision;
- g. Section 12.08(16) *Signs*, to not provide the location and size of existing ground signs;
- h. Section 12.08(20) *Existing Vegetation*, to not show the location, type, and size of existing trees throughout the site;
- i. Section 15.03(11) *Municipal Sewer*, to not provide the location, size, rim, and invert elevations of existing and proposed sanitary and storm sewers including manholes, catch basins, and culverts; and,

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- j. Section 15.03(15) *Utilities* to not provide the location and size of all existing and proposed underground and overhead non-municipal utilities on the plat.

Member Rosenberger moved, seconded by Councilor Todd, to **grant minor subdivision approval** for the condominium subdivision amendment to eliminate platted convertible land and make it platted common area, at 6 McKinley St, 1 Matthew St, and 310 S Main St, as submitted, subject to the following precedent conditions 1 through 7 and subsequent conditions 1 through 4. All in favor. The motion passed unanimously.

- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the final plat by the Planning Board Chair and Clerk, unless otherwise specified:
1. 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. Per Section 12.08(13) *Flood Hazard* a notation as to whether or not the property is located in a Flood Hazard Zoning Overlay (FH) District shall be noted on the 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 note can be added to the end of Note 6 on the site plan.
 - b. Per Section 12.08(14) *Aquifers* the plan shall show the boundaries and label for each water systems protection area. If the site does not contain any water system protection area, a note shall be added to the plan stating that the site does not contain any water systems protection areas.
 - c. Per Section 12.08(15) *Shoreland Protection* the plan shall show the boundaries and label for the shoreland protection overlay district and the natural vegetative and woodland buffers associated with that district. If the site does not contain any shoreland protection overlay districts, a note shall be added to the plan stating that the site does not contain any shoreland protection overlay districts.
 - d. Per Section 12.08(19) *Setbacks and Buffers*, setbacks and buffers shall be shown and dimensioned, including wetland buffers, shoreland protection district buffers, buffers to bluffs, and residential district 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.
 - e. Per Section 15.02(6) *Error of Closure*, an error of closure of not less than 1 in 10,000 is required. Note 1 on the site plan states the original error of closure conducted was less than the required closure of 1 in 10,000, adding that additional survey work was conducted through August 1995. The note does not clearly demonstrate if the additional survey work met the requirements of this section. The applicant shall revise the note accordingly, or provide a survey plan that meets the requirements of this section.
 - f. Per Section 15.03(5) *Monumentation*, the type and location of existing and required monuments shall be shown on the plat at the corners of lots, points of curvature, tangency, and deflection points along the street rights-of-way. Specifically, missing bounds to be set shall include the type of bound to be set, noting that bounds along

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street rights-of-way are required to be granite, and installed in accordance with City Subdivision Regulations and Construction Details.

- g. Per Section 17.06 *Condominium Declaration and By-Laws*, condominium documents, including the declaration of condominium and by-laws shall be provided for review and approval as to form and content by the City Solicitor and the Clerk of the Board. Prior to final review by the City Solicitor, the submitted condominium documents shall be reviewed and revised accordingly: Article 1-130 refers to an Article 12, which is stated as being intentionally omitted on page 31 of the declaration document; and, several unit ownership discrepancies have been identified based on city assessing records and what is listed on page 1 of the declaration of condominium and shall be reviewed and revised to correct accordingly.
 - 2. The plat shall list all approved variances, waivers, and conditional use permits with the section numbers and description, and date of approval.
 - 3. Prior to the recording of the plat and as required by Section 12.09 *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).
 - 4. 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.
 - 5. Per Section 13.02(13) *Recording Fees*, the applicant is responsible for submittal of required recording fees.
 - 6. 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.
 - 7. 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.
- (b) **Subsequent Conditions** – to be fulfilled as specified:
- 1. This approval notwithstanding, the applicant is responsible for full knowledge of, and compliance with, the municipal code, Subdivision Regulations, and Concord Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit is granted.
 - 2. Per Section 4.03 of the Subdivision Regulations, no building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and which is not in conformity with, the provisions of the Subdivision Regulations.

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3. Per Section 17.06 *Condominium Declaration and By-Laws*, the approved condominium documents shall be considered part of the official approval and shall not be altered to be inconsistent with the recorded plat, without further review and approval by the Board of a revised subdivision application.
4. 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.

8D. Michael G. and Eileen M. Gfroerer request approvals for a minor subdivision and certain waivers from the Subdivision Regulations for a lot line adjustment between 12 Tahanto St and 11 Summit St, in the Neighborhood Residential (RN) District. This application was continued to a date certain of January 15, 2025, at the request of the applicant.

Member Condodemetraky moved, seconded by Member Savage, to continue agenda items 8B and 8D to a date certain of February 19, 2025, at the request of the applicant. All in favor. The motion passed unanimously.

9. Other Business

- 9A. Request from Stephen M. Duprey and others to modify City easements located at 31 and 33 Samuel Dr, as well as permission to landscape and maintain the vegetated area within the center of the cul-de-sac at Samuel Dr, as referred to the Planning Board (as well as Parks and Recreation Advisory Committee, Transportation Policy Advisory Committee, General Services Department, and Community Development Department) by City Council on November 12, 2024.

Ms. Skinner provided a staff update, stating that if the decision by City Council is to eliminate or reduce the easement, then they will have to apply for an amendment of the plat. This is because the easement was a condition of approval for the original plat.

Mr. Duprey (31 Samuel Dr, Concord) said when the subdivision was completed, a 35-foot-wide City easement from the bottom end of Samuel Dr over to the northwest bypass was created. There is a sewer and water line that runs through the easement. Mr. Duprey stated he was aware when he purchased the house there was a 35-foot-wide easement. At least twice since the purchase of the house there have been protestors. Mr. Duprey stated it is a public easement and they can stand 24 feet from his house. They can stand there on the easement with offensive signs. Mr. Duprey wants to define the pedestrian part of the easement. Mr. Duprey noted on the southwest corner of the circle there is a paved easement pass connecting Samuel Dr to Little Pond Rd. Mr. Duprey asked his attorney to reach out to the City attorney to see if the City would be amenable to defining the pedestrian part of the easement in an effort to keep protestors farther away from his house. Mr. Duprey heard back from the City attorney that the City was opposed. Mr. Duprey wrote a letter to City Council to consider the adjustment to the easement. City Council then referred to many different City Departments for review. Mr. Duprey received report from AnneMarie Skinner, City Planner, and in the report, there are Engineering concerns. Mr. Duprey stated a pedestrian easement is easy to design. Mr. Duprey stated you can install plantings in the easement. Mr. Duprey had the easement

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surveyed. Mr. Duprey presented a picture of a trash can 24 feet from his house to show how far a protestor can be from his house.

Chair Woodfin asked if everything the Planning Board received in the packet is current.

Mr. Duprey stated yes.

Member Santacruce asked if the road that connects between Samuel Dr is an easement. Does a City owned easement restrict public access?

Mr. Duprey stated it can. However, this one is defined with having the pedestrian easement as the exact same width as the utility easement.

Ms. Skinner stated the only way the pedestrian access would be restricted is if it was a utility easement only.

Member Santacruce asked if the wording of the utility easement restricts public use. Member Santacruce noted a reduction in the easement from 35 feet to 10 feet would still involve public access.

Ms. Skinner stated it is a utility and pedestrian access easement.

Member Santacruce asked if a utility easement alone restricts public access?

Ms. Skinner said yes, if on private property.

Councilor Todd asked if there is a way to control access by saying no loitering or standing?

Chair Woodfin noted it is just like picketing you can walk back and forth with a sign.

Member Hicks asked if the Planning Board is being asked to define the foot path?

Mr. Duprey stated yes.

Member Hicks asked if it is a City street or a private road?

Mr. Duprey said it is a City street.

Member Rosenberger asked about the protestors being able to protest on the public street which is in front of the house and wonder about the distance from the street to the front door.

Mr. Duprey stated the distance is 30 feet and he intends to install a planting barrier to block the protestors.

Chair Woodfin noted in the picture that was passed around you can see the cul-de-sac and the blue bucket.

Mr. Duprey stated that is where someone would stand.

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Member Santacruce noted the issue with the cut and fill for the water line. If you cut there is potential to expose the water line to frost.

Mr. Duprey stated it is not hard to build an ADA compliant path either 6 feet or 10 feet wide.

Member Rosenberger asked Mr. Duprey if he can install plantings on his property by easement to block the house?

Mr. Duprey can put plantings on his property. Mr. Duprey noted an easement is not a right of ownership.

Member Rosenberger stated Mr. Duprey can install plantings or a fence 24 feet from his house. Member Rosenberger stated there is a 35-foot easement. Ms. Rosenberger asked why Mr. Duprey is asking for a pedestrian path when there is already one there.

Mr. Duprey noted he can install a fence 24 feet from his house.

Member Rosenberger asked about any cost to the City.

Chair Woodfin stated there is no cost to the City. Chair Woodfin asked if the proposed easement is the center of the green line?

Mr. Duprey stated it is right down the center. Mr. Duprey is asking the City to define a 10-foot path near the center line so they can install plantings.

Member Santacruce stated he is not opposed to the 10-foot wide easement for the pedestrian path. However, the issue is how to define it so the public knows as there is no formal path.

Mr. Duprey noted by having a 10-foot-wide definition the only time the City would have to tear it up is to make repairs.

Member Santacruce asked how the public knows the 10-foot width definition.

Mr. Duprey stated there will be plantings.

Member Santacruce noted the City will need to install a sign for the public.

Member Fox stated all he sees is Mr. Duprey asking for the City to mark a 10-foot path.

Mr. Duprey is asking to restrict the 35 feet to 10 feet somewhere in the middle.

Chair Woodfin stated the City is saying they do not want to give up the easement. Chair Woodfin noted the Planning Board could say that is not realistic and maybe they only need 10 feet for the easement.

Member Fox noted an easement is not ownership.

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Chair Woodfin asked if 10 feet is the right number?

Member Santacruce stated if he was going to make a recommendation to City Council he would say a 10-foot-wide walking path, make sure the utility easement has the right to do any grading in support of the 10-foot walking path within the 35-foot easement. This way you are only defining the walking path as 10 feet. Member Santacruce noted there needs to be a sign on each end that says the path is 10 feet wide.

Chair Woodfin asked if this will be an ongoing issue?

Mr. Duprey was not sure.

Mr. Bass stated there are two utilities within the 35 feet. The City's site plan regulations stated planting of trees are must be at least 10 feet from utilities. Mr. Bass stated while the City may be able to rip of the plantings in an emergency situation it would cause a delay in the response and add additional cost to the City. Also, they need to consider they come to the area to plow and may need maintenance access on the sewer and water that may need to be a lot wider, especially if the sidewalk easement does not overlap on those utilities.

Chair Woodfin asked where the utilities are on the plan.

Ms. Bass stated it does not show on the plan.

Councilor Todd asked staff based on the concerns they have are they at the right number with 10 feet?

Mr. Kohalmi stated 10 feet is common width for a path. The concern is planting trees too close to a water line. The roots over time could wrap around the water line. If a formal path does goes in and the path needs to be leveled out there will be a cut. This will take away frost protection. They need to find a profile that will a few feet of cover over the water line to prevent from freezing in a hard frost.

Member Santacruce asked if Engineering is asking for an engineered path to that proves or disproves the need to cut over the water line before Engineering will be fine with the final location?

Mr. Kohalmi stated right.

Chair Woodfin stated tonight they are going to make a recommendation to City Council.

Member Rosenberger asked if there were no protestors would he be proposing this path?

Mr. Duprey answered yes, he would even if there were no protestors.

Chair Woodfin asked if the Planning Board is willing to make a recommendation to move the pedestrian easement to the center line and the pedestrian easement walking path to 10 feet in width with the utility easement remaining at 35 feet, with the understanding that there is some landscaping, not planting, to delineate the area, as well as signage to delineate the walking path area, and the future development of the 10-foot-wide path is up for negotiation.

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Mr. Bass noted if the pedestrian path is 10 feet and the remaining 25 feet is a utility easement the Planning Board may need to consider adding the remainder to be a slope easement or something to allow for the constructability.

Member Santacruce stated allowing within the 35-foot utility easement any grading to facilitate the construction of the 10-foot-wide pedestrian path.

Member Santacruce made a motion to make a recommendation to City Council to approve the narrowing of the pedestrian portion of the easement to a 10-foot width, centered on the existing 35-foot-wide easement, with the remaining portion of the 35-foot-wide easement to allow for any grading that may be needed for the construction of the pedestrian walkway, and provide a plan to Engineering proving that the pedestrian walkway can meet ADA requirements without affecting the existing utilities negatively. Chair Woodfin seconded.

Discussion

Member Santacruce added to the motion to include signage to make the public aware of the changed configuration.

Ms. Skinner stated they will need to submit an amendment subdivision application to make the changes.

All in favor. The motion passed unanimously.

9B. Any other business which may legally come before the Board.

Adjournment

Member Santacruce moved, seconded by Councilor Todd, to adjourn the meeting at 8:10 p.m. All in favor. The motion passed unanimously.

The next regular meeting is Wednesday, February 19, 2024, at 7:00 p.m.

TRUE RECORD ATTEST:

Krista Tremblay

Krista Tremblay

Administrative Specialist II