

City of Concord Planning Board
May 18, 2022
Minutes

The regular monthly meeting of the City Planning Board was held on May 18, 2022, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Attendees: Chairman Richard Woodfin, Councilor Erle Pierce, Teresa Rosenberger (Ex-Officio for City Manager), Members Susanne Smith-Meyer, David Fox, Jeff Santacruce, and Alternate Chiara Dolcino.

Absent: Vice-Chair Carol Foss, Matthew Hicks, Amanda Savage, and Alternate Frank Kenison.

Staff: Heather Shank (City Planner), Beth Fenstermacher (Assistant City Planner), Sam Durfee (Senior Planner), Lisa Fellows-Weaver (Administrative Specialist), David Cedarholm (City Engineer), and José Lovell (Associate City Engineer).

1. Call to Order

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

2. Roll Call

Chairman Richard Woodfin, Councilor Erle Pierce, Teresa Rosenberger (Ex-Officio for City Manager), Susanne Smith-Meyer, David Fox, Jeff Santacruce, and Alternate Chiara Dolcino.

3. Approval of Planning Board Meeting Minutes

April 20, 2022 Minutes

On a motion made by Councilor Pierce, and seconded by Mr. Fox, the Board voted unanimously to approve the April 20, 2022, Planning Board Meeting Minutes, as written.

4. Planning Board Chair Overview

Chairman Woodfin stated that there were no changes to the agenda.

5. Determination of Completeness Items by Consent

- 5A. Erin Lambert, P.E., on behalf of the Concord Coalition to End Homelessness, requests Major Site Plan approval to convert a two-unit residential structure into a six-unit residential structure at 120-122 Pleasant Street in the Institutional (IS) District.

On a motion made by Councilor Pierce, and seconded by Mr. Santacruce, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and set the Public Hearing for June 15, 2022.

6. Design Review Applications by Consent

- 6A. Neopco Signs, on behalf of Sharing Yoga, requests ADR approval for the installation of a new, externally-illuminated projecting sign at 51 South Main Street in the Central Business Performance (CBP) District.

On a motion made by Councilor Pierce, and seconded by Mr. Santacruce, the Board voted unanimously by consent to approve the design as submitted.

- 6B. Neopco Signs, on behalf of Kyle Brown, requests ADR approval for the replacement of an internally-illuminated freestanding sign at 85 Manchester Street in the Highway Commercial (CH) District.

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On a motion made by Councilor Pierce, and seconded by Mr. Santacruce, the Board voted unanimously by consent to approve the design as submitted, with the recommendation that the website and phone number be removed from the sign.

- 6C. NH Signs, on behalf of Nouria, requests ADR approval for the replacement of two internally-illuminated fuel canopy signs, an internally-illuminated wall sign, and an internally-illuminated freestanding sign at 188 Pleasant Street in the Neighborhood Commercial (CN) District.

On a motion made by Councilor Pierce, and seconded by Mr. Santacruce, the Board voted unanimously by consent to approve the four sign designs as submitted.

- 6D. Keene Sign Worx, on behalf of Merrimack County Savings Bank, requests ADR approval for the installation of a new, non-illuminated wall sign at 1 Capitol Street in the Central Business Performance (CBP) District.

On a motion made by Councilor Pierce, and seconded by Mr. Santacruce, the Board voted unanimously by consent to approve the design as submitted.

- 6E. Signarama, on behalf of Planet Fitness Realco, LLC, requests ADR approval for the replacement of an internally-illuminated wall sign and an internally-illuminated freestanding sign at 89 Fort Eddy Road in the Gateway Performance (GWP) District.

On a motion made by Councilor Pierce, and seconded by Mr. Santacruce, the Board voted unanimously by consent to approve the design as submitted, with the recommendation that color samples be provided to the Planning Board for final approval.

- 6F. Sousa Signs, on behalf of M&T Bank, requests ADR approval for the replacement of an internally-illuminated freestanding sign and two internally-illuminated walls signs, at 197 Loudon Road in the General Commercial (CG) District.

On a motion made by Councilor Pierce, and seconded by Mr. Santacruce, the Board voted unanimously by consent to approve the designs as submitted, with the following recommendations:

1. Freestanding sign – The wording be raised higher to be more centered within the sign;
2. Drive-through canopy sign – Only the letters be illuminated.

Public Hearings

7. Design Review Applications

- 7A. Advantage Signs, on behalf of Village St. Apartments, requests ADR approval for the installation of a new, non-illuminated freestanding sign at 95 Village Street in the General Commercial (CG) District.

Mr. Durfee provided an overview of the sign noting that the sign has been installed with penalty fees assessed. The ADRC discussed the need for the existing ADA and EHO logos on the sign. It was speculated that the two logos are required. He noted that the ADRC expressed concern with the fact that the sign did not include a street number. ADRC recommended the sign be revised and resubmitted for review and approval.

On a motion made by Chairman Woodfin, and seconded by Councilor Pierce, the Board voted unanimously to table the application to the June 15, 2022 Planning Board meeting, pending a revision and resubmission with the addition of the street number to the sign, the removal of “Managed By”, the removal of the website, a reduction of the logo sizes in the bottom corners and the reduction of the size, or removal of the phone number.

Chairman Woodfin stated that he would like to hear from a representative for Advantage Signs.

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- 7B. Cheshire Builders, on behalf of The Caleb Group, requests ADR approval for the installation of a new non-illuminated freestanding sign 33 Canal Street in the Opportunity Corridor Performance (OCP) District.

Mr. Durfee provided an overview of the sign noting that the sign has been installed with penalty fees assessed. The ADRC discussed the need for the existing ADA and EHO logos on the sign with the speculation that the logos are required. He noted that the ADRC expressed concern with the fact that there is no street number include on the sign and noted that the phone number was very prominent. The Committee also recommended the sign be revised and resubmitted for review and approval.

On a motion made by Chairman Woodfin, and seconded by Councilor Pierce, the Board voted unanimously to table the application to the June 15, 2022 Planning Board meeting, pending a revision and resubmission with the addition of the street number to the sign, a reduction of the size of logos in the bottom corners, and the reduction of the size, or removal of the phone number.

8. Site Plan, Subdivision and Conditional Use Permit Applications

- 8A. Lashing Out Studio, LLC, on behalf of Concord Whyte Properties, requests a Conditional Use Permit (CUP) approval for the use of a salon 112 Pleasant Street in the Institutional (IN) District.

On a motion made by Councilor Pierce, and seconded by Ms. Smith-Meyer, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and opened the public hearing.

Mr. Durfee explained that the applicant is in need of a Conditional Use Permit to operate a salon in the IN District. A sketch was previously provided by the applicant showing adequate parking; there is no site work proposed. Staff has recommended approval of the CUP application.

Ms. Brianna Ash and Ms. Melissa Ash represented the application.

On a motion made by Mr. Santacruce, and seconded by Mr. Fox, the Board voted unanimously to grant the Conditional Use Permit to allow for the operation of a salon at 112 Pleasant Street in the Institutional (IS) District.

- 8B. Northpoint Engineering and Concord National Youth Softball, on behalf of the City of Concord, requests Conditional Use Permit (CUP) approval for disturbance of wetland buffers for construction of batting cages at Russell Martin Athletic Fields on Iron Works Road in the Single Family Residential (RS) District.

On a motion made by Mr. Santacruce, and seconded by Councilor Pierce, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and opened the public hearing.

Ms. Fenstermacher provided an overview of the project explaining that the proposal is to add batting cages within the wetland buffer. A Conditional Use Permit is necessary due to the 1900 sf of impacts. She noted that the applicant attended the May 11 Conservation Commission meeting and the Commission did not have any objections to the proposal.

Jeff Lewis of Northpoint Engineering, represented the application along with Mike Vlacich of the Concord National Youth Softball.

Mr. Lewis stated that he is a member of the Concord Conservation Commission and had recused himself for this application during their meeting.

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Mr. Lewis shared the plan for the proposed batting cages and stated that the CUP is for approximately 1,900 sf of impacts to the wetland buffer, which is already disturbed. It is currently mowed and maintained as a lawn area and is currently used by players. He noted that the benefit of the batting cage is that any balls will not go into to the wetland and the project will help reduce impacts to the wetlands from foot traffic. He added that there will be netting over the cages as well, similar to Memorial Field. He reviewed the history of the fields noting that the implementation of the phases of these fields have been approved by the Planning Board. The two existing fields are in compliance with all local and state permits that have been issued. At this time, the local softball league, which currently manages both fields, is planning to install two attached batting cages in between the two existing fields. This is a minor amendment to the approved Site Plan; however, requires a Conditional Use Permit due to the location of the batting cages being within the 50-foot wetland buffer. No trees will need to be removed as part of the batting cage construction. Spring and Fall, the grass is susceptible to damp conditions; therefore, the softball league is proposing to raise the grade within the cages by no more than 1-foot. The lighting plan was also reviewed.

Councilor Pierce asked if the area is currently being used by softball players as a warm up area. Mr. Lewis replied yes. Councilor Pierce asked about the access to the fields if there are no games. Mr. Lewis replied that these are City owned fields with open access to the public.

Mr. Santacruce asked if they could shift the placement of the cages to the right to reduce impacts to the buffer. Mr. Lewis replied that this is the best area as it is very flat. He noted that the whole first field is wet and sometimes unusable. Mr. Lewis shared pictures of fields.

Chairman Woodfin opened the public hearing.

Abutter Ian West stated that he has no problems with the park; however, expressed concern with the future expansion of the fields and access issues. He explained that the fields do not have any security and there are times when there is a police presence. He would like to make the City aware of the traffic as well. He explained that the access area is not lit up and there is no gate or cameras. He suggested that as the work is done, maybe lights on timer be installed as well as a gate that can be closed.

Ms. Shank stated that there are no additional plans being proposed for the fields at this time. She recommended that any issues or concerns relative to the park should be sent to the Parks and Recreation Department.

With no additional comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Mr. Santacruce, and seconded by Councilor Pierce, the Board voted unanimously **to grant Conditional Use Permit approval** to allow for the disturbance of the wetland buffer for the construction of a batting cage at the Russell Martin Athletic Fields, subject to the following precedent and subsequent conditions noted below:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and the commencement of site construction, unless otherwise specified:
 - (1) Address Staff review comments to the satisfaction of the Planning and Engineering Division.
 - (2) Submit two (2) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.

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

(1) Prior to final construction sign-off, staff shall be contacted to inspect the buffer area.

8C. CMAF Enterprises, LLC, requests Minor Subdivision approval for a condominium conversion of an existing two-family structure at 6 Thorndike Street in the Urban Commercial (CU) District.

On a motion made by Councilor Pierce, and seconded by Mr. Santacruce, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and opened the public hearing.

Mr. Durfee gave an overview of the proposal explaining that this is a condominium conversion of an existing two-family dwelling into a two unit condominium with a paved parking area; the existing curb cut will be maintained. A revised plan has been submitted due to the fact that one of staff's comment was relative to the 24 foot wide drive aisle for maneuverability; this has been added and meets the City's regulation. Also noted is the ADA van accessible parking space. The Applicant has submitted revised plans that addressed remove the need for two requested waivers. Mike Frisbee represented the application.

A discussion was held regarding the property line and the driveway. Mr. Frisbee described the existing driveway and commented that widening it would be very difficult.

Mr. Durfee noted that applicant has requested some waivers. Staff does not support the waivers for Section 12.04 and 12.05 and the revised plans address these waivers. He stated that these waivers can be replaced by a waiver to Table 20-1 for the driveway width.

Chairman Woodfin opened the public hearing.

Mr. Santacruce spoke to the parking and asked if the spaces could be flexible versus to being tied to a unit. Mr. Durfee stated that the parking proposal is now switched; it works better although they are losing some yard. In addition, he added that the assignment of parking spaces could be addressed within the condo documents. Staff can review the documents and amend accordingly.

With no additional comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Pierce, and seconded by Mr. Fox, the Board voted unanimously **to grant the waiver** to Table 20-1 *Driveway Width* of the subdivision regulations.

On a motion made by Chairman Woodfin, and seconded by Mr. Santacruce, the Board voted unanimously **to grant the waiver** Section 15.02 *Plan Scale* of the subdivision regulations, utilizing the criteria from RSA 674:36(II)(N)(2): Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations, given the plans provide the greatest detail at a 1" = 10' scale and the driveway has an existing width of 9.2' at it's narrowest point and is constrained by the proximity of the building and 5' paving setback.

On a motion made by Councilor Pierce, and seconded by Ms. Smith-Meyer, the Board voted unanimously **to grant Minor Subdivision approval** for the 2-unit condominium conversion at 6-6½ Thorndike Street, subject to the following conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

(a) Precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

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- (1) Address Planning and Engineering comments to the satisfaction of Planning and Engineering Staff.
- (2) Waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny the waiver(s), the applicant shall comply with said submission requirement(s).
- (3) The Declaration of Condominium documents will be reviewed by Staff prior to recording.
- (4) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
- (5) The Licensed Land Surveyor shall sign and seal final plans and mylars.
- (6) The Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
- (7) The Applicant shall deliver to Planning one (1) plan set(s) and one (1) mylar(s) for endorsement by the planning Board Chairman & Clerk and recording at the Registry of Deeds.

8D. Richard D. Bartlett & Associates, LLC, on behalf of HLF East, LLC and David & Jennifer Albert, requests Minor Subdivision approval for a lot line adjustment between 126 & 134 Manchester Street in the Highway Commercial (CH) District.

On a motion made by Councilor Pierce, and seconded by Ms. Smith-Meyer, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and opened the public hearing.

Ms. Fenstermacher explained that this is a condition of approval for the Grappone Mazda Major Site Plan approved by the Board a few months ago. This is a lot line adjustment to address the encroachment at the northwest property line.

Mark Sargent of Richard Bartlett & Associates, represented the application.

Mr. Sargent gave an overview of the proposal and noted that the application includes the dedication of a ±12 ft wide, 6872 sf Right-of-Way Easement to the City of Concord.

Chairman Woodfin opened the public hearing. With no comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Ms. Smith-Meyer, and seconded by Councilor Pierce, the Board voted unanimously to **grant the waiver** to Section 12.08(3) *Topography*, of the Subdivision Regulations to not provide topography, utilizing the criteria of RSA 674:36, II (n), criteria (2), which states that “specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.”

On a motion made by Ms. Smith-Meyer, and seconded by Councilor Pierce, the Board voted unanimously to **grant Minor Subdivision approval** for the lot line adjustment between 126 and 134 Manchester Street, subject to the following precedent conditions to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:

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1. Address Technical Review comments to the satisfaction of Planning Division and Engineering Services Division staff.
 2. The monumentation for the proposed lot lines shall be set prior to recording.
 3. The final plat shall be signed and sealed by the NH Licensed Land Surveyor.
 4. An easement deed in a form suitable for recording at the MCRD should be prepared for the proposed right-of-way easement across a portion of Lot 40.
 5. Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
 6. The Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
 7. Upon confirmation from staff that the review comments have been addressed, The Applicant shall deliver to Planning two (2) plan set(s) and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
 8. Applicant shall prepare deeds for the transfer of the property, and submit for recording at the same time as the plat.
- 8E. Richard D. Bartlett & Associates, LLC, on behalf of St. Paul School and John & Susan Fournier, requests Minor Subdivision approval for a lot line adjustment to annex 17 acres from 297 Pleasant Street to an adjacent parcel in the Medium Density Residential (RM) and Open Space Residential (RO) Districts.

On a motion made by Councilor Pierce, and seconded by Mr. Fox, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and opened the public hearing.

Ms. Fenstermacher stated that this project is a lot line adjustment of 17 acres.

Mark Sargent of Richard Bartlett & Associates, represented the application.

Mr. Sargent gave an overview of the proposal explaining the application is a lot line adjustment of 17 acres from Map 94, Block 1, Lot 5 to Map 94, Block 1, Lot 16. The acreage will be sold to St. Paul's School. The land is all in the rear of the property. The new lot will be 13.82 acres with no changes to the frontage. The new acreage for St. Paul's School will be 38.88.

Mr. Santacruce asked if there is public access to the trails. Mr. Sargent replied no.

Chairman Woodfin opened the public hearing. With no comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Mr. Fox, and seconded by Councilor Pierce, the Board voted unanimously to **grant the following waivers**, utilizing the criteria of RSA 674:36, II (n), criteria (2), which states that "specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations."

1. Section 12.03(5) *Wetlands* and 12.07 *Wetland Delineation* to not delineate existing wetlands and show on the plan

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2. Section 12.08(3) *Topography* to not provide existing topography for the entire site
3. Section 12.08(5) *Natural Features* to not provide existing topography for the entire site
4. Section 12.08(23)(d) *Useable Land* to not provide useable land area.

On a motion made by Ms. Smith-Meyer, and seconded by Ms. Dolcino, the Board voted unanimously to **grant Minor Subdivision approval** for the lot line adjustment to annex 17 acres from Map 94, Block 1, Lot 5 to Map 94, Block 1, Lot 16 at 297 Pleasant Street, subject to the following precedent and subsequent conditions noted below:

- (a) Precedent Conditions - to be fulfilled within one year and prior to endorsement of the final plan by the Planning Board Chairman and Clerk, unless otherwise specified:
 - 1) Address Technical Review comments to the satisfaction of Planning Division and Engineering Services Division staff.
 - 2) The monumentation for the proposed lot lines shall be set prior to recording.
 - 3) The final plat shall be signed and sealed by the NH Licensed Land Surveyor.
 - 4) Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
 - 5) The Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
 - 6) Upon confirmation from staff that the review comments have been addressed, The Applicant shall deliver to Planning two (2) plan set(s) and one (1) mylar(s) for endorsement by the Planning Board Chairman & Clerk and recording at the Registry of Deeds.
 - 7) Applicant shall prepare deeds for the transfer of the property, and coordinate with the Planning Division staff for recording at the same time as the plat.
- (b) Subsequent Conditions – to be fulfilled as specified:
 - 1) Prior to development, Lot 16 shall be consolidated with adjacent lots under the same ownership as necessary to eliminate nonconformity to the maximum extent possible.

8F. Interchange Development requests an amendment to the Comprehensive Development Plan (CDP) at Whitney Road.

Ms. Fenstermacher stated that this is an additional amendment proposed by the Rauseo's. She explained that Staff is concerned with the increase in curb cuts and the elimination of the green space. In addition, this new plan came in today and Staff has not had any time to review it.

Laurie and David Rauseo represented the application.

Ms. Rauseo gave an overview of the entire project for the Board. Mr. Rauseo stated that this plan is not a site plan and they are not here for site plan approval; this is changes to the Comprehensive Development Plan (CDP) based on the responding to changes required by end users.

The previously approved CDP was shown. Mr. Rauseo stated that they are trying to stay ahead of the Market Basket opening and need to be ready to pave Interchange Drive and the southern side

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of the site prior to Market Basket open. TJX is requesting to add another 21,000 sf building on the site. In addition, Concord Hospital has requested the parking and entrance for the Urgent Care facility to be on the north side of the building. Changes were submitted to the Board on April 20th. He noted that they did not receive a response from staff to meet to discuss the plan. They believe comments were based on assumptions made by City staff.

Mr. Rauseo went through the Staff comments. In response to the Staff report comment relative to the number of curb cuts Mr. Rauseo wanted to make sure that the Board understood that these curb cuts are not onto a public road, they are for access to a private drive. In consideration of Staff comments, they have decided to eliminate the western most curb cut on Interchange Drive, and feel the Fire Department should be satisfied with the access.

New plan copies were provided for review; amendments to the plan submitted in April, which respond to Staffs comments. At this time, the retail spaces have increased from 10,100 sf to 22,900 sf. Staff noted that this retail space has been reoriented to face Market Basket. Mr. Rauseo stated that there must be a misunderstanding with the plan relative to the location of the accessible spaces, which were shown on the east side. They plan on having the access to the space on the northern side of the building; it is the intention to have the accessible parking relocated to that area, and the entrance location has been added to the revised plan. Further overview of the access and egress, and parking were given. Additional overview was provided as the applicant explained that the intent was to market two 3,600 spaces and one for a medical use. Now there is a larger retail client interested and they need to eliminate the large green space to accommodate parking. Ms. Rauseo stated that Phase 1 and 2 were for retail development with 54% lot coverage. Phase 3 was for industrial at 66% maximum lot coverage so they are still falling well underneath the requirements. She noted that this proposal eliminates the vehicular connection between Wendy's and the Urgent Care facility. The actual site plan will be considered when they seek site plan approval.

Mr. Rauseo noted other Staff comments and felt that all comments have been addressed. Ms. Rauseo stated that they want Planning Board approval to construct the curb cuts and finish the top coat.

Chairman Woodfin stated that this is the first time Staff and Board members are seeing the revised CDP. Ms. Rauseo replied that this was reviewed back in February and the changes are minor.

Ms. Shank stated that Staff has had and continues to have concerns with the layout of the plan and the circulation; this is not a plan review session and this is not the venue for reviewing. Staff has not been able to review this plan. She explained that this plan has become what we were trying to avoid. Each increment has become less and less than what has been worked for; green space and public space. The applicant is discounting the concept. The need for parking is not what the plan was supposed to do. She stated that the original plan was to have the businesses closer together and with every step of the way, this has been decimated.

Ms. Fenstermacher expressed much frustration and noted that nothing has been updated. It continues to be frustrating and very difficult to review as Staff continues to review new plan sets. She stated that the plan should be based on what the Board approved. Any slight change of building sizes shifts the entire plan. She stated that the green space is a huge component of the plan. This Board and Staff should not be at a meeting redesigning the site. Although it is up to the Board, it is not the right process for the Board to take.

Chairman Woodfin stated that his perspective of a CDP application process is an applicant presents their project and does not come back to the Board. They are repeatedly coming back

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with this CDP. He stated that Staff needs time to review and complete a comprehensive review. He understands Staff's concerns and every time there is new building or a change the entire CDP changes. He added he understands that the applicant needs to fill the area with as much business as possible and make it worthwhile

Councilor Pierce asked if the purpose of a CDP is to come back to the Board for changes. Ms. Shank explained that with a site this large it is important to make sure that project development continues in a direction the City wants to go toward, which is the purpose of the CDP. Originally, there was a tiny area of interconnected space and as the plan developed the buildings have shifted. Changes continue to occur and there is now no control over creating the vision presented to the City and we have no idea of who is coming into the development. There are now new tenants and a constantly changing project.

Ms. Rauseo stated that there was no way to predict what would happen and you have to go where the market takes you. She stated that these businesses are what will succeed in this location. She stated that they have provided everything and they will continue to work together, they just want to be approved to put in the curb cuts.

Ms. Smith-Meyer stated that the original concept was supported by the Planning Board and Staff. She stated that there are ways to change the plan and it appears that the applicant is eluding the purpose of the original intent. She added that she senses the frustration and understands but why have the CDP if they are diluted. She stated that it is very difficult to evaluate without enough notice and the fact that the plan is moving and changing.

Ms. Rauseo stated that the plans for the road on the CDP have not changed. They are not required to show where the buildings are supposed to be. If the concept has disappeared they can compromise. Ms. Smith-Meyer stated that we don't want to lose site of the original intent to have more pedestrian and green spaces, which is what the Board and Staff were excited to have.

Chairman Woodfin clarified that the issue to be resolved is that Interchange Development is looking for approval for curb cuts and the third curb cut is needed for the development of the third building.

Mr. Santacruce stated that this is a public hearing and with the submission coming in today, the public has not had a chance to review. He added that they are asking for the Board to approve driveway locations, which tie to the site plan. He stated that this Board does not have any idea if this concept will work. Approving the curb cuts now is wrong. The driveways are not the road; they are part of the site plan approval. He stated that he would not support this request until the plan is further evaluated.

Ms. Rosenberger expressed concern with the waste of resources and adding pavement and curbing. She stated that this should have been part of Phase 1. Ms. Rauseo stated that this is granite curbing and would be a worse job to place the curbing and then cut it for a driveway. She stated it is better to do it this way.

Ms. Shank commented that the intent continues to get eroded – when presenting and talking about the plan, there is a sense that they are disregarding the prior conversations. The CDP was an opportunity for the Board to support this type of development since the regulations were not put in place yet. The whole purpose was to get an understanding of the development that was to be created. She stated that there are real circulation issues with the parking and safety issues with the access. Ms. Fenstermacher stated that Staff needs to review this revision to understand other circulation options. Ms. Rauseo stated that there are not many places for the driveways to go.

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Councilor Pierce made a motion to allow for construction of curb cuts and move them as needed and to set a date and time certain to meet with Staff. Ms. Rosenberger seconded.

Mr. Santacruce stated that they are building at their own risk. He expressed concern with the driveways being shoehorned to fit the curb cuts. There are circulation issues and pedestrian access issues. It is not prudent to construct the curb cuts; there is only one chance to get the construction correct. This should be thought out more and Staff needs more time for their review. Chairman Woodfin stated that the applicant is willing to take the risk and will absorb the cost. He would support it to move it along.

Mr. Santacruce mentioned the traffic implications and the sizes of buildings changing. He stated that these changes justify the need for a new traffic study based on the increase of space and larger buildings; more traffic, more safety issues. He stated that this is not developed enough for the plan to be approved.

Ms. Dolcino stated that she is not comfortable approving the revised CDP.

Mr. Rauseo stated that the timing for their return would not be next month as Concord Hospital will be moving forward this winter; it is similar for other uses. He stated that it will still be months they just need to make sure that things are moving forward enough for Market Basket to open.

Ms. Rauseo stated that an updated traffic study has been provided.

Ms. Rosenberger asked for an opening timeline. Ms. Rauseo stated that they need to do something before the two anchor stores open. She added that the liquor store will open when Market Basket opens.

Mr. Fox stated he relies on Staff's opinions and recommendations. He also added that this Board and members are not obstructionists.

Chairman Woodfin stated that they could top coat now and then do the curb cut.

VOTE: 4/3. Ms. Smith-Meyer, Mr. Santacruce, and Ms. Dolcino were opposed.

8G. Northpoint Engineering, LLC, on behalf of JTA Realty Investments, LLC, requests Major Site Plan approval to construct a commercial parking lot and Conditional Use Permit (CUP) for disturbance of a wetland buffer at 96 Hall Street in the Opportunity Corridor (OCP) Performance District.

Ms. Fenstermacher stated that the applicant has requested a waiver to have the determination of completeness and public hearing all in one meeting. Staff supports the waiver request.

On a motion made by Councilor Pierce, and seconded by Mr. Fox, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and grant the waiver request and open the public hearing utilizing the criteria of RSA 674:44 III(e)(1) as guidance, a waiver would not be contrary to the spirit and intent of the regulations.

Ms. Fenstermacher stated that the applicant met with the ADR who recommended additional street trees be provided along the frontage of 96 Hall Street and 100 Hall Street, at a maximum spacing of 25 ft, as well as a recommendation to convert the proposed striped parking islands into landscaped parking islands, and include street tree plantings in the islands. In addition, the applicant met with the Conservation Commission relative to the impacts to the wetland buffer and the Commission did not have any concerns.

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Jeff Lewis and Ian McGregor of Northpoint Engineering, represented the application, along with program director Sharon Drake from Metro Treatment Center at 100 Hall Street.

Mr. Lewis noted that he recused himself from the discussions held at the Conservation Commission as he is a member of the Commission.

Mr. McGregor provided an overview of the project. He explained the proposal is for a site plan and Conditional Use Permit for the construction of a parking lot consisting of 50 spaces. The increase in parking is associated with the needs of the treatment center. Parking will be constructed on the former residential property and access will be closed from Hall Street, with a driveway connecting through 100 Hall Street to connect to the existing parking area. Stormwater will be managed on site. The CUP is required due to the disturbance of 6,500 sf of land within the 50 foot wetland buffer for the stormwater system.

A discussion was held regarding landscaping. Mr. Lewis stated that ADR requested landscaping that is outside of the project site. He stated that they would prefer to not meet that request. In addition, the turning movements for fire trucks would be more difficult and parking spaces will be lost if they are required to provide the landscape islands. He stated that they have met the requirements for internal landscaping and street trees. He stated that they do not have permission to add trees to the other property; however, will add trees to this site if required.

Chairman Woodfin stated that this is a large amount of parking. Ms. Drake explained that they have exceeded the existing parking spaces at their site with 22 employees and the patients. They have 560 patients with capacity for 800.

Ms. Smith-Meyer asked if the parking lot will be striped. Mr. Lewis replied that it will be striped in accordance with the requirements. Ms. Smith-Meyer noted that there would be room to add trees. Mr. Lewis stated that if they add a landscape island they will lose parking spaces to meet the minimum landscape island requirements. Mr. McGregor stated that the fire department has requested accommodations for turning fire trucks in the parking lot for emergencies rather than parking out on Hall Street.

Ms. Shank suggested sloped curbs and an 8 ft island to accommodate the turning movements. Ms. Fenstermacher stated that the applicant could request a waiver to the Site Plan Regulations to provide an 8 ft island to avoid losing parking spaces.

Ms. Smith-Meyer asked about mowing the treatment swales and suggested there would be better infiltration if the area were not mowed. Ms. Fenstermacher stated that staff requested a condition of approval to provide conservation seed mix for the treatment swales, and noted that the area was previously disturbed by prior owners and was used for storage; it was maintained as a lawn.

The Board was in agreement with the Applicant's request to not provide street trees at 100 Hall Street, as recommended by ADR.

With no further comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Mr. Santacruce, and seconded by Councilor Pierce, the Board voted unanimously to **grant Architectural Design Review approval** for the proposed site plan for the parking lot subject to the applicant providing additional street trees along the frontage at 96 Hall Street at a maximum spacing of 25 ft, and convert proposed striped parking islands into landscaped parking islands, and include street tree plantings in the islands.

On a motion made by Councilor Pierce, and seconded by Mr. Santacruce, the Board voted unanimously to **grant Conditional Use Permit approval** in accordance with Article 28-4-3(d) of

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the Zoning Ordinance (ZO) to allow disturbance of 6,536 sf of land within the 50-foot Wetland Buffer for construction of the stormwater management system, with the condition that the area be restored with a Restoration/Conservation seed mix with native species appropriate for a wetland buffer.

On a motion made by Ms. Smith-Meyer, and seconded by Mr. Fox, the Board voted unanimously **to grant the following waivers**, utilizing the criteria of RSA 674:36, II (n), criteria (2), which states that “specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.”

1. Waiver to Section 18.13 (SPR) to allow for 8 ft wide landscape parking islands where a minimum of 9 ft is required
2. Section 22.07(2) (SPR) to allow for 1-foot separation between the bottom of the infiltration system and the groundwater where the regulation calls for 4-feet of separation, with the condition that test pit data be provided prior to final approval.

On a motion made by Councilor Pierce, and seconded by Ms. Smith-Meyer, the Board voted unanimously to **grant Major Site Plan** approval for the proposed commercial parking lot at 96 Hall Street, subject to the following precedent and subsequent conditions noted below:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and issuance of any building permits, or the commencement of site construction, unless otherwise specified:
 - (1) Address Technical Review comments to the satisfaction of the Planning Division.
 - (2) Address Engineering review comments to the satisfaction of the Engineering Division.
 - (3) Any Conditional Use Permit(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Zoning Ordinance.
 - (4) Provide a draft easement between 96 and 100 Hall Street for review by the City Solicitor and Planning Board Clerk. The easement shall be recorded at the Merrimack County Registry of Deeds.
 - (5) The deeds and mylar associated with the lot line adjustment between 96 and 102 Hall Street shall be recorded.
 - (6) Submit three (3) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.
- (b) Subsequent Conditions – to be fulfilled as specified:
 - (1) Prior to commencement of construction activity, payment of inspection fees in an amount approved by the City Engineer shall be made.
 - (2) A pre-construction meeting shall be required prior to the start of any construction activities onsite. The applicant shall pick up one (1) set of signed plans at the Planning Office to make copies for the pre-construction meeting. A total of five (5) copies of the signed plan set shall be provided by the applicant at the pre-construction meeting.
 - (3) Prior to a Certificate of Occupancy or final construction sign-off, as-built drawings shall be provided to the City Engineer in accordance with Section 12.09 of the Site Plan Regulations. The as-built drawings shall be surveyed on NH State Plane coordinates and NAVD 88 Datum.

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- (4) Prior to the issuance of a Certificate of Occupancy or final construction sign-off, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.08 of the Site Plan Review Regulations and all information shall be converted to a vertical datum of NAVD 88.

8H. Warrenstreet Architects and Wilcox & Barton, on behalf of Mendota Properties, requests Major Site Plan approval to convert a single-family residential home into a five-room residential social service center at 29 Tallant Road in the Open Space Residential (RO) Districts

Ms. Shank stated that the Applicant has submitted a waiver request to Section 10.06 of the Site Plan Regulations (SPR), to hold the Public Hearing at the same meeting as the Determination of Completeness. Staff supports the waiver request.

On a motion made by Councilor Pierce, and seconded by Ms. Dolcino, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and grant the waiver request utilizing the criteria of RSA 674:44 III(e)(1) as guidance, a waiver would not be contrary to the spirit and intent of the regulations, and open the public hearing.

Ms. Fenstermacher stated that the ZBA granted a variance for lot coverage, for the driveway width, and for the driveway to remain as a graveled surface.

Waivers are being requested for parking lot markings and for the driveway width to remain at 13 ft instead of 20 ft.

Erin Lambert of Wilcox and Barton represented the application along with Jonathan Halle of Warrenstreet Architects and Michael Medeiros from NeuroRestorative.

Mr. Medeiros provided an overview of NeuroRestorative, a company that works to provide quality of life to their patients within a social service center.

Ms. Lambert explained that this is a change of use, changing from a single-family, residential structure to a five guest bed residential social service center. There is a two stall garage, along with a generator, and dumpster currently onsite; both will be enclosed. There is also an underground propane tank. She stated that no additions to the building are proposed. An ADA accessible ramp will be built off of the front porch. A sidewalk is being added to the rear of the house as part of the licensing requirements.

Ms. Lambert explained that the requirement for parking is 10 spaces, one space for each of the five bedrooms and one for each of the five staff. They will also have additional parking spaces for visitors and on call services. Some trees will need to be removed to add the additional parking spaces. A paved path is also required and they are currently looking at the grading, and are considering relocating the ADA parking spaces to accommodate the best location for an accessible path. The generator and dumpster will be screened. She added that they meet the tree requirements and plan to add to the vegetated buffer. They will work with Planning Staff regarding landscaping. She noted that a waiver request has been submitted to not stripe the parking spots as they are gravel. They are proposing to maintain the gravel driveway to be similar to the neighboring residences and maintain the 13 feet width, which is ample room. The driveway does widen to 18 feet, which is adequate for fire services and garbage trucks. The septic is a new system. They are proposing to restore the gravel area to keep the lot coverage. Hours of operation are three, eight hour shifts with specific visiting hours to be late morning and afternoons. Lighting was noted and meets the City Ordinances. Lighting is located on the building for security

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purposes and be can be adjusted as needed. There are three poles and the rest are residential lighting via motion detectors.

Councilor Pierce asked if the generator will be checked and routinely run every week. Ms. Lambert replied yes.

Ms. Smith-Meyer asked about using hard pack instead of loose gravel. Ms. Lambert replied that there is existing gravel on site and they will be adding to that.

Ms. Smith-Myer noted that the hours of the dumpster pick-up should be noted.

Mr. Santacruce asked if there is a way to square off the parking area to allow for more space since it will not be marked. He also noted the light pole near the wall and in a parking spot. Ms. Lambert stated that the pole can be relocated to be behind the wall and she will look into the parking area.

Ben Stephenson, abutter at 32 Tallant Road, expressed frustration with the way the facility purchased the property; he felt it was deceptive, and he feels the process has been circumvented. He also expressed concern with the increase to traffic, and the safety factors of the existing intersection and road. He stated that in the spring, many park along the side of the road due to driveway conditions; another safety issue. He mentioned this is a strain for emergency vehicles and response times, which should not be the burden of the residents and City but of the facility. He would like City services to look at the road conditions and weigh in on the proposed use. He mentioned his prior subdivision application and the requirement to address the road conditions for a four lot subdivision; he then reduced the lots to three.

Eric Sommers, 20 Tallant Road, expressed concern that the applicant has been making improvements to the house over the past year, all under residential permits. He expressed concern with the road conditions and stated that this use is a significant impact to the road. He stated that there is no mention of how many people will be on site. He feels the residents and the City need more information before they approve the project or at least determine what conditions should be included with the approval, such as improvements to the road.

Laurel Brown, 19 Tallant Road, stated that about five weeks ago they were given notice that this facility will be entering the area. This is a very large impact to the neighborhood. She stated that the neighbors are not against the use, and that she realizes that everyone has a right to have a good quality life and be able to live wherever they can. She expressed concern with limited staffing issues and the traffic on the road and making sure the road is passable. In addition, she asked about the very large generator and requested a definitive answer that a fence along the entire property line will be provided.

Jennifer Bofinger, 41 Tallant Road, stated that the buyers have not been honest or forthcoming with their plan. The new owners have moved forward to make changes to meet their business needs. The work has been going on for over a year to meet the needs of the facility. She stated that residents feel deceived; the company is disingenuous and deceptive. She stated that there will be more traffic on the road. The road is one lane, heavily pot holed that barely handles the residents now. Road upgrades need to be done to the road. She added that she is concerned with the noise, from the generator, outside alarms, idling vehicles; this is not the right area for this facility. She exclaimed that she never expected to be in front of the Planning Board with this issue and she does not understand how this facility is here. She thought she lived in a rural open area, which is surrounded by conservation land. She requested that the Board visit the site and look at the area and road. She noted that there is a lot of ledge and there will be a lot of runoff.

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Mr. Cedarholm spoke to the shape of the road explaining that it is awkward with tricky grades on the sides. It would be impossible for modifications to the intersection at Tallant and Hoit Road. He noted the conservation land at the end of Tallant Road, which makes realignment difficult. He stated that the road is not in the CIP at this time. Ms. Smith-Meyer asked what are the triggers for road conditions needing to be improved. Ms. Shank stated that the use and the impacts to the roads is what we should be looking at. Mr. Santacruce referenced Mr. Stephenson's four lot subdivision application and the applicant changed the proposal due to the fact that he would have needed to upgrade the road. Discussion ensued regarding the road conditions and future development. Mr. Cedarholm stated that the fire department must be able to do a three point turn with their truck. Ms. Shank noted that there is a section of the road that is paved. Mr. Stevenson stated the intersection needs to be addressed.

Ms. Lambert replied to abutters comments and concerns. She stated that the generator is planned to be screened as well as the dumpster. She is not sure as to when this will be installed. Ms. Smith-Meyer suggested putting the generator behind the garage. Ms. Lambert replied that the generator has been installed. They do plan to add shrubs along the road which will buffer the mound of the underground propane tank. They will install a fence.

Mr. Medeiros stated that they are leasing the facility from Mendota. He explained they are concerned with the integrity of the neighborhood. They have met with the residents and want to make the neighborhood better.

John Arnold, attorney at Orr & Reno, stated that they recognize the situations; however, there is not much ability to do improvements. He stated that this is an allowed use by State law. The use does not generate enough traffic to impose an impact. Chairman Woodfin responded with the traffic will be double by the use. Mr. Arnold replied that it is still a low amount of traffic.

Ms. Smith-Meyer commented that the intersection is a different matter and it needs to be safe.

Mr. Fox stated that this is the responsibility of the land owner; however, maybe some of the burden could be shared. Ms. Fenstermacher stated that the use is allowed by the State and we cannot prohibit the use. Mr. Medeiros stated that they will be good neighbors.

Ms. Shank stated that the use requires the current Planning Board process. While the process was not ideal with the applicant completing improvements to the structure, they have not been permitted to circumvent any regulatory step required for the use. She suggested the application be continued and Staff can review any conditions of approval that might be appropriate with regard to the road.

With no further comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Councilor Pierce, and seconded by Ms. Dolcino, the Board voted unanimously to continue the application to the June 15th Planning Board meeting to allow City Staff and City Departments to look at the area including the road and intersection.

9. Council Referral

- 9A. Referral from City Council, a request to modify the Garvin Falls Phase 1 Mapped Line of Future Street; together with a report from the Senior Planner.

Mr. Durfee stated that a request has been made on behalf of Pitco Frialator, LLC, to amend the mapped lines of future streets for the Integra Drive and Old Suncook Road Extensions in the Industrial (IN) and Office Park Performance (OFP) Districts. He provided an overview of the new layout and stated that this is a condition of the approval granted by the Planning Board on

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September 15, 2021. Staff is recommending the Board accept the report and recommend approval of the revision by City Council.

On a motion made by Mr. Santacruce, and seconded by Mr. Fox, the Board voted unanimously to recommend City Council approve the revision to the mapped line of street for Integra Drive and Old Suncook Road Extensions.

Adjournment

At the request of Chairman Woodfin, Mr. Fox made a motion to adjourn, seconded by Mr. Santacruce. The motion passed unanimously at 10:20 PM.

A TRUE RECORD ATTEST:

Lisa Fellows-Weaver,
Administrative Specialist