



Planning Board – Monday, February 22, 2021, 6:30PM

AGENDA

NOTE: This meeting will be conducted using the online meeting platform, Zoom.* The public may access the meeting by visiting www.zoom.us/join or by calling (888) 475-4499 and entering Meeting ID# 857 8338 6440. More info on how to access this meeting is available at ci.keene.nh.us/planning-board. If you encounter any issues accessing this meeting, please call 603-209-4697 during the scheduled meeting time.

I. **Call to Order** – Roll Call

II. **Election of Planning Board Steering Committee Member**

III. **Minutes of Previous Meeting** – January 25, 2021

IV. **Public Hearing:**

Amendments to the Planning Board Regulations: The Planning Board proposes to amend its Development Standards and the Keene Site Plan & Subdivision Regulations by incorporating these regulations into Articles 19, 20, and Sections 25.10 through 25.14 of the proposed City of Keene Land Development Code (see Ordinance O-2020-10A). Proposed amendments to these regulations include but are not limited to changes to the landscaping, lighting, screening, noise, and architecture and visual appearance development standards, changes to the standards and process for conservation residential development subdivisions, changes to the thresholds for site plan review, and the establishment of a Minor Project Review Committee in accordance with NH RSA 674:43(III) to review and decide on minor site plan applications.

V. **Community Development Director Report**

VI. **New Business**

VII. **Upcoming Dates of Interest – February 2021**

- Planning Board Steering Committee – March 9, 11:00 AM
- Planning Board Site Visit – March 17, 8:00 AM – To Be Confirmed
- Planning Board Meeting – March 22, 6:30 PM

**In Emergency Order #12, issued by the Governor pursuant to Executive Order #2020-04, which declared a COVID-19 State of Emergency, the requirement that a quorum of a public body be physically present at the meeting location under RSA 91-A:2, III(b), and the requirement that each part of a meeting of a public body be audible or otherwise discernible to the public at the meeting location under RSA 91-A:2, III(c), have been waived. Public participation may be provided through telephonic and other electronic means.*

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**CITY OF KEENE
NEW HAMPSHIRE**

**PLANNING BOARD
MEETING MINUTES**

Monday January 25, 2021 6:30 PM Council Chambers

Members Present
Pamela Russell Slack, Chair
David Orgaz, Vice-Chair
Mayor George Hansel
Councilor Michael Remy
Gail Somers
Roberta Mastrogiovanni

Staff:
Rhett Lamb, ACM/Community
Development Director
Tara Kessler, Senior Planner
Mari Brunner, Planner

Members Not Present:
Tammy Adams, Alternate
Andrew Weglinski
Emily Lavigne-Bernier

I. Call to order – Roll Call

Mayor Hansel began the meeting by reading the following statement with respect to holding remote meetings: *“In Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04, certain provisions of RSA 91-A regulating the operation of public body meetings have been waived during the declared COVID-19 State of Emergency.*

Specifically:

- *The requirement that a quorum of a public body be physically present except in an emergency requiring immediate action under RSA 91-A:2, III(b);*
- *The requirement that each part of a meeting of a public body be audible or otherwise discernible to the public at the location specified in the meeting notice as the location of the meeting under RSA 91-A:2, III(c).*
- *Provided, however that the public body must:*
 - *Provide access to the meeting by telephone, with additional access possibilities by video or other electronic means;*
 - *Provide public notice of the necessary information for accessing the meeting;*
 - *Provide a mechanism for the public to alert the public body during the meeting if there are problems with access; and*
 - *Adjourn the meeting if the public is unable to access the meeting.*
- *All votes are to be taken by roll call.*
- *All board participants shall identify the location from where they are participating and who is present in the room with them.*

32 Mayor Hansel said the public may access the meeting online by visiting the Zoom
33 website, www.zoom.us/join, and entering the Meeting ID, which he stated. The Meeting
34 ID also appeared on the Agenda for the meeting. The public can listen, but not view, the
35 meeting by calling the toll-free phone number (888) 475-4499 and entering the Meeting
36 ID. He noted that if someone is unable to access the meeting, they should call 603-209-
37 4697.

38

39 A roll call was taken next.

40

41 **II. Election of Planning Board Chair and Vice Chair**

42 A motion was made by Councilor Michael Remy to nominate Pamela Russell Slack as
43 Chair of the Planning Board.

44 The motion was seconded by David Orgaz.

45

46 A motion was made by Councilor Michael Remy to nominate David Orgaz as Vice-Chair
47 of the Planning Board.

48 The motion was seconded by Pamela Russell Slack.

49

50 Both positions were unanimously approved by roll call vote.

51

52 **III. Minutes of previous meeting – December 21, 2020**

53 A motion was made by Mayor George Hansel to accept the December 21, 2020 meeting
54 minutes. The motion was seconded by Councilor Remy and was unanimously approved
55 by roll call vote.

56

57 **IV. Public Hearings:**

58 **SPR-04-20 – Site Plan – Group Home, 169 Church Street** – Applicant Timothy
59 Sampson, on behalf of owner Boisvert Construction of Winchester LLC, proposes to
60 construct a 5,690-sf two-story, duplex-style group home with a habitable attic and a
61 maximum occupancy of 24 people on the vacant lot located at 169 Church Street (TMP#
62 574-027-000). The site is 0.58 acres in size and is located in the High Density District.

63

64 **A. Board Determination of Completeness**

65 Planner Mari Brunner stated the applicant has requested exemptions from providing a
66 grading plan, a separate landscaping plan, a lighting plan, a drainage report, a soils report,
67 and a traffic report. Staff recommends that the board grant these exemptions and accept
68 the application as complete.

69

70 A motion was made by Mayor George Hansel that the Board accept this application as
71 complete. The motion was seconded by Councilor Michael Remy and was unanimously
72 approved by roll call vote.

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77

78 B. Public Hearing

79 Tim Sampson of Sampson Architects addressed the Board on behalf of the applicant. Mr.
80 Sampson stated this application meets all setback requirements and that the proposed use
81 is allowed. He noted the applicant is trying to not exceed what was previously on this site
82 with respect to impervious surface and setbacks. The footprint of this building is going to
83 be more compact and the overall amount of impervious surface will be less than what
84 was on this site previously, which is the reason for the request for exemptions from
85 having to provide a drainage plan or a grading plan.

86
87 Mr. Sampson referred to an image of the site plan and explained the proposal is to
88 maintain the existing curb cut and construct the building in the same location as the
89 previous building, which will keep the development as far away from the brook as
90 possible.

91
92 Mr. Sampson referred to the existing driveway and parking spaces and also referred to
93 the ADA ramp which provides access to the two entrances on the east side of the
94 building. Five parallel parking spots are being proposed. At the end of the parking area
95 there will be the dumpster with an enclosure.

96
97 There will be planting areas around the building. Mr. Sampson stated nothing specific has
98 been chosen yet and added the applicant's plan is to be as consistent as possible with the
99 adjacent properties.

100
101 Mr. Sampson referred to a plan that shows the the building-mounted light fixtures which
102 will be full cut off fixtures.

103
104 With respect to the building materials, Mr. Sampson said that two different types of grey
105 vinyl siding are proposed for the siding, dark asphalt shingles will be used for the roofing
106 material, and the windows will trimmed in white with black shutters.

107
108 Next, Mr. Sampson referred to the Floor Plans for the building, which is proposed to be a
109 two unit group home. For each unit, there will be an ADA compatible bedroom on the
110 first floor of this building, open living space, a handicap accessible bathroom, and
111 laundry area. There is also a small storage area on the south end of the building which
112 can only be accessed from the outside. There is no basement, except for space under the
113 stairway for mechanical equipment. On the second floor, there will be three bedrooms
114 and two bathrooms on each side, and in the habitable attic there will be two bedrooms
115 with some storage space. Overall, there will be six bedrooms in each unit, or 12
116 bedrooms total.

117
118 This concluded Mr. Sampson's presentation.

119
120 Staff comments were next. Ms. Brunner stated this site was the location of a multi-family
121 home which burned down in 2017. The damaged building was removed but the
122 foundation remains. This site is within the floodway for Beaver Brook. The proposal is to
123 construct a 5,690 square foot group home with a habitable attic for 24 person occupancy.

124

125 The applicant proposes to use the existing curb cut and pavement and will be providing
126 five parking spaces. Per Sec. 102-977, the zoning administrator has determined the
127 proposed number of parking spaces is adequate for this use.

128

129 With reference to departmental comments, code enforcement staff noted that a floodplain
130 development permit will be required as part of the building permit for the new building
131 and an elevation certificate will be required prior to issuance of a certificate of occupancy
132 for the building. In addition, the engineering office wanted to make sure the applicant
133 was aware a separate water connection will be required for the sprinkler system and an
134 excavation permit will be required for any utility connections in the public right-of-way.

135

136 With respect to drainage, the area of the building is slightly smaller (230 square feet
137 smaller) than the previous structure, and hence the impervious area is decreasing and the
138 applicant has indicated there will be no increase to volume or velocity of runoff.

139

140 The applicant is proposing to install silt fencing along the rear of the site adjacent to
141 Beaver Brook to prevent sediment or silt from entering the water body. There are no
142 steep slopes present on the site. Snow will be stored at the end of the driveway on either
143 side of the proposed dumpster.

144

145 With respect to flooding, the applicant states that the building will be constructed one
146 foot above the flood elevation mark in accordance with FEMA regulations. In addition, a
147 Floodplain Development Permit and an elevation certificate will be required prior to the
148 issuance of a certificate of occupancy for the building.

149

150 As indicated by the applicant, there are three landscape beds proposed, including a 4-ft
151 wide landscape buffer that wraps around the north end of the building, a 2-ft landscape
152 buffer along a portion of the west side of the building, and a planting area along the south
153 end of the east building façade. Staff recommend that the Board include a condition of
154 approval to require that the number and type of plantings proposed for these planting
155 beds be specified on the site plan.

156

157 The dumpster is proposed to be screened from view with a wood fence that is a minimum
158 of six feet tall. In addition, an HVAC unit is proposed on the west side of the building on
159 a 4-ft by 4-ft concrete pad. This unit is located toward the rear of the building and is
160 screened from view from the street by a section of the building.

161

162 The applicant proposes to install nine wall-mounted lights, including four on the east
163 façade facing the driveway and parking area, two on the rear of the building, and three on
164 the west side of the building. In addition, the applicant proposes to install two lights
165 affixed to a pole at the rear of the building to illuminate the parking area. All proposed
166 light fixtures are full cut-off LED fixtures that will be placed on timers. All lights will be
167 mounted at a height of 10-ft or less, and will be located a minimum of 25-ft from the
168 property line. Staff feels this standard has been met since it is unlikely the light levels
169 will cross the property line.

170 The applicant proposes to utilize existing sewer and water connections that were used for
171 the previous structure on the site.

172
173 With respect to Traffic, the applicant states in the project narrative that traffic generation
174 will not increase relative to the previous use, which was a multi-family residential
175 building with six units. According the parking narrative submitted by the owner, only two
176 residents will be allowed to have a personal motor vehicle while residing at this location;
177 no other residents will be allowed to park on the site or on the street. Residents without a
178 car will use public transportation, carpooling, bicycling, and walking to meet their
179 transportation needs. After reviewing the parking narrative, staff have determined that the
180 proposed use is not expected to result in an increase in traffic generation to the site
181 relative to the previous use. Staff recommends that the Planning Board consider including
182 a condition of approval which states that any future change in the use or operation of the
183 site will require review by the Community Development Department to ensure the
184 proposed changes are in compliance with City's minimum parking requirements for off-
185 street parking.

186
187 The applicant is proposing to provide five parallel parking spaces: two for residents, two
188 for guests, and one van-accessible space to meet ADA requirements. These parking
189 spaces are proposed to be located along the left side of the driveway. Staff did question
190 how vehicles will safely navigate into these parallel spaces. According to the owner, the
191 plan is to have people pull in and then turn around to park facing the street. Ms. Brunner
192 noted staff does have a concern with how vehicles will safely navigate into these parallel
193 spaces given their placement on the lot, lack of turnaround area and the close spacing
194 between spaces. In addition, in order to prevent residents from parking on the grass at the
195 end of the driveway, staff recommends that a fence or other barrier be installed at the end
196 of the driveway as a condition of approval. The owner is in agreement with this
197 suggestion.

198
199 With respect to bicycle parking, a bicycle rack is proposed near the main entrance. This
200 standard appears to be met.

201
202 Regarding Comprehensive Access Management, the applicant is proposing to use the
203 existing curb cut. However, they are proposing to install a concrete walkway that will
204 connect the main entrance of the building to the City sidewalk and a bicycle rack to
205 accommodate foot and bike traffic.

206
207 With respect to Filling and Excavation, the applicant has noted that the proposed
208 structure will utilize the existing foundation for the previous structure to the extent
209 possible. Any fill on the site would be subject to the City's compensatory storage
210 requirements through the floodplain Development Permit process. In order to ensure that
211 any stockpiled materials are appropriately handled, staff recommend that a note be added
212 to the plan that states "All erosion and sediment control measures shall comply with the
213 standards and practices contained in the most recent version of the New Hampshire
214 Department of Environmental Services NH Stormwater Manual." This is a requirement in
215 the Board's development standards.

216 There are no wetlands present on or near the site; however, the south end of this property
217 abuts Beaver Brook. The applicant has included the 30-ft. surface water protection buffer
218 on the proposed site plan. No work is proposed within the buffer; this standard appears to
219 be met.

220

221 This concluded the staff presentation.

222

223 Chair Russell Slack asked whether there is any impact from the lighting onto adjacent
224 properties. Ms. Brunner stated the lights being proposed are full cut off fixtures and will
225 be located on the sides and rear of the building. The one that is closest to the property line
226 is about 25 feet away from the parcel boundary. She noted the applicant did request an
227 exemption from having to provide a lighting plan but because of the location of the lights,
228 staff felt it will be unlikely that any of the light will reach the property line. With respect
229 to parking, the Chair asked where staff parking will be located. Ms. Brunner stated the
230 owner is present tonight and this might be a question that should probably be referred to
231 Ms. Boisvert, but indicated staff's understanding is there is going to be one or more live-
232 in peer managers who are residents who are further along in their recovery. In addition,
233 the owner will be checking in from time to time.

234

235 Mayor Hansel asked how the policy with only permitting two residents to have vehicles
236 will be memorialized. Ms. Brunner stated the applicant had to submit a parking narrative
237 as part of their requirements to meet zoning. Section 102-977 in zoning code gives the
238 zoning administrator flexibility to determine what the adequate parking would be for this
239 use. In this instance, the zoning administrator asked for a signed parking narrative and
240 made a determination based on that narrative. This is a reason for the condition of
241 approval, in case the operation of this site should change in the future or there should be a
242 change in ownership. The Mayor suggested adding this item into the motion so it will be
243 clear in the future, should there ever be any issue.

244

245 Vice-Chair Orgaz said that, with respect to parking, whether there was adequate
246 turnaround space for vehicles to face parking the street and asked and how this is going to
247 be enforced. Ms. Brunner agreed the space is rather tight for turning around and asked
248 that this question be referred to the owner. Suzanne Boisvert responded by saying she
249 wanted to keep the existing parking format and when residents come in, parking will be
250 on a first come first serve basis; no one will be allowed to bring a car on to the property
251 unless they got permission first. Residents will be required to car pool, travel by bicycles
252 or walk to places. She added the mechanism to turnaround, those instructions will be
253 outlined when someone obtains permission to use the premises.

254

255 Chair Russell Slack asked for public comment next. Ms. Kessler noted the department
256 received a letter from a resident this evening.

257

258 Jane Taylor of 24 Birch Street, Keene addressed the Board. She indicated she was
259 opposed to this application and said the Site Plan and Subdivision Regulations aim to
260 protect natural systems, including ground water, surface water etc. She felt approving this

261 site plan application will negatively impact these natural systems and be contrary to
262 orderly development.

263
264 Ms. Taylor indicated her comments are not related to whether this location is appropriate
265 for a group home, but rather they are about building a structure that is 100% in the
266 Beaver Brook Floodway. She noted that even though construction in the floodway is
267 allowed under City ordinances, the water still has to go somewhere. She referred to a
268 2004 Beaver Brook Restoration Study which recommends that, if property along Beaver
269 Brook was to become vacant, it should be acquired and retained by the City. The City
270 Hazard Mitigation Plan refers to numerous problems and considers this to be a high
271 hazard area and all the remediation efforts have been deferred. The Pat Russell Park
272 design includes numerous references to the Beaver Brook flooding issues. The City's
273 Capital Improvement Plan refers to the more intense rain events and the need to develop
274 a flood management plan for Beaver Brook, which won't be funded until 2024. Ms.
275 Taylor felt the problems that have been identified have been either ignored, postponed or
276 shelved.

277
278 With reference to this application, Ms. Taylor stated in the narrative the applicant notes
279 there will be no changes to storm water, drainage or erosion plans for the property. But
280 neither the application nor the staff report indicates the dates of these plans, whether they
281 have been updated, or whether they take into consideration these storm patterns or
282 increase to storm water flow.

283
284 Ms. Taylor noted the applicant refers to ten parking spaces in the application, the staff
285 report refers to six and the discussion tonight refers to five. She hoped the Board could
286 address these discrepancies and added that visitor parking has not been addressed.

287
288 With reference to snow storage, even though the area is at a considerable distance from
289 the brook, Ms. Taylor felt debris and salt will end up in the brook when the snow melts.
290 Because of the documented flooding in this area, she noted the proposed building seems
291 to be offset from the existing slab and wasn't sure if the old slab was going to be removed
292 and if it is not, there is likely going to be an increase to impervious surface. She did not
293 feel the calculation for impervious surface was correct.

294
295 Ms. Taylor questioned where compensatory storage was going to be provided. She also
296 noted the existing parking area is deteriorated. She also questioned the number of parking
297 spaces.

298
299 In conclusion, Ms. Taylor felt the redevelopment of this property contradicts the City's
300 studies and policies regarding the Beaver Brook Corridor. Ms. Taylor felt, with this
301 application there seems to be quite a number of answered questions.

302
303 Chair Russell Slack asked Mr. Sampson to respond to Ms. Taylor's comments. Mr.
304 Sampson stated the calculation for impervious surface was correct. As far as the
305 foundation, he stated it is doubtful that what exists is usable. The slab that exists on site
306 from a previous garage will be removed.

307

308 He went on to say the applicant is doing all they can to limit the amount of development
309 and reduce the amount of impervious surface. He added there might be opportunity to use
310 porous surface versus concrete for the walkway area but stated he did not want to speak
311 for the applicant. Mr. Sampson pointed out this development is no closer to the brook
312 compared to what existed and they are making no change to the drainage pattern as
313 compared to what existed prior. He indicated his office is close to this site and has seen
314 the brook get full, but in 12 years has only seen it reach the top of the wall on one
315 occasion.

316

317 Mr. Lamb also added to the concerns raised by saying after this property burned, it was
318 abandoned by the prior owner and was acquired by the bank. He recalled when his
319 department was contacted because a portion of the roof had blown off. The city at that
320 time paid to demolish the structure and ultimately sought repayment from the bank. Even
321 though the city might have had some interest in purchasing the property, it has now been
322 purchased by someone else.

323

324 With reference to flooding, Mr. Lamb stated the new building is going to sit pretty much
325 on the same footprint as the existing building. He indicated even though there might have
326 been some floodplain impact because of the existing building, there is not going to be any
327 increase to floodplain impact from the proposed building.

328

329 Mayor Hansel noted the scope of what the Board can look at with respect to standards
330 during a site plan review is pretty limited. The Mayor asked staff or the applicant to
331 review the snow storage plan to make sure there is enough space for snow storage. The
332 Mayor also asked for confirmation that the impermeable surface meets the Board
333 standards.

334

335 Ms. Brunner responded by first addressing the number of parking spaces that was raised
336 earlier – during the first iteration of the project, the applicant was proposing 10 spaces as
337 stated in the initial project narrative, but later on decided to reduced it five spaces. This is
338 reflected in the parking narrative that was attached to the project narrative in the agenda
339 packet.

340

341 With respect to snow storage, the applicant is proposing to store snow at the end of the
342 driveway, which she indicated does drain toward Beaver Brook but the driveway is set
343 pretty far back from the brook. With respect to impervious surface, staff relied on the
344 calculations provided by the applicant, which appear to be correct. She noted the
345 applicant is removing some existing impervious surface from the site but is adding some
346 as well in other areas (surface under the HVAC units, surface under the dumpster). She
347 further stated the prior structure extended further toward the road, but this structure is
348 smaller and felt in the end the impervious surface is less.

349

350 Chair Russell read the following email for the record:

351 *Several environmental studies were done about the land within the impact area of the*
352 *Beaver Brook. This Brook is noted for its flooding on the East side 169 Church Street is*
353 *nearly ground Zero for the over flow.*

354

355 *Building here within this impact zone would involve ignoring at least the following*
356 *studies: The 2004 Beaver Street Restoration Plan and the 2009 Beaver Brook Corridor*
357 *Study. Additionally construction here as proposed without much lot enhancement by way*
358 *of added fill to bring the area high enough so the house will not flood, is against the city*
359 *of Keene building codes.*

360

361 *The addition of fill to the needed level would require mitigation studies for all adjacent*
362 *properties where the water would then go. I expect those have not been done. I expect*
363 *neighbors would be severely monetarily impacted by the resulting floods. Building policy*
364 *that allows the property of neighbors to have adverse impact is not good policy.*

365

366 *The entire prospect of building upon this environmentally sensitive area and not*
367 *respecting the many studies and in place zoning, makes the studies a waste of money and*
368 *time, and the zoning regulations is not logically explainable.*

369

370 *It is up to the City Council to uphold zoning regulations and insist that the zoning be*
371 *based upon sound scientific studies. My hope is that the environmental studies will not be*
372 *ignored, and that sound zoning policy is followed. That is the job of our elected*
373 *councilors, no matter what good attributes the proposed structure may have.*

374

375 *Thank you for your time, and for evaluating this most carefully.*

376 *Mary Arnott*

377 *44 East Surry Rd,*

378 *Keene NH 03431*

379

380 With no further comment, Chair Russell Slack closed the public hearing.

381

382 C. Board Discussion and Action

383 A motion was made by Mayor George Hansel that the Planning Board approve SPR-04-
384 20 for the construction of a 5,690-sf two-story group home with a habitable attic on the
385 property located at 169 Church Street (TMP# 574-027-000), as depicted on the plan set
386 identified as "Proposed Building, 169 Church Street, Keene, NH 03431" prepared by
387 Sampson Architects at a scale of 1 inch = 16 feet and dated December 17, 2020 and last
388 revised on January 11, 2021 with the following conditions:

389 1. Prior to signature by Planning Board chair:

390

A. Submittal of a revised site plan that includes the following:

391

i. A note which states "All erosion and sediment control measures shall
392 comply with the standards and practices contained in the most recent

393

version of the New Hampshire Department of Environmental Services NH
394 Storm water Manual."

395

- 396 ii. A fence or other barrier at the southern-most end of the parking area to
397 prevent parking on the grass.
398
399 iii. A table noting the number and type of plantings proposed for the three
400 landscape beds surrounding the proposed building.
401
402 B. Owner's signature appears on plan.
403
404 2. Any change in use or operation of the property will require review by the
405 Community Development Director and Zoning Administrator to ensure the
406 proposed changes are in compliance with City's minimum off-street parking
407 requirements.

408 The motion was seconded by Councilor Michael Remy.
409

410 Mayor Hansel stated the proposed motion does address the concern he had raised about
411 parking. He further stated he did not want to be dismissive of the concerns raised, some
412 did apply to the standards, but some were outside of the scope of what the Board could
413 review; he wanted to acknowledge these comments were important even though those
414 comments are not under the purview of Planning Board.
415

416 The motion was unanimously approved by roll call vote.
417

418 **V. Community Development Director Report**

419

420 Overview of Administrative Approvals Issued in 2020

421 Mr. Lamb stated the Community Development Department receives a significant amount
422 of requests for administrative approvals, which is an authority granted to the Community
423 Development Director under the Planning Board standards. These are projects that
424 received site plan approval from the Board but now are looking at a modification. These
425 are modifications which could be because of changes made on the field during
426 construction. These approvals could also be for smaller projects that don't rise to the
427 level of Planning Board approval; mostly for commercial settings for exterior
428 modifications, changes to landscaping, etc. There are many times when staff will contact
429 the Chair to make sure an item does not have to come before the Board for review.
430

431 Mr. Lamb stated today there are 18 projects from the start of 2020. Mr. Lamb went on to
432 say staff tries to use this authority to serve the community because in many cases these
433 projects don't require the extensive review and public hearing process.
434

435 Mayor Hansel noted that once the Land Use Code update gets adopted there might be
436 different items that could qualify for administrative approval and asked whether staff will
437 be updating the Board once the adoption goes through. Mr. Lamb agreed this process is
438 changing and noted there is a Site Review Committee that is proposed to take over a
439 portion of the existing administrative approvals as well as some portion of the Planning
440 Board's tasks with reference to site plan reviews because the thresholds are going up.

441 However, there would still be an administrative review process primarily focused around
442 amendments to Board-reviewed site plans that require minor changes.

443

444 Mr. Lamb went on to say the New England Chapter of the American Planning
445 Association has an online webinar which is open to professional planners, Planning
446 Board members and citizens. There are two sessions, including on February 11 from 1 –
447 2:30 pm on Architectural Review and Regulations. The second session is on March 11 at
448 the same time with a topic of “Main Street After Covid-19.” Professionals from New
449 England will be presenting.

450

451 Ms. Somers asked whether administrative approvals were different in volume or type of
452 requests this year compared to prior years. Mr. Lamb felt the number was lower this year
453 but the type of request has been consistent. He noted requests for HVAC installation is
454 something the department is seeing more and more of. Mr. Lamb acknowledged the work
455 of Megan Fortson in the department who has taken on more of this work.

456

457 **VI. New Business**

458 The Chair explained this item is in reference to anything a Board member might want to
459 see at the next meeting.

460

461 **VII. Upcoming Dates of Interest – February 2021**

- 462 • Joint PB/PLD Committee – Monday, February 8, 6:30 PM
- 463 • Planning Board Steering Committee – February 9, 11:00 AM
- 464 • Planning Board Site Visit – February 17, 8:00 AM – To Be Confirmed
- 465 • Planning Board Meeting – February 22, 6:30 PM

466

467 Meeting adjourned at 8:15 PM.

468

469 Respectfully submitted,

470

471 Krishni Pahl

472 Minute Taker

473

474 Reviewed and edited by Mari Brunner, Planner

CITY OF KEENE
NEW HAMPSHIRE

MEMORANDUM

Date: February 10, 2021
To: Planning Board
From: Tara Kessler, Senior Planner
Re: Proposed Amendments to the Planning Board Regulations

At the Planning Board meeting on Monday, February 22, 2021, there will be a public hearing on the proposed amendments to the Planning Board's Development Standards and Site Plan and Subdivision Regulations.

The Planning Board's Development Standards and Site Plan and Subdivision Regulations are proposed to be incorporated in Articles 19, 20, and Sections 25.10 through Section 25.14 of Article 25 of the proposed City of Keene Land Development Code, which has yet to be adopted and is currently awaiting a public hearing by City Council (see Ordinance O-2020-10A). Some of the proposed amendments to the Planning Board's regulations include but are not limited to changes to the landscaping, lighting, screening, noise, and architecture and visual appearance development standards, changes to the standards and process for conservation residential development subdivisions, changes to the thresholds for site plan review, and the establishment of a Minor Project Review Committee in accordance with NH RSA 674:43(III) to review and decide on minor site plan applications.

These proposed amendments to the Planning Board Regulations have been reviewed by the Joint Committee of the Planning Board and Planning, Licenses, and Development Committee through the public workshop phase for ordinances O-2020-10A and O-2020-11A, which ran from November 9, 2020 through February 8, 2021. Although the Planning Board has provided comments on these amendments through the Joint Committee public workshop, NH RSA 675:6 requires a public hearing be held by the Planning Board on proposed amendments to the subdivision regulations and site plan review regulations.

Attached to this memorandum are the sections of the proposed Land Development Code that include the Planning Board Regulations (Article 19 – Subdivision Regulations, Article 20 – Site Development Standards, and Sections 25.10 through 25.14 – Application Review Procedures for Site Plans, Subdivisions, and Conditional Use Permits).

For Board members or members of the public seeking to compare these proposed regulations to the existing, the most current regulations are available at the following hyperlinks, and are also available on the City's Planning Board Webpage (ci.keene.nh.us/planning-board):

Current Planning Site Plan and Subdivision Regulations:

https://ci.keene.nh.us/sites/default/files/planning/2018_05_29_Planning_Board_Regs_Adopted_FINAL.pdf

Current Planning Board Development Standards:

https://ci.keene.nh.us/sites/default/files/planning/2019_04_22_Dev_Standards_Adopted_FINAL.pdf

ARTICLE 19. SUBDIVISION REGULATIONS

19.1 GENERAL PROVISIONS 19-2

19.2 STANDARDS FOR REVIEW..... 19-3

19.3 CONSERVATION RESIDENTIAL
DEVELOPMENT SUBDIVISIONS..... 19-4

19.1 GENERAL PROVISIONS

19.1.1 Authority

In accordance with the authority vested by the City Council and with the provisions of NH RSA 674:35-42, the Planning Board shall have the authority to regulate the subdivision of land in the City of Keene.

19.1.2 Applicability

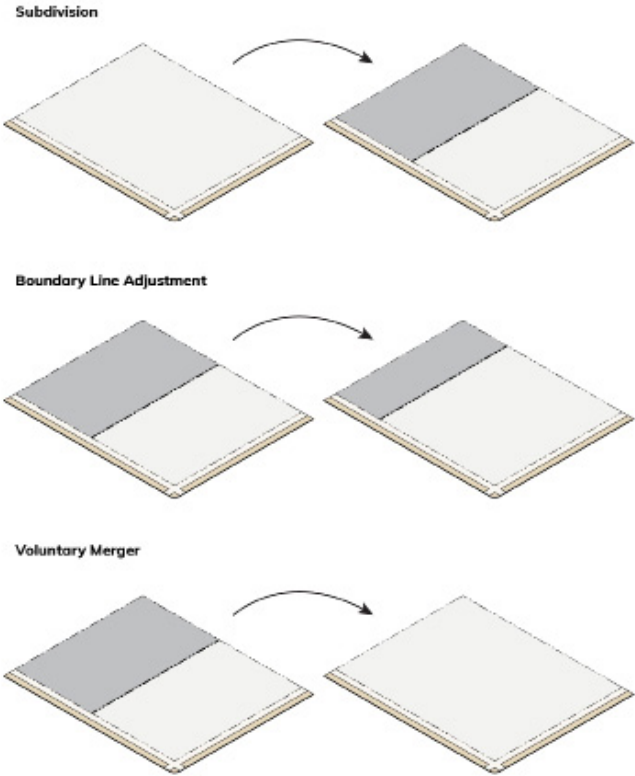
The standards included in this Article shall apply to all subdivisions of land, including the division or consolidation of lots and the alteration or adjustment of lot boundary lines.

19.1.3 Subdivision Review

Subdivision review by the Planning Board shall be required for the following types of subdivisions. The application, review and approval processes for subdivision review are included in **Article 25** of this LDC.

- A. Subdivision.** Subdivision means the division of a lot, tract or parcel of land into 2 or more lots, plats, sites, units or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease or building development.
- B. Boundary Line Adjustment.** A boundary line adjustment, also referred to as a lot line adjustment, is the alteration or adjustment of boundary lines between 1 or more contiguous, preexisting approved or subdivided lots.
- C. Voluntary Merger.** A voluntary merger is the consolidation of 2 or more contiguous pre-existing approved or subdivided lots owned by the same property owner.
- D. Conservation Residential Development Subdivision.** A type of subdivision that is intended to encourage the beneficial consolidation of land development and the preservation of open space by applying less restrictive lot dimensional requirements than the underlying zoning district in exchange for placing an undeveloped portion of land into permanent open space. Subdivisions proposing the creation of 3 or more lots and the layout and

construction of a new road, where the parcel to be subdivided is located in either the Rural, Low Density, or Low Density-1 zoning district and meets the minimum lot size requirements for a conservation residential development specified in this Article, shall be reviewed as a conservation residential development.



19.1.4 Five-Year Exemption

Approved subdivisions shall be protected from future amendments to regulations for a 5-year period, provided that active and substantial development has occurred on the site, in accordance with NH RSA 674:39.

19.2 STANDARDS FOR REVIEW

The Planning Board shall apply the following standards in its review of subdivision applications.

19.2.1 Lots

- A. Lot size and configurations shall meet all requirements of the Zoning Regulations.
- B. All lots shall have frontage on a state highway (excluding limited access highways), a Class V road, or a street within an approved subdivision plan.
 - 1. Road frontage shall not be less than 50-ft, unless expressly allowed in this LDC.
- C. Subdivisions shall not be approved on roads shown on city records and plans as discontinued, discontinued subject to gates and bars, or Class VI roads.

19.2.2 Character of Land for Subdivision

All land proposed for subdivision shall be of such a character that it can be used safely used for building development purposes and would not pose a danger to health or peril from fire, flood, poor drainage, excessive slope, or other hazardous conditions.

19.2.3 Scattered or Premature Development

Subdivisions shall not promote scattered or premature development of land as would involve danger or injury to health, safety, or necessitate the excessive expenditure of public funds for the supply of associated services. In making such a determination, the Planning Board will take into account the capacity of the school system, adequacy of access streets, adequacy of water supply for fire-fighting purposes, distance from emergency services, and availability of other public services.

19.2.4 Preservation of Existing Features

Wherever feasible, suitable steps shall be taken to preserve and protect significant existing features such as surface waters, steep slopes, rare and/or unique scenic points, stone walls, rock outcroppings, and historic landmarks.

19.2.5 Monumentation

The owner or developer shall provide permanent reference monuments in accordance with **Article 22** of this LDC.

19.2.6 Special Flood Hazard Areas

All subdivision proposals having lands identified as Special Flood Hazard Areas on current Flood Insurance Rate Maps (FIRM) shall be located and configured to be consistent with the need to minimize potential impacts from flooding. In addition, any public utilities and facilities associated with such proposals shall be located and constructed to minimize or eliminate flood damage.

19.2.7 Fire Protection & Water Supply

All subdivisions shall be provided with an adequate supply of water for fire protection purposes at the owner's expense. This requirement may be met by any of the following options, subject to the approval of the Fire Chief.

- A. Fire hydrants connected to a public water main with adequate fire flows and pressures appropriate to the type and scale of the proposed use that meets the requirements of the National Fire Protection Association (NFPA) and the Keene Fire Department.
- B. Private fire protection water supply systems when it is infeasible or economically unreasonable to connect a fire hydrant to a public water main as determined by the Planning Board. Private fire protection water supply systems may include the following.
 - 1. For non-residential, institutional, and multi-family dwellings, storage and distribution systems appropriate to the type and scale of the proposed use that comply with the standards of the National Fire Protection Association (NFPA) and the Keene Fire Department.
 - 2. For single-family dwellings, underground cisterns and associated dry hydrants that meet the standards of NFPA 1142. The location, design, and provisions for ownership, maintenance, and all season

access to the cistern and supporting facilities shall conform to the Keene Fire Department hydrant specifications.

3. Individual residential sprinkler systems meeting the standards of NFPA 13D or NFPA 13R may be installed; however, in no case may the installation of such a system be made a requirement of approval.
4. Any other public or private fire protection water supply system approved by the Fire Chief and determined by the Planning Board to provide a similar or greater level of fire protection than the options provided in (1) and (2) above.

19.2.8 Utilities

- A. When required by City Code, all subdivisions will be serviced by City water and sewer. All necessary water and sewer lines shall be installed to the required specifications of the Public Works Department and shall include service lines running from the water and sewer mains to the property line to service each lot. In addition, utility rights-of-way shall be provided in accordance with **Article 22** of this LDC.
- B. All lots smaller than 1-acre in size shall be connected to City sewer service, unless otherwise expressly allowed in this LDC.

19.3 CONSERVATION RESIDENTIAL DEVELOPMENT SUBDIVISIONS

19.3.1 Purpose

The purpose of a conservation residential development subdivision is to promote the conservation of natural resources while providing greater flexibility and creativity in the design of residential development than would be possible using conventional zoning and subdivision practices.

This purpose is accomplished by allowing for clustering of dwelling units at a higher density than would be allowed by the underlying zoning district, provided a portion of the existing tract of land to be subdivided is permanently designated as open space.

19.3.2 Dimensional Standards

- A. **Minimum Dimensional Requirements.** All conservation residential development subdivisions shall meet the minimum dimensional requirements specified in **Table 19-1**. If not specified in **Table 19-1** or elsewhere in this Article, the dimensional requirements of the underlying zoning district shall apply.
- B. **Perimeter Building Setback.** A building setback shall be required around the perimeter of the existing tract proposed for subdivision (excluding access points) as specified in **Table 19-1**. The land area included in the perimeter setback may be counted toward the calculation of open space.
- C. **Density.** The maximum number of dwelling units allowed within a conservation residential development subdivision shall be determined by dividing the total area of the existing tract by the density factor per dwelling unit specified in **Table 19-2**.

Table 19-1: Dimensional Requirements for Conservation Residential Development Subdivisions

		Rural District	Low Density-1 District (without city water)	Low Density-1 District (with city water)	Low Density District	
TRACT	Min tract size	10 acres	5 acres	5 acres	5 acres	
	Min tract frontage	100 ft	100 ft	100 ft	50 ft	
	Perimeter Building Setback	From external roads	100 ft	30 ft	30 ft	30 ft
		From other tract boundaries	50 ft	20 ft	20 ft	20 ft
LOT	Min Lot Area	1 acre	16,000 sf	8,000 sf	6,000 sf	
	Min Road Frontage	40 ft	40 ft	40 ft	40 ft	
	Min Lot Width at Building Line	75 ft	75 ft	60 ft	60 ft	
	Min Front Setback	15 ft	15 ft	15 ft	15 ft	
	Min Rear Setback	20 ft	20 ft	15 ft	15 ft	
	Min Side Setback	10 ft	10 ft	10 ft	10 ft	
	Max Building Coverage	30%	35%	40%	45%	
	Max Impervious Coverage	35%	40%	45%	60%	

D. Open Space Reserve

1. All conservation residential development subdivisions shall permanently reserve at least 50% of the area of the existing tract as open space.
2. Conservation residential development subdivisions in the Rural zoning district that permanently reserve 60% of the existing tract area or greater as open space shall be eligible for a density bonus, as noted in **Table 19-2**.
3. Any land designated for roads within the open space may not be used in the calculation of the open space area.

Table 19-2: Density & Open Space Requirements

Zoning District	Density Factor per Dwelling Unit	Min Open Space
Rural	4 acres	50%
	3 acres	60%
Low Density-1 (without city water)	1 acre	50%
Low Density-1 (with city water)	20,000 sf	50%
Low Density	10,000 sf	50%

19.3.3 Permitted Uses

A. Residential Uses. Table 19-3 identifies the uses allowed on building lots in a conservation residential development subdivision.

Table 19-3: Conservation Residential Development Permitted Uses

Permitted Use	Rural District	Low Density-1 District	Low Density District
Single-Family Dwelling	P	P	P
Two-Family Dwelling	P	P	P
Multifamily Dwelling	-	-	P (max of 6 dwelling units per structure)

"P" = Permitted Use " - " = Use Not Permitted

B. Open Space Uses. Uses allowed on land designated as open space in a conservation residential development subdivision shall be limited to the following uses. Use of the designated open space area may be further restricted by the owners of the open space.

1. Conservation
2. Agriculture
3. Forestry
4. Passive Recreation

19.3.4 Primary & Secondary Conservation Areas

Plans for a conservation residential development subdivision shall identify and delineate primary and secondary conservation areas on the existing tract, as defined below. Delineation of lands to be used to meet the open space requirements of the conservation residential development subdivision shall be based on an analysis and prioritization of primary and secondary conservation values identified on the tract.

A. Primary Conservation Areas. Primary conservation areas shall consist of all slopes over 25% gradient; surface waters, including streams, wetlands, vernal pools, ponds, and any

buffers associated with them; and, springs and floodways.

B. Secondary Conservation Areas. Secondary conservation areas shall consist of the following list of attributes.

1. Significant natural areas of species defined by the New Hampshire Natural Heritage Inventory as endangered, threatened, or of special concern.
2. Slopes in excess of 15% where disturbance and resulting erosion and sedimentation could be detrimental to water quality
3. Woodlands, particularly those performing important ecological functions, such as soil stabilization and protection of streams, wetlands and wildlife habitats.
4. Areas with topographic and soil conditions affording high rates of infiltration and percolation.
5. Groups of trees and large individual trees of botanic significance.
6. Prime agricultural soils as defined by the USDA Natural Resource Conservation Service.
7. Historic features that are designated on the NH State Register of Historic Places, or the National Register of Historic Places or Historic Landmarks.
8. Cultural features, such as stone walls, barn foundations, and cellar holes.
9. Existing or planned recreational trails on or throughout the tract that connect to other locations in the City.
10. Visually prominent topographic features such as knolls, hilltops, ridges, outlooks, and scenic viewsheds.
11. Highest condition habitat areas as defined by the NH Wildlife Action Plan, as amended.
12. Drinking water supply areas.

19.3.5 Design Criteria

A. General Criteria. In addition to the standards for review listed in **Section 19.2** of this Article, the following review criteria shall apply to applications for conservation residential development subdivisions.

1. All proposed development shall be located outside of primary conservation areas, and shall be designed to minimize impact to any identified secondary conservation areas.
2. Streets shall be constructed in accordance with the standards in **Article 22** of this LDC, and shall connect to an existing street network.
3. All structures shall be accessed from interior streets, rather than from roads bordering the perimeter of the tract.
 - a. In the event that a waiver of this standard is granted, shared driveways shall be incorporated where feasible.

B. Open Space Standards. The location and layout of all open space within a conservation residential development subdivision shall require Planning Board approval and comply with the following standards.

1. The areas of land designated to meet the open space requirement of any conservation residential development subdivision shall not be used for siting of individual lots, construction of buildings, facilities for accessory uses, roads and other areas for vehicular traffic.
2. In delineating the required open space area(s), an interconnectedness of the conservation values shall be maintained and fragmentation of the open space into small, disconnected parcels shall be avoided.
 - a. The lot area of any parcel designated as open space shall not be less than 1-acre.

- b. All areas of open space do not need to be contiguous, but consideration shall be given to connections between non-contiguous areas.

- c. Where possible, any designated open space will be located so that it is adjacent to other open space or protected lands that abut the existing tract.

3. Each proposed lot in the conservation residential development subdivision shall have reasonable access to the open space, but need not front directly on such land.

C. Open Space Ownership & Maintenance

1. Land designated for open space in a conservation residential development subdivision shall not be further subdivided and shall remain as open space in perpetuity.

2. All designated open space and any associated facilities in a conservation residential development subdivision shall be permanently protected by covenants or easements as approved by the Planning Board or its designee.

- a. All designated open space and any other common lands, roads and/or facilities shall be deeded to and maintained by a Homeowner's Association, a non-profit organization, or some other entity as approved by the Planning Board or its designee.

- i. The designated open space and any other common features shall be held, managed and maintained by the developer until such time as they are transferred to the designated entity under an agreement approved by the Planning Board or its designee.

ARTICLE 20. SITE DEVELOPMENT STANDARDS

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20.1 GENERAL

20.1.1 Authority

Pursuant to the authority vested in the City of Keene Planning Board by the City Council, and in accordance with NH RSA 674, the Planning Board shall have the authority to adopt and amend the following site development standards and associated site plan review application procedures in **Article 25** of this LDC.

20.1.2 Purpose

The purpose of these site development standards is to:

1. Promote the safe and orderly development of the City;
2. Promote sustainable design and development that supports long-term economic vitality and ecologic integrity;
3. Encourage site design techniques that protect water quality and prevent increases in the quantity of stormwater runoff;
4. Achieve a high-quality site and building design that enhances the attractiveness of the City;
5. Protect abutters against hazards, unsightliness, and nuisances detrimental to property values;
6. Ensure that development of land is appropriate for the public and private services and facilities available;
7. Ensure that pedestrian, bicycle, and vehicular circulation can be accommodated in a safe manner;
8. Preserve and enhance the historic and cultural character of the community; and,
9. Ensure that development serves to maintain and enhance quality of life, while not imposing unreasonable costs upon the City.

20.1.3 Applicability

- A. Unless otherwise indicated in this LDC, all development, redevelopment, or change of use of lots in the City, for uses other than single-family and two-family dwellings, shall conform with the site development standards in this Article.
- B. Other than for site investigation, site work associated with a proposed development shall not commence until the proposal has been approved by the Planning Board or its designee in accordance with this LDC.
- C. The site development standards in this Article, in addition to the site plan review application procedures in **Article 25**, shall govern the review and approval of all applications for site plan review.
- D. For the purposes of this Article, "development" shall mean any form of land improvement or construction involving land, structures, or infrastructure including, but not limited to, the following.
 1. The introduction of new principal or accessory uses, where no such use previously existed.
 2. The expansion or modification of existing principal or accessory uses.
 3. The introduction, expansion, modification, or relocation of structures, impervious surfaces, utilities, exterior lighting, and other site improvements or amenities.
 4. Site work associated with proposed development (e.g. grading, filling and excavation, stockpiling of materials, surcharging of soils).

20.2 DRAINAGE & STORMWATER MANAGEMENT

20.2.1 Runoff Volume and Velocity

- A. The development of a site shall not result in increased volume or velocity of runoff onto adjacent properties or surface water bodies.
- B. The applicant shall provide sufficient data in the form of drainage report prepared by a NH licensed engineer to demonstrate compliance with this requirement.

20.2.2 Low Impact Design

- A. Site design and drainage systems constructed to comply with **Section 20.2.1** shall incorporate Low Impact Development (LID). Examples include, but are not limited to, the following.
 - 1. Bio-retention.
 - 2. Porous pavement.
 - 3. Vegetated swales.
 - 4. Infiltration trenches.
 - 5. Rooftop drain disconnection.
 - 6. Cisterns.
 - 7. Green roofs.
 - 8. Vegetated filter strips.
 - 9. Reduced impervious surfaces.
 - 10. Stormwater disconnection.
 - 11. Preservation and enhancement of native vegetation.
- B. Where site conditions exist that make on-site infiltration impracticable, the Applicant shall demonstrate to the satisfaction of the Planning Board that the use of LID measures is not possible before proposing to use traditional, structural stormwater management measures including, but not limited to, stormwater retention and detention ponds and underground storage systems.

20.2.3 Quality of Stormwater Discharge

- A. Treatment systems (e.g. wet detention basins, constructed wetlands, or LID measures) combined with contamination prevention practices (e.g. frequent sweeping of parking lots, the use of oil/gas traps in catch basins) shall be utilized to assure that upon discharge to surface waters, floodplain compensatory storage basins, or wellfield protection areas drainage water meets Federal Clean Water Act standards.
- B. Drainage systems that divert runoff into surface waters, wellfield protection areas, or floodplain compensatory storage areas shall utilize LID measures or wet or dry sediment basins or similar devices in combination with erosion prevention and sediment control practices to avoid sediment loading of the receiving area(s).

20.2.4 Bike Friendly

New street or trail drainage grates shall be of a design that allows bicyclists to ride over it safely.

20.3 SEDIMENT & EROSION CONTROL

20.3.1 Pre-Construction

- A.** Each project shall be designed to prevent erosion and sedimentation during and subsequent to construction in the following ways.
 - 1.** Minimize disturbance of natural soil cover and vegetation.
 - 2.** Minimize, in area and duration, exposed soil and unstable soil conditions.
 - 3.** Protect receiving water bodies, wetlands and storm sewer inlets.
 - 4.** Minimize off-site sediment transport on vehicles and equipment.
 - 5.** Minimize work in and adjacent to water bodies and wetlands.
 - 6.** Maintain stable slopes.
 - 7.** Minimize disturbance to and protect surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing.
 - 8.** Minimize the compaction of all site soils.
 - 9.** Pre-treat stormwater runoff to remove solids before discharging to infiltration areas.
 - 10.** Install LID measures as appropriate.
- B.** Design and placement of all erosion and sediment control measures shall comply with the standards and practices contained in the most recent version of the NH Department of Environmental Services NH Stormwater Manual, unless specifically approved by the City Engineer.

20.3.2 Post-Construction

- A.** To assure that erosion and sediment control measures work properly, and to assure that revegetation and slope stabilization takes place in a timely manner and is properly maintained, the City may require a security deposit for up to 12-months after the completion of construction.
- B.** For critical or large areas of disturbance on steep slopes or adjacent to surface waters, the City may require inspections by a qualified firm or individual.

20.4 SNOW STORAGE & REMOVAL

- A.** Snow shall be stored on and/or removed from a site so as to:
 - 1.** Allow the continued safe passage of vehicles into, out of, and through all travel lanes and parking areas;
 - 2.** Prevent accumulation on adjacent properties (unless specific approval for such storage has been obtained); and
 - 3.** Prevent flooding of adjacent properties, including City streets.
- B.** Snow shall not be pushed, piled or otherwise moved directly into surface waters.
- C.** Snowmelt discharge and associated runoff shall be stored and its drainage routed so that it does not cause erosion.
- D.** Snow storage shall not be permitted within parking spaces on a site, which are required to fulfill the minimum parking requirements of the Zoning Regulations.

20.5 LANDSCAPING

20.5.1 Plant Selection

- A.** No plant material shall be installed on a site that is listed by the NH Department of Agriculture, Markets & Food as an invasive species per NH RSA 430:54 and NH Administrative Rules AGR 3800.
- B.** Plant materials shall be hardy to regional climate conditions per the U.S. Department of Agriculture's Plant Hardiness Zone Map.
- C.** Landscape alternatives to turfgrass lawn (e.g. native trees, shrubs, and perennial groundcovers) shall be utilized whenever feasible.

20.5.2 Installation

- A.** Trees shall be planted utilizing the best available practices to develop essential root structure, to grow to their full stature, and to perform environmental services at the highest possible levels.
- B.** Plant materials shall be installed in soil of sufficient volume, composition, and nutrient balance to sustain healthy growth.
- C.** For trees plantings in areas of non-native or compacted soil, the existing soil shall be excavated to enable the placement of 300 cubic feet of native, permeable soil in an area no less than 6-ft wide and 3-ft deep.
- D.** Protective devices, such as temporary fencing, shall be installed prior to the start of site work to protect the root masses of existing vegetation and areas intended for infiltration to the satisfaction of the Community Development Director or their designee, or the City Engineer.
 - 1.** Such fencing shall be located to the outside dripline of shade and ornamental trees and/or to a diameter distance that matches the height of all shrubs and/or perennial plants.

20.5.3 Location

- A. All landscaping shall be located on site without impeding the visibility or safety of pedestrians, bicyclists, or motorists.
- B. Trees shall be located to avoid above-ground and below-ground utilities.

20.5.4 Maintenance

- A. Any plant material that is significantly damaged, missing, disease-ridden, or dead shall be abated by the property owner within 1-year or before the end of the following planting season, whichever occurs first.
- B. All plant materials shall be maintained on site in a healthy, growing condition.
- C. All landscaping approved as part of a site plan shall be considered as elements of the site in the same manner as parking, building materials and other site details.

20.5.5 Modifications to Approved Landscape Plans

Minor revisions to approved landscape plans approved by the Planning Board may be approved by the Community Development Director or their designee if the applicant demonstrates all of the following.

1. There will be no reduction in the approved quantity or size (at maturity and planting) of plant materials.
2. There will be no change to the approved location of plant materials.
3. The proposed plants are of the same general category (e.g. shade, ornamental, evergreen) as the approved plants.

20.6 SCREENING

20.6.1 General Standards

- A. Screening in the form of landscaping or other treatment (e.g. berms, walls, fences) shall be used to:
 1. Screen loading areas, waste storage and transfer areas, heating and cooling equipment, electrical equipment and other areas likely to generate noise, dust or other disruptive conditions;
 2. Form a buffer between non-residential and residential uses;
 3. Form a buffer between single-family and multifamily dwellings, which are different in height, form or material than the adjacent single-family dwellings; and
 4. Screen parking lots from adjacent properties.
- B. Screening shall be of a texture, material, color, and size compatible with the existing or proposed buildings or structures on the site.
- C. Chain link fencing with slats is prohibited for screening.
- D. No screening shall be so constructed or installed as to constitute a hazard to traffic or safety.

20.6.2 Specific Standards

A. Service Areas

1. Waste collection, waste compaction, recycling collection and other similar service areas shall not be located along the building frontage or along a building facade with a primary entrance and shall be screened from view from adjacent property or public rights-of-way (not including alleys).
2. Waste storage containers (e.g. dumpsters or bulk storage containers) shall be fully screened by a solid enclosure of wood, masonry, vinyl or other material deemed acceptable by the Planning Board and shall comply with the minimum standards for

property in Chapter 18 of the City Code of Ordinances.

3. Screening around waste storage containers shall be at least 6-ft in height or of a height equal to the height of the container if the height is greater than 6-ft.
4. Screening required for service areas, including waste storage containers, shall be compatible with the principal building in terms of texture, material and color.

B. Drive-Through Businesses

1. Drive-through windows and lanes shall not be located along the building frontage or along a building facade with a primary entrance.
2. Where allowed, drive-through lanes shall be screened from any adjacent public rights-of-way (not including alleys), existing residential property, or residential zoning districts.
3. At a minimum, such screening shall consist of a compact, evergreen hedge not less than 3-ft in height at planting and 4-ft at maturity.
 - a. As an alternative, such screening may consist of a solid fence of wood or masonry at least 6-ft in height.

C. Mechanical Equipment

Heating and cooling equipment, venting, electrical or other mechanical equipment, and associated conduit shall not be visible from adjacent buildings and public rights-of-way, whenever possible. If any portion of this equipment will be visible from adjacent buildings or public rights-of-way, the following standards shall apply.

1. Roof-Mounted Equipment

- a. Roof-mounted equipment shall be set back from the edge of the roof at least 10-ft, and screened from ground level view from adjacent properties or adjacent public rights-of-way (not including alleys).
- b. New buildings shall provide a parapet

wall or other architectural element that screens roof-mounted equipment from view.

- c. For existing buildings with no or low parapet walls, roof-mounted equipment shall be screened on all sides by an opaque screen compatible with the principle building in terms of texture, material, and color.

2. Wall-Mounted Equipment

- a. Wall-mounted equipment that is located on any surface visible from a public right-of-way (not including an alley) shall be fully screened by landscaping or an opaque screen or covering, which is compatible with the principle building in terms of texture, material, and color.
- b. New mechanical supply lines, pipes and ductwork shall be placed in inconspicuous locations or concealed with architectural elements (e.g. downspouts), or painted to blend in with the wall surface to which they are mounted.

3. Ground-Mounted Equipment.

- a. Ground-mounted equipment visible from a public right-of-way or adjacent property shall be fully screened.
- b. Screening shall consist of landscaping or an opaque screen compatible with the principle building in terms of texture, material, and color, and shall be as high as the highest point of the equipment being screened.

D. Parking Lots

Parking lots shall be designed and screened in accordance with **Article 9** of this LDC.

20.7 LIGHTING

20.7.1 Applicability

- A. This standard shall only apply to outdoor lighting fixtures.
- B. When 50% or more of the light fixtures or poles of an existing outdoor lighting installation are being modified, extended, expanded, or added to, the entire outdoor lighting installation shall be subject to the requirements of this Development Standard.
- C. This standard does not apply to sign illumination, which is addressed in **Article 10**.

20.7.2 Prohibited

- A. Floodlighting is prohibited, unless:
 1. The Community Development Director, or their designee, determines that there will be no negative impact upon motorists and neighboring properties; and
 2. The lights are directed toward the rear of a lot away from the road and neighboring properties, and are placed on heat or motion sensors.

- B. Uplighting is prohibited.

20.7.3 General Standards

A. Shielding

All outdoor lights, including freestanding and wall mounted, shall be fully-shielded and/or dark skies compliant (International Dark Sky Association Seal of Approval or equivalent) fixtures with no portion of the bulb visible.

B. Glare

Lighting shall be installed and directed in such a manner as to prevent glare at any location, on or off the property.

C. Light Trespass

The maximum light level of any light fixture cannot exceed 0.1-footcandles measured at the property line and cannot exceed 1-footcandle measured at the right-of-way line of a street.

D. Illumination

All illumination shall be of a white light and shall have a color rendering index (CRI) greater than 70. The color-temperature or correlated color temperature (CCT) of lighting shall not exceed 3,500 Kelvins.

E. Height

The mounting height of fixtures, as measured from the finished grade to the top of the fixture or pole (inclusive of fixture) shall not exceed the maximum height listed in **Table 20-1**.

Table 20-1: Maximum Light Pole Height

Zoning District	Max Height
All residential zoning districts Agriculture District Conservation District	15 ft
Downtown Core Downtown Growth Downtown Institutional Campus Downtown Limited Downtown Transition Neighborhood Business Office	20 ft
Business Growth & Reuse Commerce Commerce Limited Corporate Park Downtown Edge Health Care Industrial Industrial Park	30 ft

F. Hours of Operation

1. Outdoor lighting shall not be illuminated between the hours of 10:00 pm and 6:00 am with the following exceptions:
 - a. Security lighting, provided the average illumination on the ground or on any vertical surface does not exceed 1-footcandle.
 - b. If the use is being operated, normal

illumination shall be allowed during the activity and for not more than 1-hour before or after the activity occurs.

- c. For 24-hour businesses, lighting levels shall be reduced by a minimum of 50% between the hours of 10:00 pm and 6:00 am.
2. The Planning Board may stipulate a specific time when lighting other than that used for security purposes should be turned off and this determination shall be noted on the final lighting plan submitted for signature.

G. Wiring

Wiring for outdoor lighting shall be placed underground.

20.7.4 Use Specific Standards

In addition to the General Standards in **Section 20.7.3**, the following standards shall apply to the categories of uses listed below.

A. Parking Lots

Outdoor lighting of parking lots and related circulation areas and the unenclosed areas of parking structures, shall comply with the following standards.

1. Average illumination levels of parking lot lighting shall not exceed 3.5-footcandles.
2. The ratio of the average to the minimum illumination level (also known as the uniformity ratio) shall not exceed 5:1 in footcandles.

B. Canopies and Vehicle Fueling Station Islands

Canopy lighting, including lighting on vehicle fueling station and/or convenience store aprons, shall comply with the following standards.

1. Areas around pump islands and under canopies shall be illuminated so that the average illuminance at grade level does not exceed 12.5-footcandles.

2. For canopies located in or directly adjacent to residential zoning districts and/or where they are associated with a pre-existing non-conforming use, the average illumination at grade level shall not exceed 5.5-footcandles.
3. Light fixtures mounted under a canopy shall be recessed so that the lens cover is recessed into, or flush with, the underside of the canopy.
4. No light fixtures shall be attached to the sides or top of the canopy, nor shall the sides or top of the canopy be illuminated.
5. Areas away from fueling pump islands, as defined by the extent of the canopy, shall be subject to parking lot lighting standards in **Section 20.7.4**.

C. Walkways

Lighting of outdoor walkways, alleys, and pedestrian paths shall comply with the following standards.

1. The average illumination level on a walkway or pathway surface shall not be less than 0.5-footcandles.
 - a. The area over which the average illumination level is computed shall only include the walkway surface plus an area on each side not more than 5-ft in width.
2. Maximum lighting levels shall not exceed 5-footcandles.
3. Lighting fixtures other than full cut-off fixtures may be used but shall be designed to minimize glare, direct illumination downward, and shall have an initial output of no more than 1,200 initial lumens.

20.8 SEWER & WATER

- A. All sewer and water utilities shall comply with the City's Utility Standards in Chapter 98 of the City Code of Ordinances.
- B. The City may require technical studies, at the applicant's expense to assure that existing sewer and water services will not be adversely affected by the proposed development and that there in fact is adequate sewer and water capacity for the proposed development.
- C. All new development shall comply with the City's industrial pre-treatment program

20.9 TRAFFIC & ACCESS MANAGEMENT

20.9.1 Traffic

- A. Any commercial, office or industrial project involving 100 or more vehicle trips per day, or residential projects involving 10 or more units, as determined by the most recent published version of the ITE Trip Generation Manual, shall demonstrate that the project will not diminish the capacity or safety of existing city streets, bridges or intersections, prior to the issuance of a building permit.
- B. If improvements to roadways, bridges, signals, or intersections are required for a proposed development to avoid diminishing the existing capacity or safety of these public systems, those improvements shall be made as part of the development, at the developer's expense.
- C. The Planning Board may require that any development along West St from School St to the Bypass, and along Winchester St from Island St to the Bypass be reviewed by the NH Department of Transportation for traffic impact.

20.9.2 Driveways & Curb Cuts

- A. Entrances and exits onto public streets shall be designed to provide safe and convenient vehicular passage into and out of the site.
- B. Wherever possible, the number of curbcuts or driveways on public streets shall be limited to one per lot.
- C. The use of common driveways and service roads is encouraged, and in some instances may be required.
- D. All driveways shall comply with the standards in **Section 9.3** of this LDC.
- E. A State driveway permit is required for any new driveway on a State Road outside of the Urban Compact.

20.9.3 Access Management

- A.** Interior circulation and parking shall be designed to assure safe passage of all vehicles and pedestrians into, out of, and throughout the site.
- B.** On-site queuing areas shall be provided to prevent congestion on City streets.
- C.** New development shall provide safe and efficient access from roads and streets to all users, regardless of their mode of transportation.
- D.** Where appropriate, connections shall be made for the continuation of sidewalks, walkways and bicycle lanes within the property, between adjoining properties, and site amenities shall be installed such as bicycle racks, benches, shade trees, and bus stop shelters. These connections shall apply:
 - 1.** Grade changes, textures, colors or other methods of distinguishing sidewalks, walkways and crosswalks from vehicular travel; and,
 - 2.** Appropriate lighting, signage, crosswalks, and other safety devices.
- E.** For development other than single-family and two-family dwellings, bicycle parking shall be provided in racks or other similar facility.
- F.** Bicycle parking shall not be located within parking areas for motorized vehicles.
- G.** Building facades that abut parking areas and contain a public entrance shall include pedestrian walkways.

20.9.4 Accessibility

- A.** Pedestrian facilities shall be designed to accommodate persons with disabilities in accordance with the access standards required by the State Building Code.
- B.** Sidewalks, shared use paths, street crossings and other infrastructure shall be constructed so that all pedestrians, including persons with disabilities, can travel independently.

20.10 FILLING & EXCAVATION

- A.** All development involving the commercial taking of earth shall comply with the Earth Excavation Regulations in **Article 24.**
- B.** Any project, which involves the placement of fill within the floodplain, shall comply with the Floodplain Regulations in **Article 23.**
- C.** If the placement of fill or excavation impacts wetlands, the applicant shall comply with federal and state wetlands regulations and procedures.
- D.** Any project, which will result in 50 or more trucks of earth or gravel entering or leaving a site, shall submit a plan to the Community Development Department as to the proposed truck route(s). The Community Development Department shall consult with the Police Department and City Engineer, and as appropriate, the State Highway Department in reviewing the proposed haul routes.

20.11 SURFACE WATERS & WETLANDS

All development shall comply with all federal and state wetland and surface water regulations, **Article 11** of this LDC, as well as any other applicable City regulations.

20.12 HAZARDOUS OR TOXIC MATERIALS

- A.** Any proposed work that involves the receiving, handling, storing or processing of any hazardous or toxic substances (as defined by NH RSA 339-A:2), or involves property that has been contaminated by hazardous or toxic substances, shall disclose such information as part of a site plan review application.
- B.** Copies of all appropriate state or federal permits and plans as required by the NH Department of Environmental Services (DES) for a proposed use or development shall be submitted to the City's Building and Health Official and the Fire Department for review.
- C.** If, as a result of the content and review of the application, the Planning Board, or their designee, finds that a potential health risk or an environmental threat exists from a previous or existing use of the site, then it may require that an initial site characterization (see NH Code of Administrative Rules Env-Ws 412) be completed and submitted to DES. When a site characterization is required, the results shall be submitted to and reviewed by the Building and Health Official prior to the issuance of a building permit.

20.13 NOISE

- A.** Proposed uses or development shall comply with the City's Noise Ordinance in the City Code of Ordinances and the Noise Limits in **Article 17**, and shall be sited or designed to minimize sound or noise impacts with consideration for surrounding land uses.
1. If there is a question as to whether a proposed use or development will comply with these standards, the Planning Board may request sufficient evidence be provided by the applicant to demonstrate that the proposed use or work will not exceed the applicable sound level limits in **Table 17-1** of this LDC. Compliance with the sound level limits is to be maintained at the boundary of the property.
- B.** Once a proposed use or development begins routine operation, the Planning Board, or their designee, may require a demonstration that the use or development meets the applicable sound level limits.
1. Such demonstration shall require a sound testing report by a qualified professional be provided to the Community Development Department that includes a description of measurement procedures, identification of sound level instrumentation and calibration, descriptions of measurement locations, sound level measurements and field observations, measurements and analysis of short duration repetitive sounds, and weather conditions.
 2. Sound level measurements taken as part of this demonstration shall include representative daytime and nighttime periods for a duration adequate to quantify the loudest modes of routine operation.

20.14 ARCHITECTURE & VISUAL APPEARANCE

The following standards shall govern the visual and architectural character of development in the City to ensure that new and redeveloped buildings and structures blend aesthetically with the City's historic character, are consistent with the prevailing scale, orientation, and design of the City, and do not detract from viewsheds and view corridors.

20.14.1 Massing/Scale

- A.** The height or placement of any proposed new structure, modifications to an existing structure, or site improvement shall not overwhelm the prevailing architectural scale of the City, detract from valued architectural resources, or impede upon any view corridor or viewshed identified in the Viewshed Overlay District set forth in the Telecommunications Overlay District (**Article 13**).
- B.** For buildings of 150-ft in length or more, facades shall be divided into multiple "modules," expressed through significant architectural changes such as a change in materials, a change in pattern elements (e.g. fenestration, columns, pilasters, etc.), or a change in building setback through recesses or projections. Such modules shall be no wider than 50-ft.
- C.** Commercial storefronts shall include traditional pedestrian-oriented elements (e.g. display windows, bulkheads, transoms, pilasters, cornices, etc.).
- D.** Additions to existing structures shall be compatible in size and scale with the principal building.

20.14.2 Visual Interest

- A.** Front facades and exterior walls shall be articulated to express an architectural identity to avoid a uniform appearance, and architectural details shall give the impression of being integral to and compatible with the overall design.
- B.** Structures shall have architectural features (e.g. dominant gable ends, cornices, granite sills, arched openings, large windows framed with architecturally consistent trim, etc.) and patterns that provide visual interest at the pedestrian scale, reduce massive aesthetic effects, and harmonize with the City's distinctive architectural identity, unique character, and prevailing scale.
- C.** Architectural features shall not serve primarily as an advertisement, commercial display, or identifying characteristics corresponding to corporate identity.
- D.** Architectural features shall conform to accepted architectural principles of design and construction.
- E.** Facades shall express a traditional visual distinction between the ground floor and upper stories through architectural features or detailing, change in materials, or a change in pattern elements such as fenestration.



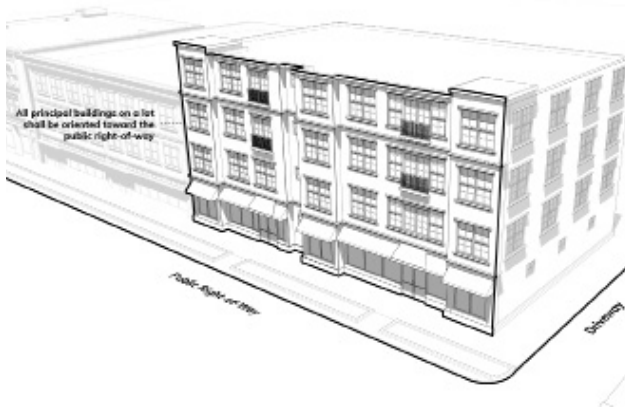
- F.** Buildings shall be designed with consistent building materials and treatments that wrap around all facades visible from a public right-of-way. Where material or color treatments change, there shall be a significant change in surface plane of a minimum of 6-in in difference. Differing materials are encouraged to terminate at inside corners.



- G.** Exterior materials, textures, and colors shall minimize visual aggressiveness and shall harmonize with the City's distinctive architectural identity and unique character. Surfaces with glossy finishes, reflective glass or dark tinted exteriors, or untreated aluminum, stainless steel, or metal exterior finishes shall be discouraged.
- H.** Modifications and additions to existing structures shall be harmonious with the character of the existing structure.
- I.** Where parapet walls are used, they shall feature three-dimensional cornice treatments or other shadow creating details along their tops.

20.14.3 Site Design and Relationship to Surrounding Community

- A. All principal buildings located on lot shall be oriented toward a public right-of-way. If, due to site constraints, it is determined that the primary facade of new buildings cannot face the street, then the secondary elevation facing the street shall be designed with form, composition, and details consistent with and appropriate to the primary facade.



- B. Orientation of structures on a site shall conform to a parallel or orthogonal pattern in relation to the City street pattern.
- C. Off-street parking and traffic flow shall not interfere with the flow of pedestrian travel or otherwise detract from the aesthetic character of a development or redevelopment.
- D. All required off-street parking shall be to the side or rear of buildings on the proposed site, and such parking shall be screened or aligned in accordance with **Section 9.4**.
- E. A cohesive visual character shall be maintained within a development through the use of coordinated hardscape (e.g. paving materials, lighting, outdoor furniture, etc.) and landscape treatments.
- F. The presence of any existing development in the surrounding area that does not conform to these standards for aesthetic character shall not exempt the applicant from complying with this Standard.

ARTICLE 25. APPLICATION PROCEDURES

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Note: For the purposes of this Agenda Packet, only the sections of Article 25 of the proposed Land Development Code that are relevant to the Planning Board's regulations are included in the Feb. 22 agenda packet.

25.1 REVIEW BODIES & ADMINISTRATORS

This Section describes the powers and duties of the review and decision-making authorities pursuant to this LDC.

25.1.1 Establishment

The review and decision-making authorities specified in this LDC are established by the City Code of Ordinances, including the City Charter.

25.1.2 Powers & Duties

Table 25-1 provides a summary of which authority makes recommendations or decisions on each application type.

25.1.3 Designees

Certain officials within this LDC are cited as having powers that may also be administered by a designee. The ability to direct powers to a designee applies to the actions of such officials throughout this LDC.

25.1.4 Limit of Authority

The omission of a citation in this LDC to any authority conferred upon the officials and decision-makers under the constitution or laws of the State of NH or the City Code of Ordinances, including the City Charter, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

25.1.5 City Council

In addition to other general authority by state law or the City Code of Ordinances, including the City Charter, the City Council shall have the following powers pursuant to this LDC.

- A.** To initiate, hear, and/or decide on proposed amendments to this LDC, including amendments to the zoning map or text.
- B.** To adopt and periodically update a schedule of fees for applications and permits specified in this LDC.

- C.** To hear and decide on requests for the formal layout and acceptance of public infrastructure.
- D.** To hear and decide on requests for waivers from Article 22 - "Public Infrastructure" of this LDC, except as provided for in **Section 22.5.6** related to Street Access Standards.

25.1.6 Joint Committee of the Planning Board and Planning, Licenses & Development Committee

In addition to other general authority by the City Code of Ordinances, the Joint Committee of the Planning Board and Planning, Licenses and Development Committee shall have the authority to make recommendations to the City Council on proposed amendments to this LDC, including amendments to the Zoning Map or text of the Zoning Regulations.

25.1.7 Zoning Board of Adjustment

In addition to other general authority by state law or the City Code of Ordinances, the Zoning Board of Adjustment shall have the following powers pursuant to this LDC.

- A.** To hear applications for and authorize variances from the Zoning Regulations.
- B.** To hear and decide on applications for special exceptions from the Zoning Regulations.
- C.** To hear and decide on applications to expand or enlarge a nonconforming use.
- D.** Hear and decide on applications for an equitable waiver of dimensional requirements from the Zoning Regulations.
- E.** To hear and decide on appeals of an administrative decision of the Zoning Administrator.
- F.** To hear and decide on appeals of decisions of the Historic District Commission in granting or denying certificates of appropriateness.
- G.** To hear and decide on requests for extensions to approvals for an expansion or enlargement of a nonconforming use.

25.1.8 Planning Board

In addition to other general authority by state law or the City Code of Ordinances, the Planning Board shall have the following powers pursuant to this LDC.

- A. To make recommendations to the City Council on proposed amendments to this LDC, including amendments to the Zoning Map or text of the Zoning Regulations.
- B. To initiate, hear, and decide on proposed amendments to the Site Development Standards and Subdivision Regulations of this LDC.
- C. To hear and decide on major site plan review applications.
- D. To hear and decide on applications for subdivisions, including boundary line adjustments, and conservation residential development subdivisions.
- E. To hear or decide on voluntary merger applications, or appoint a designee to hear or decide on such applications.
- F. To hear and decide on conditional use permit applications.
- G. To hear and grant waivers from the Site Development Standards and Subdivision Regulations of this LDC.
- H. To hear and decide on street access permits for commercial, industrial, and multifamily sites.
- I. To hear and decide on appeals of an administrative decision on street access permits.
- J. To hear and decide on earth excavation permit applications.
- K. To hear and decide on requests for extensions to major site plan, subdivision, and conditional use permit approvals.

25.1.9 Minor Project Review Committee

In accordance with NH RSA 674:43(III), the Minor Project Review Committee is hereby designated by the Planning Board to have the following powers pursuant to this LDC.

- A. To hear and decide on minor site plan review applications.
- B. To review and comment on proposed projects for site plan review or subdivision review prior to the formal submission of a site plan or subdivision application.
- C. To hear and decide on requests for extensions to minor site plan approvals.

25.1.10 Historic District Commission

In addition to other general authority by state law or the City Code of Ordinances, the Historic District Commission shall have the following powers pursuant to this LDC.

- A. To hear and decide on major project applications for a certificate of appropriateness.
- B. To hear and decide on appeals of an administrative decision of the Community Development Director, or their designee, on minor project applications for a certificate of appropriateness.
- C. To initiate, hear, and decide on proposed amendments to the Historic District Regulations in this LDC.
- D. To hear and decide on requests for extensions to certificates of appropriateness.

25.1.11 Conservation Commission

In addition to other general authority by state law or the City Code of Ordinances, the Conservation Commission shall have the authority to make recommendations to the Planning Board on surface water protection conditional use permit applications, and earth excavation permit applications.

25.1.12 Zoning Administrator

The City of Keene Zoning Administrator, or their designee, has the following duties and powers pursuant to this LDC.

- A. To review and make decisions on voluntary merger applications, as designated by the Planning Board.
- B. To make written interpretations of and issue administrative decisions in accordance with the Zoning Regulations of this LDC and the Zoning Map.
- C. To review and make decisions on applications to expand a nonconforming structure.
- D. To review applications for completeness for all matters decided by the Zoning Board of Adjustment.

25.1.13 Community Development Director

The Community Development Director, or their designee, shall have the following duties and powers pursuant to this LDC.

- A. To review and decide on minor modifications to previously approved site plans.
- B. To review and verify that proposals for development or redevelopment (excluding single-family and two-family dwellings), which do not meet the thresholds for site plan review, conform with the Site Development Standards prior to the issuance of a building permit.
- C. To review and decide on voluntary merger applications, in the absence of the Zoning Administrator.

25.1.14 Building & Health Official

The Building and Health Official, or their designee, shall have the following duties and powers pursuant to this LDC.

- A. To interpret, administer, and enforce the State Building Code.
- B. To review and make decisions on floodplain development permits.

- C. To enforce provisions of this LDC with respect to property outside of the right-of-way, including the authority to issue stop-work orders and fines for violations of this LDC, in accordance with **Article 27** - "Enforcement" of this LDC.

25.1.15 Public Works Director

The Public Works Director, or their designee, shall have the following duties and powers pursuant to this LDC.

- A. To develop technical standards and specifications in accordance with **Article 22** of this LDC.
- B. To perform engineering inspections of public infrastructure and service connections in accordance with **Article 22** of this LDC, and to levy and collect fees for such inspections.
- C. To approve the street geometry, construction methods and materials of streets.
- D. To review and make decisions on service connection permits.
- E. To review and approve, and to suspend, revoke or modify permits required in accordance with **Article 22** of this LDC.

25.1.16 City Engineer

- A. To review and decide on street access permit applications for single-family or two-family dwellings, agricultural uses, or temporary street access.
- B. To review and make recommendations to the Planning Board on street access permit applications.
- C. To assign street numbers for individual structures.
- D. To review applications for subdivisions, site plans, building permits, street access permits, and conditional use permits for compliance with **Article 12** of this LDC, and make recommendations to the Planning Board on hillside protection conditional use permits applications.

Table 25-1: Development Applications Decision Authority

Application Type		Zoning Board of Adjustment	Planning Board	Minor Project Review Committee	City Council	Historic District Commission	Joint Committee	Conservation Commission	Zoning Administrator	Community Development Dir.	City Engineer	Floodplain Administrator
Amendments to the LDC	Articles 1-18 & 22-28				D / PH		PW					
	Articles 19 & 20		D / PH		D / PH		PW					
	Articles 21				D / PH	D / PH	PW					
Zoning	Amendments to Zoning Text / Zoning Map				D / PH		PW					
	Variance	D / PH										
	Special Exception	D / PH										
	Equitable Waiver	D / PH										
	Enlarge or Expand Nonconforming Use	D / PH										
	Expand Non-conforming Structure	D / PH										
	Zoning Administrator Decision								D			
Sub-division Review	Subdivision		D / PH	PS								
	Conservation Residential Development Sub.		D / PH	PS								
	Boundary Line Adjustment		D									
	Voluntary Merger								D			
Site Plan Review	Administrative Planning Review									D		
	Minor Project			D / PH								
	Major Project		D / PH	PS								
Conditional Use Permit (CUP)	Hillside Protection		D / PH	PS							R	
	Surface Water Protection		D / PH	PS				R				
	Telecommunications		D / PH	PS								
	Congregate Living & Social Service		D / PH	PS								
	Solar Energy System		D / PH	PS								
Historic District	Minor Project									D		
	Major Project			PS		D / PH						
Other Permits	Floodplain Development											D
	Sign								D			
	Street Access		D								D	
	Earth Excavation		D / PH					R				

"R" = Recommendation "D" = Final Decision "PW" = Public Workshop "PH" = Public Hearing
 "PS" = Presubmission Meeting Required

25.2 COMMON APPLICATION & REVIEW PROCEDURES

25.2.1 Applicability

The following requirements are common to many of the application review procedures in this LDC. Additional or slightly varying application and/or review requirements and procedures may be specified elsewhere in this Article or LDC.

25.2.2 Application Requirements

A. Pre-Submission Meeting

Prior to formal submittal of an application, the applicant may request a pre-submission meeting with the Minor Project Review Committee together with other City staff.

1. The purpose of this meeting is to review the proposed project when it is still at a conceptual stage, to identify any potential concerns with project design, and to ensure that the applicant is aware of all information that must be submitted with the application.
2. This meeting does not require a formal application or fees.
3. Some applications require attendance at a pre-submission meeting prior to application submission. Such requirement shall be specified in this LDC.

B. Submittal Requirements

1. All applications pursuant to this LDC shall be submitted in accordance with the requirements of this Article, and the established submittal requirements of the appropriate review or decision-making authority.
2. Applications pursuant to this LDC shall be filed with the appropriate review or decision-making authority, or their designee, on forms provided by the Community Development Department, or the Public Works Department for street access or service connection permits.

3. Application submission deadlines shall not be waivable, unless otherwise specified in this LDC.

C. Application Fees

1. Upon submittal of an application, any applicable fees shall be paid in accordance with the LDC Fee Schedule in Appendix B of the City Code of Ordinances.
2. No refund of the fee, or any part of the fee, shall be made unless the application is withdrawn prior to noticing the application for a public hearing or decision, in which case, the applicant may be eligible for a refund of the notice fee.
3. Application fees shall not be waivable, unless otherwise specified in this LDC.

D. Exemptions from Submittal Requirements

1. An applicant may make a request to the appropriate review authority, or their designee, to exempt their application from specific submittal requirements, when such requirements are not applicable to the evaluation of the application and are not necessary for proper documentation of the project.
2. Exemption requests shall be made at the time of application submission and shall include a brief explanation as to why the information specified for exemption is not relevant to the appropriate review authority's evaluation of the application.
3. The appropriate review authority may grant an exemption of specific submittal requirements, if it finds that the information is not applicable to its determination of whether the applicant complies with this LDC.
4. In the event the appropriate review authority determines that the information specified for exemption is necessary for it to complete its review, then it shall notify the applicant as soon as possible and table the application to give the applicant time to provide the required information.

E. Completeness Review

- 1.** An application is not considered complete until all necessary forms, submittal requirements, and applicable fees are received by the appropriate review authority or its designee.
- 2.** If the appropriate review authority, or its designee, finds that the missing application materials or information are central to its review of the application, then the application shall not be accepted and shall be returned to the applicant along with any submitted application fees.
- 3.** If the appropriate review authority, or its designee, finds that the application is missing materials or information that are necessary for proper documentation, but are not central to the review of the application, it shall provide written notice of the application's nonconformance to the applicant, and shall permit the applicant to provide the required materials or information by a specified revision deadline. If the missing materials or information are not received by this revision deadline, the appropriate review authority, or its designee, shall have the authority to reject the application.
- 4.** At the discretion of the appropriate review authority or its designee, any substantive changes made by the applicant to the scope of the project or to materials included in a submitted application following the specified revision deadline may require resubmittal of the entire application and a new completeness review.
- 5.** Applicants wishing to appeal a determination of completeness may do so to the appropriate authority by submitting a letter indicating the request for appeal. The appeal request shall outline the basis for the incompleteness finding and shall provide specific explanation for why the applicant believes the application meets the submission requirements.

F. Withdrawal of Application

Unless otherwise specified in this LDC, an application may be withdrawn at any time prior to the final decision on the application. Requests for withdrawal shall be made in writing by the applicant to the appropriate review or decision-making authority.

- 1.** Applications to amend this LDC, including the Zoning Regulations or Zoning Map, may be withdrawn by the applicant in accordance with this Section.

G. Burden of Proof

It shall be the sole responsibility of the applicant to demonstrate that their application satisfies all applicable standards of review.

25.2.3 Staff Review

- A.** Prior to consideration of an application pursuant to this LDC by a city board or commission, City staff may prepare a staff report for the application, which contains a brief summary of the proposal and a summary analysis of how the proposal relates to the applicable standards in this LDC.
 - a.** Sample motions, including any suggested findings and/or conditions, may also be provided in this report.
 - b.** Such staff report shall be shared with the board or commission in advance of the meeting, and shall be made available to the public.
- B.** Some applications pursuant to this LDC may require review and comment from other City departments, prior to a public hearing or action on the application. Comments received from City staff in other departments following their review of an application shall be forwarded to the appropriate review or decision-making authority and shall be shared in writing with the applicant as soon as they are all received.

25.2.4 Public Notice

The general public notice requirements for applications and procedures subject to this LDC, including, but not limited to, notice of public body meetings and public hearings, are included in this Section. **Table 25-2** indicates the type of public notice required for applications that require public notice in accordance with state law or the City Code of Ordinances.

A. Mailed Notice

1. When a mailed notice is required, the applicant shall submit 2 sets of mailing labels for each abutter or person entitled to such notice, in accordance with state law or the City Code of Ordinances, and a mailing fee equal to the cost of the current United States Postal Service Certified Mail rate, at the time of application submission, unless otherwise specified in this LDC.
2. The appropriate review authority, or their designee, shall be responsible for issuing the mailed notice.
3. The mailed notice shall include, at a minimum, the date, time, place, and purpose of such public hearing; the names of the applicant and property owner; and the address of the subject property. Such information shall be current to within 10-days of application submittal.
4. The mailed notice shall be sent to the address used for mailing local property tax bills, which may be obtained from the City of Keene Assessing Department.
5. The required timeframe for issuing mailed notice is specified in **Table 25-2**. This timeframe shall not include the day such notice is postmarked or the day of the public hearing or public meeting at which the application is first considered.

B. Published Notice

1. When published notice is required, the appropriate review authority, or their designee, shall publish notice in a newspaper of general circulation within the City, and in at least 2 public places.
2. The required timeframe for issuing published notice is specified in **Table 25-2**. This timeframe shall not include the day notice is posted or the day of the public hearing or public meeting at which the application is first considered.
3. At the time of application submission, the applicant shall submit a fee to cover the cost of the published notice in accordance with the LDC Fee Schedule in Appendix B of City Code of Ordinances.
4. The published notice shall include, at a minimum, the date, time, place, and purpose of such public hearing; the names of the property owner and applicant; and the address of the subject property.

25.2.5 Site Visits

- #### A. Submittal of an application in accordance with this Article shall be deemed as granting permission to City staff, the appropriate review or decision-making authority, or their designees, to enter onto the subject property for purposes of review.
1. Permission to visit the property extends from the date an application is submitted until the project is formally denied or construction of an approved project is complete, a certificate of occupancy has been issued, or final security has been returned to the applicant, whichever occurs later.
 2. If an applicant wishes to place limitations upon access to the property subject to review, then the limitations shall be requested in writing at the time of application. Any such request shall include the reasons for the limitations, and the appropriate review authority shall use reasonable judgment in determining the

Table 25-2: Public Notice Requirements

Application Type	Notice Type			# Days ¹	
	Mailed	Published	On-Site		
	Amendments to this LDC	●	●	10	
Zoning	Amendments to Zoning Text or Zoning Map	●	●	10	
	Variance	●	●	5	
	Special Exception	●	●	5	
	Equitable Waiver	●	●	5	
	Expand or Enlarge Non-conforming Use	●	●	5	
Sub-division Review	Subdivision	●	●	10	
	Conservation Residential Development	●	●	10	
	Boundary Line Adjustment	●		10	
Site Plan Review	Minor Project	●	●	10	
	Major Project	●	●	10	
Conditional Use Permit	Hillsides Protection	●	●	●	10
	Surface Water Protection	●	●	●	10
	Tele-communications	●	●	●	10
	Congregate Living & Social Services	●	●	●	10
	Solar Energy System	●	●	●	10
Historic District	Major Project	●	●	○	5
Other	Earth Excavation Permit	●	●		10

○ = The requirements of on-site posting of notice for a public hearing for major project applications for a certificate of appropriateness shall be limited to proposals related to demolition of a structure in the Historic District.

¹The number of days before a public hearing or public body meeting that notice is to be issued, not including the day of posting/postmark or day of public hearing/meeting.

extent to which the request may be granted.

- B. City boards and commissions may elect to conduct a formal site visit of a project site prior to the meeting at which an application will be considered. The decision to schedule a formal site visit shall be at the discretion of the board or commission chairperson or vicechairperson.

25.2.6 Public Hearing Procedures

A. Applications Subject to Public Hearing

Table 25-1 summarizes which types of applications require a public hearing. If an application is not listed, this indicates that a public hearing is not required for that application.

B. Conduct of the Public Hearing

Public hearings shall be conducted in accordance with all applicable requirements of this LDC, the City Code of Ordinances, state law, and the rules of the board or commission conducting the public hearing. During the public hearing, the following may occur.

1. The presiding officer of the decision-making authority shall call the proceedings to order and announce that the public hearing has begun.
2. The applicant or their legal counsel or representatives shall present in support of the application, and answer questions from the decision-making authority.
3. City staff may present on the application, with respect to its conformance with the regulations in this LDC, and shall share comments from other City departments that reviewed the application. City staff may also answer questions from the decision-making authority.
4. The presiding officer shall open the public hearing for public testimony.
 - a. Each person who speaks at a public hearing shall state their name and address for the record.
 - b. Any abutter or other person with a direct interest in the application may testify at the public hearing or in

writing either before or at the public hearing. Other persons may testify at the discretion of the decision-making authority.

5. The applicant shall be given an opportunity to respond to any testimony raised by city staff or the public and to answer any questions raised by the decision-making authority.
6. The presiding officer shall close the public hearing following public testimony, and the decision-making authority shall openly deliberate on the application before reaching a decision.
7. The decision-making authority shall evaluate the application based upon the submitted application materials and any evidence presented at the public hearing, pursuant to any applicable approval standards or regulations in this LDC.
8. Once a public hearing is closed, no further public testimony shall be taken, unless the presiding officer chooses to reopen the public hearing for additional testimony or argument.

C. Decisions

When the decision-making authority has completed its deliberation it will either approve, approve with conditions, disapprove an application. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.

D. Continuations

The decision-making authority conducting the public hearing, upon a majority vote of its members, may continue a public hearing. No new notice (published, mailed or on-site) is required to reopen the public hearing, if the hearing is continued to a date specific, provided that a public announcement of the future date, time, and place of the continued hearing is made and recorded in the minutes.

25.2.7 Hiring of Consultants

- A. At any point prior to a decision on an application, the appropriate review or decision-making authority may determine that it needs additional information from the applicant to complete its review, including, but not limited to, special studies or technical analysis.
- B. The cost of any such information or consultants shall be at the applicant's expense, and failure to agree to pay for the cost of the information or consultant(s) shall be ground for denial of the application.
- C. The appropriate review or decision-making authority shall make every effort to be reasonable in its requests for information or consulting services, recognizing that such studies can add both time and cost to a project.
- D. City staff shall follow the City's purchasing procedures for hiring a consultant on behalf of the applicant.
- E. With respect to Planning Board applications, decisions regarding the need to hire consulting services and the scope of the consultant's work may be made by the Planning Board Steering Committee, prior to the Board's determination of completeness on an application.

25.2.8 Notice of Decision

A written notice of decision including the minutes of the public hearing at which a vote was taken to approve, conditionally approve, disapprove, or continue an application before the review or decision-making authority shall be placed on file at the Community Development Department, unless specified otherwise in this LDC, and shall be available for public inspection within 5 calendar days of such vote.

25.2.9 Conditional Approval

- A. For some conditions established as part of a conditional approval, a compliance hearing may be required.

1. The appropriate decision-making authority, or their designee, will inform the applicant at the time of the conditional approval if a compliance hearing will be required.
 2. The applicant shall pay for all abutter notification and public notice associated with a compliance hearing in accordance with the LDC Fee Schedule in Appendix B of the City Code of Ordinances.
- B.** Conditions for which approval may become final without further public hearing based upon evidence of satisfactory compliance include any of those listed below.
1. Conditions which are in themselves administrative or involve minor plan changes that do not require discretionary judgment on the part of the decision-making authority.
 2. Conditions with regard to the applicant's obtainment of permits or approvals granted by other boards, commissions or agencies.

25.2.10 Modifications to Approved Plans

Unless another method is expressly provided by this LDC, any request to amend or revise an approved application shall be considered a new application, which shall be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.

25.2.11 Expirations

In such event that an approval expires, including conditional approvals, the following shall occur.

- A.** All site work associated with the expired approval shall immediately be halted.
- B.** Prior to initiating additional site work associated with the expired approval, a new application shall be submitted and reviewed in accordance with this LDC.
- C.** Any uses of the property associated with the expired approval shall be prohibited.

25.4 LAND DEVELOPMENT CODE AMENDMENTS

25.4.1 Description

The standards and requirements set forth in the City of Keene Land Development Code (also referred to as "this LDC"), may be amended from time to time. The process for amending this LDC varies depending upon which article or articles are proposed to change. The process for amending the Zoning Regulations, which are contained in **Articles 2 through 18** of this LDC, shall be as described in **Section 25.3**.

25.4.2 Authority

The City Council, after receiving a recommendation from the Planning Licenses and Development Committee, from the Planning Board with respect to **Articles 19, 20 and Sections 25.10 through 25.14 of Article 25**, and from the Historic District Commission with respect to amendments to **Article 21 and Section 25.15 of Article 25**, shall take action on proposed amendments to this LDC.

25.4.3 Procedure

In addition to the common application and review procedures of this Article, the following procedures shall apply with respect to proposed amendments to this LDC.

- A. Articles 1 through 18, and Articles 22 through 28.** For amendments proposed to Articles 1 through 18 and Articles 22 through 28 of this LDC, the same application and review procedures shall be followed as those described in **Section 25.3** of this LDC, with respect to amendments to the Zoning Regulations and Zoning Map.
- B. Articles 19 and 20 - "Subdivision Regulations" and "Site Development Standards."** For amendments proposed to Articles 19 and 20 of this LDC, the following procedures shall apply.
 - 1. Planning Board Public Hearing.** In accordance with NH RSA 675:6, the Planning Board shall hold a public hearing on the proposed amendments, and shall

decide on whether they should be approved, approved with amendments, or denied. If the Planning Board denies the proposed amendments, the process shall come to an end.

- a.** Notice for this public hearing shall be provided pursuant to NH RSA 675:7.

2. Introduction to and Review by City

Council. Following either approval or approval with amendments by the Planning Board, the proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to approve or disapprove the ordinance.

3. Filing.

Following approval by City Council, the amended regulations shall be certified by a majority of the Planning Board, and shall be placed on file with the City Clerk in accordance with NH RSA 675:8. A copy of the amended regulations shall be sent to the NH Office of Strategic Initiatives (OSI) for filing pursuant to NH RSA 675:9; provided, however, that failure to file the amended regulations with OSI shall not affect their validity.

- C. Article 21 - Historic District Regulations.** For amendments proposed to Article 21 of this LDC, the following procedures shall apply.

1. Historic District Commission Public Hearing.

In accordance with NH RSA 675:6, the Historic District Commission shall hold a public hearing on the proposed amendments, and shall decide on whether they should be approved, approved with amendments, or denied. If the Historic District Commission denies the proposed amendments, the process shall come to an end.

- a.** Notice for this public hearing shall be provided pursuant to NH RSA 675:7.

- 2. Introduction to and Review by City Council.** Following either approval or approval with amendments by the Historic District Commission, the proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to approve or disapprove the ordinance.
- 3. Filing.** Following approval by City Council, the amended regulations shall be certified by a majority of the Historic District Commission, and shall be placed on file with the City Clerk in accordance with NH RSA 675:8. A copy of the amended regulations shall be sent to the NH Office of Strategic Initiatives (OSI) for filing pursuant to NH RSA 675:9; provided, however, that failure to file the amended regulations with OSI shall not affect their validity.

25.10 SUBDIVISION REVIEW

25.10.1 Description

Subdivision review allows for the orderly division or consolidation of lots, as well as the alteration or adjustment of lot boundary lines.

25.10.2 Initiation

The applicant for subdivision review shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.10.3 Authority

- A. The Planning Board shall have the authority to hear and decide on applications for subdivision review including boundary line adjustments and conservation residential development subdivisions.
- B. For voluntary merger applications, the Planning Board designates the Zoning Administrator as their designee to review and decide on such applications, and in their absence, the Community Development Director.

25.10.4 Applicability

Subdivision review shall be required for the following types of subdivisions.

- A. **Subdivision.** Any division of a lot, tract or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease or building development.
- B. **Conservation Residential Development Subdivision.** Applications for subdivision review consisting of 3 or more proposed lots and the layout and construction of a new road, where the existing parcel to be subdivided is located in either the Rural, Low Density, or Low Density-1 zoning districts, and meets the minimum lot size requirements specified in **Article 19**, shall follow the conservation residential development subdivision process set forth in **Section 19.3** of this LDC.

- C. **Boundary Line Adjustment.** The adjustment of boundary lines between 1 or more contiguous, preexisting approved or subdivided lots.
- D. **Voluntary Mergers.** The merger of 2 or more contiguous pre-existing approved or subdivided lots owned by the same property owner.

25.10.5 Submittal Requirements

An applicant for subdivision review shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the Planning Board to evaluate the proposal for compliance with this LDC. Submittal requirements for the different types of subdivision review are included below.

A. Voluntary Merger Applications

A completed voluntary merger application shall include the following.

1. A completed and notarized voluntary merger form.
2. A map, drawn to scale, displaying the layout and boundaries of the lots proposed to be merged.
3. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

B. Subdivision & Boundary Line Adjustment Applications

A completed application for subdivisions and boundary line adjustments shall include the following.

1. A written narrative describing the type, scope and scale of the proposal including the following information.
 - a. The sizes of the existing and proposed lot.
 - b. Existing and proposed uses.
 - c. The location of access points for the existing and proposed lots.

- d. An explanation of how the proposal complies with the applicable standards in this LDC.
2. A complete plan set prepared and certified by a NH licensed surveyor (7-copies on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file), which shall include the following materials.
 - a. A location map of the proposed subdivision or boundary line adjustment.
 - b. An existing conditions plan (at a scale of 1-in = 100-ft or a larger scale) showing all parcels affected by the proposal, and depicting the following information.
 - i. Contours of at most 5-ft intervals
 - ii. Owner names and tax map parcel numbers for all abutters.
 - iii. Boundaries and acreage of the existing lot(s) subject to review.
 - iv. Surface waters, including wetland areas delineated by a NH certified wetland scientist, and any manmade waterways, ponds, ditches, etc.
 - v. Precautionary and prohibitive slopes.
 - vi. Delineation of 100-year floodplain and floodways as shown on current FIRM maps.
 - vii. Location of any public streets, rights-of-way, and easements.
 - viii. Location of existing structures, wooded and vegetated areas, site features (e.g. fences, walls, ground-mounted equipment, utilities, stormwater facilities, wells, septic systems, stone walls, etc.), driveways, and parking areas on the subject property, and to the extent practicable on directly abutting properties.
- c. A proposed conditions plan (at a scale of 1-in = 100-ft or at a larger scale) showing all parcels affected by the proposal, and depicting the following information.
 - i. Owner names and tax map parcel numbers for all direct abutters.
 - ii. Boundaries and acreage of the proposed lots subject to review.
 - iii. Location of any existing structures or site features, driveways, parking areas, public streets, rights-of-way, easements, surface waters (including wetland areas delineated by a NH certified wetland scientist), precautionary and prohibitive slopes, 100-year floodplain and floodways delineation, and wooded and vegetated areas that are displayed on the existing conditions plan, and are proposed to remain.
 - iv. The location of proposed structures and site features, lot lines, public streets, rights-of-way, easements, driveways and parking areas.
3. Any additional information the Planning Board, or its designee, may reasonably deem necessary to determine compliance with the applicable regulations of this LDC.
 4. Any technical reports prepared by a NH licensed engineer or qualified professional, which may be required or reasonably requested by the Planning Board, or its designee, based on the nature and scope of the proposal. Such reports may include, but are not limited to drainage, traffic, and/or soils analyses.
 5. A notarized list of abutters, which shall include all owners of property that directly abuts and/or is across the street or stream from the subject parcel and all owners of property located within 200-ft of the subject property. This notarized list shall include the name and mailing address of

the property owner, the property street address, and the tax map parcel number for each affected property.

6. 2 sets of mailing labels for each abutter, including the owner of the subject property and their authorized agent.
7. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

C. Conservation Residential Development Subdivision Applications

In addition to the submittal requirements for a subdivision or boundary line adjustment in **Section 25.10.5.B**, a completed application for a proposed conservation residential development subdivision shall include the following.

1. An overview plan (1-copy on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file), which displays the entire tract and any existing public roads, public or private protected lands, woodlands areas, surface waters, and precautionary or prohibitive slopes located within 200-ft of the tract.
2. An existing conditions plan displaying the location of primary and secondary conservation values as defined in **Section 19.3 of this LDC**.
3. A yield analysis (1-copy on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file) to determine the number of residential units that may be permitted within a conservation residential development subdivision. Although this plan shall be drawn to scale, it need not be based upon a field survey. The yield analysis may be prepared as an overlay to the existing conditions plan.
 - a. The yield analysis shall be performed by applying a conventional subdivision layout, including lots conforming to the dimensional standards of the underlying zoning district and

streets needed to access such lots.

The conventional layout shall reflect a development density and pattern, taking into account surface waters, floodplains, steep slopes, existing easements or encumbrances, and the suitability of soils for private subsurface wastewater disposal if City sewer service is not available.

4. A proposed conditions plan including the following.
 - a. The area(s) designated as Open Space, any common land and any specifically protected conservation values.
 - b. Any proposed uses of the Open Space (e.g. agriculture, recreation, forestry, etc.) and/or common lands shall be noted on the plan.
 - c. The location and dimensions of any proposed roads, sidewalks, and trails.
5. A landscaping plan (1-copy on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file) providing the following information:
 - a. The location and outline of existing wooded and vegetated areas and proposed changes to the outline of these areas.
 - b. The location, species and size of all landscaping materials proposed to be installed on the site, including street trees.
 - c. A table listing all plant species to be installed on the site, indicating the size (average height and width) at planting and at maturity as well as the number of each species to be installed.
6. Written documentation of the process applied by the applicant in the layout of the proposed conservation residential development subdivision to ensure that proposed or future development does not adversely impact primary and secondary conservation areas as defined in **Section**

19.3 of this LDC.

25.10.6 Submittal Requirement Exemptions

- A.** An applicant may make a request to the Community Development Director, or their designee, to exempt their application from specific submittal requirements.
- B.** Any exemption granted by the Community Development Director, or their designee, shall be evaluated and approved by the Planning Board during its review of application completeness. If the Board determines the exempted material is necessary to complete its review of the application, they may deny the exemption request and determine the application to be incomplete.
- C.** If a requested exemption is not granted by the Community Development Director, or their designee, the applicant may appeal the decision to the Planning Board prior to the Board's determination of application completeness.

25.10.7 Application Submittal Deadline

A completed application shall be submitted to the Community Development Director, or their designee, no later than 26-business days prior to the Planning Board meeting date at which the applicant desires the application to be reviewed.

25.10.8 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for subdivision review.

A. Voluntary Merger Procedure

- 1.** Except where such merger would create a violation of then-current ordinances or regulations, all voluntary merger applications shall be approved administratively, and no public hearing shall be required.
- 2.** No new survey plat need be recorded, but a notice of the merger, sufficient to identify the relevant parcels and endorsed in writing by

the Planning Board, or its designee, shall be filed for recording in the County Registry of Deeds, and a copy sent to the City of Keene Assessing Department.

- 3.** No such merged parcel shall thereafter be separately transferred without subdivision approval.

B. Boundary Line Adjustment Procedure

- 1.** All boundary line adjustment applications shall be reviewed by the Planning Board without a public hearing. However, mailed notice to abutters is required.
- 2.** An updated survey showing the boundary line adjustment, and all metes and bounds of the revised parcels shall be prepared by the applicant following approval from the Planning Board, and shall be filed with the Community Development Department for recording in the County Registry of Deeds.

C. Subdivision & Conservation Residential Development Subdivision Procedure

- 1. Presubmission Meeting.** Applicants for subdivision review that propose the creation of 3 or more lots shall attend a pre-submission meeting at least 2-weeks prior to the Planning Board submittal deadline.
- 2. Staff Determination of Application Completeness.** Within 2-business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.
 - a.** If the missing application materials or information are necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 14-calendar days prior to the corresponding regularly scheduled Planning Board meeting date.

3. **Departmental Review.** Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the City's Engineering Division, Fire Department, Police Department, Zoning Administrator, and Building and Health Official for technical review.
 - a. City staff will be requested to return comments on the application to the Community Development Department within 5-business days of the distribution date.
 - b. The Community Development Director, or their designee, shall communicate departmental comments to the applicant, as soon as they are all received.
4. **Revision Deadline.** Any plan revisions or additional information requested of the applicant by City staff following departmental review of the application shall be delivered to the Community Development Department no later than the revision deadline of 14-calendar days prior to the corresponding regularly scheduled Planning Board meeting date. The revision deadline shall not be waivable.
5. **Site Visits.** At the discretion of the Community Development Director or Planning Board Chair, a formal Planning Board site visit to the subject property may be scheduled prior to the Planning Board public hearing on the application.
6. **Compliance with Zoning.**
 - a. Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
 - b. Applications shall be in compliance with the Zoning Regulations prior to the issuance of public notice for the public hearing.
7. **Notice of Public Hearing.** The Community Development Director, or their designee, shall forward applications for subdivision review to the Planning Board for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 675:7(l).
8. **Board Determination of Application Completeness.** The Planning Board shall vote to determine whether the application is complete prior to opening the public hearing.
 - a. The Planning Board shall consider advice from the Community Development Director, or their designee, in reaching a determination of application completeness.
 - b. If the Planning Board determines that an application is incomplete, the Board will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Board.
9. **Public Hearing.** Upon reaching a finding that an application is complete, the Planning Board may open the public hearing for the application.
10. **Decision.** The Planning Board shall finish its review of an application within 65 calendar days of the meeting at which the Board accepted the application as being complete. If the Board feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review under NH RSA 676:4 can be extended by mutual agreement of the Board and the applicant, so long as the applicant requests the extension in writing.

25.10.9 Filing

- A. Building permits shall not be issued until approved subdivision plans have been signed by the Planning Board Chair or Vice Chair. Said signature shall signify that the plan has been duly approved by the Board and that all

conditions precedent to plan signature have been met as specified in the approval.

- B.** Prior to Planning Board Chair or Vice Chair signature of a plan approved by the Board, the applicant shall:
 - 1.** Demonstrate to the satisfaction of the Community Development Director, or their designee, that all conditions of approval have been met as specified by the Board; and,
 - 2.** Provide complete copies of the approved plan set in a number and form as specified by the Community Development Department, including 2-copies of the approved subdivision plan, printed on mylar in a format pursuant to NH RSA 478:1-a and displaying the owners signature(s).
- C.** For approved conservation residential development subdivision applications, applicants shall also submit written documentation of any legal instruments required for the management of the designated Open Space land to the Community Development Department. Such documents are subject to the review and approval of the City Attorney prior to signature.
- D.** Unless otherwise specified in **Section 25.10**, the Community Development Department shall record the approved subdivision plan with the County Registry of Deeds.

25.10.10 Approval Standards

Subdivision review by the Planning Board, or its designee, shall include an analysis of land characteristics and access potential to determine if each proposed new lot or each lot affected is of such character that it can be accessed and used for building in a manner that avoids or mitigates the potential for adverse impacts to health, safety, and welfare of the community and the environment. The criteria for Board determination are established in **Article 19** - "Subdivision Regulations" and **Article 20** - "Site Development Standards."

25.10.11 Expirations

- A.** Any failure to meet the deadlines in this Section shall result in automatic expiration of Planning Board approval. This Section shall not be waivable.
- B. Conditional Approvals.** If an application is conditionally approved, the applicant has 180 calendar days (starting the day following the Board's decision) to meet any conditions that shall be met prior to signature of the Planning Board Chair on the plan.
 - 1.** All conditions that must be met after the plan is signed shall be satisfied within 2-years (starting the day following the Board's decision).
 - 2.** The applicant may request a reasonable extension of the time limit for satisfying the conditions prior to the Planning Board granting a conditional approval.
- C. Active & Substantial Development.** Active and substantial development of an approved project shall be completed within 2-years, starting the day following the Board's decision to approve or conditionally approve the application. Plans approved in phases shall be subject to a determination of active and substantial development for the current phase. For purposes of this Section, active and substantial development shall include all of the following.
 - 1.** Construction of and/or installation of basic infrastructure to support the development in accordance with the approved plan, including at least 1 building foundation wall/ footing, roadways, access ways, etc., to a minimum of gravel base and utilities placed in underground conduit ready for connection to proposed buildings/structures.
 - 2.** Construction and completion of drainage improvements to service the development in accordance with the approved plans.
 - 3.** All erosion control measures (as specified on the approved plans) shall be in place and maintained on the site.

4. Movement of earth, excavation, or logging of a site without completion of items 1-3 above, shall not be considered active and substantial development.

25.10.12 Extensions

- A. Prior to the expiration of an approval, an applicant may request an extension of the timeframe for meeting conditions or achieving active and substantial development from the Planning Board.
 1. No modifications to the approved or conditionally approved plan shall be considered in conjunction with the request to extend the deadline.
 2. Extension requests shall be submitted in writing to the Community Development Director, or their designee, at least 10-business days prior to the Planning Board Meeting at which the request will be considered.
- B. The maximum time length for each approved extension is 6-months for meeting conditions of approval and 1-year for achieving active and substantial development. An extension of the conditional approval deadline by 6-months will automatically extend the deadline for active and substantial development by 1-year.
- C. Under no circumstances shall an applicant be granted more than 3-extensions total for their application.
 1. **First Extension.** The Planning Board shall grant a first extension of the approval, if the applicant demonstrates the necessity of the extension and provides an update to the Board about the nature of the project and its status.
 2. **Second Extension.** Prior to expiration of the first extension, the Planning Board may grant the application a second extension, if said applicant demonstrates the necessity of the second extension and summarizes what changes, if any, have since occurred to applicable state law or City regulations.

- a. The Planning Board shall consider whether any changes identified by the applicant would have influenced the Board's initial decision with respect to the project. If the Planning Board finds that substantive changes to applicable state law or City regulations have been adopted that would have resulted in either modification of the project, the imposition of additional or different conditions in the approval, or disapproval of the project, then the extension request shall not be granted.

3. **Third Extension.** Prior to expiration of the second extension period, an applicant may request a third extension.

- a. Such extension shall only be granted by the Planning Board where an applicant can demonstrate that there are extraordinary circumstances that warrant a third extension of the deadline. Extraordinary circumstances may include, but not be limited to, litigation that is entered into after the conditional approval is granted and which prevents the applicant from completing conditions required for signature or from completing active and substantial development.
- b. If the extension request is denied by the Planning Board, prior to expiration of the approval, the applicant may submit an application for modification of the conditional approval to address concerns leading to the Board's denial of the extension.

25.10.13 Security

- A. The Planning Board shall have the authority to require applicants post a security deposit for the following.
 1. Public improvements, including but not limited to roads, sidewalks, parks, and utilities, and for performance of site improvements as specified by the Board at the time of approval.

2. All landscaping installed on a site to ensure its survival for 1 full growing season after installation (a minimum of 1-year).
3. Erosion and sedimentation control to assure that erosion control provisions are working, and required technical inspections take place.
4. "As Built" plans certified by a NH licensed surveyor or engineer that include the exact location, size, and materials of sewer, water, gas, drainage and any underground utilities (e.g. phone, electric, cable) as well as catch basins, hydrants, compensatory wetlands or flood storage areas, sidewalks, drainage basins, edge of pavement, edge of buildings, and other improvements as may be indicated by the Community Development Director or their designee.
 - a. After a project is completed and prior to release of any security, applicants shall digitally provide the complete set of "As-Built" plans in .dwg, .dxf, .shp or geodatabase format.
 - b. All digital plans shall be named using the following convention: "[Insert Project Name]_As-Built".
 - c. All data should be provided in the NAD 1983 StatePlane New Hampshire FIPS 2800 (US Feet) coordinate system.
 - d. All CAD data should contain all assignment files to be plotted and projected appropriately.
 - e. Any missing or un-openable files will result in rejection of the submission.
5. Other elements of the project to ensure that they function concurrent with and subsequent to construction.

- B. The security shall be in a form acceptable to the Community Development Director, or their designee, and shall be either a certified check made out to the City of Keene or a letter of credit.

1. Performance Bonds shall not be an acceptable form of security.
2. The Planning Board may require a written security agreement that specifies when various improvements will be completed. Such agreement may be required to link the completion of phases of improvement with the issuance of building permits or certificates of occupancy.

25.10.14 Waivers

- A. Unless otherwise set forth in this LDC, the Planning Board may grant a waiver from strict compliance with provisions of the Subdivision Regulations in **Article 19**, applicable Site Development Standards in **Article 20**, or subdivision review standards in **Section 25.10** on a case-by-case basis, so long as the Board finds, by majority vote, that:
 1. 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; and,
 2. Granting the waiver will not increase the potential for creating adverse impacts to abutters, the community or the environment; and,
 3. Consideration will also be given as to whether strict conformity with the regulations would pose an unnecessary hardship to the applicant.
- B. The Planning Board may grant a waiver from the requirement that a subdivision be a conservation residential development subdivision, upon reaching a finding that:
 1. That conservation values on a property would be better protected by a conventional subdivision design.

- 2.** That a conservation residential development subdivision would significantly detract from the character of the surrounding neighborhood.
 - 3.** That a conventional subdivision design provides the only reasonable alternative to developing the parcel to be subdivided given the parcel configuration and site constraints.
- C.** In granting a waiver, the Planning Board may require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.
- D.** Any waiver request shall be in writing and shall cite the specific regulation or standard the waiver is requested from and the reason(s) it cannot be met.
- E.** Waiver requests shall be submitted following the same process and timeframe as is required for formal applications to the Planning Board.

25.11 PLANNING BOARD ADVICE & COMMENT

25.11.1 Description

Advice and comment is an opportunity for prospective applicants to seek preliminary advice from the Planning Board on project proposals in regards to their consistency with City policies, goals, standards and regulations. The primary purposes of this non-binding discussion are to:

- A. Inform the Planning Board about the concept for the proposed development and familiarize the Board with the location and general character of the land and its surroundings;
- B. Discuss the proposed project in light of the City's Comprehensive Master Plan, goals and policies; and,
- C. For the Board to provide the prospective applicant with guidance about the application and procedural requirements set forth in this LDC.

25.11.2 Submittal Requirements

- A. Information for the Planning Board to consider shall be submitted by the applicant to the Community Development Department no later than 10 business days prior to the regularly scheduled Planning Board meeting date at which the applicants desires to be on the agenda.
- B. Proposed plans or information may be submitted to the Planning Board for consideration, but specific design and engineering details shall not be discussed.
- C. Applicants submitting plans for Planning Board consideration should submit 3-copies on 22-in by 34-in sized paper and 1-copy on 11-in by 17-in sized paper.

25.11.3 Procedure

- A. Advice and comment is a preliminary and informal review and shall not require published or mailed notice or a public hearing.
- B. City staff are not required to conduct an analysis of the information submitted by the applicant.
- C. Anything said on the proposal by the applicant, Planning Board or City staff will not affect any subsequent review of the proposed development or redevelopment.

25.12 SITE PLAN REVIEW

25.12.1 Description

Site plan review establishes a process for reviewing proposed improvements to commercial and multi-family structures to assure that such development, redevelopment, or use of land in the City occurs in a manner that is harmonious with surrounding properties, is consistent with the City's Comprehensive Master Plan and adopted land use policies.

25.12.2 Initiation

The applicant for site plan review shall either own the fee simple interest in the property(s) that are the subject of the review or have written permission of the fee simple owner.

25.12.3 Applicability

A. Site Plan Review Thresholds. Site plan review is required for the following types of improvements described in **Sections 25.12.3.A.1** (Major Site Plan) and **25.12.3.A.2** (Minor Site Plan). It shall not be required for single-family and two-family dwellings or their associated accessory uses, provided such dwellings are not attached to a mixed-use building or located on a mixed-use lot containing non-residential uses.

- 1. Major Site Plan.** Major site plan review is required for any proposal that meets or exceeds the below thresholds.
 - a.** New principal buildings or structures greater than 5,000 sf in gfa.
 - b.** Additions to existing buildings or structures that are greater than 15% of the gfa of the existing principal building.
 - c.** Change or increase of vehicle trips per day of 100, or per peak hour of 50.
 - d.** Installation of impervious surfaces (e.g. pavement or gravel) that exceeds 10,000 sf in contiguous area.
 - e.** Land disturbance that impacts 1-acre or greater of land area.

- f.** Modifications to the site or building (e.g. lighting, landscaping, façade alteration, etc.), which, at the discretion of the Community Development Director, or their designee, warrants major site plan review.
- g.** Change of use, which at the discretion of the Community Development Director, or their designee, warrants major site plan review. Such determination shall be based on an evaluation of the impacts of the proposed use on both the subject parcel and the surrounding neighborhood.

2. Minor Site Plan. Minor site plan review is required for any proposal that meets the below thresholds.

- a.** New principal buildings or structures that are between 1,000 and 5,000 sf in gfa.
- b.** Additions to existing buildings or structures that are between 10% and 15% of the gfa of the existing principal building.
- c.** Installation of impervious surfaces (e.g. pavement or gravel) that are 10,000 sf or less in contiguous area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants minor site plan review.
- d.** Land disturbance that impacts less than 1-acre of land area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants minor site plan review.
- e.** Modifications to the site or building (e.g. lighting, landscaping, façade alteration, etc.), which, at the discretion of the Community Development Director, or their designee, warrants minor site plan review.

review.

- f. Change of use, which at the discretion of the Community Development Director, or their designee, warrants minor site plan review. Such determination shall be based on an evaluation of the impacts of the proposed use on both the subject parcel and the surrounding neighborhood.

B. Administrative Planning Review. Proposed development or redevelopment, including change of use, associated with uses other than single-family and two-family dwellings that does not meet the thresholds for major or minor site plan review shall be reviewed by the Community Development Director, or their designee, to verify compliance with the Site Development Standards in **Article 20** of this LDC prior to the issuance of a building permit. The application and review procedures associated with Administrative Planning Review are described in **Section 25.13**.

C. Unless otherwise noted in this Section, the Community Development Director, or their designee, has the authority to determine, on a case-by-case basis, based on the nature of the proposal, whether the proposed work requires review by the Planning Board, Minor Project Review Committee, or City staff, or whether any review is necessary.

25.12.4 Authority

A. Major Site Plan Review. The Planning Board shall have the authority to hear and decide on applications for: major site plans; requests for waivers from the Site Development Standards in **Article 20** and from the standards related to site plan review in **Section 25.12**; and minor site plans at the request of the applicant or where a conditional use permit or waiver is required.

B. Minor Site Plan Review. The Minor Project Review Committee shall have the authority to hear and decide on applications for minor site plans.

1. The Community Development Director has the authority to schedule a minor site plan application to be heard by either the Planning Board or the Minor Project Review Committee.
2. An applicant can request to have a minor site plan heard by the Minor Project Review Committee or the Planning Board.
3. The Minor Project Review Committee cannot act on a minor site plan application where either, a conditional use permit or a waiver from the Site Development Standards in **Article 20** or the site plan review standards in **Section 25.12** is required.

25.12.5 Submittal Requirements

An applicant for site plan review shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the respective decision-making authority to evaluate the proposal for compliance with this LDC. Submittal requirements for major and minor site plan review are included below. A completed application for major and minor site plan review shall include the following information.

- A.** A written narrative describing the type, scope and scale of the proposal including the following information.
 1. Existing and proposed uses
 2. An explanation of how the proposal complies with the Site Development Standards in **Article 20**.
- B.** A complete plan set certified by a NH licensed engineer or architect (7-copies on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file), which shall include the following materials.
 1. A location map of the proposed improvements.
 2. An existing conditions plan (at a scale of 1-in = 100-ft or a larger scale) showing all parcels affected by the proposal, and depicting the following information.

- a.** Contours of at most 5-ft intervals.
 - b.** Owner names and tax map parcel numbers for all direct abutters.
 - c.** Boundaries and acreage of the existing lot(s) subject to review.
 - d.** Surface waters, including wetland areas delineated by a NH certified wetland scientist, and any manmade waterways, ponds, ditches, etc.
 - e.** Precautionary and prohibitive slopes.
 - f.** Delineation of 100-year floodplain and floodways as shown on current FIRM maps.
 - g.** Location of any public streets, rights-of-way, and easements.
 - h.** Location of existing structures, wooded and vegetated areas, site features (e.g. fences, walls, ground-mounted equipment, utilities, stormwater facilities, wells, septic systems, stonewalls, etc.), driveways, and parking areas on the subject property, and to the extent practicable on directly abutting properties.
- 3.** A proposed conditions plan (at a scale of 1-in = 100-ft or at a larger scale) showing all parcels affected by the proposal, and depicting the following information.
- a.** Contours of at most 5-ft intervals.
 - b.** Owner names and tax map parcel numbers for all direct abutters.
 - c.** Boundaries and acreage of the lot(s) subject to review.
 - d.** Location of any existing structures or site features, public streets, rights-of-way, easements, driveways, parking areas, surface waters (including wetland areas delineated by a NH certified wetland scientist), precautionary and prohibitive slopes, 100-year floodplain and floodways delineation, and wooded and vegetated areas that are displayed on the existing conditions plan, which will not be altered or relocated.
 - e.** Location of proposed structures and site features, public streets, rights-of-way, and easements.
 - f.** Locations and design details for proposed provisions for vehicular and pedestrian traffic (e.g. parking areas, access driveways, and sidewalks, etc.).
- 4.** A grading plan (drawn at a scale of 1-in = 50-ft or at a larger scale) showing proposed erosion and sedimentation control and stormwater management facilities that will be constructed or utilized to control stormwater volume, velocity and water quality. This plan shall include the following.
- a.** Contours of at most 2-ft.
 - b.** All finish slopes that will exceed 25%.
 - c.** Surface waters (including wetland areas delineated by a NH certified wetland scientist), precautionary and prohibitive slopes, 100-year floodplain and floodways delineation, and wooded and vegetated areas.
 - d.** Location of existing and proposed structures, roads, rights-of-way, driveways, impervious surfaces, and easements (including utility or drainage).
 - e.** The location and dimensional information, as appropriate, of existing and proposed utilities (e.g. water lines, sewer lines, storm drain lines and catch basins, gas lines, gas storage tanks, fire hydrants, irrigation lines, grease traps, pump stations, ground water monitoring wells, ground water source wells, septic systems, electric lines, transformers, etc.).
 - f.** Location and design details for all proposed erosion and sedimentation

- control, and stormwater management structures, devices, and processes (e.g. catch basins and storm water lines, stormwater detention or retention ponds or devices, sediment settlement area, silt fences and other erosion control devices, flow dissipation measures, soil stabilization measures, etc.) and any other measures proposed to minimize erosion and sedimentation, and promote soil stabilization.
- g.** A note describing the procedures and timing for inspecting, maintaining, and repairing erosion and sedimentation control, and stormwater management structures, devices and processes.
 - h.** A note indicating the requirement for documenting all inspection and maintenance activities, all adverse impacts identified during inspections, and actions taken to remediate the adverse impacts.
- 5.** A landscaping plan (drawn at a scale of 1-in = 50-ft or at a larger scale) providing the following information.
- a.** The location, species and size of all landscaping materials proposed to be installed on the site.
 - b.** Plants shall be drawn to scale and shall show the drip line diameter of each plant at the time of planting and a second circle displaying the average drip line diameter at maturity.
 - c.** A table listing all plant species to be installed on the site, indicating the size (average height and width) at planting and maturity as well as the number of each species to be installed.
 - d.** A table indicating the number of trees and shrubs required and proposed to meeting landscaping or screening requirements of this LDC.
 - e.** Design details following best management practices for installing landscaping materials.
- 6.** A lighting plan providing the following information.
- a.** The location of existing and proposed structures, roads, rights-of-way, driveways, easements, lot lines, walkways, and sidewalks on the subject property and, to the extent practicable, on abutting properties.
 - b.** Location and outline of wooded and vegetated areas.
 - c.** Location of all existing and proposed exterior lighting fixtures with a notation differentiating the types of fixtures.
 - d.** Manufacturer's specifications (i.e. cut-sheets) for all proposed light fixtures, indicating the type of fixture and bulb, wattage of bulb, and height of fixture head.
 - e.** Photometric plan showing light intensity in foot candles across the site and immediately (minimum of 20-ft) beyond the perimeter of the site.
 - f.** An analysis of the minimum, maximum and average light intensity in foot candles for the site.
 - g.** A separate analysis for full lighting and security lighting shall be provided when security lighting is proposed by the applicant or required by the Planning Board.
- C.** Any technical reports prepared by a NH licensed engineer or qualified professional, which may be required or reasonably requested by the respective decision-making authority, based on the nature and scope of the proposal. Such reports may include, but are not limited to drainage, traffic, and/or soils analyses. They may also include historic evaluation, screening analysis, or architectural and visual appearance analysis.

- D. Elevations (3 color copies on 22" x 34" sized paper and 1-color copy on 11"x17" paper and an electronic pdf file) showing the visual appearance and architectural details of all proposed structures, with proposed façade height and length dimensions, construction materials, finishes, and colors clearly labeled. Landscaping should not be included on elevations.
- E. Additional color representations, simulations, or renderings of a proposed development may be required by the respective decision-making authority, during the review process.
- F. Any additional information the respective decision-making authority may reasonably deem necessary to determine compliance with the applicable regulations of this LDC.
- G. A notarized list of abutters, which shall include all owners of property that directly abuts and/ or is across the street or stream from the subject parcel and all owners of property located within 200-ft of the subject property. This notarized list shall include the name and mailing address of the property owner, the property street address, and the tax map parcel number for each affected property.
- H. 2 sets of mailing labels for each abutter, including the owner of the subject property and their authorized agent.
- I. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

25.12.6 Submittal Requirement Exemptions

- A. An applicant may make a request to the Community Development Director, or their designee, to exempt their application from specific submittal requirements.
- B. Any exemption granted by the Community Development Director, or their designee, shall be evaluated and approved by the respective decision-making authority during its review of application completeness. If the Planning Board

or Minor Project Review Committee determines the exempted material is necessary to complete its review of the application, they may deny the exemption request and determine the application to be incomplete.

- C. If a requested exemption is not granted by the Community Development Director, or their designee, the applicant may appeal the decision to the Planning Board, in the case of major site plan applications, or the Minor Project Review Committee, in the case of minor site plan applications, prior to the respective decision-making authority's determination of application completeness.

25.12.7 Application Submittal Deadline

A. Major Site Plan Application

A completed major site plan application shall be submitted to the Community Development Director, or their designee, no later than 26 business days prior to the Planning Board meeting date at which the applicant desires the application to be reviewed.

B. Minor Site Plan Application

A completed minor site plan application shall be submitted to the Community Development Director, or their designee, no later than 9 business days prior to the Minor Project Review Committee meeting date at which the applicant desires the application to be reviewed.

25.12.8 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for site plan review.

A. Minor Site Plan Procedure

1. Confirmation of Project Classification.

Upon receipt of a minor site plan application, the Community Development Director, or their designee, shall verify whether the request qualifies for classification as a minor site plan project in accordance with this LDC.

2. Staff Determination of Application

Completeness. Within 2 business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.

3. Minor Project Review Committee Review.

Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the Minor Project Review Committee for initial review at least 5 business days prior to the corresponding Minor Project Review Committee meeting date at which the public hearing on the application will be opened.

4. Site Visits. At the discretion of the Community Development Director, a formal site visit to the subject property may be scheduled prior to the Minor Project Review Committee public hearing on the application.

5. Compliance with Zoning.

- a. Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
- b. Applications shall be in compliance with the Zoning Regulations prior to the issuance of public notice for the public hearing.

6. Notice of Public Hearing. The Community Development Director, or their designee, shall forward applications for minor site plan review to the Minor Project Review Committee for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 675:7(l).

7. Committee Determination of Application Completeness. The Minor Project Review Committee shall vote to determine whether the application is complete prior to opening

the public hearing.

- a. If the Minor Project Review Committee determines that an application is incomplete, the Committee will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next meeting of the Committee.

8. Public Hearing. Upon reaching a finding that an application is complete, the Minor Project Review Committee may open the public hearing for the application.

9. Decision. The Minor Project Review Committee shall finish its review of an application within 60-days of the meeting at which the Committee accepted the application as being complete.

- a. If the Committee feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review under NH RSA 676:4 can be extended by mutual agreement of the Committee and the applicant, so long as the applicant submits a request for the extension in writing.

10. Appeal. Within 20 calendar days of the written decision issued by the Community Development Director, or their designee, the applicant may request to have the application placed on the agenda for the next regularly scheduled Planning Board meeting, following the submission requirements and procedures for major plan review.

B. Major Site Plan Procedure

1. Presubmission Meeting. Applicants for major site plan review shall attend a pre-submission meeting at least 2-weeks prior to the Planning Board submittal deadline.

2. Staff Determination of Application Completeness. Within 2 business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial

review of the application to evaluate whether the submittal requirements have been met.

- a. If the missing application materials or information is necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 14 calendar days prior to the corresponding regularly scheduled Planning Board meeting date.
- 3. Departmental Review.** Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the City's Engineering Division, Fire Department, Police Department, Zoning Administrator, and Building and Health Official for technical review.
 - a. City staff will be requested to return comments on the application to the Community Development Department within 5 business days of the distribution date.
 - b. The Community Development Director, or their designee, shall communicate departmental comments to the applicant, as soon as they are all received.
- 4. Revision Deadline.** Any plan revisions or additional information requested of the applicant by City staff following departmental review of the application shall be delivered to the Community Development Department no later than the revision deadline of 14 calendar days prior to the corresponding regularly scheduled Planning Board meeting date. The revision deadline shall not be waivable.
- 5. Site Visits.** At the discretion of the Community Development Director or Planning Board Chair, a formal Planning Board site visit to the subject property may

be scheduled prior to the Planning Board public hearing on the application.

- 6. Compliance with Zoning.**
 - a. Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
 - b. Applications shall be in compliance with the Zoning Regulations prior to the issuance of public notice for the public hearing.
- 7. Notice of Public Hearing.** The Community Development Director, or their designee, shall forward applications for major site plan review to the Planning Board for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 675:7(I).
- 8. Board Determination of Application Completeness.** The Planning Board shall vote to determine whether the application is complete prior to opening the public hearing.
 - a. The Planning Board shall consider advice from the Community Development Director, or their designee, in reaching a determination of application completeness.
 - b. If the Planning Board determines that an application is incomplete, the Board will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Board.
- 9. Public Hearing.** Upon reaching a finding that an application is complete, the Planning Board may open the public hearing for the application.
- 10. Decision.** The Planning Board shall finish its review of an application within 65 calendar days of the meeting at which the Board accepted the application as being complete. If the Board feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review can be

extended by mutual agreement of the Board and the applicant, so long as the applicant requests the extension in writing.

25.12.9 Filing

- A. Building permits shall not be issued until approved site plans have been signed by the Chair or Vice Chair of the respective decision-making authority. Said signature shall signify that the plan has been duly approved by the decision-making authority and that all conditions precedent to plan signature have been met as specified in the approval.
- B. Prior to the signature of the Chair or Vice Chair of the respective decision-making authority on an approved site plan, the applicant shall:
 - 1. Demonstrate to the satisfaction of the Community Development Director, or their designee, that all conditions of approval have been met as specified by the respective decision-making authority; and,
 - 2. Provide complete copies of the approved plan set in a number and form as specified by the Community Development Department.

25.12.10 Modifications to Approved Site Plans

- A. The Community Development Director may approve modifications to site plans previously approved by the Planning Board or the Minor Project Review Committee, if they determine that the proposed modifications are not substantive in nature, and are fully in compliance with the Site Development Standards in **Article 20**, the Zoning Regulations (**Articles 2 through 18**) and other regulations in this LDC. The Community Development Director may consult with the Planning Board Chair to determine if the nature of the proposed modifications are minor and do not warrant consideration by the Planning Board or the Minor Project Review Committee.
- B. The Community Development Director shall file a report with the Planning Board of the site plan modifications that have been approved administratively at the next regular meeting of

the Planning Board following the Community Development Director's approval of such modifications.

- C. If the Community Development Director determines that the proposed revisions result in a major change to an approved site plan, then a new public hearing shall be required before the Planning Board in the case of major site plan applications, or the Minor Project Review Committee in the case of minor site plan applications, as required for a new application.

25.12.10 Approval Standards

All types of site plan review shall include an analysis of the potential impacts of the proposed use, development or redevelopment on the health, safety, and welfare of the community and the environment. The basis for this determination shall be the Site Development Standards in **Article 20**.

25.12.11 Expirations

- A. Any failure to meet the deadlines in this Section shall result in automatic expiration of Planning Board approval. This Section shall not be waivable.
- B. **Conditional Approvals.** If an application is conditionally approved, the applicant has 180 calendar days (starting the day following the decision of the Planning Board or Minor Project Review Committee on the application) to meet any conditions that shall be met prior to signature of the Chair or Vice Chair of the decision-making authority on the plan.
 - 1. All conditions that must be met after the plan is signed shall be satisfied within 2-years (starting the day following the decision on the application).
 - 2. The applicant may request a reasonable extension of the time limit for satisfying the conditions prior to the Planning Board or Minor Project Review Committee granting a conditional approval.
- C. **Active & Substantial Development.** Active and substantial development of an approved project shall be completed within 2-years,

starting the day following the Board's decision to approve or conditionally approve the application. Plans approved in phases shall be subject to a determination of active and substantial development for the current phase. For purposes of this Section, active and substantial development shall include all of the following.

1. Construction of and/or installation of basic infrastructure to support the development in accordance with the approved plan, including at least 1 building foundation wall/ footing, roadways, access ways, etc., to a minimum of gravel base and utilities placed in underground conduit ready for connection to proposed buildings/structures.
2. Construction and completion of drainage improvements to service the development in accordance with the approved plans.
3. All erosion control measures (as specified on the approved plans) must be in place and maintained on the site.
4. Movement of earth, excavation, or logging of a site without completion of items 1-3 above, shall not be considered active and substantial development.

25.12.12 Extensions

- A. Prior to the expiration of an approval, an applicant may request an extension of the timeframe for meeting conditions or achieving active and substantial development from the Planning Board, in the case of major site plan approvals, or the Minor Project Review Committee, in the case of minor site plan approvals.
 1. No modifications to the approved or conditionally approved plan shall be considered in conjunction with the request to extend the deadline.
 2. Extension requests shall be submitted in writing to the Community Development Director, or their designee, at least 10 business days prior to the meeting of the respective decision-making authority at which the request will be considered.

B. The maximum time length for each approved extension is 6-months for meeting conditions of approval and 1-year for achieving active and substantial development. An extension of the conditional approval deadline by 6-months will automatically extend the deadline for active and substantial development by 1-year.

C. Under no circumstances shall an applicant be granted more than 3-extensions total for their application.

1. **First Extension.** The respective decision-making authority shall grant a first extension of the approval, if the applicant demonstrates the necessity of the extension and provides an update about the nature of the project and its status.
2. **Second Extension.** Prior to expiration of the first extension, the respective decision-making authority may grant the application a second extension, if said applicant demonstrates the necessity of the second extension and summarizes what changes, if any, have since occurred to applicable state law or City regulations.
 - a. The respective decision-making authority shall consider whether any changes identified by the applicant would have influenced the Planning Board's or Minor Project Committee's initial decision with respect to the project. If the respective decision-making authority finds that substantive changes to applicable state law or City regulations have been adopted that would have resulted in either modification of the project, the imposition of additional or different conditions in the approval, or disapproval of the project, then the extension request shall not be granted.
3. **Third Extension.** Prior to expiration of the second extension period, an applicant may request a third extension.
 - a. Such extension shall only be granted by the respective decision-making

authority where an applicant can demonstrate that there are extraordinary circumstances that warrant a third extension of the deadline. Extraordinary circumstances may include, but not be limited to, litigation that is entered into after the conditional approval is granted and which prevents the applicant from completing conditions required for signature or from completing active and substantial development.

- b.** If the extension request is denied by the respective decision-making authority, prior to expiration of the approval, the applicant may submit an application for modification of the conditional approval to address concerns leading to the denial of the extension.

25.12.13 Security

A. The Planning Board and the Minor Project Review Committee shall have the authority to require applicants post a security deposit for the following.

- 1.** Public improvements, including but not limited to roads, sidewalks, parks, and utilities, and for performance of site improvements as specified by the respective decision-making authority at the time of approval.
- 2.** All landscaping installed on a site to ensure its survival for 1 full growing season after installation (a minimum of 1-year)
- 3.** Erosion and sedimentation control to assure that erosion control provisions are working, and required technical inspections take place.
- 4.** "As Built" plans certified by a NH licensed surveyor or engineer that include the exact location, size, and materials of sewer, water, gas, drainage and any underground utilities (e.g. phone, electric, cable) as well as catch basins, hydrants, compensatory wetlands or flood storage areas, sidewalks, drainage basins, edge of pavement, edge of buildings,

and other improvements as may be indicated by the Community Development Director, or their designee.

- a.** After a project is completed and prior to release of any security, applicants shall digitally provide the complete set of "As-Built" plans in .dwg, .dxf, .shp or geodatabase format.
 - b.** All digital plans shall be named using the following convention: "[Insert Project Name]_As-Built".
 - c.** All data should be provided in the NAD 1983 StatePlane New Hampshire FIPS 2800 (US Feet) coordinate system.
 - d.** All CAD data should contain all assignment files to be plotted and projected appropriately.
 - e.** Any missing or un-openable files will result in rejection of the submission.
- 5.** Other elements of the project to ensure that they function concurrent with and subsequent to construction.
- B.** The security shall be in a form acceptable to the Community Development Director, or their designee, and shall be either a certified check made out to the City of Keene or a letter of credit.

- 1.** Performance Bonds shall not be an acceptable form of security.
- 2.** The Planning Board or the Minor Project Review Committee may require a written security agreement that specifies when various improvements will be completed. Such agreement may be required to link the completion of phases of improvement with the issuance of building permits or certificates of occupancy.

25.12.14 Waivers

- A.** Unless otherwise set forth in this LDC, the Planning Board may grant a waiver from strict compliance with provisions of the Site Development Standards in **Article 20** or site plan review standards in **Section 25.12**, on a case-by-case basis on a case-by-case basis, so long as the Board finds, by majority vote, that:
1. Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or,
 2. Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.
 3. In granting a waiver, the Planning Board may require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.
- B.** Any waiver request shall be in writing and shall cite the specific regulation or standard a waiver is requested from and the reason(s) it cannot be met.
- C.** Waiver requests shall be submitted following the same process and timeframe as is required for formal applications to the Planning Board.

25.13 ADMINISTRATIVE PLANNING REVIEW

25.13.1 Description

Projects that do not meet the threshold for site plan review by either the Planning Board or the Minor Project Review Committee (as noted in **Section 25.12.3** of this LDC), may require review by the Community Development Director, or their designee, to verify compliance with this LDC.

25.13.2 Initiation

The applicant for administrative planning review shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.13.3 Applicability

Proposed development or redevelopment, or change of use, associated with uses other than single-family and two-family dwellings that does not meet the threshold for minor or major site plan review shall be reviewed by the Community Development Director, or their designee, to verify compliance with the Site Development Standards in **Article 20** of this LDC prior to the issuance of a building permit.

25.13.4 Authority

The Community Development Director, or their designee, has the authority to determine, on a case-by-case basis and based on the nature of the proposal, whether proposed work requires administrative planning review.

For projects that require administrative planning review, the Community Development Director has the authority to make a determination as to whether the proposed development, redevelopment, or change of use conforms with the Site Development Standards in **Article 20** of this LDC.

25.13.5 Submittal Requirements

- A.** A completed application for administrative planning review shall include the following information.
1. A written narrative describing the type, scope and scale of the proposal including

the following information.

- a. Existing and proposed uses
 - b. An explanation of how the proposal complies with the Site Development Standards in Article 20.
2. A scaled plot plan or drawing clearly displaying the locations and dimensions of all structures and open spaces on the lot subject to review.
 3. Manufacturer specifications (i.e. cut-sheets) for any proposed building materials, exterior lighting fixtures, windows and doors, mechanical equipment or other site elements (e.g. benches, railings). The applicant shall specify the proposed type, color and finish, if missing from the specifications.
 4. Photographs, renderings, and/or line sketches to visually demonstrate the scale, massing, and visual appearance of proposed improvements.
 5. Other information as deemed necessary by the Community Development Director, or their designee, to complete the review of the application.
 6. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.
- B.** Submittal of items listed above may not be required depending on the nature and scope of the projects and may be omitted from an application for administrative planning review with the approval of the Community Development Director, or their designee.

25.13.6 Procedure

- A. Confirmation of Project Classification.**
- Upon receipt of a completed application for administrative planning review, the Community Development Director, or their designee, shall verify whether the request qualifies for administrative planning review, or whether site plan review is required by either the Planning Board or Minor Project Review Committee, or whether any review is necessary.

B. Compliance with Zoning.

1. Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
2. Applications shall be in compliance with the Zoning Regulations prior to the issuance of public notice for the public hearing.

C. Notice of Decision. Within 14-business days of receipt of a completed application for administrative review, the Community Development Director, or their designee, shall complete review of the application, in consultation with other City departments as appropriate, and will issue a written determination of whether the proposal is in compliance with the Site Development Standards in **Article 20** and other applicable regulations in this LDC.

1. If the Community Development Director, or their designee, determines that the proposal does not conform with the Site Development Standards or other regulations in this LDC, they shall work with the applicant (if willing) to modify the proposal to become conforming.
 - a. The applicant may seek a waiver from the Site Development Standards from the Planning Board if they do not choose to modify the proposal to become conforming.

D. Appeal. Within 20 calendar days of the written decision issued by the Community Development Director, or their designee, the applicant may appeal the decision to the Planning Board by requesting to have the application placed on the agenda for the next regularly scheduled Planning Board meeting, following the submission requirements and procedures for major plan review in **Section 25.12** of this LDC.

25.13.7 Approval Standards

The Community Development Director, or their designee, shall evaluate proposals for development or redevelopment or change of use that do not meet the threshold for major or minor site plan review based on an analysis of whether the proposal is in compliance with the Site Development Standards in **Article 20** and the other regulations in this LDC.

25.14 CONDITIONAL USE PERMITS

25.14.1 Description

A conditional use permit allows certain uses that have increased potential for incompatibility in a zoning district to be carefully reviewed to determine, against fixed standards, whether their establishment on any given site should be allowed.

25.14.2 Initiation

The applicant for a conditional use permit shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.14.3 Applicability

Uses that require a conditional use permit shall be clearly identified in the Zoning Regulations, as may be amended.

25.14.4 Authority

Unless otherwise specified in this LDC, the Planning Board shall have the authority to review and decide on applications for a conditional use permit.

25.14.5 Submittal Requirements

- A. An applicant for a conditional use permit shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the Planning Board to evaluate the proposal for compliance with this LDC.
- B. A completed application for a conditional use permit shall include all of the submittal requirements for major site plan applications as outlined in this Article, unless otherwise specified.
- C. The applicant shall be responsible for reviewing the applicable conditional use permit standards of this LDC to identify if any additional application materials or information shall be required for submittal.

25.14.6 On-Site Posting of Public Hearing

- A. An applicant for any conditional use permit shall, not less than 10 calendar days prior to the date of the public hearing on the application, post a sign obtained from the Community Development Department providing notice of the use applied for and the date and time of the public hearing, in a location on the premises visible to the public.
- B. This sign shall be removed by the applicant no later than 10 calendar days after completion of the public hearing and returned to the Community Development Department.

25.14.7 Procedure

- A. Conditional use permit applications shall be subject to the same procedure for review and decision by the Planning Board as major site plan applications, unless otherwise noted in this LDC.
- B. Where conditional use permits are required in conjunction with a proposed site plan application, a completed conditional use permit application for each conditional use permit requested shall be made at the same time as the site plan application.
- C. Where a conditional use permit is required, no site plan application may be considered complete without a complete conditional use permit application. Conditional use permit applications will be considered concurrently with the site plan application.

25.14.8 Approval Standards

In the review of a conditional use permit application, the Planning Board shall evaluate the application for compliance with all applicable design standards and conditional use permit review criteria as provided for in this LDC as well as the Site Development Standards in **Article 20**.

25.14.9 Expiration

Conditional use permits granted by the Planning Board shall be valid if exercised within 2-years from the date of final approval by the Planning Board, or as further extended by the Planning Board. Within this 2-year time period, the use must be started or construction begun on the structure.

25.14.10 Extensions

Conditional use permit applications shall be subject to the same standards for extensions as major site plan applications.

25.14.11 Waivers

- A. Applicants for a conditional use permit seeking a waiver from conditional use permit standards in the Zoning Regulations of this LDC, shall apply to the Zoning Board of Adjustment for a variance.
- B. Unless otherwise set forth in this LDC, the applicant may request a waiver from the Planning Board from strict compliance with specific provisions of the Site Development Standards in **Article 20**, site plan review standards in **Section 25.12**, or conditional use permit standards in **Section 25.14**, on a case-by-case basis, following the procedure for waiver requests specified in **Section 25.12.14**.