

**City of Keene**  
**New Hampshire**

**PLANNING BOARD**  
**MEETING MINUTES**

**Monday, December 20, 2021**

**6:30 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Pamela Russell Slack, Chair (Via Zoom)  
David Orgaz, Vice Chair  
Mayor George S. Hansel  
Councilor Michael Remy  
Roberta Mastrogiovanni  
Gail Somers (Via Zoom)  
Tammy Adams, Alternate

**Staff Present:**

Rhett Lamb, Community Development  
Director/Assistant City Manager  
Mari Brunner, Planner  
John Rogers, Building and Health Official

**Members Not Present:**

Andrew Weglinski  
Harold Farrington, Alternate  
Emily Lavigne-Bernier

**I) Roll Call**

Vice-Chair Orgaz called the meeting to order at 6:30 PM and roll call was taken.

**II) Minutes of Previous Meeting – October 25, 2021**

A motion was made by Mayor George Hansel to approve the November 22, 2021 meeting minutes. The motion was seconded Councilor Michael Remy and was unanimously approved by roll call vote.

**III) Continued Public Hearing**

**SPR-897, Modification 1 & SWP-CUP-04-21 – Site Plan Review & Surface Water Protection Conditional Use Permit – U-Haul of South Keene – Applicant Fieldstone Land Consultants, on behalf of owner Amerco Real Estate Company, proposes to renovate two existing buildings, construct a 12,175 sf building, and install 28,900 sf of prefabricated storage units on the properties located at 472 Winchester St (TMP #115-020-00) and 0 Krif Rd (115-019-000). A Conditional Use Permit is requested to install pavement within the Surface Water Protection buffer. An exception to the City's Street Access standards is requested to increase the width of an existing street access to be 45 ft at the property line and 66 ft at the curb line. These combined properties are 7.51 acres in size and are located in the Commerce Limited District.**

## A. Public Hearing

John Noonan of Fieldstone Land Consultants addressed Board on behalf of the applicant. Mr. Noonan stated that revised plans were submitted on December 6. He indicated the biggest change was the landscaping along the Winchester Street façade, as well as the architectural plan. Concerns were raised in regards to the surface water setback both by the Planning Board and the Conservation Commission. The pavement that lies within the Surface Water setback has been cutback from the display area. The drive aisle that comes around the southwest corner was reduced from 24 feet to 22 feet and this change was determined based on the size of the Keene Ladder Truck.

Mr. Noonan noted that the landscaping was added based on comments from the Conservation Commission; what is being proposed are pollinator-friendly plantings, Silky Dogwood shrubs and Weeping Willows. On December 6 more plantings were added along Winchester Street – there are now 31 shrubs along Winchester Street frontage and one ornamental tree, as well as plantings right next to the building.

With reference to the architectural plans – these plans have also changed and revised plans have been submitted to the City. One of the comments was in regards to the orange faux doors along Krif Road and Winchester Street. Mr. Noonan noted there are no longer any faux doors on either of these sides and that the only ones remaining would be operational doors, though the applicant does want those doors to be in orange for branding.

This concluded the applicant's comments.

Councilor Remy stated he is the one who raised the issue with the door and is happy with the change that has been made, however he questioned the 20 x 14 marquee and asked where it will be installed. Mr. Noonan stated that item is indicated on their original site plan. He explained the marquee is 20' x 40' and the stairs are at the same elevation but are a smaller staircase. He added that there are only two parking spaces in front of this door. Councilor Remy asked for a visual on the marquee. Mr. Noonan stated they did not have a visual.

Staff comments were next.

Ms. Brunner stated she was only going to address items where changes were made since the last public hearing. She began with Snow Storage and Removal, and indicated that staff had originally raised concerns about snow storage, which was shown along the flood compensatory area – the applicant has addressed that and there is a note added to the plan that states as follows: "*If snow storage is excessive, it shall be hauled off site. Snow cannot be stored in the wetland buffer, or floodplain compensatory storage area.*" With this note, staff feels this standard has been met.

Landscaping – The applicant has submitted a revised plan with additional landscaping added to the site along the street frontage. Ms. Brunner stated she did look at some of the other display areas along Winchester Street as well as one that was approved recently by the Planning Board, with what is being proposed at this time, this standard appears to be met.

Traffic and Access Management – Ms. Brunner stated the new piece of information staff has received is the truck-turning template for the easternmost location of Krif Road, which the applicant proposes to widen. The Applicant has submitted a request for an exception from Section 22.5.4.9 of the Land Development Code to permit a driveway that is 45 ft at the property line and 66 ft at the curb line. Ms. Brunner stated one of the requirements to receive an exception is to show that the increased width that is needed with a geometric analysis. With submittal of the truck turning template, the applicant has met this requirement

Surface Waters & Wetlands: The Applicant has revised the proposed site plan in order to reduce the amount of pavement within the 30-ft. surface water protection buffer, including reducing the width of the circulation lane from 24 ft. to 22 ft. and removing the paved display area from the buffer entirely. Ms. Brunner noted this item was reviewed by the Conservation Commission. At its November meeting the Conservation Commission indicated that it would not intervene unless the circulation lane was required by the Fire Department. The Fire Department has indicated a circulation lane is not required per fire code

In response to staff comments, the Applicant noted that the circulation lane is necessary because it will “*provide access for emergency vehicles, for the UHaul business operations, for UHaul customers to access the rear parking spaces, and the self-storage units.*” Ms. Brunner suggested the Board clarify this with the applicant to make sure this standard has been met.

Architecture & Visual Appearance – Ms. Brunner stated the applicant has addressed the main changes and she did not have anything more to add. The biggest change was the removal of the faux orange doors.

This concluded staff comments

The Vice-Chair asked for public comment next.

Melinda Savard of 109 Island Street asked how these changes affect her property, particularly as it pertain to the Surface Water Protection Buffer. She received notification in the mail that states 166,000 sq. feet will be temporarily impacted and wasn't sure how this would impact her water supply. Ms. Brunner stated this item will be addressed later during another application that will be coming before the Board.

The Mayor felt the applicant has been very responsive to the Board's comments and extended his appreciation.

## **B. Board Discussion and Action**

A motion was made by Mayor Hansel that the Planning Board approve SPR-897, Modification #1 for the development of the site for use as a UHaul truck rental business and self-storage facility; Approve SWP-CUP-2021-04 to permit a pavement encroachment into the Surface Water Protection Buffer; and Grant an exemption from section 22.5.4.9 of the City's Street Access Standards to allow a commercial street access that is 45 ft at the property line and 66 ft at the curb

line. All as presented in the plan set identified as “UHaul of South Keene, Tax Map 115, Lots 19 & 20, 472 Winchester Street & 0 Krif Road, Keene NH 03431” prepared by Fieldstone Land Consultants at a scale of 1 inch = 40 feet, dated November 8, 2021 and last revised on December 6, 2021; and on the building elevations identified as “Moving & Storage of South Keene, 472 Winchester St. Keene, NH 03431” prepared by Advertising and Marketing Associates at a scale of 1 inch = 20 feet and dated December 3, 2021, with the following conditions prior to signature by Planning Board Chair:

1. Submittal of a security for sedimentation and erosion control, landscaping, and as-built plans in an amount and form acceptable to the Community Development Director.
2. Owner’s signature appears on the plan.

The motion was seconded by Councilor Remy.

The Councilor stated he is nervous about not seeing a rendering on the marquee area and asked whether it would be reasonable to add a third condition requesting staff approval on this item. Mr. Lamb stated he would advise the Board to be careful about giving staff more authority than they would have in this situation especially when it comes to an appearance related standard.

Mayor Hansel suggested reopening the public hearing so the applicant could describe the marquee area.

Mr. Noonan stated the applicant has no problem submitting an architectural plan if that is what the Board desires.

The Mayor withdrew his motion, Councilor Remy withdrew his second

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1. Submittal of a security for sedimentation and erosion control, landscaping, and as-built plans in an amount and form acceptable to the Community Development Director.
2. Owner’s signature appears on the plan.
3. Submittal of an architectural drawing showing the marquee for the side of the building facing Krif Road to be consistent with other architectural features and colors shown on the current plan.

The motion was seconded by Councilor Remy and was unanimously approved by roll call vote.

Chair Russell Slack thanked the applicant for coming forward with these changes as was requested by the Board.

**IV. SWP-CUP-05-21 – Surface Water Protection Conditional Use Permit – Eversource A152 & T198 Structure Replacement Project, Various Locations – Applicant GZA GeoEnvironmental, on behalf of owner Public Service Company of New Hampshire (dba Eversource Energy), proposes to replace twenty structures along the A152 Transmission Line and eight structures along the T198 Transmission Line. These lines run from Island Street to the Swanzey town border. This project will temporarily impact 166,919 sf of the Surface Water Protection Buffer for temporary access and work pad placement.**

**A. Board Determination of Completeness**

Senior Planner Mari Brunner recommended the Board accept the application as complete.

A motion was made by Mayor George Hansel to recommend the Board accept this Application as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved.

**B. Public Hearing**

Lindsey White at GZA GeoEnvironmental addressed the Board and began by introducing Jeremy Fennell and Connor Jennings from Eversource. Ms. White stated she was before the Board regarding a conditional use permit application for select utility pole replacement within the surface water protection district. She indicated the project is located along the T198 and A152 transmission lines which run parallel to each other, extending from the Island Street substation heading south to the Keene and Swanzey town lines. Eversource is proposing to replace seven poles on the T198 transmission line and 20 poles on the A152 transmission line. Work will begin in February 2022. These poles are being replaced based on routine inspection to maintain safety and reliability of the transmission lines.

Ms. White noted the work will have a temporary impact within the surface water protection district for access and staging of equipment. She noted that where access and work pads are located within wetlands, matting will be used to reduce impact to wetlands.

Ms. White stated the applicant met with the Conservation Commission on November 15 and since that time minor changes have been made to the plan which have been conveyed to Ms. Brunner and a revised plan set was submitted. She explained the changes:

Page 1 - On T198, Structure 148 was originally supposed to have been replaced but now it is going to be removed entirely, so the work pad has been reduced in size.

Bordering structures 147 and 149 will be moved closer for span requirements.

Ms. White stated this does not change the work area or the impact – there will be a slight adjustment to the numbers but nothing significant. She added the applicant is working with the City on encumbrance and excavation permits and a wetlands permit through DES.

This concluded the applicant's comments.

Mayor Hansel clarified the area shown on the plan would not be used in its entirety; it is just the area depicted on the plan. Ms. White agreed they will only use the area they need to.

The Mayor asked for timeline for this work. Jeremy Fennell stated the mats will be removed as soon as possible but the construction would last a couple of months. He added they have a rental cost for the matting so they have a vested interest for removing them.

Vice-Chair Orgaz stated that with prior Eversource project he has asked whether this work would cross any rail trails or any of the heavy pedestrian areas and what safety precautions will be in place. Ms. White stated work will happen in the area bordering the rail trail when wire is pulled across the line there will be a pedestrian control plan which will be part of the encumbrance permit through the City.

Ms. Adams asked about the relocation of 147 and 149. Ms. White stated both of these poles will be moved. Ms. Adams asked whether this would cause a loss in parking spaces. Mr. Fennell stated a couple of spots will be used during construction, but this would be temporary.

Staff comments were next.

Ms. Brunner referred to the revised plan which have been reviewed by staff and noted the changes are relatively minor.

She stated with this change the area that would be impacted within the surface water protection buffer was reduced by 2,105 feet and the area of impact now is 164,114 feet. She went on to say the request is to replace 20 structures along the A152 Transmission Line and 8 structures along the T198 Transmission Line, as well as replace static wire with optical ground wire along the T198 Transmission Line to shield conduct wires from lighting. Due to the location of the structures being replaced within the right of way, there is some impact to wetlands and hence the reason for the conditional use permit.

Ms. Brunner noted to a correction in the staff report. The staff report states there are no departmental comments but Engineering states that there is an 18 inch sewer interceptor in the vicinity of the A152 structures 4 and 5 and are asking the applicant to use caution.

Code Enforcement will be requiring a floodplain letter at the completion of the work stating that any area within the flood plain has been restored to their original state. Ms. Brunner noted these comments have been shared with the applicant.

She went on to say that the applicant went before the Conservation Commission which has asked for a pollinator-friendly seed mix to restore the disturbed areas and this has been added as a condition of approval.

With respect to the Surface Water Ordinance criteria – Ms. Brunner noted the impacts according to the applicant would be temporary and those areas will be restored at the end of the work. They

are implementing Best Management Practices and are using measure to prevent sedimentation and erosion control during construction. This concluded staff comments.

The Vice-Chair Orgaz asked for public comment

Melinda Savard stated her concerns were addressed by listening to the presentation.

With no other comment, the Vice-Chair closed the public hearing.

### **C. Board Discussion and Action**

A motion was made by Mayor George Hansel that the Planning Board approve Conditional Use Permit SWP-CUP-05-21 as shown on the plan set identified as “T198 & A152 Transmission Lines – Structure Replacement and OPGW Project, Keene, New Hampshire” prepared by GZA GeoEnvironmental Inc. at varying scales and dated November 8, 2021, with the following conditions:

A. Applicant submits to the Community Development Department documentation of all necessary permits and approvals from local, state and federal agencies, including but not limited to:

- i. An approved Wetlands Permit from the NH Department of Environmental Services;
- ii. Temporary driveway permits for each access point from a public right-of-way from the City Public Works Department;
- iii. Excavation permits for any ground disturbance within the public right-of-way; and,
- iv. Encumbrance permits for any vehicles, equipment or materials to be staged or stored within the public right-of-way.

B. Applicant shall remediate all disturbed areas with vegetation that includes pollinator-friendly plant species. A list of plant species used for remediation shall be submitted to the Community Development Department in advance of planting.”

The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

**V. SPR-13-14, Modification 1 & SWP-CUP-06-21 – Site Plan Review & Surface Water Protection Conditional Use Permit – Eversource North Keene Substation Modifications, 115 Park Ave – Applicant and owner Public Service Company of New Hampshire (dba Eversource Energy) proposes to construct a 3,080 sf electrical enclosure and install electrical equipment on the North Keene Substation property located at 115 Park Ave (TMP# 233-002-000). A waiver is requested from Sec. 20.6.2.C of the Land Development Code regarding screening requirements for ground-mounted mechanical equipment. A Conditional Use Permit is requested to construct a gravel driveway in the Surface Water Protection buffer. The site is 15.28 ac and is located in the Conservation District.**

### **A. Board Determination of Completeness**

Senior Planner Mari Brunner stated the Applicant requests an exemption from providing a Traffic Report. Staff recommend that the Board grant the requested exemption and accept the application as Complete.

A motion was made by Mayor George Hansel to recommend the Board accept this Application as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

## **B. Public Hearing**

Connor Jennings and Jeremy Belanger addressed the Board representing Eversource Energy. Mr. Jennings introduced Aubrey Williams, Kurt Nelson, and David Still, each joining the session remotely. He indicated they were before the Board to address upgrades to the Northeast Substation– to upgrade the control house at this location and install a condenser. There were various reliability needs identified with the electrical needs in New Hampshire. The upgrades would reduce outages in certain situations and improve system reliability and better support residences and businesses in Keene. He indicated they would be working with the existing substation fence adjacent to Route 9 and Route 12, Park Avenue and the Wheelock Park area.

Construction will start during the second quarter of 2022, and work will take about one year and is anticipated to be completed during the 2<sup>nd</sup> quarter of 2023. Mr. Jennings then turned the presentation over to Mr. Belanger.

Mr. Belanger stated this property is located at 115 Park Avenue in the conservation zoning district, home to the Northeast Keene Substation. This site is approximately 15.3 acres in size.

Mr. Jennings stated they met with the Zoning Board on November 15 and received two variances; the first is for the enclosure height to exceed the allowable 35 feet – the proposal is to go up to 40 feet. The second is for the impervious cover to be up to 23% where 20% is allowable in the conservation district. He added the applicant also met with the Conservation Commission and there is a request regarding a particular seed mix to be placed in areas where there will be disturbance. The applicant has agreed to change the seed mix to be New England Conservation Wildlife Mix.

Mr. Jennings then addressed Site components. The construction is going to be located within the existing substation fencing. It consists of 3,080 square feet electrical enclosure and upgrades.

Drainage and Stormwater Management – There is an infiltration basin north of the substation and this will be reconstructed.

Sedimentation and Erosion Control – A temporary stabilized construction entrance is being proposed to prevent tracking onto public roadways. Silt fencing is also being proposed within 50 feet of the wetlands. For permanent control riprap in areas of concentrated flows, loam and seed is being proposed. Throughout the period of construction there will be environmental monitoring.

Snow Storage – Areas are shown on the site plan and the current practice of snow removal will continue.

Landscaping – Existing vegetative border runs along the east and west and a portion of the southern border. Along the north there is a row of trees and the utility corridor and has an area of



no wooded vegetation. The existing trees consist of Evergreens in excess of 70 feet in height. No additional landscaping is being proposed. There is a waiver being requested to exclude additional screening of the ground mounted electrical equipment.

Lighting – No lighting is being proposed as part of this application except for emergency lighting, which will be used for emergency maintenance activity.

Traffic and Access – What is being proposed is the construction of a gravel driveway which runs from the northern entrance gate to Route 12. The area within the property will be built according permanent construction standards. The applicant originally wanted to request a permanent driveway permit from NHDOT along Route 12 so that large oversize vehicles could be kept out of Wheelock Park during construction. This however, is a controlled access right of way and DOT looked at this request as the applicant wanting to place a driveway over a right of way and was not anxious to approve same. Hence, if the applicant agreed to construct a permanent driveway on the property, DOT would grant temporary access in the future when electrical needs grow and additional construction needs to be done.

Surface Water and Wetlands – Tenant Swamp exists to the west of the site, there is the 75 foot surface water buffer and the applicant is requesting a 16,050 square foot impact which would be within the previously disturbed utility corridor. There will be no tree clearing. There will be no wetland impact to Tenant Swamp itself. A third party consultant performed a Threatened and Endangered Wildlife Assessment and the summary determined “*development of the parcel is not expected to threaten the existence of threatened or endangered species in the vicinity, primarily due to the limited need to disturb new habitats around the substation site and gravel access drive.*” The Assessment has gone up to Fish and Game for comment. Mr. Jennings noted there might be two species of turtle that could be present on site and this has been included in the site plan.

Noise – Mr. Jennings stated a third party sound study was conducted and it was determined there were no impact to direct abutters.

Architecture and Visual Appearance – This would be a 7 foot long 40 foot high metal building for which the color is yet to be determined. The color is likely going to be in neutral shade. This concluded the applicant’s comments.

Councilor Remy noted there are suggestions for sound mitigation and asked the applicant whether they were planning on incorporating those suggestions into the design. Mr. Jennings answered in the affirmative and added one of the recommendations was using low noise chillers instead of standard chillers on the north side. The Councilor asked about screening from Wheelock Park. Mr. Jennings stated the existing elevations; the park sits about 12 feet above the applicant’s site and the proposed site is about 75 feet in height and with the plantings proposed with the original site plan application, it is not likely the applicant’s site will be visible from Wheelock Park.

Staff comments were next. Ms. Brunner stated there were no departmental comments as part of this application.

Drainage and Stormwater Management - The Applicant submitted a Drainage Report dated November 12, 2021. Staff is requesting the Applicant submit an Alteration of Terrain Permit be included as a condition of approval. Staff recommend that documentation of the Alteration of Terrain Permit be included as a condition of approval. Applicant proposes to reconstruct an

existing infiltration and construct a new infiltration basin with a sediment forebay to the east of the proposed driveway.

Sediment & Erosion Control – Applicant is proposing various control measures such as installation of silt-sock downslope, a stabilized construction entrance to prevent tracking of sediment onto public roads, and sediment traps. Permanent erosion control measures include installation of riprap in areas of concentrated flow. As mentioned, the applicant will be stabilizing any disturbed areas with a native wild flower mix. Staff is recommending that submittal security for erosion control measures be included as a condition of approval.

Snow Storage & Removal - This standard appears to be met. Applicant has indicated on the plan that any excess snow shall be transported off site.

Landscaping – No changes are being proposed. During the initial site plan application the Planning Board did request a one-to-one planting on trees that were removed. In addition, the applicant has planted trees along the perimeter to fill in the gaps which provides for a good vegetative gap.

Screening – The Applicant has requested because the ground mounted equipment will be visible from Route 12, that waiver is included as an attachment to the staff report. In making a determination whether to grant the requested waiver, the Board should find that the waiver criteria listed in Section 25.12.14 of the LDC are met. Ms. Brunner noted this criteria is listed in the staff report.

Lighting – Is only emergency lighting which will only turn on in the case of an emergency.

Sewer and Water - This site does not have access to sewer or water, and no new access is proposed.

Traffic & Access Management – Ms. Brunner stated no changes are proposed to the permanent access points to this site; however, the Applicant does propose to reconstruct a gravel driveway with access from NH Route 12. The portion of the driveway located on the 115 Park Avenue portion will be a permanent feature of the site and portion of the driveway and Route 12 would be temporary. She indicated Sub-section 2.E of this standard states “*A State driveway permit is required for any new driveway on a state road outside of the Urban Compact.*” Staff recommends that documentation of a driveway permit from NHDOT for the temporary driveway access on NH Route 12 be included as a condition of approval.

Filling & Excavation - This project does not involve the placement of fill within the floodplain or any excavation within the wetland areas. This standard does not apply.

Surface Waters & Wetlands - The Applicant requests a Surface Water Protection Conditional Use Permit to construct within the 75-foot Surface Water Protection buffer. The area of proposed impact within the buffer is 16,050 sf. Ms. Brunner noted a review of the Surface Water Protection Conditional Use Permit criteria is included in the staff report. The Applicant has submitted a Threatened and Endangered Wildlife Assessment (starts on page 100 of the Board packet).

Hazardous or Toxic Materials - There are no known hazardous or toxic materials present on the site.

Noise -The Applicant submitted an Environmental Sound Evaluation and the conclusion is that with the mitigation measures being provided there will be no adverse impact on surrounding properties.

Architecture & Visual Appearance - The Applicant submitted elevations to show the dimensions and proposed design of the electrical enclosure. The proposed structure is 54 ft wide by 57 ft long with a maximum height of 40 ft. The final color has not yet been determined, but the Applicant has indicated it will be a muted color.

This concluded staff comments.

Councilor Remy asked whether staff is comfortable with the screening provided from Wheelock Park. Ms. Brunner there are two access points at Wheelock Park from where this structure could be visible; behind the baseball field and from Appel Way Trail. She noted there is not much that can be done from these locations. The other location would be from Route 12 but the rate of speed cars are travelling it is not likely going to be an issue.

Vice-Chair Orgaz asked whether there is a common color that is used for structures of this type. Mr. Jennings stated they are currently working on three similar structures, one of them has a final color determined and it is sandstone in color.

Ms. Adams asked the Applicant's transition from a temporary driveway to a permanent drive onto the highway, whether there are any temporary measures being planned to keep people from turning into this driveway. Mr. Jennings referred to a 30 foot swing gate being proposed which would have a lockbox for emergency access.

The Vice-Chair asked for public comment, with no public comment the Vice-Chair closed the public hearing.

Mayor Hansel thanked the Applicant for bringing this project forward and stated he likes projects that come before the Board that improve the utility system and are away from being seen by the public.

### **C. Board Discussion and Action**

A motion was made by Mayor George Hansel that the Planning Board approve SPR-13-14, Modification #1 for the construction of a 3,080 sf structure and installation of electrical equipment, grant a waiver from Section 20.6.C of the Planning Board Development Standards, and approve SWP-CUP-06-21 to permit the construction of a gravel driveway in the Surface Water Protection buffer, as presented on the plan set identified as "Eversource North Keene Substation, 115 Park Avenue, Keene, New Hampshire" prepared by TF Moran, Inc. at a scale of 1 inch = 40 feet and dated November 12, 2021 with the following conditions prior to signature by Planning Board Chair:

1. Applicant submits documentation of all necessary permits and approvals from local, state, and federal agencies, including but not limited to:

- a. New Hampshire Department of Environmental Services Alteration of Terrain Permit.
  - b. New Hampshire Department of Transportation Temporary Driveway Permit.
  - c. U.S. Environmental Protection Agency Construction General Permit.
  - d. Federal Aviation Administration Notice of Construction Approval.”
2. Submittal of a security in a form and amount acceptable to the City Engineer for sediment and erosion control measures and as-built plans.
  3. Owner’s signature appears on plan.”
- The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

**VI. SPR-942, Modification 2 – Site Plan – Hobby Lobby, 447 West Street – Applicant Hobby Lobby, on behalf of owner Realities Inc, proposes to modify the building façade and renovate the former JC Penney tenant space in the West Street Shopping Center located at 447 West Street (TMP# 565-018-000). The site is 13.2-ac and is located in the Commerce District.**

**A. Board Determination of Completeness**

Senior Planner Mari Brunner stated the Applicant has requested an exemption from providing a Grading Plan, Landscaping Plan, Lighting Plan, and Drainage, Traffic, and Soils Reports. Staff recommend that the Board grant the requested exemptions and accept the application as complete.

A motion was made by Mayor George Hansel to recommend the Board accept this Application as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

**D. Public Hearing**

Jim Durham, Project Manager for Hobby Lobby, addressed the Board and stated he was before the Board to answer any questions they might have and indicated his understanding is that the permit is in its last stages. He noted to the site plan revision submitted to the City. He explained the new EIFS in the middle is what they will be constructing and everything else will remain as is.

Councilor Remy noted that either side of the sign, according to the site plan, is shown as grey while the buildings in the vicinity have this section shown in red and asked whether the Applicant would be open to leaving it in red. Mr. Durham agreed to leave it in red.

Vice-Chair Orgaz asked whether the green will remain. Mr. Durham answered in the affirmative.

Staff comments were next. Ms. Brunner stated this would be a retail-to-retail use and will not be a change of use under the Zoning Code. Most of the changes being proposed related to architectural features, however, the Applicant is proposing to install a trash compactor at the rear of the building. Staff is requesting screening for the compactor be submitted as a condition of approval. Applicant is aware of it and has agreed to submit same.

The rear of the building is in the floodplain and the Applicant might have to submit a Flood Plain Permit, which is indicated in the staff report. She indicated no changes are proposed to drainage, grading, landscaping, lighting, parking, or existing access and traffic patterns.

Architecture & Visual Appearance - This standard states “*Modifications and additions to existing structures shall be harmonious with the character of the existing structure.*” The Applicant proposes to modify the existing storefront façade. Ms. Brunner went over the changes:

What currently exists is an arched shaped green steel and wood entry façade, and the Applicant is proposing to replace this with a new entry façade with Hobby Lobby’s prototypical color scheme and EIFS covering. They are proposing to paint the two adjacent tower structures on either side of the entry façade to match their color scheme. The Applicant is also replacing the existing storefront doors with new storefront doors, as well as expansion of the storefront glazing, widening of two existing pilasters on either side of the store entrance and install a new pilaster centered underneath the entry façade. This concluded staff comments.

Councilor Remy asked what the prior tenant used for trash disposal. Ms. Brunner stated there was a previous compactor but it was located in a different location (north of the area that sticks out) – hence it was screened from view by the building itself.

Mayor Hansel agreed with keeping it red to be consistent with the other buildings in the area but noted Hannaford had grey. Councilor Remy agreed but stated he was not comparing this site with other locations in the plaza – just to the ones next to this site.

Vice-Chair Orgaz asked for public comment next.

Councilor Bobby Williams addressed the Board and stated as follows:

*Hobby Lobby’s reputation proceeds it as an organization that has an extended history of noncompliance with laws at local, state, national, and even international levels. They have a record of labor violations going back decades, having amassed a litany of complaints for discrimination.* Vice-Chair Orgaz interjected the Councilor and stated he wanted to remind everyone the role of the Planning Board. He explained the Board is here to determine if this Application meets City Standards, things like traffic, landscaping, architecture etc. He stated any comments made by the public should be focused on that.

The Councilor went on with his presentation: *Given that Hobby Lobby Stores Inc. has a longstanding pattern of violating laws and regulations that it somehow feels not obligated to follow, it is of particular importance that the City of Keene insist that Hobby Lobby put all their plans to paper as part of the permitting process, and avoid taking any shortcuts in approving the Site Plan for property alterations at 447 West Street.*

*In this case, Hobby Lobby is requesting exemptions from having to provide a Grading Plan, Landscaping Plan, Lighting Plan, and Drainage, Traffic, and Soils Reports, I urge that these exemptions be denied based on the company’s overall credibility. This is necessary to ensure that the City and by extension the public has full documentation of all representations made by the company prior to the beginning of construction.*

*With respect to the importance of Drainage and Soils reports and Grading and Landscaping Plans, I am concerned that many aspects of this project including new signage, changes to the façade, a new screening fence, and a trash compactor could alter the drainage characteristics of the area. This could contribute to faster or more polluted runoff into the environmentally sensitive wetland areas of Ashuelot River Park that are adjacent to the property.*

*I am particularly concerned about the drainage in the area surrounding the building's new trash compactor, which is a potential point source of both water pollution and litter. Moreover, without a full set of planning documents, it can be difficult to assess whether Hobby Lobby is taking sufficient steps to minimize the risk to the environment associated with locating a trash compactor in a flood zone.*

*Likewise, I have concerns about the lack of a Lighting Plan. If Hobby Lobby is to illuminate their façade which they wish to change to a much brighter color that could have an effect on migrating birds, dark skies in Ashuelot River Park, and neighborhood character.*

*Additionally, given this company's reputation as a scofflaw, the City has a responsibility to get a firm lighting plan on paper now, as part of the permitting process, so that if additional skyward-pointing floodlights suddenly appear on the Hobby Lobby premises, they can be appropriately regulated as to avoid an adverse impact on the nearby bat population.*

*Similarly, I do not think Hobby Lobby Stores should be exempt from providing a Traffic Report, because the Traffic Report will be important to the work of the city planning department as development proceeds on converting West Street into a "complete streets" format.*

*Further, in connection with city and state efforts to reduce traffic in the area by making West Street more amenable to bicycles and pedestrians, I would like to know what Hobby Lobby is planning to do to provide safe access and sufficient parking for bicycles, including cargo bikes and e-bikes, on the site.*

In closing, the Councilor stated he was hoping the Board would withhold further deliberation until such time as all aspects of the Site Plan have been submitted.

Emily Mason of Surry, NH stated in looking at the City's Master Plan the first points states *to protect, promote and improve the public health, safety general welfare of the city*. Second point refers to compatible use of land and asked where with this application we are talking about competitors and compatible use. She noted Joann Fabrics is right next door and stated she wasn't sure why the Board is focusing on façade and traffic and skipping how this use balances Keene's economy and why the Board would not look at site compatibility.

Mayor Hansel responded by saying the Board's review with this application is very narrow and operates as a quasi-judicial board and looks at the application based on the adopted criteria. Zoning decisions with use does not play into the Board's decision. Ms. Mason stated she was at Joann Fabrics and they were under the impression there wouldn't competing uses in the same plaza. The Mayor stated this would be up to the landlord and what standards they want to impose; the City has no control over that.

Jodie Newell of Keene, NH made the following statement:

*Hobby Lobby has submitted an incomplete application. The argument here seems to be that because it is proposing minor reconstruction, rather than new construction, & the reconstruction doesn't change the existing impact of this business location, filing these reports are unnecessary.*

*I would argue that since we have now taken on the challenge of transitioning to renewable energy, & the existing business location was constructed at a time when we did not explicitly have this goal, we must re-examine the building's impact on our new goal.*

*In this regard, my question is, where does the city exercise its resolve in achieving our Renewable Energy Plan's goal? If we continue to approve permits based outdated energy standards, how are we ever going to make real progress toward our renewable energy goal?*

*Furthermore, I am very concerned about social impact, especially when much of the profit of this out of state business will not remain in Keene. We also cannot ignore the negative impact this will have on local businesses.*

*In the renewable energy plan, there is a focus put on mitigating the negative impact on those in our community who do not have the means to make changes necessary to their property to help us toward our goal.*

*Yet here we have an opportunity where the business absolutely has the means & uses a vastly greater amount of energy than many of our local businesses who are actually partnering with the city to accomplish these goals, & not only are we not hearing any proposals for energy reduction, we're not even asking.*

*Now, to be clear, I can understand, according to this logic, exempting or better yet assisting, a new local business, whose humble profit remains largely in the community & whose energy use is proportionately minuscule, with energy reducing renovations. I cannot see, however, how extending that to a hugely profitable, hugely impactful business, the bulk of whose profit immediately leaves our community, is in line with the goal we set & this guiding principle of reducing the strain on those with less ability in our plan.*

*In short, if we are going to take seriously the goals we set out, we are going to have to take these things into account. Nothing in this incomplete application indicates that anything but the facade, etc will change. But we as a community along with the council have committed to change, specifically in energy use. It's situations like this that provide ripe opportunities to live up to that commitment.*

*So I ask that you deny this permit until it is at least complete & in my opinion until we are assured that this company will be a renewable energy transition partner with the city of Keene.*

Ms. Brunner responded by saying Ms. Newell stated this permit has already been approved and reiterated the Board has voted on completeness of this Application but not on the Application as a whole which will happen after Board deliberations.

With no further public comment, Vice-Chair Orgaz closed the public hearing.

### **E. Board Discussion and Action**

Councilor Remy stated he liked the red for that façade and it would be easier to leave it in red. As far as the compactor, moving it further to the south away from the wetlands would be better. Mayor Hansel stated architectural standard is the most subjective standard and it has always been his practice to look at what exists in the area and require same from a new use. He felt what has been presented is consistent with what exists but if the Board wants to go in a different direction, then that would be up to the Board.

Ms. Adams stated she has no objection to what the Applicant is proposing.

Ms. Mastrogiovanni felt the U-Haul requested a company color as is being requested by this Applicant. Councilor Remy stated his argument is what exists next to this use.

Ms. Adams questioned if the Applicant would consider changing their lighting in the future whether they would have to come back before this Board. Ms. Brunner stated they might not have to come before the Planning Board if items such as traffic, lighting, impact on the wetlands etc they would have to come to the Community Development Department and it will be reviewed by staff to see if these changes can be approved by the Minor Project Review Committee or whether it has to go before the Planning Board.

Chair Russell Slack stated she had no objection to what has been presented tonight. Vice-Chair Orgaz stated he had no objection either.

A motion was made by Mayor George Hansel that the Planning Board approve SPR-942, Modification #2 as shown on the site plan identified as “Hobby Lobby, 381 West St. Keene, NH” prepared by SGA Design Group. P.C. at a scale of 1 inch = 30 feet and dated October 28, 2021, and on the elevations identified as “Hobby Lobby, 381 West St. Keene, NH” prepared by SGA Design Group. P.C. at a scale of 3/32 inch = 1 foot and dated October 28, 2021, with the following conditions prior to signature by the Planning Board Chair:

1. Submittal of screening details for the trash compactor. Such screening shall comply with Section 20.6.2.A of the Land Development Code.
2. Owner’s signature appears on plan.

The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

### **VII. Adoption of 2022 Meeting Schedule**

A motion was made by Mayor George Hansel that the Planning Board approve the 2022 meeting schedule. The motion was seconded by Councilor Michael Remy.

Councilor Remy stated the first meeting conflicts with the Delegation meeting he and Mayor Hansel would be attending. Vice-Chair Orgaz asked for Chair Russell Slack’s comment. The



Chair stated she would like to vote on it as presented and review it when she returns to look at a quorum.

The motion made by the Mayor was unanimously approved by roll call vote.

### **VIII. Staff Report**

- Capital Improvement Program (CIP) presentation – January 22, 8:00-11:30 AM

Ms. Brunner referred to the Capital Improvement Program presentation will be held on Saturday, January 22, 8:00-11:30 AM at the Michael Blastos room. She encouraged Board attendance. Mr. Lamb stated Board members will be receiving individual invitations in advance of the meeting.

Mr. Lamb referred to upcoming staff changes. Mr. John Rogers will be taking over as Interim Community Development Director. Ms. Brunner has been promoted to position of Senior Planner. Mr. Lamb stated this would be his last meeting before the Planning Board. Mr. John Rogers introduced himself who is currently the Building and Health Official for the City. He stated as a department they are actively accepting applications for Planner and Community Development Director.

Ms. Adams thanked Mr. Lamb for his service to the City. Vice-Chair Orgaz thanked Mr. Lamb as well.

### **IX. New Business**

None

### **X. Upcoming Dates of Interest – December 2021**

- Joint Committee of the Planning Board and PLD – January 10, 6:30 PM
- Planning Board Steering Committee – January 11, 11:00 AM
- Planning Board Site Visit – January 19, 8:00 AM – To Be Confirmed
- Planning Board Meeting – January 24, 6:30 PM

There being no further business, Vice-Chair Orgaz adjourned the meeting at 8:37 PM.

Respectfully submitted by,  
Krishni Pahl, Minute Taker

Reviewed and edited by,  
Christopher Cusack, Contract Planner