

City of Keene
New Hampshire

PLANNING BOARD
MEETING MINUTES

**Monday, September 26,
2022**

6:30 PM

**Council Chambers,

City Hall**

Members Present:

Pamela Russell-Slack, Chair
David Orgaz, Vice Chair
Mayor George S. Hansel
Councilor Michael Remy
Emily Lavigne-Bernier
Armando Rangel
Harold Farrington
Randyn Markelon

Staff Present:

Mari Brunner, Senior Planner
Evan Clements, Planner

Members Not Present:

Roberta Mastrogiovanni
Kenneth Kost, Alternate
Gail Somers, Alternate
Tammy Adams, Alternate

I) Call to Order – Roll Call

Chair Russell-Slack called the meeting to order at 6:30 PM and a roll call was taken.

II) Minutes of Previous Meeting – August 22, 2022

A motion was made by Mayor George Hansel that the Planning Board approve the August 22, 2022 meeting minutes. The motion was seconded by Councilor Michael Remy and was unanimously approved.

III) Final Vote on Conditional Approvals

Senior Planner, Mari Brunner, stated that this is the first time the Board is casting a final vote on a conditionally approved site plan. She explained that the recent City of Dover NH Supreme Court Case has changed how things are done. Going forward, once the conditions of approval have been met, the Board will be making a final vote on site plans and subdivision applications. The item before the Board tonight is Site Plan application, SPR-898 Modification #1, for the construction of an addition to the existing EVS Metal building at 50 Optical Ave (TMP #241-007-000). The conditions of approval for this application are owner's signature on the plans and the submittal of

a security for landscaping, erosion control and as built plans. These two conditions have been met, so staff is requesting final approval for the project, which would permit the Chair to sign the final plans and start the 30 day clock for the appeal process for abutters.

A motion was made by Mayor George Hansel that the Planning Board issue final approval for SPR-898 Modification #1, as all conditions have been met. The motion was seconded by Councilor Michael Remy and was unanimously approved.

IV) **Boundary Line Adjustment**

S-09-22 – Boundary Line Adjustment – 24 & 28 Salisbury Rd - Applicant Doucet Survey LLC, on behalf of owners Michael J. Miles & the Zecha 2021 Rev. Family Trust, proposes a boundary line adjustment between the properties located at 24 Salisbury Rd (TMP# 563-010-000) and 28 Salisbury Rd (TMP# 563-011-000). This adjustment would result in a transfer of 0.04-ac from the 0.47-ac parcel at 24 Salisbury Rd to the 0.29-ac parcel at 28 Salisbury Rd. Both properties are located in the Low Density District

A. **Board Determination of Completeness**

Planner, Evan Clements, stated that the Applicant requests exemptions from submitting separate Existing and Proposed Conditions Plans, a Grading Plan, a Landscaping Plan, a Lighting Plan, and Technical Reports. After reviewing this application, staff have determined that exempting the Applicant from submitting this information would have no bearing on the merits of the application and recommend that the Board accept the application as complete.

A motion was made by Mayor George Hansel to recommend that the Board accept application S-09-22 as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved.

B. **Public Hearing**

Mr. Alec Kurowski, project manager for Doucet Survey, addressed the Board and stated that this is a straight forward boundary line adjustment. He explained that the Zechas purchased a 0.04 acre parcel of land from the Miles' on the common line between the two houses. Mr. Kurowski stated that all aspects of this application comply with the Board's Land Development Code for the Low Density District. This concluded Mr. Kurowski's presentation.

Staff comments were next. Mr. Clements stated that as the applicant had noted, 0.04 acres of land is being transferred from 28 Salisbury Road (TMP #563-011-000) to 24 Salisbury Road (TMP #563-010-000). Mr. Clements stated that most of the Site Development Standards don't apply to this application. He further stated that as Ms. Brunner had mentioned previously, conditions of approval are not a single meeting issue anymore. In this case, the Applicant requested to bring a check for recording fees and final plans for signature. Staff's recommendation is to approve this application with no conditions.

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

C. **Board Discussion and Action**

A motion was made by Mayor George Hansel that the Planning Board approve S-09-22, as shown on the plan identified as “Lot Line Adjustment Plan for Zecha 2021 Revocable Family Trust and Michael J. & Christine A. Miles of Tax Map 563 Lots 10 & 11 28 & 24 Salisbury Road Keene, New Hampshire” prepared by Doucet Survey, LLC at a scale of 1”=20’, dated August 18, 2022 and last revised September 2, 2022.

The motion was seconded by Councilor Remy and was unanimously approved.

V. Continued Public Hearing

S-04-22 – Conservation Residential Development Subdivision & SPR-04-22 – Site Plan – 0 Drummer Rd – Applicant and owner Christopher Farris proposes to subdivide the 13.1-ac parcel located at 0 Drummer Rd (TMP #515-015-000-000-000) into 6 lots and construct 5 multi-family buildings. Four of the lots are proposed to be developed into 5-unit multifamily residences, one lot is proposed to be developed as a 6-unit multifamily residence, and the remaining lot would be conserved as open space. The developable lots are proposed to have access from Timberlane Dr via a shared private driveway and vary in size from 0.3 to 1.2 acres. The open space lot is 9.5 acres. Waivers are requested from Section 25.10.8.B.2 of the Land Development Code regarding the requirement to prepare a survey that shows all metes and bounds of the revised parcels, Section 20.14.3.D regarding the requirement that all off-street parking be located to the side or rear of buildings, and Section 19.3.5.A.3.a regarding the requirement that all structures be accessed from interior streets. The site is in the Low Density District.

Ms. Brunner noted that pages 24 and 25 of the Board’s packet include a memo that explains the reason for the continuance and the applicant’s request to continue this application to the Board meeting scheduled for Monday, November 28th.

A motion was made by Mayor George Hansel that the Planning Board continue this public hearing to the November 28, 2022 Planning Board meeting. The motion was seconded by Councilor Michael Remy and was unanimously approved.

V) Public Hearings

SPR-16-14, Modification #8 – Site Plan – Mint Carwash, 435 Winchester St – Applicant and owner MOC76 Realty Co. LLC proposes to modify the Mint Carwash site located at 435 Winchester St (TMP #115-029-000-000-000) by reconfiguring the parking and reducing the width of the Wetmore St curb cut for the former Ocean Harvest Restaurant. A waiver is requested from Sec. 20.14.3.D of the Land Development Code to allow for parking with vacuum stations in front of the building. This parcel is 1.33 ac in size and is located in the Industrial, Commerce, and High Density Districts

A. Board Determination of Completeness

Ms. Brunner stated that the applicant has requested exemptions from providing a traffic report, drainage report, soils report, and architectural elevations. 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 Application SPR-16-14, Modification #8 as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved.

B. Public Hearing

Mr. Jim Phippard addressed the Board on behalf of the owner, MOC76 Realty Co. LLC. Mr. Phippard stated that an earlier plan with conditions was approved by the Board in November 2021 as part of SPR-16-14, Modification #7. However, signing of the final plan was missed, which meant that the applicant's conditional site plan approval expired in May 2022. In April, the contractor applied for a building permit, which was issued. Mr. Phippard took this to mean that the plan had been signed, which was not the case. Hence, the plan before the Board today is a plan that has been completely constructed.

Mr. Phippard stated that when he realized they did not have a signed site plan, he attempted to obtain a waiver and looked for ways to avoid coming back to the Board for approval; however, the City Attorney felt that there was no way around it because the time frame for signing the plan had expired. Hence, he is before the Board asking the Board to approve a site plan that has already been constructed but includes changes to the curb cut on Wetmore Street. He explained the vacuum stations used to be located at the front of the car wash tunnels, but the applicant felt moving the vacuums would be better for traffic circulation. Mr. Phippard stated that he applied for a waiver to allow the parking spaces associated with the vacuum pumps to be located at the front of the building line. He noted that the Board's regulations call for parking to be located to the side or rear of a site and noted that this waiver was granted as part of the original approval in November 2021. He explained that he is requesting that this waiver be approved again, as this configuration works well for customers entering and exiting the site.

Mr. Phippard stated that they also made some changes to landscaping, which were not part of the previous plan. Based on availability, the new species of landscaping to be planted includes Colorado Spruce, a different type of Maple tree, and other shrubs and plantings to serve as additional screening for the vacuum stations from Winchester Street.

Mr. Phippard went on to say that this site used to be three separate lots. The carwash is in the Industrial District, the former Ocean Harvest Restaurant was in the Commercial District, and the site to the rear was in the High Density District. The lots were merged in March 2022 and satisfy all setback requirements and lot coverage requirements. He noted even though the property is still in three separate zones it is now compliant with all zoning requirements. Because the lot coverage was reduced, the applicant felt there was no need to submit a drainage report. A new infiltration area is being added to the site and another large green space provides flood storage. The applicant was required to provide compensatory flood storage, as this entire section of Winchester Street is in the 100 year flood zone. When the restaurant was removed and the basement was filled in, Code Enforcement Staff determined that compensatory flood storage needed to be provided.

Lighting has not changed; it is as was previously approved. The item that is not 100% completed are the speed bumps. Mr. Phippard stated the speed bumps been ordered, but noted that they are not in yet. The speed bumps are for the two curbs cuts onto Wetmore Street in an attempt to slow traffic coming out of the neighborhood. This concluded Mr. Phippard's comments.

Staff comments were next. Ms. Brunner stated all conditions exception for the installation of speed bumps have been met. This concluded staff comments.

The Chair asked for public comment. Chris Drakiotes of Wetmore Street addressed the Board and reiterated the need for speed bumps and asked that it be made a requirement. He added if there are no other changes to the plan since the last time he was before the Board, he has no objections. Mr. Phippard stated there are no physical changes except for change to plant species. He reiterated the addition of the speed bumps.

Mr. Farrington asked what material the speed bumps are made of and how they are secured to the ground. Mr. Phippard stated they are made of plastic and are drilled into the ground

Mayor Hansel stated he had no problem not including the speed bumps as a condition of approval, as they are going to be included on the plan. The Chair agreed.

With no further comment, the Chair closed the public hearing.

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board grant a waiver from Section 20.14.3.D of the Land Development Code to allow for five parking spaces with vacuum stations in front of the building; and approve SPR-16-14, Modification #8 for modifications to the Wetmore Street curb cut and site, as presented in the plan set identified as “Proposed Two Bay Car Wash, 435 Winchester St. Keene, NH” prepared by Brickstone Land Use Consultants at a scale of 1 inch = 20 feet on September 19, 2014 and last revised on September 6, 2022 with the following conditions precedent to final approval and signature by the Planning Board Chair:

1. Owner’s signature appears on the plan.
2. Submittal of five (5) full size paper copies and a digital copy of the final plan set.

The motion was seconded by Councilor Remy and was unanimously approved.

CLSS-CUP-01-21, Modification #1 – Congregate Living & Social Service Conditional Use Permit – Monadnock Area Peer Support Agency, 32-34 Washington St #Rear - Applicant and owner Monadnock Area Peer Support Agency proposes to modify Conditional Use Permit CLSS-CUP-01-21 to include an outdoor activity area. The 0.28-ac property is located at 32-34 Washington St #Rear (TMP #568-058-000-000-000) and is located in the Downtown Core District.

A. Board Determination of Completeness

Ms. Brunner stated that the applicant has requested exemptions from submitting an existing conditions plan, a grading plan, a landscaping plan, a lighting plan, building elevations, and all technical reports. Staff recommends the Planning Board grant the requested exemptions and accept the application as complete.

A motion was made by Mayor George Hansel to recommend the Board accept Application CLSS-CUP-01-21, Modification #1 as complete. The motion was seconded by Vice-Chair Orgaz and was unanimously approved.

B. Public Hearing

Ms. Christine Allen addressed the Board on behalf of Monadnock Area Peer Support and stated that they purchased this building two years ago and have been utilizing the parking lot for their clients to take a break. She indicated that they were completely unaware that they were in violation of the Land Development Code and apologized. She indicated that she assumes this was because she had purchased 12 colorful Adirondack chairs and noted that this may have drawn some attention to the site.

Ms. Allen explained that their agency serves 488 individuals within the community who have experienced various forms of trauma and many of their clientele are smokers. If there is no smoking area on the site, then they are likely to go across the street placing undue burden on the neighborhood. She noted that the smoking area is not within 25 feet of any abutters and stated that she is surprised at the complaint.

Ms. Allen stated they have contacted their architect, Tim Sampson, and have come up with a plan to remedy this situation by placing two 20-foot fences on wheels to make for ease of moving. The fence would be painted white and there is a nine foot picnic table that they would also place outside. Ms. Allen stated this arrangement would result in the loss of two parking spaces. The fence would obscure any passersby from seeing people outside smoking. The same exact fencing will also be located at the corner of the 911 dispatch area. She felt this is the best solution they have.

Ms. Allen went on to say their clientele are in recovery most have undergone trauma and their agency is serving an incredible need in the community. She added their membership population had been good about respecting their boundaries and respecting the neighborhood. They are saving lives every day and felt it was necessary to have a smoking section for these individuals.

Councilor Remy asked whether the fencing would be secured. Ms. Allen stated there is already a hole in the ground that had a street sign, the sign will be removed and a wooden structure will be installed to hold the fence steady. When it is not in use it can be rolled to be flush with the wall. Every Tuesday, Keene Housing Authority has Waste Management pick up trash at 6 am, so it is necessary for this fence to be able to swivel for the truck to access the trash receptacles.

Ms. Lavigne-Bernier clarified the same would be the case for plowing. Ms. Allen agreed it would.

Staff comments were next. Ms. Brunner addressed the Board and stated Monadnock Peer Support Agency received a conditionally approved conditional use permit from the Planning Board in January 2022. They also received an extension and hence still need to meet their conditional approval to receive a Congregate Living & Social Service License from Congregate Living & Social Services Licensing Board. The initial approval is still pending. The request before the Board today is to modify the initial approval they received to add an outdoor activity area. Previously, when the conditional use permit was granted by the Board, it was stated by the applicant that there

would not be any outdoor areas; this was reflected in their narrative, the staff report, and the minutes. This issue was brought to staff's attention through a complaint that people were outside smoking and gathering.

Ms. Brunner then went over the conditional use permit criteria that are relevant to this application.

15.2.C. The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property. In addition, any parking lots, outdoor activity area, or waiting areas associated with the use shall be adequately screened from adjacent properties and from public rights-of-way.

Ms. Brunner stated the that applicant is proposing to have two separate outdoor activity areas; one for smoking and for one nonsmoking, which is proposed to be screened by a six foot tall vinyl fence. The fencing would be movable to access the area.

The next relevant standard is as follows:

15.2.D. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.

Ms. Brunner stated that the outdoor area is intended to create space smokers while remaining enclosed to keep the smoke contained. This area is set back from the public right of way and from any of the entrances to the building. Hence, this standard appears to be met.

Ms. Brunner added that this site is also in the Historic District, so the applicant would also need HDC approval, which would take place after the Board makes its determination. This concluded staff comments.

Councilor Remy referred to parking and asked whether any of the parking spaces are going to be impacted. Ms. Brunner stated the applicant had indicated there will be a loss of two spaces. One space is used by Keene Housing Authority and the other is used by staff. Ms. Brunner added this agency also provides transportation for its clients.

Mr. Farrington clarified whether it would be a wooden fence or a vinyl fence. Ms. Brunner stated the plans and application both say it would be a vinyl fence.

Mayor Hansel did not feel the fencing was necessary and wasn't sure if there was a way to approve this application without the requirement that a fence be installed, as he felt it might become something too difficult for the applicant to manage. Ms. Allen stated she has noticed at different sites in Keene, including the nursing home on lower Main Street, that there are residents who are wheelchair bound and are wheeled to the end of the driveway to be able to smoke. She asked how an issue such as this is handled in the downtown district and stated that she can't help but feel that this is the "not in my backyard" mentality that is causing the complaint. She questioned based on the nature of the complaint whether or not there was anything that they can do to help the situation without installing a fence.

Ms. Markelon stated that she didn't understand how a picnic table and a few chairs are considered to be outdoor activity. Ms. Brunner in response stated in the initial application and at the hearing it was clearly stated none of the residents would be outside for any reason except to exit and enter the building. Because it was stated as such and it was indicated there would not be any outdoor gathering spaces, when staff received the complaint and they looked at the regulations, it stated that outdoor activity areas needed to be screened. This requirement is only for congregate living and social service uses. Ms. Brunner added that the next option would be for the applicant to request a variance from this standard, which has a high threshold for approval, as the applicant has to prove hardship. It can also be an expensive process and would require several steps of approvals.

Ms. Allen indicated that as social workers, this is not their expertise and noted that she didn't quite understand what they were writing as a narrative. She stated that may not have understood that eating lunch outside or smoking outside is considered a meeting. The Mayor stated it would ultimately be up to staff's interpretation of the ordinance. Ms. Brunner stated she had discussed this item with the Zoning Administrator, who had indicated if the individuals were just standing outside it would not be an issue, but having a picnic table and chairs and encouraging people to sit and gather in a specific location is what seems to be the issue.

Councilor Remy stated that on the submitted plans it is labeled as an "exterior meeting area." Ms. Allen stated they had submitted an amended plan. Ms. Brunner stated it was corrected in some areas, but the main plan still says "exterior meeting area."

The Mayor stated he did not want to approve this application as it had been submitted and noted that he understands that the applicant wants clarification as to what they can do on their property. He stated that his suggestion would be to wait a month to see if a better solution could be arrived at. However, if the applicant wants to move forward with the application as is, he is agreeable to that as well. Ms. Allen stated that she is looking for long-term, sustainable solution to support her membership and her staff. She stated this organization serves troubled individuals who are looking for a community. She stated that she likes to know where her clients are and it is helpful to have them in their parking lot. They have about 50 groups coming in each week and they can be very difficult groups to have. She noted that at times those individuals need place to regroup and take a breath and stated that smoking tends to be a healing process for some.

Chair Russell-Slack asked what was shown on the plan approved in January. Ms. Brunner stated that it was just a parking space; there was no designated outdoor areas. Chair Russell-Slack clarified that this complaint was driven by individuals smoking outside and not congregating outside. Mr. Clements stated the complaint was specific that there were people gathering outside and that the complainant knew there was not supposed to be an outside gathering area. The Chair stated she was struggling with what the Board is asking this applicant to do – moving a fence around in the middle of winter.

Councilor Remy stated that a fence won't look bad, but noted that he wasn't sure how easy it would be to move around.

Mr. Clements stated that as part of the application, the Zoning Administrator did make a determination that this is an outside meeting area and the only avenue the applicant has to challenge the Zoning Administrator's determination is to go before the Zoning Board of Adjustment (ZBA).

Ms. Markelon asked when the Zoning Administrator made this determination. Ms. Brunner stated after the complaint came forward she reached out to the Zoning Administrator.

Chair Russell-Slack indicated to the applicant they have two options for tonight; the Board can vote on what is before them or the applicant could go before the ZBA and appeal the Zoning Administrator's decision. Mr. Clements stated there was no risk in going before the ZBA and appealing the Zoning Administrator's decision. Explained that should that fail, they can always come back before the Planning Board; unlike with a variance where if it is denied, they cannot ask for the same variance again.

Ms. Allen asked if it was appropriate to ask for a temporary fix for individuals to go outside for a few minutes even if it is not for smoking. The Board stated that was not an option for the applicant. Ms. Allen stated she will advise her clients to go across the street to smoke.

Ms. Brunner noted if this item is approved today, they can also submit an appeal to the ZBA. However, by the time the fencing is installed they are likely to have received an answer from ZBA. Ms. Allen added if there is anything they can do to accommodate their neighbors; if they have fallen short in any way, it is up to her to correct that and the membership is willing to do anything they can to make everyone happy. The Chair stated that she didn't feel this the applicant did anything wrong but someone noticed the outside congregation and filed a complaint.

Ms. LaVigne-Bernier asked if the Board is saying the clients cannot even go and outside to smoke without the furniture. Ms. Brunner stated she can have this clarified by the Zoning Administrator.

The Chair asked for public comment. With no public comment, the Chair closed the public hearing.

Ms. Brunner suggested if the Board approves the motion with conditions subsequent it would allow the plans to be signed tonight. Councilor Remy asked whether the City Attorney has a preference to what is referred to as subsequent versus precedent. Ms. Brunner explained usually a motion would indicate submittal of a plan set with owner's signature on the plan with conditions precedent because a plan cannot be signed without that. However, in this case to move this matter forward it could be conditions subsequent.

C. Board Discussion and Action

A motion was made by Mayor George Hansel approve Conditional Use Permit, CLSS-CUP-01-21 Modification #1, for the addition of an outdoor activity area in the existing parking lot, as shown on the plan identified as "Outside Gathering Space, Monadnock Area Peer Support Keene, NH 03431" prepared by Timothy Sampson Architects at varying scales and dated August 23, 2022, with the following subsequent conditions:

- A. Prior to signature by the Planning Board Chair, the following conditions subsequent shall be met:

1. Owner's signature appears on the plan.
 2. Submittal of five full-size paper copies and one digital copy of the final plan.
- B. The condition of approval for CLSS-CUP-01-21 shall remain in full force and effect.

The motion was seconded by Councilor Remy and was unanimously approved.

Vice-Chair Orgaz stated that he appreciates what this organization is doing for the community.

SPR-870, Modification #2 – Site Plan – Building Addition, 310 Marlboro St – Applicant and owner 310 Marlboro St. LLC proposes to construct a 48,460 sf, three-story addition containing 57 apartments on the existing 86,689 sf, two-story building. In addition, the applicant proposes site modifications including changes to parking, landscaping, and street access for the property located at 310 Marlboro St (TMP# 595-001-000-000). The site is 4.25 ac in size and is located in the Business Growth and Reuse District.

A. Board Determination of Completeness

Mr. Clements stated the applicant requests exemptions from submitting a grading plan and a drainage report. After reviewing each request, staff has determined that exempting the applicant from submitting this information would have no bearing on the merits of the application and recommends that the Planning Board grant these exemptions and accept the application as complete.

A motion was made by Mayor George Hansel to recommend the Board accept application SPR-870, Modification #2 as complete. The motion was seconded by Vice-Chair Orgaz and was unanimously approved.

B. Public Hearing

Mr. Randall Walter, owner of 310 Marlboro Street (TMP #595-001-000), addressed the Board. He introduced his partner, Hilary Harris, who is also an architect. Mr. Walter stated he was before the Board regarding the development of 310 Marlboro Street and noted there is clearly a shortage of housing in this region. This proposal is to add 57 apartment units and the project will be in keeping with the City of Keene's sustainable and clean energy goals. Mr. Walter stated that there are local businesses growing and thriving in this facility right now and noted that for this project, they will be adding onto the existing building to provide housing without clearing any vegetation (they will be moving just one tree). This will be high performance housing; all utilities will be supported by renewable energy.

Mr. Walter explained on the plan that the existing building is a 60 foot steel structure built in 1947 to look like a brick mill building. It was built as a paint brush factory and operated as such for about 30 years. It was then was purchased by Kingsbury and operated for another 20 years as Kingsbury assembly. Being able to support additional floors is a unique characteristic of this building. One end of the building fronts on Marlboro Street and the other onto the Rail Trail. To the right is the HCS building, which is the same setback as the proposed housing. To the west is the Kingsbury property.

Mr. Walter referred to the existing conditions plan. The existing building is sprinkled and the addition would be as well. The proposal is to improve the existing paving, which comes with drainage. Mr. Walter referred to the setback lines, which will continued to be preserved without the need for a variance. Mr. Walter stated at a special session of the Zoning Board of Adjustment (ZBA), he was granted a variance to build three additional stories of housing where previously one story would have been allowed. The second variance was for a parking reduction of 49% based on a traffic and parking analysis provided by a consultant. The ITE study shows there will be an overlap of parking use (business versus residential) and the required number of parking spaces would have been 258 spaces and the reduced number equates to 137 spaces.

Mr. Walter went on to explain that drainage and stormwater will continue to be handled similarly to how they are currently. He then outlined some of the proposed site modifications, including the proposal to relocate the main curb cut, which at the present time is centered at the middle of the metal building. The plan is to move it 100 feet to the west, which would center it adjacent to all the existing parking. He explained that this is not only a better curb cut location for this site, but also for the neighbors across the street to reduce conflict with other drivers. This curb cut will allow for entrance and exit onto the site; however, the curb cut to the east will be an “exit only” curb cut to encourage the clockwise circulation of vehicles on site to reduce impact on the adjacent property at 312 Marlboro Street, there is a shared easement in this area with the adjacent property owner at 312 Marlboro Street. To also bring some organization for the different occupants of the site, another proposed change is to add a drop off lane for the Charter High School to use.

The overall site remains the same. Snow storage would be as shown on the lower left corner of plan. The plan is also to pull pavement back and give a better sense of landscaping. The only soil disturbance would be the construction of the egress stair tower and elevator shaft. There will be some utility trenching to bring water and sewer into the building. There are no wetlands or hazardous or toxic material on this site. As far as noise during construction, this building will be fabricated mostly off site transported as a panelized building to the site for fast construction, which will reduce construction time by a third.

Mr. Walter referred to the screening, which is going to be skip/lap fencing and would be used for the dumpster screening and for the loading dock area.

The lighting will be dark sky compliant, full cut-off lighting. There will be some residual light at the setback line, but no light will be leaving the property line. Most of the lighting will be building-mounted, but perimeter lighting will be needed to light some of the furthest parking area for safety.

Mr. Walter referred to the existing conditions plan. He felt that the addition being proposed would enhance the look of the building. He added that they are trying to become a fossil fuel free location, as they have eliminated the use of oil and are planning on eliminating the use of propane as well. In that vein, they have contacted an artist from California who is going to be creating an outdoor sculpture out of their 8,000 gallon outdoor tank. This would be his first installation in New Hampshire. This concluded Mr. Walter’s comments.

Staff comments were next. Mr. Clements addressed the Board. Mr. Clements stated the site as it exists now as a mixed use site; there are close to 40 businesses within the site, some are personal

services, a school, light manufacturing, and Mr. Randall is now proposing to add 57 residential dwelling units. Staff's review is of how this residential use is going to fit in with the existing uses.

Drainage – There will be very little impact. The applicant is proposing to reduce the net amount of impervious surface.

Sedimentation and Erosion Control – There is going to be very little site work; there is no silt fencing being proposed during site development.

Snow Storage and Snow Removal – The applicant has identified an area along the western boundary for snow storage. As the snow melts, there are catch basins along the northern edge of the property that the snow will run into. Hence, this standard appears to be met.

Landscaping – The applicant is proposing to remove and relocate an existing tree to make room for the curb cut and install 24 new trees along the perimeter of the site, which will include seven Sun Valley Red Maples, ten Green Vase Zelkova, and seven Starburst Amur Maackia.

Screening – The proposed site plan consists of both existing and new parking areas and drive aisles. Section 9.1.2.E.1 states that, *“When any existing parking area is expanded, the design standards in Section 9.4 shall apply to the new parking.”*

Section 9.1.2.E.2 states, *“Where the proposed expansion increases the number of existing spaces by 100% or more, the design standards in Section 9.4 shall apply... Mr. Clements stated the applicant has indicated they are only adding a few more new spaces on the eastern and northern sides of the building. He noted that these new spaces are not adjacent to any residential zoning district and stated that the new parking area located to the north of the building is not visible from the public right-of-way, so the screening standards don't necessarily apply. However, he noted that it would ultimately be up to the Board to decide if the tree locations would be sufficient screening.*

Section 9.4.3.A of the LDC, which outlines the requirements for “Interior Parking Lot Landscaping” states that, *“For parking lots of 10 or more parking spaces, either 1 tree at least 3-in diameter as measured 6-in from the ground after planting, or groupings of 3 or more trees at least 6-ft tall or 2-in diameter as measured 6-in above grade after planting, shall be required at the ratio of 1 tree per 10 parking spaces.”* The applicant is proposing to provide 15 additional parking spaces and install 24 new trees, which exceeds the number of trees required under this standard. Mr. Clements noted this standard has been met.

As the applicant, noted the material for the dumpster screening would consist of skip/lap fencing. Light would be able to come through but the dumpsters will not be visible. It is up to the Board to determine if this standard has been met.

Lighting – The applicant has presented a new lighting plan to show that the light trespass has been resolved. Mr. Clements stated staff has not seen this plan. Mr. Walter stated the plan is the same as was submitted previously. He indicated that they misinterpreted what was the property boundary versus the setback boundary and it appears the standard has been met, as there is zero light level at the property boundary, but there is an allowable lighting level at the ten foot setback.

Mr. Clements went on to say the requirements for light fixtures require a color rendering index grater than 70 and a color temperature of 3,500K or less. He noted that the product specification sheet for one of the fixtures does not meet the 70 CRI requirement and will need to be replaced; however, the rest of the fixtures meet the lighting standards.

Sewer and Water - The applicant states the site will be utilizing City water service and there is sufficient capacity in the Marlboro Street water main to service the expanded use. In regards to sewer, the applicant states that the existing tie-in to the Marlboro Street sewer main will be used for the existing uses on site. The applicant stated that there is a second sewer connection point that is currently not in use that will be connected for the use of the proposed housing addition. The applicant has been working with Engineering Staff, who do not have a record of the second sewer connection point; however, they are comfortable with this application proceeding with the condition that sewer details shall be reviewed and approved by Engineering Staff prior to the issuance of a building permit.

Traffic & Access Management - The westerly site access point is proposed to be shifted to the west corner of the lot and remain the same size at the property line, but will include flared ends. The existing easterly exit-only site access point is proposed to remain the same. Mr. Clements suggested that the Board may wish to require signage that says this location is “exit only”. An internal travel lane is proposed to be added in front of the building to allow traffic that utilizes the uses located in the front of the building to circulate without having to navigate entirely around the building. Section 20.9.3, “Access Management” states, “*Interior circulation and parking shall be designed to assure safe passage of all vehicles and pedestrians into, out of, and throughout the site.*”

Mr. Clements noted that the proposed conditions plan does not show striping and pedestrian connection between the parking area and building. He added that as the residential tenants will be utilizing parking around the site once the other business tenants leave for the evening, it would be important to learn how pedestrians navigate the through the site. He felt that this should be shown on the proposed conditions plan.

Section 20.9.4 “Accessibility” states, “*Pedestrian facilities shall be designed to accommodate persons with disabilities in accordance with the access standards required by the State Building Code...Sidewalks, shared use paths, street crossings and other infrastructure shall be constructed so that all pedestrians, including persons with disabilities, can travel independently.*”

Mr. Clements stated the applicant has stated throughout the discussion that these items will be addressed at the building permit stage. It would be up to the Board to decide if these are items they would like to see on the site plan before it is approved.

Mr. Clements went on to say that curbing details are missing from the proposed site plan for new parking and landscaping areas. Section 9.4.3.D states that surface parking lots, “*Shall have a substantial curb or wheel stop of concrete, masonry, steel or heavy timber placed at or near the end of each parking space to prevent vehicles from damaging nearby buildings, lawns, trees or shrubs, or from creating a hazard to pedestrians on any sidewalk or walkway.*” In addition,

Section 9.4.5.4 states “*Curbs, setbacks or other protection must be provided to prevent damage to trees and shrubs from vehicles.*” Mr. Clements stated that there are a lot of existing conditions on this site and with the proposed formalized traffic pattern and additional parking, there needs to be a balance of where curbs need to be located, what that material will look like, would this affect the site in any way. Those details are not included in the proposed conditions plan.

The traffic study submitted by the applicant states that the proposed residential addition to the property would generate less than 100 vehicles entering and exiting per hour and less than 100 total vehicles per hour. The report estimates 386 total daily weekday trips will be added to the site for the proposed use with 23 AM peak hour trips and 29 PM peak hour trips. The study states that standard traffic engineering practice suggests that the proposed development would be expected to result in negligible impacts to the adjacent roadway system. The full traffic analysis is included as an attachment to the staff report.

Filing and Excavation – As the applicant has stated, this would be very minor because of the close proximity to Route 101, so any dump trucks bringing or moving material would have easy access to and from the site.

Wetlands – None

Hazardous & Toxic Materials – The applicant has no knowledge of any hazardous or toxic material on site and does not intend to use any for this project. In the event that anything is discovered, it would be contained and disposed of properly.

Noise - The applicant has stated in their narrative that the proposed project will not generate negative impacts related to noise to the area. This is a mixed use site with many uses going on and staff does not feel the addition of 57 residential uses is going to significantly impact noise on this site.

Architecture & Visual Appearance – Mr. Clements referred to the following standards:

20.14.1 Massing/Scale: “For buildings of 150-ft in length of more, facades shall be divided into multiple “modules,” expressed through significant architectural changes such as a change in materials, a change in pattern elements or a change in building setback through recesses or projections. Such modules shall be no wider than 50-ft.”

20.14.2 Visual Interest: “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.” “Structures shall have architectural features 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.” “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.”

Councilor Remy referred to lighting and asked how important the 70.1 CRI would be as it pertains to this site. Mr. Brunner stated the Board’s standard used to say 70 or greater but for some reason

was changed to say greater than 70. Ms. Brunner did not feel 70 or 70.1 was that significant and explained that CRI stands for color rendering index and it is how true a color looks under that level of light. This standard was put in place before LEDs were widespread in their use. For LEDs, staff look at the color temperature rather than CRI. The standard calls for a color temperature of 3,500K or less. The Councilor noted the particular fixture has three optional color temperature – 3,000 which will meet the Board standard. Mr. Clements noted a 70 CRI would require a waiver but not 70.1. He added that if this application requires any waivers, it would need to be re-noticed and continued to the next meeting.

With reference to the location of the dumpsters, the proposed dumpster is adjacent to the stairwell to access the residential units. This again would require re-noticing the application and continuing the application to the next meeting, as it violates the intent of the Board regulations as it pertains to dumpster location. Mr. Walter referred to Board language as it pertains to this. He added there is a primary entrance at the front of the building and noted the entrance next to the dumpster is a service entrance to access the dumpsters. He felt the location being proposed is much better compared to where the dumpsters are located today. Mr. Clements stated he would argue that the stairway tower is the primary entrance to the residential units. This concluded staff comments.

Mr. Walter noted to where the awning is located is where the primary entrance is located. Mr. Clements referred to where the parking was located and felt that would be the entrance most would use.

The Mayor asked what the plan for the exit only access was and asked for an added explanation for circulation. Mr. Walter stated circulation on site would be in a clockwise direction. He added that by angling the parking to 45 degrees they are reducing the number of parking spaces to enable them to increase the amount of green space. There will not only be striping for spaces, but also for directional arrows.

Mr. Walter went on to say that their curbing is a Cape Cod profile; this would be located anywhere there is new parking. This curbing is a plow friendly detail.

Lighting – Mr. Walter stated if the fixture is objectionable it can be changed. He added they understand the standard and will comply with the standard.

Mr. Walter felt this is a creative project and something that he felt fits in with the neighborhood.

The Chair asked for public comment. With no comments from the public, the Chair closed the public hearing.

The Mayor stated this is an excellent project which shows a lot of forethought. The Mayor stated that as far as conditions he would propose that they only include A, B, and F from the recommended motion language in the staff report. He added that he has hesitation approving the lighting plan, as it does not meet the standard and felt it should be resubmitted.

Councilor Remy stated with reference to the lighting plan, where it is overflowing into, HCS would perhaps like to have their parking lit.

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve SPR-870, Mod. 2, as shown on the plan identified as, “310 Marlboro Street LLC, 310 Marlboro Street Keene, NH 03431 Site Plan” prepared by DB Landscaping LLC at a scale 1 in = 50 ft, dated August 19, 2022 and revised September 12, 2022, and on the architectural elevations received August 19, 2022 and prepared by Randall S. Walter, AIA Design/Build at a scale of 1/16 in = 1 ft and 3/64 in = 1 ft with the following conditions:

1. Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:
 - A. Owner’s signature appears on plan.
 - B. Submittal of a security for landscaping, sedimentation and erosion control, “as-built plans”, and water & sewer utility work in a form and amount acceptable to the City Engineer.
 - C. Submittal of a revised Lighting Plan and fixture cut sheets that meet Planning Board Site Development Standards.
2. Prior to the issuance of a building permit, the applicant shall submit sewer connection calculations and construction plans, subject to review and approval by the City Engineer.
3. If a sewer connection permit is required in accordance with NHDES administrative rule Env-Wq. 703.07, the applicant shall provide a copy of such permit to the Public Works Department.

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

VI) Staff Updates

- a. 2022 Land Use Law Virtual Conference – Saturday, October 15th from 9:00 am – 3:00 pm

Ms. Brunner stated the 2022 Land Use Law Virtual Conference is scheduled for Saturday, October 15th from 9:00 am – 3:00 pm. There is a registration cost associated with this conference; however, the Planning Board has a budget of \$250 to cover some of the cost should anyone be interested in attending the conference.

VII) New Business

Councilor Remy stated he would like to review the lighting issue addressed today. Ms. Brunner stated there has been some internal discussion and there are some changes being brought to the Joint Committee regarding LDC – this is one of the proposed changes.

VIII) Upcoming Dates of Interest – October 2022

- Joint Committee of the Planning Board and PLD – October 17, 6:30 PM
- Planning Board Steering Committee – October 11, 11:00 AM

- Planning Board Site Visit – October 19, 8:00 AM – To Be Confirmed
- Planning Board Meeting – October 24, 6:30 PM

IX) Adjournment

There being no further business, Chair Russell-Slack adjourned the meeting at 8:55 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Megan Fortson, Planning Technician