

City of Keene
New Hampshire

PLANNING BOARD
MEETING MINUTES

Monday, January 22, 2024

6:30 PM

**Council Chambers,
City Hall**

Members Present:

Harold Farrington, Chair
Roberta Mastrogiovanni, Vice Chair
Mayor Jay V. Kahn
Councilor Michael Remy
Armando Rangel
Ryan Clancy
Kenneth Kost

Staff Present:

Jesse Rounds, Community Development
Director
Mari Brunner, Senior Planner
Evan Clements, Planner

Members Not Present:

Randyn Markelon, Alternate
Gail Somers, Alternate
Tammy Adams, Alternate

I) Call to Order

Chair Farrington called the meeting to order at 6:30 pm and a roll call was taken. Chair Farrington recognized Mr. Kost for recently becoming a regular voting member of the Board. He also recognized Mayor Kahn who will also serve as a regular voting member during his time as Mayor.

II) Minutes of Previous Meeting – December 18, 2023

Chair Farrington offered the following correction: add the word “Senate” after the word “State” on line 248.

The Mayor asked whether he should be voting on a set of minutes for a meeting at which he was not present. Councilor Remy stated it has always been the practice of members to vote on minutes regardless of whether they were present or not. Ms. Brunner stated the Mayor could abstain if he wanted to, but it is up to him whether he wants to vote or not.

A motion was made by Councilor Michael Remy that the Planning Board approve the December 18, 2023 meeting minutes as amended. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved. The Mayor participated in the vote on this item.

III) Election of Chair, Vice Chair, & Steering Committee

A motion was made by Councilor Michael Remy to nominate Harold Farrington as Chair of the Board. The Councilor noted that Mr. Farrington has been on the Board since 2021, starting as an Alternate and then started serving as a regular voting member in 2022. The motion was seconded by Roberta Mastrogiovanni.

A motion was made by Councilor Michael Remy to nominate Roberta Mastrogiovanni as Vice-Chair of the Board and he noted that she has been a regular voting member since 2021. The motion was seconded by Harold Farrington.

A motion was made by Councilor Michael Remy to nominate Armando Rangel as the third member of the Planning Board Steering Committee and he noted that he started as an alternate in 2022 and later started serving as a regular voting member a few months later. The motion was seconded by Roberta Mastrogiovanni.

The nominations were unanimously approved.

IV) Final Vote on Conditional Approvals

The Chairman stated this is a new standing agenda item in response to a recent decision issued by the NH Supreme Court. As a matter of practice, the Board will now issue a final vote on all conditionally approved plans after all of the “conditions precedent” have been met. This final vote will be the final approval for the application and will start the 30-day appeal clock.

Ms. Brunner stated there are three applications ready for final approval tonight. The first one is S-11-23. This was a boundary line adjustment and street access permit application for 143 and 147 Main Street and 0 Davis Street. There were five conditions precedent for this application, including the submittal of a plan with the owner's signature; the inspection of the lot monuments by the Public Works Director or their designee; the submittal of four full-size paper, two mylar and a digital copy of the final plan set; the submittal of a check to cover the cost of recording fees; and the submittal of an updated plan showing the revised driveway configuration with a nine-foot wide section with protective bollards.

All of those conditions precedent have been met.

A motion was made by Councilor Michael Remy that the Planning Board issue final approval for S-11-23. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

Ms. Brunner stated that the next application is S-09-23 for a 3-lot subdivision of 284 West Surry Road. The conditions precedent included the following: that the owner's signature appears on the plan; the inspection of lot monuments; the submittal of subdivision approval from the New Hampshire Department of Environmental Services (one of the lots was less than five acres and it required DES approval for the septic system); the submittal of four full-size, two mylar and a digital copy of the final plan set; and the submittal of a check to cover recording fees. All of these precedent conditions of approval have been met.

A motion was made by Councilor Michael Remy that the Planning Board issue final approval for S-09-23. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

Mayor Kahn asked where in the agenda packet he could find these materials. Ms. Brunner explained that the materials for the final approval of an application are sometimes submitted on the day of the Planning Board meeting. Instead of holding up the project for another month, that information is brought to the meeting. The materials for the applications are in the agenda packet for the meeting where the project was conditionally approved. For example, the item just discussed was conditionally approved at the October 2023 meeting.

Ms. Brunner stated she would like to recommend tabling the third item until the Board votes on the extension request. This is for the site plan application, SPR-790, for an addition to Summit Packaging at 7 Krif Ct. She went on to say the reason there is both an extension request and a final approval for the same application tonight is because their conditional approval for the application expired prior to this meeting, but they have now met their conditions for final approval.

V) **Extension Requests**

1. **SPR-897, Modification #1 & SWP-CUP-04-21 – Site Plan & Surface Water Conditional Use Permit – U-Haul of South Keene, 472 Winchester St – Applicant Fieldstone Land Consultants, on behalf of owner Amerco Real Estate Company, requests a first extension to the deadline to achieve active and substantial development for the Site Plan & Surface Water CUP applications, SPR-897 Modification #1 1 & SWP-CUP-04-21, for the renovation of two existing buildings, the construction of a ~12,175 sf building, and the installation of ~28,900 sf of pre-fabricated storage units on the new U-Haul of South Keene site at 472 Winchester St (TMP #115-020-000). The parcel is 7.38 ac and is located in the Industrial District.**

Mr. Chad Branon of Fieldstone Land Consultants addressed the Board. Mr. Branon stated they are looking for a one-year extension to the deadline for active and substantial development for this project, as they are still working on acquiring permits from FEMA due to work next to Ash Swamp Brook at the rear of the site.

Mayor Kahn asked when the timeframe for the one-year extension would begin. Ms. Brunner stated it is dated from the day after the date of conditional approval. Active and substantial development begins two years from the day after conditional approval and the extension would extend it out another year. The conditional approval for this application expired on December 21, 2023. Mr. Branon noted that FEMA's review and approval process is lengthy. He added that construction for Phase 1 has already started. The Mayor clarified that the applicant has the necessary approval to begin their business at this site and the application is for an addition to this site. Mr. Branon stated the site plan is approved and the portion being discussed is the self-storage buildings located at the rear of the site and the FEMA permitting associated with work in that location is the reason for the extension request.

A motion was made by Councilor Michael Remy that the Planning Board extend the active and substantial development deadline by one year. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

2. **SPR-790, Modification #1 – Site Plan – Summit Packaging Addition – Applicant Keach-Nordstrom Associates Inc., on behalf of owner Summit Packaging Systems LLC, requests a second extension to the deadline to satisfy the precedent conditions of approval for the Site Plan application, SPR-790 Modification #1, for the construction of a ~6,400 sf addition to the existing ~6,250 sf Summit Packaging Systems building and associated site modifications. The parcel is 1.98 ac and is located in the Industrial District.**

Ms. Bridget Souza of Keach-Nordstrom Associates addressed the Board next. Ms. Souza stated their first extension for this application expired on January 19, 2024. The first extension was approved on July 24, 2023 because of a significant increase in project costs. They are now applying for another extension because they had not met their precedent conditions of approval yet. Since then, they have satisfied the two conditions of approval, which were submitting a security for the cost of sediment and erosion control measures and the submittal of as-built plans, as well as the submittal of five paper copies and one digital copy of the final plan set.

A motion was made by Councilor Michael Remy that the Planning Board grant a six-month extension to the deadline to satisfy the precedent conditions of approval. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

Mr. Clancy noted the Board packet indicates this is a first extension request and asked for clarification from staff. Ms. Brunner noted that is an error and should indicate that this is a second extension request.

Ms. Brunner went on to say the Planning Board initially approved this application at its meeting on January 23, 2023 with the two conditions precedent. The first one was the submittal of a security for sedimentation and erosion control and as-built plans in a form and amount acceptable to the City Engineer. The second was the submittal of five full-sized paper copies and one digital copy of the final plan set. Both of these conditions have been met.

A motion was made by Councilor Michael Remy that the Planning Board issue final site plan approval for SPR-790, Modification #1. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

VI). **Public Hearings**

1. **SPR-03-19, Modification #3 – Site Plan – Keene Mini Storage New Building, 678 Marlboro Rd - Applicant SVE Associates, on behalf of owner Keene Mini Storage LLC, proposes to construct a ~5,200 sf climate-controlled storage building on the property at 678 Marlboro Rd (TMP #241-107-000). The parcel is 9.5 ac and is located in the Industrial District.**

A. Board Determination of Completeness

Planner, Evan Clements, addressed the Board and stated the applicant has requested exemptions from submitting a landscaping plan, lighting plan, traffic analysis, soil analysis, historic evaluation, screening analysis, and an architectural and visual appearance analysis. After reviewing each request, staff recommend that the Board grant the requested exemptions and accept the application as “complete.”

A motion was made by Councilor Remy to accept application, S-09-23, as “complete.” The motion was seconded by Roberta Mastrogiovanni.

Mayor Kahn asked for added clarification on the exemptions. Mr. Clements explained the applicant has requested an exemption from submitting a landscaping plan as there is no landscaping being proposed. An exemption has also been requested from submitting a lighting plan. He explained that there is some wall lighting proposed over the doors, but explained that this lighting is very much internal to the site and is not lighting the parking lot. Hence, the Planning Board’s lighting standards do not apply. He went on to state that an exemption was also requested from submitting a traffic analysis – they did provide a rough estimate of traffic, which Mr. Clements stated he will discuss later, but the expected impact does not meet the threshold where a full traffic study would be required.

They also requested an exemption from submitting a soil analysis, which staff does not feel is necessary because they have no concerns about large-scale underground drainage or subsurface disposal systems. Additionally, a historic evaluation is not necessary as there are no notable historic features that are being disrupted. The Applicant also requested an exemption from submitting a screening analysis, which ties into the landscaping plan; however, the proposed addition is very internal to the site and will be obscured from the public right-of-way by the existing building and infrastructure. The final exemption request was related to the submittal of an architectural and visual appearance analysis – Mr. Clements noted that this addition will be a steel prefabricated building with no notable architectural features and stated that it is ultimately up to the Board to decide if this addition meets their standards.

The motion was made by Councilor Remy, seconded by Roberta Mastrogiovanni, and was unanimously approved.

B. Public Hearing

Mr. Rob Hitchcock of SVE Associates addressed the Board on behalf of Keene Mini Storage. He indicated that the proposed addition is a 5,200 square foot building in some empty space on the site. This would be a climate-controlled building with a canopy over the center front. There will be egress doors on each end of the building because there are interior alleys. The entire site is fenced today and the fencing will be extended to include this building as well. Mr. Hitchcock indicated there is no water, sewer, dumpster, or landscaping included as part of this proposal. There will be two lights located under the entry canopy, and there will also be a concrete tank with a 12-inch pipe going in and a 6-inch pipe coming out to reduce runoff. There will be no

increase to runoff to the river that is adjacent to this site. This concluded Mr. Hitchcock's comments.

The Mayor asked whether there were underground storage tanks located on this site in the past. Mr. Hitchcock stated he was not aware of any tanks on this site. He noted that there is a gas tank that has been on the site for over 30 years.

Mr. Kost asked how the applicant will make sure that no hazardous material is stored in any of these storage units. Mr. Hitchcock stated he hoped the owner would review that such materials cannot be stored in any of the units, but noted that he wasn't sure how that would be governed and felt it would be similar to any of the other storage units in Keene. Mr. Kost stated he was concerned because of this site's close proximity to the river

Staff comments were next. Mr. Clements addressed the Board and stated this is an existing 9.5-acre lot located on the north of Route 101 with Graves Rd to the southeast and Thompson Rd to the west. The property contains several buildings that contain office, storage, and warehousing uses. An existing fueling station also exists on the property. Keene Mini Storage offers both drive-up storage units and climate-controlled storage units. The purpose of this application is to construct a free standing 5,200-sf building on the existing the site in order to create additional climate-controlled storage units available to rent. The proposal includes the creation of six additional parking spaces and associated drainage improvements to accommodate the new building and parking area.

Mr. Clements went on to say that after reviewing the application, staff has made a preliminary evaluation that the proposed site plan does not appear to have the potential for regional impact as defined by RSA 36:55. He indicated the Board will need to make a final determination as to whether the proposal, if approved, could have potential for regional impact.

With reference to Drainage: Mr. Clements stated the plan proposes the installation of roof drains, stone infiltration strips around the building, and catch basins to capture new stormwater flow generated by the new building. The new catch basins will be tied into the existing underground drainage system on site. The submitted drainage summary states that the proposal will not create any adverse impacts to downstream properties due to stormwater runoff from the proposed improvements. It appears that this standard has been met.

Sediment & Erosion Control: The Applicant states in their narrative that silt fencing will be installed to contain sediment runoff and the construction contractor will install, monitor, and repair all erosion control measures on a regular basis. The proposed site disturbance will be internal to the property and the risk of sediment runoff onto adjacent properties or surface waters is minimal. Mr. Clements stated this standard has been met.

Snow Storage & Removal: The Applicant states in their narrative that there is sufficient snow storage space available on site. This standard has been met.

Landscaping: This standard is not applicable – no new landscaping is being proposed.

Screening: No new screening is proposed with this application. The proposed building is internal to the site and will be obscured by existing buildings that are closer to the public right-of-way.

Lighting: The proposal includes the installation four wall pack light fixtures – one above each door. A 16'x22' canopy is proposed at the main entrance to the new building. The canopy will have light fixtures installed underneath that are recessed at the edge of the canopy and hence meets the Board's lighting standards. The wall pack fixtures proposed by the Applicant have a Color Rendering Index (CRI) of 70, where a CRI greater than 70 is required by the Board's lighting standards. A precedent condition of approval related to the submittal of a wall pack lighting cutsheets that meet this standard is suggested by staff.

Sewer & Water: Neither is being proposed; hence, this standard is not applicable.

Traffic & Access Management: The Applicant states in their narrative that mini storage units are very low traffic generators. Vehicle counts can be tracked and estimated from gate openings, which is done automatically. Based on the existing site utilization, the Applicant estimates that there are less than 10 vehicles accessing the upper-level storage units on any given weekday. That number increases to 20 vehicles on Saturday. The Applicant estimates that the proposal will increase weekday vehicles to 15 and Saturday vehicles to 25. Mr. Clements stated City engineering staff did request that the Applicant contact New Hampshire Department of Transportation to see if they had concerns about the increase in site traffic and access off New Hampshire Route 101. DOT did respond to the applicant in an email, which the Board has copies of. DOT did not have any concern with respect to the increase in traffic generation and noted that it might be time to update the permit, but this will be between the applicant and DOT.

Parking Spaces: The proposal includes the addition of four regular spaces and two accessible parking spaces for a total of six new parking spaces for the building. Bollards are proposed to act as vehicle stops at the end of each parking space. The associated drive aisle is of sufficient width to accommodate the new parking spaces and all parking meets zoning. A walking path is provided between the parking spaces, the existing building, and the proposed building in order to provide a protected walkway between the new parking spaces and the proposed building. It appears this standard has been met.

Filling and Excavation: The Applicant states in their narrative that fill will be used to create the building platform and slopes. Site access for the property is from Route 101 and traffic impacts due to the hauling of fill will not adversely impact the surrounding area. It appears that this standard has been met.

Surface Waters and Wetlands: The Applicant states in their narrative that the proposal will not impact existing surface waters and there are no wetlands located on the property. The property is exempt from NHDES Shoreland Protection regulations due to its historically built-up nature, and the proposed new building and site modifications are located outside the 30-ft surface water protection buffer. This standard has been met.

Hazardous and Toxic Materials: The Applicant states in their narrative that there will not be any hazardous or toxic materials stored on site. Mr. Clements stated in reference to the question

raised by the Board, he can only speculate that the lease agreement for the units would include a provision for hazardous and toxic materials based on the applicant's statement.

Noise: The Applicant states in their narrative that the proposed expansion of the existing mini storage operation will not generate any new noise. Mr. Clements noted his department has not received any noise complaints for this site and that he believes this standard has been met.

Architecture and Visual Appearance: The Applicant states in their narrative that the proposed architectural and visual appearance of the new building will match the existing climate-controlled storage buildings on the site. The proposed building will have corrugated metal walls with a metal rigid awning over the main entrance. The building will be 80-ft wide, and the awning will be 22-ft wide. Mr. Clements stated the most applicable sub-section of this standard that he could refer to is Section 20.14.3.E, which states that, "*A cohesive visual character shall be maintained within a development through the use of coordinated hardscape (e.g. paving materials, lighting, outdoor furniture, etc.) and landscape treatments.*" He indicated the Board will need to determine if the architectural standard for this proposal has been met.

Mr. Clements next reviewed the proposed motion.

Mr. Clements asked Mr. Hitchcock where the fuel for the fueling station on site comes from. Councilor Remy stated he wasn't sure if Mr. Hitchcock would be prepared to speak to the underground tanks, as they are located on the other side of the site; there are two tanks - one for gas and one for diesel, both made out of fiberglass, which were installed in 2017.

This concluded staff comments.

Mr. Clancy asked how the Board could learn about the criteria staff uses in deciding whether or not to grant exemptions from submittal requirements for applications. Mr. Clements stated the exemptions are related to Article 25, which outlines the application submittal requirements for the various types of applications. He explained that the applicant submits the most pertinent information that they feel is necessary for staff and Planning Board review of the application. They will then request exemptions from materials listed in Article 25 that they don't believe are relevant. At that point, staff makes a determination that they either agree or don't agree. If staff does not agree, they ask for more information.

For example, the applicant asked for an exemption from submitting a drainage analysis for this application. The engineering team asked for rationale from the applicant as to why they were asking for an exemption from submitting this item. The applicant responded by submitting one. Ms. Brunner noted Article 25, Section 12 of the Land Development Code talks about site plan review and outlines the required submittal items. She noted that the exemptions that staff goes through are recommendations. Ultimately, it is the Board who must decide that an application is complete and whether or not to grant the requested exemptions.

Chair Farrington asked if staff could look into how self-storage operators minimize the risk of the storage of hazardous and toxic materials, rather than just trusting what their customers

indicate. Mr. Clements stated he was not sure how the issue of privacy is addressed at self-storage locations, but stated that staff can look into this.

Mr. Clancy asked when the last soil analysis was done on this site. Mr. Hitchcock stated soil analyses are usually requested if there are wetlands on a site or if a septic system is going to be installed. He added that a soil analyses is not required as part of a site plan, but stated that believes is required for a building permit. Mr. Clements felt that a soil analysis could be required based on what is being constructed on a site. He added that for staff's review, it is mostly what Mr. Hitchcock described – it is for wetlands, drainage rates for percolation, stormwater management systems, subsurface disposal systems, leech fields, etc.

He added he wasn't sure if this site has ever had a comprehensive soil analysis, considering it has been industrial and built out for so long. He went on to say that the fact that it has been exempted by NH DES from Shoreland Protection requirements is a relatively significant indication as to how impervious and built-out the site has been for a long period of time. Mr. Hitchcock added that the fuel tank is centered inside a concrete bunker and is designed to hold 100% of the volume should the tank ever leak. He further stated that the site has been run and maintained by Cheshire Oil for at least the last 35 years.

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

C. Board Discussion and Action

A motion was made by Councilor Michael Remy that the Planning Board approve SPR-03-19, Mod. 3, as shown on the plan identified as "Keene Mini Storage Expansion 2023/2024" prepared by SVE Associates at a scale of 1 in. = 20 ft. dated December 18, 2023 and the architectural elevations prepared by SVE Associates with no scale dated December 18, 2023 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 the plan set.
 - b) Submittal of security for sedimentation and erosion control and "as built" plans in a form and amount acceptable to the City Engineer."
 - c) Submittal of a revised lighting cut sheet for wall packs with a CRI of greater than 70 and a revised drainage summary with the P.E. stamp on it.
 - d) Submittal of five full-size paper copies and one digital copy of the final plan.
- 2) Subsequent to final approval and signature by the Planning Board Chair, the following conditions shall be met:
 - a) Prior to the commencement of site work, the Community Development Department shall be notified when all erosion control measures are installed and the Community Development Director, or their designee, shall inspect the erosion control measures to ensure compliance with this site plan and all City of Keene regulations."

Councilor Remy stated that he did not feel as though there would be any regional impact from this project. The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

2. PB-2024-01 – Surface Water Protection Conditional Use Permit – 186 Gunn Rd - Applicants and owners Ashley & Peter Greene request a reduction in the Surface Water Protection buffer from 75’ to 30’ to allow for the future subdivision and development of the parcel at 186 Gunn Rd (TMP #205-013-000). The parcel is 11 ac and is located in the Rural District.

A. Board Determination of Completeness

Planner, Evan Clements, addressed the Board and stated that the applicant requests exemptions from submitting a landscaping plan, lighting plan, building elevations, drainage report, historic evaluation, screening analysis, and an architectural and visual appearance analysis. After reviewing each request, staff recommend that the Board grant the requested exemptions as they have no bearing on the merits of the application and accept the application as “complete.”

A motion was made by Councilor Remy to accept application, PB-2024-01, as “complete.” The motion was seconded by Roberta Mastrogiovanni and was unanimously approved.

B. Public Hearing

Mr. Jason Bolduc of Meridian Land Services addressed the Board. Mr. Bolduc stated that the intent of the applicants is to subdivide off the eastern portion of their property. During a wetlands delineation, it was discovered that there was significant amount of wetlands present on the site. This resulted in having to reduce the surface water buffer to make the proposed parcel suitable for development. He referred to an exhibit showing the site layout for a typical four bedroom house with a septic, well, and driveway. To accommodate a reduction in the buffer, the applicant is proposing infiltration trenches along the front and rear of the proposed dwelling to capture runoff from the roof, as well as plantings around the edge of the proposed buffer to assist with soil erosion control and to act as a natural buffer.

Mr. Bolduc went on to say that Best Management Practices will be used during construction, and stated that they propose to install erosion control measures before construction commences and keep them in place until there is a healthy level of vegetation throughout the developed area. This concluded the applicant’s presentation.

Mayor Kahn noted the Conservation Commission asked for additional time to address the buffer reduction request and asked for staff or the applicant’s input. Mr. Bolduc agreed that the Conservation Commission requested more time. He indicated that due to the snowstorm, he could not attend the meeting in person, but joined remotely. As a result, the site visit was also postponed. Ms. Brunner added that there was a lot of discussion undertaken at the Conservation Commission meeting regarding this item and noted that this is the first time the Commission has had to review a buffer reduction, which is a new option in the City’s regulations. It went into effect when the Land Development Code went into effect in September 2021.

She indicated that because the Conservation Commission could not participate in a site visit and this is the first time they have had to review such a request, one of the concerns voiced is that the standards for Surface Water Conditional Use Permits state that *“the proposed use and or activity cannot be located in a manner to avoid encroachment to the Surface Water Protection Overlay District”*

Ms. Brunner noted the applicant is proposing to subdivide two acres from the existing 11-acre parcel of land and the Commission asked the applicant whether they have looked at any other areas on their parcel or if they could make the lot bigger to avoid potential impacts to the buffer. She noted that the applicant could not address that question because other options have not been looked at yet. She indicated the Conservation Commission did submit a letter to the Planning Board.

One of the property owners, Ashley Greene, stated they have considered other sections of their property for subdivision. However, due to the slope of Gunn Road if the other side was to be subdivided, that area would be visible from their home. There are also easements that run along the western border for a neighbor and for the power company. She also distributed photographs of the property to include the eastern and western property line. She noted the pink area circled on the photographs are the wetland areas.

Mr. Bolduc stated that he is a certified wetlands scientist and he flagged the wetlands and did an assessment. He indicated that the wetlands are created from a CB side slope off Gunn Road that intercepts the seasonal high water table. Performing a functions and values evaluation of the wetlands, they did not meet any criteria for a high value wetland. He added that at least 400 feet down slope through a natural forest, there is a stream. Provisions in the plan are being taken to prevent anything from happening to that stream.

Staff comments were next. Mr. Clements stated he wanted to start with the conditional use permit section of the LDC and reminded the Board of some criteria.

In reference to the buffer reduction, the standards state that, *“In specific cases, the Surface Water Protection District buffer area may be reduced to 30-ft in zoning districts requiring a 75-ft buffer and to 10-ft in zoning districts requiring a 30-ft buffer, at the discretion of the Planning Board, and if the applicant provides extraordinary mitigation, replication, and/or restoration of surface waters and wetlands, and/or open space preservation measures.”*

He noted that Section 11.6 of the LDC outlines activities that are subject to Surface Water Protection Conditional Use Permit applications and explained that this application will be for the future potential subdivision of this lot to create a new residential building lot. Although a subdivision application is not before the Board this evening, he noted that the CUP standards state that a Surface Water CUP is required prior to or in conjunction with the review of a subdivision if, *“it is for the creation of new lots by subdivision that would require the disturbance or crossing of lands within the surface Water Protection Overlay District.”*

He noted that without the buffer reduction, the proposed 2.26-acre lot is completely covered by the wetland buffer and is not viable for development. The standard discusses the creation of a new lot where access to that lot would require crossing the buffer. Staff also had concerns, as did the Conservation Commission, related to attempting to cite this new lot somewhere else on the property where the impact to the wetlands and the wetlands buffer would be reduced, or if this proposed location will truly have the least amount of impact possible.

Mr. Clements went on to say that the subject parcel is an existing 11.26-acre lot located on the north side of Gunn Road, approximately 1,200 feet from the Gilsum town line. The Sturtevant Brook runs adjacent to the rear of the property. The lot contains an existing 1,900-sf single-family residence and a detached 1,320-sf pole barn. An initial wetlands delineation has revealed that a significant portion of the lot consists of wetland systems. The purpose of this application is to seek a Surface Water Protection Conditional Use Permit for a surface water buffer reduction from 75 feet to 30 feet and 10,870 sf of impact to the reduced buffer to accommodate the future subdivision of a new 2.26-acre residential building lot.

Mr. Clements further stated that a Conditional Use Permit is required per Section 11.3.1.C of the LDC for a buffer reduction and per Section 11.6 for the construction of a new structure that impacts the buffer, the creation of a new lot that would require buffer disturbance to access, and for the construction of a new driveway that will impact the buffer. The submitted exhibit plan shows a single-family residential development on the future lot that depicts a well, septic, drainage, driveway, and residence. Per Section 11.6.3.A of the Land Development Code, this application was referred to the Conservation Commission for review and recommendation at their meeting on January 16th. Their recommendation is to continue this application to the February Planning Board due to their site visit being postponed because of the weather.

With respect to regional impact, staff has made a preliminary evaluation and does not believe that this proposal meets the threshold of regional impact. However, the Planning Board will need to make a final determination for that.

Mr. Clements then reviewed the Application Analysis:

- A. *The proposed use and/or activity cannot be located in a manner to avoid encroachment into the Surface Water Protection Overlay District.*

He noted that other constraints such as easements, access, visual concerns were discussed earlier. The Applicant states in their narrative that the proposed use cannot be located in a manner that avoids encroachment on the lot. The subdivision of the proposed lot has not been submitted. It may be possible to increase the proposed lot area to further reduce the proposed impact. The Board may wish to ask the applicant to explore this option. He went on to say that the Applicant has also not proposed any permanent measures to prevent future impacts to the buffer or wetlands after initial development. The Board will need to determine if this standard has been met.

- B. *Encroachment into the buffer area has been minimized to the maximum extent possible, including reasonable modification of the scale or design of the proposed use.*

The Applicant states in their narrative that the exhibit plan depicts a 32'x26' 4-bedroom dwelling, septic system, and wellhead that do not encroach into the buffer. Further discussion with the applicant revealed that the total buffer impact will be 10,870 sf. This includes 3,080 square feet of impact for the driveway and 7,790 square feet of impact for the dwelling, wellhead, septic, and associated grading. The Board will need to determine if this standard has been met.

- C. The nature, design, siting, and scale of the proposed use and the characteristics of the site, including but not limited to topography, soils, vegetation, and habitat, are such that when taken as a whole, will avoid the potential for adverse impacts to the surface water resource.*

The Applicant states in their narrative that the site has been designed to have no structures within 30' of the wetlands edge in order to prevent adverse impacts to the wetlands. Mr. Clements indicated to Mr. Bolduc that he will be looking for clarification about his original narrative. It was originally stated that there will be no impacts besides the driveway; however, further discussions made it sound like there would be impacts. Mr. Clements indicated the staff report was written on the assumption of what the narrative provided to staff, but that conversations with the applicant have changed this assumption.

He went on to state that the dwelling will have infiltration trenches to collect runoff from the roof of the dwelling and that stormwater management for the driveway is not shown on the exhibit plan. The narrative states that Red Spruce trees are proposed along the edge of grading to aid in soil stability and buffer identification. The Board will need to determine if this standard has been met.

- D. The surface water buffer area shall be left in a natural state to the maximum extent possible. The Planning Board may establish conditions of approval regarding the preservation of the buffer, including the extent to which trees, saplings and ground cover shall be preserved.*

The Applicant states in their narrative that the buffer will remain in its natural state except for the required impacts due to site development. Erosion control measures will be installed prior to site development and maintained throughout the development process. Red Spruce trees will be installed along the edge of grading to provide a natural barrier along the buffer and to provide soil stabilization. The Board will need to determine if this standard has been met.

- E. The Planning Board may consider the following to determine whether allowing the proposed encroachment will result in an adverse impact on the surface water resource.*

- 1. The size, character, and quality of the surface water and the surface water buffer being encroached upon.*

The Applicant states in their narrative that the wetlands are palustrine (marshy), forested, saturated and not to be impacted. Using the "Highway Methodology," a wetlands evaluation was

conducted and found that the wetlands adjacent to the building area have no suitable wetland functions or values of significant importance. The Board may wish to ask the applicant to provide additional context as to the importance of the wetland, such as wildlife habitats and status as vernal pools.

2. *The location and connectivity of the surface water in relation to other surface waters in the surrounding watershed.*

The Applicant has stated in their narrative that the wetlands complex drains to a stream over 400 feet down slope. The entire wetlands system on the parent lot and the proposed lot have been delineated, but not shown on the plan provided to staff. The full connectivity of the system has not been evaluated. The Board may want to consider asking for additional information from the applicant to better understand the nature of the wetland system.

3. *The nature of the ecological and hydrological functions served by the surface water.*

The Applicant has stated in their narrative that, based on the evaluation, the associated wetlands area is of low value. The vegetation density is low, which is why the Applicant proposes to install trees to aid in soil stability and buffer identification.

4. *The nature of the topography, slopes, soils, and vegetation in the surface water buffer.*

The Applicant has stated in their narrative that the average slope within the buffer is 10% to 15% with a maximum slope to the rear of the proposed dwelling to be 22%. Test pit data revealed the soil composition to be fine sandy loam to sandy loam. The vegetation is low in density and mainly consists of Hemlock, Ash, and Maple with little ground cover.

5. *The role of the surface water buffer in mitigating soil erosion, sediment and nutrient transport, groundwater recharge, flood storage, and flow dispersion.*

The Applicant states in their narrative that the evaluation revealed that the wetlands serve little function related to sediment and nutrient transport, groundwater recharge, flood storage, and flow dispersion.

6. *The extent to which the surface water buffer serves as wildlife habitat or travel corridor.*

The Applicant has stated that the wetlands is not located within a high-value wildlife habitat, according to the City's Wildlife Action Plan GIS overlay. The area is considered a supporting landscape, which is the lowest tier in the overlay (the least valuable according to the City's assessment). Gunn Road is located adjacent to the wetlands and is a barrier to wildlife migration. The narrative notes that there is a half mile of natural woodlands behind the subject property that act as an effective travel corridor.

7. *The rate, timing and volume of storm water runoff and its potential to influence water quality associated with the affected surface water or any associated downstream surface waters.*

The exhibited submitted by the Applicant has infiltration trenches proposed along the proposed dwelling to mitigate stormwater runoff. No stormwater management is proposed for the driveway. The Application states that the stream that the wetlands drain to is greater than 400 feet away. Mr. Clements noted that as the applicant has noted previously, there is plenty of room between the proposed area and the stream.

8. *The sensitivity of the surface water and the surface water buffer to disruption from changes in the grade or plant and animal habitat in the buffer zone.*

The Applicant states in their narrative that sedimentation and erosion control measures are proposed to remain in place until soils have been stabilized with a healthy growth of vegetation. Plantings along the buffer are proposed to aid in stabilization and to help define the buffer permanently. The narrative notes that the areas to the rear of the lot are to remain unaltered to allow for animal and plant habitat.

Mr. Clements went on to say that the Board will need to determine if the mitigation methods proposed by the Applicant meet the threshold outlined in Section 11.3.1.C of the Land Development Code, which states, *“In specific cases, the Surface Water Protection District buffer area may be reduced to 30-ft in zoning districts requiring a 75-ft buffer and to 10-ft in zoning districts requiring a 30-ft buffer, at the discretion of the Planning Board, and if the applicant provides extraordinary mitigation, replication, and/or restoration of surface waters and wetlands, and/or open space preservation measures.”*

Mr. Clements stated there is a proposed motion if the Board is inclined to approve this application. However, it is staff’s recommendation that the item be continued to the February meeting giving the Conservation Commission time to give the Board their recommendation.

Mayor Kahn asked whether there would be any impacts to the owner if this item is continued to next month. Mrs. Greene agreed they have been working on this for a while, but indicated that they want to move forward in the right way and make sure the all entities involved in this application have the necessary information.

Councilor Remy asked for an example of “extraordinary mitigation”, and would like the Conservation Commission to be given the opportunity to weigh in on this application. Ms. Brunner stated this would be staff’s recommendation as well and added that this is a new portion of the regulations. The ability to reduce the buffer, which is a standard, has been effect since September 2021, but is not something that has ever been used before. As a result, the City does not have what past applications have considered to be “extraordinary mitigation”. However, at the minimum, staff would be recommending some sort of runoff and treatment along the driveway, which is currently not included. She added that some of the items the Conservation Commission discussed, which the applicant seemed open to, was the creation of a detention

basin to protect the higher value wetlands that are downstream. She felt that the Board should rely on the Conservation Commission as the content expert.

Councilor Remy asked what the normal wetlands buffer would be for a septic or leach field in this zoning district. Mr. Bolduc stated that for septic systems it is dictated by the state, which requires a 50-foot setback from the edge of wetlands for a leach field, and a 75-foot protective wellhead radius from the wellhead and the leach field. It was clarified that those measurements are shown on the applicant's plan. Ms. Greene stated that the Conservation Commission had raised concerns regarding mitigation for the driveway.

She indicated their engineering team has worked on additional driveway mitigation and that information is available tonight. Mr. Bolduc stated that the two impervious areas for this development would be the roof run off, which will be addressed by infiltration trenches. He circulated a concept drawing for the Board and staff to review. Councilor Remy stated he will review this, but if the intent of the Board is to continue this item, then it might be prudent to review this for next month.

Mr. Clancy clarified that this lot has not been subdivided and asked if it was normal procedure to grant a request as is before the Board before a subdivision occurs. He further questioned that if the request is granted if the entire lot's wetlands buffer is reduced to 30 feet. Mr. Clements indicated that the Board's regulations require site plans to be reviewed in tandem with a Conditional Use Permit application. However, the regulations do not require a subdivision to run in tandem with a Conditional Use Permit application. The applicant would like to hold off on the subdivision due to the extra time and effort required to prepare a proposed subdivision plat. They would like the Board's opinion on basically taking the land as it stands now to determine if it is viable for development or not. However, it could be viable with the buffer reduction. This approval is crafted to tie to the exhibit plan that is associated with this and would only apply to the new lot.

Mr. Bolduc stated it is their intent to focus after doing the wetlands delineation on the parcel and knowing the owners' intent is to subdivide off the eastern portion of the lot. He added that he asked survey crews to focus on this area to see if it is viable by producing an exhibit and coming before the Board before a full boundary survey for the 11 acres is completed. He added that the cost goes up significantly once they start spending a few days on the site. They wanted to review this option before a full subdivision is considered.

Mr. Clements stated that in his opinion with regards to protecting wetland buffers, the applicant's proposal for the red spruce is a very creative idea. Having a living protective buffer is moving in the right direction for what staff could be looking for.

With reference to the driveway and the proposal he circulated to the Board, Mr. Bolduc stated the proposal is for two conveyance swales along each side, directed into three proposed drywalls to catch the stormwater and the sediment coming off the driveway. He indicated the Conservation Commission was concerned about the turnaround and why a turnaround was necessary. Mr. Bolduc explained that for a long driveway to be viable, a turnaround was necessary. This is the reason for the third drywall on the downslope portion.

The Chair asked for public comment. Mr. Clements noted if the Board intends to continue this application, the public hearing needs to be left open.

Chair Farrington read into the record Conservation Commission letter:

“I would give you a little background on the Commission's recommendation to continue the public hearing on the conditional use permit application for 186 Gunn Road. The Commission deliberated the application for about an hour last week, after which we still had a number of questions. Unfortunately, due to the weather, we were unable to perform a site visit to the property, which would have helped answer at least a few of those questions. The Conservation Commission feels that there is a lot riding on this application because it will go a long way towards setting a precedent concerning wetland buffer protection under the relatively new zoning regulations. Assuming the Planning Board agrees to continue the public hearing, we are planning to set up a visit to the site with the applicants and their representative before the February meeting, after which we will be better able to provide the Planning Board with a thorough recommendation.

Sparky von Polinsky, Chairman of the Conservation Commission.”

C. Board Discussion and Action

A motion was made by Councilor Michael Remy that the Planning Board continue this application to the February 26, 2024 Planning Board meeting at 6:30 pm in Council Chambers. The motion was seconded by Roberta Mastrogiovanni.

Mr. Clancy stated he is in agreement to the continuance until the Board receives the Commission's report, but wanted the applicant to know that he feels they are moving in the right direction.

The motion was unanimously approved.

VI) Master Plan Update

Chair Farrington noted the first Steering Committee meeting has been scheduled for February 6th at 6:00 pm. The City has hired Future IQ as the consultant for this project.

VIII. Staff Updates

a. Overview of Administrative and Minor Project approvals issued in 2023

Ms. Brunner referred to the Administrative and Minor Project approvals that were issued in 2023. Administrative Approvals are outlined on page 47 of the Board's packet. There were 22 approvals issued by staff and three approvals issued by the Minor Project Review Committee listed on page 50 of the packet.

Ms. Brunner noted the Site Plan Review regulations include different thresholds that require different levels of review. The Administrative Planning Review is for projects that don't meet the threshold for Minor or Major Site Plan Review. Typically, these are projects with either a

smaller square footage of construction, a smaller area of land disturbance, or projects that don't generate a lot of traffic or other adverse impacts to the surrounding area. Documentation for these projects can be found on the fourth floor of City Hall, if any Board member or the public needed to review them.

Next, she went on to explain the Minor Project Review Committee. This is a committee that was established by the Planning Board as allowed under the RSA. As stipulated by the RSA, membership of the committee is made up of staff, and that committee reviews site plans that are a little bit more impactful than the Administrative Planning Applications, but don't rise to the level of Major Site Plan Review. Projects proposing between 1,000 and 5,000 square feet of new construction would go before the Minor Project Review Committee and above 5,000 square feet goes before the Planning Board.

Ms. Brunner explained that the Minor Project Review Committee meets twice a month. The first meeting of the month is to review an application and then, if needed, the second meeting is to continue the review of any applications that were started earlier in the month. She indicated what staff is finding is that there are not many applications that are coming before this committee either because the City is a direct abutter or has an easement across the property or because the applicant needs to request a waiver of some kind, which automatically moves it up to the Planning Board.

She noted that Applicants that have been able to go through the Minor Project Review Committee process really appreciate having it as an option. It is a faster and shorter timeframe for review and they are still considered public hearings that are recorded and posted online.

Chair Farrington stated it would be helpful to include the approval date on these applications. Ms. Brunner agreed they could do that. The Chair asked whether there were any applications that were rejected. Ms. Brunner answered in the negative and went on to say that there was one project that was considered, "*void ab initio*." She explained that the application went to the Minor Project Review Committee for review and the Committee approved it; however, the application didn't meet the necessary zoning regulations, so the Committee didn't have jurisdiction to approve it. It was as if the application never happened. It wasn't necessarily a disapproval, it just meant that the Minor Project Review Committee couldn't approve it because it didn't meet the proper zoning regulations. She added that all administrative approvals and minor project approvals are also posted online.

The Chair asked where 160 Emerald Street was located. Ms. Brunner stated it the property at the end of Emerald Street, where the Casino is located. The Mayor noted that he felt the provided list was helpful.

b. Capital Improvement Program (CIP)

Ms. Brunner stated after the December meeting, the CIP timeline came out. The books have been distributed to Council and are ready for the Planning Board to review. The schedule is listed on page 51 of the packet. The workshop for the CIP happened last weekend. The Finance Committee reviews the CIP and Planning Board members are encouraged to attend these meetings. At the February 26th Planning Board meeting, there will be a presentation by the

Finance Director and the Community Development Director. At the end of that meeting, the Board will be asked to take a vote to recommend the CIP to City Council.

Mr. Clancy asked about Board recommendations and how that is handled. Ms. Brunner stated the Board's recommendation is to determine whether the CIP is consistent with the existing Master Plan; however, if the Board has recommendations on specific items, it can be raised at a public hearing.

Mr. Kost asked if as the process moves forward whether there will be changes made to the CIP. Councilor Remy stated that if there are changes, it is usually that a project will be pushed back or forward. Ms. Brunner added that the CIP is a financial planning document and until the budget is adopted by Council, the funding is not approved for any project. This is a document that plans out how the City will move forward with expenditures.

c. Project naming conventions

Ms. Brunner stated staff will be switching to a new naming convention for projects. For instance, in the past the Board would see "SPR" which stands for "Site Plan Review" and "CUP" which stands for "Conditional Use Permit." At times there are projects that need multiple applications. An example would be if someone needs a site plan, but also a Hillside Protection Conditional Use Permit and a Surface Water Protection Conditional Use Permit. She explained that previously, this application would have been assigned three project numbers. Staff has been discussing this issue for a while, reviewing the physical and digital filing systems, and tracking projects more clearly. The new naming convention will be done by project instead of based on the application type. Each project gets a number and it will then be tagged with the different application types. She indicated that the old numbering will exist for a while, but noted that moving forward it will change.

IX. New Business

Mr. Clancy stated he would like to see a list of projects ready for final approval prior to the meeting that lists at which meeting each project received conditional approval. Ms. Brunner stated that this is an item staff has been debating for quite some time. With the change to doing both a conditional approval and a final approval, it already creates an extra delay for the project applicant. Previously, staff could just sign off on conditions of approval once they were met; however, now the applicant has to wait until the next Planning Board meeting to receive final approval. Ten days before the meeting is held is when the packet is put together. If they satisfy their precedent conditions of approval in the time between when the packet goes out and when the meeting is held, the applicant would have to wait another month.

This issue was previously discussed with the Planning Board and it was decided that the actual information about which projects would be receiving final approval would not be included on the agenda. However, because projects are not specifically agendized as receiving final approval, staff started posting the Board actions on the City website the day after the Planning Board meeting. Staff is also looking at software products where people who are particularly interested in a project could sign up for updates on that project and automatically get email notifications or other notifications throughout the course of the project.

X. Upcoming Dates of Interest

- Joint Committee of the Planning Board and PLD – February 12th, 6:30 PM
- Planning Board Steering Committee – February 13th, 11:00 AM
- Planning Board Site Visit – February 21st, 8:00 AM – To Be Confirmed
- Planning Board Meeting – February 26th, 6:30 PM

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

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Megan Fortson, Planning Technician