

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

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

**Monday, May 20, 2024**

**6:30 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Roberta Mastrogiovanni, Vice Chair  
Mayor Jay V. Kahn  
Armando Rangel  
Ryan Clancy  
Kenneth Kost  
Michael Hoefler, Alternate

**Staff Present:**

Mari Brunner, Senior Planner

**Members Not Present:**

Harold Farrington, Chair  
Councilor Michael Remy  
Sarah Vezzani  
Randyn Markelon, Alternate  
Tammy Adams, Alternate  
Stephon Mehu, Alternate

**I) Call to Order – Roll Call**

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

**II) Minutes of Previous Meeting – April 22, 2024**

A motion was made by Armando Rangel that the Planning Board approve the April 22, 2024 meeting minutes. The motion was seconded by Kenneth Kost and was unanimously approved.

**III) Final Vote on Conditional Approvals**

The Vice-Chair asked to be recused from this item.

Armando Rangel served as Chair Pro Tem. A motion was made by Michael Hoefler to nominate Armando Rangel as Chair Pro Tem. The motion was seconded by Kenneth Kost and was unanimously approved.

Chair Pro Tem Rangel asked staff if there are items ready for a final vote tonight.

Ms. Brunner stated there is a boundary line adjustment for 2 and 12 Gilbo Avenue that is ready for final approval, PB-2024-03. There were five conditions precedent including: owners' signatures on the plan; inspection of the lot monuments; submittal of four paper copies, two mylars and a digital copy of the final plan; the submittal of a check to cover the cost of recording; and the submittal of draft easement documents. All of these conditions have been met and this application is ready for final approval.

A motion was made by Kenneth Kost that the Planning Board issue final approval for PB-2024-03. The motion was seconded by Michael Hofer.

The Mayor stated he was not clear what this final approval item was. Ms. Brunner explained this is a standing agenda item and because staff could get materials the day of the meeting, the actual project information is not included in the agenda packet, but this is something the Board would have seen at a prior meeting and discussion would have also happened at that meeting; staff just reviews the conditions of approval at today's meeting. The Mayor suggested listing these item as he does not recall this application.

The motion carried on a unanimous vote. Vice-Chair Mastrogiovanni rejoined the session.

Mr. Hofer clarified what transpires with the Final Vote on Conditional Approvals; the Board is taking the word of staff that all conditions have been met by the applicant. Ms. Brunner explained that when a Board approves an application, there are conditions precedent that the applicant has to meet within a six-month timeframe. These are the conditions they have to meet before they can receive final approval, get a building permit, and move forward with construction. There was a recent NH Supreme Court decision where it was implied that only the Planning Board could issue final approvals. Previously, it was the practice for staff to sign off on the conditions of approval and the applicant did not have to come back before the Board. This is a procedural step at the advice of the City Attorney, but nothing has changed with the proposal from the time the applicant received conditional approval from the Planning Board.

I) **Extension Request**

1. **SPR-04-22 & S-04-22 – Site Plan & Conservation Residential Development Subdivision – Timberlane Woods, 0 Drummer Rd - Owner C. Eric Farris, requests a third extension to the deadline to satisfy the precedent conditions of approval for the proposed 6-lot subdivision of the property located at 0 Drummer Rd (TMP #515-015-000) and construction of four, 5-unit multifamily residences and one, 6-unit multifamily residence. The property is 13.1 acres and is located in the Low Density District.**

Mr. Chris Farris, the property owner, addressed the Board. He indicated that because the Conservation Residential Development (CRD) requires separate lots, it makes the proposed development sporadic and is contrary to the intent of this type of subdivision. The intent was to keep parking out of the view of roadways, which can be accomplished under the new Cottage Court Overlay Conditional Use Permit (CUP) process. Mr. Farris stated that if the Cottage Court

Overlay ordinance is approved, they plan to withdraw their prior application and come back with a new Cottage Court CUP application.

Mr. Clancy asked what conditions the application has met on the current application. Mr. Farris stated he did not have a list in front of him, but most of the conditions they have not met are related to easements for utilities. Developing this property through the Cottage Court CUP process should get rid of most of these issues. There are also HOA documents that need to be completed, but this again will change with the Cottage Court Overlay application. He noted that most of the outstanding items will be irrelevant under the Cottage Court Overlay application. Ms. Brunner agreed the applicant is correct in that most of the outstanding items are related to legal documents, easements. etc.

Ms. Brunner went over the conditions: The first condition relates to elevation of the buildings; there was a question as to whether the buildings met the height requirement for the district and additional documentation was required to be submitted. Conditions 2, 3, 4 and 5 relate to submitting written documentation for access and utility easements, cross easement for storm water management and drainage systems; submitting legal documents for management of the open space lot; the acceptance of all public utilities by the Keene City Council; the submittal of revised plan showing a no cut buffer along the 30 foot buffer along Timberlane Drive; and the submittal of a security for landscaping, erosion control, and as built plans.

Mr. Clancy asked whether this site has access to city water and sewer. The applicant answered in the affirmative.

The Mayor stated there is a lot of neighborhood interest in this development and asked whether the applicant has had any conversation with the neighbors. Mr. Farris stated they have not had any conversations yet, but felt this project would be better for the neighborhood if it were reviewed as a Cottage Court CUP. The Mayor encouraged conversations with the neighborhood.

A motion was made by Kenneth Kost that the Planning Board approve the 180-day extension request for SPR-04-22 & S-04-22. The motion was seconded by Armando Rangel.

Mr. Clancy stated he was conflicted because it has been a year and a half since the prior application was approved and those conditions have not been met. Also, the Cottage Court Overlay is a brand new proposal for the City. He indicated that he will not be in favor of this application as this is now a third request for extension.

The Mayor asked for staff input. Ms. Brunner stated Planning Board regulations allow for up to three extensions. The language states as follows: “...such extensions shall only be granted by the respective decision making authority for an applicant who can demonstrate that there are extraordinary circumstances that warrant a third extension of the deadline. Extraordinary circumstances may include but not limited to litigation that has been entered into after conditional approval is granted which prevents the applicant from completing conditions required for signature or from completing active and substantial development.”

Ms. Brunner added that during the second extension request, the applicant talked about the different financing options that were delaying the ability to move forward with satisfying their precedent conditions of approval. She added that she has seen third extension requests in the past – for instance, covid-related issues. Ms. Brunner added that if the extension is granted, this is the last extension that the applicant could be granted.

The motion for the extension request carried on a 5-1 vote with Ryan Clancy voting in opposition.

## II) Public Hearing

1. **Change of Governmental Land Use – RSA 674:54 regarding the proposed use of the 1.8- ac parcel at 0 Island St (TMP #583-018-000) as a temporary construction material storage yard during the upcoming Island Street Infrastructure project. The parcel is owned by PSNH and is located in the Commerce District.**

Ms. Brunner stated that no completeness vote needs to be done for this application. She also indicated that because this is a change of use for a governmental use, any comments provided by the Planning Board will be considered non-binding.

### A. Public Hearing

City Engineer, Don Lussier, addressed the Board. Mr. Lussier stated this is not an application, but rather a notification and added that the Board is not required to hold a public hearing on this item. He indicated the proposal is for a temporary storage area for an upcoming city infrastructure project involving the reconstruction of Island Street. Mr. Lussier stated this is a common practice for contractors to negotiate with private property owners to store their equipment on private property.

Mr. Lussier referred to a previous scenario with the Winchester Street reconstruction project a few years ago where a contractor negotiated for use of property on Pearl Street, but one of the neighbors had issues with that. The City's Zoning Administrator determined this was not a permitted use in that district and the contractor was asked to vacate the property. Because this precedent exists where a contractor might not be able to use private property in a certain zone, the city has had to adapt to those new standards. As a result, for these large construction projects where there is a cost incentive for the city to provide convenient construction access, the city would invoke its right under the statute to negotiate with the property owner to use their land for a temporary governmental land use. A private contractor would not be able to say that they are invoking governmental land use because they are working for the city, so this is something the city has to do. This concluded Mr. Lussier's comments.

Mr. Rangel asked whether the bike path will stay open. Mr. Lussier stated the bike path will be open, but noted that there will be work on the sidewalk and at times users of the bike path might be asked to use the eastern portion of the bike path; however, pedestrian access will be maintained throughout the project.

Mr. Kost asked whether the contractor will be responsible ultimately to make sure there are no erosion control issues from the materials being placed. Mr. Lussier stated they will be required to fence the area off and the city will be monitoring the area to make sure the material does not encroach on the bike path.

Mayor Kahn asked when construction project will be happening in this area and if the fencing would also be screened. Mr. Lussier stated the fencing will not be screened and noted that it will be construction fencing.

In terms of the project timeline, Mr. Lussier explained that the Island Street infrastructure project encompasses everything from West Street to the Island Street bridge. The Winchester Street project terminated 20 to 30 feet north of the bridge with new water and gas mains. The city is now rebuilding the water and sewer drains. As part of this project, Liberty Utilities will be replacing their existing gas lines. All sidewalks on the east side of Island Street and some of the sidewalks on the west side will also be replaced. He added that the street will remain open during the work, but one way traffic will be alternated throughout the summer. Mr. Kost noted this is not a large enough site for staging. Mr. Lussier agreed and added the contractor is likely going to have a location off site.

Mr. Clancy asked if there is a delay with the project what assurances the city has from the property owner that the contractor will continue to be allowed to use this staging area. Mr. Lussier stated the agreement is for six months with the potential for a one-month extension, as long as both parties are in agreement.

Mr. Hoefler asked whether Eversource could use this property for another use without obtaining permission from the City. Mr. Lussier stated this would be a question for the Zoning Administrator. Mr. Hoefler clarified the abutters were notified of this hearing. Staff agreed this is a noticed public hearing.

With reference to a motion for this item, Ms. Brunner stated that if the Board had any non-binding comments they would like to provide, staff would recommend those comments be in the form of a motion. With reference to Mr. Hoefler's question about uses, Ms. Brunner explained that governmental land uses are exempt from zoning and land use regulations under State RSAs. This is a change of governmental land use because at the present time, it is being used as an Eversource sub-station and they are proposing to use it as a construction storage area. Under the City's Zoning Ordinance, there is no temporary use allowance.

Mr. Kost suggested that if the site is going to be lit at night, to make sure it meets the proper lighting standards. Mr. Lussier stated the contractor won't be providing any security lighting.

Vice-Chair Mastrogiovanni asked what the final date for project completion was. Mr. Lussier stated a contract has not yet been signed, but it is likely going to take the entire construction season – through November/December. Ms. Mastrogiovanni asked whether the abutters would be comfortable with a lengthy construction period and if they would be advised if there is a need for an extension. Mr. Lussier stated it was previously asked if the property owner would be comfortable with an extension, but not the abutters and he was not sure. She asked if abutters

will be notified. Ms. Brunner stated notice only goes to the property owners and if there are renters they would not see the notice. Ms. Brunner added that at a recent meeting, the Board approved a change to its mailing practices from sending certified letters to a “certificate of mailing” and added that at a later date staff might be proposing a change to let not only property owners, but also residents of the property be made aware of such issues. She indicated that anyone living within 200 feet of the property boundaries were notified. Mr. Lussier stated the schedule that was provided to the Board has the project starting in July and continuing through November 2024.

Mr. Clancy asked what happens if there is a delay with the work connected to Liberty Utilities. Mr. Lussier stated that the city coordinates with Liberty Utilities in advance and their schedule is built into the contract for the contractor to vacate the area so Liberty Utilities can move forward with their work. If Liberty Utilities exceeds their allotted time, the City’s contractor would have a legitimate reason to exceed their timeframe.

Mayor Kahn felt the orange fencing being proposed doesn’t seem like it would be adequate. Mr. Lussier stated the city is not responsible for the contractor’s equipment and what has been written into the contract is just the delineation of the area they are allowed to use. If they want added security for their equipment, that is their prerogative, but it is not something the city is responsible for. Vice-Chair Mastrogiovanni stated there is also the concern of someone’s view of this area and added that the orange fencing is not attractive. Mr. Lussier noted that the entire stretch of Island Street is going to be unattractive for the entire summer and the area being referred to is adjacent to the construction area. The Vice-Chair asked whether there were any homes directly adjacent to the proposed location. Mr. Lussier stated there are two multi-family units directly to the north.

Mr. Clancy referred to the bike path and suggested fencing be provided to prevent any spill over, which could help the properties to the north. He suggested an eight to ten foot fencing barrier along the northern portion of the parcel to protect the bike lanes and property owners to the north.

A motion was made by Mayor Jay Kahn that the Planning Board recommends that the following recommendations be shared with the City of Keene Public Works Department regarding the temporary construction material storage yard to be located at 0 Island Street with the following condition:

1. The installation of 8-10’ fencing with a barrier and screening along the northern portion of the parcel.

1.

The motion was seconded by Armando Rangel and was unanimously approved.

### **III) Master Plan Update**

#### **a. Master Plan Steering Committee Resignation And Confirmation**

Ms. Brunner stated that Pamela Russell-Slack has submitted her letter of resignation from the Master Plan Steering Committee as she is unable make the meeting date and time set for the

meeting. The Planning Board Chair and Mayor suggested moving Councilor Catt Workman from an alternate to a regular voting member.

A motion was made by Mayor Jay Kahn that the Planning Board accept the resignation of Pamela Russell-Slack from the Master Plan Steering Committee. The motion was seconded by Ryan Clancy and was unanimously approved.

A motion was made by Mayor Jay Kahn that the Planning Board nominate Councilor Catt Workman as a regular member of the Master Plan Steering Committee. The motion was seconded by Ryan Clancy. The motion carried unanimously.

Mr. Hoefler asked why the Planning Board was involved in the Steering Committee nomination and resignation. Mayor Kahn explained that the Master Plan Steering Committee is a committee formed by the Planning Board.

**b. Project Updates**

Ms. Brunner stated that the Steering Committee last met earlier this month. There is a community survey that is currently open (through the end of this month) and there are nearly 500 responses so far. She encouraged the Board to spread the word about this survey.

Ms. Brunner further stated there is a two-part workshop scheduled in late May and encouraged Board members to attend these workshops as the Master Plan is ultimately under the Board's authority. The first one is scheduled for Thursday May 30<sup>th</sup> from 5:00 pm to 8:30 pm (dinner will be served) and again on Friday May 31<sup>st</sup> from 9:00 am to 12:00 pm. These meetings will be held at the Keene State College Alumni Center on Main Street. These meetings are also open to the public. Attending both sessions is encouraged, but if someone could only attend one of those sessions that would also be alright.

Visioning sessions are also being planned, which will be held during the week of June 17<sup>th</sup>. The visioning sessions are for the public to participate. During the workshops, the participants would select what the future of Keene should look like, those ideas would be brought before the Steering Committee for their review and then presented to the public at the visioning sessions.

**IV) Staff Updates**

None

**V) New Business**

None

**VI) Upcoming Dates of Interest**

- Joint Committee of the Planning Board and PLD – June 10th, 6:30 PM

- Planning Board Steering Committee – June 11th, 11:00 AM
- Planning Board Site Visit – June 19th, 8:00 AM – To Be Confirmed
- Planning Board Meeting – June 24th, 6:30 PM

The Mayor asked where the site visit is going to be held. Ms. Brunner stated this is decided at the Steering Committee on June 11<sup>th</sup>.

There being no further business, Vice-Chair Mastrogiovanni adjourned the meeting at 7:35 PM.

Respectfully submitted by,  
Krishni Pahl, Minute Taker

Reviewed and edited by,  
Megan Fortson, Planning Technician