City of Keene Planning Board

AGENDA

Monday, November 24, 2025 6:30 PM City Hall, 2nd Floor Council Chambers

A. AGENDA ITEMS

1) **Call to Order** – Roll Call

2) **Minutes of Previous Meeting** – October 27, 2025

3) **Final Vote on Conditional Approvals**

4) **Public Hearing: Amendments to the Planning Board Regulations** – The Planning Board proposes to amend its Subdivision Regulations, Site Development Standards, Earth Excavation Regulations, and Application Procedures in the Land Development Code, including Sections 20.2, 21.6, 25.3, 25.5, 26.10, 26.12, 26.14 and 26.19. The proposed amendments are intended to clarify language within the code, correct errors with respect to wording, update submittal requirements to match current practice, and reflect recent changes to state law regarding the timeframes for "Active and Substantial Development" and "Substantial Completion" of subdivision and site plan applications. In addition, the proposed amendments would modify the Board's Site Plan Review Thresholds to create new thresholds for commercial and multifamily street access permits, modify the threshold for new additions, and establish thresholds for proposals to create new residential dwelling units.

5) **Training on Site Development Standards**
   a) Standard #6 – Screening & Standard #7 - Lighting

6) **Staff Updates**

7) **New Business**

8) **Upcoming Dates of Interest**
   - Joint Committee of the Planning Board and PLD – December 8th, 6:30 PM
   - Planning Board Steering Committee – December 9th, 12:00 PM
   - Planning Board Site Visit – December 17th, 8:00 AM – To Be Confirmed
   - Planning Board Meeting –December 22nd, 6:30 PM

B. MORE TIME ITEMS

C. ADJOURNMENT

The full agenda packet can be found on the Planning Board webpage at: keenenh.gov/planning-board.

City of Keene
New Hampshire

PLANNING BOARD MEETING MINUTES

Monday, October 27, 2025 **6:30 PM** **Council Chambers, City Hall**

Members Present:
Harold Farrington, Chair
Mayor Jay V. Kahn
Councilor Michael Remy
Sarah Vezzani
Armando Rangel
Ryan Clancy
Kenneth Kost
Michael Hoefer, Alternate
Joseph Cocivera, Alternate

Staff Present:
Mari Brunner, Senior Planner
Evan Clements, Planner
Megan Fortson, Planner

Members Not Present:
Roberta Mastrogiovanni, Vice Chair
Tammy Adams, Alternate
Stephon Mehu, Alternate

I) Call to Order

Chair Farrington called the meeting to order at 6:30 PM and a roll call was taken. Michael Hoefer was invited to join the meeting as a voting member.

II) Minutes of Previous Meeting – September 26, 2025 & September 29, 2025

A motion was made by Councilor Remy to approve the – September 26, 2025 & September 29, 2025 meeting minutes. The motion was seconded by Mayor Kahn and was unanimously approved.

III) Final Vote on Conditional Approvals

The Chair stated this is a standing agenda item. 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 and will start the 30-day appeal clock.

Mari Brunner, Senior Planner, stated there were no applications ready for final approval.

IV) Extension Request

a) **PB-2025-06 – Cottage Court Development, Surface Water Protection Conditional Use Permit, & Major Site Plan – Guitard Homes, 0 Court St** – Applicant Fieldstone Land Consultants PLLC, on behalf of owner Guitard Homes LLC, requests a first extension to the deadline to satisfy the precedent conditions of approval for the proposed 29-unit single-family Cottage Court Development on the undeveloped lot at 0 Court St (TMP #228-016-000). The parcel is 9.7-ac in size and is located in the Low Density District.

Mr. John Lefebvre of Fieldstone Land Consultants addressed the Board on behalf of the applicant and stated the applicant needs more time to put together the required items.

A motion was made by Councilor Remy that the Planning Board grant a first extension to the deadline to satisfy the precedent conditions of approval for PB-2025-06. The motion was seconded by Mayor Kahn and was unanimously approved.

b) **PB-2024-14 – Cottage Court Conditional Use Permit, Hillside Protection Conditional Use Permit, & Major Site Plan – Timberlane Woods Development, 0 Drummer Rd** – Owner Christopher Farris requests a second extension to satisfy the precedent conditions of approval for the proposed Cottage Court Development consisting of 6 buildings and a total of 36 units on the parcel at 0 Drummer Rd (TMP #515-015-000). A Hillside Protection Conditional Use Permit was requested for impacts to steep slopes. The parcel is ~13.1-ac in size and is located in the Low Density District.

Ms. Vezzani was recused from this application.

Mr. Kost asked for the reason for the extension. Ms. Brunner stated the reason for the extension request is because the applicant has not met their conditions precedent for final approval. She indicated the applicant submitted an extension request on Friday and Staff submitted an amended agenda packet the same day. On that same day, the applicant submitted a security estimate that was approved by Staff. There are still some outstanding items, including submittal of architectural elevations.

Mr. Hoefer clarified this was a second extension request and stated he is glad progress is being made. He asked what the process was for another extension request. Mr. Hoefer noted the applicant's letter indicated project construction won't be starting until the late spring of 2027.

Ms. Brunner stated applicants are allowed to request up to three extensions and the first extension is typically approved by the Board. However, a second extension request usually involves more questioning about the reasons as to why the project is being delayed. The third extension is really only supposed to be granted if there is a compelling reason. Ms. Brunner used COVID as an example of a time in which many applications needed extensions. Each extension request would provide a six-month extension to the timeframe to complete the conditions precedent, and it automatically gives an applicant a one-year extension to the time frame to achieve what is referred to as active and substantial development. Once an applicant gets their final approval, they have two years to start construction; otherwise, the applicant would have to comply with any changes the City might have adopted. She added the reason this project seems like it has been going on for a while is because it was originally proposed as a CRD Development and had three extensions on that application.

The Chair noted Mr. Farris's letter to the Board indicates much of this delay is based on LIHTC schedule, which is the financing that he is using.

Mr. Kost noted this site has been disturbed quite a bit and asked whether there was any concern due to this extension. He asked whether the City would inspect for runoff or sediment issues. Ms. Brunner indicated the applicant did receive approval to cut down trees and noted the site is stable. The last time Staff visited the site was during the site visit for the Cottage Court development. The question of stability was raised then and the applicant's response was that there are already saplings growing. The site is pretty much stabilized.

A motion was made by Councilor Remy that the Planning Board grant a second six-month extension to satisfy the precedent conditions of approval for PB-2024-14. The motion was seconded by Mayor Kahn and was unanimously approved.

Ms. Vezzani rejoined the Board.

V) Boundary Line Adjustment

a) **PB-2025-19 – 35 & 39 Kendall Rd – Boundary Line Adjustment** – Applicant Mrs.

Ashley Fetchero, on behalf of owner Mr. & Mrs. John Fetchero and Mr. Charles Henry, proposes to transfer ~0.09-ac of land from the ~0.58-ac parcel at 35 Kendall Rd to the ~0.45-ac parcel at 39 Kendall Rd (TMP#s 540-013-000 & 540-012-000). The parcels are both located in the Low Density District.

A. Board Determination of Completeness

Evan Clements, Planner, stated the applicant has requested exemptions from submitting separate existing and proposed conditions plans and all technical reports. After reviewing each request, Planning Staff have made the preliminary determination that granting the requested exemptions 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 Kahn to accept Application PB-2025-19 as complete. The motion was seconded by Councilor Remy and was unanimously approved.

B. Public Hearing

Mr. John Lefebvre of Fieldstone Land Consultants stated that his firm was contacted by the applicant to stake out her property line so she could construct a fence. When this work was done it was realized that the property line was not where the applicant thought it was. As a result, a survey was completed so a lot line adjustment could be done. Mr. Lefebvre indicated by doing this adjustment, they are correcting a few things; for example, the driveway at the present time does not meet the requirements of a 10-foot setback and house at the corner is too close to the property line. By completing this lot line adjustment, both lots are being brought into conformity.

Staff comments were next.
Mr. Clements stated the subject parcels are located on the south side of Kendall Road, approximately 100 feet from the intersection with Leahy Rd with Black Brook to the west and south of the properties. The property at 35 Kendall Rd is 0.58-ac in size with 100 feet of frontage and the property at 29 Kendall Road is 0.45-ac in size with 88 feet of frontage.

The purpose of the application is to complete a land swap between the two parcels and eliminate some minor nonconformities that exist on the properties. The proposed Boundary Line Adjustment would place the property line where both property owners had expected it to be located. He added there will be a small change of frontage with 39 Kendall Road getting around 10 feet of frontage.

Mr. Clements added Staff do not believe that this application rises to the merit of regional impact and most of the subdivision regulations are not applicable in this application. Both sites are developed with single-family uses and there are no new proposed changes to either of the sites. Standards such as scattered and premature development, preservation of existing features, fire protection and water supply and utilities are not applicable.

Mr. Clements went on to say that it is worth noting that there is a small area in the southwestern corner of both parcels that is in the 100-year floodplain, which is shown on the boundary line adjustment plat. Because no development is proposed in that area, that standard has been met.

The Chair asked for public comment.

The Chair read a letter from one of the interested parties, Mr. Charles Henry:
I support and request our boundary line adjustment. Historically, our father built two houses for his sons, along with his own house on three adjacent properties.
However, the end of my driveway and mailbox are actually over the current property line for #39 and my boundary line for #35 extends into approximately 1/3 of their backyard.
As congenial neighbors, we are both in agreement to fix our property borders.

Councilor Remy agreed there was no regional impact and this was a straightforward application.

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

A. Board Discussion and Action

A motion was made by Councilor Remy that the Planning Board approve PB-2025-19 as shown on the plan identified as "Lot Line Adjustment Plan" prepared by Fieldstone Land Consultants, PLLC at a scale of 1 inch = 20 feet dated August 25, 2025 with the following conditions precedent prior to final approval and signature of the plans by the Planning Board Chair:1. Owners' signatures appear on the proposed BLA plan.
2. Submittal of two (2) mylar copies, four full size copies and a PDF version of the final plans.
3. Submittal of a check in the amount of $51 made out to the City of Keene to cover recording fees.
4. Inspection of the lot monuments by the Public Works Director, or their designee, following their installation, or the submittal of a security in a form and amount acceptable to the Public Works Director to ensure that the monuments will be set.

The motion was seconded by Mayor Kahn and was unanimously approved.

VI) Public Hearings

a) PB-2025-20 – Major Site Plan – Solar Array – 0 Rose Lane – Applicant Rose Lane Solar LLC, on behalf of owner the City of Keene, proposes to construct a medium-scale ground mounted solar array on the parcel at 0 Rose Lane (TMP# 113-002-000). A waiver has been

requested from Section 21.6.2.C.3 of the Land Development Code related to the required screening for supplementary mechanical equipment. The parcel is ~13.2-ac in size and is located in the Industrial District. d) Amendments to the Planning Board Regulations: The Planning Board proposes to amend the site plan review thresholds in Section 26.12.3.A of the Land Development Code. The proposed changes include the creation of thresholds for commercial and multifamily street access permits, a modification to the threshold for new additions, and the creation of a threshold with regard to the number of new residential units proposed.

Mr. Rangel recused himself from this application

A. Board Determination of Completeness

Megan Fortson, Planner, stated that the applicant has requested exemptions from submitting a grading plan, landscaping plan, lighting plan, and all technical reports. After reviewing each request, Planning Staff recommend that the Planning Board grant the requested exemptions and accept the application as complete

A motion was made by Mayor Kahn to accept Application PB-2025-20 as complete. The motion was seconded by Councilor Remy and was unanimously approved.

B. Public Hearing

Megan Ulin from Revision Energy addressed the Board and stated Revision Energy is the developer and will be constructing the project. The project will be owned by a local impact investor. She explained that the proposal is a medium scale solar energy system to be located at the former wastewater treatment site and will participate in the NH Low to Moderate Income Community Solar Program. Keene Housing and its residents will be the beneficiary of the project. During the life of the project, it is projected to deliver $100,000 worth of energy savings that Keene Housing will use for building improvements and to enhance resident services.

The project is proposed to be located next to the activity and use restriction area of the former wastewater treatment plant, which is the capped area from where contaminated product was removed. The remediated portion of the site is where the solar array is proposed. This would be a ballasted ground-mounted array. All electrical runs will also be above ground. There is a small amount of utility equipment, which will be located on the southern edge of the site before it is connected into the existing grid infrastructure with one new utility pole.

There is a six-foot chain link fence that exists on the site. The fence is going to be modified and extended to the west and north of the proposed solar development.

Ms. Ulin noted this solar array is about 240 kW DC and produces around 253,000 kilowatt hours of clean energy annually. Construction is being planned for spring of 2026. The applicant has proposed a temporary construction entrance. The entrance that currently exists on the southwest corner of the site has an existing gate, and the fenceline will need to be modified to accommodate delivery trucks. The fenceline will be rebuilt to match the existing chain link fence along Rose Lane.

The applicant has submitted a waiver request of the landscaping plan and screening plan. Ms. Ulin stated this site is located in the industrial district. It is surrounded by other industrial properties and there is already vegetation on four sides. Rose Lane is part of the City of Keene

property and is not considered a public right-of-way. She noted this project has limited visibility from other abutting properties.

With respect to construction, there will be silt soxx around the perimeter of the work area, tracked vehicles will be on the site, such as a skid steer, to minimize vegetation disruption. Any vegetated areas that are disturbed during construction will be re-vegetated and re-seeded. The solar array was specifically designed to remain on the portions of the site that are less than 5% slopes and will not result in an increase in stormwater runoff or change the drainage patterns of the site.
The concluded Ms. Ulin's presentation.

Mr. Kost asked about fencing as it relates to larger animals getting through. Ms. Ulin stated the fence does not continue to the edge of the river, and there is about 30 to 50 feet of woodland area between the project's fence line and the river. She indicated the fence will exclude deer from that project site. She stated the fence won't prevent animals from accessing around the site and indicated the site isn't an engineered surface. Ms. Ulin continued by stating she felt it would be Staff's responsibility to keep this area free of wild animals.

Chair Farrington asked how this system is categorized as a medium scale array. Ms. Ulin stated, based on the perimeter of the array of 23,000 square feet, the array falls under the medium category in the zoning ordinance. He asked what the lifetime of the project was. Ms. Ulin stated it was 25 years. The Chairman asked whether there would be impact of stormwater runoff on the solar array. Ms. Ulin stated the applicant was required to file an alteration of terrain permit for this project and added it was not because the project itself exceeded the threshold for disturbance, but because there had been land disturbance on the property in the past 10 years. The alteration of terrain permit rules exempts drainage analysis if your project is on a site with less than 5% slopes, if it is oriented less than 60° from contours, and if it meets a few other criteria. She stated the project did meet those criteria. It is not expected that stormwater would infiltrate this area, since this is a well-vegetated area.

The Chair asked whether a solar panel is considered an impervious surface or is the grass under the array pervious. Ms. Brunner stated the way City of Keene regulations treat this is that the actual footing is impervious, but because the way the panels are designed, they allow water to infiltrate around their edges; they are not treated like a continuous impervious surface. For the impervious surface calculation, the applicant had to provide area of the footings and then there is a separate requirement for what is called the solar footprint, which was that perimeter that Ms. Ulin was describing, where they have to draw a line around the array and then there is a separate calculation that they have to meet for that.

Mr. Clancy asked whether the application for re-vegetation could be a wildflower mix instead of a grass mixture. Ms. Ulin stated they don't expect much disturbance and added it would be difficult to grow wildflowers where there is already established grass.

Staff comments were next. Ms. Fortson stated the subject parcel is 13.2 acres in size and is located about 700 feet north of the Swanzey town line. The land is largely undeveloped and has been remediated as it was the former wastewater treatment plant lagoon area. The western side of the site is a capped are where all of the materials were taken out of the former wastewater lagoon. The eastern side of the site is a relatively flat area where the solar array is proposed to be installed. Rose Lane is actually a driveway and is not a public right of way. The property owners, towards the end of the road at 32 and 36 Rose Lane and 14 and 16 Rose Lane, have deeded access to be able to access their properties over the City's land.

Ms. Fortson went on to say this system is considered a medium-scale solar array based on the calculation of that solar footprint. For an array to be considered a medium scale solar array, the footprint has to be somewhere between 2,000 square feet and one acre in size. This parcel is split zoned; specifically, Rose Lane that connects to Main Street is in the Low Density District and the rest of the site is in the Industrial Zone. The array will be located in the Industrial District area, which is an allowed use without the requirement of a conditional use permit. This project only requires site plan review.

Staff has made the determination that the project does not have regional impact, but the Board will need to have this discussion. In terms of departmental comments, the Plans Examiner noted that a building permit application would be required and also noted that a floodplain development permit had already been issued. The City Engineer had some comments related to truck turning movements and the installation of temporary signage during the course of construction. At the time of the Staff report, Ms. Ulin and Mr. Ruoff, the City Engineer, were still going back and forth, trying to make sure that the truck turning movements were going to be acceptable and that the signage was going to be installed in the proper location for visibility. Those comments have since been addressed, so they are no longer of concern.

Ms. Fortson next reviewed the application analysis. The site is relatively flat, and the City does not expect there to be any significant impacts from drainage. As was mentioned, the project does meet the threshold for the submittal of an Alteration of Terrain permit, hence planning Staff recommend the submittal of an approved a AOT permit be included as a condition of approval for the application.

Sediment and erosion control: Silt soxx are going to largely be used around the perimeter of the site along with silt fencing to keep disturbance to a minimum. Due to the nature of the site and the fact that remediation has occurred, the City is trying to keep disturbance to a minimum. Hence, planning Staff recommend the condition of approval for the submittal of security to cover the cost of erosion control measures.

Snow storage and removal: The project narrative states that the City currently clears and maintains site access, which is on the southwestern portion of the site adjacent to Rose Lane. Snow is not proposed to be removed from the array area, so that standard appears to be met.

Landscaping: The only landscaping applicable is the grass seed mix that is proposed to be used to remediate any areas that are disturbed during construction, which will mostly be the stabilized construction entrance to the south of the array. Planning Staff recommends that this be included in the security that gets submitted.

Screening: The applicant has requested a waiver from section 21.6.2.C 3 of the LDC, because the supplementary mechanical equipment, such as the emergency shutoff and the transformer, proposed to be installed is not going to visible from any public right of way or adjacent properties. The parcel that the equipment would be most visible from would be the Army Reserve Center, which is to southwest. She noted there is a tall berm that separates the two sites, and there is also a line of trees that are owned by the City, which should serve as screening in lieu of any type of fencing or other screening. The Board would need to deliberate this item and decide whether or not they feel comfortable granting a waiver, and Ms. Fortson noted to waiver criteria included on page 73.

Lighting: There is no lighting proposed to be installed.

Water and Sewer: There will not be any impacts to water or sewer.

Traffic and access management: The project narrative states that the array should only be accessed between two to four times a year for preventative and reactive maintenance concerns.

Filling and Excavation: Not applicable.

Surface Waters and Wetlands: The Branch River is located to the east of the property, but the proposed project area is going to be over 30 feet away and the 30-foot buffer is going to be maintained.

Hazardous or toxic materials: There is not going to be any handling, storing or processing of any hazardous or toxic materials, other than what has already been remediated on the site.

Noise: Minor noise would be generated by the solar inverter and transformer, but the noise would only be prevalent during the day. These conditions comply with the sound limit requirements in Article 18 of the LDC.

Architectural and visual appearance: These standards are not applicable to this application, given the nature of the proposed work.

This concluded Staff comments.

Councilor Remy asked why the applicant would need a waiver because it seems like the site is screened on all four sides by vegetation. Ms. Fortson stated this is something Staff had discussed and did reach out to the applicant. The applicant requested the waiver to make sure there were no issues raised on this item because the supplementary mechanical equipment close to the fence line might be visible from the Septic Pro property or the Asphalt Plant.

Ms. Vezzani asked whether Staff had any comments on the letter that was received. Ms. Fortson stated Staff reached out to the Public Works Director who was able to provide some additional history of the connection of the three sites: Granite City, Davis Oil and the City owned parcel. In 2018, when the wastewater treatment plant was being capped and remediated, there were some discussions about potentially installing additional drainage infrastructure. Public Works has been working with the adjacent property owners to find a solution to drainage issues, which are still outstanding and are not something the Board would need to consider as part of this application. The drainage concerns are not applicable to this scope of work. However, City Staff would be happy to help coordinate a meeting between City Staff and these property owners, if they wished to continue discussions related to the drainage conditions.

Ms. Brunner added that the Public Works Director reviewed this plan and confirmed that the proposed development that is being considered is not expected to have any sort of impact as it slopes away from the property and there will be no runoff from the solar development. The City is aware of the ongoing issue.

Chair Farrington asked for Staff comment on construction traffic. Ms. Fortson stated the applicant has provided feedback to the concerns raised by the City Engineer and has provided an updated truck turning exhibit showing trucks turning in and out of the construction area. The temporary construction signage has also been addressed by the applicant.

Councilor Remy noted to the letter from the abutter and indicated that he has never heard of a comprehensive fire safety analysis in the scope of the Board's work and asked for Staff comment on this.

Ms. Brunner stated she reached out to the Fire Marshall regarding this analysis and he was not opposed to the idea. When the application was initially reviewed, Staff did not feel the solar array needed that type of study. However, given the fact that it is immediately adjacent to a propane storage area, it could impact the fire assessment for that use.

The Fire Marshall's response is as follows: "*If the roles were reversed and the propane installation was going in, they would be required to do a fire safety analysis so it does make sense as this new abutting installation could affect the validity of the adjacent properties current fire safety analysis. I think it is a prudent assessment."*

Councilor Remy stated he did now know how to review a fire safety analysis. He continued by asking for clarification regardig if this requirement were added as a condition precedent, could the Fire Marshall come back with a satisfactory response on it. Ms. Brunner suggested this question be raised with the applicant as she wasn't sure what time frame would go into getting a study like that completed or what the cost would be. Ms. Brunner felt it would make sense for the Fire Marshall to review this.

Councilor Remy asked Ms. Ulin, in an effort not to hold up the approval tonight, if this analysis needs to be reviewed by the Fire Marshall prior to final approval, whether this was something she would agree to. Ms. Ulin stated she was not familiar with a fire safety analysis and noted that solar projects are designed and constructed to meet NFPA code. She added fire risk from a solar array is very small. Councilor Remy stated the concern is that electrical infrastructure is proposed right next to a propane storage facility. Ms. Ulin stated this is a complex project and any additional costs are going to be difficult, but she would want to address any safety concerns. She added they would like to have a conversation with the Fire Marshall before agreeing to anything. Ms. Brunner stated, based on what Ms. Ulin just communicated, perhaps this could be added as a condition "prior to issuance of a building permit."

Mr. Clancy stated for large scale arrays, there is usually a decommission plan, but because this is City property, he asked if the City has given any thought into what happens at the end of the 25-year lease. Ms. Ulin stated the lease agreement between the City and the project owner would include that the project owner is to remove the array at the end of its life and to cover those costs.

The Chair asked for public comment.

Mr. Steve Walsh, owner of Davis Oil Company, addressed the Board and called the Board's attention to his letter, which was included in the Board's packet. He stated his first concern is the stormwater issue that has been going on for many years. He indicated in 2018, he was advised that the capping of the plateau at 0 Rose Lane was not going to impact the Davis Oil property. However, the capping did impact the property, and he referred to pictures the Board was sent. Mr. Walsh stated that during any rainstorm, water gets diverted towards their property instead of down the hill to the location that the solar panels are going to be installed. He added he is not opposed to solar panels, but what he is asking for is the relief they have been promised for the past 15 years, which they have not been provided yet. He noted 0 Rose Lane holds a very small piece of property for some drainage to be directed to relieve 14 Rose Lane. This is what they are asking for, and they are not asking to shut down the solar panel project.

Mr. Walsh stated the second item is the fire safety analysis question. He stated that when Davis Oil added propane two years ago, they were required to complete a fire safety analysis, which included identifying emergency response protocols if there was an event with the propane system. This was completed and it was part of their conditions of approval. Mr. Walsh stated

what he is requesting is an analysis of how adding the solar panels would affect their propane plant, which could be a source of ignition. He added he does not want this to be too costly to the applicant but also wants to make sure that they are able to continue to buy insurance for the business that they are in. He stressed that he was not against the project.

Ms. Vezzani asked how much a fire safety analysis would cost. Mr. Walsh felt it would be less than what he paid and felt the applicant's analysis would be less as the basic analysis has already been completed. He recalled paying around $5,000 for this work. Mr. Walsh stated the applicant was welcome to use the analysis he completed and could add to it.

Mayor Kahn stated to Staff that the City needs to address the runoff issue on a separate track but wasn't sure how to address the fire analysis issue. Ms. Brunner stated Staff would recommend that any conditions for the project are related to impacts of the project. However, Ms. Brunner continued by stating she felt it was very important for the City to work with the property owners to address the drainage issues. One of the things that came to the attention of Staff through this application is that one of the properties that is contributing to the drainage issue is in violation of their site plan. She stated Staff would be following up with that item. She added the Public Works Director had come up with a couple of potential solutions and the barrier at the time was that they were not able to secure permission from the property owners to get the easements required to make those improvements. There are two private property owners, and the City would have to be involved in the solution. Ms. Brunner added, now that the issue is on Staff's radar, they will make sure to follow up on it.

Mr. Walsh stated he agrees the original intent was to have three property owners contribute to this, but noted that his property has direct connection between 14 Rose Lane and 0 Rose Lane and does not have to connect with 16 Rose Lane; the hope was for shared cost from 16 Rose Lane but did not believe that was accurate. The Chair felt this was not the arena to be negotiating that issue. Mr. Walsh felt the City does own this property and they will be leasing it to a private entity.

Mr. Peter Hansel of 61 Bradford Road, Keene addressed the Board and stated he was here to offer support for this project. He stated when he was on the Energy and Climate Committee for six years, one of the things they worked on was looking for sites that could accommodate solar arrays. They came up with three sites: the airport, Cedar Crest and this site at Rose Lane. He felt the timing is critical as certain incentives run out at the end of this year and felt the project needs to be moved forward.

With no further comments the Chair closed the public hearing.

Councilor Remy agreed there was no regional impact.

C. Board Discussion and Action

A motion was made by Councilor Remy that the Planning Board approve PB-2025-20 as shown on the plan set identified as "Revision Energy, Rose Lane Solar Site Development, Keene, New Hampshire" prepared by Horizons Engineering at a scale of 1 inch = 60 feet in January 2025 and last revised on October 10, 2025 with the following conditions:

1. Prior to final approval and signature of the plans by the Planning Board Chair, the following conditions precedent shall be met:

A. Owner's signature appears on the title page and proposed conditions plans.
B. Submittal of five (5) paper copies and a PDF copy of the final plan set.
C. Submittal of an updated proposed conditions plan stamped by a Wetlands Scientist licensed in the State of NH.
D. Submittal of a security to cover the cost of sediment and erosion control measures, revegetation of the site following construction, and as-built plans in a form and amount acceptable to the Community Development Director.
E. Submittal of an approved Alteration of Terrain Permit number from the New Hampshire Department of Environmental Services.

2. Subsequent to final approval and signature of the plans by the Planning Board Chair, the following conditions shall be met:

A. Prior to the commencement of site work, erosion control measures shall be installed and inspected by the Community Development Director, or their designee, for compliance with the approved plan and all City of Keene regulations.
B. Prior to the issuance of a building permit, review and determination by the City Fire Marshall as to whether a fire safety analysis is required.

The motion was seconded by Mayor Kahn.

Councilor Remy stated he did not include anything regarding the stormwater issue raised by the abutter at 14 Rose Lane as he felt it was not appropriate to include that issue with this application. He added as City Councilor he will make sure this item is addressed and did not feel it was appropriate that issue has gone on this long.

Ms. Vezzani stated agreement with what Councilor Remy stated regarding regional impact and the fire safety analysis and was ready to move forward.

The motion made by Councilor Remy carried on a unanimous vote.

The Mayor asked to be recused from the rest of the meeting.

b) Request to Revoke PB-2024-08 – Cottage Court Conditional Use Permit Townhomes, 15 Colony Ct - Per NH RSA 676:4-a, applicant and owner POMAH LLC, proposes to revoke the Planning Board approval of a Cottage Court CUP, PB-2024-08, to construct a two-unit building on the parcel at 15 Colony Ct (TMP# 535-012-000) as the two units are now allowed by right. The parcel is 0.18-ac in size and is located in the Medium Density District.

The Chair asked whether or not the Board was required to determine completeness for this item.

Evan Clements, Planner, addressed the Board and stated this is more of an administrative and enforcement request, rather than a normal application. It is a land use approval that has been approved by the Planning Board, which is now being stripped from the record of the property. Hence, there is no real application or completeness attached to this item. Mr. Clements stated

there is no need to conduct a completeness determination. As per RSA 676, the Board may hold a project accountable if it is not in compliance with their site plan.

However, there are very rare cases, such as what is before the Board this evening, in which the zoning regulations have changed. Therefore, what is actively developed on this site is now allowed without any special approvals. To keep this project under the Cottage Court Conditional Use Permit actually puts restrictions on the property with no benefit for the property owner.

Mr. Clements added if this item had been conditionally approved but not finally approved, the property owner could have withdrawn the application. Because that this project has been granted final approval and development is underway, what is before the Board is the most appropriate process. If the Board votes to revoke the application, that decision will be recorded, so that in the chain of title with the property, there is some history for future property owners.

Mr. Rick Lewis, project manager, stated Mr. Clements has addressed this item, but he was present should the Board have any questions for him. He added he was in support of this request.

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

A motion was made by Councilor Remy that the Planning Board, in accordance with New Hampshire RSA 676-4, revoke conditional use permit PB 2024-08 for a cottage court development on a property located at 15 Colony Court.

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

Councilor Remy indicated now that the Mayor has left the session perhaps an alternate could be brought in to take his place as a voting member. Ms. Brunner stated that she learned that none of the ex-officio positions could be filled by an Alternate (Mayor and City Council). She indicated for the future, perhaps the Board could ask Council to designate specific Alternates to fill those spots.

c) <u>PB-2025-17 – 5-Lot Subdivision – Markem Image, 150 Congress St</u> – Applicant Fieldstone Land Consultants PLLC, on behalf of owner Markem-Imaje Corporation, The full agenda packet can be found on the Planning Board webpage at: keenenh.gov/planning-board. proposes to subdivide the existing ~31-ac parcel at 150 Congress St (TMP #598-002-

000) into five lots that will be ~0.17-ac, ~3.52-ac, ~4.08-ac, ~6.40-ac, and ~17.69-ac in size. The parcel is located in both the Industrial Park & Conservation Districts.

A. Board Determination of Completeness

Ms. Fortson stated that the applicant has submitted requests for exemptions from submitting separate existing and proposed subdivision plans and all technical reports. After reviewing these requests, Planning Staff recommend that the Board grant the requested waivers and accept the application as complete.

A motion was made by Councilor Remy to accept this Application as complete. The motion was seconded by Armando Rangel and was unanimously approved.

B. Public Hearing

Mr. John Lefebvre of Fieldstone Land Consultants, representing Markem Image, addressed the Board. He stated this is an item that has been before the Board in the past. He explained that the applicant has a lot of space they are not using. Two years ago, a woman who wanted to put in a bakery approached them, but those plans fell through due to not being able to meet subdivision and zoning requirements. He noted these are buildings that were created pre-zoning and are difficult to subdivide.

Mr. Lefebvre stated his client has a subdivision concept, which creates the least amount of necessary variances. They brought that proposal to the Zoning Board of Adjustment and obtained the required variances to be able to come before the Planning Board for a subdivision plan.

He noted that on the property, there is a building occupied by the Amalgamated Squash, Chowder, & Development Corporation. The building is a racquet club and a very unique property for which they have a lease agreement. Mr. Lefebvre stated three of the variances were unique to the circumstances of giving this use a permanent residence. The other variances were relative to parking; specifically, the variances were for not being able to meet the size requirements for the zone of four acres and the third was for building set back.

Mr. Lefebvre indicated the buildings have their own meters for utilities.
There are no changes in proposed development. There is plenty of parking. The landscape in place will remain. This concluded his presentation.

Councilor Remy asked for an explanation on what lot 4 entails. Mr. Lefebvre stated when they came up with this concept, they had a smaller area as lot 4. When they went before the Zoning Board for the variances, Mr. Lefebvre stated he had missed this issue. They noticed they needed a larger area for lot 4 to accommodate the zoning division line. He noted the extra area could be used for drainage or to accommodate a maintenance building

Mr. Kost asked whether all lots would have access or whether there would be easements provided for access. Mr. Lefebvre stated they have some easements on the plan. He referred to lot 2, in which there is an easement from Optical Avenue to the middle lot to access the loading docks.

There is also an easement along lot 4. For the rest of the property, the applicant is proposing a cross easement in the form of a legal declaration in which existing utilities would be allowed to

remain. Mr. Kost noted to the close proximity of lot 3 and 4 and asked if one of those lots gets sold, whether this could be an issue. Mr. Lefebvre stated one of those square structures is a utility structure and the applicant has a variance for the close proximity.

Staff comments were next. Ms. Fortson stated the parent parcel is 31 acres in size and is proposed to be divided into five different lots of varying sizes. As Mr. Lefebvre indicated lot #4 was made larger, and all the other parcels were made slightly smaller in response to that. A total of six variances were granted by the Zoning Board related to setbacks, substandard lot sizes, parking lot, pavement setbacks and the permitted use of the squash court.

Ms. Fortson stated that after reviewing the application, Staff do not feel that there is the potential for regional impact. Departmental comments included the City Engineer's comments related to water and sewer services and having separate shutoffs for each of those for the buildings. Each building currently has its own water and sewer hookup. If there were to be any change of use in any of those buildings in the future, those utilities would have to be reviewed by the engineering department to ensure that there would be sufficient sewer and water capacity available for whatever that proposed use was going to be.

Ms. Fortson next reviewed the subdivision regulations. Specifically, Ms. Fortson discussed the lot sizes, the zoning relief and the proposal's compliance with zoning. For lot 1, a variance for a substandard lot size was granted because there is only 3.5 acres proposed where four acres is required in industrial park. For lot 2, a variance was granted for reduced side setbacks. The other four variances were related to reduced pavement setbacks, substandard lot sizes, reduced rear setbacks, and the use variance for the squash court.

Ms. Fortson discussed the character of the land for a subdivision. This standard, along with the standards for scattered or premature development and preservation of existing features, are not applicable to the application as this site is already developed.

For monumentation, the applicant has stated that if and when the application is conditionally approved, they will move forward with installing the new lot monuments. The lot monuments will then be inspected by the Public Works Director or their designee. Planning Staff are recommending that a lot monument inspection be made a condition of approval.

With respect to special flood hazard areas, a portion of lot 4 has a special flood hazard area indicated. Planning Staff recommend the plan be updated to include a note that any future development on that site be done in compliance with the applicable floodplain regulations.

Fire Protection, Water Supply and Utilities – Ms. Fortson stated these items have already been addressed that those items would be reviewed in the future if there is any change of use that takes place.

Site Development Standards – The only applicable standards are traffic and access management, and this comes into play because there are a few access easements that are proposed. There is one easement on lot 2 and 3, for access to Optical Avenue. Another easement is proposed across lot 4 that would allow for access onto lot 3. Planning Staff are recommend two conditions of approval: one related to submittal of draft easement language to be reviewed by the City Attorney, and one related to the submittal of the recorded easements once they are in place.

The only other site development standard that is applicable is related to surface waters and wetlands. A portion of lot 4 is in a special flood hazard area, which does have some wetlands on it. The applicant will need to maintain a 30-foot surface water set back in the future if there is any development that happens on that lot. There is a note on the plan relative to this. This standard has been met.

Ms. Fortson referred to language in the recommended motion. This concluded Staff comments.

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

C. Board Discussion and Action

A motion was made by Councilor Remy that the Planning Board approve PB-2025-17 as shown on the plan set identified as, 'Subdivision Plan, Tax Map 598 Lot 2, (150 Congress St), Keene, New Hampshire' prepared by Fieldstone Land Consultants at varying scales on August 22, 2025 and last revised on October 20, 2025 with the following conditions:

1. Prior to final approval and signature of the plans by the Planning Board Chair, the following conditions precedent shall be met:
A. Owner's signature appears on all sheets of the final plan set.
B. Submittal of four (4) full sized paper copies, two (2) mylar copies, and a PDF version of the final plan set.
C. Submittal of a check in the amount of $255 made out to the City of Keene to cover the cost of recording fees.
D. Submittal of an updated proposed conditions plan (Sheet SB-1) showing the following:
    i. All zoning applications submitted and the decisions rendered.
    ii. Note #5 shall be updated to state that any future development within the special flood hazard area will need to comply with all applicable local, federal, and state regulations and may require the submittal of a Floodplain Development Permit to the Community Development Department.
E. Submittal of draft easement language to the Community Development Department for review by the City Attorney.
F. Installation and inspection of lot monuments by the Public Works Director or their designee, or in lieu of this, the submittal of a security to cover the cost of the installation of these monuments.

2. Subsequent to final approval and signature by the Planning Board Chair, the following condition shall be met:
A. Submittal of recorded easement agreements to the Community Development Department to be saved in the project file.

The motion was seconded by Armando Rangel.

Councilor Remy stated he agrees there is no regional impact and is in favor of approving this plan.

Chair Farrington felt freeing up land is a good thing for Keene.

Ms. Vezzani commended the applicant for coming up with creative ways to use these vacant buildings.

The motion made by Councilor Remy was unanimously approved.

d) **Amendments to the Planning Board Regulations**: The Planning Board proposes to amend the site plan review thresholds in Section 26.12.3.A of the Land Development Code. The proposed changes include the creation of thresholds for commercial and multifamily street access permits, a modification to the threshold for new additions, and the creation of a threshold with regard to the number of new residential units proposed.

Ms. Brunner stated the authority for site plan review comes from State Statute, NH RSA 674-43, which allows the Planning Board to review site plans for non-residential and multifamily uses. This statute also gives the legislative body the ability to allow the Planning Board to delegate its authority; specifically, the Planning Board can delegate its powers and duties for site plan review to a committee of qualified administrators. In the City of Keene, the Board has delegated the authority for minor site plan review to the Minor Project Review Committee.

Ms. Brunner stated what is being discussed today are the thresholds that separate minor site plans from major site plans. Anything that does not fall into the category of site plan review would be under a third category referred to as administrative planning review, which is essentially a Staff review with no public hearing.

Ms. Brunner went on to say that the main goal of these proposed changes are to increase the utility of the Minor Project Review Committee. This Committee is relatively new. It was created in 2021, and since it was created, there have been only a few projects that have gone to that Committee. Staff feel the reason for this is that the breadth of projects that can go to Minor Project Review Committee is just too narrow. She stated what is before the Board is trying to widen that breadth to increase the number of projects that could go to the Minor Project Review Committee. She added applicants appreciate this process as it helps shorten the timeframe, it helps speed things up, it takes the unknowns out of the process. However, it does still require the same noticing that major site plans require, such as the 10-day posted notice in the paper, notice to abutters and scheduling of a public hearing.

Another goal of these proposed changes is to address specific projects that create new residential units; this topic came up with one of the administrative projects that Staff approved in the previous year.

Another goal is to address street access or driveways.
Street access permits, at the present time, require site plan review if commercial or multifamily access is being modified even if it is to remove it. This board has delegated its authority with respect to single family and two-family street access to the City Engineer. However, the same has not been done with commercial and multi-family street access. Hence, what Staff is proposing is that anytime a street access or driveway is proposed to be narrowed or removed, and it complies with all standards, that this be something that is reviewed administratively. However,

if it is a new commercial street access or if it is being modified but it is complying with all the driveway standards in Article 23 of Land Development Code, it can the reviewed by the Minor Project Review Committee. If it is a proposal that involves an exception to the criteria that would raise it up to the level of major site plan review. Ms. Brunner noted this builds in an incentive structure for people to comply with the street access standards.

Councilor Remy noted it looks like any residential property outside of the downtown district would not be subject to anything more than residential review for an expansion of existing use if it does not add units. He clarified if someone wanted to double the size of their house, it doesn't trigger anything more than administrative review unless it is more than 10,000 square feet.

Ms. Brunner stated she will be addressing this issue with her proposed changes.

The first change is in Section A of 26-12-3 Applicability:
First paragraph (bottom) *This type of review shall not be required for single family and two-family dwellings or their associated accessory uses, provided such dwellings are not attached to a mixed-use building or located on a mixed-use lot containing non-residential uses.*
Ms. Brunner stated when it is referred to as non-residential this means multifamily as well. If a lot has a multifamily use on it, that would be considered a mixed-use lot.

Under major site plan, one of the items added:
Exceeds any of the below thresholds, would go before the Planning Board.

1B refers to what Councilor Remy raised – Ms. Brunner stated one of the items of feedback from two of the Planning Board members is that the downtown is of more interest to them than areas outside the downtown. Changes in the downtown might have a lower threshold than changes outside the downtown for review. In response, the language was changed as follows*: Any additions to an existing building or structure that is greater than 15% of the gross floor area of the existing principal building.* Outside of the downtown district that number goes up to 25%. Ms. Brunner stated, for example, when you get to the industrial districts where you have these massive building it is easy to meet that threshold. Trying to increase that middle band where projects can go to the Minor Project Review Committee is the goal of this change.

Item C – *Projects that involve the creation of 25 or more new residential dwelling units in one year* – Ms. Brunner stated five board members emailed Staff suggesting having a higher threshold than a lower one. She indicated any of these thresholds that are met would send a project to the Planning Board for major site plan review. This could involve things like the interior conversion of an existing commercial building to residential units. There might be very little impact to the surrounding area or to the site. Ms. Brunner stated she erred on the side of making the threshold higher.
Councilor Remy felt having the word *commercial* in Item B means that it does not apply to residential regardless of multifamily. If a multifamily was to be expanded to make all the units twice the size, it would not trigger a review. Ms. Brunner agreed that the word "commercial" should be deleted from Items 1B and 2B.

Mr. Hoefer suggested a new bullet point C to separate them.
Ms. Brunner asked if the Board was in agreement to deleting the word "commercial"
Ms. Vezzani suggested adding another bullet point.

Ms. Brunner asked if anyone was opposed to removing the word commercial so that the threshold for additions outside of the zoning districts would apply multifamily residential in addition to commercial. Mr. Kost clarified this would be for any building downtown. Ms. Brunner answered in the affirmative. Mr. Kost asked for the difference between a building and a structure. Ms. Brunner stated for purposes of this section, it has to be an increase in gross floor area as compared to the principal building on the lot; all buildings are structures. Mr. Kost asked whether the term structure was necessary. Mr. Clements stated it was necessary and added the City has had its ordinance argued for semantic reasons that have provided for dramatic re-interpretations of how the code is read. He added frequently buildings and/or structures are indicated throughout the LDC and it is Staff's preference that we continue to do so.

Councilor Remy added for multifamily units outside the downtown districts, there is no regulation currently addressing those properties because it is phrased as commercial today. In the new language, it says commercial properties, a residential or multifamily property would not fall under that and therefore there is no escalation clause for a residential property outside the downtown district. These changes would remove the current restriction on residential properties out the downtown.

Councilor Remy suggested removing the word commercial and then it applies outside of the downtown districts it would apply to multifamily and commercial, would fall under the same rules as opposed to highlighting commercial for that and having no call out for multifamily.

Ms. Brunner stated the more she thinks about this, she felt the inclusion of the word "commercial" was an accident. Ms. Brunner recommended removing the word "commercial," so it is consistent how different uses are treated in the City. The Chair stated he was in agreement. Ms. Brunner stated the change she proposes is to split Item B into two and add a subsection "i" for downtown districts, and then a subsection "ii" for all other districts and split that into basically two sentences.

Ms. Brunner asked for feedback on the threshold for "*25 or more new residential dwelling units*." Mr. Hoefer clarified anything less than 25 units will be handled by the Minor Project Review Committee. Staff agreed.
Councilor Remy clarified everything above 10 units would require noticing of the neighbors, but it would go before the Minor Project Review Committee. Ms. Brunner answered in the affirmative.

The next change was with respect to commercial multi-family street access where an exception is requested from the street access permit criteria in Article 23. The Board had no comment on this item

Next Change – Minor Site Plan Criteria – adding the phrase *any of* those thresholds that are met would be sent to the Minor Project Review Committee. Ms. Brunner stated here, again, she could split this out into two subsections: "i" and "ii." Then, she stated the word "commercial" would be removed from that second-half of the sentence.
This states that *additions to existing buildings or structures that are between 10% and 15% of the gross floor area of the existing principal building in the downtown* would go to Minor Project

Review Committee outside of the downtown it is between 15% and 25% would go to Minor Project Review Committee.

Mr. Kost felt on Main Street uses that are 4,900 square feet or higher should go through major site plan review.
Ms. Brunner noted downtown has the form-based code and it has the Historic District. After the form-based code was adopted, new construction in the Historic District does not go to the Historic District Commission. If there is new construction currently in the downtown area that is less than 5,000 square feet, the City would rely on one of the thresholds and send it to the Planning Board for review.

Ms. Vezzani stated she was one of the five members who asked for larger numbers and the reason for that is because there are items that would require major site plan review but agreed the City should try and keep with other communities in New Hampshire.

Chair Farrington asked Staff what they would be looking for from the Board today. Ms. Brunner stated if the Board was not ready to adopt this tonight, Staff could take feedback and bring back another version for next month. She stated the one piece she would like to hear from the rest of the Board on Mr. Kost's point about the downtown; threshold 1A – Mr. Kost would like that number to be lower for the downtown. She asked if the Board feels the other thresholds provide enough of a safety net or would you like to see sort of a bifurcation of that, similar to what we are doing for Item B.

Councilor Remy stated he is fine with it being where it is right now and understands where Ms. Vezzani is coming from. Based on how specific form-based code is and how much work was put into that and the entire intent of going to a form-based code was to limit the number of meetings an applicant had to attend. As long as they met the intent the project could be approved. He felt the depth in form-based code covers the concerns of the Board. Mr. Kost stated if the form-based code does exactly what Councilor Remy is saying. He will be fine with that.

The Chair felt it would be good to continue this item until next month.

The next change addressed by Ms. Brunner was in reference to minor site plans for residential new residential units, specifically 10 to 24 units. Ms. Brunner stated the reason for the 10 is because it is at 10 residential units that the City requires a traffic analysis and would go before the Minor Project Review Committee. However, alternatively, the threshold could be raised, and it could be 15 to 24 units. She indicated the ten units would work and it depends on the area of the City.

The next item under Minor Project is for new street access or request to widen existing commercial or multi-family street access.

For example, if someone wanted to completely remove a street access or narrow their street access, they would not even have to go to Minor Site Plan Review. This is a change that could be reviewed administratively. Ms. Brunner stated because this would allow for a Staff review and she added the following language under administrative planning review "*proposed modifications to commercial or multi-family street access that do not meet the threshold for minor major site plan review shall be referred to the City Engineer for review prior to issuing a decision*. This is

to make sure that the City Engineer is reviewing any applications that would be approved by the Community Development Director or their designee.

7) Staff Updates

Ms. Brunner stated Staff will be bringing forward a running list of updates Staff have. Many of these are clean-up items. Some of these changes have to do with State law. For example, the State legislature increased the time frame for active and substantial development. It used to be two years, and it has changed to three years. The substantial completion increased from five years to seven years. Staff are updating the code to reflect those changes.

8) New Business

The Chair stated his house has been volunteered for a holiday party but wasn't sure if this is something that could be permitted. Ms. Brunner stated it is as long as those who attend don't discuss business, it is permitted.

9) Upcoming Dates of Interest

- Joint Committee of the Planning Board and PLD – November 10th, 6:30 PM
- Planning Board Steering Committee – November 10th, 12:00 PM
- Planning Board Site Visit – November 19th, 8:00 AM – To Be Confirmed
- Planning Board Meeting –November 24th, 6:30 PM

B. MORE TIME ITEMS

1. Training on Site Development Standards – Screening

There being no further business, Chair Farrington adjourned the meeting at 9:15 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Emily Duseau, Planning Technician

CITY OF KEENE
NEW HAMPSHIRE

MEMORANDUM

TO: Planning Board

FROM: Community Development Staff

DATE: November 14, 2025

SUBJECT: Agenda Item III - Final Vote on Conditional Approvals

Recommendation:

To grant final approval for any projects that have met all their "conditions precedent to final approval."

Background:

This is a standing agenda item in response to the "George Stergiou v. City of Dover" opinion issued by the NH Supreme Court on July 21, 2022. As a matter of practice, the Planning Board issues a final vote on all conditionally approved projects after the "conditions precedent to final approval" have been met. This final vote will be the final approval and will start the 30-day appeal clock.

As of the date of this packet, there are no applications ready for final approval.

If any projects meet their conditions precedent between date of this packet and the meeting, they will be identified and discussed during this agenda item.

All Planning Board actions, including final approvals, are posted on the City of Keene website the day after the meeting at KeeneNH.gov/planning-board.

CITY OF KEENE
NEW HAMPSHIRE

MEMORANDUM

TO: Planning Board

FROM: Mari Brunner, Senior Planner

DATE: November 14, 2025

SUBJECT: Proposed Amendments to the Planning Board Regulations

Recommendation:

To hold a public hearing on the proposed changes to the Planning Board's Subdivision Regulations, Site Development Standards, Earth Excavation Regulations, and Application Procedures.

Background:

The following are proposed changes to the Planning Board's regulations in Article 20 of the Land Development Code (Subdivision regulations), Article 21 of the LDC (Site Development Standards), Article 25 of the LDC (Earth Excavation Regulations), and Article 26 of the LDC (Application Procedures). These proposed amendments are intended to clarify language within the code, correct errors with respect to wording, update submittal requirements to match current practice, and reflect recent changes to state law regarding the timeframes for "Active and Substantial Development" and "Substantial Completion" of subdivision and site plan applications.

In addition, the proposed changes include amendments to the Site Plan Review Thresholds in Article 26 of the Land Development Code. The intent of these proposed modifications is to adjust the thresholds to increase the number of projects that qualify for Minor Site Plan Review, encourage driveway designs that comply with City standards, and establish clear thresholds for projects that involve the creation of new residential units.

Language to be removed is identified with ~~strikethrough~~, and new language is identified with **boldface underline** and is highlighted.

Proposed Amendments:

1. Amend Section 20.2.5 of the Subdivision Regulations to include language from Section 23.3.2 "Lot Monuments," as follows. The intent of this proposed change is to ensure consistency between the Subdivision Regulations administered by the Planning Board and the public infrastructure standards administered by the Public Works Department.

   20.2.5 Monumentation
   In accordance with Article 23 of this LDC, ~~T~~**t**he owner or developer shall provide permanent reference monuments ~~in accordance with Article 23 of this LDC~~ **and final subdivision plans shall not be signed and recorded until after the monuments have been installed by the developer and verified by the Public Works Director, or security in an amount deemed satisfactory to the Public Works Director is posted ensuring the monuments will be set.**

2. Add a new section "E" after Section 21.6.1.D of the Site Development Standards to clarify the definition of "Primary Entrance" and reinforce other sections of the LDC that require service areas, drive-through windows, and other potentially disruptive areas to be located away from primary entrances, as follows.

   E. Wherever possible, service areas, drive-through windows and lanes, mechanical equipment, parking areas, and other areas likely to generate noise, dust, traffic, or other disruptive conditions shall not be located adjacent to a primary entrance. For the purposes of this section, "primary entrance" shall mean the front and/or street-facing points of ingress and egress to a building.

3. Amend Section 25.5 of the Earth Excavation Regulations to reflect the Planning Board's decision to delegate its authority with respect to investigating and resolving complaints to Code Enforcement Staff, as follows.

   25.5 ENFORCEMENT

   A. After a duly noticed public hearing, the Planning Board **or its duly authorized agent** may suspend or revoke the earth excavation permit of any person who has violated any provision of the permit, this Article, NH RSA 155-E, or of any person who made a material misstatement in the application upon which their permit was issued. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with this article and NH RSA 677.

   B. Any violation of the requirements of these regulations shall also be subject to the enforcement procedures detailed in NH RSA 676.

   C. In accordance with NH RSA 155-E:10, the Planning Board hereby designates code enforcement staff to act as its duly authorized agent with respect to investigating and resolving complaints regarding Earth Excavation operations.

4. Amend the submittal requirements for subdivision applications in Section 26.10.5.2 and the submittal requirements for site plan applications in 26.12.5 to require two instead of 7 copies of complete plan sets on 22-in by 34-in paper or larger size. In addition, amend these sections to clarify that electronic copies shall be submitted as flattened PDF files (i.e. without layers and free of PDF comments or annotations), as follows:

    26.10.5 Submittal Requirements

    2. A complete plan set signed and stamped by a NH licensed surveyor**. The plan set shall be submitted in both paper format** (~~7~~**2**-copies on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper**)**~~;~~ and~~, an~~ electronic format **(flattened pdf file)**, ~~which~~ **and** shall include the following materials.

    26.12.5 Submittal Requirements

    B. A complete plan set signed and stamped by a NH licensed engineer or architect**. The plan set shall be submitted in both paper format** (~~7~~**2**-copies on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper**)**~~;~~ and~~, an~~ electronic format **(flattened pdf file)**, ~~which~~ **and** shall include the following materials.

5. Amend the submittal requirements for subdivision and boundary line adjustment applications in Section 26.10.5.B.2.c by adding a new sub-section "v" to require that proposed plans display the basic zone dimensional requirements for the underlying zoning district in which they are located as well as the existing and proposed zone dimensional information for the subject parcels, as follows. The intent of this proposed change is to make it easier to verify whether applications meet zoning or whether zoning relief is required earlier in the application review process.

    v. The basic zone dimensional requirements of the underlying zoning district(s) and the existing and proposed basic zone dimensional information for the subject parcels.

6. Amend Section 26.10.8.B.2 to clarify that an updated survey must provide the metes and bounds for any revised parcel boundaries and not necessarily for the entirety of the subject parcels, as follows. The intent of this proposed change is to reduce unnecessary costs for the applicant and reduce the number of waivers requested from this section.

    2. An updated survey showing the boundary line adjustment, and all metes and bounds of the revised ~~parcels~~ **portions of the parcel boundaries** shall be prepared by the applicant following approval from the Planning Board, and shall be filed with the Community Development Department for recording in the County Registry of Deeds.

7. Amend Section 26.10.11.C and Section 26.12.11.C to modify the timeframe for "Active and Substantial Development" for Subdivision and Site Plan applications, respectively, as follows. The intent of this proposed change is to align the LDC with recent changes to state law that increased the timeframe for active and substantial development from two to three years and clarify when the timeframe officially starts.

    C. Active & Substantial Development. Active and substantial development of an approved project shall be completed within ~~2~~**3** years, starting the day following the Board's decision to **grant final** approv**al** ~~e~~ **of the project** ~~or conditionally approve the application~~. Plans approved in phases shall be subject to a determination of active and substantial development for the current phase. For purposes of this Section, active and substantial development shall include all of the following.

8. Add a new Section "D" after Section 26.10.11.C entitled "Substantial Completion" to clarify when the rights of the owner or the owner's successor in interest shall vest with respect to subdivision plans and align the code with recent changes to state law, which increased the timeframe for substantial completion from 5 to 7 years.

    D. Substantial Completion. In accordance with NH RSA 674:39 et seq., Substantial Completion of an approved project shall occur within 7 years, starting the day following the Board's decision to grant final approval, at which point the rights of the owner or owner's successor shall vest. Plans approved in phases shall be subject to a determination of substantial completion for the current phase. For purposes of this Section, substantial completion shall include all of the following.

    1. All roadways shown on the approved plan are installed and paved through base course. If such road is intended to be public, the road must meet the conditions for final acceptance described in Article 23 of this LDC, as determined by the Public Works Director.

    2. All utilities shown on the approved plan are installed and ready for hook-up.

    3. All lot monuments, driveways and other site features shown on the approved plan are installed or completed.

    4. All on-site stormwater management, low impact design features, and permanent erosion control measures shown on the approved plan are installed and operational.

    5. All new buildings and structures shown on the approved plan are completed and are capable of being used for their intended purpose(s).

    6. All off-site improvements specified on the approved plan are completed or

financial security in a format and amount acceptable to the Community Development Director has been posted with the City to ensure completion of such improvements.

9. Add a new Section "D" after Section 26.12.11.C entitled "Substantial Completion" to clarify when the rights of the owner or the owner's successor in interest shall vest with respect to site plans and align the code with recent changes to state law, which increased the timeframe for substantial completion from 5 to 7 years.

D. Substantial Completion. In accordance with NH RSA 674:39 et seq., Substantial Completion of an approved project shall occur within 7 years, starting the day following the Board's decision to grant final approval, at which point the rights of the owner or owner's successor shall vest. Plans approved in phases shall be subject to a determination of substantial completion for the current phase. For purposes of this Section, substantial completion shall include all of the following.

1. All roadways shown on the approved plan are installed and paved through base course. If such road is intended to be public, the road must meet the conditions for final acceptance described in Article 23 of this LDC, as determined by the Public Works Director.

2. All utilities shown on the approved plan are installed and ready for hook-up.

3. All on-site stormwater management, low impact design features, and permanent erosion control measures shown on the approved plan are installed and operational.

4. All new buildings and structures shown on the approved plan are completed and are capable of being used for their intended purpose(s).

5. All major on-site improvements shown on the approved plan, including landscaping, lighting, screening, on-site pedestrian and bicycle infrastructure, and parking areas are completed.

6. All off-site improvements specified on the approved plan are completed or financial security in a format and amount acceptable to the Community Development Director has been posted with the City to ensure completion of such improvements.

10. Amend the Site Plan Review Thresholds in Section 26.12.3 to raise the threshold for projects that involve new additions to go to Major Site Plan Review, create thresholds for projects that involve the creation, modification, or removal of street access, and create thresholds for projects that involve the creation of new residential units, as follows.

26.12.3 Applicability

A. Site Plan Review Thresholds. Site plan review is required for the following types of improvements described in Sections 26.12.3.A.1 (Major Site Plan) and 26.12.3.A.2 (Minor Site Plan). It shall not be required for single-family and two-family dwellings or their associated accessory uses, provided such dwellings are not attached to a mixed-use building or located on a mixed-use lot containing non-residential **or multifamily residential** uses.

1. Major Site Plan. Major site plan review is required for any proposal that meets or exceeds **any of** the below thresholds.

a. New principal buildings or structures greater than 5,000 sf in gfa.

b. Additions to existing buildings or structures

i. In the Downtown Districts, additions that are greater than 15% of the gfa of the existing principal building.

ii. In all other Districts, additions that are greater than 25% of the gfa of the existing principal building.

c. Projects that involve the creation of 25 or more new residential dwelling units in one year.

d. Change or increase of vehicle trips per day of 100, or per peak hour of 50.

e. Installation of impervious surfaces (e.g. pavement or gravel) that exceeds 10,000 sf in contiguous area.

f. Land disturbance that impacts 1-acre or greater of land area.

g. New street access where an exception is requested from the street access permit criteria in Article 23.

h. Modifications to the site or building (e.g. lighting, landscaping, façade alteration, etc.), which, at the discretion of the Community Development Director, or their designee, warrants major site plan review.

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

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

a. New principal buildings or structures that are between 1,000 and 5,000 sf in gfa.

b. Additions to existing buildings or structures

i. **In the Downtown Districts, additions that are between 10% and 15% of the gfa of the existing principal building**

ii. **In all other districts, additions that are between 15% and 25% of the gfa of the existing principal building.**

c. **Projects that involve the creation of 15 to 24 new dwelling units in one year**.

d. Installation of impervious surfaces (e.g. pavement or gravel) that are 10,000 sf or less in contiguous area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants minor site plan review.

e. Land disturbance that impacts less than 1-acre of land area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants minor site plan review.

f. Modifications to the site or building (e.g. lighting, landscaping, façade alteration, etc.), which, at the discretion of the Community Development Director, or their designee, warrants minor site plan review.

g. **Creation of new street access or requests to widen existing street access.**

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

B. Administrative Planning Review. Proposed development or redevelopment, including change of use, associated with uses other than single-family and two-family dwellings that does not meet the thresholds for major or minor site plan review shall be reviewed by the Community Development Director, or their designee, to verify compliance with the Site Development Standards in Article 21 of this LDC prior to the issuance of a building permit. **Proposed modifications to commercial or multifamily street access that do not meet the threshold for minor or major site plan review shall be referred to the City Engineer for review prior to issuing a decision**. The application and review procedures associated with Administrative Planning Review are described in Section 26.13.

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

11. Amend Section 26.12.8.A.8 to articulate the process by which the Minor Project Review Committee may refer Minor Site Plan projects to the Planning Board for Major Site Plan Review, as follows.

    8. Public Hearing. Upon reaching a finding that an application is complete, the Minor Project Review Committee may open the public hearing for the application. **If at any point during the public hearing process it is determined that the Minor Project Review Committee does not have jurisdiction over the project for any reason (e.g., nonconformance with zoning, nonconformance with Site Development Standards, etc.), the Minor Project Review Committee shall refer the project to the appropriate decision-making authority for review.**

12. Amend Section 26.12.9.B to specify that final plans shall include all necessary professional stamps, as follows.

    B. Prior to the signature of the Chair or Vice Chair of the respective decision-making authority on an approved site plan, the applicant shall:

        1. Demonstrate to the satisfaction of the Community Development Director, or their designee, that all conditions of approval have been met as specified by the respective decision-making authority; and,

        2. Provide complete copies of the approved plan set in a number and form as specified by the Community Development Department. **Such plans shall be stamped by all licensed professionals who prepared the plans.**

13. Amend Section 26.12.13.A.4.a to require the submittal of a flattened PDF copy of as-built plans in addition to paper and electronic geodatabase file formats, as follows.

    a. After a project is completed and prior to release of any security, applicants shall provide **two paper copies of** the complete set of "As-Built" plans on 22-in by 34-in paper or larger size, **a flattened pdf file**, and as an electronic file in .dwg, .dxf, .shp or geodatabase format.

14. Amend Section 26.14.11.A to clarify that there may be instances where a separate section of the LDC applies, as follows.

    A. **Unless otherwise specified in this LDC, a**~~A~~pplicants for a conditional use permit seeking a waiver from conditional use permit standards in the Zoning Regulations of this LDC, shall apply to the Zoning Board of Adjustment for a variance.

15. Modify Section 26.10.14 “Waivers” by removing subsection E requiring subdivision waiver requests to be submitted following the same process and timeframe as required for formal applications to the Planning Board, as follows:

    26.10.14 Waivers

    A. Unless otherwise set forth in this LDC, the Planning Board may grant a waiver from strict compliance with provisions of the Subdivision Regulations in Article 19, applicable Site Development Standards in Article 20, or subdivision review standards in Section 25.10 on a case-by-case basis, so long as the Board finds, by majority vote, that:

        1. Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations; and,
        2. Granting the waiver will not increase the potential for creating adverse impacts to abutters, the community or the environment; and,
        3. Consideration will also be given as to whether strict conformity with the regulations would pose an unnecessary hardship to the applicant.

    B. The Planning Board may grant a waiver from the requirement that a subdivision be a conservation residential development subdivision, upon reaching a finding that:

        1. Conservation values on a property would be better protected by a conventional subdivision design;
        2. A conservation residential development subdivision would significantly detract from the character of the surrounding neighborhood; and,
        3. A conventional subdivision design provides the only reasonable alternative to developing the parcel to be subdivided given the parcel configuration and site constraints.

    C. In granting a waiver, the Planning Board may require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.

    D. Any waiver request shall be in writing and shall cite the specific regulation or standard the waiver is requested from and the reason(s) it cannot be met.

    ~~E. Waiver requests shall be submitted following the same process and timeframe as is required for formal applications to the Planning Board.~~

16. Modify Section 26.12.14 “Waivers” by removing subsection C requiring site plan waiver requests to be submitted following the same process and timeframe as required for formal applications to the Planning Board.

26.12.14 Waivers

A. Unless otherwise set forth in this LDC, the Planning Board may grant a waiver from strict compliance with provisions of the Site Development Standards in Article 21 or site plan review standards in Section 26.12, on a caseby-case basis, so long as the Board finds, by majority vote, that:

1. Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or,
2. Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.
3. In granting a waiver, the Planning Board may require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.

B. Any waiver request shall be in writing and shall cite the specific regulation or standard a waiver is requested from and the reason(s) it cannot be met.

~~C. Waiver requests shall be submitted following the same process and timeframe as is required for formal applications to the Planning Board.~~

17. Amend the Earth Excavation Application Submittal Requirement Exemptions in Section 26.19.5 to correct the "Submittal Requirements" section reference, as follows.

26.19.5 Submittal Requirement Exemptions
An applicant for an Earth Excavation permit may request the Community Development Director, or their designee, to exempt their application from any of the submission requirements referenced in Section 26.19**.4**.

18. Amend Section 26.19.14 of the Earth Excavation Application Procedures to specify acceptable forms of security, as follows.

26.19.14 Security

Prior to the issuance of any earth excavation permit or to the removal of topsoil or other overburden material from any land area that has not yet been excavated, the applicant shall submit security in a form and amount acceptable to the City Engineer and the Community Development Director to be sufficient to guarantee compliance with the permit~~.~~**, and shall be either a certified check made out to the City of Keene or a letter of credit.**

1. Performance Bonds shall not be an acceptable form of security.