

City of Keene
New Hampshire

PLANNING BOARD
MEETING MINUTES

Monday, July 24, 2023

6:30 PM

**Council Chambers,
City Hall**

Members Present:

Harold Farrington, Chair
David Orgaz, Vice Chair
Mayor George S. Hansel
Councilor Michael Remy
Emily Lavigne-Bernier
Roberta Mastrogiovanni
Armando Rangel
Ryan Clancy
Randyn Markelon
Kenneth Kost, Alternate

Staff Present:

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

Members Not Present:

Gail Somers, Alternate
Tammy Adams, Alternate

I) Call to Order

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

II) Minutes of Previous Meeting – June 26, 2023

A motion was made by Mayor George Hansel to approve the June 26, 2023 meeting minutes. The motion was seconded by Councilor Remy and was unanimously approved.

III) Final Vote on Conditional Approvals

Chair Farrington stated 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. He asked if there were any applications tonight that are ready for a final vote.

Ms. Brunner stated there is one application ready for final vote: SPR-01-23, which is a site plan application for a car wash facility on the properties at 364 West Street and 12 Pearl Street. She stated that there were three conditions precedent that were set for this application.

The first was the submittal of a security for sedimentation and erosion control and as-built plans in a form and amount acceptable to the City Engineer.

The second condition was the addition of a note on the plan stating that the hours of operation for the vacuums on the site shall be from 7:00 AM To 8:00 PM.

The third condition was submittal of five full-sized paper copies signed by the owner and one digital copy of the final plan.

Ms. Brunner stated all three conditions precedent have been met.

A motion was made by Mayor George Hansel that the Planning Board issue final site plan approval for SPR-01-23. The motion was seconded by David Orgaz and was unanimously approved.

IV) Extension Requests

1. SPR-790, Modification #1 – Site Plan – 7 Krif Ct – Applicant Keach-Nordstrom Associates Inc., on behalf of owner Summit Packaging Systems LLC, requests an extension to the deadline to satisfy the precedent conditions of approval for the site plan, SPR-790 Modification #1, for the proposed construction of an ~6,400 sf addition to the existing building and associated site modifications on the property at 7 Krif Ct (TMP #118-002-000). The parcel is 1.98 ac and is located in the Industrial District.

Ms. Bridget Sousa of Keach-Nordstrom Associates Inc., on behalf of owner Summit Packaging Systems, stated the applicant submitted a request for extension to meet the conditions of approval issued on January 23, 2023. She indicated that, unfortunately, the initial project estimate costs were much lower than what was actually bid. For the time being, Summit Packaging has decided to put the project on hold for budgetary reasons. Hence, they would like to request this extension. Ms. Sousa noted that the applicant has moved forward with the architectural plans and MEP plans. When the project is ready to move forward, they will need to submit a Floodplain Development Permit application.

A motion was made by Mayor George Hansel to approve the request for a 180-day extension to the deadline to satisfy the precedent conditions of approval for the site plan application, SPR-790 Modification #1.

The motion was seconded by David Orgaz and was unanimously approved.

V) Public Hearings

1. S-05-23 – 2-lot Subdivision – 86 Nims Rd – Applicant and owner Innisfree Rev. Living Trust proposes to subdivide the ~34.44 ac parcel at 86 Nims Rd (TMP #230-004-000) into two lots that are ~15.60 ac and ~18.84 ac. The parcel is located in the Rural District.

A. Board Determination of Completeness

Evan Clements, Planner, stated the applicant has requested exemptions from providing separate existing and proposed conditions plans, showing a wetlands delineation on the existing conditions plan, a drainage analysis, a traffic analysis, and a soil analysis. Staff have determined that 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 George Hansel to accept the subdivision application, S-05-23, as “complete.” The motion was seconded by David Orgaz and was unanimously approved.

Mr. Clements clarified that the application was noticed as a subdivision producing two parcels approximately 15.68 acre and 18.84 acres in size; however, after plan revisions were conducted, the new parcel sizes for the final proposal for this application came out as 19 acres and 15.42 acres. Mr. Clements stated this should have no bearing on the legality of the notice; it is just a point of clarification as the Board moves through its review of the application.

B. Public Hearing

Wendy Pelletier of Cardinal Surveying addressed the Board. Ms. Pelletier stated this parcel of land is approximately 34.4 acres in size and is located at the end of Nims Road. The rear of the property abuts Otter Brook Dam preserve. The request is for a two-lot subdivision. She explained that there is 50 feet of frontage on the Class V portion of the road and there are no proposal for construction at this time.

Mayor Hansel asked if this subdivision would create two conforming lots. Ms. Pelletier answered in the affirmative.

Staff comments were next. Mr. Clements stated the subject property is an existing 34.2-acre parcel located on the east side of Nims Road at the point where the road transitions from a Class V to a Class VI roadway and noted that it has frontage on both. Otter Brook Lake is located directly to the east. There is an existing garage/shed located on the northwestern corner of the property. The property has historically been used for agricultural purposes and was most recently a Christmas tree farm. A flowage easement exists on the property to the benefit of the United States of America for the purposes of supporting the construction, maintenance, and operation of the Otter Brook Dam and Reservoir Project. The easement was dedicated as part of a Mortgage agreement executed in 1958. The subdivision will create a 19-acre parcel with approximately 278’ of frontage on the Class V road. The second lot will be 15.42 acres with 50’ of frontage on the Class V road and approximately 247’ of frontage on the Class VI road. Both lots will have sufficient frontage to meet zoning.

With reference to Regional Impact: After reviewing the application, staff has made a preliminary evaluation that the proposed subdivision does not appear to have the potential for “regional impact” as defined in RSA 36:55. The Board will need to make a final determination as to whether or not the proposal, if approved, could have the potential for regional impact.

With respect to specific subdivision regulations for this application, Mr. Clements stated:

Character of Land: There appears to be sufficient land area near the road to support low density residential development. The existing property slopes away from the road with an average slope of approximately 11%. The property contains areas of precautionary and prohibitive slopes starting approximately 500' from the road. The 19- acre lot will have 23% of its total lot area classified as precautionary and 2.72% as prohibitive slopes. The 15.44-acre lot will have 29.5% of its total land area classified as precautionary and 4.26% as prohibitive slopes. It appears that this standard has been met.

Preservation of Existing Features: The applicant states in their narrative that no development is being proposed with this application. The front portion of the lots is characterized by gently sloping fields. Notes on the plan indicate that any future development shall comply with steep slope and surface water regulations. It appears that this standard has been met.

Special Flood Hazard Areas: All parcels associated with this application are outside of the 100-year floodplain. This standard does not apply.

Fire Protection and Water Supply: Note 7 on the plan states that any future building shall have adequate and approved fire protection installed. It appears that this standard has been met.

Utilities: Note 8 on the plan states that private well and sewer systems will be required for any future building. The proposed lots are over 5 acres, so DES subdivision approval is not required. It appears that this standard has been met.

Drainage and Stormwater Management: Note 2 on the plan states that any future development shall not result in increased volume or velocity of runoff onto adjacent properties or surface water bodies. Staff has also added a new subsequent motion which states as follows: *“Prior to the issuance of a building permit, for new residential dwellings a grading and drainage plan shall be submitted for the proposed development area to the Community Development Department for review and approval by the City Engineer.”*

Sediment & Erosion Control: Note 3 on the plan states that any future development shall be designed to prevent erosion and sedimentation during and subsequent to construction. It appears that this standard has been met.

Traffic & Access Management: Note 5 on the plan states that a Street Access permit shall be obtained prior to any construction. It appears that this standard has been met.

Mr. Clements then reviewed the second subsequent condition of approval that staff is recommending: *“Prior to the issuance of a building permit for a new residential dwelling, a wetlands delineation shall be conducted by a licensed NH Soils Scientist and a plan showing the delineated wetlands and their buffer shall be submitted to the Community Development Department. If the delineation conducted reveals no wetlands in the building area, a letter with the licensed NH Soils Scientist’s stamp stating that no wetlands were found shall be submitted instead.”*

Mr. Clements explained that the above-mentioned items, in tandem with the grading and drainage plans, are recommendations staff has come up with as a way to address future development at the subdivision level, in all parts of the City, but particularly in the Rural District, which has a significant amount of steep slopes and surface waters. As a way to bring a little more density into the Rural District by changing minimum lot size from five acres to two acres, Mr. Clements noted that the items he reviewed are items that staff will be encouraging the Board to include as subsequent conditions of approval moving forward to ensure that natural features are protected as the City allows development to expand within the Rural District.

Mr. Clements then reviewed the other recommended conditions of approval outlined in the staff report.

Ms. Brunner stated that she wanted to add some context to the subsequent condition of approval just reviewed by Mr. Clements. She indicated that Planning Staff recently met with Code Enforcement & Public Works Staff to discuss some other areas of the City where there have been ongoing issues with previous subdivisions that were approved when no development was proposed. She explained that when development occurred later on, the City started receiving concerns from neighbors about having water runoff going between private properties, but also runoff going onto private properties from the public right-of-way. In some instances, this has caused the City to have to expend unbudgeted funds on infrastructure upgrades and has cost a significant amount of staff time to come up with a solution.

She explained that City Staff are trying to get ahead of these types of issues by recommending these additional subsequent conditions of approval. Ms. Brunner indicated that the idea with this application is that with lot sizes of 20 acres and 15 acres having the applicant complete a wetlands delineation of the entire parcel would be cost prohibitive. However, at the time when a building is going to be constructed, having the applicant complete a wetlands delineation of the immediate vicinity would be much more financially feasible and this would ensure they are meeting the Planning Board's regulations.

The same would be true with having the applicant submit a grading and drainage plan at the time of construction to ensure they are not causing runoff and drainage issues onto abutting properties. This would provide Code Enforcement Staff with the opportunity to require the submittal of a grading and drainage plan, which they don't have the ability to request unless the Board makes it a requirement.

The Mayor noted the proposed language sounds like the City is looking for the entire parcel to be delineated and asked for clarification. Ms. Brunner noted perhaps it would be good to clarify the motion, but explain that staff's intention is only to have the delineation performed in the vicinity of the proposed building – when that determination has been made. Mr. Clements suggested the term “development area” to be included in the motion.

The Chairman asked for public comment next.

Ms. Penny Shanks stated she was before the Board to request that she be allowed to purchase 50 feet of road frontage on Nims Road, which would allow her daughter and husband to build a

small house on their land. She stated that they have owned their property since 1971 and this has always been their home. She noted her husband Jay's many contributions to the Keene community, including many homes that he has designed and built, as well as many other buildings in Keene. She added that her daughter would like to move to Keene to start a bio tech lab.

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

Mr. Clements provided clarification about the comments just made by Ms. Shanks. He noted there is a landlocked parcel located to the south of the subject property that only has access via the Class VI portion of Nims Road. He added that while Ms. Shanks' request is motivating, he wanted to clarify that the Planning Board has no authority to sell private property to other private individuals and suggested Ms. Shanks speak to the landowners, if they are looking to buy property on the Class V portion of Nims Road.

The Chairman reopened the public hearing.

Ms. Anne Shanks addressed the Board next and stated she is speaking on behalf of her family. She indicated her sister is trying to discuss different options with the landowner, but did not hear about this application in enough time to address this with the landowner. She indicated that their request is that the Board deny this application at this time, so they have time to negotiate with the landowner to obtain the 50 feet of road frontage the Shanks need to construct a home. She added that in the past, they have tried to get a variance to build a home on their land, but the variance was denied; hence, their reason for trying to purchase the 50 feet of frontage.

Mr. Jacob Westrate, applicant and property owner, stated that he and his wife, Nancy, purchased this land in 2014. He indicated that in 2015, he was approached by two of his neighbors, Paul Venezia of 75 Nims Road and Steve Hart of 78 Nims Road, who asked about a variance, which Mr. Westrate stated he was not aware of. The request for a variance was from Jean and Julia Garcia and no one knew who these individuals were. The Garcias were asking for a variance to build a home on landlocked land to the south that had 247 feet of frontage along the Class VI portion of the road. He added he and his wife should have been noticed as abutters, but were not. In addition, the applicant for this variance did not own the land, which he said was a concern to all abutters.

Mr. Westrate stated that he and his wife came to City Hall when they were made aware of the variance request and met with Gary Schneider, who told them that they were not on the abutter list. He indicated that everyone who lived on Nims Road showed up for the variance hearing on June 1st and noted that there were various reasons raised at the meeting not to approve this request; however, the main reason was that the applicant had applied for a similar variance in 1999, which was approved subject to meeting certain conditions, but those conditions were not met and the Council denied the request. Mr. Westrate stated that they hired Attorney Tom Hanna to represent them, and it was explained to him that under NH Law once a variance granted, it is considered null and void if the conditions are not met and you are not allowed to reapply again. Mr. Westrate added that City Attorney Mullins agreed with Attorney Hanna's assessment.

Since that time, Mr. Westrate stated they have signed two Purchase and Sales Agreements. He added they have completed the necessary surveys and have also complied with all requests from the Planning Department.

The Chairman closed the public hearing again.

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve S-05-23 as shown on the plan set identified as “2 Lot Subdivision Plan Existing & Proposed Conditions” prepared by Cardinal Surveying & Land Planning at a scale of 1” = 100’ dated June 16, 2023 with the following conditions:

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

A. Owner’s signature appears on the plan.

B. Submittal of a revised plan set with the following changes:

i. The parcel identification number for the new lot be removed from the plan.

C. Inspection of lot monuments by the Public Works Director or their designee following their installation or the submittal of a security in an amount deemed satisfactory to the Public Works Director to ensure that the monuments will be set.

D. Submittal of four (4) full sized paper copies, two (2) mylar copies, and a digital copy of the final plan set.

E. Submittal of a check in the amount of \$51.00 made out to the City of Keene to cover recording fees.

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

A. Prior to the issuance of a building permit for a new residential dwelling, a wetlands delineation for the building area shall be conducted by a licensed NH Soils Scientist and a plan showing the delineated wetlands and their buffer shall be submitted to the Community Development Department. If the delineation conducted reveals no wetlands in the building area, a letter with the licensed NH Soils Scientist’s stamp stating that no wetlands were found shall be submitted instead.

B. Prior to the issuance of a building permit for a new residential dwelling, a grading and drainage plan shall be submitted for the proposed development to the Community Development Department for review and approval by the City Engineer.

The motion was seconded by Councilor Michael Remy.

Mayor Hansel stated he does feel for the abutters to the south. However, the Planning Board cannot do much about their situation. He added the Planning Board's task tonight is to look very objectively at the plan that was submitted and how that plan adheres to the Board's Development Standards and subdivision regulations. Through that analysis, it appears that all of the requirements for a subdivision have been met. He stated the one argument they could make would have to do with surface waters and wetlands, but the condition of approval that staff is recommending addresses that issue.

Chair Farrington stated he hopes there would be some solution for the Shanks to work out with whoever purchases these parcels.

Mr. Clancy encouraged staff to reach out to abutters to help with negotiation.

Chair Farrington added that he sees no regional impact with this request.

Ms. Lavigne-Bernier asked whether there was any clarity on the variance as far as a time constraint is concerned. Mr. Clements explained that as Mr. Westrate stated, a variance can only be requested once unless you make substantive changes to the application. At that point, an applicant could come back before the Zoning Board to seek some form of relief. He stated that there are some state RSAs related to obtaining building permits on Class VI roads and there is another body of work related to landlocked parcels. He noted that at some point in the process, the Planning Board does have involvement, but from the state level the Zoning Board does not. However, the City of Keene has done certain things in a way to include the Zoning Board, but at this point it would be up to the landowner to get creative and come up with some sort of alternative.

The motion made by the Mayor was unanimously approved.

2. S-10-22 – 2-lot Subdivision & SWP-CUP-03-23 – Surface Water Protection Conditional Use Permit – 0 Old Walpole Rd - Applicant Brickstone Land Use Consultants, on behalf of owner Keene Executive Homes LLC, proposes to subdivide the ~211 ac parcel at 0 Old Walpole Rd (TMP #211-010-000) into two lots that are ~5 ac and ~206 ac. A Conditional Use Permit is requested to install a driveway that will be partially located within the Surface Water Protection buffer. Waivers are requested from Sec. 25.10.5.B.2.b.iii & Sec. 25.10.5.B.2.c.ii of the Land Development Code regarding the requirement that updated plans showing the metes and bounds of the revised parcels be submitted. The parcel is located in the Rural District.

Councilor Remy noted this application has a connection to C&S Wholesale Grocers, who is his employer, but he indicated that he has not had any involvement with this project.

A. Board Determination of Completeness

Mr. Clements stated the Applicant has requested waivers from the two sections of the LDC that the Chairman just noted. He indicated that the notice for this application included those waiver requests. However, it turns out that those requests can be handled as administrative exemptions and a formal waiver was not required. Staff's recommendation for completeness will include those items.

He went on to say the Applicant has requested exemptions from providing an existing conditions plan that shows the metes and bounds of the entire parent parcel, a drainage report, landscaping plan, lighting plan, elevations, historic evaluation, screening analysis, architectural & visual appearance analysis, and a traffic analysis. Staff have determined that 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 George Hansel to accept the subdivision application, S-10-22, as complete. The motion was seconded by David Orgaz and was unanimously approved.

B. Public Hearing

Mr. Jim Phippard of Brickstone Land Use Consultants, on behalf of owner Keene Executive Homes, addressed the Board. Mr. Phippard stated this property is located on Old Walpole Road and consists of a 211.6-acre tract. He indicated this proposal is to subdivide off a single 5.1-acre lot a single-family home with the remaining 206 acres left undeveloped. Mr. Phippard referred to the area outlined in blue on the plan, which shows existing wetlands. He explained that the parcel has over 460 feet of frontage on Old Walpole Road. Based on the frontage, lot size, and lot dimensions, the new lot complies with zoning dimensional requirements. The remaining tract of land has over 400 feet of frontage, so both lots will comply with zoning dimensional requirements.

Mr. Phippard stated that they are proposing to provide access to this property via a shared driveway, which is actually an existing woods road at this property today.

Mr. Phippard stated that staff has requested that the applicant show that the proposed building area is truly accessible and can comply with the City's driveway standards. He noted that a portion of this property has steep slopes that exceed 20% grade, while other portions are flatter. The building area is at a 6% grade.

Test pits were completed, which identified an area that could support a septic system (there is no water or sewer available in this part of the City). There is also a well located within the protective radius of the lot. All in compliance with current regulations.

He explained that the proposed driveway design, however, does require a conditional use permit. This is the other application in front of the Board tonight. Mr. Phippard indicated he completed a site visit with the Conservation Commission and they have expressed no concerns with this proposal. He understands their approval as a recommendation to approve the conditional use permit application.

Mr. Phippard stated that for a conditional use permit, the applicant has to demonstrate that there are very minor impacts to wetlands and surface waters and has to avoid as much impact as possible. He indicated that everything they are doing is outside of the existing wetlands area and there are no direct wetlands impacts. He noted that they are crossing a portion of the wetlands buffer. Mr. Phippard specified that in the Rural District, the wetlands buffer is 75 feet. The building area shown in green on the plan is entirely outside of the wetlands buffer, so it meets the building setback requirements and is just under 10,000 square feet in size.

Mr. Phippard stated the plan before the Board shows a proposed driveway layout that utilizes the existing woods road where it meets Old Walpole Road. If you travel up a little over one hundred feet, turn right, and angle up the hill; that portion of the property is entirely within the wetlands buffer. He noted that the shaded area shown on the plan represents new impacts to the wetlands buffer that are being proposed by the applicant.

Mr. Phippard then addressed the slope of the driveway. The first option was just over 600 feet in length at an 8% grade. Mr. Phippard felt 8% is very manageable, even in New Hampshire winters; however, he noted that this driveway layout is quite expensive.

The second option was to utilize a portion of the existing woods road, with an "S" design as you head up the hill, which would create a driveway that is about 450 feet long with a grade of 10%, rather than 8%. However, he noted that this design would cross through the wetlands buffer in three different locations.

The third option would be a driveway starting at the corner of the property that would be 600 feet long and would remain at a 4% grade for most of that length, but would have an 8% grade at the beginning. Mr. Phippard stated he felt this was the most reasonable and safe approach and noted that it would still be expensive. However, this option has a large area going through the wetlands buffer. As a result, the applicant chose to design the driveway so that it would come from Old Walpole Road, follow the existing Woods Road at a 6% grade, transition to be at 15% grade for the next 130 feet of the driveway, and go back to a 6% grade at the proposed building area. This option has the least impact to the wetlands buffer, which is ~2,000 sf in size. He noted that there would be 3,500 square feet of total work within the wetlands buffer, and added that this driveway option does allow for a turnaround at the top of the driveway, which is required by the Fire Department. It is only a 10-foot-wide driveway, which is in compliance with the Board's driveway regulations. He noted that while this driveway design meets the Board's standards, it does require a conditional use permit because a portion of it is within that wetlands buffer.

Mr. Phippard stated that he had spoken at length with Russ Huntley, a wetlands scientist, about the functions and values of these impacted wetlands. He noted nothing is being proposed near the wetlands area, so there is really almost no disturbance. The entire building site is outside the wetlands area, so it complies and meets the building setback requirements. The only areas the Board is reviewing for the conditional use permit are the driveway coming off of Old Walpole Road and two other areas where wetlands will be impacted. Mr. Phippard noted these wetlands areas are well-established. He indicated it is not uncommon for a site with steep slopes to have wetlands pockets at the bottom of the hill; this is where the water goes. These areas will remain vegetated and undisturbed by the applicant's activities. Both sides of the road are well-vegetated. Where the grades exceed 5%, the swale on the side of the road will be stone-lined, which will prevent the swale itself from eroding. The road will also be elevated and crowned, so the water is not running down the road or the driveway. It is also being proposed that this driveway is not

paved. A crushed stone surface will be used, which Mr. Phippard thinks will hold up well. He stated he has done many driveways in Keene on Hurricane Road with this same material and they have held up very well, and they are also not as slippery as a paved driveway.

Mr. Phippard stated he had looked at the cost of adding three inches of pavement to this road surface and this information was provided to the buyer. At today's estimates, three inches of pavement over that driveway surface would add up to about 3,500 square feet of area including the turnaround. The cost would be \$13 a square foot with a total cost of \$45,500 for the whole driveway. Mr. Phippard stated that the applicant has no interest in paving at this time. The applicant is aware that every three years the driveway will need to be graded and the crown will need to be reconstructed, as plowing will cause the crown to get flat. Mr. Phippard stated he would like to request the Board not move forward with the recommendation from staff that the driveway be paved.

Mr. Phippard stated that the wood road has been around for over 100 years. It is a gravel road and has not been maintained in the recent past. Mr. Phippard noted that the rain during these past few weeks has not had an effect on this driveway, which tells him this road has been constructed well and with proper maintenance it will last even longer. He felt that paving the driveway is unnecessary because of the cost to the owner and the potential for increased runoff. Mr. Phippard stated that gravel surfaces always have less runoff compared to paved surfaces.

Mr. Phippard went on to say that staff is recommending a condition of approval related to the submittal of a stormwater management plan at the time the applicant applies for a building print. He felt that it didn't make sense to attempt to do one now because the plan for what is going to be constructed is still unknown. What he is however, recommending, is that they allow for the water that hits the driveway to be directed through a culvert to a level spreader in this area, which is outside of the wetlands buffer.

Mr. Phippard explained that the level spreader can be lengthened, if necessary to accommodate a 25-year design storm. He went on to explain that the woods road is actually an old farmer's road that was installed by the Barrett Family. In reviewing the recommended conditions of approval for the application, Mr. Phippard felt that condition #2.A related to the submittal of a Stormwater Management plan for the site should include the driveway and level spreader, not just the build area and the septic. This concluded Mr. Phippard's comments.

Staff comments were next. Mr. Clements stated that with respect to the Determination of Regional Impact, staff had made a preliminary evaluation that the proposed subdivision does not appear to have the potential for "regional impact" as defined in RSA 36:55. He noted that the Board will need to make a final determination as to whether or not the proposal, if approved, could have the potential for regional impact.

He went on to say the subject property is an existing 211.4-acre parcel located at 0 Old Walpole Road. The property is located on the north side of the road between the Hilltop Drive and Abbott Road intersections. The applicant proposes to create a new 5.10-acre residential building lot from the 211-acre parent parcel. The new lot will have 449.19 feet of road frontage on Old Walpole Road and the remaining 206.3-acre lot will have 80.30 feet of frontage on Old Walpole Road.

He went on to say there is an intermittent stream and wetlands system located on the property and noted that creating site access for the new lot would require impacts to the wetlands system.

Character of Land for Subdivision: The proposed residential building lot is characterized by steep slopes and wetlands. Available building areas outside these site constraints are minimal and developing the lot without impacting site features will be challenging. The applicant states in their narrative that the subdivision plan demonstrates that the proposed lot has sufficient developable land to support a single-family dwelling with septic system and wellhead, which is permitted in the wetlands buffer, without impacting these site features.

Scattered or Premature Development: The applicant states in their narrative that the proposed subdivision is located in an area along Old Walpole Rd that is currently developed with low-density single-family residences. A new single-family residential building lot is in keeping with the existing development pattern and will not contribute to an excessive expenditure of public funds or cause danger or injury to the health and safety of the public. Mr. Clements noted the above two standards appear to be met.

Preservation of Existing Features: The applicant states in their narrative that no steep slopes are proposed to be impacted. The driveway will encroach within the wetlands buffer but mitigation has been proposed to address this issue. It appears that this standard has been met.

Special Flood Hazard Areas: All parcels associated with this application are outside of the 100-year floodplain. This standard does not apply.

Fire Protection and Water Supply: The applicant states in their narrative that the proposed driveway turnaround is of sufficient size to accommodate emergency vehicles. Future development of the site will have to meet all applicable fire and life safety codes. This standard has been met.

Utilities: The new residential building lot will be served by onsite well and septic. The proposed conditions plan depicts a 4k leech field area outside of the wetlands buffer and the 75' wellhead protection radius. The lot is over 5 acres in size and will not need DES subdivision approval. It appears that this standard has been met.

Drainage and Stormwater Management and Driveway: Mr. Clements stated what has been presented is an example how to develop the property for residential use with the least amount of impact to the wetlands buffer and system. He added that the driveway is not shown on the subdivision plat and the recorded plat won't show the driveway on it. This means that a site access permit will be required from the Public Works Department, which will take into account everything Mr. Phippard proposed. In addition, the stormwater management plan that is also being required will need to be reviewed and approved by the City Engineer

With reference to reviewing the Conditional Use Permit, Mr. Clements stated the Planning Board shall issue a Surface Water Protection Conditional Use Permit for the activities described in Section 11.6.1 of the Land Development Code, if it finds that all of the following criteria have been met:

- 1. The proposed use and/or activity cannot be located in a manner to avoid encroachment into the Surface Water Protection Overlay District.*
- 2. Encroachment into the buffer area has been minimized to the maximum extent possible, including reasonable modification of the scale or design of the proposed use.*

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

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

Mr. Clements stated that the Board is not sure where the house is going to be located, even though Mr. Phippard has shown the best-case scenario on the plan where there is plenty of buffer area. He added that the Board's regulations don't prohibit removing vegetation from the wetlands buffer area to create a lawn, for example. However, he noted that the Board can always add additional conditions, if they wanted to preserve those areas.

Mr. Clements then outlined the proposed conditions of approval. He indicated that he agrees with Mr. Phippard's suggestion to be very specific that the stormwater management plan includes the building site, driveway, and associated infrastructure.

He explained that the City Attorney would like to have copies of the executed maintenance agreement, which would be completed in tandem with plat for the maintenance of the shared driveway.

Mr. Clements referred to the request for the driveway to be paved and referred to a comment from Engineering Staff: "*An important consideration for preventing water quality degradation will be controlling erosion of the driveway itself. With a significant length of the driveway at 15%, use of gravel surfacing will inevitably result in erosion of soil into the downstream surface water directly in contradiction to the intent of the Surface Water Protection Ordinance.*" The City Engineer recommends that the Planning Board include a condition of approval stating that the driveway be paved.

Mr. Clements stated that he understands what Mr. Phippard stated in regards to the proposed property owner having experience with gravel driveways and the maintenance that is required of them. He noted that this condition may not be relevant to the current property owner, but may be relevant to later property owners who may not be used to maintaining a gravel driveway.

This concluded staff comments.

Councilor Remy stated that conditions of approval #1.B.ii and 2.B and 2.C conflict. He indicated that the City is not asking for a driveway, but they are asking for a driveway. The Councilor added that condition of approval #2.B refers to shared access and maintenance. Ms. Brunner explained this is to show the easement area, not the design of the driveway. She stated that she recommends that the driveway permit be issued by the City Engineer's office and they would review the actual design details. She indicated she believes that the easement is 20 feet wide and covers the entire length of the western property line of the proposed lot. Mr. Clements added this is just a pass and repass easement. He explained that the woods road is on the parent parcel and the only way for the future property owner to have access along the woods road would be to trespass without the existence of this access and maintenance agreement. The maintenance agreement also explains terms for ownership and responsibility to maintain it in the future.

Chair Farrington stated he is trying to sort out the conflicting recommendations. The Conservation Commission seems to be fine with a gravel driveway, but Engineering Staff is not. Ms. Brunner stated that she can clarify as she was at the Conservation Commission meeting and site visit. She noted that the Commission did have a good discussion and asked some questions; however, at the end of the discussion, they just moved on to the next agenda item, so they didn't necessarily make a statement in favor or against or make any formal recommendations. Ms. Brunner stated she does not know if this was really a statement of support, but the Commission did not have any specific recommendations for the Planning Board.

Mayor Hansel stated that he understands where the City Engineer is coming from because if the gravel driveway erodes, it would negatively affect water quality. He stated that he has maintained gravel driveways and they require much less sand and salt in the winter, and he felt that this was an important consideration. He referred to a steep driveway on Hurricane Road and even with a large amount of salt used on the driveway, it is still unsafe to drive on in the winter. The Mayor stated that from the City's perspective, maybe the City should look at this and provide some more specific language around what really works, but he is inclined to support the applicant on this issue.

Councilor Remy stated he agrees with the Mayor and stated that he grew up living on a very steep gravel driveway. He agreed that there is maintenance that goes into it, but travel is easier. He also added that at the end of the winter, a paved driveway looks similar to a gravel driveway because of how much sand and salt is used on it.

The Chair asked for public comment.

Mr. Jim Craig of 141 Walpole Road addressed the Board first. Mr. Craig stated he is an abutter to this property and has lived in this area for 40 plus years. He stated that he has no issue with the development of a portion of this property as a future home site. He referred to the logging road located east of the property and noted that a large amount of water had come down that road during these recent storms at a fast pace and passed the culvert, but fortunately there were no washouts. Mr. Craig stated that he likes the idea of a paved driveway as that would prevent the driveway issues that he has had with this gravel driveway. In closing, he stated that he is in support of this development.

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

C. Board Discussion and Action

Mayor Hansel stated that he was going to read the motion from the staff report without the condition requiring that the driveway be paved. He went on to make a motion that the Planning Board approve S-10-22 & SWP-CUP-03-23 as shown on the plan set identified as "2 Lot Subdivision Keene Executive Homes, LLC" prepared by Cardinal Surveying & Land Planning at a scale of 1" = 50' dated August 22, 2022 and last revised July 7, 2023 and the plan identified as "Proposed Driveway Old Walpole Road Keene, NH" prepared by Brickstone Land Use Consultants, LLC at a scale of 1" = 20' dated April 6, 2023 and last revised July 5, 2023 with the following conditions:

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

- A. Owner's signature appear on the plan.
- B. Submittal of a revised plan set with the following changes:
 - i. The parcel identification number for the new lot be removed from the plan.
 - ii. A note added to the plan stating that a Street Access Permit shall be required for the new lot.
 - iii. The proposed easement area be more clearly defined.
- C. Inspection of lot monuments by the Public Works Director or their designee following their installation or the submittal of a security in an amount deemed satisfactory to the Public Works Director to ensure that the monuments will be set.
- D. Submittal of four (4) full sized paper copies, two (2) mylar copies, and a digital copy of the final plan set.
- E. Submittal of a check in the amount of \$51.00 made out to the City of Keene to cover recording fees.

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

- A. Prior to the issuance of a building permit for new residential development, a Stormwater Management Plan for the site, including the driveway, level spreader and culvert designed in accordance with the NH Stormwater Manual and Section 22.3.10 of the Land Development Code, and prepared by a Professional Engineer licensed in New Hampshire, shall be submitted for review and approval by the City Engineer.
- B. Prior to the issuance of a building permit for new residential development, a copy of the recorded Shared Access and Maintenance Warranty Deed shall be submitted to the Community Development Department.

The motion was seconded by Councilor Remy.

Chair Farrington stated he did not feel that this subdivision rose to the level of being considered a Development of Regional Impact.

The motion made by the Mayor carried on a unanimous vote.

VI. Master Plan Update Discussion

Ms. Brunner addressed the Board and explained that the City has been putting aside money and budgeting for the next Master Plan update. The update has been delayed by a couple of years for various reasons, including COVID.

Ms. Brunner explained that her presentation tonight has three parts. The first part is a review of the Master Plan, more generally what the Planning Board's role is; the second part is a review of the 2010 Master Plan; and the third part is the proposed timeline and approach for this upcoming update.

What is the Master Plan? Ms. Brunner explained that it is a long-range planning document that serves as a guide for city-wide growth and development. It is also a guide for major capital investments. Having a Master Plan is a prerequisite for having a Capital Improvement Program in New Hampshire. It is also the foundation for public policy, zoning, and land use decisions. The State RSA was amended in 2001 to include a more precise overview of what the purpose of the Master Plan is.

The first purpose of the Master Plan is to set down as clearly and practically as possible, the best and most appropriate future development of the area under the jurisdiction of the Planning Board. In addition to this, the purpose is to aid the Board in designing ordinances that result in preserving and enhancing the unique quality of life and culture of New Hampshire. Another purpose is to guide the board in the performance of its other duties in a manner that achieves the principles of smart growth, sound planning, and wise resource protection. In addition to this, another purpose is to establish statements of land use and development principles and to establish legal standing for the implementation of ordinances and other planning board regulations.

Ms. Brunner stated this full description is in RSA, 674:2 - subsection 1.

She went on to explain that there are two mandatory sections of a Master Plan. The first one is the "Vision" section, which previously was the goals and objectives. There are statements to articulate the desires of the citizens, including a set of guiding principles and priorities. The second required section is the "Land Use" section, which looks at existing land uses, land use trends over time, and proposed future land uses and also looks at data to support that, such as studies of population, economic activity, and resources.

These two sections are mandatory and are a prerequisite for a zoning ordinance. They are also prerequisites for establishing a Historic District and a Capital Improvement Program.

Mr. Brunner explained that in addition to the two mandatory sections, there are 15 optional sections. She noted that State Statute does recommend that the Master Plan be revised or updated every 5 to 10 years, and note that the City is on year 13.

As far as how the Master Plan is adopted or amended, the state statute stipulates that this is done by the Planning Board. The Master Plan has to be adopted at a duly-noticed public hearing with a 10-day public notice requirement. It can be adopted one section at a time or as an entire document, and then amendments or updates are adopted following the same process.

Keene seeks City Council's adoption of the Master Plan, in addition to the Planning Board's adoption. Under state law, it is the Planning Board's vote that is the official vote. Once the Master Plan is voted on, it has to be filed with the City Clerk.

Ms. Brunner next talked about the Master Plan that was adopted in 2010. The last update to the Master Plan kicked off with an award winning community visioning process in 2008. The process to develop the vision involved extensive public outreach. It was award winning because there were over 2,000 individuals who participated through community forums, focus groups, study circles, etc. It was a wide range of input and through that community vision process, the following six key focus areas were identified:

- Quality built environment*
- Unique natural environment*
- Vibrant economy*
- Strong citizenship*
- Proactive leadership*
- Creative learning culture and a healthy community.*

Prior to the 2010 Master Plan, the City of Keene did a rolling update of the plan where chapters were updated every 2 years. This process created issues because some of the chapters would have different levels of detail, were not always in sync with each other, and at times had contradicting statements or goals. With the 2010 plan, the City decided to move away from that method and go with a comprehensive update where the entire plan was updated at once. Within the 21 topic-oriented chapters, there are goals and recommendations.

In the 2010 Master Plan, the City had an implementation section that outlined eight high-level recommendations. Of those eight, the City has completed five. The first recommendation was to rewrite the City's land use zoning regulations to proactively achieve the community's vision for the future – this was completed with the adoption of the Land Development Code in May of 2021 and (it went into effect in September of 2021).

The second recommendation was to continue to manage and improve the community's transportation network. This involved making improvements to roads, bridges, intersections, walking and bicycling infrastructure and the adoption of the "Complete Streets" policy and design program, which has been completed but will be an ongoing effort by the City into the future. The Complete Streets policy was adopted in 2014 and the design guidelines were adopted in 2015. The City has been making ongoing road, bridge, and bicycle infrastructure and intersection improvements, which have been funded through our Capital Improvement Program.

The third recommendation was to make the use of the community's parks and trails system easier. The City has actually made quite a bit of progress on this, and this would be another ongoing initiative that the City will continue to work on. The Bicycle Pedestrian Pathways Advisory Committee has been doing a lot of work on this item as well.

The fourth recommendation was to develop and adapt neighborhood plans. This is one of the three items that was never completed.

The fifth recommendation was to adopt low impact design standards as part of the subdivision and site plan regulations. This has been completed and has been integrated into the Site

Development Standards in the Land Development Code. These standards are what was previously the combined subdivision and site plan regulations.

The sixth recommendation was to adopt a City Council Resolution to become a champion in the Council for a Healthier Communities Vision 2020 program – this has been completed. Ms. Brunner stated she does not believe this program exists anymore, but the City did complete the program, which later became the Healthy Monadnock Champions Program.

The seventh recommendation was to continue to monitor, revise, update, and implement Keene's Climate Change Plan. Ms. Brunner stated that this recommendation was never started because the Climate Action Plan is from 2004 and was never updated. She did note, however, that the City did complete a Greenhouse Gas Inventory in 2018 and it also has an Energy Plan in place, which could be considered a component of the Climate Action Plan.

The final recommendation was to include an implementation plan within the Master Plan, so there will be a list of all of the recommendations that come out of the plan and their progress can be tracked.

Chair Farrington asked how many pages were in the 2010 plan. Ms. Brunner stated she thinks it is about 90 pages long, but with the appendices etc. it could be about 200 pages.

Ms. Brunner then went over what staff is proposing for the next Master Plan update. The first phase would run from July through December and would be the project preparation phase. Staff have already started brainstorming ideas for people who we might want to be included on a project steering committee. The proposed process for creating the steering committee would be to have members nominated by the Planning Board because it is technically the Planning Board that is responsible for writing and adopting the Master Plan. Those members can then be confirmed by the City Council because in Keene there is the dual adoption process. Ms. Brunner noted that Chair Farrington has agreed to serve on this committee and staff will be looking for one or two other members from the Planning Board to serve as well.

Mayor Hansel asked whether there were other Boards that the Planning Board has nominated in the past. Ms. Brunner said that the only one she could think of was the Southwest Region Planning Commission, but she could not think of another City Committee that has been nominated by the Board. The Mayor stated he has no issue with the Board coming up with a list of potential people to be on the committee, but to keep it consistent with our processes – he would put that through the Mayor's Office to make the nomination for confirmation by the City Council. Ms. Brunner stated she would like to check with the City Attorney as to whether this would be a typical Ad-Hoc Committee that is appointed and confirmed by the Mayor and which only runs for the term of the Mayor – which was one of staff's considerations.

Mr. Clancy asked whether a steering committee appointed by the Planning Board would be considered a subcommittee of the Planning Board legally. Ms. Brunner stated they would like to avoid this because a subcommittee of the Planning Board could only consist of Planning Board members and for quorum you would only need four Planning Board members maximum.

For the scope of work of this project, Ms. Brunner explained that the City would want a larger committee with more diverse membership.

Councilor Remy stated he appreciates keeping the process consistent, but as a Councilor he did not mind where the nomination came from. The Mayor stated that for the Council to vote on it, he as the Mayor has to add it to the agenda. He felt that for future Mayors' sakes this process should be respected.

Ms. Brunner stated the second item they would like to work on is to select and hire a consultant. She explained that the goal is to have a consultant hired and in place before the end of December. She noted that staff would like to have at least a couple of members of the steering committee on the consultant selection committee. Depending on the budget, the consultant would be helping with the community visioning process and then with the writing and layout of the document in the second year of the project.

She explained that the first phase of the project would be working on the community vision and the community snapshot – staff is estimating that it will take about nine months for that process.

Ms. Brunner noted this would be the most intensive public outreach phase, but the community vision will also be built on prior work. During this phase, the community snapshot will also be updated, which provides statistical data and trends showing factors like social demographic data, economic trends, public health indicators, and housing statistics.

The second phase will start in October 2024 and run through July 2025, which include writing the plan, developing the future land use map, and creating graphics to be included in the plan. The consultant will continue to work with staff and the project committee during this phase. Community engagement will continue, but not as heavily as during the first phase. Depending on the budget, some of this work might end up with staff, which could affect the timeline.

For the adoption process, staff are planning for a hybrid Planning Board and City Council process. Once the steering committee is ready and feels the plan is ready, they would refer it to the Planning Board. The Planning Board would hold the statutorily required public hearing on the Master Plan, which would be an opportunity for the public to add their comments.

Before the Planning Board makes a final vote, the recommendation is to refer it to City Council for Council to review and adopt. Following this, the Planning Board would then adopt the plan. Ms. Brunner explained that they are proposing this route because if the Planning Board adopted the Master Plan before City Council, it could become problematic. If the City Council adopts the plan after the Planning Board and then Council decides to make any changes, it would be too late because the plan is already adopted at that point.

Ms. Lavigne-Bernier asked whether Keene is the only municipality that follows this process. Ms. Brunner stated she wasn't sure if anyone else follows this process, but stated that it is in the Planning Board's Rules of Procedure and dates back to the early 1990's. She again explained that under State Law, it is only the Planning Board that adopts the Master Plan.

Mayor Hansel clarified that in order for City Council to review this item, it will be sent to a Council Committee for public input and asked staff to give this some thought. Ms. Brunner stated that she couldn't see a reason why the Planning Board public hearing could not be held after the item went to Council. She felt that the Council could also hold a second public hearing.

Councilor Remy asked whether there is a process in place to be able to hold a joint Planning Board/City Council public hearing. Ms. Brunner stated that this could be another option, but that her concern was the number of attendees (15 City Councilors and 9 Planning Board members). Councilor Remy stated that he likes this option.

Councilor Remy asked whether a report from the Planning Board to the Council does not necessarily get referred to a committee. It was indicated that it would not be referred to a Council Committee and would fall under a different section of the City Council agenda.

Mr. Kost asked what would happen if there were a disagreement between the Planning Board and the Council regarding adoption of the Master Plan how that would be adjudicated. Ms. Brunner stated that this is the reason to make the connection between the two bodies as early in the process as possible to make sure that everyone is on the same page. However, ultimately the Planning Board adopts the Master Plan.

VII. Staff Updates

Ms. Brunner noted that at this point there are no items for the August Planning Board agenda.

VIII. New Business

None.

IX. Upcoming Dates of Interest

- Joint Committee of the Planning Board and PLD – August 14th, 6:30 PM
- Planning Board Steering Committee – August 15th, 11:00 AM
- Planning Board Site Visit – August 23rd, 8:00 AM – To Be Confirmed
- Planning Board Meeting – August 28th, 6:30 PM

There being no further business, Chair Farrington adjourned the meeting at 8:40 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Megan Fortson, Planning Technician