



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY APRIL 4, 2023

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, April 4, 2023 in the Matthew Thornton Room.

Members Present:

- Paul McLaughlin (Vice Chair)
- Brian Dano
- Lynn Christensen
- Maureen Tracey – Alternate
- Nelson Disco – Alternate
- Town Councilor Barbara Healey - Ex-Officio

Members Absent:

- Robert Best (Chair)
- Jaimie von Schoen
- Neil Anketell
- Haleem Mediouni - Alternate

Staff Present: Robert Price, Planning & Zoning Administrator

1. Call to Order

Vice Chair Paul McLaughlin called the meeting to order at 6:30 p.m. and led everyone in the Pledge of Allegiance. He then seated Alternates Maureen Tracey and Nelson Disco for Neil Anketell and Robert Best, respectively.

2. Planning & Zoning Administrator's Report

3. Consent Agenda

- Extension request: Crow's Nest Circle Warehouse (#PB2021-29)*

The Board voted 6-0-0 to approve the consent agenda, on a motion made by Lynn Christensen and seconded by Brian Dano.

- S.J. Torres (applicant) and Orrin H. Connell Family Trust (owner)** – Continued review for consideration of a waiver of full site plan review to permit a variety of temporary “event” uses on site. The parcel is located at 454 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation, Elderly Housing, and Town Center Overlay Districts. Tax Map 5D-4, Lot 54.

PB2022-46. *This item is continued from the December 6 & December 20, 2022, & January 17, and February 21, and March 21, 2023 Planning Board Meetings.*

At the applicant's request, the Board voted 6-0-0 to continue this hearing to April 18, 2023 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion by Lynn Christensen and seconded by Nelson Disco.

- 5. McDonald's USA, LLC (applicant) and CP Merrimack, LLC (owner) – Continued review for consideration of a waiver of full site plan to reconfigure the existing single order point drive-thru with a dual order point configuration. The parcel is located at 9 Dobson Way in the C-2 (General Commercial) & Aquifer Conservation Districts, and Wellhead Protection Area. Tax Map 4D-, Lot 054-03. Case #PB2022-47. *This item is continued from the December 6, 2022, January 17, February 21, and March 21, 2023 Planning Board Meetings.***

At the applicant's request, the Board voted 6-0-0 to continue this hearing to April 18, 2023 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion by Brian Dano and seconded by Barbara Healey.

- 6. Mast Road, LLC (applicant/owner) – Continued review for consideration of a waiver of full site plan to permit a Contractor's Yard. The parcel is located at Crow's Nest Circle in the I-1 (Industrial) & Aquifer Conservation Districts. Tax Map 2D, Lot 21-02. Case # PB2023-09. *This item is continued from the March 7, and March 21, 2023 Planning Board Meetings.***

Robert Price prefaced the presentation by providing an update on what has occurred since the March 7th meeting which includes receiving correspondence from DES stating that none of the activity planned for the site requires permitting unless they plan to break down painted concrete, which the applicant has stated they will not be doing. Mr. Price also stated that staff has suggested two new conditions of approval for the Board to review which are regarding having the salt stored in an enclosed structure and removing the phrase "including but not limited to" on the plan note that outlines the site's use.

Jim Petropulos (Hayner-Swanson, Inc.) presented the application to the Board. Mr. Petropulos provided a description of the parcel in question, adding that the applicant is seeking approval to use approximately 2 acres of the site as a Contractor's Yard. He noted the Waiver of Full Site Plan Review was granted at the March 7th meeting and that the applicant has no concerns in meeting the conditions of approval outlined by staff.

Nelson Disco asked if the structure for the salt storage will be added to the plan and Mr. Petropulos replied that the applicant will work with the Community Development Department to ensure it gets added in an acceptable location.

No public comments were received.

The Board voted 6-0-0 to find that with the granted waiver of full site plan review and the recommended conditions of approval, the site plan application meets all applicable regulatory requirements necessary, and further, to grant conditional final approval to the site plan subject to the following precedent conditions to be fulfilled within 6 months and prior to final approval (signing) of the plan, unless otherwise specified on a motion made by Nelson Disco and seconded by Lynn Christensen:

1. Final plans to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans.
2. The applicant shall obtain all required State approvals/permits, note the approvals/permits on the final plans and provide copies to the Community Development Department, as applicable.
3. Any waivers granted (including applicable regulation, section and date granted) and/or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable.
4. The applicant shall address the following Highway Division of Public Works comments:
 - a. Add a note indicating that the applicant shall obtain a ROW permit from the Highway Department of Public Works for any work within the ROW.
 - b. Revise plan to show a 20 foot paved driveway apron per Subdivision Regulations Section 4.13.1.
5. The applicant shall address any other comments from municipal departments, boards, or committees, as applicable.
6. The applicant shall address the following Planning Staff Technical comments;
 - a. Add a note indicating the parking requirements from the regulations and the amount of parking provided, in order to verify compliance with the regulations and as required by Section 4.11.
 - b. Add a note indicating the security of the site as required by Site Plan Section 5.02.b
 - c. The applicant shall provide a minor traffic analysis (per Section 3.14.b) to provide documentation of the traffic that will be generated by the proposed use.
 - d. Revise Note 6 to note that municipal sewer service is not available to the site, and clarify that it would need to be serviced by private septic, not municipal sewer.
 - e. Revise Note 8 to delete first sentence regarding snow being stored as shown on Sheet 6, as there is no Sheet 6 in the plan set.
 - f. For parcels within the Aquifer Conservation District and/or a Wellhead Protection Area, add a note stating that no salt or chemical de-icers are to be used for winter maintenance, and that winter maintenance shall be performed by a Green Sno-Pro certified (or functional equivalent certification) contractor.
 - g. Delete Note 12 as it is a duplicate of Note 11.
 - h. Applicant shall revise Sheet 1, Note 5 as follows:
 - i. Eliminate the wording “including but not limited to.”

- ii. At the end of the note, call out that stockpiling, recycling, composting, processing, screening and crushing of painted or otherwise treated asphalt, brick or concrete materials is prohibited.
- i. Applicant shall add a permanent enclosure to the plan for the proposed salt stockpile.
- j. Applicant shall revise their stormwater letter to account for the salt structure.
- k. Applicant shall add a note to the plan indicating that salt stockpiles shall be stored in a permanent enclosure at all times.

The following general and subsequent conditions are also placed on the approval:

- 1. The applicant shall address any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions).
 - 2. The applicant shall address any forthcoming comments from the Fire Department, as related to property addressing and fire code compliance, as applicable (that are not deemed precedent conditions).
7. **Bill Lastowka (applicant) and William P. Lastowka Revocable Trust and Joan A. Lester Revocable Trust (owners)** - Review for acceptance and consideration of a consolidation, lot line adjustment and 4 lot subdivision resulting in a total of 2 new residential building lots. The parcels are located at 88, 90, and 94 Amherst Road in the R-1 and R-2 (Residential, by soils) & Aquifer Conservation Districts. Tax Map 4C, Lots 458-460. Case PB2023-12

Mr. Price provided a brief overview of the applicant's request and added that staff is recommending that the Board grant conditional approval

Gregory Michael (Bernstein Shur) presented the application to the Board. Mr. Michael shared a copy of the plan to demonstrate where the new lot lines will be and how the land will be subdivided to make 2 new residential building lots. He advised the Board that all of the lots are conforming to the zoning requirements with the exception of the largest parcel (lot 4C/460), which required a variance for frontage which was granted in October 2022. He also provided some history on the land and explained that it was once owned by William Lastowka's mother and when she passed away she left him 5 acres of land but, the larger parcel was never subdivided to grant the request.

Mr. Disco asked for clarification on where the new lot lines will be, and Mr. Michael explained their locations.

Public comment

Matthew Ashland (10 Naticook Road) asked what is being proposed on the new lots. Mr. Michael replied that there is nothing being proposed for the lots at this time.

The Board voted 6-0-0 to accept the application as complete for review, on a motion made by Lynn Christensen and seconded by Brian Dano.

The Board voted 6-0-0 to find that with the proposed conditions of approval, the application meets all applicable regulatory requirements necessary, and further, to grant conditional final approval to the application subject to the following precedent conditions to be fulfilled within 6 months and prior to final approval (signing) of the plan, unless otherwise specified on a motion made by Lynn Christensen and seconded by Brian Dano:

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars.
2. The applicant shall obtain all required State approvals/permits applicable to the project and provide copies to the Community Development Department, as applicable.
3. The applicant shall note any waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable.
4. The applicant shall provide draft copies of any additional applicable legal documents for review at the applicant's expense, by the Town's Legal Counsel.
5. The applicant shall provide a letter from Merrimack Village District indicating the availability of public water to the project.
6. The applicant shall address any forthcoming comments from any municipal departments/boards, as applicable.
7. The applicant shall address the following Planning Staff Technical Comments:
 - a. Add Owner's signature block to sheet 1.
 - b. All lots shall be bounded with permanently set granite or precast concrete markers and iron pipes per Sections 4.17.f & 4.18.a of the Subdivision Regulations;
 - c. Revise Note 13 to change Aquifer *Protection* District to Aquifer *Conservation* District.
 - d. Add a note indicating the proposed water (Merrimack Village District) and sewer (private septic) sources for each lot.
 - e. Applicant shall indicate a proposed driveway access to Map 4C, Lot 460 on the plan.

The following general and subsequent conditions are also placed on the approval:

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department.
2. The applicant is responsible for recording any proposed easements and/or applicable legal documents at the Hillsborough County Registry of Deeds at the expense of the applicant. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department.

3. The applicant shall address any forthcoming comments from the Fire Department, related to property addressing, as applicable.

8. **Merrimack Parcel A, LLC (applicant) and Merrimack Parcel A, LLC and Slate Merrimack Acquisition, LLC (owners)** – Review for consideration of an amendment to a previously approved Mixed Use Development Conditional Use Permit, calling for the replacement of 93,720 s.f. of office space, 37,400 s.f. of retail, 15,800 s.f. of restaurant space and a 5,000 s.f. event center as part of Phase II with 178 multi-family residential units, 5,000 s.f. of office space, 7,400 s.f. of retail space, 8,000 s.f. of restaurant space, and an increase of the 7,600 s.f. of restaurant space approved as part of Phase I to 8,000 s.f. as well as a reduction of the 120-room hotel approved as part of Phase I to 110 rooms. The parcels are located at 1, 2, 3 and 4 Lexington Court in the I-2 (Industrial) & Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lots 191-2U1-191-2U4. Case # PB2023-05.

At the applicant's request, the Board voted 6-0-0 to continue this hearing to May 2, 2023 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion by Barbara Healey and seconded by Maureen Tracey.

9. **Discussion/possible action regarding other items of concern**

None

10. **Approval of Minutes — March 21, 2023**

The Board voted 5-0-1 to approve the minutes of March 21, 2023 as written on a motion made by Lynn Christensen and seconded by Nelson Disco. Paul McLaughlin abstained.

11. **Adjourn**

The Board voted 6-0-0 to adjourn at 7:08 p.m., on a motion made by Lynn Christensen and seconded by Barbara Healey.