



# Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD VIRTUAL MEETING APPROVED MINUTES TUESDAY, DECEMBER 1, 2020 7:00 P.M.**

Due to the COVID-19 crisis, and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Planning Board is authorized to meet electronically.

As stated on the agenda, the meeting was aired live on Merrimack TV and the Merrimack TV webpage (<http://www.merrimacktv.com>). Telephone access was available for members of the public wishing to speak during the Public Hearing or provide public comment. Also identified on the agenda was the opportunity for general public comment to be submitted leading up to the start of the meeting via email to [CommDev@MerrimackNH.Gov](mailto:CommDev@MerrimackNH.Gov).

Members of the Board and Town Staff were participating via Zoom. In accordance with RSA 91-A: 2 III, each member of the Board was asked to state, for the record, where they were, and who, if anyone was with them.

### **1. Call to Order**

Robert Best called the virtual meeting to order at 7:00 p.m. and read the procedures & processes for the virtual meeting. He appointed Nelson Disco to vote for Lynn Christensen.

#### Roll Call:

- Robert Best (Chair) stated he was present at his office in Concord and alone in the room he was in.
- Alastair Millns (Vice Chair) stated he was present at home and alone in the room he was in.
- Neil Anketell stated he was present at home and alone in the room he was in.
- Nelson Disco (Alternate) stated he was present at home and alone in the room he was in.
- Councilor Bill Boyd (Ex-Officio) arrived in the virtual meeting at 7:06 p.m. and stated he was present at home and alone in the room he was in.

#### Members Absent:

- Lynn Christensen and Paul McLaughlin

Staff Present: Tim Thompson, Community Development Director (alone and participating remotely from his home in Concord)

### **2. Planning & Zoning Administrator's Report**

None

- 3. John Flatley Company (applicant/owner)** - Continued review of a site plan to construct 100,000 square feet of research & development/warehouse in 3 proposed buildings and associated site improvements, per the requirements of the Flatley Mixed Use Conditional Use Permit. The parcel is located at 685 Daniel Webster Highway in the I-1 (Industrial) district and

the Aquifer Conservation and Wellhead Protection Areas. Tax Map 6E, Lot 003-04. Case #PB2020-19. **This item is continued from the September 1, October 6, October 20, and November 10, 2020 Planning Board meetings.**

Chairman Best advised the Board that the applicant is requesting a continuance and Tim Thompson gave an update on a meeting that occurred between the applicant, Merrimack Village District (MVD), Town Staff and the Department of Environmental Services. The continuance was requested as a result of this meeting to allow time for the applicant to meet with Town Staff. Nelson Disco asked if continuing to January 5<sup>th</sup> would allow enough time to complete all of the necessary work and Tim Thompson responded that the Town Staff does not believe a month is enough time, but the applicant has the right to meet with staff once again to discuss waivers prior to the Board re-opening the hearing. He reiterated that both the Community Development and Public Works Departments are in agreement that recommendations cannot be made on any of the waivers until the state and federal permits are complete. Tim also confirmed that the state has received a copy of the letter from MVD noting their concerns.

**At the applicant's request, the Board voted 4-0-1 by roll call vote to continue this item to January 5, 2021, on a motion made by Alastair Millns and seconded by Neil Anketell. Robert Best abstained.**

- 4. As Life Goes On, LLC (applicant) and Phyllis and Laura Benson (owners) – Continued review for acceptance and consideration of a site plan to convert an existing building (currently vacant, most recently a former personal service use) to a 24 bed assisted living facility. The parcel is located at 585 Daniel Webster Highway in the C-1 (Limited Commercial) and R-4 (Residential), Aquifer Conservation, and Elderly Housing Overlay Districts. Tax Map 6D-1, Lot 046. Case #PB2020-27. **This item is continued from the November 10, 2020 Planning Board meeting.****

Tim Thompson provided an overview of the project by summarizing the staff memo which outlined a variety of items including the most recent uses of the parcel and the variance that was recently granted by the Zoning Board.

Chad Branon, (Fieldstone Land Consultants) presented the project to the Board on behalf of the applicant. He began by outlining the location, dimensions, and zoning of the parcel and then shared the site plan to show the surrounding area and neighboring streets. He explained that the applicant is looking to convert the existing 10,500 square foot buildings into a 24 bed group home assisted living facility. The majority of the work will be interior and the only planned exterior change is the enclosure of the breezeway that connects the two buildings. Once enclosed, an elevator tower will be constructed in the new space. Mr. Branon also reviewed the plans for the parking and the access to the rear of the building which will allow for the removal of two existing curb-cuts. The lighting, landscaping and Stormwater plans as well as the waiver request for interior parking landscaping were also touched upon before concluding the presentation for questions.

**The Board voted 5-0-0 by roll call vote to accept the application for review, on a motion made by Alastair Millns and seconded by Bill Boyd.**

Chairman Best opened the floor to questions and Nelson Disco began by stating he feels that the Board should require a sidewalk in front of the parcel on DW Highway and also asked why sheet three of the site plan is labeled as a demolition plan. Mr. Branon responded by indicating that the applicant's preference would be to not construct a sidewalk as there is already one on the north side of DW Highway. As for page three of the site plan, he indicated that Fieldstone

always includes a demolition plan within their site plans to offer clarity on what is being removed so that it is not missed during construction, and clarified that the demolition was not the building on site, but rather site features such as the driveways. Mr. Branon also confirmed that the existing glass greenhouse will also be removed and that the primary entrance will be on Maple Street and the access road on DW Highway will only be used for emergency vehicles. Councilor Boyd asked if 20 parking spaces are enough for an assisted living facility and both Mr. Branon and Tim Thompson confirmed that the parking meets the requirements. Councilor Boyd also asked about the stormwater plan and whether or not it is compliant with the town's MS4 requirements. Mr. Branon walked the Board through the stormwater management plan and the comments from the peer review that will be addressed. He then reviewed the location of the proposed sign and indicated that they do not have any details on the sign at this time other than the location. Nelson Disco pointed out that the existing sign is still reflected on the plan and Mr. Branon explained that the signage will be handled separately from the site plan approval and Chairman Best reminded the Board that signage is not part of the site plan process. Mr. Branon also answered questions regarding the topography and curbing/shoulders being proposed.

Mr. Branon discussed the waiver request from section 3.11.I.1 regarding interior parking landscaping. The calculation calls for approximately 544 square feet of the interior parking which would equate to roughly 3 parking spaces. Tim Thompson interjected and explained that the intent of the section of the new regulations was for new developments and since this is re-development of an existing building and a smaller lot, it does not necessarily apply. Staff does not have any concerns if the Board decides to grant the waiver.

Public comment was received via email from Rick Price (6 Pleasant Street) and the email was read into the record by Chairman Best.

*Mr. Price's email can be found in the project file in the Community Development Department at the Merrimack Town Hall.*

**The Board voted 5-0-0 by roll call vote to grant a waiver from Section 3.11.I.1 – Parking Standards on a motion made by Alastair Millns and seconded by Nelson Disco.**

Architectural renderings were discussed and Mr. Branon expressed concerns with being able to get those completed within the six month conditional approval window. He also expressed that the applicant is committed to keeping the historic nature of the property. Tim Thomson responded by indicating that extending the six month window to twelve months would not be a concern if that is what is needed.

The discussion of the installation of a sidewalk was re-visited and Tim Thompson reminded the Board that as part of the new site plan regulations, sidewalks are not required and it is up to the Board to determine the need or not. Neil Anketell conveyed his opinion that he feels a crosswalk to the sidewalk on the opposite side of DW Highway would be more helpful than a new sidewalk. Chairman Best stated he does not believe the use of the property warrants the need for a crosswalk. The Board shared their various opinions on the topic and Mr. Branon re-stated the applicant's desire to avoid having to install a sidewalk citing the expense and the fact that they would rather put the money into refurbishing the building itself. Councilor Boyd expressed support for the applicant's project, but indicated that he would vote "no" on the motion, as a reflection of his opposition to the motion's requirement for a sidewalk.

**The Board voted 3-2-0 by roll call vote to grant conditional final approval, on a motion made by Nelson Disco and seconded by Robert Best. Bill Boyd and Neil Anketell voted**

**in opposition. The following precedent conditions to be fulfilled within 12 months and prior to signing of the plan, unless otherwise specified:**

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 as may be applicable (including NHDOT driveway permit updated for this proposal or verification from NHDOT that no permit amendment is necessary), note the approvals/permits on the plan and provide copies to the Community Development Department.
3. The applicant shall revise the plans to indicate a sidewalk or paved pedestrian path (internal to the site within an easement) along the frontage of DW Highway as required by the Board in accordance with Section 3.08.d of the regulations meeting any applicable standards required from the Public Works Department.
4. The applicant shall note the waiver granted (including Section and date granted) which shall be listed and fully described on the final plan.
5. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel.
6. The applicant shall address the comments received from the Town's peer review consultant, Fuss & O'Neill, as applicable.
7. The applicant shall address the following comments from the Fire Department:
  - a. The Town of Merrimack, Department of Fire Rescue, Office of the Fire Marshal requires (NFPA 1 Chapter 18) that fire department access roads be constructed and maintained so that fire apparatus can effectively operate during an emergency. The location of the access road(s) must provide for positioning of the fire apparatus to allow access to all sides of the structure. Unique building or occupancy conditions may trigger additional requirements from the Office of the Fire Marshal. The "U" shaped driveway accessing the buildings from Daniel Webster Highway shall be widened to a minimum of 16' throughout its length and constructed to support the weight of fire apparatus;
8. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
9. The applicant shall address any forthcoming comments from the Public Works Department, as applicable.
10. The applicant shall address the following Planning Staff Technical Comments:
  - a. Remove the Planning Board signature block from Sheet 2 (Planning Board signature blocks should only be on the cover sheet, site plan, and landscape plan).
  - b. 585 Daniel Webster Highway is a split-zoned lot. Please revise the cover sheet (100 scale "plan") to correctly reflect the split zoning of the parcel. Please remove all notes relative to the proposed improvements from the Existing Conditions Plan. Required notes from the regulations should only be on the Site Plan (the notes on the Existing Conditions plan should only relate to the existing conditions of the site, not proposed

improvements). Also please revise the dimensional requirements under Note #5 on sheet 4 to account for the split zoning of the lot (C-1 and R-4).

- c. Revise the plans on Sheets 2 through 7 to correctly depict the zone line between the C-1 (Commercial) District and the Residential District.
  - d. Revise Note # 2 on Sheet 4 to say “Map 6D-1 Lot 046” instead of “Map 6D Lot 1-46.”
  - e. Revise Note #14 on Sheet 4 to say, “to permit an assisted living group home on a lot with 1.37 acres whereas 3 acres is required...”
  - f. Sheet 4 indicates “notes” and “proposed notes.” This is confusing and must be revised. Please re-title the “proposed notes” as “Notes (Continued)” and renumber starting at 15.
11. Per Section 3.11.1.8 of the Site Plan Regulations, revise Proposed Note #13 (which should become “Notes (Continued)” #27) to specifically state, “No salt or chemical de-icers are to be used for winter maintenance, and winter maintenance shall be performed by a Green Sno-Pro certified contractor.”
- a. The applicant shall add signage per Section 3.11.i.3 of the Site Plan Regulations for the two handicap accessible parking spaces to the plan on Sheet 4 and corresponding details to the plan set.
  - b. The applicant shall show that the proposed sign and parking area meets the 20 foot setback from the Daniel Webster Highway ROW on Sheet 4, per Section 3.02 Note 6 of the Zoning Ordinance.
  - c. Though full building renderings are not necessary due to this being a renovation of the existing building, the applicant should provide elevation drawings of the proposed elevator shaft addition in the plan set to ensure that it blends in with the existing architecture of the building.
  - d. The applicant shall address the following relative to the Illumination Plan:
    - i. The applicant shall verify (or revise as necessary) that all light fixtures are full cut-off in accordance with the regulations (the details on Sheet 6 do not appear to comply with the requirements).
    - ii. The applicant shall clarify the pole heights for the parking lot lighting (the plan indicates “3’-6’ to 12’ Standard Heights.” The plan must clearly indicate what is being proposed, not a general statement from a manufacturing catalogue.
  - e. The applicant shall address the following relative to the Landscape Plan:
    - i. The applicant shall add a note to the Landscape Plan on Sheet 7 that states that this lot is in both the Aquifer Conservation District and the Wellhead Protection Area and that only low phosphate, slow release nitrogen fertilizers shall be used per Section 3.09.c.8 of the Site Plan Regulations.
    - ii. The applicant shall add a note to Sheet 7 of the plan regarding ongoing landscaping maintenance per Section 3.09.f.1.

- iii. The applicant shall add a note to Sheet 7 of the plan regarding tolerance of plants against roadway de-icing salts per Section 3.09.c.9.
- f. The applicant shall seek a waiver from Section 3.11.l.1 pertaining to interior parking area landscaping (Because DW Highway is the main roadway, the parking lot is considered a “side” parking lot and is subject to the 8% internal landscaping requirement).

**The following general and subsequent conditions are 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 shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of a Certificate of Occupancy for the apartment building.
3. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.
4. The applicant shall address the following comments from the Fire Department:
  - a. As this proposal constitutes a change of use from a residential property and restaurant and function hall to a residential board and care facility the entire connected building(s) shall be protected by an approved NFPA-13 compliant fire sprinkler system. The existing restaurant building does have a sprinkler system, however as the restaurant closed in 1995 and the system has not been maintained it will need to be replaced. (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11) Plans shall be provided to this office for review and approval before a permit can be issued.
  - b. The building shall be protected by an approved NFPA-72 fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued.
  - c. As this proposal constitutes a change of use from a residential property and restaurant and function hall to a residential board and care facility, the entire connected building(s) shall be surveyed by a fire protection engineer to ensure the new building(s) will meet all applicable life safety and fire codes.
5. **Bowers Landing of Merrimack II, LLC. (applicant/owner)** - Review for acceptance and consideration of a site plan to construct 72 multi-family residential units in Phase VII of the Harris Pond Planned Unit Development. The parcel is located off Bowers Landing Drive in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 1D, Lot 001-04. Case #PB2020-16.

Tim Thompson explained that this project was reviewed by the Board and accepted as complete several months ago; however an abutter notification error was identified which resulted in the project having to start over again. He also provided a brief overview of the project concluding with the fact that Staff recommends that the Board accept the project as complete for review.

Matt Peterson, (Keach-Nordstrom Associates) presented the project on behalf of the applicant and started with an overview of the development and demonstrated the location of the buildings on an aerial map. Mr. Peterson shared the site plan with the Board and showed the layout of the proposed sidewalks within the development and used pictures of the site to draw a comparison of elevation of the buildings to the existing trees. He also shared a picture of the fence that is being constructed around the perimeter of the property and explained that the fence is being expanded from the original plans.

**The Board voted 5-0-0 by roll call vote to accept the application for review, on a motion made by Alastair Millns and seconded by Bill Boyd.**

Councilor Boyd asked about blasting notices to abutters and Tim Thompson explained that blasting is handled by the Fire Department and that they administer the Town's Blasting Ordinance. Mr. Peterson also advised the Board that the applicant has hired Maine Drilling and Blasting to handle all of the blasting aspects of the project.

### **Public Comment**

Raj Phani, (52 Toby Circle) asked about the traffic management plan and whether or not there are any gates being proposed to help manage the traffic.

Public comment was also received via e-mail from Joyce Schwab, 55 Toby Circle, John and Lise Linehan, 12 Toby Circle, and Martha Furlong, 45 Toby Circle. The emails were read into the record by Chairman Best and can be found in the project file in the Community Development Department at the Merrimack Town Hall.

Before responding to the public comments Chairman Best advised Mr. Peterson that the subject of blasting is not a Planning Board decision and does not need to be addressed and the question regarding the previous approvals is not applicable because past approvals do not have any bearing on the current proposal.

Mr. Peterson addressed the traffic first and walked through the calculations of the study. At the A.M. peak hours, traffic will be increased by 23 vehicles per hour and during P.M peak hours, it will increase by 30 vehicles per hour. These numbers are a decrease in what was originally projected when the analysis was conducted in the 2002-2005 timeframe when the development was first presented. Mr. Peterson changed topics to discuss the lighting plan, and explained that the proposed lights are minimal and provide only enough lights for people entering and leaving their homes can safely see. He also suggested that the landscaping might help with the current headlight problem and will research the ability to extend the fence even more. Chairman Best asked Mr. Peterson for his opinion on the traffic and speed concerns in the neighborhood. Mr. Peterson explained that he has worked on this project for eight years and has had the opportunity to visit the location numerous times and has never noticed any issues with speeding. They briefly discussed the width of the road and sand/salt use and Mr. Peterson confirmed that the road is private and maintained by the development.

**The Board voted 5-0-0 by roll call vote to grant conditional final approval, on a motion made by Alastair Millns and seconded by Neil Anketell. The following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified:**

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, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department.
3. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel.
4. The applicant shall address comments received from the Town's peer review consultant, Fuss & O'Neill, as applicable.
5. The applicant shall address the following comments from the Conservation Commission:
  - a. Per Section 3.09.c.8 of the Site Plan Regulations, it shall be noted on the plan that only low phosphate, slow release nitrogen fertilizers shall be used.
6. The applicant shall address any forthcoming comments from the Public Works Department, as applicable.
7. The applicant shall address any forthcoming comments from the Fire Department, as applicable.
8. The applicant shall address any forthcoming comments from the Wastewater Department, as applicable;
9. The applicant shall address any forthcoming comments from Pennichuck Water Works, as applicable.
10. The applicant shall address the following Planning Staff Technical Comments:
  - a. The applicant shall provide the following missing notes as required by Section 4.11 of the regulations:
    - i. Zoning variances/special exceptions with conditions.
    - ii. Note the following: "If, during construction, it becomes apparent that deficiencies exist in the approved design drawings, the owner shall be required to correct the deficiencies to meet the requirements of the regulations at no expense to the Town."
    - iii. A note stating: "On-site drainage shall be the responsibility of the owner and a long term inspection and maintenance plan shall be provided at the time of the pre-construction meeting. Every year semi-annual or annual reports shall be submitted to the Community Development Department."
  - b. The entirety of the lot is not shown on the existing conditions plan per Section 4.12.a. Please show entire lot or request a waiver with justification.
  - c. The applicant shall submit a set of renderings showing the front, side, and rear view elevations of the proposed building as required by Section 4.15.
  - d. The applicant shall address the following items relative to the Illumination Plan:

- i. Provide specification (details) for all proposed lighting fixtures including photometric data, designation as IESNA “cut-off” fixtures, Color Rendering Index (CRI) of all lamps (bulbs), U-Ratio of the site, and other descriptive information on the fixtures.
  - ii. Provide proposed mounting height of all exterior lighting fixtures;
  - iii. Provide verification that the proposed installation conforms to the lighting level standards in Section 3.13:
  - iv. Maximum Uniformity Ratio - 4:1;
  - v. Minimum CRI - 50;
  - vi. The applicant shall revise note #4 on the illumination plan referencing the proper Section (3.13) and regulations (Site Plan Regulations).
- e. The applicant shall provide the appropriate Traffic Impact Analysis as required by Section 4.17 (see standards in Section 3.14).
  - f. The applicant shall provide all missing monuments as required by Section 3.02, or request a waiver with justification.
  - g. The applicant shall revise note 23 on sheet 1 correcting the reference to the regulations (Site Plan Regulations) per Section 4.11.o.
  - h. The applicant shall update note 24 on sheet 1, as there is no subdivision involved with this application. The word “subdivider” should be updated to “applicant”.
  - i. Is the execution of a development agreement with the Community Development Department outlining the items needing to be completed in order to obtain any certificates of occupancy necessary for this site plan? Is the project going to be phased? If phasing is proposed, please indicate on the plans or in the notes. Note 31 on Sheet 1 should be either remain (if phasing is proposed) or revised to state “In accordance with Section 6.01 of the Merrimack Site Plan Regulations and RSA § 676:13, all improvements specified on these site plans shall be constructed, completed, inspected and approved by the Town of Merrimack prior to the issuance of a certificate of occupancy” per Section 4.11.u.
  - j. The applicant should label the buildings on Sheet 1 to indicate that each contains 24 units to add additional clarity to the plan.
  - k. The applicant should revise the 2 references to “Planning Department” in the text referencing the previous phase of the plan. The proper reference is “Community Development Department”
  - l. The applicant should clarify the proposed height of the retaining wall indicated near the parking area for building #2, as a portion encroaches into the 50’ building setback, and any wall greater than 6’ in height is considered a structure, and is subject to setback requirements.

**The following general and subsequent conditions are 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 shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of the final Certificate of Occupancy.
3. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.
4. 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).
5. The applicant shall address any comments from the Fire Department, as related to building fire code compliance, sprinkler systems, building addressing, etc., as applicable (that are not deemed precedent conditions).

*The Board took a five minute recess as there were issues with the staff's internet connection to the remote meeting.*

- 6. Edgebrook Heights, LLC and Wigston Properties, LLC (applicants/owners)** - Review for consideration of an amendment to a previously approved Mixed Use Development Conditional Use Permit. The parcel is located at 1 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation and Flood Hazard Conservation Districts. Tax Map 1E, Lots 004-1 & 004-2, and Map 2E, Lots 007 & 008. Case #PB2020-28.

Tim Thompson began by advising the Board that this mixed use Conditional Use Permit (CUP) was originally approved in 2014 and those conditions of approval expired so the applicant came back in 2019 with a revised CUP that was ultimately obtained final approval on November 5, 2019. The applicant is now seeking an amendment to that approval to change the commercial uses on lots "A & B" from a gas station/convenience store and 20,000 square feet of commercial space to a self-storage facility. He also pointed out that this amendment does not indicate any access to the neighboring property on the North which was part of a settlement agreement that led to the 2019 CUP approval, so this amendment should appease those abutters.

Jason Lopez, (Keach-Nordstrom Associates) and Gordon Welch, potential self-storage applicant (if amendment is granted) spoke on behalf of this project. Mr. Lopez started by showing the location of the lots in Google Maps and then referenced the original master site development plan to show the current layout. He went on to explain that the new proposal is going to merge two lots (1E/004-1 & 004-2) that will be used to construct a self-storage facility. Mr. Lopez also gave an update on the construction of the road and briefly touched upon apartments that are being built. He turned his attention back to the proposed self-storage facility and advised the Board that the structure will be a single story building with non-climate controlled storage units with roll-up doors. The applicant is also proposing a 1,200 square foot office space and a gated entrance. He went on to explain the various documents that were provided and summarized the meeting the conceptual meeting that the applicant had with Staff on October 19, 2020. Mr. Lopez then shared a rendering of what the proposed building will look like and walked through the CUP criteria that is being modified with this amendment request. He noted that there has been a substantial decrease in traffic with the

change of use and that the fiscal analysis was conducted prior to the tax rate being published so Staff has recommended that it be updated.

Chairman Best provided some feedback on items the board would be looking for during the site plan approval process and asked if the facility would be accessible 24 hours a day. Mr. Welch explained that access to the storage facility will be through an automated gate system and that typical hours are 6 AM to 9 PM. Granting access after-hours could be done but would be limited and on an as needed basis. Mr. Welch also confirmed that the storage units will not have electricity and that there will be no truck rentals at this location. The possibility of moving the parking lot from the front of the building to the back was also discussed and Tim Thompson advised the Board that they are allowed to set dimensional specifications as part of the CUP process so they can alter the 50 foot set-back if needed to allow for the parking to be moved. In order to do this, the Board would just need to specify the change in the motion. Councilor Boyd indicated support for the amended CUP, but indicated that because of the elimination of the gas station as a part of the proposal that he would vote “no” on the main motion. Councilor Boyd believes that the addition of a gas station in that area of town would have been a benefit to the public residing in the area of the southern part of Merrimack and the northern part of Nashua.

There was no public comment.

**The Board voted 4-1-0 by roll call vote to grant conditional final approval to the amendment to the CUP, on a motion made by Alastair Millns and seconded by Neil Anketell (Bill Boyd voted in opposition) with the following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified:**

1. The applicant shall provide a Planning Board Signature Block (on the cover sheet of the amended CUP narrative package (or insertion of a new page after the cover page) and on the amended Master Site Development Plans.
2. The project’s Development Agreement shall be amended to reflect the revised development program, project phasing, and any other changes deemed necessary by the Town (or Town Legal Counsel). The amended Development Agreement shall be recorded at the Hillsborough County Registry of Deeds prior to endorsement of the final Amended CUP by the Planning Board Chair and Vice Chair.
3. The applicant shall address any forthcoming comments from municipal departments as applicable to the CUP application.
4. The applicant shall address the following planning staff technical comments:
  - a. The applicant shall revise the amended Master Site Development Plan (indicating the proposed self-storage conceptual design) to add the following note: “The approval of the Conditional Use Permit does not authorize the applicant to undertake any construction related to the proposed development. The applicant shall subsequently obtain applicable subdivision approval for the platting of individual lots and site plan approvals for buildings or sites within the mixed use development in accordance with the Town of Merrimack Subdivision/Site Plan Regulations and Section 2.02.4.D.6 of the Zoning Ordinance.” In addition, the titles of the plans shall be revised to be consistent with the requirements of the Zoning Ordinance (see item b.i, below).

- b. The applicant shall note the following on the Table of Contents of the narrative package:
  - i. Section 7 shall be retitled, replacing “Master Concept Plan” with “Master Site Development Plan – Lots A & B” and “Amended Conditional Use Master Plan” with “Amended Master Site Development Plan”
  - ii. Please add a note stating that the sections included in this package are intended to replace the same sections included in the original Conditional Use Permit approval granted by the Planning Board in 2019.
- c. The applicant shall address the following relative to the updated portions of the Fiscal Impact analysis: The NH Department of Revenue Administration released the 2020 Tax Rate on November 13 (See <https://www.revenue.nh.gov/mun-prop/municipal/documents/tax-rates-11-13-2020.pdf>). The new tax rate is \$24.06. The applicant shall update all applicable data relative to tax rates, tax revenues, etc. in the document to account for the 2020 tax rate.
- d. The applicant shall note in the narrative and on the Master Site Development Plan(s) that the Planning Board has granted, through this amended CUP, relief from the setback from DW Highway for parcels “A & B” such that the structural setback can be reduced to 50 feet (from 100 feet) at the time of site plan approval for the proposed self-storage use should the applicant wish to place the outdoor storage parking to the easterly portion of the property.

**The following general and subsequent condition is placed on the approval:**

1. All previous General and Subsequent Conditions outlined in the original CUP and Development Agreement shall apply to this amended CUP.

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

- **The Board voted 5-0-0 by roll call vote to grant a 6 month extension to the approval for the PMG Site Plan at 1 Continental Blvd, on a motion made by Bill Boyd and seconded by Nelson Disco.**
- Chairman Best advised the viewers that anyone interested in joining the Planning Board or any other land use board should get in touch with Tim Thompson in the Community Development Department.
- Tim Thompson also stated that there is an NRPC commissioner vacancy for the town of Merrimack and anyone wishing to join should contact the Town Manager’s office.
- The Board discussed the town’s Master Plan and asked staff to weigh in or what it would take to re-visit the plan to see what is left to accomplish. Tim Thompson advised the Board that he will work with Planning and Zoning Administrator Robert Price to put something on an agenda within the next few months.
- Nelson Disco advised the viewers that there are two vacancies on the Merrimack Town Center Committee and stated that the committee meets for an hour roughly every six weeks.

**8. Approval of Minutes — November 10, 2020**

**The Board voted 5-0-0 by roll call vote to approve the minutes of November 10, as drafted, on a motion made by Bill Boyd and seconded by Nelson Disco.**

**9. Adjourn**

**The Board voted 5-0-0 by roll call vote to adjourn at 10:06 p.m., on a motion made by Bill Boyd and seconded by Neil Anketell.**