



# Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

**TUESDAY, DECEMBER 4, 2018**

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding, Lynn Christensen, Dan Ricker, and Alternate Nelson Disco

Planning Board member absent: Neil Anketell

Staff present: Community Development Director Tim Thompson and Recording Secretary Zina Jordan

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

Robert Best called the meeting to order at 7:01 p.m. and designated Nelson Disco to sit for Neil Anketell.

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

The Board voted 7-0-0 to determine that the Arne LLC subdivision is not of regional impact, on a motion made by Lynn Christensen and seconded by Alastair Millns.

- 3. Arne, LLC. (applicant/owner)** – Review for acceptance and consideration of final approval for a two lot subdivision. The parcel is located at 63 Wilson Hill Road in the R-1 (Residential, by Zoning Map) and Aquifer Conservation Districts. Tax Map 4B, Lot 130.

Tim Thompson explained that in 1989, this property received an identical variance and conditional subdivision approval from the Zoning Board of Adjustment (ZBA) and Planning Board, respectively. However the Planning Board conditions of approval were never completed and the approvals for both the variance and the subdivision were deemed to have expired. The applicant applied for and was denied a variance for the lot frontage in February. After a rehearing was denied by the ZBA, the applicant appealed the decision to Superior Court. Following the hearing at Superior Court, which remanded the application back to the ZBA, on October 31, 2018, the ZBA granted a variance to permit a two-lot subdivision with one lot having 159.22' of frontage whereas 250' are required, the same relief originally granted in 1989. Fire Department approval (access with a turnaround) is one of the conditions of approval.

Attorney Greg Michael, Bernstein Shur, Sawyer & Nelson, said there have been a few minor changes. The applicant has no problems with the proposed conditions of approval. There would be an access easement for the other parcel. The only issue was frontage, which has been resolved.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

**The Board voted 7-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

### **Public comment**

Rhonda Tapply, 65 Wilson Hill Road, spoke in opposition. The ZBA denied the application twice and its approval was not unanimous. Arne wants to place two homes on a lot intended for one home. Rhonda Tapply predicted that would exacerbate problems with soils, drainage, storm runoff, and a septic system on the lot, which is similar to hers. Driveways are complex and they are built on a hill with poorly drained severe soils. Water management on the hill is a huge issue. Rhonda Tapply described the difficulty of installing drainage and the issue of water overflow to her home. In her opinion, if Arne builds on the slope side of the hill, it would divert water and mud onto the Foss property. Rhonda Tapply asked where the water would be diverted and suggested that the Arnes post a bond to fix abutter problems they would cause. Can emergency vehicles access the driveway? Is there turning room at the top? Arne may have to blast because of the rock and ledge, which could impact wells, water quality and property values. Water should be tested in case there is future litigation. What protections do homeowners have? Rhonda Tapply claimed that there is not enough room for a long, narrow, steep lot to build two houses within 250' of each other. Water comes down from behind. The previous owner had a water problem. Water drains on the upper section of the driveway, which must be 16' wide for the Fire Department and be kept clear 12 months a year. The driveway is blind from the road. Rhonda Tapply distributed photos showing the driveway covered with snow. Rhonda Tapply suggested that the Planning Board schedule a site walk.

Robin Goodman, 67 Wilson Hill Road, spoke in opposition. She predicted there would be problems with a shared driveway and recounted her own experience and problems with a shared driveway when she lived elsewhere. 63 Wilson Hill Road is steep with blind curves that make it hard to negotiate. Robin Goodman asked how two neighbors or a fire truck could negotiate it and who would be responsible if things go wrong with a shared driveway. She asked whether drilling a well would affect the Foss property. She, too, suggested a Planning Board site walk.

JuliaAnn Foss, Milford NH, representing her parents and brother, who live at 55 Wilson Hill Road, spoke in opposition. Their concerns are the status of their well, the effect of blasting on the foundation, flow of water into the stream, and runoff from the leach field that goes into a stream to the culvert to the Souhegan River. Ledge is a cause of concern if there is blasting and digging. It may affect the artesian well and cause loss of water. The Town has no plan for municipal water and sewer on Wilson Hill Road, so loss of water is a hardship. Blasting may affect other wells and foundations over time. JuliaAnn Foss's parents have no water or foundation problems at this time. The stream behind two properties moves onto their property 30'-40' from their home. She predicted that blasting may shift water flow and move more water onto her parents' property.

There are sections of standing water near the flags. JuliaAnn Foss suggested a survey to determine wetland boundaries. She asked how blasting would affect issues with excessive water on 65 and 67 Wilson Hill Road? Would leach field problems put sewage on 55 Wilson Hill Road? Who would be responsible if there were contamination or long-term damage? JuliaAnn Foss expressed concern that more lots would be subdivided by accessing the lot from the Chestnut Hill project to the north and suggested placing a restriction on any further subdivision on the Arne property. Her parent's home was built in 1980 and has a concrete foundation. She, too, supported a Planning Board site walk.

Tim Thompson explained that the abutting Chestnut Hill property is open space land, which is permanently protected. No access is allowed. A wetland scientist from Ambit Engineering determined the boundaries of the wetlands on January 16, 2018.

Hollis McGuire, 67 Wilson Hill Road, spoke in opposition. She said there are several places on the side of Wilson Hill Road that are always under water and has ice buildups. Hollis McGuire described the work on which she has spent more than \$20,000 over two years to drain water, with more to come. She predicted that any additional building would mean more expensive water and drainage problems. Runoff into the street erodes the Town road; Arne would make the situation worse. Hollis McGuire distributed photos showing rain and water flow to the Arne property and erosion at 69 Wilson Hill Road. She was unaware of drainage issues when buying her home.

Tom Koenig noted that water comes from behind Hollis McGuire's house and not from the Arne property.

Bob Hayes, 62 Wilson Hill Road, lives across the street. His concern is blasting. He suggested photographing abutting homes, as was done with Merrimack Premium Outlets (MPO) and that Arne post a bond. He was also concerned about the impact on wells. Last year, the Public Works Department (PWD) photographed the stream going under the road. Blasting and fertilizers could wash through the culvert in the River. There is already an impact: the 150'-wide pond behind 58 and 60 Wilson Hill Road. Bob Hayes supported a Planning Board site walk.

Alastair Millns explained that the Fire Department has sole control of the blasting. A bond has been required as part of the new regulations promulgated after MPO was built.

Attorney Michael said Arne has not developed anything on the property yet and has nothing to do with what is happening now. The applicant is not allowed to impact abutters; the septic system must meet regulations. Arne has a right to dig a well. There would be no impact on drainage. Nobody builds on 10.5 acres. Blasting is likely not necessary because the area is sandy. There is a stringent blasting protocol. The existing driveway can be used and would conform to PWD's comments. There are many shared driveways in Merrimack, which the Planning Board advocates in order to reduce road cuts. There are no significant issues with shared driveways; the proposal can work effectively.

The applicant seeks a waiver from the sidewalk requirement because there are none on Wilson Hill Road and this is a minor subdivision creating one additional lot. Access to the proposed lot already exists and no new ways are being created. Trees and stone walls along the roadway make it difficult to build a sidewalk.

**It was the Planning Board's consensus that a sidewalk is not necessary per Section 4.07 of the regulations.**

**The Board voted 6-1-0 to schedule a site walk for Saturday, December 29, 2018, at 9:00 a.m., on a motion made by Lynn Christensen and seconded by Tom Koenig. Dan Ricker voted in the opposition.**

Tim Thompson said that PWD Deputy Director/Town Engineer Dawn Tuomala has no issues with drainage. The Planning Board asked that she be invited to the site walk.

Attorney Greg Michael asked for a continuance in order to revise the plan according to the staff's November 28, 2018, letter; have the soils plan signed; confirm drainage and driveway issues; and address concerns raised at this meeting.

**At the applicant's request, the Board voted 7-0-0 to continue this item to January 8, 2019, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

- 4. Lamontagne Builders, Inc. (applicant) and Estate of John C. Foster, Jr. (owner)**  
– Conceptual discussion of the potential redesign of a previously approved (but not constructed) subdivision. The parcels involved are identified as Map 6D, Lots 060, 061, 063, 062, 064, 065, 066, 067, 068, 069, 070, 071, 072, 073, 074, 075, 076, 077, 078, 079, 080, 081, 107, 108, 110, 112, 114, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 136, 155, 156, 158, 159, 160; and Map 7D, Lots 017, 018, 019, 025, 026, 027, 028, 029, 031, 032, 033, 034, 046-1, 047, 048, 049, 050, 051, 051-1, 052, 052-1, 053, 054, 055, 056, 057, 058, 060, 061, 062, 063, 064, 066, 067, 068, 069, 070, 071, 072, 073, 074, 075, 076, 077, 079, 080, 081, 082, 083, 084, 085, 086, 087, 088, 089; located generally between and around Cathy Street, Constance Street, Reeds Ferry Way, Paige Drive, Level Street and Pearson Road. **This item is continued from the October 16, 2018 meeting.**

**Withdrawn by applicant.**

- 5. Edgebrook Heights, LLC (applicant) and Edgebrook Heights, LLC, Wigston Properties, LLC & Q. Peter Nash 1987 Revocable Trust 1 (owners)** – Continued Review for consideration of final approval for a Conditional Use Permit to permit a future mixed- use development consisting of retail, commercial, multi-family residential and elderly housing. The parcels are located at 1, 39, 55 & two unnumbered parcels off 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 006-2, 007 & 009. **This item is continued from the November 13, 2018 meeting.**

Tim Thompson said the applicant has resubmitted a Conditional Use Permit (CUP) application that would replace the previous CUP that was conditionally approved in 2004, which has expired due to an abutter appeal in Superior Court and after two extensions that were granted lapsed. The modified proposal was submitted after a settlement agreement with abutters was reached, and the court case was dismissed. The changes from the original CUP include three rather than five buildings and assisted living rather than elderly housing. There would be 34,400 s.f. of commercial/retail/office space, a 4,000 s.f. convenience store, with 12 gasoline fueling positions, 76 unit of elderly housing, and 156 units of multi-family residential spread across three buildings with an associated clubhouse.

The biggest issue is phasing and whether the commercial component should be required in Phase 1, as it was originally. The Board has now approved 2 other mixed use CUPs and has treated phasing differently. The Board should consider how phasing decisions have evolved over time.

Chairman Best called a 10-minute recess at 8:20 p.m.

James Petropulos, President, Hayner/Swanson, Inc., said the 35-acre CUP that was approved in 2014 included a private road, five residential buildings, 76 beds of assisted living, and commercial space. The settlement agreement with the property on the north clarified the north buffer and phasing. It included a buffer along the commercial lots near NanoComp. A permanent fence is not required between commercial Lots A and B because other fencing meets the settlement agreement. Elements of the buffer would be shown on the site plan. Tim Thompson reminded the Board that the Town signed the settlement agreement to acknowledge it, but that the Town was not party to the agreement, and is not bound by anything in it. In other words, the Board can review the project as it would normally without regard to the agreement's existence.

Proposed phase 1, which consists of three age-restricted residential buildings, a clubhouse and infrastructure, would have a net positive fiscal impact of \$400,000 annually. Future phases would be commercial as the market dictates. The applicant is waiting for an attractive tenant rather than erecting a building on speculation. The applicant agrees to staff's recommended conditions.

Attorney Brad Westgate, Project Attorney, Winer & Bennett, said the agreement calls for a fence around Lot A and down Lot D to the railroad tracks. The phases would be detailed on the site plan. Phase 1 activity would attract viable commercial users. Phase 2 is proposed to be any use other than residential on any other lot.

Tim Thompson recommended that Phase 2 include vehicular and pedestrian connectivity.

Bill Lourdes, President, Tamposi Real Estate, said a mixed-use development integrates all uses. Phase 2 must integrate vehicular and pedestrian uses, must be responsive to the marketplace, and must augment/enhance the mixed use. A competitive market means the applicant must build-to-suit and to be flexible. Merrimack has more than 175,000 s.f. of vacant office space, 130,000 s.f. of vacant industrial space, and 40,000 s.f. of vacant retail space. A tenant must find space that is best suited to the user's

business. Residential use is diversified by the diversity of residents. Bill Lourdes described the different needs for different types of commercial uses. Pre-designed buildings cannot meet those needs. The applicant wants to give the tenant the opportunity to fulfill the user's vision of the business and allow the developer to respond to the market. Residents will make demands for services they want.

Tom Koenig characterized this as a huge residential project with a future dream of a commercial component. His fear is that, since there is so much other vacant similar small space in Merrimack, the applicant would not build commercial space in the future. He wanted to see a mixed-use plan from the start of phase 1.

Bill Lourdes said it is not the applicant's objective for components to lie fallow. He would not get income without a strong pitch to attract the market. He wants to develop the entire project, but to define it rigidly now is a recipe for lying fallow for a while. The developer wants to fine-tune the marketing. This is an opportunity to bring business to Merrimack.

Chairman Best noted that it was the applicant who chose an integrated mixed-use/CUP form of development. Leaving it to the market is an unknown. He urged the applicant to adhere to the Master Plan concept. Bill Lourdes said the commercial component must enhance the entire development. The developer chooses to accept what the market brings and to refuse an inappropriate use (e.g., car lot). Attorney Westgate said that build-to-suit would make it possible to build the commercial component more quickly. This property never attracted an industrial/commercial use before. Only a few parcels in Merrimack fit the CUP criteria. The Ordinance, not the developer, defined this as a CUP parcel. Chairman Best countered that the ZBA had to grant a variance for the minimum acreage in order for the CUP to be possible.

Lynn Christensen said the Town wants a self-contained walkable property. The idea of residential use with a little commercial use at the end is not a mixed use.

Chairman Best re-stated his previous position that, if the project were financially positive in each phase, the commercial use could be built later; he therefore agrees with the proposed phasing not to include the commercial component in Phase 1. However he cautioned that the commercial component cannot become residential.

Tim Thompson reminded the Planning Board that it allowed Flatley to build Phase 1 as a residential component, but completion of the residential portion of the project was tied to developing the commercial piece.

Alastair Millns agreed with Chairman Best, but cautioned that making Phase 1 residential only may limit the type of commercial use, especially if it is on D.W. Highway. In his opinion, the layout is too restrictive for a possible commercial client. He preferred a layout which switched the location of the senior housing and the clubhouse with the commercial development on Lot C.

Nelson Disco had issues with fiscal impact analysis. He questioned comparison with out-of-town age-restricted residences rather than with similar housing in Merrimack. Tim Thompson explained that to compare proposed rental units requires looking outside

Merrimack because there are no rental elderly housing developments currently in town, they are individually owned condominiums. Nelson Disco asked for the rationale for Table 4: police calls. Tim Thompson said the current financial analysis is consistent with the one done in 2014.

Tom Koenig repeated that the Planning Board's original idea was an integrated use. Those living in the residential buildings would have no access to the commercial uses except by car. He wanted total integration to prevent the types of problems that arose in the extended-stay hotel that was recently developed.

Chairman Best stated that the commercial component was intended to help the residential component be fiscally positive. That is not the case here. The Board must trust its peer reviewer. He asked whether the Planning Board wanted an integrated development no matter. Tim Thompson noted that no fiscal impact study was done for the extended-stay hotel referenced by Councilor Koenig. Chairman Best added that is done only for a CUP. Tim Thompson noted again that the Planning Board's approach to phasing has evolved during the other two CUP processes. Alastair Millns said the Town needs a CUP to be cash positive, which is more important than including a commercial unit at this time. Chairman Best said the plan improved since 2014, but wondered how things would be integrated if there were no commercial use or master plan. Lynn Christensen said there would be significantly less impact from children than was the case two years ago. The residential component would have much less impact on schools and is not like a hotel property. Tim Thompson estimated that there would be 13-14 children in the entire development. Lynn Christensen wanted commercial facilities other than a gas station for residential tenants even with a positive fiscal impact. The mixed-use rationale was to create a community. Flatley was authorized to build 4/5 of the residential component but had to build some of the commercial component before building the rest of the residential component. Flatley also had to connect the residential and commercial components.

Tim Thompson explained that the sizes of the commercial buildings are only conceptual; the actual size would depend on the tenants.

Bernard Plante, Edgewood Heights, LLC, said the topography is not suitable for a large industrial use. All the retail use at Harris Pond failed; now it is office use. There may be some office use at Edgebrook Heights. Bernard Plante said he could commit to no change of use for the commercial lots A, B, and C; commercial use (perhaps a nursing/dementia care facility); and not ask for more residential units. He is open to logical and beneficial commercial use, but he is hamstrung if the commercial phase is tied to the residential phase. Erecting all the residential buildings at once is the most cost effective approach. He has not been able to market the property for the last four years because of the lawsuit and the lapse of CUP approval. He will now make a strong effort to do so, but he does not want to be forced into a commercial use in the initial phase, which would stall the entire project. He promised not to do an "end run" to avoid building the commercial component. There would be a small industrial or commercial use.

Chairman Best said the problem is that the applicant tried unsuccessfully for 20 years to attract commercial use. He suggested placing the commercial use in front so that outside clients would use the businesses. He wanted to know how the components would relate to each other. Tim Thompson said but there would be mixed uses, although they would not necessarily be integrated. Lynn Christensen opined that it might stimulate the use of Harris Pond. Attorney Westgate said Harris Pond is an example of why a build-to-suit approach is better. Harris Pond is empty because all the businesses had to fit a pre-designed space.

James Petropulos said the parcel is zoned industrial, but the 70' grade change would not attract a big box store near 55+ housing. The flat area would be use for multi-family residences with green space. Senior housing and a clubhouse cannot fit on Lot C as Alastair Millns proposed. Elderly residents like the security of being on a main street.

Alastair Millns said there is no green space or sight of the main road from the new Nashua dementia housing, which James Petropulos said is a larger space. He moved the building back to create more green space. Chairman Best objected that the three commercial buildings would be buried in the back. Lot C does not exist yet; lot lines should be drawn to make it fit. James Petropulos said there is not enough buildable area no matter where the lot lines are. He did not want a long commercial strip in front. Chairman Best said that would make it harder to find commercial clients. The ZBA can give relief for larger buildings if the applicant wants more residential units, but he worried that the applicant would not be able to find commercial tenants/uses.

The consensus of the Board was that the choice to flip the elderly and commercial is up to the applicant, and would not be a specific requirement of the CUP approval.

There was no public comment.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to Planning Board final endorsement of the Conditional Use Permit.

**The Board voted 5-2-0 to grant the Conditional Use Permit, with the following conditions, on a motion made by Alastair Millns and seconded by Lynn Christensen. Tom Koenig and Dan Ricker voted in opposition.**

1. The applicant shall address any peer review comments and comments from NHDOT related to the traffic impact analysis prior to final endorsement of the Conditional Use Permit (CUP) by the Planning Board;
2. The applicant shall revise the application narrative, as appropriate, to indicate project phasing as required by the Planning Board as follows:
  - a. The project may be phased in any sequence, without specification of particular uses contained in each phase, so long as each phase is demonstrated to have a net positive fiscal impact to the Town, which must be confirmed for each phase (through fiscal impact analysis) at the time of site plan review;



- b. Peer review of the fiscal impact analysis (at each phase) is required and at the applicant's expense;
- 3. The applicant shall provide for review by the Town's Legal Counsel (at the applicant's expense), a Development Agreement or other similar instrument specifying the phasing, timing and sequence of the improvements contained within the development;
  - a. The Development Agreement shall specify that the project must provide a fiscal impact analysis for each phase at the time of site plan review for the phase which must confirm the project phase will generate a net positive fiscal impact for the Town. Peer review of the fiscal impact analysis (at each phase) is required and at the applicant's expense.
- 4. The applicant shall address any forthcoming comments from municipal departments as applicable to the CUP application;
- 5. Address the following planning staff technical comments:
  - a. The applicant shall update Sheet 1 of the Master Site Development Plan 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 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.";
  - b. The applicant shall include as part of the final submission of the Conditional Use Permit package a page (preferably the first page after the cover page), including a signature block for the Planning Board's final endorsement;
  - c. The applicant shall correct the following on the Table of Contents of the narrative package:
    - i. In Section 3, the Master Plan is no longer a Draft plan, and the language should be updated to "2013 Master Plan";
    - ii. Sections 6 and 7 appear to be incorrect, with Section 6 containing the Architecturals and Section 7 containing the Master Site Development Plan (should be retitled as such from "CUP Master Site Plan"). Revise or reorder the Sections of the document to match the table of contents;
  - d. The applicant shall list all the previous variances (even if no longer applicable) in the narrative portion of Section 3 (please also revise so that the font size is consistent on this page), and include copies of all the previously granted variance decision letters in Section 4 of the narrative package (only one is currently included in the materials);
  - e. The applicant shall update page 15 in Section 3, updating the reference to the 2013 Master Plan (as indicated in comment 5.c above);

- f. The applicant shall include project phasing information in the narrative portion (either in Section 3 or a new section), indicating project phasing as approved by the Planning Board;
- g. Section 7 is supposed to contain a copy of the Master Site Development Plan for the CUP, however it contains an overall site plan for only the residential portion of the project (appears to be a sheet from the associated site plan application). The applicant shall provide the proper copy of the Master Site Development Plan in this section;
- h. The applicant shall address the following relative to the Fiscal Impact portion of the project narrative:
  - i. The Town of Merrimack released the 2018 Tax Rate on October 30. The new tax rate is \$24.12. The applicant shall update all applicable data relative to tax rates, tax revenues, etc. in the document to account for the 2018 tax rate (pages 6-8, 16-17);
  - ii. On page 10, please add the word “Michael” before the word “Dudash” on the 4th line of the paragraph;
  - iii. Staff understands that the actual number of school aged children (SAC) is likely lower than the suggested NHHFA based multiplier of 0.17 due to the number of studio and 1-bedroom units proposed (The NHHFA multiplier is based on all multi-family units, which is primarily 2-bedroom units in the NH calculations). A modified SAC calculation (as was previously used in the CUP for Merrimack Park Place in 2017/2018) should be used as follows: Utilize the NH based multiplier of 0.17 for the 72 2-bedroom units, but utilize a 0.0 SAC per unit multipliers for the 24 studio units & a 0.046 SAC per unit for the 60 1-bedroom units. This method would result in a calculation of 13.34 SAC, which is a number Staff is comfortable with.

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

1. The approval of this Conditional Use Permit does not authorize the applicant to undertake any construction related to the proposed development. The applicant must subsequently obtain 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;
2. Final Architectural design review of all proposed structures/facilities shall be required at the time of the subsequent site plan applications to ensure compliance with Section 12.04.3 of the Subdivision/Site Plan Regulations and Section 15.0 3.D.3 of the Zoning Ordinance as applicable;
3. The applicant is responsible for obtaining any federal, state, or local permits that may be required as part of any subsequent subdivision or site plan approval following the granting of this Conditional Use Permit;

4. The applicant is permitted to undertake minor deviations (including but not limited to building orientation on a site, decreases in density or building size, etc.) from the Master Site Development Plan and Conditional Use Permit documentation in such instances where the deviations do not increase the impacts to the Town as demonstrated through the traffic impact analysis or fiscal impact analysis. Deviations that increase impacts or those which the Community Development Department is not comfortable making an administrative determination of impact, shall require the applicant to return to the Planning Board to amend the Conditional Use Permit approvals. In no circumstance shall any uses permitted through the approval of this Conditional Use Permit be modified /changed without an amended Conditional Use Permit approval from the Planning Board;
  5. If this Conditional Use Permit approval is not acted upon within a period of two (2) years from the date of the final endorsement by the Planning Board, then the approval shall be null and void. Actions sufficient to vest an approval for a conditional use permit include Planning Board site plan or subdivision approval, issuance of a building permit, or a Certificate of Occupancy issued by the Building Department where no Planning Board approval or building permit is required. However, should any site plan or subdivision approval or building permit expire unused after the conclusion of the two-year validity period provided for herein, the conditional use permit granted as a precondition to said site plan or subdivision approval or permit shall become void as well;
  6. Should the applicant need to extend the two-year validity period, the applicant shall demonstrate to the satisfaction of the Planning Board that it was impossible or impractical to receive the necessary approvals to move forward in reliance on the permit granted within two years;
  7. Any renewal/extension application shall be filed with the Planning Board no sooner than 90 days, nor later than 30 days, prior to the expiration of the Conditional Use Permit;
  8. The Planning Board may, in its sole discretion, grant such extension of the above validity period as it deems warranted.
- 6. Edgebrook Heights, LLC (applicant) and Edgebrook Heights, LLC, Wigston Properties, LLC & Q. Peter Nash 1987 Revocable Trust 1 (owners) – Continued review for acceptance and consideration of final approval for a boundary consolidation and subdivision plan. The parcels are located at 1, 37, 39 & an unnumbered parcel off 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. This item is continued from the November 13, 2018 meeting.**

**At the applicant's request, the Board voted 7-0-0 to continue this item to January 8, 2019, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

- 7. Edgebrook Heights, LLC (applicant) and Edgebrook Heights, LLC & Q. Peter Nash 1987 Revocable Trust 1 (owners)** – Continued review for acceptance and consideration of final approval for a site plan to construct 232 multi-family residences (156 multi-family and 76 elderly housing units), a clubhouse and associated site improvements per the requirements of the Edgebrook 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 (would be located on a newly configured Tax Map 1E, Lot 4-1 if subdivision from Agenda item #10 is approved). **This item is continued from the November 13, 2018 meeting.**

**At the applicant's request, the Board voted 7-0-0 to continue this item to January 8, 2019, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

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

**It was the consensus of the Planning Board to receive all meeting materials on paper rather than electronically.**

The Board and staff decided that regular updates regarding when a plan is signed by the Chair & Vice Chair, when a project is under construction, and when a Certificate of Occupancy (CO) has been issued.

Tim Thompson agreed that staff would notify the Planning Board when the Community Development Department grants administrative approvals.

**9. Approval of Minutes — November 13, 2018**

**The minutes of November 13, 2018, were approved as submitted, by a vote of 6-0-1, on a motion made by Alastair Millns and seconded by Lynn Christensen. Michael Redding abstained.**

**10. Adjourn**

**The meeting was adjourned at 10:30 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Lynn Christensen.**