



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY DECEMBER 6, 2022**

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, December 6, 2022 in the Matthew Thornton Room.

### Members Present:

- Robert Best (Chair)
- Neil Anketell
- Brian Dano
- Jaimie von Schoen
- Maureen Tracey – Alternate
- Nelson Disco – Alternate
- Town Councilor Tom Koenig – Ex-Officio

### Members Absent:

- Paul McLaughlin (Vice Chair)
- Lynn Christensen
- Haleem Mediouni – Alternate
- Town Councilor Barbara Healey - Ex-Officio

Staff Present: Robert Price, Planning & Zoning Administrator

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

Chair Robert Best called the meeting to order at 6:32 p.m. and led everyone in the Pledge of Allegiance. He then seated Alternates Nelson Disco & Maureen Tracey for Paul McLaughlin & Lynn Christensen.

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

None

### **3. Consent Agenda**

- Regional Impact Determinations*
- Extension Request: Six month conditional approval extension for a Lot Line Adjustment located at 12 and 14 Dodier Court (case # PB2021-13).*

**The Board voted 7-0-0 to pull each item off the consent agenda and discuss them individually, on a motion made by Tom Koenig and seconded by Nelson Disco.**

**The Board voted 7-0-0 to adopt staff's recommendation that the LMG Merrimack Lot Line Adjustment, LMG Merrimack Site Plan, Tomahawk Tavern & Butchery Waiver of Full Site Plan Review and the McDonald's Waiver of Full Site Plan Review are not of regional impact, on a motion made by Brian Dano and seconded by Neil Anketell.**

**The Board voted 7-0-0 to grant a 6-month extension of the conditional approval to the Rosenfeld/Soucy Lot Line Adjustment, on a motion made by Nelson Disco and seconded by Jaimie von Schoen.**

- 4. Hoyle, Tanner & Associates (applicant) and BAE Systems, Inc. (owner) – Continued review for acceptance and consideration of final approval of a site plan for the construction of a 5,000 square foot support building, two “radome” structures, and other associated improvements. The parcel is located at 130 DW Highway in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2D, Lot 6. Case # PB2022-35. *This item is continued from the October 18, and November 15, 2022 Planning Board Meetings.***

Robert Price prefaced the presentation by providing a brief history of the project. He explained that the applicant presented the Site Plan at the November 15<sup>th</sup> Planning Board meeting however since peer review comments were not available at that time, no action was taken. Peer review comments have since been received, so staff is recommending that the Board accept the application as complete. Staff also supports all four waivers being requested and granting final conditional approval.

Bill Davidson (Hoyle, Tanner & Associates) presented the application to the Board. He began by providing an overview of the parcel in question and sharing that a presentation has already been given to the Conservation Commission and they had minor feedback that has already been incorporated into the plan. He used the Site Plan to demonstrate the location of the proposed 5,000 s.f. building and 2 radome structures and then walked through the drainage plan for the project. Since the disturbance of land is greater than 100,000 s.f., an Alteration of Terrain permit is required from the Department of Environmental Services (DES). That application has been submitted to DES and they are in the process of addressing initial comments now but do not have any concerns about the permit being granted by DES.

**The Board voted 7-0-0 to accept the application as complete for review, on a motion by Brian Dano and seconded by Neil Anketell.**

The applicant then walked through each of the four waivers being requested.

Section 3.14 - The proposed buildings only accommodate 5 personnel with no new employees to the Merrimack site and there will not be an impact to the current traffic load. The site is at least 1400 feet away from the Daniel Webster Highway, and it does not include additional ingress or egress roadways that would affect the current traffic operations along the highway.

**The Board voted 7-0-0 to grant a waiver from Section 3.14 pertaining to the provision of a traffic impact analysis, citing that strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations, on a motion made by Neil Anketell and seconded by Nelson Disco.**

Section 4.12.a, 4.12.c.2 - The site encompasses 135.9 acres, and is owned by BAE. This project is entirely within the existing parcel and will not involve any changes or closely abut any of the surrounding properties. The Section 4.12a and Section 4.12.c.2. requirements are in reference to items that would be covered by the Hillsborough County Registry of Deeds plan #3389 reference survey for the parcel that this entire site is located within. Therefore, a full boundary survey is not a necessity in the development of these MER28 LIT relocation plans. The reference boundary was tied into for the existing conditions plan.

**The Board voted 7-0-0 to grant waivers from Sections 4.12.a & 4.12.c.2, both pertaining to showing all property lines, metes & bounds & bearings & distances, citing that strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations, on a motion made by Nelson Disco and seconded by Neil Anketell.**

Section 4.14.e –This site is a secure and there will be no public access. The site will be vegetated with no need for formal landscaping.

**The Board voted 7-0-0 to grant a waiver from Section 4.14.e pertaining to the requirement to provide a landscaping plan, citing that strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations, on a motion made by Nelson Disco and seconded by Maureen Tracey.**

Section 4.16 – Due to the location and security type of the user the owner only requires wall packs for lighting on the building.

Maureen Tracey questioned if there should be some lighting added to the small parking lot being proposed and Mr. Davidson replied that the applicant does not feel it is necessary.

**The Board voted 7-0-0 to grant a waiver from Section 4.16 pertaining to the requirement to provide an illumination plan, citing that strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations, on a motion made by Neil Anketell and seconded by Brian Dano.**

Nelson Disco expressed dissatisfaction with the town not being provided renderings of the radome buildings being proposed. Mr. Davidson shared the radius of each radome and explained that they will be exact replicas of what is currently at the Litchfield location as that facility is closing and moving to Merrimack. The Board asked what the height of the structures is and Mr. Davidson did not know. The Board asked to see an aerial image of the Litchfield site, which Mr. Price displayed. The Board discussed the location of the new construction on the parcel and Mr. Davidson clarified that it's being proposed in the back of the property line closer to the Nashua Fish and Game property.

**No public comment was received.**

**The Board voted 7-0-0 to find that with the granted waivers and the recommended conditions of approval, the site plan meets all applicable regulatory requirements necessary, and to grant conditional final approval to the application with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified, on a motion made by Nelson Disco and seconded by Tom Koenig.**

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 provide a letter from Pennichuck Water Works indicating the availability of public water to the project.
5. The applicant shall address the comments from the town's peer review consultant, Fuss & O'Neill, as applicable.
6. The applicant shall address the following comment from the Conservation Commission: Applicant shall note on Sheet C-5 (site plan) that no chemicals or fluids may be stored within the radome structures.
7. The applicant shall address any forthcoming comments from the Fire Department, as applicable.
8. The applicant shall address the following comments from the Public Works Department & Wastewater Division of Public Works:
  - a. The site is serviced by the Municipal Sanitary Sewer System. When a project is to be served by municipal sanitary sewer, the Applicant shall submit a plan showing the location of all existing and proposed sanitary sewer lines and all appurtenant structures.
  - b. A sewer discharge permit is required from the Town of Merrimack Department of Public Works (and NHDES for sewer extensions, where applicable) and the permit number shall be shown on the plans.
  - c. The municipal sanitary sewer system shall be designed and constructed in accordance with the Standards of the New Hampshire Department of Environmental Services, NH Code of Administrative Rules Chapter Env-Wq 700, Town of Merrimack Sewer Ordinance, and Town of Merrimack Department of Public Works - Sewer Division requirements. All sewer design and construction shall be per the Town of Merrimack Sanitary Sewerage Engineering Standards (SSES) as last revised.
  - d. The applicant shall add all applicable sewer notes from SSES S2-04.8 onto the plan from this section.
  - e. Sewer Pump Station Design - SSES S3-06 – The applicant shall supply all information and details regarding the sewer pump station.
  - f. Per sheet C-7 the sewer pipe leaving the proposed building is shown as a 4" Sch. 40 PVC however on sheet C-10, the Sewer Service Detail there is to be a 6" PVC Pipe.

Please see section SSES S3-07 for the proper sizing of the pipe, and the applicant shall revise the submission accordingly. The minimum slope on the pipe shall be a 2%.

- g. All Pressure pipe shall conform to ENV-WQ 704.07 and ASTM D-2241-09 or ASTM D-1785-12 per SSES S-4-03. This shall be noted on the plans. The proposal is to tie into the existing sewer force main, does the line meet the standards outline above? Testing shall be performed on the line to ensure that it meets all of the standards.
  - h. The applicant shall provide a plan and profile of the sewer line and indicate all utility crossings.
  - i. The applicant shall revise the Sewer Trench Detail on sheet C-10 which does not agree with the Town of Merrimack Construction Standards and Details.
  - j. The applicant shall provide details for all force mains indicated in the application.
  - k. The applicant shall revise the back water valve, which needs to have a sleeve to the surface with a cap for access. The valve must be within 2 feet of the foundation.
  - l. Under S3-02.2 Demand projects shall be evaluated by the design engineer and all calculations shall be submitted for review. Include all infiltration allowances.
  - m. The applicant shall add a note: Under no circumstances shall storm water, surface water, ground water, roof runoff, subsurface drainage, geothermal discharge or untreated industrial process water be discharged into any public sanitary sewer system.
  - n. A note shall be added that a Pre-Construction Meeting shall be held prior to any construction being added.
  - o. Per sheet C7 no plumbing detail sheet has been submitted in the current set of plans.
  - p. Coordinate all Pre-Treatment permitting and requirements with the Merrimack Wastewater Pre-Treatment Program.
  - q. It shall be noted that there shall be Inspections and Testing Performed Per all Town of Merrimack SSES standards S-5-12 and that the Town of Merrimack Sewer Inspector shall be present.
  - r. A Video Inspection shall be provided per SSES S5-13.
9. The applicant shall address the following Planning Staff Technical Comments:
- a. The applicant shall add Sheet C-2, General Note 22 (indicating that no wetlands are present) to both Sheet C-3 (Existing Conditions Plan) and Sheet C-5 (Site Plan).
  - b. Applicant shall include the proposed building renderings within the plan set.

**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. Prior to the issuance of a Certificate of Occupancy or Unit Completion, as applicable, the applicant shall submit a mylar copy of an As-Built Plan, prepared by a NH Licensed Land Surveyor to the Community Development Department. The plan shall contain the information outlined for an Existing Conditions Plan under Section 4.12 of the Site Plan Regulations.
  4. The applicant shall provide the .dwg files of the as-built plan to the Public Works Department, and provide paper copies of the as-built plan to any municipal Department that may require them.
  5. 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).
  6. 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).
5. **LMG Merrimack, LLC (applicant) and Pennichuck Corporation and LMG Merrimack, LLC (owners)** – Review for acceptance and consideration of final approval for a lot line adjustment. The parcels are located south of Harris Pond Drive on Daniel Webster Highway in the I-1 (Industrial), and Aquifer Conservation Districts. Tax Map 1D, Lots 1 and 1-6. Case # PB2022-44

**At the applicant's request, the Board voted 7-0-0 to continue both the application's acceptance and public hearing to December 20, 2022 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion made by Tom Koenig and seconded by Nelson Disco.**

6. **LMG Merrimack, LLC (applicant/owner)** - Review for acceptance and consideration of final approval for a site plan to construct a 100,115 square foot warehouse building. The parcel is located south of Harris Pond Drive on Daniel Webster Highway in the I-1 (Industrial), and Aquifer Conservation Districts. Tax Map 1D, Lot 1-6. Case # PB2022-45

**At the applicant's request, the Board voted 7-0-0 to continue both the application's acceptance and public hearing to December 20, 2022 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion made by Brian Dano and seconded by Neil Anketell.**

7. **S.J. Torres (applicant) and Orrin H. Connell Family Trust (owner)** – 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

**At the applicant's request, the Board voted 7-0-0 to continue both the application's acceptance and public hearing to December 20, 2022 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion made by Tom Koenig and seconded by Jaimie von Schoen.**

8. **McDonald's USA, LLC (applicant) and CP Merrimack, LLC (owner)** - 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

Mr. Price began by explaining that the applicant is seeking approval to reconfigure the existing restaurant drive-thru by making it a two lane operation with a by-pass lane. In order to accomplish this, they would need to eliminate 12 parking spaces which would make them short of the parking requirements. He also added that they do have a parking agreement with the abutting Shaw's plaza that allows them 12 overflow spaces in the Shaw's parking lot.

Daniel Allen (Bohler Engineering) presented the Waiver of Full Site Plan application to the Board. He began by providing an overview of the existing single lane drive-thru operation and reiterating that in order to accomplish the proposal they will have to eliminate 12 of the 27 existing on-site spaces, however, he feels that they would still meet town standards for parking if you factor in the 12 spaces from Shaw's. He added that the applicant is proposing this change to enhance the current drive-thru process and manage the traffic better onsite. Mr. Allen then shared the proposed plan to demonstrate where the ADA spaces are being re-located to and the changes to the pedestrian walkways.

Various Board members shared their concerns with eliminating so many spaces and not having enough spots for people going into the restaurant to park. They also discussed how much the traffic backs up on that site now and Mr. Allen explained that this proposal will help to eliminate some of that backup.

Ms. Tracey asked if there are any percentages available on the number of customers that enter the restaurant versus use the drive-thru and Mr. Allen said that he did not have any numbers but the site does see a heavier volume of drive-thru compared to walk-in customers.

Chairman Best stated that he does not believe the proposal will improve traffic and feels that it will make it worse and will also result in unsafe conditions for pedestrians with them walking all over the site to enter the building. He added that he does not feel that the site is large enough for a dual lane drive-thru unless they went to drive thru only and eliminated any indoor seating. Ms. Tracey mentioned that there are other ways to get orders moving faster that do not entail dual lanes and suggested that the employees could go outside and take orders on tablets to move the lines through faster. Several Board members expressed that they would not support the plan as submitted and have concerns with people utilizing spaces in the Shaw's plaza and crossing Dobson Way. Neil Anketell questioned whether or not this proposal meets the stacking requirements set by the town and Mr. Allen stated that he could gather that information and asked if he could request a continuance.

Brian Dano suggested that the applicant could talk to the owner of the abutting Papa Gino's/D'Angelo about shared parking because then pedestrians would not be crossing Dobson Way.

**The Board voted 7-0-0 to continue both the application's acceptance and public hearing to January 17, 2022 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion made by Brian Dano and seconded by Maureen Tracey.**

- 9. As Life Goes On, LLC (applicant) and Gordon House Assisted Living Residence (owners) -** Review for consideration of final approval for an amendment to a conditionally approved site plan to raze and rebuild a portion of the existing building to convert it to a 24 bed assisted living facility. The parcel is located at 585 Daniel Webster Highway in the C-1 (Limited Commercial), R-4 (Residential), Aquifer Conservation, and Elderly Housing Overlay Districts. Tax Map 6D-1, Lot 46. Case #PB2020-27

**At the applicant's request, the Board voted 7-0-0 to continue the public hearing to January 3, 2022 at 6:30 p.m. in the Matthew Thornton Room, with no further written notice to abutters, on a motion made by Maureen Tracey and seconded by Tom Koenig.**

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

None

**11. Approval of Minutes — November 15, 2022**

**The Board voted 4-0-3 to approve the minutes of November 15, 2022, as amended, on a motion made by Brian Dano and seconded by Nelson Disco. Tom Koenig, Neil Anketell & Jaimie von Schoen abstained.**

**12. Adjourn**

**The Board voted 7-0-0 to adjourn at 7:46 p.m., on a motion made by Tom Koenig and seconded by Nelson Disco.**