



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY DECEMBER 7, 2021

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, December 7, 2021 in the Matthew Thornton Room.

Paul McLaughlin, Vice Chairman presided until Robert Best, Chairman, arrived at 7:07 p.m.

Members Present:

- Robert Best (Chairman; arrived at 7:07 p.m.)
- Paul McLaughlin (Vice Chairman)
- Neil Anketell
- Nelson Disco – Alternate
- Tom Koenig (Town Council Ex-Officio Alternate)

Members Absent:

- Lynn Christensen
- Jaimie von Schoen
- Brian Dano
- Town Councilor Barbara Healey - Ex-Officio

Staff Present:

Tim Thompson, AICP, Community Development Director

1. Call to Order

Vice Chair Paul McLaughlin called the meeting to order at 7:00 p.m. and appointed Nelson Disco to vote for Lynn Christensen.

2. Planning & Zoning Administrator's Report

The Board voted 4-0-0 to determine that the 702 DW Highway, LLC and Flatley/Gilbert Crossing site plans are not of regional impact, on a motion made by Nelson Disco and seconded by Tom Koenig.

Robert Best arrived at 7:07 p.m. and assumed the chair.

3. Discussion of Capital Improvement Program for Town of Merrimack

Paul Micali (Town Manager) presented the Capital Improvement Plan (CIP) for the town of Merrimack. RSA 674:7 requires municipal departments, the School Board, the library, and the water district to submit statements of proposed capital expenditures to the Planning Board. For

CIP purposes, the Planning Board defines "capital expenditure" as the purchase, construction, or improvement of land, buildings, infrastructure, or equipment having an associated cost of \$100,000 or more and an estimated useful life of at least seven years.

Only one new project has been added to the CIP since the last review in 2020, so Mr. Micali took a few minutes to review the new project which is regarding some updates at the Highway Garage. He went on to explain that the fuel tanks located at the Highway Garage were installed in 1997 and are in need of replacement. These tanks are used by all of the Departments in Town that have vehicles. The fuel tanks have a thirty year life span which would be in 2027. At this time, NHDES is strongly suggesting that the type of piping that is installed (model PP1501) be replaced sooner rather than later due to its tendency to deteriorate. The pumps and control system were replaced in 2019 and can be reused. This project is targeted for 2023-2024 and would include replacing 2 – 10,000 gallon fuel tanks, all piping, concrete apron and canopy installation.

Mr. Micali also noted a few other updates to the CIP:

- The Safety Complex project that was originally slated for 2022-2023 is being pushed out to 2023-2024.
- The town is in the process of applying for State TAP funding to aid in the construction of sidewalks from Frasier Square to the 360 DW Highway Plaza.
- A plan to update the Hypo Feed System at the Wastewater facility has been added as a placeholder to the last year of the CIP (2027-2028).

Nelson Disco asked if \$200,000 is being allocated to sidewalks in next year's budget and Mr. Micali advised that the budget is not finalized yet but pointed out the previously mentioned sidewalk project (Frasier Sq. to 360 DW Highway) which will add significant progress to the sidewalk initiative.

The Board voted 4-0-1 to assign priorities to the projects presented, indicating that all projects would be ranked as Priority II (Necessary) except for the following projects that were ranked as Priority III (Desirable): Merrimack River Boat Ramp Access Improvement - Griffin Street, DWH Sidewalk Improvements Plan (2021 TAP Applications) (FY 2032), and New Athletic Fields, on a motion made by Nelson Disco and seconded by Paul McLaughlin. Tom Koenig abstained.

4. Discussion of Capital Improvement Program for Merrimack Village District

Ron Miner (Superintendent for Merrimack Village District) was present to discuss the Capital Improvement Plan for the Merrimack Village District. He briefly reviewed the projects on the CIP (see attached) and offered further explanation on the following:

New Well Site Installation (Mitchell Woods or Wilson Hill Road): MVD is considering a location near 70 Wilson Hill Road that abuts the river. Adding a well at this location may enable water services to all of Wilson Hill Road. Chairman Best asked where the nearest connection would be and Mr. Miner responded that it would be McQuestion Road.

Artificial Recharge at Wells 4 and 5: The recharge will increase the gallons per minute for both of these wells to improve the water supply. Chairman Best asked how the artificial recharge works and Mr. Miner explained that they pump water from the river into a retention basin to

artificially recharge the aquifer. The soils are not very porous near these wells so the aquifer does not recharge as fast as some of the other wells.

Cost of Service Study/Pennichuck Water Works: This study is in the process of being conducted now and will aid MVD in determining the best economical course of action for some of the projects on the CIP. The results of this study may mandate some changes to the projects on the CIP.

Belmont Booster Station Pumps/controls: This station does not currently have a SCADA system installed so it is being monitored daily by staff. This is just a booster station to improve the water flow in the Belmont area and is not critical because water service would not be disrupted if it were to stop working.

General discussions about the layout of the CIP spreadsheet took place and Nelson Disco encouraged MVD to work with the town to develop their CIP in the future so they can separate operating budget items from capital improvements.

The Board voted 4-0-1 to assign priorities to the projects presented, indicating that the following projects would be ranked as Priority I (Urgent): Land purchase for potential well site and Potential new well site development; **the following projects ranked Priority II (Necessary):** Artificial Recharge at Wells 4 & 5, Belmont Booster Station pumps/controls, Distribution system improvements, and Well/tank/pumping facilities; and **the following ranked as Priority IV (Deferrable):** Well Level Monitoring/SCADA/GIS/IT improvements, on a motion made by Tom Koenig and seconded by Nelson Disco. Paul McLaughlin abstained.

5. **L & F Realty Trust (applicants/owners)** – Continued review for consideration of a Site Plan amendment to modify site lighting and add additional pavement and related improvements. The parcel is located at 396 Daniel Webster Highway in the C-2 (General Commercial), R-4 (Residential), Aquifer Conservation, and Elderly Housing Overlay Districts. Tax Map 4D-3, Lot 032. Case #PB2021-26. **This item is continued from the July 7 and August 17, and September 21, and October 19, 2021 Planning Board meetings.**

Mr. Thompson provided a brief history of the project by explaining that it stemmed from a Site Plan violation notice for the use of unauthorized flood lighting and an unapproved expansion of the parking lot. The applicant has been working with both DPW and Community Development and staff now feels that the project is ready for conditional approval. He continued by explaining that there are a few waiver requests that have been submitted but if the Board decides to grant a full waiver of site plan for this project, they do not need to be considered and voted on separately. Mr. Thompson wrapped up his summary by pointing out two key highlights from the staff memo which were regarding lighting and a potential easement issues. The lighting plan that was submitted shows a section of the lot that is not illuminated to the town's requirements, however, given that this started from a neighbor complaint about lighting and the fact that this parcel is in an area of town that is very well lit, staff would not recommend requiring additional lighting here. As for the easement issue, there is currently access from this site to a neighboring gas station, however staff could not locate any documented easements. Staff is recommending that the applicant either obtain the proper easement documents or discontinue the access.

Matt Peterson, (Keach-Nordstrom) was present to discuss the project with the Board. He began by explaining that the flood lights from the original violation will be removed from the utility poles and replaced with downcast wall lights that comply with the site plan regulations. He then

shared the drainage plan to show how the drainage currently flows on the site and discussed a proposed detention pond that will either stabilize or decrease the rate of runoff from the site. Mr. Peterson also shared the lighting plan and explained that they focused on addressing the violation and did not want to add additional lighting as a result. He explained that they are seeking a full waiver of site plan review but pointed out that the plan they provided does offer a lot more detail than a standard waiver of full site plan would. He addressed the easement concern by explaining that he was unaware of the issue until he saw the staff memo but has no concerns with either getting the proper documents in place or discontinuing it altogether. Mr. Peterson wrapped up his presentation by discussing proposed sidewalk additions to the site and took questions from the Board.

Nelson Disco asked about the comment in the memo regarding the drainage plan being signed but not stamped by a professional engineer and Mr. Peterson explained that it will be resolved on the final plans. He also asked for clarification on what was done to correct the original lighting concern and what the plan is for the access easement. Mr. Thompson responded that staff is recommending that the access between sites be addressed by either an easement or discontinuing it. Chairman Best asked what the access is used for and Mr. Peterson responded that he believes it is used to get the cars at Neat Auto over to the gas station for gas as needed. Mr. Thompson addressed the question about the lighting and explained that flood lights mounted in front of the parcel were shining too brightly and directed outward toward the residents on East Chamberlain so the applicant has proposed removing the lights and replacing them with wall mounted lights on the building.

There was no public comment.

The Board voted 5-0-0 to grant a waiver of full site plan review on a motion made by Nelson Disco and seconded by Neil Anketell.

The Board voted 5-0-0 to grant conditional final approval to the site plan, on a motion made by Nelson Disco and seconded by Paul McLaughlin. The following conditions apply:

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;
2. The applicant shall obtain all required State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department, as applicable.
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. Any waivers granted (including Section and date granted) and/or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable.
5. The applicant shall address any final (post conditional approval) comments from the Town's peer review consultant, Fuss & O'Neill, as applicable.
6. The applicant shall address the following comments from the Public Works Department:

- a. Section 3.02 (Monuments) – Monuments noted as to be set on the plans shall be set in the field prior to final approval.
 - b. Section 3.08 (Driveway Entrance) – A note shall be added to the plan that any construction or utility work required within the Town right-of-way shall require a Right-of-Way permit from the Highway Division of Public Works. Such permit shall be obtained prior to obtaining a building permit or any other permits, and shall be obtained prior to commencing any work. If any changes are made, the entrance shall be constructed per Section 4.13.1.
 - c. Applicant shall revise the Operations & Maintenance Plan per the revisions requested in the annotated document noted as having been reviewed by Dawn Tuomala on/about 10/14/2021.
7. The applicant shall address any conditions placed upon the approval by the Planning Board during the hearing(s).
 8. The applicant shall address the following Planning Staff Technical Comments:
 - a. Sheet 2 – The plan shows an access between the subject site and the southerly abutting gas station site. Is there a cross access easement in place for this access? If not, the access shall be constructed properly and formalized with an easement or loamed, seeded and abandoned prior to final approval.
 - b. Sheet 2 - There is text and symbology on the plan indicating there is a chain link fence on the northerly property line. This fence does not exist presently. Please either note a new fence is proposed, or indicate that the fence was removed, or eliminate that text and symbology altogether for clarity.
 - c. The applicant shall provide a signed & stamped drainage memo and complete drainage calculations.

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 unpermitted flood lighting on the Eversource poles shall be removed by the applicant within 60 days of final approval (plan signature) of the project;
3. 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).
4. 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).

6. **TC Boston Development, Inc. (applicant) and Rykel Company, Inc. (owner)** – Consideration of waivers to a conditionally approved Site Plan to waive the requirements from Sections 3.12.d.2.ii 9 (Building Design Standards -Facades) and 4.15 (Building Renderings) of the Site Plan Regulations. The parcel is located at 50 Robert Milligan Parkway in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2D, Lot 078. Case #PB2021-32.

Mr. Thompson prefaced the presentation by reminding the Board that this applicant received conditional approval in September to construct a 323,750 foot warehouse building on Robert Milligan Parkway and at that time, the Board denied a waiver request for the building design. The applicant is back before the Board to share updated designs that would still require a waiver but get closer to the intent of the regulations. He concluded by recommending to the Board that the compliance hearing that was part of the original conditional approval be considered complete if the Board grants the waivers at tonight's meeting.

Austin Turner (Bohler Engineering) was present on behalf of the applicant to discuss the project with the Board. He began by reiterating some of the information Mr. Thompson provided and then shared a design of the building with the site plan regulations for building facades strictly followed. The breaks in the building would result in a 50% loss of useable square footage which is most likely not the intent of the regulations. He then shared a new rendering of the building with panels to visually break up the building's façade and give the appearance of breaks within the building without the applicant losing any square footage. Mr. Turner stated that he feels that these changes, along with the approved landscaping plan along the front of the building meet the spirit and intent of the site plan regulations.

Mr. Disco commented that this is the first time the Board has seen an issue with this section of the regulations but commented that he is happy with the renderings that Mr. Turner shared and would be happy to vote in favor of the waiver. Mr. Thompson added that when the regulations were updated, he carried over that architecture language from the previous version so the Board did not spend much time going over it but now seems that it needs to be done. General discussions took place on the maturity of the trees shown in the renderings, the width of the panels and which sides of the buildings they will be on. Mr. Turner shared the landscape schedule with the Board and confirmed that the building will have the architectural panels on 3 of the 4 sides (the loading dock side will not have them).

There was no public comment.

The Board voted 5-0-0 to grant waivers to Sections 3.12.d.2.ii (Building Design Standards - Facades) and 4.15 (Building Renderings) and to determine that the hearing satisfied the precedent condition for a compliance hearing on the site plan application, on a motion made by Nelson Disco and seconded by Tom Koenig. The following condition applies:

1. All general and subsequent conditions from the original conditional site plan approval (dated September 7, 2021) remain in effect and apply to the project moving forward.
7. **RCA Holdings, LLC (applicant/owners)** - Consideration of a waiver to an approved site plan to waive the requirements of Section 6.01.c of the Site Plan Regulations (which requires all on site improvements be completed prior to the issuance of a certificate of occupancy) to allow for final paving improvements to be bonded instead of completed prior to issuance of the certificate of

occupancy. The parcel is located at 4 Benning Court in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2E, Lot 006-02. Case # PB2021-08.

Mr. Thompson began by reminding the Board that the site plan for this self-storage facility was part of the mixed-use project Edgebrook Heights in the south end of town. He went on to explain that the applicant requested to bond the final course of paving of the site to complete it in the spring but the Site Plan regulations only allow for the bonding of landscaping. They are seeking a waiver to section 6.01.c of the regulations, so that they can obtain a certificate of occupancy once all other site work is completed and finish the final course of paving in the spring.

Jason Lopez (Keach-Nordstrom) and Gordon Welch (RCA Holdings) were both present to discuss the waiver request with the Board. Mr. Lopez began by explaining that construction began at the site on August 5, 2021 and they have the majority of the buildings finalized but weather has started to catch up with them and are unable to complete the landscaping and paving this year. The applicant would like to issue a bond for both the landscaping and the paving and Mr. Lopez made the argument that since there is still some construction taking place on the site, deferring the pavement until spring would ensure it is not damaged during the remaining construction. He also stated that denying the waiver would result in an unnecessary hardship to the applicant.

Chairman Best stated that he noticed that there was no bond amount listed in the Planning Board packet he received and asked Mr. Thompson if the Board is responsible for setting the bond amount. Mr. Thompson clarified that the bond amount will be determined by staff. Chairman Best also asked what staff recommends for time allowance and Mr. Thompson replied that staff is recommending that the paving be completed no longer than 6 months after the certificate of occupancy is issued.

Public Comment

Bill Fallon (12 Merrimack Drive) spoke in favor of the waiver and indicated that the rough pavement that is at the site now is better than the million dollars his development spent to pave the roads where he lives.

Neil Anketell asked for clarification on if the waiver is for the entire Edgebrook project or just the self-storage facility and Mr. Thompson replied that it just pertains to the self-storage facility.

The Board voted 5-0-0 to grant a partial waiver to Section 6.01.c (allowing for issuance of a certificate of occupancy to be issued if final pavement cannot be completed due to weather conditions and is bonded by the applicant), with conditions, on a motion made by Nelson Disco and seconded by Neil Anketell. The following conditions apply:

1. All general and subsequent conditions from the original and amended site plan approvals (dated April 6, 2021) remain in effect and apply to the project moving forward.
2. The applicant shall provide a cost estimate to the Community Development Department for review and approval of the amount necessary for a financial guarantee for the construction of the wearing course of pavement.
3. Following approval of the amount necessary for the financial guarantee, the applicant shall provide a letter of credit or cash deposit into escrow for the full amount necessary to guarantee completion of the wearing course of pavement.

4. The applicant shall complete the wearing course of pavement within 6 months of the issuance of the certificate of occupancy, or the Town will utilize the submitted financial guarantee to complete the work.
 5. The financial guarantee for the construction shall not be released or returned to the applicant until satisfactory completion of the wearing course and written confirmation from the Community Development Department (following inspection of the improvements) that the funds can be released.
8. **526 DW, LLC (applicant/owner)** - Consideration of a waiver to an approved site plan to waive the requirements of Section 6.01.c of the Site Plan Regulations (which requires all on site improvements be completed prior to the issuance of a certificate of occupancy) to allow for the sidewalk improvements to be bonded instead of completed prior to issuance of the certificate of occupancy. The parcel is located at 526 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation & Elderly Housing Overlay Districts and Wellhead Protection Area. Tax Map 5D-2, Lot 001. **Case # PB2019-26.**

Mr. Thompson began by refreshing the Board's memory on the history of this site plan. The original site plan began in 2018 and was then amended in 2019 and finally signed by the Board in 2020. Much like the previous agenda item, this applicant is also seeking a partial waiver from section 6.01.c of the site plan regulations to allow for construction of a sidewalk in the spring. He added that there appears to be a significant amount of construction that still needs to be completed at the site and would not be in favor of a bond if the construction is also not able to be finalized until the spring.

The applicant was represented by Eric Mitchell (Eric C. Mitchell & Associates) and Charles Morgan (Morgan Self Storage). Mr. Mitchell explained that the applicant is seeking a waiver to bond the required sidewalk until spring because they ran into some construction delays that did not allow them to complete the work this year. Mr. Mitchell also noted that there is an existing sidewalk on the site already and stated that strict conformance to the regulations would cause an unnecessary hardship to the applicant and winter conditions limit the use of sidewalks anyway. The applicant is seeking a waiver from the regulations so that he can obtain the certificate of occupancy for the building once it is complete and the bond ensures financial security that the sidewalk will be put in once the weather allows.

Chairman Best asked if the building will be completed (minus the sidewalk) during the winter and Mr. Morgan responded that the paving was finished earlier that day. Mr. Thompson was unable to comment on the completeness of the site work because his staff has not completed a final inspection at this time and the last he knew, the pavement was not completed. Mr. Morgan responded that the pavement was completed that morning and the only thing left to do is the striping of the fire lane.

Mr. Disco asked if staff is ok with the waiver and questioned if there is anything else not completed at the site. Mr. Thompson ensured the Board that his staff would not sign off on the certificate of occupancy if the building was not completed per the approved site plan. Mr. Anketell asked why the sidewalk could not be completed now and Mr. Morgan stated that winter conditions prohibit it from being installed now because frost moves things and he wants to do it right. He also commented that he feels that the regulations should be amended to allow staff to

work with the applicants to make changes without having to go back to the Board because he's not asking for anything major and the current process wastes everyone's time.

There was no public comment.

The Board voted 5-0-0 to grant a partial waiver to Section 6.01.c (allowing for issuance of a certificate of occupancy to be issued if the required sidewalk cannot be completed due to weather conditions and is bonded by the applicant), with conditions, on a motion made by Nelson Disco and seconded by Paul McLaughlin. The following conditions apply:

1. All general and subsequent conditions from the original and amended site plan approvals (dated May 15, 2018 and August 7, 2019) remain in effect and apply to the project moving forward.
 2. The applicant shall provide a cost estimate to the Public Works Department for review and approval of the amount necessary for a financial guarantee for the construction of the sidewalk improvements.
 3. Following approval of the amount necessary for the financial guarantee, the applicant shall provide a letter of credit or cash deposit into escrow for the full amount necessary to guarantee completion of the sidewalk construction.
 4. The applicant shall complete the sidewalk improvements within 6 months of the issuance of the certificate of occupancy, or the Town will utilize the submitted financial guarantee to complete the work.
 5. The financial guarantee for the construction shall not be released or returned to the applicant until satisfactory completion of the sidewalk improvements and written confirmation from the Public Works Department (following inspection of the improvements) that the funds can be released.
 6. If for whatever reason the certificate of occupancy is not issued during the winter months (if all on-site improvements are not able to be completed due to weather conditions), and construction/completion of the on-site improvements is performed during the normal construction season, the sidewalk construction must be completed at that time and will not be permitted to be bonded.
- 9. Merrimack Parcel A, LLC (applicant) and Merrimack Parcel A, LLC and Slate Merrimack Acquisition, LLC (owners)** – Consideration of an amendment to a previously approved site plan, to add a Phasing plan, allowing the development of the site to be completed in phases for purposes of occupancy permitting. The parcel is located at 10 Premium Outlets Boulevard in the I-2 (Industrial) & Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lots 191-02 and 191-02U1-02U4. Case # PB2021-43.

At the applicant's request, the Board voted 5-0-0 to continue the public hearing to December 21, 2021 at 7:00 PM, on a motion made by Nelson Disco and seconded by Neil Anketell.

10. Chris Ross (applicant) and 702 Daniel Webster Highway, LLC (owner) - Review for acceptance and consideration of final approval for a Site Plan to construct a 42-suite extended stay hotel and associated site improvements. The parcel is located at 702 DW Highway in the in the C-2 (General Commercial) District. Tax Map 7E, Lot 023-01. Case #PB2021-40.

Mr. Thompson prefaced the presentation by explaining that staff has some concerns about the proposal being considered an extended stay hotel use because what has been provided feels more like a similar project the applicant is constructing for short term leased residential units. Staff has made multiple attempts to get answers from the applicant and has been unsuccessful and since there are different requirements for residential use, we need to narrow down what this is so that the proper regulatory procedure can be followed. Mr. Thompson also added that peer review comments have been received and the recommendation from staff is to discuss the use with the applicant tonight and continue the acceptance and public hearing until the January 19, 2021 meeting.

George Chadwick (Bedford Design), Chris Ross (applicant/owner) and Joel Sikkila (owner) were present to discuss the project with the Board. Mr. Ross began by reading a prepared statement attesting to the success of his current self-storage facility and expressing dissatisfaction at the overall process for obtaining approvals for constructing a business in town.

Mr. Chadwick reviewed the plans with the Board and began by describing the lots size and location. He then discussed parking, stating that 45 spaces are required for a 42 unit hotel, and this proposal has 50 paved spaces and 22 additional garage units. The site is serviced by public water and sewer and the drainage on the site is collected via a closed drainage system and directed and treated in a system located under the parking lot. The traffic analysis concluded that this use will generate 185 trips per day, with 15 trips in the PM peak hours and 14 during the am peak times. Mr. Chadwick briefly reviewed the lighting and landscaping plans and indicated that a waiver for perimeter parking lot landscaping has been submitted because they need to allow space in the parking lot for snow storage. He wrapped up his presentation by pointing out that there are no bicycle racks or electric vehicle charging stations being proposed for the site and the extension of the sidewalk in the front of the parcel will only be competed if required by the Board.

Chairman Best asked for clarification on the use to aid staff in properly classifying the project. Mr. Ross argued that he has been responding to staff's questions and feels that staff's questions are adding unnecessary delays to the project. Chairman Best explained that they need to have a complete understanding of what is being requested to apply the proper regulations and asked Mr. Ross to walk through his business model in detail. Mr. Sikkila explained that they researched a lot of extended stay hotels before submitting their proposal and the model they are basing their design off of is in Maryland. The hotel rooms will all include kitchenettes and they will offer weekly or monthly rates. He also listed some of the other amenities they plan to offer including but not limited to, in room Wi-Fi, a conference room, fitness center, laundry services and vending machines. Chairman Best asked who they envision as their clients and Mr. Sikkila responded that they envision a mix of clients ranging from families in between buying and selling a home and business travelers with long term assignments.

Mr. Thompson advised Chairman Best that staff has been trying to understand if the hotel rooms will be furnished with more than a kitchenette and desk. Mr. Ross explained that they are proposing an a la carte service and will offer both furnished and unfurnished units to cater to the customer's needs. Mr. Sikkila recited pieces of an interview from one of the executives at Extended Stay America that indicated the average length of stay for their guests as 25 days and

claimed that their customers want the comforts of home. He also cited another instance of an elderly woman staying at an extended stay hotel for 10 years and relayed that they would have no problems with this. Chairman Best asked if the town has a definition for what a hotel is and Mr. Thompson stated that the town regulations do not offer a definition for hotels but when faced with extended stay hotel projects in the past, the town has looked for the rooms to be furnished as one of the key indicators that it is a hotel and not an apartment. He also added that when the regulations do not include a specific definition, they use the American Planner's Association planner's dictionary as a reference before making a final determination.

Mr. Ross reiterated that they plan to have both furnished and unfurnished rooms and Chairman Best commented that he is having a hard time applying the term hotel to unfurnished rooms. He also asked how the garage spaces would be allocated since there are only 22 and there are 42 units. Mr. Ross and Mr. Sikkila responded that they would be rented by customers that need them. Chairman Best asked if they could be rented by someone not staying on premises and was advised that they would only be rented to hotel customers. Chairman Best commented that when you have guests staying 4 months to a year that is not a hotel, it is residential and Mr. Sikkila argued that it would not make economic sense for customers to stay long periods of time because of the cost. Chairman Best and Mr. Thompson both expressed that the town's experience has been different and there are a lot of individuals at the two extended stay hotels in town that are paying the cost to stay longer than average and the town has had issues with people trying to register their cars and register to vote using the hotel's address.

Mr. Ross stated that he could furnish all of the rooms but does not want to have to do that because this model is out there in other states and is working and he wants to tap into this market and bring it to NH. Chairman Best commented that he appreciates that he wants to bring a new business to town but it still needs to fit within the town's regulations so we need to classify it appropriately so that the correct regulations can be followed. Mr. Thompson offered that a 42 unit apartment building would require 38 acres of land and this parcel has 2 acres.

Mr. Sikkila added that the state of NH is very clear on how hotels are taxed. If the hotel room is furnished, the business is responsible for rooms and meals tax. If it is not furnished the tax does not apply. Mr. Thompson pointed out that this supports the argument that the applicants' proposed business is not a hotel. Mr. Sikkila continued to explain that they want to give their customer's options and are trying to offer a very unique product to suit the needs of their customers. Everyone will start with the same basic space and each customer will get to choose how to decorate it.

Chairman Best agreed with Mr. Thompson's remarks that rooms and meals tax is a clear benchmark for whether or not something is a hotel and if they have some units that the tax does not apply to then those units are residential. Mr. Thompson quoted the Department of Revenue Administration's rules on assessing rooms and meals tax, which states it must be collected on all stays less than 185 consecutive days and if the patron reaches 185 consecutive days, any tax money collected must be refunded.

Discussions continued back and forth about whether the proposal is a hotel or an apartment and the consensus of those on the Board that spoke was that they feel what was presented is more of an apartment than a hotel based on items like the full kitchen being offered, unfurnished rooms that are not subject to rooms and meal tax and the garage space. Mr. Ross and Mr. Sikkila asked if the Community Development staff could provide them with a list of items that would classify this as a hotel and not an apartment. Mr. Thompson reiterated the list of items that were already

commented on that were concerns and advised the applicant that ultimately they need to provide a plan showing what they want to build and staff will determine if it fits within the regulations.

Chairman Best also offered some feedback on the plans that were submitted, by advising the applicant that there is a lot squished into 2 acres which does not allow for a lot of green space. He also commented the snow storage should be in a spot that is less visible to anyone driving by, and advised that the Fire Department may not be ok with not having the ability to drive around the entire building. Mr. Ross commented that the back of the building could be accessed from the bowling alley parking lot and Chairman Best replied that he would not speak for them but the Fire Department typically does not like to use one site to access another because it adds confusion when responding to emergency calls. He also encouraged them to consider children staying at the facility and suggested they build an area for them to play in and reconsider the bicycle racks. He also added that the sidewalk would be required so they should add it to the plan. Chairman Best also added that the underground drainage that was designed needs regular maintenance so an operations and maintenance plan will need to be submitted. Mr. Thompson added that due to the site's proximity to St. Gobain, there will also be limitations on what can be infiltrated into the ground due to PFAS. Mr. Chadwick advised the Board that they conducted test pits on the site and found the soil to be draining fine. Chairman Best asked if the soil types are on the plan somewhere and Mr. Chadwick advised that they are not.

Counselor Koenig asked if the parking was sufficient for the site if some of the units have 2 bedrooms and a discussion ensued about whether or not there is enough or too much and if some parking can be eliminated to allow for more green space.

The consensus of the Board was that the applicant would submit an updated plan to the Community Development department so that the Planning and Zoning Administrator can properly determine the use.

As the public hearing was not opened, there was no public comment.

The Board voted 5-0-0 to continue the application acceptance & public hearing to January 4, 2022 at 7:00 PM, on a motion made by Neil Anketell and seconded by Paul McLaughlin.

- 11. KTK Realty Trust, LLC (applicant/owners)** - Review for acceptance and consideration of final approval for a site plan to operate a trailer suspension and repair business. The parcel is located at 20 Star Drive in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-1, Lot 012. Case # PB2021-42.

Mr. Thompson began by providing background information for the project and explained that the applicant was granted a waiver of full site plan by the Planning Board to operate a business on Star Drive and that decision was appealed to Superior Court. At this time, the court has remanded the project back to the Planning Board for new action due to a defective abutter notice. Staff is recommending that the Board treat this project as if it is brand new and make their decisions accordingly. He concluded by stating that there are several issues with the plan that were detailed in the staff memo and because of this, staff is recommending that the Board discuss the plan as submitted along with the requested and potential waivers but continue any decisions to a future meeting in January.

The applicant was represented by David Morin, (Berkshire-Hathaway Verani Realty) and George Fredette (SFC Engineering Partnership). Mr. Morin began by offering walking through the

timeline of the original approval for the waiver off full site plan and apologizing for the abutter notification error that led to this second meeting. He then turned the microphone over to Mr. Fredette who walked the Board through the plan that was submitted. Mr. Fredette stated that other than striping the parking spaces there will be almost no changes to the site. The plan shows a proposed solution to the drainage problem and an extension of the sewer line. Mr. Fredette indicated that he has received the staff's review comments and has no objections to them, however nothing they recommended will change their design. He began discussing the need for a landscaping waiver, indicating that the site is an industrial use at the end of a cul-de-sac and does not warrant a landscaping investment. Chairman Best reminded Mr. Fredette that they have not accepted the application as complete at this time so they can give them some general guidance on waivers but cannot vote on them until the application has been accepted.

Chairman Best turned his attention to the plan and asked what the width of the driveway is on the site and Mr. Fredette stated it is 80 feet wide. Chairman Best asked what the site plan regulations require and Mr. Thompson advised the requirement is 36 feet for truck traffic, if his recollection is correct. Chairman Best pointed out that if they bring the driveway into compliance with the regulations that will allow for some space to add landscaping. Mr. Morin argued that the driveway is consistent with the site and believes it is unreasonable to request them to restrict it now. Chairman Best argued that it's consistent with old sites that were developed prior to the site plan regulations but it is not consistent with today's standards. Mr. Morin stated that the building is 70 years old and had an addition that is 40 years old so they do not feel that they should be held to today's standards. Chairman Best commented that when the project was brought before the Board in the summer the understanding was that there was an expedited need to get the applicant into a space and a promise was made to come back and clean up some of the issues with the site at a later date. Mr. Morin argued that he did not promise to clean up the actual site but rather the site plan that was submitted.

Mr. Thompson interjected to remind the Board that when the project was first presented in the summer, staff did not recommend approving a waiver of full site plan and now that the case has been remanded back to them by Superior Court, he strongly recommends that they do not consider anything that was discussed during the original presentations. Chairman Best then advised Mr. Morin that the driveway will either need to come into compliance with today's regulations or they will need to submit a waiver stating why they feel it is not necessary. Mr. Morin stated they would be happy to close-in the driveway if it will move things along. Chairman Best and Mr. Thompson discussed other landscaping regulations that are currently not being met (perimeter and interior parking lot) and concluded that since it is an established site, it would be difficult to implement now however they encouraged the applicant to do what they can to add landscaping to the site.

Mr. Fredette asked about the recommendation to conceal the existing dumpster on the property and asked if it needs to be completely enclosed. Chairman Best advised Mr. Fredette that it needs to be visually screened from the road and they can accomplish that in any creative way they choose. Mr. Fredette then discussed the drainage on the site and explained that they have added a couple of islands and re-directed the roof drain to help mitigate the current stormwater issues. Mr. Thompson stated that staff would like to see some kind of narrative explaining the proposed improvements that is stamped by the engineer. Discussions continued about the current drainage conditions on the site and Star Drive in general and Mr. Morin shared photographs of the area through the years to show the changes that he believes led to some of the current problems. Chairman Best listened to the testimony but ultimately advised the applicant that the Planning Board is responsible for reviewing the application against the site plan regulations and does not

take into consideration cost or blame. Mr. Morin commented that he feels that they are being held to different standards and Chairman Best assured him that they are applying the same standards to this parcel as they do every other. Mr. Morin made the argument that there is a precedent set for this property and that a waiver of full site plan has already been granted and Chairman Best replied that they cannot continue accepting that the parcel is out of compliance with the regulations just because it has always been that way. Mr. Morin stated that the entire road has drainage issues and they cannot be expected to correct it all and Chairman Best replied that they are not asking them to correct all of the problems with Star Drive, but they need to correct the water that is draining off of their property into the town's right of way. Other Board members echoed their agreement with Chairman Best. Mr. Thompson added that he feels that Public Works is familiar with the challenges on the site and will be happy with any changes that will decrease the runoff from the site. He also added that he feels requiring the applicant to downsize the driveway will help tremendously.

Chairman Best addressed the proposed waiver to not have the land surveyed by indicating he would not be in favor of granting this waiver given all of the issues with the site, particularly since the appeal to Superior Court includes challenges to the location of the right-of-way and temporary easements. Neil Anketell asked about the other waivers being requested and Mr. Thompson reviewed them and added commentary on the staff's recommendations for each.

As the public hearing was not opened, there was no public comment.

The Board voted 5-0-0 to continue the application's acceptance & public hearing to January 18, 2022 at 7:00 PM, on a motion made by Tom Koenig and seconded by Paul McLaughlin

- 12. John Flatley Company (applicant/owner)** - Review for acceptance and consideration of final approval for a lot line adjustment to increase the area of Map 6E, Lot 003-07 and a site plan to construct two 48 unit apartment buildings (in addition to the existing 240 units), both in accordance with the most recently amended Flatley Mixed Use Conditional Use Permit. The parcels are located at 5 Gilbert Crossing and 645 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation & Elderly Housing Overlay Districts and Wellhead Protection Area. Tax Map 6E, Lots 003-01 (645 DW Hwy) and 003-07 (5 Gilbert Crossing). Case # PB2021-44.

At the applicant's request, the Board voted 3-0-2 to continue the public hearing to January 4, 2022 at 7PM, on a motion made by Neil Anketell and seconded by Nelson Disco. Tom Koenig and Robert Best abstained.

13. Discussion/possible action regarding other items of concern

Mr. Thompson asked the Board if they would be willing to add a consent agenda item to future Planning Board agendas. This will allow non-controversial requests such as continuances, bond reductions, and other administrative actions to be handled in one motion without going through each of them individually. He added that this is something that the Town Council utilizes and is helpful on occasions such as this where there are multiple administrative items to go through. Chairman Best remarked that he supports the idea and made note that any Board member that does not feel comfortable not discussing an item can ask that it be removed from the consent agenda so that it can be discussed. The Board discussed the logistics and pros and cons of instituting a consent agenda item and the consensus was in favor of the change. In order to

institute the change, the Rules of Procedure would need to be updated so, Mr. Thompson will add that to a future agenda.

The Board voted 5-0-0 to grant a 6 month extension to the Bowers VII Site Plan on a motion made by Tom Koenig and seconded by Nelson Disco.

The Board voted 5-0-0 to grant a 6 month extension to the Vaughn/Clark LLA on a motion made by Tom Koenig and seconded by Nelson Disco.

The Board voted 5-0-0 to grant a 6 month extension to the Gordon House Site Plan on a motion made by Paul McLaughlin and seconded by Nelson Disco.

The Board voted 5-0-0 to grant a 6 month extension to the Flatley Flex Site Plan on a motion made by Nelson Disco and seconded by Neil Anketell.

The Board voted 5-0-0 to grant a 6 month extension to the PMG Northeast Site Plan on a motion made by Tom Koenig and seconded by Paul McLaughlin.

The Board voted 5-0-0 to grant a 6 month extension to the Ultimate Bimmer Site Plan on a motion made by Nelson Disco and seconded by Tom Koenig.

The Board voted 5-0-0 to grant establish a performance bond in the amount of \$4,253,196.91 for the Chestnut Hill Properties LLC subdivision project's roadway and infrastructure improvements on a motion made by Tom Koenig and seconded by Nelson Disco.

The Board voted 5-0-0 to grant establish a performance bond reduction (based on completed improvements) to \$1,594,955.78 for the Chestnut Hill Properties LLC subdivision project's roadway and infrastructure improvements on a motion made by Tom Koenig and seconded by Nelson Disco.

Mr. Thompson advised the Board that Brian Dano has been appointed as a full member of the Planning Board by the Town Council, but was not available for tonight's meeting.

14. Approval of Minutes — November 2, 2021

The Board voted 3-0-2 to approve the minutes of November 2, 2021 as drafted, on a motion made by Nelson Disco and seconded by Neil Anketell. Paul McLaughlin and Tom Koenig abstained.

15. Adjourn

The Board voted 5-0-0 to adjourn at 11:37 p.m. on a motion made by Tom Koenig and seconded by Nelson Disco.