



Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, FEBRUARY 2, 2016

Planning Board members present: Robert Best, Alastair Millns, Tom Mahon, Lynn Christensen, Desirea Falt, Vincent Russo, and Alternates Nelson Disco and Jeff Sebring.

Planning Board members absent: Michael Redding.

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

1. Call to Order

Robert Best called the meeting to order at 7:00 p.m. and designated Jeff Sebring to sit for Michael Redding.

2. Planning & Zoning Administrator's Report

Tim Thompson informed the Board that a recent unanimous U.S. Supreme Court decision ruled that a municipal ordinance that places stricter restrictions on size and placement of religious signs than it does on other signs is unconstitutional because it restricts free speech. Content-based sign restrictions must be narrowly tailored to further a government interest. Tim Thompson suggested adding a severability clause to the signs section of the Zoning Ordinance saying that, even if part of the Ordinance is unconstitutional, the rest of the Ordinance is still valid. Additionally other parts may need amendments, particularly the "permit not required section." It was the consensus of the Planning Board that staff use its judgment about prioritizing this matter.

Tim Thompson asked the Board if, generally, it would consider determining whether there would be regional impact from projects that were too late to include in the advance packet of meeting materials. It was the consensus of the Planning Board that it would consider such items without having the material in its packet, unless there would be items that require more advance notice.

5. Brett W. Vaughn for the Brett W. Vaughn Revocable Trust (owner) and Allison Jenkins (owner) _ Continued conceptual discussion of a 17-lot cluster subdivision on 2 lots in the R-1 (Residential) District located at 123 Wilson Hill Road and South Grater Road. Tax Map 4A, Lot 023 and Tax Map 5A, Lot 001. **This item is continued from the January 19, 2016 meeting.**

This agenda item was taken up before agenda item #3.

At the applicant's request, the Board voted 7-0-0 to continue this item to March 1, 2016, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Desirea Falt.

3. Madi Choueiri for LaTerrasses Restaurant (applicant/owner) – Compliance Hearing as required by conditions of Approval for a restaurant located at 480 D.W. Highway in the C-1 (Limited Commercial), Elderly and Town Center Overlay and Aquifer Conservation Districts. Tax Map 5D-3, Lot 046.

This agenda item was taken up after agenda item #5.

Desirea Falt recused herself from discussing and voting on this agenda item. Chairman Best designated Nelson Disco to sit for Desirea Falt.

Tim Thompson reminded the Board that one condition of approval was that the “applicant attend a compliance hearing with the Planning Board after legible architectural elevations are submitted to Community Development”. Those elevations have now been submitted.

Madi Choueiri, 480 D.W. Highway, said he has fulfilled the conditions of approval and that there were no changes in the elevations.

In answer to Nelson Disco, he stated that the front would be glass and the rest of the building would be the same white and light green color as now. He hopes to open next winter.

Nelson Disco said a condition of approval was to “indicate any proposed easements on the plan . . . including . . . parking and sidewalk easements”, but the cross-hatching is not visible where asphalt was to be replaced with grass, the sidewalk easement boundaries are not clear and the parking spaces are not delineated. The Public Works Department (PWD) must approve the easement plan. Tim Thompson explained that the lines are very faint and do not show on the Planning Board's copy. Staff will be sure they show on the final plan. No Planning Board action is necessary tonight; precedent condition #11 of approval has now been satisfied. PWD has already made its review. The Town attorney has only minor comments. Plans will be brought forth for signature when remaining conditions are satisfied.

This public hearing satisfied precedent condition #11 of the project approval.

4. Greenfield Management, LLC. for Greenfield Farms (applicant/owner) – Conceptual discussion of a proposed single-family cluster development located at Wire Road, Whispering Pines Lane and Pearson Road in the R (Residential), Aquifer Conservation Districts and the 100/500 year Flood Hazard Areas. Tax Map 7C, Lots 028, 030, 040 & 040-1.

Desirea Falt returned to the Board. Nelson Disco returned to Alternate status.

Tim Thompson summarized the background of the development: In 2007 the Board granted conditional approval to a 24-lot subdivision with two open space lots. The project never received final approval because the provision of municipal sewer to serve

the project was never in a format and design that met PWD approval. In 2009 the applicant withdrew the plan. In 2014 the applicant discussed sewer extensions with the Board. After continued discussion with PWD, the sewer extension's design has been modified to be consistent with the Town's latest Sewer Master Plan and PWD is comfortable with the plans/design to bring sewer to the site.

The initial 2007 True Engineering design was acquired by CLD Consulting Engineers, which is the Town's peer review consultant. At the applicant's request and as authorized by new State law, the Town recommends that the services of a different peer review consultant be utilized when a formal application is made.

Ken Clinton, President, Meridian Land Services, Inc., proposes to build a 66-lot cluster development serviced by both sewer and water. There are currently four separate parcels ranging from 5.5 acres to 97 acres. The project was stalled and withdrawn because of the sewer issue, which has now been solved. All the infrastructure will be in place and ready for State approval. With the addition of the fourth parcel, the right-of-way will become a through road to Wire Road. The road would have enough curves to prevent speeding. There is a power line easement in the middle of the property. Six separate, short cul-de-sacs or pods are proposed. Some improvements were moved away from the wetlands. A gravity sewer system was discussed with PWD and the Sewer Department; no pump system would be required. No road design or drainage waivers would be necessary. The project is much improved since 2006 and 2009. Remarkably there would be no wetland impact. The project would need an Alteration of Terrain Permit. Despite PWD's suggestion, he did not make extra road loops around the cul-de-sacs because he sees no reason for extra paving. The average lot would be $\frac{1}{4}$ acre or approximately 12,000 square feet. The subdivision would take up 35-40 acres out of the 130 acre total, leaving 90 acres of contiguous open space, more than the required 50%. A waiver for a flatter road grade may be sought.

In answer to Board questions, Ken Clinton stated that four tax map lots would be consolidated and re-subdivided. Brenda Lane is on the south. The lot on the Bedford town line would be open space. There would be a lot line adjustment for the Swenson homestead, which is mostly in Bedford. There would be open space on both sides of Baboosic Brook. No crossing is proposed. There would be connectivity to the public roads.

Nelson Disco wanted access to the open space from the homes, but Ken Clinton said it would not work because a homeowner's association would have the burden of maintaining the access. Tim Thompson explained that recreational space is not required in the open area by ordinance, but is suggested as an option. Alastair Millns wanted the applicant to consider the walking trail on the perimeter that was on the original application. Jeff Sebring noted that there is land above the Brook that would never be developed. He asked whether most of the homes would be separated from the power line/easement. Ken Clinton explained that, although he could build against it, he would build in 50' of separation. The old sand pit will remain because the Town is using it for bridge reconstruction.

Ken Clinton noted that the Cluster section of the ordinance encourages “diversity of housing opportunities”. He asked the Board’s view of mixing uses and building housing units for the elderly in one of the cul-de-sacs. He stated that the Elderly Overlay District is “incredibly small”. The suggestion has received some positive comments from Town officials, but no specific endorsements. It would require a variance from the Zoning Board of Adjustment (ZBA), although he does not know what the density would be. Nelson Disco recalled that the District was created to be within walking distance from business areas. That would not be possible for this development, which is also far from a fire station. He doubted whether juxtaposing multi- and single-family units would be marketable.

Ken Clinton said residents of a 55 and over development have no problem driving. Lynn Christensen noted that part of the District (Turkey Hill Road) is not walkable to businesses. She suggested that single-story ranch-type units with connected buildings would be more interesting than flat-front townhouses. Chairman Best agreed with both Nelson Disco and Lynn Christensen and is open to considering the suggestion. He cautioned against adding a convenience store just because it would be within walking distance and against using salt or fertilizer on the land. Alastair Millns said it would be easy to drive to the Bedford commercial district.

Tim Thompson said he had suggested having this discussion with the Board. He is neutral, but noted that the Master Plan encourages mixed use.

Ken Clinton said there would be sidewalks and trails, perhaps with exercise stations. He prefers passive recreation that is free and does not require maintenance. Chairman Best suggested installing benches. Nelson Disco suggested a ball field accessible to the Town and maintained by an entity other than a homeowners’ association. Tom Mahon suggested asking the Parks and Recreation Department what it wants.

There was no public comment.

It was the consensus of the Planning Board to utilize the services of a different peer review consultant.

6. Discussion/possible action regarding other items of concern

Tim Thompson alerted the Board that Prime Alternative Treatment Center would appear before it on February 16, 2016. Because of issues with the landlord, it officially withdrew its previous application and conditional approval, and will instead pursue another parcel at 380 D.W. Highway/Skyline Mall.

7. Approval of Minutes – January 5, 2016 & January 19, 2016

The minutes of January 5, 2016, were approved, with one change, by a vote of 6-0-1, on a motion made by Lynn Christensen and seconded by Alastair Millns. Jeff Sebring abstained.

The minutes of January 19, 2016, were approved, as submitted, by a vote of 6-0-1, on a motion made by Lynn Christensen and seconded by Alastair Millns. Vincent Russo abstained.

8. Adjourn

The meeting adjourned at 8:07 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.