



Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, FEBRUARY 5, 2019

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig (arrived 7:07 p.m.), Michael Redding, Dan Ricker, and Alternate Nelson Disco.

Planning Board members absent: Lynn Christensen and Neil Anketell

Staff present: Assistant Planner Kellie Shamel and Recording Secretary Zina Jordan

1. Call to Order

Robert Best called the meeting to order at 7:02 p.m. and designated Nelson Disco to sit for Lynn Christensen.

2. Planning & Zoning Administrator's Report

None

3. Public Works Presentation on Wastewater Treatment Facility Project

Tom Koenig arrived at 7:07 p.m.

Public Works Director Kyle Fox presented an overview of the Phase IV Waste Water Facility Treatment (WWTF) project that will appear on the April 2019 Town Warrant. The \$22,620,000 cost of replacing the 50-year-old facility would be funded by increases to sewer user fees and not by property taxes. It would be divided into two bonds: \$13,100,000 this year and \$9,520,000 next year. Both household and commercial rates would increase 12% over the next four years. At that point, the household rate would be \$357 a year. Merrimack has the 5th lowest sewer rate in NH; after the increases it would rate 12th. Public Works (PWD) wants to educate the public about "flushable wipes" which are a problem and should not be flushed. Director Fox and Chairman Best performed a demonstration to show that the wipes do not disintegrate in water.

Deputy Public Works Director Sarita Croce, who is a chemical engineer in charge of the Wastewater Division, presented the overview, upgrade, goals, and scope of the project, which must comply with the Environmental Protection Agency's (EPA) Clean Water Act permit requirements. A new screening building would remove wipes before treating waste. Upgrades to pumps, building, controls, and electrical systems would save an estimated \$10,000 a year, which is a 43% reduction. Also scheduled are replacement of clarifier mechanisms, algae removal and sludge mixing systems, structural modifications to address safety concerns, new power emergency and roofing systems,

and miscellaneous upgrades to meet storm water requirements. Upgrades at the Thornton's Ferry and Souhegan stations would save an estimated \$3,000 a year, which is a 33% reduction in electrical savings. The storage building where compost is mixed would also be replaced. Sarita Croce said that, during construction, PWD would keep sewer lines and systems clean. The wastewater treatment plant would be operational during construction. Scheduling is the key to keeping everything operational during the "bypass" procedure. The facility could still treat 5 million gallons daily, although at its current peak it treats 2.3 million gallons daily. Treating PFOA and PFOS is not required; scientists are studying how to do so. The Merrimack River is not significantly contaminated. This is wastewater not drinking water. The new components should last at least 30 years.

- 4. 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 (*will be located on a newly configured Tax Map 1E, Lot 4-1 following an associated subdivision approval*). **This item is continued from the November 13 & December 4, 2018, and January 8, 2019, meetings.**

Tom Zajac, Civil Engineer, Hayner/Swanson, Inc., said that the plans were revised since the January 8, 2019, public hearing and address the majority of peer review and municipal department comments. Tonight the applicant will address the residential component. Changes include: an entrance road with a slip right turn into the site for northbound traffic, a sidewalk between Pioneer Way and the clubhouse, revised drainage and storm water systems, snow storage areas, standard paved fire lanes, a berm and fence on the north property line, a detailed sign package, dog waste receptacles, and full cut-off LED lights. The Planning Board's suggestion of a pedestrian connection between Building 1, the parking lot and the clubhouse is not possible because the 15'-20' elevation change between the paths could not be made safe and accessible, especially for the elderly. More parking at the clubhouse would be supplied instead.

Tom Zajac agreed to place "no parking" signs on Pioneer Way and at Buildings 2 and 3. He will address PWD's comments about storm water and maintenance of the private roads. (Condition 9.g) Installing a monitoring well between the dog park and the railroad to prevent the dog park from contaminating the Merrimack River is still being discussed, but all PWD requirements would be met. (Condition 9.j) Tom Zajac objects to the NH Department of Transportation (DOT) suggestion that there be no break in the median island at Benning Court. People should not have to go around the roundabout to get to the proposed gas station. A break is needed for proper and easier access. Stacking of cars will not be an issue. The DOT setback would be met. Tom Zajac just submitted a driveway permit request for DOT review.

The applicant seeks a waiver from the parking requirement and to construct 403 rather than 507 spaces. The 76-unit, age-restricted (elderly) housing building is compliant, whereas the remainder of the project is proposed to include less than the site plan regulation requirements, but is consistent with the Conditional Use Permit the Board approved. Other multi-family developments in Merrimack and the CUP Master Plan have the same number of parking spaces as shown on the site plan. A minimum of 1.75 spaces per unit is more in keeping with this type of project. SMC Management, the future owner and operator of the development, feels ample parking would be provided. The property could support additional parking in the future in the area of the proposed dog park. (Tom Zajac did not note future parking on the plan because he did not want to submit drainage designs, etc.) More parking would create more impervious area and storm water runoff and less open space.

Alastair Millns cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 6-0-0 to grant a waiver from the requirements of Section 7.03.e. – Parking – on a motion made by Alastair Millns and seconded by Michael Redding.

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 12 months and prior to plan signing, unless otherwise specified.

The Board voted 5-1-0 to grant conditional final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Michael Redding. Tom Koenig voted in opposition.

1. In order for this plan to receive final approval, both the Mixed Use CUP and the associated subdivision must first receive final approval;
2. 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;
3. The applicant shall obtain all required State approvals/permits as may be applicable (AoT, Sewer, Shoreland & Driveway), note the approvals/permits on the plan and provide copies to the Community Development Department;
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 provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;

6. The applicant shall address the comments from the town's peer review consultant, Fuss & O'Neill, including any forthcoming comments resulting from review of the final plans for Planning Board signatures;
7. The applicant shall address the following comment from the Conservation Commission: The applicant should add a note that the project will utilize soil testing prior to the application of fertilizers and verify that all fertilizer notes properly state the Phosphate values to be zero;
8. The applicant shall address any forthcoming comments from the Fire Department, as applicable;
9. The applicant shall address the following comments from the Public Works Department:
 - a. This section of Daniel Webster Highway is under State of New Hampshire Department of Transportation Jurisdiction and Review. NH DOT permit will be required for any work done within the Right-of-Way;
 - b. The project appears to be filling areas of the Flood Zone near the Pennichuck Brook. Is this being compensated for, and that there will not be an increase in flood levels during the Base Flood Discharge;
 - c. Provide a note on the site plan stating that all of the internal roads and sidewalks are to remain private and shall not be the responsibility of the Town of Merrimack;
 - d. The Town Seal shall NOT be placed on the street signs.
 - e. There shall be a Construction Stormwater Management Plan set up and reviewed by the Town prior to the pre-construction meeting. The notes on Sheet 16 shall be revised to add that all reports are to be sent directly to the Town of Merrimack Community Development Department;
 - f. Under Good Housekeeping Practices (G), all hazardous materials such as petroleum products, fertilizers and paints, etc. shall not be stored outside within the Shoreland Protection Area;
 - g. A note shall be added to the plan stating that all future maintenance shall be the responsibility of the owner of the property and not the Town of Merrimack;
 - h. The post-construction stormwater management shall be per Town Code Chapter 167-4(B);
 - i. On sheet 7 of 34 the plans are indicating a proposed dog park; Under the new EPA MS4 permit, Pennichuck Brook is on the impaired waters 303D list for Dissolved Oxygen/DO Saturation and E coli along with Iron and Oxygen Dissolved, the stormwater design shall take this into consideration to minimize these contaminants from leaving the site;
 - i. Monitoring well shall be set up to be able to determine if there are any contaminants coming from the dog park;

- ii. A plan for cleanup and picking up after the dog shall be in place and enforced. In addition, see Town Code Chapter 119;
- j. Due to the proximity of the dumpsters to the Pennichuck Brook all dumpsters are to have covers on them and are to be kept closed so that there will not be any leachate coming from them;
- 10. The applicant shall address the following comments from the Wastewater Division, as applicable;
 - a. A flow allocation permit must be approved by this department before plans can be approved. Please provide anticipated flows for all buildings;
 - b. Sheets 17, 18, &19 include trench dams on any pipes over 8%;
 - c. Sheet 26 Standard Manhole Notes 1- Should read shall be precast - eliminate poured in place;
 - d. Sheet 26 House Sewer Details;
 - e. Note 7 - Low pressure air testing only - remove all other testing references;
 - f. Note 13 - Remove chimney - not permitted;
 - g. Remove chimney detail drawing;
 - h. Sewer pump station calculations: Provide generator details and cut sheets;

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 shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of a Certificate of Occupancy for the building;
- 3. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
- 4. The applicant shall address the following comments from the Building Division:
 - a. The project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of New Hampshire, including all amendments;
 - b. Submit a complete building permit application, provide the job location, indicate the scope of work, proposed use and estimated construction value;

- c. All plans and construction documents shall be submitted with the application and available for code compliance review, prior to the Pre-Construction Meeting with Community Development;
 - d. All soils and compaction, cast in place concrete, pre-engineered panels, structural steel reinforcing, structural steel and fire rated assemblies are subject to Third Party Inspections per Chapter 17 of the International Building Code, as adopted by the State of New Hampshire;
5. The applicant shall address the following comment from the Wastewater Division, as applicable: Sewer connection permits will be issued for each building individually and these must be applied and paid for prior to construction of said building(s). Provide flows broken out per building;
 6. The applicant shall address any comments from the Fire Department, as related to building fire code compliance, sprinkler systems, building addressing, etc., as applicable(that are not deemed precedent conditions).

5. The Monahan Companies (applicant) and Merrimack Parcel A, LLC (owner) - Review for consideration of an amendment to a previously approved Mixed Use Development Conditional Use Permit. The parcel is located at 10 Premium Outlets Boulevard in the I-2 (Industrial) & Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lot 191-02. Case # PB2019-05.

Dave Fenstermacher, Engineer, VHB, said the applicant proposes 224 apartments rather than 192 and an enclosed parking garage to be located in one building as opposed to the original three buildings. The buildings would also be four stories rather than five stories in height. The layout would not change. Benefits are that the emergency access road would not have to be relocated, some parking would be eliminated (a 45' difference), no trees would be cut, and vegetation would be enhanced. The larger 600-space parking garage would meet the higher parking requirement. There would be a total of 1,290 parking spaces at full build-out whereas 1,487 are required. The project would remain tax positive, with a net positive impact of \$717,424 at full build-out. There would be no increase in impervious surface so a new DOT permit is not necessary.

Chairman Best complimented the applicant for not moving the access road 40' closer to Camp Sargent Road.

Dave Fenstermacher said that Buildings B and C would be eliminated, leaving only Building A. Apartment amenities would be on the first floor. The phasing plan would remain the same. 17,000 square feet of commercial and restaurant space would be built in Phase II, but not on the first floor, as well as the other buildings and parking deck. Phase I would consist of Buildings A, D, E, and F; landscaping, main entrance, parking deck, roundabout, hotel/office building, and private sidewalks.

Public comment

Nancy Harrington, 11 Spruce Street, thanked Tom Monahan for having already planted greenery and asked about balconies and dumpsters. She appreciated the enclosed garage, emergency access road and shorter building.

Barbara Amaral, 1 Spruce Street, was glad the garage would replace the apartments. She asked about lights and noise from people on balconies.

Richard Foote, 129 Indian Rock Road, asked if this would be workforce housing. Chairman Best said that it fits the definition, although the developer has never specifically mentioned it.

Fire Marshal John Manuele was surprised at the differences in the proposed amendment versus the original plan, particularly condensing three buildings into one large building with a parking garage. The Fire Department needs a 20'-wide access to the building, especially from the wall facing Continental Boulevard. Significant carbon monoxide protection and an evacuation system are needed for a closed garage.

Dave Fenstermacher said a dumpster would be in the garage with pick-ups on the south side.

Terry Fields, Project Manager, LeCesse Development, said there would be 5'x10' balconies for a pleasant lifestyle. There would not be enough area for parties and noise. Landscaping and buffering would mute noise. LeCesse properties are non-smoking. Pets would have to meet a code of conduct that is enforceable. Dog walking areas and the code of conduct would be on the site plan. There would be no parking under the buildings.

Tom Monahan, owner, the Monahan Companies, said the hotel would be erected at the time the apartments are completed. He and Dave Fenstermacher would meet with the Fire Marshal about a fire access road.

Dave Fenstermacher said the parking garage would be just for residents. Terry Fields said enclosing the garage would free space for parking at other uses and the restaurant site. More apartments distribute/defray the cost better. There would be 112 one-bedroom and 112 two-bedroom apartment units.

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 plan signing, unless otherwise specified.

The Board voted 5-1-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Michael Redding. Dan Ricker voted in opposition.

1. The applicant shall revise the Master Site Development Plan and narrative application package as necessary to include all amendments to the CUP as approved by the Planning Board (replacing any plans and narrative portions of the package that are being changed by the amendment);

2. The applicant shall address any forthcoming comments from the municipal departments, boards, and committees as deemed applicable to the amended CUP by the Community Development Department;
3. The applicant shall include as part of the final submission of the Conditional Use Permit package a new/updated page which includes a signature block for the Planning Board's final endorsement of the amended CUP.

Staff also recommends that the following general and subsequent condition be placed on the approval:

1. All General and subsequent conditions placed on the original CUP approval (signed on 12/5/17) shall continue to be in place with this amended CUP approval.

6. Discussion/possible action regarding other items of concern

Chairman Best informed the Board that he and Alastair Millns signed the Executive Park voluntary lot merger.

Tom Koenig informed the Board that Town Council has proposed including a special rate of \$17,000 as dues for the New Hampshire Municipal Association (NHMA) in the proposed Town budget. If the item remains in the budget and is approved, the Town Council will monitor whether it is worth the investment.

7. Approval of Minutes — January 22, 2019

The minutes of January 22, 2019, were approved as submitted, by a vote of 5-0-1, on a motion made by Alastair Millns and seconded by Michael Redding. Michael Redding abstained.

8. Adjourn

The meeting was adjourned at 9:00 p.m., by a vote of 6-0-0, on a motion made by Alastair Millns and seconded by Tom Koenig.