



Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, FEBRUARY 6, 2018

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Lynn Christensen (arr. 7:13 p.m.), Paul McLaughlin, and Alternates Nelson Disco and Dan Ricker.

Planning Board members absent: Michael Redding and Vincent Russo.

Staff present: Planning and Zoning Administrator Robert Price, Assistant Planner Kellie Shamel, and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:00 p.m. and designated Nelson Disco and Dan Ricker to sit for Michael Redding and the seat vacated by former Board member Desirea Falt, respectively.

Chairman Best announced that, since Desirea Falt would be moving out of Merrimack, she must resign from the Planning Board, leaving one full-time position vacant.

2. Planning & Zoning Administrator's Report

The Board voted 6-0-0 to determine that 526 DW, LLC; and TechNH site plans are not of regional impact, on a motion made by Alastair Millns and seconded by Nelson Disco.

- 4. Synergy Self Storage, LLC. (applicant/owner)** — Continued review for acceptance and consideration of a waiver of full site plan review for modifications to the previously approved site plan regarding access and parking. The parcel is located at 403 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation and Elderly Housing Overlay Districts. A portion of the parcel is subject to the Flood Hazard Conservation District. Tax Map 4D-3, Lot 084-01. **This item is continued from the October 17 and December 19, 2017 Planning Board meetings.**

This agenda item was discussed after agenda item #2.

At the applicant's request, the Board voted 6-0-0 to continue this item to March 20, 2018, at 7:00 p.m., in the Matthew Thornton Meeting Room, with the condition that the applicant must appear before the Planning Board to provide a progress report/status update, at a minimum, at that time, on a motion made by Alastair Millns and seconded by Nelson Disco.

- 6. Charles Morgan (applicant) and 526 DW, LLC (owner)** — Review for acceptance and consideration of a waiver of full site plan review for the addition of 76 outdoor vehicle storage parking spaces, (for use between November 1st through April 1st). The parcel is located at 526 Daniel Webster Highway in the C-2 (General Commercial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 5D-2, Lot 001.

This agenda item was discussed after agenda item #4.

At the applicant's request, the Board voted 5-0-1 to continue this item to April 3, 2018, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Paul McLaughlin. Robert Best abstained.

- 7. Charles Morgan (applicant) and 526 DW, LLC. (owner)** — Review for acceptance and consideration of final approval for a site plan to construct a 21,069 s.f. single story storage facility and a 2-bay auto detailing shop. The parcel is located at 526 Daniel Webster Highway in the C-2 (General Commercial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 5D-2, Lot 001.

At the applicant's request, the Board voted 5-0-1 to continue this item to April 3, 2018, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Paul McLaughlin. Robert Best abstained.

Lynn Christensen arrived at 7:13 p.m.

- 8. TechNH, Inc. (applicant) and RPR Realty, LLC. (owner)** — Review for acceptance and consideration of final approval for a site plan to construct a 11,200 s.f. building addition. The parcel is located at 10 Continental Boulevard in the Industrial (I-1) and Aquifer Conservation District, Flood Hazard and Wellhead Protection areas. Tax Map 3D, Lot 002.

This agenda item was discussed before agenda item #3.

Brent Cole, Engineer/Project Manager, Keach-Nordstrom Associates, Inc., said the applicant owns both 8 Continental Boulevard, which is used for sales, engineer, machinists and technicians, and 10 Continental Boulevard, which is a storage warehouse. The driveway would be relocated. The applicant wants to expand 11,200 square feet on the parking lot west of the existing warehouse. There would be no new parking because the existing 16 spaces are sufficient for 2-3 employees. Fifteen spaces to the north would be reserved for future use. At its February 5, 2018, meeting, the Merrimack Conservation Commission (MCC) recommended nitrogen fertilizer and that Green SnowPro certification be required for winter parking lot maintenance. There would be no impact on the steep slope or wetlands. An infiltration pond would accommodate 10,000 square feet of pavement. 15-24 spaces would be removed. All stormwater would be infiltrated into the ground up to a 50-year storm. All peak discharge would be reduced.

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

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

Tom Koenig said the applicant was creating a non-conforming site by removing many of the parking spaces to make room for the addition. Brent Cole noted that there are 15 potential future parking spaces provided to the north to compensate for this. That way, while the current reduction in parking is sufficient for the current use and tenant, should the property or tenant ever change hands, the new owner/tenant could construct those spaces. Chairman Best said proposing 15-16 spaces while leaving 15 spaces whereas where 31 are required does conform to the regulations and such a concept has been supported by the Board in the past. The Planning Board encourages a shared driveway for commercial sites. He suggested that the two properties be merged.

A waiver is sought from the requirement for an uninterrupted façade for a building exceeding 200'. The building would be 240' at the rearmost point. There is no reason to interrupt it at the 2/3 point in the back where no one can see it. Adding a projection or recess would hinder the efficiency associated with a manufacturing warehouse. Extending the existing building walls would provide the most cost effective expansion and allow truck maneuvering to remain efficient without additional overhead doors on the expansion.

There was no public comment.

Alastair Millns cited the criterion that specific circumstances relative to the site plan or conditions of the land in such site plan indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 12.04.2.b – Uninterrupted Façade – of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Lynn Christensen.

Brent Cole said there would be two driveways with circular access for deliveries. The flow would be the same as now, just a little farther west. A waiver is sought from the driveway separation requirement of 150' in a 35 mph zone. There are approximately 135' to the abutter's driveway to the west and approximately 70' across the highway and to the east. The existing driveway is non-conforming and the relocated driveway exacerbates the non-conformity by reducing the driveway separation to the west. By shifting the driveway to the west, the functionality of the parcel and the safety of full access around the warehouse are maintained. A proposed driveway 135' from the one across the street to the east would be a major improvement by reducing left turn moving conflicts and making the non-conformity more nearly conforming. Shifting the driveway reduces the separation to the west to 70'. The abutter's driveway is only 24' from the shared property line, which is an induced hardship on the applicant because it does not leave enough space to construct a driveway far enough away without moving the existing building. The warehouse does not generate much traffic with only 2-3

employees and regular truck deliveries. There would be enhanced separation between conflicting left turns from the driveway across the street as well as a relocated driveway.

Chairman Best suggested making the driveway “exit only”.

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 7-0-0 to waive the requirements of Section 7.05.20.B – Driveway Separation – of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Paul McLaughlin.

Brent Cole said a pedestrian walkway connects both TechNH properties; the sites work together. There is a brick patio with grass around it with a walkway connecting to a sidewalk. A waiver from the required paved pedestrian way is sought. There is frontage along Continental Boulevard, which offers connectivity with a sidewalk on the south side of the eastbound lane/the opposite side of the roadway from TechNH. Construction of a small segment of sidewalk on a side of roadway that does not contain a sidewalk would result in the expenditure of significant funds while providing no significant benefit to the applicant or to the Town.

Lynn Christensen objected that, because there is no cross-walk to the sidewalk on the frontage, there is no way to get to it. Nelson Disco wanted a connection from the walkway to the sidewalk. Chairman Best asked why the applicant should build a second pedestrian way. This is a unique property. He is not sure that the Board can blend what is on private property to a public sidewalk that is 40’ across the street and that the Town would have to plow. Lynn Christensen added that there is no sidewalk on either side of Continental Boulevard. Discussion ensued about where a sidewalk exists, where it starts and where it stops. Alastair Millns noted that the Planning Board’s efforts to create a sidewalk the length of Continental Boulevard have not been successful. Chairman Best noted a usable walkway in front of the building and a connection on the east to the other building. The Board asked if the applicant would be amenable to extending the existing walkway onto the strip of land across from their westernmost driveway a few feet to the abutting property. The applicant agreed.

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 6-1-0 to waive the requirements of Section 7.05.D.19 – Paved Pedestrian Way – of the Subdivision Regulations, and to continue the sidewalk to the property line on the west, on a motion made by Alastair Millns and seconded by Paul McLaughlin. Tom Koenig voted in opposition.

The Board voted 7-0-0 that only sand and no salt or other de-icing compounds be used on site, on a motion made by Alastair Millns and seconded by Lynn Christensen.

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 vote 7-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Lynn Christensen.

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 any required State approvals/permits, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department, as applicable;
3. The applicant shall add Planning Board signature blocks on appropriate sheets of the plan set (cover, site plan, landscape plan, and any others deemed necessary). In addition, note that the block should have lines for “Chair” and “Vice Chair” as per the Board’s current structure the position of Secretary was renamed Vice Chair in June 2017;
4. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) 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 add a note to the site plan (or sheet that will be recorded at the Registry) that no use of salt or other de-icing compounds is allowed on site; only sand is allowed;
7. The applicant shall address the following comments from the Public Works Department, as applicable:
 - a. Per Section 7.04(D)(20)(b) the Minimum Distance Between Driveways should be 150 feet. A waiver should be asked for.
 - b. The minimum Safe Stopping Sight Distance should be reviewed; there should be more than 200 feet along Continental Boulevard which is a Major Arterial Street. A design speed of 40 MPH should be used as a minimum.
 - c. The existing catch basin in the street should have protection during demolition and site construction. A detail should be provided.
8. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable;
9. The applicant shall address the following Planning Staff Technical Comments:
 - a. The following typical plan notes should be added to the plan set (on a sheet that will be recorded, typically the overall site plan):
 - i. Purpose of the plan;

- ii. Lot Areas;
- iii. Owner of record;
- iv. Water source;
- v. Sewer source;
- vi. Vertical datum reference;
- vii. List of plan references;
- viii. FEMA Flood Hazard information;
- ix. Site Soils;
- x. Stormwater Ordinance notes;
- xi. Preconstruction meeting notes;
- xii. ROW permits note;
- xiii. Note indicating which plans are to be recorded and which are on file with the Community Development Department;
- xiv. Phasing notes;
- xv. Statement of Plan (as required by Section 7.05.D.16);
- xvi. Note regarding regulations being part of the plan (as required by Section 4.06.1.k);
- xvii. Notes regarding requires State Permits;
- xviii. Notes regarding waivers;

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;
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. No use of salt or other de-icing compounds is allowed on site; only sand is allowed.

5. The applicant shall address the following comments from the Building Department:
 - 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. The applicant shall 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;
6. The applicant shall address the following comments from the Fire Department:
 - a. The Town of Merrimack, Department of Fire Rescue, Office of the Fire Marshal requires (NFPA 1 Chapter 18) that fire department access roads be constructed and maintained so that fire apparatus can effectively operate during an emergency. The location of the access road(s) must provide for positioning of the fire apparatus to allow access to all sides of the structure. Unique building or occupancy conditions may trigger additional requirements from the Office of the Fire Marshal. Based on the above noted plans access to this building is acceptable for construction.
 - b. This building has an existing NFPA-13 compliant fire sprinkler system. This system shall remain in service during all times the building is occupied by the public. System shutdowns and modifications due to demolition and construction will be permitted only after the Merrimack Fire Marshal has received notice and approved said shutdown.
 - i. The new addition shall be fully protected by an approved NFPA-13 compliant fire sprinkler system. This system may be connected to the existing building sprinkler system, however due to the age of the building a full system inspection and evaluation of the existing system by a qualified sprinkler contractor or fire protection engineer is required to ensure that the system is designed for the existing and proposed hazard and is in proper working order. The results of this inspection/evaluation shall be provided to the Fire Marshal's Office in addition to the required NFPA 13 fire sprinkler construction plans.
 - b. This building has an existing NFPA-72 compliant fire alarm system. This system shall remain in service during all times the building is occupied by the public. System shutdowns and modifications due to demolition and construction will be permitted only after the Merrimack Fire Marshal has received notice and approved said shutdown.
 - i. The new addition shall be fully protected by an approved NFPA-72 compliant fire alarm system. This system may be connected to the existing building fire alarm system, however due to the age of the building a full

system inspection and evaluation of the existing system by a qualified fire alarm contractor or fire protection engineer is required to ensure that the system is designed for the existing and proposed hazard and is in proper working order. The results of this inspection/evaluation shall be provided to the Fire Marshal's Office in addition to the required NFPA 72 fire alarm installation plans.

- c. Plans must be submitted to the Merrimack Department of Fire Rescue for any revisions and/or changes to the current plan on file and must be reviewed and approved by the Merrimack Department of Fire Rescue, Office of the Fire Marshal. The design and any changes must be fully compliant with local, state and nationally recognized codes. The Fire Marshal reserves the right to require any changes by the Authority Having Jurisdiction (AHJ) or for regulatory compliance at any time.

3. Brett W. Vaughn (applicant) and Brett W. Vaughn Revocable Trust (owner) —
Continued review for consideration of final approval of a 13 lot residential subdivision. The parcel is located at 123 Wilson Hill Road in the R-1 (Residential) District. Tax Map 4A, Lot 023. **This item is continued from the July 18, August 15, September 5, 2017 and January 2, 2018 Planning Board meetings.**

This agenda item was discussed after agenda item #8.

Robert Price informed the Board that latest peer review comments were just received today. Dawn Tuomala, Deputy Director of Public Works/Town Engineer agreed that most comments could be addressed as a part of a conditional approval. She flagged four items:

First there are maintenance concerns about the narrow path with a steep slope that could present washout and seasonal inaccessibility. The slope is too steep for Public Works' (PWD) equipment to access the detention basin safely. PWD suggests the applicant revise the plan to relocate the pond farther away from the adjacent wetland and to provide access to the bottom of all treatment and management areas that would become the Town's responsibility to maintain.

Chad Branon, Civil Engineer, Fieldstone Land Consultants, PLLC, has no issues and will meet with PWD about alternatives for the slope and for access to the detention basin.

Second the revised drainage design to utilize headwalls instead of catch basins solves the grate capacity concern, but it loses the benefit of the deep sump catch basin's collection of sediment, which could result in increased swale maintenance for the Town.

PWD said that flow to the catch basins in the swale exceeds regulations. Chad Branon wants to install culverts. He will meet with PWD about adding one more catch basin.

Third PWD will not accept a waiver of the 300' maximum distance between catch basins. The calculations do not account for the spread of stormwater at the catch basin. Due to the horizontal curvature of the road and the steep slope of the proposed road,

the applicant should provide spread calculations and revise the drainage design to meet the 300' requirement.

Chad Branon said he would add one catch basin.

Four, due to the proximity of the existing wetland to the proposed 18% access path and detention pond DB2, PWD asks the applicant to consider alternative temporary and permanent erosion control measures, and questions if DB2 is really necessary.

Chad Branon said the high spot in the road drains to the catch basin to help mitigate the rate of runoff from the site. DB2 is necessary, but he is flexible about its location. He has to work with PWD in order to get an Alteration of Terrain Permit from the State.

Chairman Best suggested revising Condition #5 to include that peer review comments must be addressed to PWD's satisfaction, and changing "construction easement" to "no build restriction", as PWD suggests.

Chad Branon listed changes since he last appeared before the Planning Board: drainage erosion control (swales along the road), January 17, 2018, revision of plans and response to peer review. PWD did not want the Board to approve two more slope waivers until the peer review concerns are addressed. Now both PWD and peer review support the waivers. Chad Branon agrees to all staff conditions and will work out the drainage and other engineering issues with PWD.

Public comment

Michael Redding, 105 Wilson Hill Road, commented by e-mail. It is not clear why the Planning Board did not view the opinion of the Emery & Garrett (E&G) report as substantial and requiring action by the applicant. The Board has traditionally relied on its professional experts to guide them in determining what additional studies and efforts the applicant should perform before final approval is granted. At the last meeting the Board valued Dawn Tuomala's professional opinion and chose to delay approval until her concerns were resolved. She indicated that she was unable to render an opinion of the report or of the potential impact on abutter wells and that the professional geologist who prepared the report would be the best professional to advise the Board. Michael Redding wants the applicant to address E&G's recommendations before granting final approval.

Fire Marshal John Manuele worked with the owner about a cistern. Fire Chief Currier wants a homeowners association rather than the Town to maintain it, but the Fire Department could use it for any purpose. Chairman Best suggested record/codifying that water would always be available, to which Marshal Manuele agreed. A cost-benefit analysis changed his opinion from the last meeting, when he objected to the Town ceding maintenance. The Town might have to pay \$130,000 to replace a cistern, whereas the homeowners would pay \$300 apiece for a certain timeframe over the lifespan of the cistern. A legal document would guarantee maintenance. (See Condition #11b) Chairman Best suggested adding that Town Legal Counsel must review the documents, which would be recorded at the Hillsborough Registry of Deeds. Fire Marshal Manuele said the developer would pay to install the cistern and maintain it until

there is a homeowners association. He would gift it to the Town one year after the last property was sold. Chairman Best stated that the Town Council would have to accept and would decide who owns the cistern and whether to place money in the Town budget for maintenance and replacement.

Brett Vaughn, 123 Wilson Hill Road, responded to Michael Redding's objection. The Planning Board did not ask E&G to make recommendations, only to review what the first engineer (Hydrosource) said - that there is 10 times enough water and that drilling a well would not affect another well. Michael Redding recommended Hydrosource to do a desk top study. Its engineer appeared before the Planning Board and stated that there is water. The Board suggested that E&G review Hydrosource's report. They suggested doing a study, but they said that they cannot be 100% sure about finding water.

Brett Vaughn questioned whether the water issue is really the Planning Board's responsibility. The NH Department of Environmental Services (DES) said it is the State that can restrict ground water use and that a landowner has the right to the reasonable use of water. Brett Vaughn reduced the number of lots to one for every five acres, promised not to blast and altered the layout to appease the abutters. This parcel is zoned residential, which is a reasonable use. There is no recharge issue with a septic system because water is put back into the ground. One of the neighbors who complained recently fracked and got water and no longer has a problem. Asking him to do another study is holding him to a higher standard. Would anyone digging a well in the future have to do a test because Brett Vaughn did? Skillings drilled and said one can never tell if a well would have water. Four abutters recently dug new wells, so water is available. The Planning Board did its best, but it is not responsible to prove testing. The law says that water does not belong to the first person to dig, so Brett Vaughn also has the right dig. Testing should not be a requirement. According to Skillings and Hydrosource, it would not provide enough information. All the abutters' wells meet DES standards. Brett Vaughn will dig deep on the subdivision lots.

Alastair Millns said all the frontage of Lot 23 would be on the detention basin. Chairman Best countered that would guarantee it would never be used as a driveway, which is exactly what the Planning Board wants.

Nelson Disco did not like the layout either. Chad Branon said it has been that way for a long time because the Planning Board asked for something that works for the abutting properties. He did that while meeting all the regulations. This layout works best for the neighborhood. It is different from the original proposal. After meeting the abutters, Chad Branon modified the layout to their satisfaction. None came to this meeting to object. The layout allows each lot to have water. The property is unique.

Chairman Best noted that two neighbors supported the layout at the last meeting. The Town has no interest in a conservation easement, so there will be a "no build" deed restriction on a portion of Lot 23 instead. Every home on Wilson Hill Road would abut that lot, which is another layer of protection.

Chairman Best explained how a fertilizer restriction could be enforced. Chad Branon will add that note to the plan.

Chairman Best reiterated that maintenance of the cistern is not a Planning Board decision. Fire Marshal Manuele noted the decision is that of the Fire Chief. His decision would establish a way to deal with a cistern issue in the future.

A waiver is sought from the requirement that street grades not exceed 6% over a distance of 800' or 8% over a distance of 600'. The applicant has spent a great deal of time working on a layout that not only accommodates the unique conditions of the property, but also maximizes separation to the abutting properties and minimizes road cuts. In order to achieve these goals and to minimize grading for this development, the road design needs some design waivers. The property is unique. The layout creates separation to the abutting properties while accommodating the site's conditions. To accomplish these goals, the roadway consists of an 8% grade that runs for approximately 920 linear feet. There are vertical curves on each end of this 8% grade that make the total length of roadway over a 6% grade for 1,125 linear feet. Denial of the variance would result in unnecessary hardship for the owner and the abutters because it would force a layout that would require additional excavation, impacts and land-altering activities in close proximity to the abutting properties. PWD supports the waiver and the Fire Department has reviewed and approved the road design.

A waiver is sought from the requirement that all approaches to intersections shall have a maximum grade of -2% for at least 50' from the intersection and that the maximum grade on the approaching leg should not exceed 5% for a distance of 200'. The applicant has worked with abutters, local boards and Town staff to design a layout that accommodates not only the unique conditions of the property but also maximizes separation to the abutting properties and minimizes road cuts. The property is unique. To accomplish the goals of fitting with the topography and providing ample buffering to the neighboring properties, the design of the intersection approach provides for a 50' panel at -2% into the site and an approach leg of 189' at 5%. Denial of the variance would force a layout that would require additional excavation, impact and land-altering activities in close proximity to the abutting properties. PWD supports the waiver and the Fire Department has reviewed and approved the road design.

Alastair Millns cited the criterion that specific circumstances relative to the site plan or conditions of the land in such site plan indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board voted 6-1-0 to waive the requirements of Section 4.12(b) – Street grades – and 4.12(d) – Grades approaching an intersection – of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Tom Koenig. Dan Ricker voted in opposition.

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 4-3-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Lynn Christensen. Nelson Disco, Paul McLaughlin and Dan Ricker voted in opposition.

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 (NHDES Subdivision, NHDES Wetlands, Alteration of Terrain and any others as may be applicable), note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;
3. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;
 - a. Section 4.06.2 – scales of road plan and profile (granted January 2, 2018);
 - b. Section 4.12(c) – cul-de- sac length (granted January 2, 2018);
 - c. Section 4.12(b) – street grades (granted February 6, 2018);
 - d. Section 4.12(d) – grades approaching an intersection (granted February 6, 2018);
4. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address, to the satisfaction of the Public Works Department, any outstanding comments from the Town's peer review consultant, CLD, from their February 6, 2018, memo;
6. The applicant shall address any forthcoming comments from the Building Department, as applicable;
7. The applicant shall address the following comments from the Conservation Commission:
 - a. Only no phosphate, slow release nitrogen fertilizers are to be used. The Commission further recommends that the applicant utilize a soil testing facility to determine what levels and applications rates are necessary prior to applying any fertilizes to the site. This shall be noted on the final plans and mylar to be recorded at the Hillsborough County Registry of Deeds;
 - b. The applicant reported that there would be no blasting during the construction of this project. The Commission recommended the applicant remove all references to blasting from the plan;
 - c. Due to the topography of the lot, the Commission requests that no dumping of yard waste or landscaping material be strictly enforced during the project and home construction;
8. The applicant shall address the following comments from the Public Works Department:

- a. [Original Comment]: The road shall have a closed drainage system due to the proposed grading of the road, the proposed grading cut and the length of the road as described in section 4.16;
 - i. [February 1]: The ditch line along the road should have a detail, what is the size of stone; what is the shape of the ditch; can the proposed ditch support the amount of runoff coming from the 8% grade and the 2:1 slope? Waiting for the final CLD|Fuss & O'Neill review.
- b. [February 1]: Access to the detention pond is shown across the top of the berm but the vehicles won't be able to go down a 2:1 slope to get to the bottom of the pond for maintenance. Is there any other/better way to have access to the bottom of the pond? According to the 2006 Construction Standards under Section IV.E – Ponds, swales and miscellaneous drainage treatment, the slope stabilization in a detention pond shall have a maximum slope of 4:1. This design exceeds this requirement with some of the side slopes.
- c. [Original Comment]: Under the Road and Utility Standards Section 4.12 the grade shall not exceed 8% for more than 600 feet. The plan shows an 8% grade for a greater length;
 - i. [February 1]: A waiver has been asked for. The DPW will agree with the request for the extended 8% grade for the proposed road;
- d. [Original Comment]: Under section 4.16.3 Underdrains, shall be required for the entire length of the road unless approved by the Town Engineer during construction;
 - i. [February 1]: The underdrains have been shown on both sides of the road as requested. The underdrain along the eastern side of the road can outfall into the catch basins. The underdrains along the western side of the proposed road might need to have an underdrain flushing basin at appropriate intervals along the road depending upon the length of the run and where the drain is installed. Per Section 4.16.3(c) add a note stating that the underdrain flushing basin locations will be determined at the time of construction;
- e. Per Section 4.16.1 and Section 4.16.2 the maximum distance between structures is 300 feet. Presently there is 400 feet between structures. Please review the subdivision regulations and follow the guidance in these sections for compliance with the regulations.
- f. Please review the residential driveway standards in Section 4.13.1 and the details in Section 9 of the regulations and make the necessary changes to the details. Provide a detail for the driveway with a 2" lip along the cape cod side of the road.
- g. As noted on Sheet 11 of 15 General Construction Note 1. - All construction details are to conform to the Town of Merrimack's Construction Standards; in

addition it should be noted that any discrepancies between the construction plans and the standards, the most stringent shall be held and/or a determination made by the Town Engineer.

- h. The detention pond on lot 4A-23 - 10 and the swale on lot 4A -23-9 are not receiving any drainage directly from the road and therefore will not be under the responsibility of the Town. These shall be privately maintained. The driveway down is too long and too steep. There is a large amount of woods between the road and the drainage area thus precluding the need to maintain this area. Easement deeds will need to be prepared at the time of final plans and approved by Town Council prior to recording in the Hillsborough County Registry of Deeds.
 - i. To reduce the amount of runoff onto the road could the sidewalk be sloped back away from the road towards the ditch line? This will enable plowing to be done and the snow banks and the runoff to go directly into the ditch line.
9. The applicant shall address the following comments from the Fire Department:
- a. In keeping with the compliance of state fire codes, NFPA codes and continued practices with other subdivisions and residential complexes within the community the installation of Fire Hydrants on a minimum of an eight inch water main shall be required with Fire Hydrants spaced every 500 feet and no more than 300 feet to a driveway as calculated along the approved roadway (driveway meeting the roadway). Final drawings showing the locations of the fire hydrants must be submitted to the Fire Marshal's Office for approval;
10. The applicant shall address any forthcoming comments from the Assessing Department;
11. The applicant shall address the following Planning Staff Technical Comments:
- a. Applicant to verify with the Building Department if building permits should have been issued for existing shed(s)/accessory structures on Parcel 4A-23;
 - i. If so, prior to final plan approval, the shed located within setbacks should be relocated entirely out of the setback and provide confirmation to the Community Development Department that this was completed; or
 - ii. Seek the necessary Zoning relief for their present location.
 - b. The applicant shall work with the Fire Department to determine the appropriate ownership and maintenance responsibility for the proposed cistern, and provide written verification of any agreement and/or copies of any agreement to the Community Development Department for the project file. Such agreement shall also be reviewed by the Town's Legal Counsel and subsequently recorded at the Hillsborough County Registry of Deeds;
 - c. The applicant shall correct note 26 on Sheet 2, correcting the word "waiver," and replacing it with "variance";

Staff also re commends that the following general and subsequent conditions be 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. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
3. A roadway deed (in a format acceptable to the Public Works Department and Town's Legal Counsel) shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant prior to the posting of a Maintenance Surety as required by Section 5.01.1 of the Subdivision Regulations. The Planning Board will not act upon establishment of any Maintenance Surety or recommend Roadway Acceptance to the Town Council until such time that the roadway deed is recorded, unless otherwise stipulated by the Public Works Department;
4. As required by Section 3.08.13(f) of the Zoning Ordinance, all deeds transferring any interest in the real property included in the development shall specify that the common land/open space parcels in the development are acknowledged to be part of the residential use and do not qualify for "current use" real estate tax appraisal and assessment under NH RSA 79-A;
5. The applicant shall obtain right-of- way permits from the Public Works Department for all new driveways.

5. 4 Executive Park Drive Realty, LLC. (applicant/owner) — Review for acceptance and consideration of final approval for a site plan to construct 280 multi-family residential units, clubhouse and other associated site improvements. The parcels are located at 4 & 6 Executive Park Drive in the C-2 (General Commercial) and Aquifer Conservation Districts and 100-year Flood Hazard Area. Tax Map 4D, Lots 076 & 077. **This item is continued from the January 2, 2018 Planning Board meeting.**

This agenda item was discussed after agenda item #3.

Dan Ricker recused himself from discussing and voting on this agenda item.

Robert Price said the plans were revised, but not submitted in time to be included in the Board's packets and as such, no staff review was conducted or memo prepared.

Attorney Greg Michael, Bernstein Shur, Sawyer & Nelson, said the applicant tried to comply with all peer review comments. The revised parking design complies with regulations. There would be no impact on D'Angelo's parking easement. MCC has no issues with the plan. It is proposed to build 576 rather than 670 parking spaces with the possibility of building the rest at a later date if necessary. The drainage includes that

potential expanded parking area. MCC prefers not building the spaces unless they are necessary. As the Board suggested, everything would be merged into one plan, a walking trail would be made across the property in the rear, the existing bridge would be repaired, and the trail would be interconnected so there would be access without crossing the roadway.

Austin Turner, Bohler Engineering, said that, since the last discussion, he addressed peer review, Wastewater and PWD comments; expanded the parking area; left 59 unused spaces in a non-exclusive easement with D'Angelo's; planned for 576 rather than 670 parking spaces; and reconfigured the access driveway to the smaller parcel for emergencies by expanding its width, which would have an 18' wide entry lane and an 18' wide exit lane. At the request of the Fire Department, he made a median divider, created boulevard-like landscaping and upgraded the stormwater system to accommodate that. At MCC's suggestion, runoff would be conveyed from rooftops into a subsurface infiltration system. The new plan reflects all these changes.

Attorney Michael said they are negotiating with Alan Mello, the abutting property owner, in an effort to obtain an easement for future sidewalk expansion along Executive Park Drive to establish a sidewalk connecting Executive Park Drive to Amherst Road. This could, in the future, potentially lead to a pedestrian crossing across Amherst Road.

Jason Plourde, Project Manager, Beta Group, Inc., said the NHDOT Bureau of Traffic approved the off-site improvements on January 16, 2018, and the NODOT Bureau of Highway Design did so on February 5, 2018. They will review traffic phasing and timing plans next. Chairman Best suggested posting the details for the public and that the departments said the peer-to-peer and coordinated signals "would mitigate the impact of the roadways and improve the no-build condition".

Jason Plourde described where a crosswalk could be located. The traffic system would be the same as described at the last discussion. Four intersections would be tied together.

Sidewalk lights would not be installed right away. When Jason Plourde said the State's first goal is to get the new signals to work, the Board objected that the pedestrian crossing must be part of the plan. Nelson Disco said he would not vote to approve the project without a pedestrian crossing over Amherst Road in place. Attorney Michael noted that the State devotes an entire paragraph to the issue in its letter. The applicant is doing what he can. An improved traffic system would accommodate a pedestrian system.

Austin Turner described the trail and bridge, which take MCC recommendations into account. DES seems favorable about a permit.

Chairman Best said the Police Department is concerned about safety, e.g., parking lot lights. Austin Turner modified the lighting program and will place bollard lights on the path. He could place lights on the trail. Chairman Best suggested security cameras.

Attorney Michael said the applicant could do without 10 parking spaces on the west at the rear of D'Angelo's. Chairman Best agreed with all the parking proposals and would support a parking waiver, should it be requested.

Nelson Disco questioned the buffer for the future parking area in the rear next to the homes. Attorney Michael said it would be shown on the plan. Austin Turner said he would make as large a buffer as possible (25') to the west plus the 40' building setback. There would be more buffer if future spaces were built there.

Public comment

Chairman Best disagreed with Dan Ricker, 12 Merrill Road, who suggested adding a "no turn on red" sign at the corner of Greeley Street going right onto Amherst Street. Dan Ricker asked who would pay for the traffic improvements. Chairman Best said that is not the Board's purview. The Town would not pay. The applicant said he would pay for reasonable off-site improvements. Alastair Millns noted that it is a State road.

Dan Ricker suggested a security plan that the Police would approve. He asked about net tax revenue to the Town. Chairman Best said that a fiscal analysis is required for a CUP or a mixed use development, but not with type of development being proposed. Attorney Michael predicted \$600,000-\$750,000 annually.

Jason Plourde said a "no turn on red" sign is not part of the proposed improvements. Some signs (e.g., "do not block intersection") are there already and the Police Department is enforcing them. If the new system reduces queues, there would be no need for a sign.

Chairman Best instructed the applicant to focus on trying to obtain an easement over Mr. Mello's property and creating a sidewalk that would help facilitate a pedestrian system.

The Board voted 6-0-0 to continue this item to February 20, 2018, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Lynn Christensen.

9. Discussion/possible action regarding other items of concern

Dan Ricker returned to the Board.

Chairman Best suggested a discussion with the Police Chief about how the Planning Board could update its review of retail sites to include security.

Chairman Best reminded the Board that it scheduled a site walk at 10 Premium Outlets Boulevard for 9:00 a.m. on February 10, 2018.

Nelson Disco reported that Community Development Director Tim Thompson sent comments about sidewalks on Route 3 to the Nashua Regional Planning Council (NRPC). The next step is to have a booth at polling places on April 10, 2018.

Chairman Best said that Tim Thompson is looking at revising the Subdivision and Site Plan Regulations in an effort to update and separate them into two separate sets of regulations.

10. Approval of Minutes — January 16, 2018

The Board voted 7-0-0 to approve the minutes of January 16, 2018, with changes, on a motion made by Lynn Christensen and seconded by Alastair Millns.

11. Adjourn

The meeting was adjourned at 10:17 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Paul McLaughlin.