



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY JANUARY 18, 2022

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, January 18, 2022 in the Matthew Thornton Room.

Robert Best, Chairman, presided.

Members Present:

- Paul McLaughlin (Vice Chairman)
- Neil Anketell (arrived at 7:07 p.m.)
- Brian Dano
- Nelson Disco – Alternate
- Town Councilor Barbara Healey - Ex-Officio

Members Absent:

- Lynn Christensen
- Jaimie von Schoen

Staff Present:

- Robert Price, Planning & Zoning Administrator

1. Call to Order

Chair Robert Best called the meeting to order at 7:00 p.m., led the pledge of allegiance, and appointed Nelson Disco into a voting position for Lynn Christensen.

2. Planning & Zoning Administrator's Report

Neil Anketell arrived to the meeting at 7:07 p.m.

The Board briefly discussed the criteria to determine if a site plan can be considered to be of regional impact. Mr. Disco asked how far from the town line the site is because he thought the criteria was 1,000 feet from the town line. Chairman Best clarified that the criteria is 1,000 from the Aquifer or adjacent to a neighboring town and Mr. Price indicated that the property is over 3,000 feet from the town line.

The Board voted 5-0-1 to determine that the Brady Sullivan site plan is not of regional impact, on a motion made by Paul McLaughlin and seconded by Barbara Healey. Neil Anketell abstained.

3. **KTK Realty Trust, LLC (applicant/owners)** – Continued 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. **This item is continued from the December 7, 2021 Planning Board meeting.**

At the applicant's request, the Board voted 6-0-0 to continue this item to March 1, 2022, on a motion made by Paul McLaughlin and seconded by Nelson Disco.

4. **Brady Sullivan Properties, LLC (applicant) and Solon Properties, LLC and Innovation Acquisition, LLC (owners)** - Review for acceptance and consideration of final approval for a site plan to convert a former corporate headquarters building into a 90 unit residential apartment building and associated site improvements. The parcel is located at 1 Innovation Way in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2D, Lot 041-15. Case # PB2022-06.

Robert Price prefaced the presentation by providing a brief history of the parcel. He stated that the property is the site of the old Brookstone Headquarters and after they left a few years ago, the property owner has had no success in leasing the building as a commercial property. Brady Sullivan is now looking to convert the building to residential apartments and has already received the necessary approvals from the Zoning Board.

The applicant was represented by Tom Zajac (Hayner/Swanson, Inc.) and Chris Lewis (Brady Sullivan). Mr. Zajac began by explaining that Brady Sullivan Properties is looking to convert the existing office building located at 1 Innovation Way to 90 apartment units with associated site improvements. He then shared the site plan and walked the Board through an overview of the location, including surrounding abutters as well as the size and history of the existing 3 story office building. He confirmed that there are 375 existing parking spaces on site (which includes 10 accessible spaces) and added that the original plans included an approval to expand the parking to add 125 more spaces which were never constructed. Mr. Zajac then discussed the topography of the site indicating that it is unique in the sense that the building and parking areas are relatively flat but sit up much higher than the abutting properties and there are steep slopes along the perimeter of the land. He pointed out a wooded buffer along Henry Clay Drive as well as a section of wetlands located on the property, which will remain undisturbed. He also indicated that there is an existing drainage system in place to handle runoff and stated that the site is serviced by public water (Pennichuck Water Works) and sewer.

Mr. Zajac then walked through the breakdown of the 90 units, indicating that the plan calls for 28 one bedroom, 61 two bedroom and 1 three bedroom apartments. He then discussed Brady Sullivan's history of converting mill and commercial buildings into apartments and added that their buildings typically include indoor amenities for the tenants such as libraries, fitness centers and meeting rooms.

As far as site improvements are concerned, they are proposing to reconstruct the front sidewalk/entrance, remove one of the two existing loading docks and make ensure the accessible parking spaces meet current ADA requirements. He discussed a conversation he had with the town's Fire Marshal (Captain Manuele) regarding the fact that the building does not have vehicle access on all four sides. They discussed some possible solutions to improve the conditions (such as adding a walking path all the way around the building and improving the access to the west side of the building) but Captain Manuele ultimately requested that the applicant hire a Fire

Protection engineer to ensure that the plans meet National Fire Protection Association (NFPA) standards.

Mr. Zajac indicated that there are no changes being proposed to the lighting or landscaping plans and that the applicant received three variances from the ZBA in October for Use, Density, and setbacks.

Councilor Healey expressed apprehension with accepting the application as complete without having the fire protection review done because she went and looked at the building and has concerns with the accessibility of the back of the building for emergency services due to the steep drop off behind it. Chairman Best explained that the review is definitely something that will need to be provided before the plan can be approved, but does not think it impacts the completeness of the application.

The Board voted 6-0-0 to accept the application as complete, on a motion made by Nelson Disco and seconded by Brian Dano.

There was no public comment.

Mr. Zajac explained that the applicant is seeking a waiver of full site plan review, however because of the change of use, a traffic memo was created for the project. The traffic impact memo (which was created on December 10th 2021 by Steve Pernaw) is in the process of being reviewed by the town's peer review consultants but staff has indicated that they are confident there will be no concerns as the new use will result in a decrease in trips generated. He cited the numbers as 144 fewer daily trips, 99 fewer AM trips and 79 fewer PM trips. A site distance analysis was also conducted on Henry Clay Drive and Manchester Street and the results concluded that the site distance is satisfactory.

Mr. Zajac wrapped up his presentation by indicating that they feel the site is being redeveloped in a responsible manner and added that the change of use will help increase the town's and region's housing stock which is desperately needed.

Chairman Best thanked Mr. Zajac for the presentation and asked if he can provide more details on the existing stormwater system. Mr. Zajac explained the existing infiltration system that is in place and used the site plan to indicate the locations of the three stormwater areas as well as the catch basins. Chairman Best asked if the system is functioning as designed and if there have been any known runoff issues with neighboring properties. Mr. Zajac responded that the system is functioning as designed and they are unaware of any runoff issues with neighboring properties.

Chairman Best then asked what the plans are for all of the extra parking spaces as there are 375 existing spaces and the use only requires 131 so there will be an excess of approximately 240 spaces. Mr. Zajac explained that there are not currently plans to do anything with the existing spaces and Chairman Best expressed concerns with his response because 240 spaces equates to acres of unused space. He added that he would like to see some outdoor amenities or landscaping in place of the excess parking because it will not only be more aesthetically pleasing to the tenants and guests but decreasing the impervious surface will also improve the drainage on the site.

Chairman Best then turned his attention to the fire safety concerns and thanked the applicant for providing the building elevations before asking if the windows in the building open. Chris Lewis responded to this question and stated that the windows cannot be opened and they have no plans

on replacing them at this time. Chairman Best asked if the Fire Marshall had given any feedback on this and Mr. Lewis responded that Captain Manuele did not specifically address the windows. Mr. Lewis also pointed out that the building is fully sprinkled and that there are two exits through the corridors and two means of egress out of the building which is typical for this type of structure. Chairman Best stated that it looks as if the building actually has three exits and Mr. Lewis replied that he stated two because that is the requirement. Mr. Zajac stated that the only concern raised by Captain Manuele was the vehicle access around the entire building which resulted in the request for the fire protection engineer review. They briefly discussed an underground cistern that is located on the site but Mr. Zajac stated he is unsure of the size or exact location as it was not identified during their survey.

Chairman Best stated that he supports the waiver of full site plan to some extent but still feels that certain components that are included in a full site plan review (such as lighting) are needed for this parcel. He went on to explain that the lighting plan for 375 parking spaces is going to be different than what is needed for 131 and that residential lighting is usually less intense and more aesthetically pleasing than commercial. He went on to add that the landscaping plans for a residential development are also usually different than a commercial property and he would like to see some plans for added landscaping on the site. Mr. Zajac used the plan to demonstrate where there is currently landscaping onsite and asked Chairman Best where he thought more was needed. Chairman Best replied that he did not have any specific locations in mind but feels that more attention needs to be placed on landscaping as well as developing a plan for the excess pavement. Mr. Lewis asked if there is a specific number of spaces that should be removed and Chairman Best replied that he wants him to have enough spaces for the tenants and guests but even if they had 2 spaces per unit (which is well above the Town's requirement) there would still be almost 200 spaces in excess that could be removed. Mr. Zajac explained that some of the issues around removing the excess pavement include the cost associated with it and the logistics around where to remove it from so that existing curbing and drainage infrastructure are not disrupted. Chairman Best replied that he understands the costs concerns but if the goal is to build luxury apartments then the exterior should also reflect that.

Nelson Disco expressed his agreement with Chairman Best's comments on landscaping and the excess pavement and added that he would like to see them add a space for children to play outdoors. He also asked if Innovation Way is a public road or if it is privately owned and Mr. Zajac confirmed that it is a private driveway that was assigned a name due to its length. A discussion on pedestrian walkways ensued and Mr. Zajac pointed out the location of an existing sidewalk that extends down to Henry Clay Drive, but noted there are no sidewalks on Henry Clay Drive itself. He also discussed the challenges with providing sidewalks along Manchester Street as there is nowhere to connect it to, and the road uses an open drainage design that makes installing sidewalks difficult, but did promise to take a look at it again.

Councilor Healey offered her opinion on the façade of the building stating that it looks like an office building and is uninviting so they may want to also consider that when they are reviewing the plans for changes. She then asked about plans for storage because residents may have larger things like bicycles that need to be stored. Mr. Lewis replied that they will be providing outdoor bike racks but other than closets, no storage has been planned.

Mr. Lewis shared some pictures of other Brady Sullivan properties to give everyone a sense of what they can expect at the Innovation Way property. As he was showing the pictures he expressed that they have a very modern feel which is why he thinks the building on Innovation way with its current landscaping, fits their needs. Mr. Lewis also confirmed that the amenities are

for all tenants to use, and they are pet friendly, however they have no plans on making a designated area outdoors for pet walking. Chairman Best stated that them being pet friendly is fantastic but it does lend to the need for more landscaping in the front of the building because when it is cold outside, people tend to not walk their pets as far. The conversation about walking space for pets continued with no recommendation on any changes to the plans.

The discussion turned again to the excess parking and the Board and applicant continued to share their differing opinions on the topic. Brian Dano suggested that the pavement could be broken up visually by adding some tennis or basketball courts to the property.

There was no public comment.

The Board voted 5-1-0 to grant a waiver of full site plan review, but the applicant shall review and potentially revise the plan by providing a more complete emergency access solution as agreed to by the Fire Department, modifying the parking lot in some manner (e.g. additional landscaping, elimination of paved area), pedestrian access connectivity, review of exterior lighting to consider more residential-friendly lighting versus commercial, and to provide exterior site amenities (e.g. basketball court/tennis court), on a motion made by Nelson Disco and seconded by Robert Best. Paul McLaughlin voted in opposition.

Mr. Zajac asked for clarification on what the Board was looking for as far as the lighting plan is concerned as the lighting plan was approved in 2003 when the building was constructed. Chairman Best responded that he would like them to focus on the change of use from commercial to residential because he's certain the lighting needs for an office building are different than those of a residential building. The discussion continued regarding the extent of a lighting plan that should be provided and the Board agreed that they would like to see the existing lighting plan with any proposed changes and photometric results for any proposed changes.

Mr. Zajac commented that he isn't sure what he'll be able to provide for clarification on the emergency access because Captain Manuele indicated that he would like to have a fire protection engineer review the plan first. Chairman Best clarified that they are not interested in the fire protection details for the inside of the building because those can be part of conditional approval but they would like to see what is worked out regarding the access to the side & rear of the building.

The Board voted 6-0-0 to continue this item to February 15, 2022, on a motion made by Paul McLaughlin and seconded by Barbara Healey.

5. **John Flatley Company (applicant/owner)** – Review for acceptance and consideration of final approval for a lot line adjustment. 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 # PB2022-08.

Robert Best recused himself from consideration of this item. Paul McLaughlin assumed the Chair.

Robert Price reminded that Board that this request is for a lot line adjustment only and the site plan application for the additional apartments will be heard next under a separate case number.

Nathan Chamberlin (Fieldstone Land Consultants) was present to discuss the proposal with the Board. He shared the lot line adjustment plan to show the two lots in question (6E/003-01 and 003/07) explained that they are requesting the adjustment between the two lots to allow more room for the Gilbert Crossing expansion (lot 6E/003-07). The plan proposes to take approximately 2 acres from lot 6E/003-01 and add it to lot 003-07.

The Board voted 5-0-0 to accept the application as complete, on a motion made by Brian Dano and seconded by Nelson Disco.

There was no public comment.

The Board voted 4-1-0 to grant conditional final approval, on a motion made by Nelson Disco and seconded by Brian Dano. Neil Anketell voted in opposition.

6. **John Flatley Company (applicant/owner)** – Review for acceptance and consideration of final approval for a site plan to construct two 48 unit apartment buildings (in addition to the existing 240 units), in accordance with the most recently amended Flatley Mixed Use Conditional Use Permit. The parcel is located at 5 Gilbert Crossing in the I-1 (Industrial), Aquifer Conservation & Elderly Housing Overlay Districts and Wellhead Protection Area. Tax Map 6E, Lot 003-07. Case # PB2022-07.

Robert Best remained recused from consideration of this item. Paul McLaughlin continued as Chair.

Mr. Price began by explaining that staff has outstanding questions on this project that need to be answered before they can make a recommendation on conditional approval. The first is regarding stormwater infiltration and whether or not it will be allowed to occur on this site by DES. When the original apartments were constructed it was not a concern, however it has been a concern with more recent projects on the Flatley site. There are also several questions from the peer engineering review comments regarding traffic and the applicant will need to provide more information, essentially what would amount to a full traffic study, in order to answer those questions. He noted the Board is looking for a full traffic study as well.

Nathan Chamberlin (Fieldstone Land Consultants) began by addressing the infiltration concerns, stating that they have submitted a memo to DES and are waiting for a response. He added that the Alteration of Terrain (AOT) permit has been completed and he believes the traffic study questions are being worked on as well.

Councilor Healey asked if the traffic study will include all of the Flatley buildings along DW Highway that are built, either proposed or in the process of being built. Mr. Price responded that there is no reason that it should as the project at hand is for additional apartment buildings, so the traffic study would only include the property in question. Mr. Chamberlin agreed with Mr. Price's assessment and stated that the study being requested is for the additional apartment buildings only; the remainder of the CUP area is irrelevant for this particular study. Neil Anketell asked if it is going to be a full study and Mr. Price read through the peer review comments to confirm that a full traffic study for 5 Gilbert Crossing is being requested. Nelson Disco expressed concerns with the study being limited to the apartment site only, as he was under the impression they were getting a complete traffic study of the entire site and added that he was not happy with the original one that was done in 2014 because he feels that it was not as thorough as it should have been. Mr. Chamberlin explained that the study of the entire Flatley property from 2014 was

for the Conditional Use Permit and since that time, individual traffic studies have been submitted for each site plan that has gone to the Board. Vice Chair McLaughlin stated that since the original study included a big box store that is no longer being constructed, he is confident that the traffic numbers would only improve from the original version. He then asked Mr. Price to ask if the Board has the authority to request a study of the entire Flatley property. Mr. Price stated he conferred with Community Director Thompson on this topic and Mr. Thompson agrees that a study of the entire Flatley property cannot be requested at this time and must be limited to the project at hand, which is for the apartment buildings only. The conversation continued with Board members expressing their opinions that a new study is needed and Mr. Chamberlin reiterating that the project is for the apartment buildings only so the other parcels should not be included in anything that is submitted. Mr. Price interjected to remind everyone that the application has not even been accepted as complete at this time and that Fuss and O'Neill has asked for additional traffic information in their peer review comments. He suggested that they table the discussion until they receive more information.

The Board voted 5-0-0 to continue both the acceptance and public hearing for this item to March 1, 2022, on a motion made by Neil Anketell and seconded by Barbara Healey.

Robert Best rejoined the Board and resumed as Chair for the remainder of the meeting.

7. Discussion/possible action regarding other items of concern

No action items.

8. Approval of Minutes — January 4, 2022

The Board voted 5-0-1 to approve the minutes of January 4, 2022, as drafted, on a motion made by Barbara Healey and seconded by Brian Dano. Paul McLaughlin abstained.

9. Adjourn

The Board voted 6-0-0 to adjourn at 9:05 p.m. on a motion made by Paul McLaughlin and seconded by Barbara Healey.