



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

**TUESDAY, JANUARY 7, 2020**

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, January 7, 2020 in the Matthew Thornton Room.

Robert Best, Chairman presided.

#### Members Present:

- Alastair Millns (Vice Chairman)
- Neil Anketell
- Dan Ricker
- Nelson Disco
- Councilor Bill Boyd, Ex-Officio

#### Members Absent:

- Lynn Christensen
- Paul McLaughlin

Staff Present: Robert Price, Planning & Zoning Administrator and Casey Wolfe, Assistant Planner

1. **Call to Order:** Chairman Best called the meeting to order at 7:00 p.m. and appointed Nelson Disco into a voting position in place of Lynn Christensen.
2. **Planning & Zoning Administrator's Report**

**The Board voted 6-0-0 to determine that the Merrimack Parcel A condominium conveyance and the Demers Lot Line Adjustment & Subdivision are not of regional impact, on a motion made by Alastair Millns and seconded by Bill Boyd.**

3. **Discussion of Capital Improvement Program for the Town of Merrimack. (From Postponed 12/17/19 meeting)**

Paul Micali (Assistant Town Manager/Finance Director) presented the Capital Improvement Plan (CIP) for the town of Merrimack. RSA 674:7 requires municipal departments, the School Board, the library, and the water district to submit statements of proposed capital expenditures to the Planning Board. For CIP purposes, the Planning Board defines "capital expenditure" as the purchase, construction, or improvement of land, buildings, infrastructure, or equipment having an associated cost of \$100,000 or more and an estimated useful life of at least seven years.

Paul Micali gave a brief description of each of the 26 projects that fall under the General Fund and then asked for questions from the Board.

Alastair Millns raised concerns about the Safety Complex and questioned the change in mindset because in previous years, a new South Station was being proposed and now it's a full safety complex. Paul Micali explained that since the original proposal the town has experienced some growth so the Town Manager and Town Council reassessed the needs and determined a Safety Complex was a better solution.

Nelson Disco commented on the difficulty of putting a boat ramp near the wastewater facility and made the suggestion that Merrimack wait to build a ramp until it is understood how the new Nashua ramp at Greeley Park is working out. He also questioned why the Wire Road/Daniel Webster Highway intersection project was being pushed out, stating that it is a key piece to the town center improvement projects. Paul Micali clarified that the delay on that project is due to state funding not being available until 2027. Nelson Disco suggested that the Town offer a temporary solution for pedestrian access from the Town Hall to the Post Office while waiting for funding. The Gail Road drainage project was also questioned and Dawn Tuomala (Town Engineer) was called upon to clarify what the project is set to accomplish. She explained that Gail Road is in bad shape and needs to be paved but when they went to look at it; they found a larger issue with the drainage because the pipes are in poor condition. She is recommending that the town fix the drainage issue before paving because any new paving will not last on that road if the drainage issue is not corrected first.

Nelson Disco also asked for clarification on the McQuestion Sewer project and Kyle Fox (Public Works Director) was asked to speak to the specifics of that project. He explained that the project would connect the sewer from McQuestion through an easement to Jessica Drive to connect the Merrymeeting Development.

The Board voted on the recommended rankings of all Town Capital Improvement Program items as follows:

Urgent: South Fire Station, Bridge Replacement - Chamberlain Bridge, Stormwater Drainage Improvements/Permit Compliance, Sidewalks, Gail Road Improvements, Paving Infrastructure Improvements, Turkey Hill Road Intersection Improvements, Seaverns Bridge Canoe Launch Ramp, Depot Street Boat Ramp Repairs.

Necessary: Public Safety Complex, Bridge Replacement - Baboosic Brook, Woodland Drive Area Drainage Improvements, Sewer Line Extensions (McQuestion), Sewer Line Extensions (Mayflower), Relocate Sewer Connector under Everett Turnpike, Wastewater Treatment Plant Phase III and Pump Station Upgrades, Wastewater Treatment Plant Sawdust Storage Building, Pearson Road Pump Station, Heron Cove Pump Station.

Desirable: Paving Infrastructure Improvements - Gravel Roads, Paving DW Highway, Merrimack River Boat Ramp Access Improvements, Sidewalk Improvements, Master Plan, New Athletic Fields.

Deferrable: Wire Road Intersection, Library HVAC, Library Sprinkler System, Library Sidewalk, Library Slate Roof, Library Elevator, Nutrient Removal.

Premature: New Library

**4. Discussion of Capital Improvement Program for School Administrative Unit #26. (From Postponed 12/17/19 meeting)**

*This item was postponed at the request of the SAU, and will be discussed either January 21, 2020 or February 4, 2020.*

6. **Hoyle, Tanner & Associates, Inc. (applicant) and OVP Management, Inc. (owner)** – Review for acceptance and consideration of an amendment to the site plan conditions of approval. The applicant is seeking an amendment to the sidewalk installation condition (item #13) discussed during the September 17, 2019 Planning Board meeting. The parcel is located at 360 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation, Elderly Housing and Planned Residential Development Overlay Districts. Tax Map 4D-3, Lot 001. Case # PB2019-22A. **(From Postponed 12/17/19 meeting)**

*This agenda item was discussed before agenda item #5.*

Robert Best recused himself from this item. Alastair Millns assumed the chair.

Bill Davidson (Hoyle Tanner) began by explaining that the apartment building received conditional approval a couple of months ago and they are now questioning one of those conditions (item #13) related to sidewalks. Bill explained that the wording of the condition is currently to add a sidewalk that extends from East Ridge all the way down to DW Highway; however after further review; they feel that this would be creating an unsafe condition because there are not currently sidewalks along the DW Highway and because the signal does not currently contain a pedestrian phase. He added (by demonstrating on the site plan) that the proposed location of the sidewalk is within an easement from East Ridge and the sidewalk would actually have to be installed on their property.

Comments were made by several Board members who were all in favor of a sidewalk along the entirety of the site's DW Highway frontage in lieu of the one that was originally agreed to (from East Ridge down to DW Highway inside the parcel itself). Bill Davidson raised the concerns of getting pedestrian infrastructure added if a sidewalk was in place along DW Highway and the Board suggested that he meet with Kyle Fox & Dawn Tuomala from the Public Works Department to discuss that.

Robert Price suggested that the Board vote on continuing the discussion at a later meeting to allow the applicant time to meet with DPW and discuss options.

**The Board voted 5-0-0 to continue the public hearing to February 4, 2020, on a motion made by Bill Boyd and seconded by Nelson Disco.**

*Robert Best resumed as chair.*

5. **Crosswoods Path III, LLC (applicant) and DW Development, LLC (owner)** – Continued review for acceptance and consideration of final approval for a site plan to construct 21 multi-family residential and 3 office units. The parcel is located at 747 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation, and Planned Residential Development Overlay Districts. Tax Map 7E, Lot 046-54. Case # PB2019-23. **This item is continued from the July 16, August 20, September 17, and October 15, 2019 Planning Board meetings. (From Postponed 12/17/19 meeting)**

Richard Maynard (Engineer; Maynard Paquette Engineering) and Christopher Bova (Crosswoods Path III, LLC applicant) presented the project by addressing the concerns raised in the staff memo by Tim Thompson dated 12/11/2019. He also added that the Fire Department has requested that the

address be updated to 2 Crosswoods Path Blvd because that is where the entrance driveway is. Richard Maynard indicated that the address will be updated on the final plans.

Chairman Best asked for clarification on what “streetlights by others” means. Richard Maynard explained that it means that it is not part of the Planning Board approval but was requested by the HOA so they are going to add them. Chairman Best explained that since it is on the site plan, it is required and there is not a need to call out that it was requested by “others.” Chris Bova asked if they would need to present an agreement for the light so the Board and Chairman Best responded that an agreement would not be required.

The Board also called out some symbology inconsistencies on the landscaping plan that need to be corrected and specified that they would like to make the submission of a clear plan a condition of approval. They also added that they must meet the requirements that the Town Engineer asked for regarding the retention basin.

**The Board voted 6-0-0 to grant a waiver from the requirements of Section 7.05.D.19 – Sidewalks on a motion made by Alastair Millns and seconded by Bill Boyd.**

No public comments were received.

**The Board voted 6-0-0 on a motion made by Alastair Millns and seconded by Bill Boyd to grant conditional Final Approval, subject to the following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified:**

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 as may be applicable (including NHDOT driveway permit updated for this proposal or verification from NHDOT that no permit amendment is necessary), note the approvals/permits on the plan and provide copies to the Community Development Department. In addition, the applicant shall obtain a joint use agreement from Eversource for the use of the property under the Eversource lines/easement;
3. 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;
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 any remaining 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;
6. The applicant shall address the following comment from the Fire Department as applicable:
  - a. Pressurized fire hydrant locations need to be shown on the plans. Hydrant locations shall be approved by both the Merrimack Village District and Merrimack Fire Department;
7. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable;

8. The applicant shall address the following (and any forthcoming) comments from the Public Works Department, as applicable:
  - 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. Crosswoods Path Boulevard is a private road and is not under the jurisdiction of the Town of Merrimack Department of Public Works, and shall be noted on the plans as such (preferably noted with the road name in the ROW);
  - c. The safety bench at the top of the detention area should be a minimum of 10 feet wide per the NH Stormwater Manual Best Management Practices Volume 2. It is also recommended that a forebay be added to further the water quality;
9. The applicant shall address any applicable final comments from the Wastewater Division;
10. The applicant shall address the following Planning Staff Technical Comments:
  - a. The applicant shall revise applicable notes on Sheet 1 provide a summary of the Zoning Requirements (lot size, setback, etc);
  - b. The applicant shall verify/confirm that sewer permits are not applicable with the Wastewater Division (note #12 on Sheet 1);
  - c. Please correct the typo (“oof”) in Note #17 on sheet 1;
  - d. Please remove the references to a “parking setback” on Crosswoods Path Blvd on Sheet 2;
  - e. The proposed crosswalk from the site to the existing sidewalk on the south side of Crosswoods Path Blvd is indicated as “by others.” This improvement, as requested in October by the Planning Board, will be required to be completed by the applicant as part of the project, please remove the “by others” reference.
  - f. Please remove all references to “PSNH” and replace with “Eversource”;
  - g. The applicant shall address the following relative to the submitted lighting plan/details (Sheets 5 & 6):
    - i. The applicant has not provided information regarding the specifications, Color Rendering Index (CRI), and Uniformity Ratio as required by the (former) regulations;
    - ii. It appears that the lighting levels line work is omitted from the DW Highway right-of-way, and staff cannot determine compliance with the (former) regulations for light trespass off the property. It appears that light trespass is likely into the right-of-way. Please revise the design to ensure that illumination does not trespass into the DW right-of-way, and ensure that the plan properly reflects the design and is able to be reviewed by staff;

- iii. Please provide notes/references to the manufacturer's information with the lighting details.
- h. Applicant shall revise the landscaping plan to ensure symbology appearing in the legend is consistent with those appearing throughout the site.
- i. Applicant shall remove "by others" wording from all sheets associated with proposed lighting, and indicate that lighting as being proposed.

**The following General and Subsequent Conditions of Approval are also imposed:**

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 apartment 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 project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of NH, including all amendments;
5. The applicant shall submit a complete building permit application indicating the scope of work, proposed uses, and construction value;
6. All building (structural) plans (including those for the proposed retaining wall) and construction documents shall be submitted with the Building Permit application to the Building Division and available for code compliance review, prior to the pre-construction meeting;
7. 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 most recently adopted by the State of NH;
8. The proposed building shall be protected by an approved NFPA-13 compliant fire sprinkler system including standpipes as required. (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11) Plans shall be provided to this office for review and approval before a permit can be issued;
9. The proposed building shall be protected by an approved NFPA-72 fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued;
10. The proposed apartment building shall be addressed as # 2 Crosswoods Path Boulevard as it does not have access directly from Daniel Webster Highway.

11. Crosswalk connection to existing sidewalk on Crosswoods Path Boulevard shall be installed prior to issuance of a Certificate of Occupancy.

**7. Merrimack Parcel A, LLC (applicant/owner)** – Review for acceptance and consideration of final approval of a condominium conversion. The parcel is located at 10 Premium Outlets Boulevard in the I-2 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lot 191-02. Case # PB2020-01

Dave Fenstermacher (VHB Inc.) presented the project by explaining to the Board that the current request in front of the Board was to break the site into condo units for maintenance and financing purposes. He walked the Board through the four proposed “units” that have been laid out.

Chairman Best explained that Condo conversion requests are pretty standard and are just lines on paper and do not change anything.

**The Board voted 6-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Bill Boyd.**

There was no public comment.

**The Board voted 6-0-0 on a motion made by Alastair Millns and seconded by Bill Boyd to grant conditional Final Approval, subject to the following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified:**

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, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department, as applicable;
3. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;
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 the following Planning Staff Technical Comments:
  - a. The restaurant and hotel both currently show as “Unit 3”. Per a discussion with Town staff, please revise to indicate the hotel as Unit 3 and the restaurant as Unit 4;
  - b. Revise ownership information for Map 3C, Lot 191-3 to be 17 Outlets, LLC, 29 Wright Acres Road, Bedford, NH 03110;
  - c. Please remove the statement under heading RSA 676:18 III that begins “I certify that this survey plat is not a subdivision...”
  - d. Provide a place for owner’s signature on the plan;

- e. Under Notes section, Note 4, date of signature of site plans shall be included before signing of this condominium plan.

**The following General and Subsequent Conditions of Approval are also imposed:**

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. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways.
  4. The applicant shall address the any forthcoming comments from the Fire Department, as related to building addressing and fire code compliance, as applicable.
- 8. Jonathan Lefebvre (applicant) and Nathan Demers (owner) – Review for acceptance and consideration of a lot line adjustment and 2 lot subdivision. The parcels are located at 26 and 30 Thornton Road West in the R-1 (Residential) and Aquifer Conservation District. Tax Map 2C/068 and 2C/068-03. Case # PB2020-02.**

Jonathan Lefebvre (Meridian Land Services) and Nathan Demers (property owner) explained that the request before the Board is for a lot line adjustment and subdivision resulting in one new lot. Jonathan Lefebvre walked the Board through the conditions of the lot and advised the Board that Variances have been granted by the Zoning Board (ZBA) for frontage relief for all lots. He also discussed the easements that have been proposed for the driveway and well.

Nelson Disco asked for clarification on the frontage Variances that were granted by the ZBA and Jonathan Lefebvre explained that each lot has approximately 169 feet whereas 250 is required. Nelson also pointed out that surveyor stamps and such are missing from the plan. Jonathan Lefebvre responded that they will be added to the final plans. The Board also requested that the easements be called out separately on the final plan and not lumped together as they currently are (under note 10).

**The Board voted 6-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Bill Boyd.**

There was no public comment.

**The Board voted 6-0-0 to determine that waivers are unnecessary per Section 4.07 of the Subdivision Regulations, and grant conditional final approval, on a motion made by Alastair Millns and seconded by Bill Boyd, subject to the following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified:**

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, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department, as applicable;
3. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;
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 the following comments from the Public Works Department:
  - a. The driveways shall remain as presently shown on the plan. Any changes shall require permission from the Public Works Highway Division;
  - b. Applicant shall note on the plan that a right-of-way (ROW) permit shall be required prior to when the building permit is obtained on Map 2C, Lot 068-4.
6. The applicant shall address the following Planning Staff Technical Comments:
  - a. The applicant shall revise the lot layout such that all three proposed lots contain the minimum 100,000 square feet of lot area as required by the Zoning Ordinance in the R-1 (Residential) District (and update the "Lot Synopsis" table accordingly);
  - b. The applicant shall provide contiguous upland square footage amounts for each lot. Should one (or more) of the lots not have 100,000 square feet of contiguous upland, then the applicant shall obtain variance(s) for each impacted lot;
  - c. The applicant shall revise the Planning Board signature block to 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);
  - d. Remove Note 10 regarding Stormwater Management Plan requirements;
  - e. The applicant shall verify that sufficient right-of-way exists for Thornton Road West with the Public Works Department in order to determine if any widening easements or dedication is necessary for future improvements to the public roadway;
  - f. The applicant shall revise Note 6 to indicate the date each variance was granted by the ZBA;
  - g. Revise Note 9 to read "The Subdivision Regulations of the Town of Merrimack are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Board or any variances granted by the Zoning Board of Adjustment and attached hereto" per Section 4.06.1.k.
  - h. Applicant shall separate the wording of Note 10 (regarding easements) into two separate notes.

**The following General and Subsequent Conditions of Approval are also imposed:**

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. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways.
  4. The applicant shall address the any forthcoming comments from the Fire Department, as related to building addressing and fire code compliance, as applicable.
9. **RCL Realty, LLC (applicant/owner)** – Conceptual discussion of amendments to a previously approved subdivision (through lot mergers and lot line adjustments). The parcels are located on Elizabeth Drive and Charles Road in the R-1 and R-2 (Residential) Districts. Tax Map 3A, Lots 010, 011, 012, 013, 014, 025, 026, and 027. Case # PB2020-03.

*At the applicant's request, this item was postponed to January 21, 2020.*

10. **Dorinne Whynott (applicant) and SAD Development (owner)** – Review for acceptance and consideration of a Waiver of Full Site Plan Review for a dog daycare/training/boarding business. The parcel is located at 257 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation District. Tax Map 3D-2, Lot 036. Case #PB2020-04.

**At the applicant's request, the Board voted 6-0-0 to continue this item to January 21, 2020, at 7:00 p.m., on a motion made by Bill Boyd and seconded by Nelson Disco.**

**11. Discussion/possible action regarding other items of concern**

Synergy Self Storage is requesting a six month extension of their conditional site plan approval because they are still waiting for an Alteration of Terrain permit through DES.

**The Board voted 6-0-0 to grant a six month extension to the conditional approval of the Synergy Self-Storage site plan, on a motion made by Bill Boyd and seconded by Nelson Disco.**

Robert Best asked Robert Price to complete a Service Request in his name for the abundance of temporary signs at the Merrimack Village Mall (416 DW Highway).

Nelson Disco mentioned a briefing that he and Councilor Boyd had attended that was given by the MVD's groundwater consulting firm Emery & Garrett, and suggested that the Board contact the speaker (Jamie Emery) to find out if he can make the same presentation to the Planning Board. Chairman Best responded that he would love to see the presentation and suggested that they hold a joint meeting with the Zoning Board and/or the Conservation Commission. Councilor Boyd agreed that both Boards would find the presentation useful, noting that Emery & Garrett reached out to the Town Manager about scheduling a meeting with the Council. It was questioned if the Planning Board, Zoning Board of Adjustment and Conservation Commission should have their own presentation, or simply attend a Town Council Meeting. The Board directed staff to look into the cost of bringing Emery &

Garrett in to make that presentation and determine the best place for it (whether Council or Planning Board).

**12. Approval of Minutes — November 5, 2019**

**The Board voted 4-0-2 to approve the minutes of November 5, 2019, as submitted, on a motion made by Alastair Millns and seconded by Nelson Disco. Bill Boyd and Nelson Disco abstained.**

**13. Adjourn**

**The Board voted 6-0-0 to adjourn at 9:33 p.m., on a motion made by Bill Boyd and seconded by Nelson Disco.**