



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

603 424-3531

Fax 603 424-1408

www.merrimacknh.gov

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, JUNE 19, 2018

Planning Board members present: Robert Best (arrived 7:10 p.m.), Alastair Millns, Tom Koenig, Neil Anketell, and Alternate Nelson Disco.

Planning Board members absent: Michael Redding, Lynn Christensen, Dan Ricker, and Alternate Vincent Russo.

Staff present: Planning and Zoning Administrator Robert Price and Recording Secretary Zina Jordan.

1. Call to Order

Vice Chair Alastair Millns called the meeting to order at 7:02 p.m. and designated Nelson Disco to sit for Lynn Christensen.

2. Planning & Zoning Administrator's Report

The Board voted 4-0-0 to determine that Devonshire Energy site plan and John Flatley Company subdivision are not of regional impact, on a motion made by Nelson Disco and seconded by Neil Anketell.

3. Merrimack Parcel A, LLC. (applicant) and Merrimack Premium Outlets, LLC. (owner) — Review for consideration of an amendment to the previously approved site plan for Merrimack Premium Outlets to allow for a modification to the site's access driveway (addition of a roundabout to Premium Outlets Boulevard to provide access to the Merrimack Park Place site). The parcel is located at 80 Premium Outlets Boulevard in the I-2 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lot 191-01. **This item is continued from the June 5, 2018 Planning Board meeting.**

Mark Verostick, VHB, said that CLD reviewed and made comments about the roundabout design. Plans were modified as a result. To prevent speeding through the roundabout, there would be a sharper angle at the approach from Industrial Drive, a lane separation added to the approaches, a painted gore to direct large trucks, additional striping around the inner circle of the roundabout, signage on the eastbound direction in the grass median of Industrial Drive, (which needs approval from NH Department of Transportation/DOT), and an on-site directional sign pointing drivers to either Park Place or Premium Outlets.

Robert Best arrived at 7:10 p.m. Alastair Millns relinquished the chair; Robert Best assumed the chair.

Mark Verostick said the entrance drive to Park Place would be named Broadway. Fire Marshal John Manuele explained how streets are named.

Mark Verostick said the existing Outlet sign would be moved. There would be a cobblestone truck apron inside the roundabout. Pavement markings would define the outer lanes. The inside circle would be landscaped. It would consist of predominantly of lawn along with trees and shrubs. There would be no additional changes to the original landscaping. Nelson Disco suggested showing the landscaping on the plan, as it does not show on the current roundabout plan. Mark Verostick explained that was an accidental oversight, as the proposed landscaping was shown on the roundabout plan approved as part of the Park Place project. He will ensure it carries over to both site plans.

There was no public comment.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within 12 months and prior to plan signing, unless otherwise specified.

The Board voted 5-0-0 to grant final approval with the following conditions, on a motion made by Nelson Disco and seconded by Neil Anketell.

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 amended or new State approvals/permits, 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;
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 forthcoming comments (following final review after conditional approval) from the town's peer review consultant, CLD/Fuss & O'Neill, as applicable;
6. The applicant shall address any forthcoming comments from the Fire Department, as applicable;
7. The applicant shall address any forthcoming comments from the Public Works Department, as applicable;
8. The applicant shall address the following Planning staff technical comments:

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

1. The applicant is responsible for recording the amended plan sheets, as applicable (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 for the redesigned roundabout 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 any Certificates of Occupancy for the Merrimack Park Place project;
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. **Peter Olivier and Sherri Olivier (applicant) and Siam04 Realty (owner)** — Review for acceptance and consideration of a waiver of full site plan review to permit on-site storage of tractor trailers and parking for a business located off-site. The parcel is located at 75 Daniel Webster Highway in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2B, Lot 028.

Chairman Best explained that the applicant requests a continuance because part of the proposal was mistakenly left off the application and no legal notice was sent to abutters regarding that piece.

At the applicant's request, the Board voted 5-0-0 to continue this item to July 17, 2018, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Neil Anketell.

5. **Eric Silva (applicant) and William Silva (owner)** — Review for acceptance and consideration of a waiver of full site plan review to construct a 704 s.f. office space addition. The parcel is located at 444 Daniel Webster Highway in the C-2 (Commercial) and Aquifer Conservation Districts. Tax Map 5D-4, Lot 054-01.

The applicant seeks a waiver to construct a 704 s.f. office space addition to the existing 3,000 s.f. garage known as Silva's Auto.

Eric Silva, 51 Meetinghouse Road, said the business is general auto repair and a car and tire dealership. There are 19 unpaved parking spaces. There is no longer a trailer truck on the property. On any given day, there are 4-5 cars for sale and 10-15 customer & employee cars on site. Including the two owners, there are four employees. The Silvas drive cars that are for sale. Thirty feet in front and back of the bays are paved. There are no floor drains in the building. There are oil spill kits in the storage area.

William Silva, 51 Meetinghouse Road, said they would eventually like to pave the site. Water currently runs off Connell's Shopping Center across the back of the lot to a retention area. There is an easement on the back part of the lot. The Silvas own the driveway to the rear that extends to Woodbury Lane. The proposed office space addition is intended for customer comfort. Used tires (30-100) are piled in the rear and picked up by an outside service every two weeks.

Nelson Disco instructed the applicants that any further changes to the site will require a full site plan review. Chairman Best said the Planning Board is being asked to approve only the office space and nothing else on site, adding he does not know about any other uses on site or their approval status. Robert Price said that a Special Exception was granted in 1998 to expand the existing automotive service & repair facility in order to accommodate an additional tenant and to sell used automobiles on site.

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 3-0-2 to accept the application for review, on a motion made by Alastair Millns and seconded by Tom Koenig. Neil Anketell and Nelson Disco abstained.

There was no public comment.

Chairman Best was concerned about environmental issues and was reluctant to waive full site plan review because the site requires more engineering. A new auto shop would be required to do much more, but this site has been operating as an automotive service & repair shop for a long time and the issue is just office space.

Alastair Millns cited 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 3-0-2 to waive full site plan review, with the condition that the applicants must provide the Planning Board with a full site plan if they propose any further changes to the site, on a motion made by Alastair Millns and seconded by Tom Koenig. Neil Anketell and Nelson Disco abstained.

William Silva said that roof water flows to the back corner of the lot and into the ground without problems. There is no way to control the water from the roof or from Connell's Shopping Center, which is 30'-40' away. Because of a water easement, the applicants cannot build on that part of the property. Neither the Fire nor Building Departments have a problem with water flow. There is enough space for the new addition without impacting the parking area, which is 60' from the building. The front of the addition would be recessed 6' from the front of the existing building; the backs of the two buildings would align.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified.

The Board voted 5-0-0 to grant final approval with the following conditions, on a motion made by Alastair Millns and seconded by Nelson Disco.

1. Final plans to be signed by all property owners;

2. The applicant shall obtain all required State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department;
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 address any forthcoming comments from other Municipal Departments, as applicable;
5. The applicant shall address any conditions made by the Planning Board during the public hearing:
 - a. The Board does not approve or authorize any previous or current use of the site that it is unaware of. This approval only relates to the proposed office expansion;
 - b. Any further changes to the site will require a full site plan review;
6. The applicant shall address the following Planning Staff technical comments:
 - a. Applicant shall add the following notes to the plan:
 - i. The purpose of this plan is to permit a 704 s.f. office addition to the existing building for Silva's Auto;
 - ii. The property is located in the C-2 (General Commercial) and Aquifer Conservation Districts;
 - iii. The property is serviced by public water (MVD) and sewer;
 - iv. Required parking for the proposal is 15 spaces and 19 spaces are proposed;
 - v. All signage will comply with Town regulations and be properly permitted;
 - vi. All improvements shown on the plan (an annotated version of CDD Plan #290B) have already been constructed/completed, with the exception of any improvements deemed unnecessary by the Board as part of this approval.

- 6. Devonshire Energy, LLC. (applicant) and FMR N.H. Realty and FMR Merrimack Realty Trust (owners)** — Review for acceptance and consideration of a waiver of full site plan review to construct an approximately 12 acre solar array field. The parcels are located at One Spartan Way and Two Contra Way in the I-2 (Industrial) and Aquifer Conservation Districts. Tax Map 2C, Lot 113 and Tax Map 3C, Lot 119.

The solar array field, which is designed to provide electricity to the entire Fidelity campus, along with associated site improvements, would be located in the southeasterly corner of the site in order to require the least amount of land clearing.

Brian Daigle, Fidelity Investments, said this is part of a multi-year global Fidelity project to reduce electricity usage. Merrimack would be the first solar array physically on

Fidelity-owned property and first in New England, and would provide 9% of the site's renewable energy.

Dave Fenstermacher, Project Engineer, VHB, said the southeast corner is clear and is the best area for a solar array. The woods and walking trails would remain. This would be a 3.1 megawatt facility on 12 acres with pole-mounted arrays and three transformer pads with 750 s.f. of impervious impact. Native species would be promoted. There would be an overhead line running north along the temporary construction access and would not interfere with Fidelity's main traffic flow. Permanent access to the array field would be via a 16'-wide internal access road. The applicant has discussed an emergency access road proposed to connect to Thornton Road West with the Fire Department. There would be a slight increase in the peak storm water rate that would be mitigated by infiltration and detention basins. NH Department of Environmental Services (DES) is agreeable and will grant a permit. The only maintenance would be mowing once a year; the area would be unmanned and self-sufficient.

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 5-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Nelson Disco.

Brian Daigle said the fixed system would be on racks at a 20° angle to the south. It is a tubular steel system that would be screwed into the granite. Some trees would be removed because there should be no shade when tracking the southern sky. The system consumes energy as quickly as it is used; it does not store energy. The applicant will work with the Fire Department. The array field would be connected with Eversource; it would begin behind the meter on site where Eversource ends. There would be no net metering. Eversource is doing an electrical impact study, which is a significant hurdle. Each array would be 3' off the ground at the lowest edge and 8' at the highest edge with multiple rows that do not show over the tree tops and would not affect the neighbors.

Paul Del Mar, Amarescu, said it would have a hard glass-like exterior with very little glare impact.

Dave Fenstermacher said the Merrimack Conservation Commission (MCC) recommended changing the construction schedule to avoid nesting season and training employees to identify species at risk. No fertilizers would be used. The DOT permit would include the recommendation that only native species would be planted. The applicant will work with Fish and Wildlife on a construction plan.

Brian Daigle said that he discussed an emergency access road proposed to connect to Thornton Road West with the Fire Department, who would have a key. Dave Fenstermacher added that gravel could be laid on the construction road or turnaround. Brian Daigle stated that there would be no plowing, but he is willing to do so or have a fire watch for someone working there.

Since this is the first solar array field in Merrimack, Fire Marshal John Manuele is trying to learn what other fire departments do. Solar panels always produce electricity. Brush fires are the concern. Brian Daigle said that he could take the panels off line with a switch on a power pole and that Eversource could do so remotely.

Power poles would connect with Eversource 150'-200' from the F.E. Everett Turnpike. There is an existing berm that shields them from view from the Turnpike, plus the elevation where the panels will sit is lower than that of the Turnpike. Paul Del Mar said the poles would be 30' high. He will try to avoid blasting, which is an MCC concern because of the aquifer.

Dave Fenstermacher said the only new road would be a gravel road to the gate and access to the interconnection. Brian Daigle added that the solar array would be surrounded by a 7'-high chain link fence to which the Fire Department would have a key. He explained why the solar arrays could not be placed on the roofs of the existing buildings. Paul Del Mar said the distance between the rows would be 12'-20' and provided the solar array measurements.

Brian Daigle said that grass with a pollinator mix would grow under the solar array and would be watered by the drip between the modules. He is discussing what to put below the rows with DES. Grass would be mowed only when necessary, once a season. Native compost and mulch would be used.

Brian Daigle explained that, since snow would melt quickly from the surface, there is no need to clear the solar array. Paul Del Mar described the inverters; there would be no tubes. Inverters and racks have a 20-year warranty. A company in Lawrence, MA has spare parts and provides quick service. Annual preventive maintenance means that it would be rare to go to the site to fix anything. There are no moving parts and nothing can leach into the ground.

Paul Del Mar said the stands are made of aluminum. They have no paint or coating and will not corrode. There would be no noise, only a buzz from the inverters that can be heard only when one is very close.

There was no public comment.

Alastair Millns cited 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 5-0-0 to waive full site plan review, on a motion made by Alastair Millns and seconded by Nelson Disco.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

The Board voted 5-0-0 to grant conditional final approval, on a motion made by Alastair Millns and seconded by Neil Anketell.

1. Final plans to be signed by all property owners;

2. 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;
3. The applicant shall, as applicable, obtain any required State approvals/permits, note the approvals/permits on the final plans and provide copies to the Community Development Department;
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. It is unclear from the plans if any work is being proposed within the Town Right of Way of Thornton Road West. Any changes to the existing driveways will require a Right of Way permit from the Merrimack Highway Department and/or the State of New Hampshire DOT prior to any work being done within the respective Rights of Way.
 - b. Due to the width and configuration of the Town road there shall not be any large construction equipment utilizing this road. Thornton Road West will only be used as an emergency access and not for general access to and from the parcel. The entrance shall be gated.
6. The applicant shall address any forthcoming comments from the Building Department, as applicable;
7. The applicant shall address any forthcoming comments from the Fire Department, as applicable;
8. The applicant shall address any forthcoming comments from the Police Department, as applicable;
9. The applicant shall address any forthcoming comments from the Conservation Commission, as applicable;
10. The applicant shall address any conditions made by the Planning Board during the public hearing:
 - a. Any future consideration for on-site energy storage shall require Planning Board approval;
11. The applicant shall address the following Planning Staff technical comments:
 - a. The Applicant shall add the following note to the plan: "This project is subject to the requirements of the Town of Merrimack Stormwater Management Standards (Chapter 167 of the Merrimack Town Code). A pre-construction meeting with the Community Development Department and Public Works Department shall take place at least two weeks prior to commencement of earth disturbance";

- b. Sheet 1, Utilities Note 1: Revise “Fairpoint Communications” to read “Consolidated Communications.”

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

1. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
2. The applicant shall address any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions);
3. The applicant shall address any comments from the Fire Department, as related to building fire code compliance, property addressing, etc., as applicable (that are not deemed precedent conditions).

7. John Flatley Company (applicant) and John J. Flatley (owner) — Review for acceptance and consideration of final approval for a two lot subdivision. The parcel is located at 645 Daniel Webster Highway in the I-1 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 6E-3, Lot 001.

Robert Best recused himself from discussing and voting on this item. Vice Chair Alastair Millns assumed the chair.

Michael Ploof, Land Surveyor, Fieldstone Land Consultants, PLLC, said the 73.6-acre parcel is part of the Mixed Use CUP granted on September 1, 2015. The new lot 6E-3-7 would consist of 31.28 acres with 355' of frontage along D.W. Highway. Proposed industrial lot 6E-3-1 would consist of 42.36 acres with 1207' of frontage along D.W. Highway. A site plan is required for future retail development on this lot, which is part of the aforementioned CUP. Five apartment buildings and a clubhouse were approved in December 2015. NH DOT approved the driveway entrance. Allen Road shall not be used as an access or egress point for the subdivision. The access shall be gated and shall not be used except for emergency situations.

The applicant understands that the fifth residential building cannot be erected until the CUP retail use is complete. The two-lot subdivision for phase 1 of the multi-family portion of the mixed use development is for financing purposes.

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 4-0-0 to accept the application for review, on a motion made by Nelson Disco and seconded by Neil Anketell.

There was no public comment.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified.

The Board voted 4-0-0 to grant final approval with the following conditions, on a motion made by Nelson Disco and seconded by Neil Anketell.

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;
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 any forthcoming comments from the Assessing Department, as applicable;
6. The applicant shall address any forthcoming comments from the Building Department, as applicable;
7. The applicant shall address any forthcoming comments from the Police Department, as applicable;
8. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable;
9. The applicant shall address any forthcoming comments from the Fire Department, as applicable;
10. The applicant shall address the following comments from the Department of Public Works:
 - a. That section of Daniel Webster Highway is under the State of New Hampshire Department of Transportation Jurisdiction and Review. Driveway entrances have not been shown on this plan set; permits shall be obtained from NHDOT.
 - b. If an emergency access is to be proposed to Allen Road, a Right of Way permit will be needed from the Merrimack Highway Department. This shall not be used as an access or egress point for the subdivision. The access shall be gated and shall not be used except for emergency situations.
11. The applicant shall address any forthcoming comments from Merrimack Village District (MVD) as applicable;
12. The applicant shall address the following Planning Staff Technical Comments:
 - a. Revise the Planning Board signature block, replacing "Secretary" with "Vice Chair" per the Board's current structure (the position of Secretary was renamed Vice Chair in June 2017);

13. Development of these lots is subject to the previously-granted Mixed Use Conditional Use Permit.

Staff also recommends 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;

8. Discussion/possible action regarding other items of concern

Vice Chair Alastair Millns relinquished the chair; Robert Best resumed the chair.

Robert Price distributed a proposed site plan for the Synergy Self Storage site. The applicant is seeking basic feedback from the Planning Board as to whether the plan satisfies the Board's requests made at their last meeting/shows the information they wanted it to show.

Chairman Best suggested pavement striping in addition to installing "no parking" signs in back in order to keep cars off the road to be used by the Fire Department. Drainage must be engineered and peer reviewed.

Robert Price did not know the status of the drainage issue with the neighbor, which Alastair Millns wanted to be part of the discussion. It is not necessary to show the telephone pole because it would no longer be on an emergency access road; the road would now be used only to store vehicles. Chairman Best wanted it on the plan anyway.

Robert Best, Alastair Millns and Tom Koenig reported on the June 11, 2018, Nashua Regional Planning Commission (NRPC) forum for planning board members. Various size towns have various issues. Representatives discussed their issues and how they operate. Their impression is that, compared to other towns, Merrimack has good regulations, peer review, staff, and support from Town departments. Topics discussed were solar panels; change of use; accessory dwelling units (ADU); the connection between housing, transportation and jobs; master plans; grant funding; mixed use; and sidewalks and their maintenance. All attendees supported development in their town. Chairman Best encouraged Planning Board members to attend future fora.

9. Approval of Minutes — June 5, 2018

The minutes of June 5, 2018, were approved as submitted, by a vote of 4-0-1, on a motion made by Nelson Disco and seconded by Alastair Millns. Tom Koenig abstained.

10. Adjourn

The meeting was adjourned at 9:23 p.m., by a vote of 5-0-0, on a motion made by Tom Koenig and seconded by Alastair Millns.