



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, JUNE 21, 2016

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Lynn Christensen, Desirea Falt, and Alternates Nelson Disco and Jeff Sebring.

Planning Board members absent: Michael Redding and Vincent Russo.

Staff present: Planning and Zoning Administrator Jillian Harris 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 Jeff Sebring to sit for Michael Redding and Vincent Russo, respectively.

2. Planning & Zoning Administrator's Report

Regional Impact Determination: 427 DW Highway seeks to create a third residential unit above the garage currently under construction. David Labrecque and Lionel Greenwood seek a change of use to allow for a seasonal landscape business.

The Board voted 7-0-0 to determine that 427 DW Highway, LLC and David Labrecque and Lionel Greenwood site plans are not of regional impact, on a motion made by Alastair Millns and seconded by Nelson Disco.

3. Annual Meeting — Election of Officers and Review of By-Laws

By-Laws: The Board voted 7-0-0 to approve proposed By-Law amendments IV.ii - Officers and their Duties and V.A - Members and their Duties, on a motion made by Alastair Millns and seconded by Nelson Disco.

The Board voted 5-0-2 to elect Robert Best as Chair and Alastair Millns as Vice Chair, on a motion made by Lynn Christensen and seconded by Jeff Sebring. Robert Best and Alastair Millns abstained.

4. Jesse M. Johnson, P.E. of Bohler Engineering for Woodspring Hotel Property Management (applicant) and 4 Executive Park Drive Realty LLC. (owner) — Continued review for consideration of Final Approval for a subdivision of one lot into two lots. The parcel is located at 4 Executive Park Drive in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 4D, Lot 076.

5. Jesse M. Johnson, P.E. of Bohler Engineering for Woodspring Hotel Property Management (applicant) and 4 Executive Park Drive Realty LLC. (owner) — Continued review for acceptance and consideration of Final Approval for full site plan review for an extended stay hotel. The parcel is located at 4 Executive Park Drive in the

C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 4D, Lot 076.
This agenda item is continued from the June 7, 2016 meeting.

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 discussed both site & subdivision applications simultaneously] Jillian Harris informed the Board that Legal Counsel's opinion is that the property owner could revoke the prior site plan approval. If the applicant is unwilling to do so, a condition should be attached to subdivision approval that addresses the prior use and requires Planning Board approval prior to any re-use. If the existing and prospective property owners agree that the old hotel use cannot resume, that should be added as a condition as well.

Attorney Greg Michael, Bernstein Shur, addressed concerns the Planning Board expressed at its June 7, 2016, meeting. He stated that the site plan was not accepted at that meeting. A 123 room extended stay hotel is proposed at the former Hilton Hotel site. Per legal advice, a new Note 25 states that the owner would not utilize the existing building for a hotel without site plan review. The covenant will be recorded at the Registry of Deeds. A change of use would require Planning Board review as well. The applicant will either rehab or remove the building and put something on the site in the future.

Chairman Best asked how a vacant building with no use complies with zoning when there is no site plan or approved use for it. Attorney Michael said the application is to subdivide a conforming lot. It is a vacant building on a parcel of land. If the application is approved, it cannot be used as a hotel. The land use complies with zoning. Chairman Best disagreed, stating that a building without a use is a Planning Board issue.

Access and ingress/egress easements were discussed at the June meeting. Staff recommends that they be clearly shown and noted on the plan set. Attorney Michael said there would be a temporary construction easement in addition to existing easements. The plan would show them as well as 36 parking spaces to the Allen Mello site. It is their understanding, Allen Mello has no concerns and is supportive of the project. Access easements to benefit D'Angelo's are not on this property; it is on the balance of the Hilton Hotel property. It is a common easement area. Jesse M. Johnson, Bohler Engineering, said that is easement "C". All easements are on the plans with notes. Easement "A" benefits the parent property. He does not know whether it benefits Lot 75 and 76-9, but they are not on this parcel. Chairman Best said Easement "B" is a sewer easement.

Nelson Disco wanted parking access to be defined. Jesse Johnson said there is no defined parking area now. The plan just notes the number of spaces on the property. Although there is no corridor to get to the parking now, the parking will be defined. Attorney Michael added that showing access could be made a condition of approval. He believes there were no parking requirements when the hotel was built. There is an access easement to Lot 76-9. The primary parcel wants to control the right of abutting parcels, which could impact future development of the site. That is why the applicant

kept the fee area. There is continuous adequate frontage. It just happens to create a dual frontage lot. There is a common easement at the main entrance. Jesse Johnson said there is a permanent easement for overall utilities, access, landscaping, and lights for the Woodspring project. There would be a temporary construction easement to the north and around the site and to establish grading. The applicant would have to go outside the property limits to grade, which means cutting up asphalt. When finished, he would replace and restripe the spaces that were dug up in order to get proper grading and to restore the area to its original condition. On average, the grade would be 1'-2' maximum higher than the hotel parking lot.

Attorney Michael said signage would conform to zoning regulations.

Attorney Michael asked for a waiver from the sidewalk requirement for the following reasons: It would be a "sidewalk to nowhere" on the frontage. There is no safety issue. Town Council is loath to approve sidewalks the Town must maintain. There is no comprehensive Town sidewalk plan. The size of the project does not mandate a sidewalk. No sidewalk is proposed for the new section of Executive Park Drive. A sidewalk is expensive and difficult to maintain. Chairman Best countered that people who stay at an extended stay hotel would walk to small stores, Burger King and Cinemagic. A sidewalk is reasonable. He, too, objects to the inconsistency of not installing a sidewalk where Executive Park Drive is being rebuilt. The Common Man sidewalk would connect to one at Woodspring. Alastair Millns noted the pedestrian phase at the Burger King crossroad traffic signal and Chairman Best noted that the Amherst Road/Executive Park intersection is now signalized. Alastair Millns disagreed with Attorney Michael. An extended stay hotel differs from a hotel; people will walk and should have a sidewalk. Nelson Disco agreed. This is a special use. People would live here for a period of time and would want to walk. This is an opportunity to install one piece of sidewalk that could be connected later. Attorney Michael showed where a sidewalk could be installed. Jesse Johnson asked how long a sidewalk the Planning Board wants. Landscaping might have to be changed to ground cover rather than shrubs because of the 1½' drop for 8'. Chairman Best said the landscaping is up to the developer. He wants a sidewalk from one end of the lot to the other.

Attorney Michael said McMahon Associates did a further review and found that there would be 65-74 movements at peak hours, which is not much traffic. There would be no significant impact at the intersections or on the roadways.

CLD comments refer to the previous Marriott Hotel plan rather than this one. The applicant addressed and will comply with their comments. Jilllan Harris said there were no major CLD comments.

The drainage is an improvement. The Merrimack Conservation Commission (MCC) was impressed with the drainage. The applicant will do more than what is necessary.

Attorney Michael stated there would be no outdoor recreation area.

Jesse Johnson said the Fire Department misunderstood the plan when it said it would be congested. They did not realize there would be a second egress and no parking at

the 50'-wide front access. Their concerns were addressed. Attorney Michael said there is no restriction on fire trucks getting to the back of the old hotel during construction.

Chairman Best said there is no easement to support the right of guests to drive on the adjacent property. The applicant wants to discontinue the use but not the building. Attorney Michael said there would be a cross easement for access. Jesse Johnson noted that cars already go there. Attorney Michael stated that these would be issues when a site plan for the old hotel comes before the Planning Board but not for this subdivision. Chairman Best said the Planning Board could approve a subdivision if there is a note on the plan or if the applicant revokes the existing site plan for the hotel, as Legal Counsel advises (see above). Jillian Harris said Legal Counsel prefers revocation with a note on the site plan.

Nelson Disco said a subdivision would not violate the zoning, but Chairman Best still said that leaving a vacant building after the subdivision would not comply with the existing site plan. His concern is that the building that would remain empty forever, would create a public hazard and would be inconsistent with the Master Plan and with zoning. Attorney Michael said the applicant could build without subdividing. The note means only that whatever use is proposed for the old hotel must come to the Planning Board. In his opinion, the applicant is entitled to subdivide without regard to the old building. Chairman Best said the old building would be blocked off from the street. No one would want it and it would continue to deteriorate. That is not in the Town's interest. Attorney Michael said the applicant has no use or answers for that lot or the old building; that is the owner's issue. This plan does not change that. Chairman Best's concern was that the plan would make the Planning Board create a derelict building on a non-conforming lot. Attorney Michael countered that the Board would create two conforming lots. Any other use must conform to zoning or get a waiver from the Zoning Board of Adjustment (ZBA) because the building would no longer be a hotel. Alastair Millns said the Board could make a condition of approval that the old building be maintained according to zoning regulations. That might force the owner to knock it down. Chairman Best said a second site plan would remove the nonconformity. Attorney Michael refused, saying that the property owner has a right to use his property. The owner cannot do anything with the old building without site plan review and must conform to zoning. He did not want the Board to hold the subdivision hostage. Nelson Disco suggested a condition of approval that the Applicant note the condition from legal counsel regarding discontinuing hotel use if revocation is not agreed to.

This agenda item is continued from the June 7, 2016 meeting. The Board voted 6-1-0 to accept the subdivision application for review, on a motion made by Desirea Falt and seconded by Lynn Christensen. Robert Best voted in the negative. [Staff notes the subdivision application was already accepted for review at the June 7, 2016, meeting.]

There was no public comment.

Staff recommends that the Board vote to grant conditional Final Approval to the subdivision 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 to the subdivision, with the following conditions, on a motion made by Nelson Disco and seconded by Alastair Millns. Robert Best, Tom Koenig and Desirea Falt voted in the negative.

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 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;
4. The applicant shall provide draft copies of any applicable legal documents (including any easements) for review, at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address forthcoming comments from Merrimack Village District, as applicable;
6. The applicant shall address forthcoming comments from the Wastewater Division, as applicable;
7. The applicant shall address the following planning staff technical comments:
 - a. Parking requirements for the parent lot hotel building shall be addressed by the applicant; either by site plan approval revocation under RSA 676:4-a and/or a note added to the subdivision plans (consistent with recommended language by the Town's Legal Counsel) that indicates Planning Board review and approval will be required should the building be restored to its previous use or any new use;
 - b. Applicant to revise Note 3, effective date of most recent FIRM is September 25, 2009;
 - c. Applicant to note condition from legal re: discontinuing hotel use if revocation is not agreed to.
8. Existing and proposed easements shall be clearly shown and noted on the plan set.

General and subsequent conditions

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;

The Board voted 7-0-0 to accept the site plan application for review, on a motion made by Lynn Christensen and seconded by Desirea Falt.

Jesse M. Johnson, Bohler Engineering, sought four waivers from the Subdivision Regulations. Section 4.16.b. - Drainage calculation shall be done to a positive outfall - He does not have all the existing information. There is a lot of off-site runoff from the State and the Town, so he cannot do exact calculations. Section 4.16.c. – Drainage calculations due to additional upstream development – There would be no overload to downstream facilities. Although he cannot fully analyze without all the information, he can state that reducing the rate of runoff would have no impact. Section 4.16.1.b. – Minimum cover over drainage pipe shall be 3' – A 1' waiver is sought to allow 2' to minimize the depth for safety according to the manufacturer's documentation. CLD agrees. Section 7.05.D.15 – Existing and proposed topography of the site at 2' contour intervals - 1' is more accurate.

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 grant waivers from the requirements of Section 4.16.b - Drainage Calculations Positive Outfall, Section 4.16.c – Drainage Calculations Additional Upstream Development, Section 4.16.1.b – Minimum Cover over Drainage Pipe, and Section 7.05.D.15 – Existing and Proposed Topography, of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Jeff Sebring.

The applicant also sought a waiver from Section 7.05.D.19 – Paved pedestrian way or sidewalk along all existing streets for the reasons stated above.

The Board voted 7-0-0 to deny a waiver from the requirements of Section 7.05.D.19 – Pedestrian Way or Sidewalk, of the Subdivision Regulations, on a motion made by Nelson Disco and seconded by Jeff Sebring.

There was no public comment.

Alastair Millns suggested an attorney draw up an easement plan. Attorney Greg Michael, Bernstein Shur, said a metes and bounds description would be on the plan.

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

The Board voted 6-1-0 to grant Final Approval to the site plan, with the following conditions, on a motion made by Alastair Millns and seconded by Desirea Falt. Tom Koenig voted in the negative.

1. Final plans and mylars to provide all professional endorsements and be signed by all property owners;
2. The applicant shall obtain any required State Permits, provide copies of the permits to the Community Development Department, and note the approvals in the notes on the plan (if applicable);

3. All waivers granted (including Section and date granted) and all 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 indicate any proposed easements on the plan, as applicable, including utility and ingress/egress easements. A draft copy of any proposed easements and any applicable legal documents to be submitted to the Community Development Department for review and approval by the town's legal counsel (legal review shall be performed at the applicant's expense);
6. The applicant shall address comments from the town's peer review consultant, CLD, as applicable;
7. The applicant shall address forthcoming comments from Merrimack Village District, as applicable;
8. The applicant shall address the following comments from the Public Works Department:
 - a. A note shall be added indicating any work within the public right of way requires a permit from the Highway Division of Public Works;
 - b. The project proposes a new curb cut onto Executive Park Drive – the curb cut shall be coordinated with the Town's plans for the rehabilitation of Executive Park Drive (scheduled in the CIP for FY17-18). Public Works has contracted with VHB to develop proposed plans for Executive Park Drive and received concept plans from Bohler Engineering to use in the analysis. Final design of the curb cut shall be coordinated with the VHB study;
 - c. The proposed curb cut is split between the proposed and existing parcels – will there be an access easement between the parcels? Will the existing two-way entrance to the north of the proposed one be eliminated?
 - d. This project will require approval of the Wastewater Division of Public Works for connection to the sewer;
 - e. A note referencing the Town's stormwater ordinance shall be on the plan notes;
9. The applicant shall address the following comments from the Conservation Commission:
 - a. The owner shall use a NH Green Snowpro certified contractor for snow maintenance at the site with the hopes of limiting impacts to the environment by proper application of salt or de-icing compounds and sand;
 - b. That only low phosphate, slow release nitrogen fertilizers be used. The Commission further recommends that the applicant's contractor first utilize a soil testing facility to determine what levels and application rates may be necessary before doing any application of fertilizers on the site with the newly created or modified green areas.
10. The applicant shall address the following planning staff technical comments:
 - a. A signature block for Planning Board signatures shall be added to recordable sheets of the final plans;

- b. Applicant to note required ingress/egress easements per Section 7.05.D.20.f and provide final copies of applicable legal documents to the Community Development Department;
 - c. Applicant to substitute recommended plant varieties from Section 10.03.4 where possible within the proposed landscape schedule;
 - d. Applicant to note landscape maintenance responsible party for landscaped areas extending across and beyond parcel lines;
 - e. Applicant to add a note that certifies lighting plan satisfies the requirements of Section 11.05 for parking lot lighting.
 - f. Proposed wall signs indicated on Sheet A2.2, Left and Right side elevations, and on the separately submitted sign design do not appear to comply with sign regulations per Section 17.10.4 of the Zoning Ordinance. The applicant shall revise Sheet A2.2 and the sign design to show compliance with the ordinance or to add a note that all signage will comply with regulations and be properly permitted, or obtain relief from the ZBA.
11. The applicant shall include a paved pedestrian way or sidewalk along all existing streets per Section 7.05.D.19 and Section 4.20. Per Section 4.20.3, an easement of twenty feet shall be provided to the Town should it be necessary to locate and construct pedestrian facilities outside of the right-of-way.

The following general and subsequent conditions are also placed on the Site Plan 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) to the Community Development Department prior to the issuance of a Certificate of Occupancy.
- 3. 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.
 - i. While the current site plan meets the minimum requirements for building access the current design will result in an extremely congested parking area completely surrounding the proposed building. This will hinder the Merrimack Fire Departments ability to access and operate in the area of the proposed building in an emergency situation. A meeting is requested with the developer to discuss access arrangements to this building. The proposal also shows a shared driveway entrance with the existing (closed) hotel

building. This entrance is required to be maintained in all weather conditions at all times.

- b. As this proposal is for new multi-unit hotel building the entire 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.
 - c. The buildings 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.
4. The most recently adopted building, fire safety, and electrical code requirements will be requested with building permit applications.

6. **Gregory E. Michael, Esquire (applicant) for 427 D.W. Highway, LLC. (owner)** — Review for acceptance and consideration of a waiver of full site plan review to construct a third Multi-Family residential unit. The parcel is located at 427 D.W. Highway in the C-2, (General Commercial) and Town Center Overlay Districts. Tax Map 5D-4, Lot 076.

Attorney Gregory Michael, Bernstein Shur, said everything has been built except for paving five spaces. Two of the garage bays are for the funeral home. Six spaces with the easement make a total of 11 parking spaces. The space over the garage is not for the funeral home but for a third dwelling in the upstairs open space. On March 30, 2016, the ZBA granted a variance to permit the creation of the third dwelling unit. This is an example of what the Town wants in the Town Overlay District. The drainage was improved. Chad Branon, Project Manager, Fieldstone Consultants, PLLC, states in his letter of May 17, 2016, that he “does not anticipate any negative impacts resulting from the construction of the additional parking spaces to support the third residential unit”. Tonight the applicant is asking the Planning Board’s permission to create an apartment and to pave five spaces.

Chris Guida, Certified Soil Scientist, Fieldstone Land Consultants, PLLC, said the paving would grade toward the catch basins. There would be no storm water runoff issue. Catch basins are probably not required. The land slopes toward D.W. Highway.

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

There was no public comment.

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 Full Site Plan Review, on a motion made by Alastair Millns and seconded by Lynn Christensen.

The Board voted 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 to be signed by all property owners and signed and sealed by all appropriate professionals;
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) 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 forthcoming comments from the Building Department, as applicable;
6. The applicant shall address any forthcoming comments from the Conservation Commission, as applicable;
7. The applicant shall address any forthcoming comments from the Merrimack Village District, as applicable;
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. Applicant to note the variances granted by the ZBA for this property;
 - b. Applicant to clarify required and available parking spaces on the plan;
 - c. Applicant to note any applicable easements on the plan & HC'D Book & Page information;
 - d. Applicant to note the number of bedrooms per each unit on the exhibit plan;
 - e. Applicant to include existing/proposed utility lines on the property to their connection in the 'OW.
 - f. Applicant to correct ownership of parcel 5D-4/77 from Main Street to P.O. Box 86.
10. The applicant shall address the parking encroachment (and access between the two parcels) from parcel 5D-4/77 with an easement for review by Town's Legal Counsel, as applicable.

The following general and subsequent conditions also apply:

1. The applicant shall address the following comments from the Fire Department, as applicable:
 - a. As this proposal constitutes a change of use from a residential property to a mixed use property the entire building shall be protected by an approved NFPA-13 compliant fire sprinkler system. (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;

- b. The 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;
- c. The new building shall be address as 427 B Daniel Webster Highway with the apartment addressed as 427B Unit 1.

7. David Labrecque (applicant) and Lionel Greenwood (owner) — Review for acceptance and consideration of a full site plan for an application to permit a seasonal wholesale/retail sales and storage of landscaping materials business. The parcel is located at 12 Wright Avenue in the I-1 (Industrial), and Aquifer Conservation Districts, and 100 year Flood Hazard area. Tax Map 4D-2, Lot 001.

Jillian Harris reminded that Board that, at its April 5, 2016, meeting, it felt that full site plan review should be required, primarily due to uncertainty surrounding the site's existing drainage pattern and overall lack of general knowledge about the site, since its development predates the Town's regulations. Since that time, the applicant engaged Keach-Nordstrom Associates, Inc., to prepare the required site plan, which shows a number of improvements, including the addition of some impervious surface, storm water management controls and landscaping.

Patrick Colburn, Project Manager, Keach-Nordstrom Associates, Inc., said the four-acre property has been all compacted gravel surface since the 1970s and has been used to store equipment with a logging operation in back. Acme Pressure Washing is on the front paved area. The applicant would lease a small corner on the southeast to stock and sell landscape materials. There is a series of bins there now. Three proposed improvements are 11 new parking spaces, increased vegetation on the landscape buffer on the south that abuts Wright Avenue and storm water management at the north end. The property is abutted by the NH Plating Superfund Site on two sides, where water settles. The design would move storm water from the newly paved area to swales to a graded and grassed area and into groundwater. Overflow would head west to cross culverts under the access. The peak rate of discharge and impervious surface area would be reduced. Waivers are sought from the requirement to install a sidewalk and to reduce the landscape standards from Buffer Category "D" to Buffer Category "A". Patrick Colburn described the landscape buffer. The MCC has no concerns. It recommends only replacing hay mulch with straw mulch and revising fertilizer specifications. Neither CLD nor Town departments have commented yet. A revised plan would be submitted when they do. The trailer/sales office would be moved inside the building setback. The applicant is the only employee; there is one driver. There would be absorbent pads under a truck when it is washed. Sewer discharge would go to the water treatment facility using plastic totes. Patrick Colburn showed where the bins would be moved on the property lines. There would be no deliveries. Materials would be baled into vehicles. Customers would primarily be landscape contractors. There are three automobile bays inside the building.

Katherine Basso, Project Engineer, Keach-Nordstrom Associates, Inc., said Acme Pressure Washing is the only business in the building. It does washing only and no

repairs. Patrick Colburn said over 30 vehicles could be stored. This is not a change of use, just adding a use in the southeast corner.

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 Lynn Christensen and seconded by Desirea Falt.

The applicant stated that the property is located entirely within the Industrial-1 Zoning District and is bounded on three sides by the same. The abutting property to the south is located in the Residential District and falls into Buffer Category "D". Since the abutting YMCA property is undeveloped and the surrounding properties are of similar use, the extensive Buffer Category "D" would cause unnecessary hardship. The applicant would provide landscaping in keeping with the general character of the surrounding area and seeks to use Buffer Category "A". The site has very minimal landscaped area. Category "A" would significantly improve the existing buffer and effectively screen the concrete stock bays from the roadway.

The applicant stated that the nature of the surrounding community warrants little pedestrian traffic. Since there are no existing sidewalks along Wright Avenue, there is no connectivity with existing pedestrian infrastructure. Construction of a paved pedestrian way or sidewalk would create an unfair and unnecessary hardship.

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.D.19 – Pedestrian Way or Sidewalk and Section 10.01.4 - Landscaping Standards, of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Jeff Sebring.

There was no public comment.

The Board voted 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 provide all professional endorsements and be signed by all property owners;
2. Applicant shall obtain any required State permits, provide copies of the permits to the Community Development Department, and note the approvals in the notes on the plan (if applicable);
3. Any waivers granted (including Section and date granted) or any changes requested by the Board shall be listed and fully described on the final plan, as applicable;
4. Applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
5. Applicant shall address comments from the Town's peer review consultant, CLD, as applicable;

6. Applicant shall address any forthcoming comments from the Building Department, as applicable;
7. Applicant shall address any forthcoming comments from the Conservation Commission, as applicable;
8. Applicant shall address any forthcoming comments from the Fire Department, as applicable;
9. Applicant shall address any forthcoming comments from the Public Works Department, as applicable;
10. Applicant shall address any forthcoming comments from the Wastewater Division, as applicable;
11. The applicant shall address the following staff technical comments:
 - a. Water source should be clarified as Merrimack Village District (Sheet 2, Note 8);
 - b. Applicant to substitute recommended plant varieties from Section 10.03.4 where possible within the proposed landscape schedule;
 - c. Applicant to add "Flood Hazard Conservation District" to Note 4 on Sheets 1 and 2.

The following general and subsequent conditions also apply:

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;

8. Discussion/possible action regarding other items of concern

Nelson Disco suggested that rewritten staff memos be marked "Revision A".

Alastair Millns reported that three companies on Continental Boulevard are using vinyl signs on trucks as advertisements and suggested that an ordinance is needed to stop this use. Lynn Christensen disagreed, characterizing that as "over-regulation".

Nelson Disco announced a public hearing scheduled for June 30, 2016, about accepting a grant to the Town to build a trail from Watson Park to Wildcat Falls and suggested that the Planning Board send a letter of support. Chairman Best said such a letter would be consistent with the Master Plan.

The Planning Board supporting sending a letter of support for the Town to accept a grant to build a trail from Watson Park to Wildcat Falls.

Chairman Best announced that Town Council would vote on June 23, 2016, to extend the terms of himself, Nelson Disco and Alastair Millns.

9. Approval of Minutes — June 7, 2016

Tabled until July 19, 2016.

10. Adjourn

The meeting adjourned at 9:33 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.