



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, JUNE 6, 2017

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding and Alternate Paul McLaughlin.

Planning members absent: Desirea Falt, Lynn Christensen, Vincent Russo and Alternate Nelson Disco.

Staff present: Community Development Director Tim Thompson.

1. Call to Order

Robert Best called the meeting to order at 7:00 p.m. and designated Paul McLaughlin to sit for Vincent Russo.

2. Planning & Zoning Administrator's Report

None.

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

Robert Best stated that staff has prepared a revised document for the Board's consideration which changes both the title of the document and all references within of the term "By-Laws" to "Rules of Procedure". Mr. Thompson stated this update places the document in compliance with Statute, which only references rules of procedure, not by-laws. Tom Koenig noted the Town Charter may make reference to by-laws, and suggested it also be reviewed for similar inconsistencies. Robert Best stated if the Board chooses to approve the proposed changes, then any such vote could be made contingent on there not be any resulting conflict with the Town Charter.

By-Laws: The Board voted 5-0-0 to approve proposed By-Law amendments, with the condition that there are no resulting conflicts with the Town Charter, on a motion made by Alastair Millns and seconded by Paul McLaughlin.

Election of Officers: The Board voted 3-0-2 to elect Robert Best as Chair and Alastair Millns as Vice Chair, on a motion made by Michael Redding and seconded by Tom Koenig. Robert Best and Alastair Millns abstained.

- 4. Hayner/Swanson, Inc. and Student Transportation, Inc. (applicants) and John T. Zyla (owner)** — Continued review for consideration of final approval of a Site Plan for a school bus operations facility. The parcel is located at 534 Daniel Webster Highway and 6 William Street in the C-2 (General Commercial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 6D-1, Lots 001 & 002. **This agenda item is continued from the May 2, 2017 meeting.**

Tim Thompson noted that at the last meeting, there were a number of questions about the traffic impact of the project. The applicant has since met with the Highway Safety Committee, who requested to have input on any proposed changes to bus routing/scheduling as it relates to entering and exiting William Street. The applicant agreed to their request. The Committee noted that they felt routing/scheduling could be manipulated to mitigate any problems that may arise. Additionally, the applicant has submitted revised plans that address the vast majority of comments raised by staff and from peer review.

Tom Zajac, Civil Engineer, Hayner/Swanson, Inc. stated that since the last meeting, the applicant collected additional traffic data which was found to verify the initial report. Additionally at the Board's request, the traffic study for the Flatley project was reviewed and taken into consideration, which was found to have a negligible impact on this project. During the discussion with the Highway Safety Committee, the applicant offered to revise their routes in order to reduce northbound left turns into the site from 13 to 5 during the AM peak time frame.

Tom Zajac reviewed the traffic plan. There would be 320 daily trips, (160 exiting the site and 160 entering). The facility will have 4 peak periods: morning departure (6:00 – 7:00 a.m.), morning arrival (8:00 a.m. – 9:00 a.m.), afternoon departure (1:45 p.m. – 2:45 p.m.) and afternoon arrival (3:15 p.m. – 4:15 p.m.). He explained the traffic study concluded that the peak periods for the bus facility do not coincide with Daniel Webster Highway's peak periods, which are 7:15 – 8:15 a.m. and 5:00 p.m. – 6:00 p.m. Further, he noted that warrants for a traffic signal at the William Street/Daniel Webster Highway intersection or an auxiliary turn lane along Daniel Webster Highway were not met. These findings were supported by the Highway Safety Committee, Public Works Department and CLD, the Town's peer review consultant.

Tom Zajac next addressed stormwater. The plan has been revised to change a detention basin located at the rear of the site to a lined stormwater pond. The plan also now shows an additional catch basin with a hood just behind the fuel island area. These changes came at the request of the NH Department of Environmental Services as part of the Alteration of Terrain permitting process. These changes were made to serve as added protection in the event of a potential spill.

Finally, Tom Zajac discussed the efforts that were made to reduce the functional and visual impact of the site to the closest residential neighbor. These include the addition of an access to the William Street cul-de-sac for bus traffic to prevent headlights from

shining directly at the abutting residence, preservation of existing and newly proposed vegetation, fencing around the fuel island and dumpster pad and improved drainage to eliminate ponding on William Street.

Tom Zajac discussed the June 1, 2017 staff memo. He reminded the Board that the fuel tank and containment system are strictly regulated and must meet applicable NHDES and Federal requirements. Next, he mentioned Section 10.01.1.h of the Nonresidential Site Plan Regulations, which suggests that curbing or wheel stops be provided in all parking areas abutting landscaped strips to prevent accidental damage. He explained that the areas where curbing is not present are intended to sheet flow stormwater toward rain gardens in these locations. For additional protection, two foot shoulder areas are shown separating the edge of pavement from the landscaped areas. He noted there is an area where landscaping is close by to the parking lot, but the nearest planting is five feet away.

Robert Best asked if wheel stops would impact the applicant's drainage plan. Tom Zajac replied that they could potentially lead to localized erosion but overall they would not negatively impact the drainage plan. Tim Thompson noted that the intent of the regulation is to prevent damage to landscaping. Therefore, the Board needs to consider if the design meets that intent, or if additional protection should be required.

Tom Zajac next discussed buffers between unlike zoning districts, noting that a Category B buffer is being provided between the subject property and the abutting residence, which is an improvement over existing conditions. Tim Thompson stated white spruce trees would be a better alternative to the proposed white pine trees. The applicant agreed to replace all proposed white pine trees with white spruce trees.

Tom Zajac noted the existing ground sign is going to remain, adding that the applicant is willing to provide some additional shrubbery in the landscaped area along Daniel Webster Highway. He explained to the Board that the Public Works Department asked them specifically to remove an existing planter bed because it is located within the right-of-way, and two shrubs which interfere with sight distance.

Michael Redding noted that the Conservation Commission's requirement to not use de-icing compounds on site will limit the applicant's ability to melt snow, forcing them to store more. He added not requiring the wheel stops would make that process easier for them to accomplish, adding that the gravel shoulder area will help catch sediment and keep it from getting into the lawn areas.

Alastair Millns asked if the applicant's traffic study looked at the Daniel Webster Highway/Bedford Road intersection. Tim Thompson replied that intersection was studied as part of the Flatley project, but not this project. He noted the Flatley traffic study indicated that this intersection operated at Level of Service C during all times.

Robert Best asked the applicant to elaborate on the proposed changes to the bus routing/scheduling. Michelle Bancroft, Merrimack Manager, Student Transportation of America stated the proposal is to have 8 buses take Hillside Terrace to Wire Road to Catskill Drive to Bedford Road and then turn right onto Daniel Webster Highway to return to the site. Robert Best expressed concern with the proposed use of Catskill Drive as it is primarily a residential neighborhood as opposed to an arterial or collector road. Michelle Bancroft replied they would consider utilizing Lois Lane instead as that is a smaller road meaning fewer residences would be affected. She also explained that the idea is to stagger departure times so the eight buses are not traveling together when making this loop.

Tom Zajac explained that the applicant is requesting several waivers. Regarding Section 7.03.E – Parking, he explained that the original plan showed potential future spaces that could meet the regulation if created. However, peer review comments indicated that these spaces are not accounted for in the drainage design and are located within the proposed rain gardens. As a result, the applicant has removed the potential future spaces from the plan and is asking for an outright waiver instead. He noted 89 spaces are required, and 78 are proposed. He elaborated on this by explaining that the parking calculation calls for 15 spaces based on the size of the space they are occupying whereas they only have four employees. Additionally, he explained that the peak operations time for the bus facility differs from the other existing tenants, which will create shared parking opportunities

Regarding Section 7.05.D.19 – Paved Pedestrian Way/Sidewalk (for William Street only), Tom Zajac noted that the site has almost 800 feet of frontage along William Street, there is only one residence, and there is currently no connectivity to any other existing sidewalk. He explained that the cost to construct a sidewalk in this location given the minimal benefit would be prohibitive.

Regarding 7.05.D.20.C – Driveway Entrance Curbing, Tom Zajac explained that their drainage plan is an open drainage concept. To comply with the regulation would mean introducing curbing to an area where it currently does not exist, likely resulting in concentrated drainage and erosion problems. He reminded the Board that they are proposing a gravel shoulder in lieu of curbing.

Regarding Section 12.04.3.e – Doorways, Tom Zajac explained that neither the existing building nor the proposed building will have a public entrance facing William Street. He added that the applicant does not want to lead the general public toward the maintenance garage located at the back of the site.

Public Comment

Carole Footer, 536 Daniel Webster Highway, stated she feels she is entitled to the quiet enjoyment of her property, which will be affected by 320 bus trips each day outside her front door. She stated the Town installed a catch basin near the end of her driveway which has a pipe that runs to a culvert that diverts runoff to the rear of her property.

This has created a wet part of her lot which she did not have before the catch basin was installed. She requested that this situation be addressed.

Carole Footer next requested the applicant install a 10 foot vinyl fence along her side of William Street from the culvert to the end of her existing fence. Tim Thompson explained that the Planning Board cannot require the applicant to install a fence on an abutting property; however Ms. Footer could work out a separate agreement with the applicant.

Bob L'Heureux, 94 Back River Road asked if the applicant conducted an air quality analysis of the area around the site. No such study was conducted. He added that he feels the Board should require an air quality monitoring station in order to protect both the tenants in the existing commercial building as well as the Footers.

Bob L'Heureux stated the applicant indicated fuel deliveries would be made during normal business hours, and asked what that meant, claiming it is not defined. Alastair Millns noted the plans bear a note indicating dumpster pickup and fuel delivery will occur between 9:00 a.m. and 5:00 p.m.

Bob L'Heureux stated buses contain backup alarms, expressing concern about them going off very early in the morning. It was noted that the buses will be backed into their spaces each time the buses return, meaning they will not be backing up early in the morning.

In response to the air quality concern, Alastair Millns stated fumes are created every day by the various and large amounts of vehicles traveling along Daniel Webster Highway. He added he does not believe there is an adequate rationale to require air control devices on this site while not requiring them in other busy locations, like the intersection of Daniel Webster Highway and Baboosic Lake Road. Bob L'Heureux responded that he feels the Environmental Protection Agency (EPA) should review the proposal.

Tom Koenig noted that a letter was submitted by Steven Miller of 42 Belmont Drive requesting that Daniel Webster Highway be widened to accommodate the proposed facility. He stated he wanted to make sure he understood correctly that the Highway Safety Committee deemed widening to not be necessary. Tim Thompson confirmed, adding that the Town's peer review consultant also did not feel widening was necessary. Robert Best summarized Mr. Miller's letter for the record, a copy of which is on file with the Community Development Department.

Tom Zajac explained the current William Street drainage situation and described the location of the pipes. He noted they had a wetland scientist examine the area and no jurisdictional wetlands were found to be present. He stated the fact that there is no crown in the road creates a localized ponding situation. Portions of the site currently drain toward William Street and the catch basin located at the end of the Footers'

driveway. Following construction, no runoff will leave the site which will result in significantly improved conditions.

Robert Best reiterated that the Board cannot require the applicant to install a fence on Ms. Footer's property, but stressed the importance of the applicant trying to work with Ms. Footer to attempt to be good neighbors and alleviate some of their concerns.

Robert Best asked the applicant to elaborate further about the exhaust created by buses. Greg Stinson, Vice President of Operations for Student Transportation of America stated their current fleet is 100 percent equipped with clean diesel technology. He added that 90 percent of the fleet is 2012 model year buses, which have EGR (exhaust gas recirculation) technology with diesel particulate filters. He stated Student Transportation of America has a strict anti-idling policy, noting that buses will generate reports of instances where buses were idling for more than 5 minutes. Drivers undergo regular fuel-efficient driving training. Lastly, he noted that their fleet is regulated by the EPA.

Robert Best asked about how many buses would be at the Middle School around 7:45 a.m. Michelle Bancroft replied about 18-20 buses. Robert Best asked if those buses are running at that time to which Michelle Bancroft replied no.

Robert Best asked about cleaning of snow off of buses and whether they idle during that process. Michelle Bancroft explained their snow removal system stressing that no buses are left idling during the process.

Robert Best asked what time the first and last buses leave their current facility. Michelle Bancroft replied the first buses leave at about 6:15 a.m. and the last buses leave at about 7:30 a.m.

Tom Zajac stated he feels some of the environmental concerns have been addressed through the retention of a natural wooded buffer between the parking lot and William Street, and fencing that is being provided around the dumpster and fuel island with landscaping in between. He also noted that Ms. Footer has an existing fence on her property. He added considering the site's location between Daniel Webster Highway and the F.E. Everett Turnpike, he does not feel air quality testing and monitoring would be in character. He also stated the applicant's willingness to work with Ms. Footer to address her concerns.

Robert Best stated since the last meeting, he has made a point of looking at the traffic conditions in the area around the site as he drives by each morning, which is between 6:30 a.m. and 8:30 a.m. He stated he routinely saw large gaps in traffic where he did not feel the buses would have any difficulty either leaving or returning to the site. He stated this exercise gave him a level of comfort that the types of traffic problems he envisioned at the last meeting would not occur.

Alastair Millns stated Board member Nelson Disco spoke with him about performing the same exercise and expressed the same sentiment as Chairman Best. Although Member Disco was not present tonight, he believes he would echo Chairman Best's comments.

Tom Koenig and Alastair Millns entered into a discussion about the approximate length of space needed between vehicles for a bus to be able to make a turn. Tim Thompson stated the anecdotal observations reported by Chairman Best and Member Disco were reinforced by the Town's peer review of the applicant's traffic study which found no fault or errors in the assessment and confirmed the applicant's conclusion that the proposal will work given the offsetting peak times of traffic for the bus company and Daniel Webster Highway.

Michael Redding asked if the Board could make specific reference to the applicant's SPCC (Spill Prevention Control and Countermeasure) Plan. Tim Thompson stated he would not have an issue with adding a condition of approval that the applicant comply with the requirements of the NHDES permitting process, but he noted successfully obtaining state and federal permits are always a part of any conditional approval given by the Planning Board.

Michael Redding asked if the applicant had a plan for securing the fuel island to prevent vandalism or fuel theft. Greg Stinson replied the fuel dispensers themselves will have locks and the pump itself will be on a timer that will cut power to the pump rendering it inoperable.

Alastair Millns requested that the applicant utilize a portable drip tray when fueling to catch any possible spills. Greg Stinson agreed to the request.

Robert Best asked if the applicant could provide the final fuel island and containment design prior to obtaining plan signature. Tom Zajac stated that may not be possible due to length of timing to obtain permits from NHDES. Tim Thompson stated it could be made a condition of approval that the details are provided prior to issuance of a Certificate of Occupancy. Tom Zajac replied that would be acceptable.

Alastair Millns cited the criterion that specific circumstances relative to the site plan indicate that each waiver requested by the applicant will properly carry out the spirit and intent of the regulations

The Board voted 5-0-0 to grant waivers to Sections 7.03.E – Parking, 7.05.D.19 – Paved Pedestrian Way/Sidewalk (for William Street only), 7.05.D.20.C – Driveway Entrance Curbing, and 12.04.3.e - Doorways, on a motion made by Alastair Millns and seconded by Michael Redding.

The Board voted 4-1-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Michael Redding. Paul McLaughlin voted in opposition:

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;
2. The applicant shall obtain all required State approvals/permits, 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);
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, CLD, as applicable;
6. The applicant shall address the following comments from the Police Department, as applicable;
 - a. The Highway Safety Committee shall have input in proposed scheduling changes on an ongoing basis, as needed;
7. The applicant shall address the following comments from the Public Works Department:
 - a. Sheet 1 of 14:
 - i. The minimum Right of Way (ROW) width along William Street should be 50 feet. Presently there is only 40 feet for a majority of the street. See Section 4.12.1 for the provisions for future widening or upgrading of streets. A deeded easement should be granted to the Town of Merrimack;
 - b. Sheet 5 of 14:
 - i. A drainage easement should be provided to the Town of Merrimack for the future maintenance, repair and replacement of the existing 12" CMP;
8. The applicant shall address the following Planning staff technical comments:

- a. Verify that the applicable landscape buffering requirements are met and accordingly shown and labeled on the plan.

The following general and subsequent conditions are also placed on the approval:

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. The applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of a Certificate of Occupancy for the building addition;
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. Copies of any permit conditions/maintenance requirements from NHDES (as part of their permit approval process) for the fueling location shall be provided to the Town prior to the issuance of a certificate of occupancy and kept on file with both the Community Development Department and Building Division;
5. The applicant shall address the following comments from the Wastewater Division:
 - a. The building must not have any floor drains, sump pumps, or roof leaders connected to the Town of Merrimack sewerage system.
6. The applicant shall address the following comments from the Fire Department:
 - a. Due to the change of use of this building from office/retail to mixed use with an automotive repair component as well as a change in area of over 50 percent of floor area, an NFPA 13 compliant fire sprinkler system shall be installed in the entire building. This is required under Section 11 of the Town of Merrimack Building Code.
 - b. This building has an existing fire alarm system. The current system is no longer compliant with the requirements of NFPA 72, and is in poor repair. This system shall be upgraded/repaired as necessary to bring it into compliance.

- c. All illuminated emergency lighting and exit signage shall be repaired or replaced as necessary.

6. Discussion/possible action regarding other items of concern

This item was heard out of order at the discretion of the Chair.

Robert Best explained that the Board received a letter from Bob McCabe, Chair of the Merrimack Agricultural Commission explaining that the Agricultural Commission is going to purchase a lighted sign to attract attention to both the Summer Farmer's Market located at the Vault Storage site and the Winter Farmer's Market located at the O'Leary Center. Tim Thompson explained that the proposal falls under RSA 674:54 as a governmental use of land. Under that statute, the Planning Board has the option of either requiring a public hearing before issuing non-binding recommendations, or they can choose to waive the requirement of a public hearing. The purpose of tonight's discussion is whether or not the Board wishes to hold a public hearing.

Bob McCabe, Chair of the Merrimack Agricultural Commission stated in previous years for the summer market, they have used a banner affixed to the existing Vault Storage sign. The current plan is to purchase a used solar-powered sign board and set it out on the morning of the market on the Vault site, giving drivers something larger to see and read. He noted placement for the winter market has not yet been finalized, but they are debating approaching the Town for permission to place it on the Town Office parking lot.

Robert Best stated one way to attract more customers is to change the hours from a weekday afternoon to a weekend, while sympathizing with the vendors' desire to have weekends free as well. Bob McCabe replied that a lot of vendors try to get space at as many markets as they can, noting that Milford and Nashua each have weekend markets which would create a conflict.

Robert Best expressed concern that the sign being proposed for purchase is very similar to one used to depict a road hazard or some kind of construction activity taking place, noting that it may be confusing or distracting to drivers. Bob McCabe stated a few years ago they borrowed one of the Public Works Department's lighted signs for one day, which seemed to help overall turnout. However they were unable to borrow it a second time since DPW needed it for road projects.

Robert Best asked if the sign could be painted white or some other neutral color. Bob McCabe replied he would consider it if it would make the Board happy.

Tim Thompson stated the only concern with the sign from a regulatory standpoint is that the type of sign being proposed is a changeable sign, but as long as the message remains static as was indicated by Mr. McCabe, or doesn't change more often than once every 20 minutes then there will be no issue.

Robert Best noted it cannot be placed within the right-of-way or the existing sidewalk area. Bob McCabe replied it would most likely be on the edge of pavement or the grass area to the side of the parking lot.

The Board encouraged Mr. McCabe to consider the aesthetics of the sign, perhaps to repaint it or add decoration to it to make it stand out in a more visually pleasing way.

The Board, by a vote of 5-0-0 determined that a non-binding public hearing under RSA 674:54 was not necessary for the proposed signage by the Agricultural Commission on a motion made by Alastair Millns and seconded by Michael Redding.

5. Discussion of 2013 Master Plan Implementation (Mixed Use Zoning Strategies)

Tim Thompson stated the Board's direction to him was to look at a Mixed Use Zone as an overlay district that is concentrated along the Daniel Webster Highway corridor in those areas that are non-residentially zoned and serviced by municipal water and sewer. He provided the Board a map highlighting those qualifying areas to begin discussion, noting that the Anheuser Busch and the Fidelity properties were specifically excluded. The Board discussed and refined the list of properties being considered.

Tim Thompson asked the Board to start thinking about uses they would like to see allowed in a greenfield development (development of vacant land) or a redevelopment situation (re-developing of already built land), and the criteria that should be used in a decision-making process. The Board offered a few ideas which were noted by staff. Tim Thompson added that he would email the Board members not present tonight and ask them to do the same. The Board's ideas will be discussed in more detail at a future meeting, which will possibly lead to a first draft of an ordinance revision by late August or early September.

7. Approval of Minutes – May 16, 2017

The minutes of May 16, 2017, were approved as submitted, by a vote of 5-0-0, on a motion made by Alastair Millns and seconded by Tom Koenig.

8. Adjourn

The meeting was adjourned at 9:15 p.m., by a vote of 5-0-0, on a motion made by Alastair Millns and seconded by Paul McLaughlin.