



Town of Merrimack, New Hampshire

Community Development Department

603 424-3531

6 Baboosic Lake Road

Fax 603 424-1408

Town Hall - Lower level - East Wing

www.merrimacknh.gov

Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, JANUARY 7, 2014

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig (arrived 8:10 p.m.), Michael Redding, Lynn Christensen (arrived 7:35 p.m.), Desirea Falt, Stanley Bonislowski, and Alternate Nelson Disco.

Planning Board member absent: Alternate Matthew Passalacqua.

Community Development staff: Community Development Director Tim Thompson and Recording Secretary Zina Jordan.

1. Call to Order

Chairman Best called the meeting to order at 7:30 p.m.

2. Planning & Zoning Administrator's Report

Tim Thompson reported that Northview Homes & Development/Meridian Land Services/Old Blood Road Properties has requested a Planning Board site walk on either January 18 or January 25, 2014, to assess the impact of the road, slopes, elevation, and trees on the abutting neighbor to the east. Nelson Disco cited a policy that the Board schedule site walks only when there is no snow on the ground. Tim Thompson said that everything was flagged before the snow. Community Development will confirm that the flags are still visible. The Board preferred January 25, 2014.

Lynn Christensen arrived at 7:35 p.m.

3. Discussion of Capital Improvement Program for Town of Merrimack & School Administrative Unit #26. (From postponed 12/17/13 meeting) *The Town's portion of this item is continued to the January 28, 2014 meeting.*

Matt Shevenell, Business Administrator, and Tom Tousseau, Facilities Director, presented the 2014-2015 School Administrative Unit #26 CIP.

Fuel costs Conversion from fuel oil to natural gas will pay for itself in less than 3.9 years. All schools will then have gas except for Reeds Ferry, which has no gas lines. The 25-year-old oil burners are due for replacement. Natural gas costs 62% less than fuel oil and 46% less than propane. The distributor has submitted a letter stating that it can provide gas as promised. The 1977 high school chiller/cooling system must be replaced. No parts are available. Efficiency will improve. Matt Shevenell explained why air conditioning could not be installed.

Roof The high school roof where the chiller is housed has leaks, blisters and cracking and will be replaced.

Asbestos Removal The 10-year project will be completed in 2017-2018. One school/20,000 square feet is done each year. In 2014-2015, the Mastricola Upper Elementary School will be done. Michael Redding asked about PCBs in caulking. Tom Tousseau has not studied it, but he uses green chemical cleaners with low VOCs.

Technology Infrastructure The 10-year-old computers and 5-6-year-old servers are at the end of their life expectancy and will be replaced. WiFi will be installed. The vendor will take away the older computers at a nominal cost, so that expense is not included in the plan.

Tom Koenig arrived at 8:10 p.m.

Chairman Best, citing an accident in which a car hit a crossing guard, asked whether the traffic pattern at the Mastricola complex would change. Matt Shevenell will ask Keach-Nordstrom to do an engineering study to improve it.

Alastair Millns asked why new SAU offices, which the School Department previously listed as “Urgent”, are being postponed in favor of the items above, which were listed as “Necessary”. Matt Shevenell noted that it was the Planning Board that rated the offices as “Urgent”, but the items listed above are more so because of health and safety issues.

Matt Shevenell proposed a demographic study about enrollments on which to base CIP projections.

Nelson Disco suggested looking at the “Safe Routes to School” study about pedestrian access. Matt Shevenell stated that he was a member of that committee. Alastair Millns said the biggest problem is parents who pay no attention to drop-off rules, especially at the Upper Elementary and Middle Schools.

The Board voted 7-0-0 to rank all School Administrative Unit #26 CIP items, including new SAU Office, as “Necessary”, on a motion made by Alastair Millns and seconded by Lynn Christensen.

4. Adoption of 2013 Merrimack Master Plan. (From postponed 12/17/13 meeting)

This item was discussed after agenda item #13.

- 5. Home Health & Hospice Care and Fredrick L. Grubbs (applicants/owners) –** Review for acceptance and consideration of final approval of an application for a Lot Line Adjustment between 210 Naticook Road and 212 Naticook Road. The parcels are located in the R (Residential) and Aquifer Conservation Districts. Tax Map 2B, Lots 324-2-1 & 353. **(From postponed 12/17/13 meeting) *The applicant has requested this item be continued to the January 28, 2014 meeting.***

The Board voted 7-0-0 to continue this item to January 28, 2014, in the Matthew Thornton Meeting Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Lynn Christensen.

- 6. Home Health & Hospice Care (applicant/owner) –** Review for acceptance and consideration of final approval of an application for a site plan proposing to construct a 26- space parking lot with related site improvements. The parcel is located at 210 Naticook Road in the R (Residential) and Aquifer Conservation Districts. Tax Map 2B, Lot 324-2-1. **(From postponed 12/17/13 meeting) *The applicant has requested this item be continued to the January 28, 2014 meeting.***

The Board voted 7-0-0 to continue this item to January 28, 2014, in the Matthew Thornton Meeting Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Lynn Christensen.

- 7. Nayla Aoude (applicant) and Global Companies, LLC. (owner)** – Pre-Submission Hearing for a proposed site plan for a drive-thru car wash as an accessory use to the existing Mobil-on-the-Run gasoline station and convenience store located at 468 Daniel Webster Highway in the C-2 (General Commercial), Town Center Overlay, Elderly Overlay & Aquifer Conservation Districts. Tax Map 5D-3, Lot 125. **This item is continued from the November 12, 2013 meeting.**

This item was withdrawn by applicant.

- 8. Able Ebenezer Brewing Co. (applicant) and Columbia Circle, LLC. (owner)** – Review for acceptance and consideration of Final Approval an application for a waiver of full site plan review proposing to permit a change of use for a craft brewery in a former wholesale/distribution facility. The parcel is located at 31 Columbia Circle in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 4D-3, Lot 007.

Katherine Basso, Project Engineer, Keach-Nordstrom Associates, Inc., said the property is surrounded by commercial and industrial development. There will be no exterior construction, just re-striping of the parking area. A small portion of the building will be for tasting and on-site purchasing. On-site retail sales of the product will require a Special Exception from the Zoning Board of Adjustment (ZBA). A sidewalk waiver is sought.

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 Stanley Bonislowski.

Carl Soderberg, Able Ebenezer Brewing Company, said the facility would be a 10-barrel/310-gallon craft brewery. There would be a tasting room in the warehouse offering samples of four ounces maximum. Craft beer would be distributed from that location. There will be no bar or entertainment on the premises; it will be solely a manufacturing facility. After tasting, a customer can take product home in a sealed container. Ingredients will come by truck. Waste grains will be donated to a farmer in exchange for wheat. All ingredients are natural. There will be no bottling, only kegs. The neighbors will sense no odors. The applicant is working with the Wastewater Department about drainage. He accepts all staff conditions.

Tim Thompson referred the Board to Condition 6.c. (de-icing plan). Carl Soderberg said it is the landlord who maintains the parking lot. Carl Soderberg will move the sign (Condition 6.e.). The brewery system hours of operation are 24/7; tasting room hours of operation are 10:00 a.m.-9:00 p.m. There will be three employees, but the brewery hopes to double its size (internally) by the end of the year. Floor drains will be added. The applicant will obtain both Federal and State licenses.

There was no public comment.

Staff recommends that the Board grant the waiver of full site plan review.

The Board voted 7-0-0 to waive full site plan review, on a motion made by Alastair Millns and seconded by Desirea Falt.

Katherine Basso's rationale for a sidewalk waiver is that, due to the parcel being bounded on all sides by industrial development, there is no pedestrian traffic in the area and no existing sidewalks throughout Columbia Circle. There is no purpose for a fragmented sidewalk at this location. The proposed operation will not significantly increase the volume of pedestrians.

Desirea Falt 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 waive the requirements of Section 7.05(D)(19) – Pedestrian Ways and Sidewalks – of the Site Plan Regulations - on a motion made by Desirea Falt and seconded by Lynn Christensen.

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

The Board voted 7-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Stanley Bonislowski.

1. Final plans and mylars to provide all professional endorsements and be signed by all property owners;
2. The applicant shall obtain any necessary state permits (NHDES Sewer Discharge, and any others as applicable) and note the approvals in the notes on the plan. Please also address any comments from the Wastewater Division of Public Works, and obtain the necessary local sewer discharge permit;
3. The applicant shall note any waivers granted by the Board on the plan (including Section, and date granted) as applicable;
4. The applicant shall address any forthcoming comments from the Fire Department (including the Building Division) and Conservation Commission as applicable;
5. Applicant shall submit a food processor plan review (application and fee) to ensure compliance with NH and local food safety concerns and a Food Service License (including application and fee) with the Building Division;
6. Address the following planning staff technical comments:

Staff Technical Comments

- a. Revise the legend to accurately indicate what is proposed vs. existing (it appears that this legend is from the original plan in 1988 and that most, if not all of the items are existing on site today);
- b. Clarify note 3, indicating the provider of water service (Merrimack Village District). In addition, please add the following notes to the plan:
 - i. Hours of operation as applicable;
 - ii. Flood Hazard Notes, including NFIP information.

- c. Revise Note 7 to indicate that no sodium or chloride be used for winter maintenance, and that winter maintenance contractors be certified by the UNH “Green Sno Pro” program (or functional equivalent);
 - d. Revise the plan to indicate the proposed building uses (manufacturing and office) and the proposed square footage of these uses (plan currently indicates the former uses);
 - e. The plans indicate an existing freestanding sign, which does not appear to comply with the setback requirements of Section 17 of the Zoning Ordinance. Please note that modifications to the sign’s structure will either require a variance or the sign would need to be relocated such as to comply with the requirements of the ordinance. Please clarify or add appropriate details for any modifications to the freestanding sign and indicate if any other signage is proposed for the project (and verify compliance with the Zoning Ordinance).
- 9. Brett Vaughn (applicant/owner) – Public Hearing for Planning Board recommendations to the Town Council regarding a driveway over a Class VI unimproved right-of-way located on South Grater Road at Wilson Hill Road. Parcel is located in the R-1 (Residential) District. Tax Map 4A, Lot 015.**

Tim Thompson stated that, at its January 9, 2014, meeting, Town Council will consider approval for Brett Vaughn to upgrade 275 linear feet of South Grater Road to provide driveway access to his lot for himself and the Town’s public safety personnel. It is an existing lot of record. Chairman Best noted that the Planning Board has no jurisdiction over this residential site.

Tom Carr, Meridian Land Services, distributed a GIS map. He changed the design after meeting with the Public Works (PWD), Fire and Community Development Departments and agreed to the following goals: 1) maximize the sight distance at the intersection of Wilson Hill and South Grater Roads, 2) design the driveway so as not to preclude upgrading the road, 3) contain runoff, and 4) create a turnaround for a fire truck at the house site. A December 31, 2013, staff memo states that all goals have been met and recommends that the Merrimack Conservation Commission (MCC) have an opportunity to comment. Only one lot will be developed ½ mile from conservation land and the road will not be upgraded to a Class V right-of-way. Therefore there is no need to meet with the MCC. South Grater Road is passable by a large/ car/pick-up truck/SUV.

Tom Koenig agreed, adding that some areas are flooded for large parts of the year. Michael Redding said that hunters and teens routinely use the road to the woods. Alastair Millns stated that someone else wanting to develop the next site and to put a driveway on South Grater Road would also have to appear before the Planning Board. He predicted that there would eventually be a subdivision without a proper road. Both Tim Thompson and Tom Carr stated that there would be no subdivision. Alastair Millns said there would be complaints about someone driving over the driveway and requests that the Town build a good road.

Alastair Millns asked the location of the electric connection, which Tom Carr said would be overhead on South Grater Road. Alastair Millns predicted that each lot would want a pole. All electric cables must be buried. Tom Carr said that, although it is a gravel road, calculations were based on a paved road/worst scenario impervious surface. Chairman Best said an unpaved gravel road is satisfactory rather than paving to Town standards. Tom Carr said one primary goal of the staff meeting was not to encumber the right-of-

way for future development nor to burden Brett Vaughn nor affect entry from South Grater Road to his driveway. Therefore there is no reason to raise the road grade. Chairman Best assumed that no construction would have to be undone to upgrade to a Class V road. Tom Carr could not say definitively. Drainage for runoff might have to be modified. All drainage comes to a retention basin and then to Wilson Hill Road. The existing condition will be improved. The 16'-wide road would have to be 22' or 24' wide if the road were upgraded for future development. Chairman Best asked what would happen if owners of other lots wanted to build. Tim Thompson explained that Brett Vaughn must sign a waiver so that the town has no liability on the public portion of his driveway.

Michael Redding noted a lot of ledge at the intersection and asked about infiltration basin capacity studies. Tom Carr said he used NRCS soil data and Keach-Nordstrom data. He did not dig a test pit. The ledge could be bedrock, which Michael Redding said would affect drainage performance. Tom Carr said he does not know what he will do if it is bedrock and he cannot build. Chairman Best warned against runoff onto the neighbor's property.

Michael Redding said the alignment is an improvement. There were many close calls in the area. He likes the concept, but he is concerned about the exact location of the infiltration basin on a poorly designed road without notification that causes cars to run off. It is a safety issue: cars could go into the infiltration basin. Tom Carr said they would run into trees. The basin is at the lowest position. He will realign the driveway for maximum sight distance. It is the only place to locate a recharge area.

Stanley Bonislowski asked whether the Board should be discussing drainage and engineering. Chairman Best explained that the Board could make recommendations to Town Council. Power poles are not the Board's issue. It is not economical to bury lines for one lot. The only issue before the Board is whether or not to recommend to Town Council. Michael Redding noted that the owners across the street donated land to extend the right-of-way in the future to resolve the curve. Deputy PWD Director/Town Engineer Kyle Fox recognizes that the corner is problematic. Stanley Bonislowski noted that both the Public Works and Fire Departments approved the plan.

Tom Carr said he could dig a test pit by the January 9, 2014, meeting two days hence. Tim Thompson explained that the road is 16' wide per the Fire Department. Tom Carr will build it with typical driveway materials. Nelson Disco suggested putting it on the plan.

Michael Redding noted the impact of the right-of-way on 103 Wilson Hill Road. Tom Carr said he surveyed and verified that the right-of-way is a prescriptive right-of-way that follows the stone wall and has variable widths. He is confident that it is the right-of-way. Michael Redding asked for a permanent reference point. He does not know whether the large impact on the abutter is reasonable. The benefit to the public is minimal.

Stanley Bonislowski stated that the Town will not maintain the road and asked whether the owner would plow the gravel road. Tom Carr said he would. There is a 10% maximum grade. That is why Brett Vaughn signed a document stating that it is the owner's liability. Brett Vaughn has owned the property less than a year. There is no other access.

Public comment

John Eldridge, 101 Wilson Hill Road, is concerned about drainage. Because the flow washes out down Wilson Hill Road every year, he put large rocks at the edge of his driveway. He asked whether the ledge would be blasted for drainage. Tom Carr said Keach-Nordstrom data showed few test pits had refusal and none showed ledge. All are well drained. What appears to be ledge could be rock; it can be deceiving. He will present new test pit data at the January 9, 2014, Town Council meeting. John Eldridge asked whether drainage basin would be able to contain the runoff. Gravel over the ledge will bring the grade above the stone wall and run onto his property. Tom Carr replied that the increase in drainage would be insignificant. The surface must support trucks and safety equipment. There will be no underground utilities. This is just a driveway, not a road. There will be no increase in runoff. John Eldridge said the corner would be an improvement. It must provide more security so vehicles do not go off the road. It is a risky corner. He asked whether the gap in the wall to his property to service the well on South Grater Road would remain. He needs that access. Tom Carr said it would remain.

Michael Redding asked about cutting the grade. Tom Carr repeated that the driveway grade could not exceed 10%. If he has to defer from the regulations, he would have to address it with the PWD and Fire Departments and staff. He cannot be out of compliance. A Certificate of Occupancy (CO) is the control. Chairman Best wanted to follow the plan before a CO and asked how to ensure that the driveway is built according to the engineering design. Tim Thompson said the plan would follow PWD regulations. Town Council must approve only the portion of the driveway that is on the Class VI road; PWD and the Fire Department must approve everything else. Since this is not a subdivision or a site plan, certification on the plan that there will be no runoff onto the neighboring property is not necessary. PWD must sign off on the drainage.

Chairman Best read into the record an e-mail from Beth Bullerwell, 103 Grater Road, about her concerns: the possibility of blasting causing cracks in her foundation or affecting her structures; well and water quality; whether the right-of-way line is correct; moving back the telephone pole from original surveys; the significant grade between her front yard/retaining wall and South Grater Road; access to her land for septic repairs and maintenance; safety at the drop-off. If the drop-off from the retaining wall is too severe and someone falls they could be seriously injured. Loss of vegetation/hemlocks that create privacy from the road. Aesthetics over time. The affect of drainage on tall pines. She requests that all of them be removed if they could land on power lines, houses, or the road. Movement of the road exit onto Wilson Hill; increased drainage/erosion issues; vehicles going off the road; whether a gravel road is safe without changing the grade. There is hardly any visibility to cars coming from that direction at the bottom of her driveway. With high winter snow banks, this will make exiting South Greater Road even worse. The current exit point is a safer location.

Lynn Christensen asked if the road level would be reduced, how it would relate to the ledge, whether there would be blasting, and whether the ledge would be removed. Tom Carr said he would remove it if it were ledge. Michael Redding said lowering the road affects 103 Wilson Hill Road. Lynn Christensen said it would be below the abutter's stone wall and would not affect drainage. Stanley Bonislowski repeated that it is a private entity rather than a site plan. Since PWD must approve it before granting a CO, the rules will be followed. Chairman Best repeated that it is a driveway and not a road. Lynn Christensen asked whether other properties to the north could be developed. Tom

Carr said the large tracts could be developed. The meeting with the Town precludes the design from having an affect on South Grater Road or precluding others from using it.

Lynn Christensen asked about setting precedent and how developing other properties affects this. Chairman Best explained that the lot must have access on a Class V or better road in order to get building permits and Town Council approval. Further development will have the same issues. A subdivision will have to improve South Grater Road. Tim Thompson cited RSA 674:41 Part 1 & C: 1) a local governing body must authorize building permits on a Class VI road, 2) a municipality has no responsibility for maintenance or liability, 3) the owner's waiver of liability must be recorded at the Registry of Deeds. Chairman Best said Town Council could approve and make it a condition that the driveway is built according to this plan. To build a Class V road would be more intrusive to the neighbors. Alastair Millns asked why PWD reviewed the drainage according to driveway standards rather than road standards. Chairman Best said the Town does not want a Class VI road to inadvertently become a Class V road that it must maintain. Michael Redding said this is a reasonable solution. The existing condition meets driveway standards and does not require so much grading or sloping that might impact 103 Grater Road. Tom Carr said he did a 2:1 slope without the retaining wall. If blasting is necessary, he could ask PWD to retain the wall if it is stable and safe. Chairman Best pointed out that Beth Bullerwell wants the opposite. Tom Carr said this is less intrusive than a Class V standard road. It would be wider closer to 103 Grater Road. It is a public right-of-way. There would be a negative affect on Brett Vaughn if he is denied access to his land. Chairman Best said he has the right to access if he wants to build a home. Tom Carr said that, if access is denied, it may be worth building a Class V road that would affect abutters more.

Brett Vaughn, 123 Wilson Hill Road, said he would make every effort to make his neighbors happy. The plan gives maximum improved drainage. He is willing to cut less ledge. Everyone wants to take down the trees. Perhaps the Town could post "danger" signs. There could be a buffer/barrier/guardrail by the pool, so it is not so serious if cars hit it. Chairman Best said digging a test pit by Thursday would show if the drainage will work. Tom Carr said he respects the Keach-Nordstrom data, but will dig a test pit by then.

Chairman Best said a letter from the Planning Board to Town Council could suggest that a test pit would show that the drainage works and recommend a guardrail for cars. Tim Thompson said a concern about a dangerous section of road should go to the Highway Safety Committee. Tom Carr said he would rather a car go off the road into a 4'-5'-deep drainage basin than hit a tree or a guardrail. Brett Vaughn said the right-of-way could be cleared to improve the sight distance at the corner. When Michael Redding stated the PWD has no plan to change the intersection, Brett Vaughn offered to do it. Chairman Best said the proposal should be made to PWD rather than to the Planning Board. He stated that the applicant did not make the situation worse but rather improved it. There is no other way for Brett Vaughn to get to his property. Brett Vaughn added that it is taxed as a buildable lot. It makes no financial sense to build a Class V road to the other lots. If there is ledge, he will use a ramhole rather than blast. The engineering plan ensures that there will be no drainage problem. Chairman Best called it a Catch 22: cutting the roads keeps the barrier and helps 101 Grater Road, but it creates a slope at 103 Grater Road. Brett Vaughn stated that the drainage would never be as bad as it is now and that he will work with his neighbors.

The Board voted 5-1-1, to recommend that Town Council grant the applicant's request for authorization of a building permit for a lot accessed via a Class VI public road, and to support the applicant's proposed use of approximately 275 linear feet of the South Grater Road right-of-way to be utilized as a driveway, with two recommendations, on a motion made by Michael Redding and seconded by Desirea Falt. Alastair Millns voted in the negative; Tom Koenig abstained.

- The design of the driveway to conform substantially to the plans provided by the applicant to the Town, with the understanding that the applicant shall work with abutting property owners, the Public Works Department, and Fire Department to minimize impacts to the abutting properties as much as is practicable; and
- The applicant to provide for review by the Town Staff test pit information in the location of the proposed "infiltration basin 1" to verify the design intent is possible with actual soil conditions.

10. Alana Ferretti (applicant) and Windsup Properties I, LLC. (owner) – Review for acceptance and consideration of Final Approval of an application for a waiver of full site plan review proposing to permit a change of use for a child care center from a professional office. The parcel is located at 22 Greeley Street, Units 6 & 7 in the C-2 (General Commercial), Elderly Overlay and Aquifer Conservation Districts. Tax Map 4D-4/060, Lot 01.

Alana Ferretti, 6 Ingham Road, said the infant and toddler development center would have a maximum number of 30 children. There would be no public kindergarten or childcare. The educational program is for ages six weeks to five years with a focus on six weeks to 24 months. There is a high demand for a social, emotional and cognitive development center in Merrimack. There would be four classrooms, four parking spaces for pick up and drop off near the main entrance, six staff members and 11 parking spaces during peak hours, signs, a chain link fence, and two gates (one in the back and one on the other side) per the Fire Department. Chairman Best suggested making a visual screen rather than a chain link fence so no one can look either in or out.

Alana Ferretti said the other business in the building is a dentist. The solar electric company will move so she can have two consecutive units. Noting more noise than professional offices, Chairman Best asked whether the other tenants know of the plan for a children's center. Alana Ferretti replied that the landlord spoke to all the tenants, who agreed, except perhaps the dentist. Teachers can keep down the noise.

Chairman Best said noise could be a problem. Alana Ferretti said that the dentist is in the next unit on the opposite side. There is no one in the abutting unit. The playground would be on the opposite side of the building from the dentist. David Ferretti said unit is 30' wide. Twice as much area is available as a playground requires. Alana Ferretti said the square footage is based on license regulations, but the dimensions can be flexible. There will be no play structure outside, just an open play area. Tim Thompson said a play area is an expected use. There is no requirement to return to the Planning Board to put in any structures in the future.

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 Alastair Millns and seconded by Stanley Bonislowski.

Stanley Bonislowski asked about traffic during drop-off and pick-up times, which David Ferretti said would be on the corner off the back lot with no access to Greeley Street. The main entry would be in front of the pick-up area. A sidewalk goes to the front door. There are two back doors to the playground. Children would never go to the parking lot or the sidewalk. Children of all ages would go outside. Alana Ferretti agreed to erect a visual screen rather than a chain link fence. Tim Thompson said that would be added to Condition 8 and referred to a second subsequent condition that electrical shall follow current National Electrical Code.

Staff recommends that the Board grant the waiver of full site plan review.

The Board voted 7-0-0 to waive full site plan review, on a motion made by Alastair Millns and seconded by Michael Redding.

Public comment

Dr. Michael Vacca, 301 D.W. Highway, is concerned about the roadway. The entrance to his parking lot is three car lengths from the traffic light. He suggested staggering drop-off times so there would not be a line of cars waiting at the light. Greeley Street drops steeply. In bad weather, cars at the bottom must gain speed to get up the hill. They go off the side of the road, back up and start again. There could be a line of cars sliding backwards down the hill.

Alana Ferretti said hours of operation would be 7:00 a.m.-6:00 p.m. Parents would drop children off from 7:00-9:00 a.m. There would be 2-3 at most at the same time. She will close when Merrimack schools close for bad weather. Tim Thompson added that peak hour traffic for a child center is less than for a professional office.

Dr. Vacca did not want parents to park cars in his lot and walk the children down to the center in order to avoid the hill in bad weather. It would increase his liability. Chairman Best reminded Dr. Vacca that the school would close in bad weather. He informed the applicant to keep down noise and not bother other tenants. David Ferretti said he would work with the landlord about sound-deadening material.

Staff recommends that the Board vote to grant 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 7-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Stanley Bonislowski.

1. Applicant to address any forthcoming comments from the Fire Department, including but not limited to, comments regarding the proposed change-of-use and proposed outdoor play area;
2. Written approval from the State of NH for the child care facility, including the outdoor play area, be submitted to the Community Development Department;
3. Applicant to add note that "Approximately 2,095 s.f. of professional office use is being converted to 2,095 s.f. of childcare;
4. Address comments from the Public Works Department, Wastewater Collection Division including the addition of a note that "all sanitary wipes including 'flushable' wipes be disposed of in the trash and never flushed";
5. Applicant to address any forthcoming comments from the Merrimack Village District;

6. Applicant to change name of plan from “Change-of-Use” to “Change-of-Use From Professional Office to a Childcare Facility at Medallion Center”;
7. Site plan to be revised to include a note detailing the type of fence, fence height and proposed surfaces within the outdoor play area and how children will proceed from the building to the outdoor play area;
8. The play area proposed by the applicant shall be screened through appropriate fencing (solid fence or chain link with privacy slats) and is to be noted on the site plan. The type of surface material(s) proposed for the play area is also to be noted on the plan.

General and Subsequent Conditions

1. Signage regarding childcare pickup/drop off be installed and that said signage be installed prior to issuance of a certificate of occupancy;
2. The units’ electrical shall follow current National Electrical Code, Article 406.14, which states, "In all child care facilities, all non-locking-type 125-volt, 15- and 20-ampere receptacles shall be listed tamper-resistant receptacles."

11. Galleria Stone & Tile (applicant) and Genrose LLC. (owner) – Review for acceptance and consideration of Final Approval of an application for a waiver of full site plan review to permit a change of use to retail sales from automotive sales. The parcel is located at 714 Daniel Webster Highway in the C-2 (General Commercial) District. Tax Map 7E, Lot 027.

Bill Smetherst, 714 D.W. Highway, will build three bathrooms, bring the electricity up to code, and re-insulate. The site will be a showroom. No tile will be cut or installed, just bought and resold. An employee will live in the currently-existing residence.

Stanley Bonislowski suggested moving the space for the handicapped next to the office, but Tim Thompson said that could be done only if it did not change the size of the other spaces. Two spaces are needed to create a van accessible space.

The Board suggested adding Conditions 4 and 5.

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.

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

Staff recommends that the Board grant the waiver of full site plan review.

The Board voted 7-0-0 to waive full site plan review, on a motion made by Alastair Millns and seconded by Lynn Christensen.

There was no public comment.

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

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. Applicant to address any forthcoming comments from the Fire Department;
2. Final plans to be signed by the Applicant and Property Owner;
3. Any waivers granted shall be listed and fully described on the Final Plan;
4. Applicant shall discuss any upgrades necessary for fire safety, health, building, and electrical with the Fire Department;
5. The applicant shall move the Van Accessible parking space closer to the entrance to the facility if feasible without loss of required parking spaces;
6. Address the following planning staff technical comments:

Staff Technical Comments

- a. Applicant to add note that “Approximately 8,314 s.f. of auto service and used auto sales use is being converted to 8,314 s.f. of retail/wholesale of ceramic tile and stone”;
- b. Revise note #3 to state the days in addition to the hours of operation;
- c. Revise note #2 on the plan to state, “Parking Requirement is 1 space per 250 square feet. Required: 34 parking spaces. 34 parking spaces are provided”;
- d. Add a note that any changes to the signage must first obtain a sign permit and follow the regulations set forth in Section 17 of the Zoning Ordinance.

12. KJB Ventures, LLC. (applicant/owner) – Review for acceptance and consideration of Final Approval of an application for site plan review to construct a proposed one-story, multi-tenant 8,060 s.f. professional office (Medical) and retail commercial building. The parcel is located at 4 Dobson Way in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 3D, Lot 003-03. ***The applicant has requested this item be continued to the January 28, 2014 meeting.***

The Board voted 7-0-0 to continue this item to January 28, 2014, in the Matthew Thornton Meeting Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Lynn Christensen.

13. Superdogs Daycare – Review of an amendment to a previously approved site plan to reconsider the sidewalk requirement. The parcel is located at 637 Daniel Webster Highway in the C-1 (Limited Commercial), Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 6E-2, Lot 023.

Chairman Best informed the Board that the applicant needs relief because a November 22, 2013, letter from the NH Department of Transportation (DOT) states that they are opposed to including a sidewalk in the right-of-way and to the Town requiring short segments of unconnected sidewalks in the corridor without a comprehensive sidewalk plan in place. The applicant is seeking a waiver from the sidewalk requirement because of the DOT letter and because designing an onsite paved pedestrian way would result in a drastic redesign of the site in order to accommodate parking, drainage and access. Stanley Bonislowski had anticipated that, at the December 17, 2013, the Planning Board would have discussed DOT’s stance; however the meeting was cancelled due to inclement weather. He would therefore like to postpone making a decision. He noted that other businesses have installed sidewalks in that area. Chairman Best said the

Board should discuss the DOT letter separately from this application and make a Town-wide sidewalk plan. The applicants want to open their business soon.

Judy Threlfall, 637 D.W. Highway, said they began the process in July 2013. The lease at their current facility ends on February 14, 2014. The Threlfalls sold their house and moved into the new facility because they have nowhere else to live. No sidewalk connects to their property. No one knows when Flatley will build. The situation is very upsetting. The Threlfalls keep returning to the Planning Board. CLD review costs a lot of money. The State says not to build a sidewalk, but the Planning Board says the opposite. What are they to do? They have been “put through the wringer”.

Desirea Falt 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 6-1-0 to waive the requirements of Section 7.05(D)(19) – Pedestrian Ways and Sidewalks - of the Site Plan Regulations – on a motion made by Desirea Falt and seconded by Lynn Christensen. Stanley Bonislawski voted in the negative.

Staff recommends that the Board vote to grant 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 6-1-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Lynn Christensen. Stanley Bonislawski voted in the negative.

1. All relevant conditions of approval from the October 16 Decision Letter to be addressed;
2. The applicant shall revise the plans to note the additional waiver granted by the Board, as applicable (including Section and date granted).

4. Adoption of 2013 Merrimack Master Plan. (From postponed 12/17/13 meeting)

The Planning Board formally thanked Nelson Disco, Chair of the Master Plan Committee. Tim Thompson said the Planning Board had accepted the Master Plan in August 2013, subject to minor corrections. Nelson Disco said the Plan was finished before December 25, 2013. To make implementation of the Plan recommendations more feasible, he recommended re-prioritizing Planning Board tasks over a 10-year period and combining other action items. The Board agreed to include Nelson Disco's recommendations in the final Master Plan. In answer to Lynn Christensen, Tim Thompson said the Board could approve the Master Plan now and make amendments later.

The Board voted 7-0-0 formally to adopt the 2013 Merrimack Master Plan, and to amend the Plan per Nelson Disco's January 7, 2014, recommendations, on a motion made by Lynn Christensen and seconded by Alastair Millns.

14. Discussion/possible action regarding the release of the Maintenance Bond for Brieann Drive. (From postponed 12/17/13 meeting)

The Board voted 7-0-0 to release the \$85,490.40 maintenance bond, on a motion made by Alastair Millns and seconded by Desirea Falt.

15. Discussion/possible action regarding other items of concern

Alastair Millns said he was unaware of either the Threlfall's housing situation or the DOT letter. A sidewalk plan would be a 6-12-month project. He had no more knowledge than Stanley Bonislowski did. Stanley Bonislowski said he wanted a two-week delay so the Threlfalls could get an extension to stay in their house. Chairman Best, Alastair Millns and Lynn Christensen agreed that it would not be enough time to solve the problem. Tim Thompson said that section of road falls under DOT jurisdiction. Lynn Christensen stated that the Planning Board decides each case on its merits. Chairman Best said there is almost nothing the Board does creates precedent.

16. Approval of Minutes – December 3, 2013

The minutes of December 3, 2013, were approved, with changes, by a vote of 7-0-0, on a motion made by Stanley Bonislowski and seconded by Alastair Millns.

17. Adjourn

The meeting adjourned at 10:55 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.