



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, DECEMBER 3, 2013

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding, Lynn Christensen, Desirea Falt, and Stanley Bonislowski.

Planning Board members absent: Alternates Nelson Disco and Matthew Passalacqua.

Community Development staff: Planning and Zoning Administrator Nancy Larson and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:33 p.m.

2. Planning & Zoning Administrator's Report

Nancy Larson announced that both the final Master Plan and the School and Town Capital Improvement Program (CIP) would be on the December 17, 2013, agenda.

Chairman Best asked about storing vehicles at Zyla's. No mention of approval was found in Nancy Larson's search of the files. She informed the Board that today the owner submitted requests both for an appeal of an administrative decision and a variance to allow the use.

3. Discussion of Capital Improvement Program for the Town of Merrimack

At the Town Manager's request, this item was postponed to December 17, 2013.

- 4. Nanocomp Technologies, Inc. (applicant) and NIP Owners, LLC (owner) –**
Review for acceptance and consideration of final approval of a site plan application proposing to raise the roof height for a portion (80' x 125') of the existing first floor, parking expansion and other related site improvements. The parcel is located at 57 Daniel Webster Highway in the I-1 (Industrial) & Aquifer Conservation Districts. Tax Map 2E, Lot 006-01.

Nancy Larson said that Nanocomp would expand internally; the footprint will not increase. The only change will be to raise the roof. It is a simple application. Parking areas will be expanded. There are fuel tanks on the north. The existing row of white pines to the south will be removed and replaced with a landscape buffer along the front. A sidewalk waiver is not necessary because a sidewalk runs along the entire length of the frontage. That staff condition can be eliminated.

Attorney Greg Michael, Bernstein Shur, said that the Zoning Board of Adjustment (ZBA) granted a variance to permit expansion of a non-conforming building (roof height expansion) within the required 100' setback on September 25, 2013. The building was conforming when it was erected but it is not now. The roof will match existing elevations. It is being raised to install sophisticated equipment; it will not be used for more space. Parking will be added in the vacant area and a fence and storage area will be added in the gravel section. The new storage area will be fenced with a guardrail. The Merrimack Conservation Commission (MCC) approved the location of the two liquid and overflow storage tanks. These changes will make for better traffic flow in the north and south areas. Nanocomp wants to expand and bring more jobs to Merrimack. The applicant is seeking a waiver to have 230 rather than 233 parking spaces. In the worst case, 200 would be needed. There is plenty of parking. The applicant agrees with staff conditions. Nanocomp is a tenant rather than an owner. The owner agrees to acquire UNH Green Sno-Pro certification (Condition xii). The site changes are not significant.

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 Lynn Christensen.

Stanley Bonislowski said there is too much parking. If 60 people per shift work three shifts daily, they would need only 180 spaces; however three shifts never work simultaneously. 150 spaces would be adequate now; 233 would be required in Phase 3. Chairman Best noted that much of the building is still vacant and future tenant needs are not known. A waiver meets the intent of the regulations. Attorney Michael agreed to phase the parking. Mark Johnston, Senior Landscape Architect, SMRT, Inc., said the plan is based on full occupancy of 104,000 square feet. The 233 parking spaces are required based on full occupancy.

Desirea Falt cited specific circumstances relative to the site plan or conditions of the land in such site plan to 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 7.03(F)(1) - Parking Space Requirements - of the Subdivision Regulations - on condition that parking be phased, on a motion made by Desirea Falt and seconded by Michael Redding.

Alastair Millns noted that traffic signals no longer give access to the property. Attorney Michael explained that when Nashua Corp. left the building, the signals were removed. He will not request the NH Department of Transportation (DOT) to replace them.

There was no public comment.

Attorney Michael said drainage and traffic updates were done. Chairman Best was pleased the building will be re-used.

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. 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) and any related documents at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
3. The applicant shall note any waivers granted by the Board on the plan (including Section, and date granted);
4. The applicant shall obtain any necessary state permits, including driveway permitting from NHDOT for the driveways on DW Highway (as applicable). If driveway permits are deemed not applicable, please provide verification of such from NHDOT District 5;
5. The applicant shall address the following comments from the Public Works Department (PWD):
 1. If the total disturbance of the project exceeds 20,000 square feet, the Town Stormwater Standards need to be incorporated by note into the plan set;
 2. The stormwater treatment plan for the site includes use of catch basin inserts for nutrient/contaminant removal. The inspection and maintenance plan in the Stormwater Report indicates that the inserts will be inspected quarterly - a copy of the completed reports shall be sent to Community Development/PWD quarterly.
6. The applicant shall address the comments of the Lower Merrimack River Local Advisory Committee (LMRLAC) indicated in their e-mail dated November 24, 2013;
7. The applicant shall address the comments of the Merrimack Conservation Commission indicated in their e-mail dated November 19, 2013;
8. The applicant shall address any forthcoming comments from the Fire Department;
9. The applicant shall address forthcoming comments from the Town's third-party review consultant (CLD);
10. Address the following planning staff technical comments:

Technical Comments

1. The applicant shall provide a recordable sheet of the site plan meeting the requirements of the Hillsborough County Registry of Deeds;
2. The typical plan notes are missing from the project plan set, several of which appear to be included in the written narrative in the project file. The applicant shall revise the plans to include all required notes, which should be placed on the sheet to be recorded at the registry. The following are the minimum required notes that must be placed on the recordable site plan:
 - i. Purpose of Plan;

- ii. Plan references;
 - iii. Zoning Requirements including minimum lot size, frontage requirements, setback requirements, lot depth requirements, buffer requirements. In addition, please note what is provided on site for each of these requirements;
 - iv. Parking Requirements, and note what is provided for parking;
 - v. Utilities servicing the site (Water, sewer, electricity, gas, cable, etc);
 - vi. Hours of operation as applicable;
 - vii. Flood Hazard Notes, including NFIP information;
 - viii. Note all waivers requested;
 - ix. Note all variances received including Section # and Case #;
 - x. "This project is subject to the requirements of the Town of Merrimack Stormwater Management Standards (Chapter 412 of the Town's Code of Ordinances)";
 - xi. "A pre-construction meeting with the Community Development Department and Public Works Department shall take place at least two weeks prior to commencement of disturbance in accordance with Chapter 412, Article IV of the Stormwater Management Standards adopted by the Town of Merrimack Town Council on July 21, 2011.";
 - xii. Note indicating that sodium and chloride will not be utilized for de-icing operations, and that winter maintenance to be performed by a Green Sno-Pro certified (or functional equivalent certification) contractor;
 - xiii. "A complete set of plans is on file with the Town of Merrimack Community Development Department." Please also note which sheet is to be recorded at the Registry of Deeds;
 - xiv. "Prior to the issuance of a Certificate of Occupancy, an As-Built Plan stamped by the appropriate professional(s) shall be submitted to the Community Development Department."
3. The project narrative indicates the project is to be constructed in phases; however nothing on the plans indicates any proposed phasing of the construction. Clarify and revise the plans as necessary to indicate any proposed project phasing;
4. It is difficult to differentiate between existing conditions and proposed improvements in the plan set. Staff recommends use of different line weights or other graphic technique to clearly delineate proposed improvements vs. existing conditions;
5. The applicant should verify the proposed wall sign indicated on the building elevation on sheet C-002 complies with the requirements of the Zoning Ordinance;
6. The applicant should clarify the additional building addition shown on the building elevation (to the north side of the building) accurately reflects what is shown in plan view on the same sheet (is this intended to represent the "30x30 Blast Room?);
7. Add lighting details to the plan set (currently contained in the project folder).

General and subsequent condition

1. The applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor) detailing site improvements to

the Community Development Department prior to the issuance of a Certificate of Occupancy.

- 5. Old Blood Properties, LLC. (applicant and co-owner) and Joseph K. and Mary Elkareh (co-owners)** – Pre-submission hearing for an application proposing to consolidate and re-subdivide 10 lots into 72 cluster residential lots and 4 open space lots located at Old Blood Road in the R-1 (Residential) District. Tax Map 5B, Lots 001-01, 002, 003, 003-01, 005, 006, 007, 008, 009 and 231.

Nancy Larson reminded the Planning Board that, on February 7, 2012, it voted to set the yield number (total number of lots allowed in the cluster subdivision) for the proposed cluster residential development at 66 lots. Since then the engineering firm changed and issues with the original layout were found. This concept is different from what the Planning Board saw earlier.

Attorney Greg Michael, Bernstein Shur, said that, on August 25, 2011, the ZBA granted a variance to allow six more cluster lots than would otherwise be permitted in a conventional subdivision in return for the applicant paying the cost to fix the sewer line on Madeline Bennett Road to the school according to state standards. A grid subdivision would yield 66 plus 6 or a total of 72. Issues with the driveway and lot locations were discovered. There will be town water and sewer and a road will connect Madeline Bennett Road with an upgraded portion of Old Blood Road.

Ken Clinton, Meridian Land Services, said access conditions were improved for the ten lots west of Old Blood Road. The 220+ acre property will have 28 acres of open space in the north. Improvements will be made on 2/3 of the property. Northern access will be off Madeline Bennett Road. Southern access will be off Old Blood Road, which is a Class V town road that will be realigned.

An internal stone wall will be a 50'-wide minimum dedication. Residents must maintain a 20' landscape buffer after the road is upgraded. There are drainage easements from the Class VI portion of Old Blood Road to the adjacent Merrymeeting Drive subdivision. There is no proper direct access into the property off the Class VI portion of Old Blood Road. Creating one would cause more slope and drainage issues. Ken Clinton revised the access point into the proposed cluster so there would no impact on Merrymeeting Drive.

Chairman Best asked if realigning the road would correct the drainage issues. Ken Clinton said more separation from Merrymeeting Drive would enable drainage to be handled on the property. To use Old Blood Road would be more difficult and have more impact.

Chairman Best asked about the portion of the realigned road on the school property. Ken Clinton replied that part of the property is in the conservation easement. Because the applicant has the right to realign the right-of-way for development purposes, it is okay to deviate from Old Blood Road. Attorney Michael added that the town has reserved the right to relocate the roadway in that area. Lynn Christensen asked what would happen to Old Blood Road. Attorney Michael stated that it is still a Class VI town road. Only Town Council can discontinue it. It is still a public right-of-way, although the town does not plow or maintain it.

Tom Koenig stated that everyone would have to agree to a conservation easement. Ken Clinton said the loop is an internal road with a portion to the west. He will keep the loop but alter it to fit the natural topography. It will be less costly and have less impact on the road. No road grade waivers are necessary. A better drainage system and better lots with complying driveways will be created. All lots will be placed internally, which is a tremendous improvement. There will still be a stub/right-of-way for future access to the parcel to the west. The roads will become town roads. Sidewalks will be built.

Chairman Best asked about trying to consolidate rather than break up the open space. Ken Clinton responded that there must be open space in the 20-acre middle of the loop system that can be used directly by abutters as an amenity. When Chairman Best said that it would not be contiguous to wildlife and other open space, Ken Clinton noted that open space on then north is wooded and is contiguous to conservation land.

Desirea Falt asked if fences are allowed on the lots. Attorney Michael said that would depend on the covenants. The homeowners must consent. Chairman Best said fences would not allow the outside lots access. Attorney Michael says the applicant does not want fences.

Stanley Bonislowski asked for clarification of “open space”: Is it usable or non-usable? What is the kind of use? Ken Clinton said there is no need to designate the use. It will remain in its natural state. Many walking trails and paths crisscross the property, making it well suited for walking.

Ken Clinton said the reason the plan shows 80 lots is simply as an office exercise to get 30,000 square foot rectangular lots. None will be put on an access road. Lots primarily on steep slopes or wetland will be eliminated and others will be configured better. There will be a maximum of 72 lots, depending on the wetland and drainage.

Ken Clinton will verify whether the ZBA variance is still in effect, since it was not acted upon within two years from the date of approval.

Chairman Best asked about the 100,000 square feet of contiguous upland area. Ken Clinton said 30,000 square feet is not a real number; it was used just to see whether all the lots could be placed without the impacts of the previous plan. Chairman Best said the lots would be 1/3 the size allowed in a regular subdivision. Ken Clinton said some lots might be increased when drainage areas are identified and unsuitable lots are eliminated. Chairman Best asked whether the cul-de-sac on the west going to the property line would create extra lots. Ken Clinton said it makes sense to extend the road to that location for future development. Four open space lots represent 65% of the gross of the 10 parent lots, which is well over the required 50%. He does not know who owns the lot to the west that is available for development.

Public comment

Michael Dudash, 25 Merrymeeting Drive, asked why there would be two access roads and why there must be a connection to Madeline Bennett Road. He showed photos of the hill as seen from the back of his home to Old Blood Road and asked the Planning Board to see the effect on Merrymeeting Drive for themselves. The hill behind Old Blood Road goes 80' straight up. Chairman Best said visiting the site would be more useful

when there is a more developed plan. Ken Clinton will mark the ground where the road is proposed.

Chairman Best asked about the intersection with Wilson Hill Road. Attorney Michael reminded the Planning Board that, when he met with them, the consensus was to connect Old Blood Road to Madeline Bennett Road. Traffic was worked out based on that connection. The traffic report and the final plan are based on the Planning Board's consensus. Chairman Best liked connecting to Madeline Bennett Road rather than using the old portion of Old Blood Road and the intersection with Wilson Hill Road. He noted that there would be construction there for drainage even without a connection.

Desirea Falt said the benefit is getting to the middle school from there. Chairman Best said the abutters are concerned about traffic leaving the school, but doubt that this road would be useful.

Barbara Chase, 23 Merrymeeting Drive, said that for 30 years the neighbors have put substantial money into drainage/water mitigation to prevent flooded basements, which shows that the subdivision notes from that period are not correct. The Class VI road is underwater most of the year. Trees that fell into her yard have never been removed because Public Works Department (PWD) trucks cannot get up the road. Chairman Best asked if discontinuing that section of Old Blood Road would help. Barbara Chase said it would. She does not want a road in front and two behind her house as well as traffic from the school and future development. Chairman Best explained that discontinuing the road is not in the applicant's or the Planning Board's control. When Barbara Chase asked why the applicant is appearing before the Board at this time if the zoning variance is no longer in effect, Chairman Best said it is for a preliminary design review and to get public opinion. Barbara Chase stated that an applicant must show the ZBA that there would be no diminution of surrounding property values when seeking a variance. She said there would be a diminution of surrounding property values with a sizable cluster development. There is no problem with 2½-acre lots as originally zoned. Removing much of the hill and clearing the land will cause drainage problems.

Stanley Bonislowski asked where the water and sewer would be connected. Ken Clinton said it would be along Madeline Bennett Road according to town requirements. He repeated that he would fix the sewer issue on Madeline Bennett Road and bring an extension into the proposed subdivision. Stanley Bonislowski asked how he would repair what belongs to the School Department. Attorney Michael said that the School Department wants this to be accepted; there is no issue. Stanley Bonislowski wanted the water and sewer issue resolved before doing anything else. Chairman Best stated the applicant could go one step at a time and would talk to and make agreements with many entities. If the School Department is unwilling, it may derail the project.

Alastair Millns noted that this is a better design and layout that will enhance the value of the new homes. He strongly supports making Madeline Bennett Road a through/access road. This plan would reduce the load on Old Blood Road for children going to school from this development. It is highly likely that the school would ask for school buses to run through the development once there was sufficient demand. Chairman Best added that, if possible, an access road to Madeline Bennett Road should be even farther west and join the cul-de-sac. Ken Clinton listed several constraints: the school, wetlands and

the slopes. The drainage impact is manageable, but it is the most difficult part of the plan. This location will alleviate many concerns of Merrymeeting Drive residents. The soils are not well drained; they are mostly moderate or poorly drained. Meridian will begin a round of drainage test pits.

Michael Redding wanted more information about the location of bedrock and groundwater. Chairman Best urged working with neighbors.

6. Northview Homes & Development, Inc. (applicant) & David R. Cota & Dorothy E. Cota and Raymond A. Cota (owners) – Review for acceptance and consideration of final approval of an application proposing consolidation and re-subdivision of four residential lots into 13 cluster residential lots. The parcels are located at 14 & 16 Pearson Road within the R (Residential) District and a portion of the parcels are in the Aquifer Conservation and 100-year Flood Hazard Districts. Tax Map 6D, Lots 046, 047, 047-02, 047-03 & 047-04.

Nancy Larson said the plan is similar to the one the Planning Board saw on November 12, 2013. The difference is more drainage detail and how to extend sewer and water to all lots including the three frontage lots. Staff suggests adding technical condition #12 to remove asphalt trespassing onto Lot 047-7 from Lot 047-13 and technical condition #13 for the owners of Lots 047-13 and Lot 146 to agree to allow for the trespassing asphalt to remain (by easement or license) or that it be removed. There is no problem under the current common ownership, but the condition would apply if ownership of those two lots changes in the future. Ken Clinton, Meridian Land Services, agreed, but wanted an agreement on file with the town. He stated that there might be an easement for shared use rather than removing the asphalt. Nancy Larson suggested putting a note on the plan. Chairman Best agreed with Ken Clinton that any future easement must be recorded.

Ken Clinton said the design is the same as on November 12, 2013, except for modifying the drainage and access easement from 10' to 20' wide and clarifying the notes on page 1. Ken Clinton responded to staff suggestions: He agrees to dedicate a triangular wedge of land along the frontage of Lot 046 to provide 25' from the centerline of Pearson Road and to have Town Council accept the additional right-of-way. However he intends to retain it as an easement owned by the Cotas to be consistent with the previous subdivision. Rylee Court will be renamed. He will install 15" rather than 12" diameter pipes directing runoff to the infiltration basins. Limited plantings will act as a visual corridor/buffer 20' wide through which the owners have the right to pass. Easement signs may not be necessary. At the November meeting, the Planning Board said that a future traffic study is not necessary. The applicant submitted a traffic letter with final plan submission. At the same meeting, the Board voted that the applicant has satisfied the sidewalk requirement on Pearson Road. He will put a sidewalk on each side of the two new roads/cul-de-sacs.

On July 31, 2013, the ZBA granted a variance to allow for a 30' on-site buffer along the northwesterly property boundary of Lots 10 and 11. The applicant will make an agreement with abutter David Batt, who requested removal of some of the existing trees along the common boundary with Lot 047-11. He will do so for each lot to the west of the

Batt property and for Lot 10 along Woodhaven Circle. Chairman Best told Ken Clinton to be sure the agreement is permanent. Ken Clinton said that otherwise the 30' landscape buffer along Lot 047-11 would remain as is. Nancy Larson said the agreement should be put on record as part of Planning Board approval. She still wants a landscape/planting plan indicating what vegetation will remain and what will be installed and to address the intent of the buffer while addressing David Batt's concern about lack of sunlight. Chairman Best agreed. Ken Clinton said that the default of no agreement is to leave the buffer as is. There is no transition in the uses; both uses are the same. The lot, house sizes and use are identical, so no buffer is necessary. It is really a 30' setback. Chairman Best said the Board could approve the buffer subject to thinning it. He wants agreements with the neighbor and staff review on record. Ken Clinton agreed.

Ken Clinton submitted rewordings of staff comments. He wanted to eliminate #6 (proposed planting plan) and #7 (easement signs), and agreed to #10, (shift some manholes to the center of Pearson Road southbound lane) if the Wastewater Division approves. Since Pearson Road is a collector road on rolling terrain with no visual impairment, PWD recommends a design speed of 40 mph (#10). However, because of the corners and the school, Ken Clinton suggests that 30 mph is appropriate. He wants to speak to PWD Deputy Director/Town Engineer Kyle Fox about it. He will meet all drainage design conditions. He wanted to eliminate technical comment #3 (add reference plans to Sheet 1) because a cover sheet is meant to be simple with easily read print. He will record the reference plans elsewhere and wants to keep them on sheet 4. He wants to eliminate technical comment #4 (to label Shoreland Protection and Flood Hazard Conservation Districts on Sheet 1). Because the general layout of the property is not detailed, it should stay on the cover sheet. It will be detailed on pp. 3, 4, and 5. Rather than include the right-of-way widths for proposed cul-de-sacs on all appropriate plan sheets (#10), the right-of-way will be a simple easement.

Chairman Best said MCC's recommendations about de-icers and fertilizers that will be included in homeowners' deeds are virtually unenforceable because there is no homeowners' association. Ken Clinton will put it on plan notes.

Michael Redding left from 9:25-9:30 p.m.

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 6-0-1 to accept the application for review, on a motion made by Alastair Millns and seconded by Desirea Falt. Michael Redding abstained.

Stanley Bonislowski wanted the salt restriction placed on the declaration of the homeowners' association. Ken Clinton said driveways would be flat and extremely short. Chairman Best suggested stating that no sodium or chloride be used as de-icers and that slow-release nitrogen but no phosphates be used as fertilizer, as recommended by MCC. He also requested that the signature block be placed on the right side of the plan.

There was no public comment.

Nancy Larson responded to Ken Clinton's suggestions about staff conditions:

(#6): A buffer is required. She wants a review of the planting plan to be sure the remaining buffer to the north satisfies the intent of the regulation and serves as a permanent record to which to refer and satisfies the ZBA's intent. If an abutter wants to remove only a few trees, they can be flagged and a visual determination can be made whether the buffer meets the intent. Her concern is that removing 100 white pines would leave only hardwoods that may not satisfy the intent of a buffer. A plan would address the zoning ordinance and abutter concerns. Chairman Best suggested requiring a buffer subject to reduction and to an agreement with the abutter and administrative approval. A planting plan may be required. Nancy Larson agreed.

(#7): Nancy Larson agreed that it is appropriate to delineate the easements with plantings rather than signs. Plants shall not interfere with the drainage pipe.

(#10) Nancy Larson agreed to PWD approval for the final drainage design. Kyle Fox is concerned with speed/sight distances for the two cul-de-sacs and should be the one to decide design speed vs. posted speed for sight distance.

Nancy Larson agrees to delete technical comments from the cover sheet.

Staff recommends that the Board vote to 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 Lynn Christensen.

1. Final plans and mylars to be signed by all property owners. The Licensed Land Surveyor, Soil Scientist, and Certified Wetland Scientist shall also sign and seal final plans and mylars;
2. The applicant is responsible for recording the plan (including \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) and any related documents, (including homeowners association document and declaration of covenants), at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
3. A draft copy of all proposed easements and any applicable legal documents (including homeowners' association document, covenants, and right-of-way easement dedication) 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). Said documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
4. Unless a variance is granted by the ZBA, plans to be revised to show public water extending to each of the three frontage lots within the cluster (6D/046, 6D/047, and 6D/047-13);
5. In the event that the developer of the subdivision and the owner of 2 Woodhaven Circle, adjacent to proposed Map 6D, Lot 048, reach an agreement to selectively remove trees within the buffer (as discussed during the 12/3/2013 Planning Board

meeting), the Community Development staff reserves the right to require supplemental plantings (and a planting plan noting sizes and species if deemed necessary by staff), within the 30 ft. buffer to satisfy the intent of the perimeter buffer. Alternatively, as a general and subsequent condition, a separate agreement reached between the property owner and the developer shall be described to the satisfaction of Community Development and recorded at the Registry of Deeds. Add a note to a recordable plan sheet to this effect;

6. Plan to be revised to show that both drainage and access easements are to be delineated in the field with landscaping (existing or proposed) to minimize trespassing onto adjacent parcels;
7. All comments from the Merrimack Public Works Department, Wastewater Division (in an e-mail from Ken Conaty dated November 19, 2013), the Merrimack Conservation Commission (contained in an e-mail dated December 2, 2013), and forthcoming comments from the Fire Department and the Merrimack Village District to be satisfactorily addressed;
8. All comments from the Town's peer review consultant, CLD, contained in a letter dated December 4, 2013 to be satisfactorily addressed;
9. The following review comments from Deputy Director of Public Works/Town Engineer Kyle Fox to be satisfactorily addressed:
 - Rylee Court street name should be changed as it is similar to an existing town road (Riley Lane - off of Fox Meadow/Meetinghouse Road);
 - Add the reminder note for the Town Stormwater Regulations;
 - Snow storage areas should be shown on the plan (cluster cul-de-sacs have little room for storage and we typically get complaints from residents when we pile snow on their lawns - having the note on the plan helps us to address the complaints);
 - Per the subdivision regulations, minimum drainage pipe size is 12" - Public Works prefers 15" minimum;
 - IB1 - Contours show bottom of basin at 194, spot elevations list elevation 914 - I assume this is a typo;
 - IB1 - Drainage easement near pipe outlet should be widened on the south side to allow for PW maintenance vehicle to get by to mow the basin; vegetation line should be cut back to limits of easements;
 - As modified during the public hearing by the Board, the final sewer design, including locations of sewer manholes, is to be approved by Wastewater;
 - As modified during the public hearing by the Board, the sight distance calculations are to be approved by the Public Works Department;
 - Add a note to the typical section that underdrain may be required as directed by the Town Engineer (particularly concerned by the full cut section that Barbie Court is in;
 - Street sign detail - the sign is to be extruded aluminum panel;
 - Street sign detail - leave 5" to left of text for application of Town Seal after acceptance of road;

- Drainage Structure Detail: the note references on the section view do not match the appropriate text note numbers;
 - Add to note 9 that the frame shall be 8";
 - Are catch basin gates Notes A and B from another project?
- 10. The road plan and profile sheets to include all streets intersecting with the Pearson Road subdivision frontage in either direction a distance of 300 ft.;
- 11. Drainage certification contained in Section 4.16(c) of the Subdivision Regulations to be added to all appropriate plan sheets and stamped by the Professional Engineer;
- 12. The applicant shall obtain all required State Permits, including a Shoreland Permit, provide copies of all permits to the Community Development Department, and add notations of permit numbers and expiration dates, if applicable, to the final plan;
- 13. Final plan set to include Sheets acceptable to the Registry of Deeds for recording purposes (i.e., without topography, shading, etc.);
- 14. Address the following Planning Staff Technical Comments:

Technical Comments

1. Add the following note to Sheet 1 of 19: "This project is subject to the requirements of the Town of Merrimack Stormwater Management Standards (Chapter 412 of the Town Code). A pre-construction meeting with the Community Development Department and Public Works Department shall take place at least 2 weeks prior to commencement of disturbance in accordance with Article IV of the Stormwater Management Standards.";
2. Expand Note 6(C) on Sheet 1 of 19 to describe the variance(s) granted by the ZBA on July 31, 2013;
3. Amend Note 6(A) to include "exclusive of public rights-of-way" in the reference to 50% of gross area and correct the minimum required open space accordingly;
4. Add "Construction Sequence" to the Sheet Index for Sheet 19 of 19 listed on Sheet 1 of 19;
5. Add the word "buffer" before "easement" for the buffer easement proposed along the northerly property boundary of Map 6D, Lot 047-1;
6. Revise the line graphic in the Legend for "easement line" to reflect how depicted on the subdivision plan;
7. It appears from Detail 2 on Sheet D-1 that the internal sidewalk is proposed as a paved pedestrian way, yet Sheet SP-2 calls out a "sidewalk". Please correct the discrepancy;
8. Include the rights-of-way width for the proposed cul-de-sacs on all appropriate plan sheets;

9. Names of proposed streets to be approved by the Merrimack Fire Department. Any changes to be made to final plan set prior to Planning Board endorsement;
10. Show and label a granite bound to be set at the southeasterly corner of Map 6D, Lot 047;
11. Revise plan to note that existing asphalt trespassing onto Map 6D, Lot 047-7 from Map 6D, Lot 047-13 is to be removed;
12. Add a note to the plan stating that, if Map 6D, Lot 047-13 conveys out from the owner of Lot 046, the property owners to reach an agreement either allowing for the trespassing asphalt to remain (e.g., easement or license) or that the asphalt is to be removed.

7. Northview Homes & Development (applicant) & Stephanie Tomasian Revocable Trust, Stephanie Tomasian, Trustee (owner) – Review for acceptance and consideration of final approval of a minor subdivision of 1 lot into 3 residential lots located at 1 Tomasian Drive in the R-1 (Residential) District. Tax Map 4B, Lot 12.

Ken Clinton, Meridian Land Services, said the parcel sits at the intersection of three roads. On September 25, 2013, the ZBA granted variances to proposed Lot 3: to permit 76,325 square feet of contiguous upland area whereas 100,000 square feet is required and a lot depth of approximately 235' whereas 300' is required.

Technical comment #3 (Fire Department approval of street numbering): the Fire Marshal wrote his agreement to the street numbering. Ken Clinton suggests eliminating this comment.

Fire Marshal Manuele requires hydrants every 500', but he is willing to grant a waiver because Tomasian Drive lacks public water. Ken Clinton agrees; there is a well on every lot. The length of Tomasian Drive means that sprinklers are not necessary.

#4 (road widening for Fire Department access): PWD Director Kyle Fox states that no road upgrades are necessary. Ken Clinton suggests eliminating this comment.

Staff comment #5 (relocate well radii): The town has no regulations concerning well radii, so it defaults to the NH Department of Environmental Services (DES). In order not to have a leach field within the protected radius, well radii can be 10' over the adjacent lot line, halfway into a public road, the full width of the highway, or across the street. The well locations are more than sufficient. Ken Clinton suggests eliminating this comment.

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 Stanley Bonislowski and seconded by Desirea Falt.

Staff comment #6: (dedicated right-of-way): Ken Clinton said the right-of-way is unique because its width is not consistent. Stone walls widen in places. Section 4.12(1) states that it is necessary to widen a road whose width is insufficient or causes traffic hazards.

This is not the case. Ken Clinton suggests eliminating this condition. Chairman Best noted that these gravel roads are town-maintained and not Class VI roads.

Staff technical comment #5 (remove overhead “Private property Dead End” sign): Ken Clinton opined that the platted right-of-way status is questionable. The sign is on abutting lots north of the property and is not part of this application. This is not the venue for resolving this issue. Ken Clinton suggests eliminating this comment.

Staff technical comment #6 (sufficiency of 12” culvert): There will be no additional volume to the drainage at the culvert, although there may be a negligible increase in the rate. Ken Clinton suggests eliminating this comment.

#10 (add septic setback line): Ken Clinton suggests eliminating this comment.

#11 (storm water computations): Storm water review is not applicable in a minor subdivision. Ken Clinton suggests eliminating this comment.

Although he usually prefers not to set monuments until after Certificate of Occupancy (CO) because they can be destroyed during construction, Ken Clinton will do so in this case, but asked when the appropriate time would be. Nancy Larson cited a discrepancy in the regulations that sets monuments at two different phases of approval. Chairman Best agreed to flexibility as long as the monuments are examined at the time of CO.

Public comment

John Lastowka, 183 Amherst Road, said the Tomasian property dips down and drains into wetlands and his fields to Lester Road. Raising Amherst Road trapped the water on the property. His concern is bringing more water onto his property. The 8” drainage pipe on the corner of Lester and Tomasian Roads clogs up all the time. Ken Clinton explained that the swale collects some runoff that clogs the pipe before it continues to the corner. He is not sure how much comes into the 12” pipe. The fields are slightly higher than the corner. Chairman Best noted an 8’ difference on the plan. John Lastowka’s concern is water on his property from Tomasian Drive, its direction, and filling the swale with debris. He suggested a requirement to place utilities underground, which would also allow putting water and hydrants there. He requested that the applicant mark/paint the drill holes on the boundary that abuts the Tomasian property. He is concerned about foundation depths because of the water table. Chairman Best repeated that the town maintains Lester Road and Tomasian Drive. John Lastowka said the clay soil makes Lester Road wiggle, causing cars to slide off the road. He recommended that the town install rip rap to stabilize the trench.

Ken Clinton knows that he is not allowed to make an abutter’s drainage worse. The wetland intercepts the slope toward the Lastowka property and contours direct water to the north and northwest away from rather than east to that property. Code allows an 8” pipe on a driveway culvert. If it is not suitable for a driveway, he will replace it with 12” or 15” pipe to alleviate the clog so water can drain towards the town swale. Foundations will be full depth. Meridian Land Services did not do the boundary survey, so he does not know where the drill holes are. He will request freshening those that are on the common lot line.

Alastair Millns asked about a PSNH pole on the bend of the road. Ken Clinton said the pole is on the proposed right-of-way sideline rather than private property, which is an improvement.

Nancy Larson commented on Ken Clinton's suggestions about the staff and technical comments:

Technical comment #5 (remove overhead "Private property Dead End" sign): It is the Planning Board's decision. A portion of the roadway named as "private property" is really a town road. She does not know the full extent of the issues. She suggested that the comment state that the applicant should work with PWD. The regulations do not address off-site improvements. A three-lot subdivision will not generate enough traffic to warrant them. Anyone can request discontinuance of a right-of-way.

Technical comment #6 (dedicated right-of-way): Nancy Larson prefers to retain this comment, which PWD and the Board consistently request. The Planning Board can require a fee simple dedication or a widening easement. This requirement is not exempt from a minor subdivision. A dedicated right-of-way 25' from the centerline of the road is good practice. Ken Clinton said he could add right-of-way widening easements on those sections on the south and north of their Tomasian Drive frontage.

Technical comment #3 (Fire Department approval of street numbering): Nancy Larson suggested adding the final numbers according the December 3, 2013, Fire Department memo.

#4 (road widening for Fire Department access): Nancy Larson prefers to retain Fire Department review.

#6 (sufficiency of 12" culvert): This refers to building new roads in a subdivision, which is not the case in this minor subdivision. It is an off-site condition/improvement. PWD is concerned that the additional runoff from roads, driveways and roofs will exceed the capacity of the 12" culvert. Ken Clinton should submit a statement verifying that the 12" pipe is sufficient to staff, who will submit it to PWD. Ken Clinton said he would resolve the issue.

#10 (add septic setback line): Nancy Larson agrees that no action is necessary. There is a 20' septic setback requirement. She prefers to show the 20' offset on the plan to demonstrate that the leach fields do not encroach into the setback.

#11 (storm water computations): Nancy Larson agrees to eliminate this condition.

#5 (discontinue the portion of Tomasian Drive north of Lester Road): Chairman Best said the abutters, rather than the applicant, must make the request. Nancy Larson added that Town Council could do so on its own initiative. Chairman Best said it is not the applicant's responsibility. Alastair Millns suggested that PWD make the request and to eliminate the comment.

Staff comment #5 (relocate well radii): Nancy Larson said it is the Planning Board's decision. It is a good idea to relocate the radii, especially when a radius crosses a town right-of-way because it absolves the town of liability from future contamination.

Nancy Larson added two technical comments: #12: To require underground utilities and #11 to specify contiguous upland area for Lots 1 and 2. Ken Clinton said he does not intend to place utilities underground anywhere. Alastair Millns noted that the regulation requires it unless the applicant is exempt. Ken Clinton referred to "Road utility standards/design for new roads". Nancy Larson stated that a minor subdivision is not exempt. Alastair Millns wanted underground utilities no matter what the regulations say. The town should not allow any more poles in this climate. Chairman Best said either the Planning Board must grant a waiver or the applicant can appeal Nancy's administrative decision to the ZBA.

Ken Clinton requested a waiver citing expense as a hardship. One does not know what will be found when digging a trench in a prescribed road. This is only a three-lot subdivision, of which only two lots need an extension. Alastair Millns said the cable need not go under the road, just under the property. Nancy Larson wanted it under the road. Michael Redding said the applicant would have to go under the right-of-way to get to the middle lot. Chairman Best said it could go under Lot 1. Since two lots already have poles, it is too much to require for one lot. Nancy Larson said it would still have to go underground. Ken Clinton said it is substantially different to do it for an individual lot. Stanley Bonislowski said adding one pole is common sense. Chairman Best said conditions of the land (e.g., poles on the north and south lots, the wetland and the unpaved road) are an unnecessary hardship and specific circumstances support a waiver. Lynn Christensen cited specific circumstances relative to the subdivision or conditions of the land in such subdivision indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board voted 6-1-0 to waive the requirements of Section 4.15- Plan Requirements, Underground Utilities - of the Subdivision Regulations - on a motion made by Lynn Christensen and seconded by Michael Redding. Alastair Millns voted in the negative.

The Planning Board did not make a decision concerning technical comment #5 (discontinue the portion of Tomasian Drive north of Lester Road) because it is not in their purview.

Ken Clinton can move the wells, so staff comment #5 (relocate well radii) is not an issue.

Staff recommends that the Board vote to 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 Lynn Christensen.

1. Final plans and mylars to be signed by all property owners. The Licensed Land Surveyor, Soil Scientist, and Certified Wetland Scientist shall also sign and seal final plans and mylars;
2. The applicant is responsible for recording the plan (including \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) and any related documents, including a widening easement for Tomasian Drive, at the

Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;

3. Satisfactorily address any forthcoming comments to be received from the Fire Department and the Department of Public Works (including the Highway Division);
4. Satisfactorily obtain NH DES Subdivision approval and any other applicable state permits, and note permit approval numbers on the plan;
5. Remove all protective well radii from Amherst Road and Tomasian Drive or relocate such that radius is entirely within the lot. Also obtain well radius release for overlap into lot 1 from lot 2, or relocate such that radius is entirely within lot 2;
6. A 25' dedicated right-of-way widening easement from centerline of Tomasian Drive shall be provided along the entire length of frontage for parent lot 4B/012. Plan to be revised accordingly;
7. Address the following planning staff technical comments:

Technical Comments

1. The applicant shall revise the plan title to add "Minor Subdivision Plan";
2. Add "." to "L=47 74' " in the Southwest corner of Lot 1;
3. Add final street address numbers for all three lots as assigned by Captain John Manuele in his letter to the Planning Board dated December 3, 2013;
4. Address whether the Fire Department requires the road to be widened for emergency access vehicles;
5. Verification from an engineer that the 12" culvert is sufficient to handle the additional stormwater runoff from the increase of impervious areas;
6. Add a note indicating driveway locations to be approved by the Department of Public Works, Highway Division;
7. Add a note indicating that a right-of-way permit is to be obtained by the Department of Public Works, Highway Division prior to any work in the right-of-way;
8. Add a note to the plan stating that, should the area of disturbance for the three lots combined be greater than 20,000 s.f, the provisions of the Town Stormwater Standards must be adhered to (Chapter 412 of the Town Code);
9. Add the 4K septic box offset for each lot to the plan;
10. Add Tax Map/Lot numbers to each of the three lots;
11. Specify "contiguous upland area" for proposed Lots 1 & 2;
12. Note and describe waiver granted by the Board from Section 4.15 of the Subdivision Regulations regarding Underground Utilities.

8. Discussion/possible action regarding other items of concern

Alastair Millns noted the change of color scheme at Dunkin' Donuts near Home Depot and a mustard yellow walls on 18 Continental Boulevard. He asked whether the Planning Board has any control over repainting. Nancy Larson explained that, if a site plan is modified or a new building is erected, staff will ask for elevations of all four sides and other details required by the regulations, including colors. Chairman Best said the Board has control over repainting only if it was something it previously approved.

9. Approval of Minutes – November 12, 2013

The minutes of November 12, 2013, were approved as submitted, by a vote of 7-0-0, on a motion made by Lynn Christensen and seconded by Desirea Falt.

10. Adjourn

The meeting adjourned at 11:12 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.