



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APRIL 17, 2012

APPROVED MEETING MINUTES

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, April 17, 2012 at 7:30 p.m. at the Town Hall Meeting Room.

Chairman Robert Best presided:

Members of the Board Present:

Alastair Millns, Secretary
Nelson Disco
Councilor Thomas Koenig
Michael Redding
Dr. John Segedy
Stanley Bonislowski, Alternate

Members of the Board Absent:

Lynn Christensen
Pete Gagnon, Alternate
William W. Boyd, III, Alternate

Also in Attendance:

Jeff Morrisette, Assistant Planner
Timothy Thompson, AICP, Director, Community Development
Dawn MacMillan, Recording Secretary
R. Gordon Leedy, Jr., ASLA, AICP, Vanasse Hangen Brustlin, Inc.
Mark Verostick, Engineer, Vanasse Hangen Brustlin, Inc.
Rich Landry, President, Thurloe Kensington Corporation

1. CALL TO ORDER

Chairman Best appointed alternate member Bonislowski, as a voting member, in the absence of member Christensen.

2. PLANNING & ZONING ADMINISTRATOR'S REPORT

Mr. Thompson stated work has begun on the examination of the parking section of the Subdivision Regulations. Staff has been meeting with the Public Works Department and is hopeful they will be able to present a draft within the next couple of months. That process is being expedited in advance of a more comprehensive look at the regulations currently underway.

He informed the Board that the Town Council has directed the department to examine and apply for Economic Revitalization Zone designation from the State for the Zylas and former Shaws properties. At a recent Town Council meeting, the Economic Development Citizens Advisory Committee (EDCAC) provided a presentation, which culminated in the recommendation to apply for the addition of these two parcels to the roster of ERZs in Merrimack.

Once the meeting minutes are available, applications will be submitted to the State Department of Resources & Economic Development. Within thirty (30) days from that time the Town will receive a decision of whether or not those properties will be added to the roster of Economic Revitalization Zones (ERZ).

Chairman Best questioned what is gained by the designation. Mr. Thompson explained the ERZ program is a state tax program whereby designated properties are able to achieve some tax advantage from their business profits tax if they invest a certain amount into the property and hire a certain number of employees. The intent is to assist in revitalization of underutilized properties that are vacant or otherwise not serving the highest and best use. He noted the town currently has several properties with this designation, e.g., 40 Continental Blvd. and the old Nashua Corp. buildings. The Town has been successful in the past in achieving these designations. He cautioned the Council and Economic Development Committee the town would not desire having too many properties with this designation as you would not want the appearance of having a lot of blighted or underutilized properties.

Mr. Bonislowski questioned whether recent information was available from the Nashua Regional Planning Commission (NRPC) with regard to a recommendation for appropriate number of parking spaces within developments. Mr. Thompson touched upon research he is performing on the subject, and stated a willingness to reach out to that organization.

Chairman Best informed the Board and the public that the next Planning Board meeting would be conducted on May 1, 2012 and the next Master Plan Steering Committee meeting would be conducted on April 24, 2012.

3. Thurloe Kensington Corporation (applicant) & Merrimack Premium Outlets, LLC (owner) -

Review for Acceptance and consideration of final approval of an application proposing construction of a commercial development consisting of three restaurants in a single building (70-seat, 2,514 sf; 70-seat, 2,906 sf; and a 50-seat, 1,765 sf with drive-thru window) and a 4,515 sf bank with drive-thru window in a separate building. The parcel is located in the I-2 (Industrial) and Aquifer Conservation Districts at Premium Outlets Boulevard. **Tax Map 3C, Lot 191-3.**

Gordon Leedy, VHB, noted that the site is located in between Premium Outlets Blvd. and Industrial Drive. It is a 2.7 acre site, which was created as an out parcel from the larger outlet center development. The structures being proposed, under I2 zoning district, are allowed uses within the zone and not part of the Conditional Use Permit previously granted for the Premium Outlets, although development of this property was planned for as part of the overall site development program for the outlet center. As such, traffic, drainage, and utility infrastructure were planned with development of this site in mind.

With regard to the site plan, being proposed are 3 restaurant uses in 1 building: coffee shop with a drive-thru, sandwich shop, and the third, although not currently determined, to be another restaurant use. Total seating proposed is 190, which is consistent with the original concept developed at the time of the outlets (7,500 sq. ft. restaurant with 200 seats). Also proposed is a 4,500 sq. ft. bank with drive-thru.

Mr. Leedy spoke to the creation of a pad for the site as part of the overall development of the outlet center. Referring to a map, he identified the location of an existing wall and detention/filtration basin, which was created as part of the overall drainage system. He informed the Board that in order to minimize ledge removal, the lower end of the site needs to be raised, the driveway has been refined, and there may need to be changes out on Premium Outlets Blvd. to accommodate the refined driveway location. The wall was planned to be extended vertically (approx. 5'); however, tiebacks and design of the wall were done to accommodate future height.

In addition, they are placing a wall along the frontage of Industrial Drive, which is the location of an electrical service easement within which poles that provide the main power feed to the site are located. It is necessary to maintain access to the bottom of those poles.

In terms of circulation, they are providing a divided driveway with 3 lanes; when entering the area there would be the ability to either make a right turn into the restaurant area or continue straight into the bank area of the site. The drive-thru comes around and accesses at the back, comes around the side, and exits. Exiting the site, cars can take a right or a left. They have included an area for stacking to account for instances of high volumes in Premium Outlets Blvd. and the need for a safe place to wait for a break in traffic. With regard to service access, trucks would come in and access a loading area in the rear of the restaurants. He identified the two ways in which service truck traffic can exit the site.

With regard to utilities, Mr. Leedy stated they were by and large stubbed when Premium Outlets Blvd. was constructed, although it will be necessary to install a new gas stub. They are reviewing the sewer location to ensure it will serve the needs.

Drainage comes down Premium Outlets Blvd. and outlets to the pond. The intent is to either connect to the existing outlet or construct a separate outlet pipe depending on the outcome of their discussions with the State regarding water quality treatment; there is an existing water quality inlet on the existing pipe, the applicant is proposing a second inlet to accommodate additional flow, and will be discussing with the State whether it is acceptable to put pre-treated water into the pipe. He noted Mark Verastiqui, Engineer for VHB, has looked at the capacity of the filtration basin, which was sized to accept not only flow from the road but also from the site. It has sufficient capacity for all of the design storms looked at; 2, 10, 25, and 50 year storms. It then outlets down into the existing basin at the corner and flows out toward Fidelity.

In terms of architecture, they are suggesting giving the three restaurants their own identity within the single building. It is a fairly modern architecture and they would utilize forms and materials between the bank and the restaurant building that would complement one another.

Mr. Leedy stated although the project meets most zoning standards, they are requesting 7 Waivers of which four were regarded by staff as necessary and three are more technical in nature in terms of sewer pipe connections, etc that staff feels are not applicable. Although staff does not believe waivers are required, they are using the same kind of design standards on this site as were used in the Premium Outlets project for which peer reviewer CLD Consulting Engineers (CLD) recommended waivers be sought.

Chairman Best noted, before addressing requested waivers, the Board would need to take up the question of accepting the application. He questioned whether Mr. Leedy wished to present any additional information with regard to that question. Mr. Leedy stated he believes the application is complete.

Dr. Segedy questioned whether staff was in agreement that the application is complete. Mr. Morrisette responded staff does agree and recommends the Board accept the project for jurisdiction.

MOTION BY MEMBER SEGEDY TO ACCEPT JURISDICTION

ON THE QUESTION

Mr. Disco spoke to the absence of a lighting plan and architectural renderings from the package he had received. Mr. Leedy responded that both have since been submitted, but were not included in the package. Mr. Morrisette confirmed that the information was received after the packets were mailed to the Board members.

MOTION SECONDED BY MEMBER BONISLAWSKI

MOTION CARRIED

7/0/0

Mr. Leedy stated four (4) salient waivers have been applied for:

Section 7.04(3)(s)(3) – Driveway Width

Mr. Leedy stated the proposed driveway is believed to exceed the maximum driveway width. The purpose is to ensure safe and adequate access to the site. He commented that the regulations could be interpreted to deem the driveway width acceptable; however, he does not interpret them that way. Proposed are two 12' lanes exiting and one 20' lane entering. The requirement is for 40'. He added there is a 3' island, and 40' is reached at the radius. The goal is to provide geometry that gets vehicles on and off of Premium Outlets Blvd. safely and as quickly as possible.

Section 10.01(1)(g) – Irrigation

Mr. Leedy informed the Board in discussions with the Merrimack Village District (MVD) during the Conditional Use Permit application process on the Outlet Center, MVD expressed a desire to keep irrigation to an absolute minimum and in fact was resistant to inclusion of any irrigation at all, particularly within the Wellhead Protection District.

When asked what would be irrigated, Mr. Leedy responded the planting areas could be; however they have specified hardy plant material, which they do not believe would require irrigation. Another area of concern is that the overall site is capped out in terms of water usage; as part of the agreement with MVD there is a limit of approximately 500,000 gallons/day for the overall site, which includes the parcel in question (not withstanding installation of a water main 16" loop).

Section 7.04(4)(r) - Sidewalks

Mr. Leedy remarked, by regulation, sidewalks are required on all arterial roads and collector streets. Their project frontage is on Industrial Drive, a NH Department of Transportation (DOT) road. He noted there exists a significant grade difference between the site and Industrial Drive (approx. 20'). What they have proposed is providing for pedestrian access across the front of the stores, connecting to the bank, over to a section of sidewalk on Premium Outlets that leads out to Premium Outlets Blvd., and a crosswalk to the main sidewalk that goes all along Premium Outlets Blvd. He commented he is aware of the Board's feelings with regard to sidewalks, and requested they consider, even if the applicant were to construct a sidewalk on this portion of Industrial Drive, it would never connect to anything as it would require the widening of the bridge and construction of nearly a mile of sidewalk.

Dr. Segedy remarked, in his view, connection is irrelevant; what is paramount is, in this location, does it provide for safe pedestrian traffic. Mr. Leedy reiterated there would be no sidewalk connection on either end. He added his expectation there would be a thorough conversation of additional sidewalks when the additional out parcel comes in for development as that could connect to something.

Chairman Best spoke to the parking spaces delineated at the bottom of the chart and noted if utilizing those parking spaces patrons would be required to cross through the drive-thru lane to gain access to the stores. He questioned whether there was being proposed a safe way to walk to the front of the building. Mr. Leedy touched on the possibility of placing a sidewalk at the other end of the building; however that would not alleviate the need to cross through the drive-thru area. Chairman Best questioned whether there was intent to stripe the driveway to provide for safer crossing. He noted approximately 27 parking spaces associated with the restaurant located in an area that makes it difficult to gain access to the front of the building. Mr. Leedy stated that could be looked at further.

Mr. Bonislowski questioned the entrances at the back of the building, and was informed they are service entrances and egress. Mr. Leedy commented while there will be people coming and going what is proposed is not dissimilar to any other commercial parking lot where pedestrians walk along a drive-up area. Chairman Best suggested there is the opportunity for preferred routes to be identified/marked.

Rich Landry, applicant from Thurloe Kensington Corporation, pointed out the intent was for most of that area to be utilized for employee parking. He did not believe it would be a regular occurrence that customer spaces in the front of the building would be filled causing patrons to seek parking in the rear of the building.

Mr. Leedy touched upon the different types of restaurant uses and their differing characteristics, e.g., the coffee shop would be busier in the morning hours, the sandwich shop would be busiest in the afternoon, and the third restaurant would likely be busiest in the evening hours.

Mr. Bonislowski stated his belief that handicapped parking was not adequate for this type of facility; two spaces for three stores. Mr. Leedy noted there were three additional spaces in another area one of which could potentially be moved in closer proximity to the restaurants.

Dr. Segedy commented what is being considered is three restaurants, not the particular type of restaurants because that can change at any point in time; therefore, you cannot depend on peak hours being staggered. Chairman Best remarked if part of the request for a parking waiver, the applicant is speaking to the differing peak hours of the particular types of restaurants, it would become one of the underlying criteria for granting the waiver, which would require the applicant to come back before the Board in the event of a change.

Mr. Millns commented it would be very much restaurant dependent; without understanding the particular chains of restaurants that would occupy the space, there is uncertainty as to whether or not they would have differing peak hours, would attract more drive-thru business or patrons would utilize the parking while taking advantage of the restaurants' indoor space. He also touched upon the vast differences between the types of business particular banks attract.

He stated he is very worried about everything that has been discussed as it is dependent upon the nature of the businesses, and without knowledge of the particular types/chains, he is uncomfortable. He stated he is adamantly opposed to the proposed access. He noted he likes the idea, but not the execution.

Section 7.02 Table 1 – Required Number of Parking Spaces

Mr. Leedy stated his reading of the parking regulations would suggest the areas are classified as combination restaurants. Combination take out/eat in requirements result in 1 parking space per 40 sq. ft. and 1 per 2 employees, which is the first option on the parking calculations handout provided. The bank is required to have 5 parking spaces per 1,000 sq. ft. The total requirement is 210 parking spaces. He remarked in his experience that is excessive. He noted typically the industry standard in required parking for restaurants is 1 parking space per 3 seats, and 1 per 2 employees. Banks are typically 4 per 1,000 sq. ft. Those numbers would result in less than half of the existing requirement or 90 spaces.

He noted another option would be to look at the requirement in the regulations for parking at 1 per 140 sq. ft. plus 1 per 2 employees and 5 per 1,000 sq. ft. for the bank. That would yield a lower number (83). Being proposed is 1 per 21-22 sq. ft. depending on how the dumpster and transformer locations work out. He reiterated the requirement for 210 spaces is far and beyond what the actual requirement is. He commented even at 120 spaces he believes it highly unlikely the back corner parking spaces would be used except in extraordinary times.

He stated that he believes the proposal identifies a reasonable number of parking spaces and maximizes parking. He commented if the requirement for parking spaces was less, there would be more green space. He stated his belief that the Board generally recognizes the requirements are not in line with what is typically practiced. He noted the industry is seeing reductions in parking spaces even from the 5 per 1,000 sq. ft. that was typically provided for retail uses, depending on the configuration of the site and the range of uses.

Dr. Segedy commented Mr. Leedy spoke to additional parking requirements reducing the amount of green space, but the same could be said for the number of restaurants proposed. Mr. Leedy responded should the Board not approve a waiver the simple fact is they would have less development on the site.

Dr. Segedy requested a more detailed explanation of the configuration of the entrance to the development. Mr. Leedy explained the existing island would be cut back to relocate a light fixture back about 12-14', the island would be extended out, and a crosswalk provided.

Mr. Bonislowski stated a concern with traffic going around through the drive-thru of the coffee shop and through the bank drive through, and the possibility of traffic coming straight into the site, as there is one focal point for all traffic to merge. He questioned whether that situation was safe. Mr. Leedy responded they believe it to be a safe situation. He spoke to traffic volumes and the belief there would not be a constant flow of traffic. He noted signage would be installed to direct traffic. He remarked the site is fairly narrow; they are dealing with that reality, and trying to provide an area of stacking to prevent a vehicle from getting hung up waiting and then have another vehicle enter the site.

Mr. Bonislowski commented with incoming traffic there could be a situation where there is not adequate room for vehicles to exit the coffee shop or bank drive-thrus. Mr. Leedy reiterated there will be cars coming through, but not in a steady stream. He again spoke to the peak hours of the individual entities and the belief they do not coincide.

Mr. Redding questioned why it is believed there is a disconnect between this structure and the outlets. He commented what is bringing people to the area is the outlets and while they are there they can patronize the restaurants, etc. He suggested the amount of traffic would hinge on some of the peaks associated with the outlets, e.g., holiday season, etc. Mr. Leedy stated the project is an out parcel to a big mall project and is intimately connected, from a business standpoint, with the customers of the outlet center. He stated traffic on Premium Outlets Blvd. would be highly dependent on what is going on up at the mall, and there will be times of congestion. He remarked when exiting the site, if left turns are a real problem an option people have is to go up the hill, around the bend, and back down. He was uncertain there is any other option given the location of the site.

Mr. Redding questioned if the parking requirement were relaxed, could consideration be given to a different configuration that might ease some of the entrance issues, pedestrian safety, etc. Mr. Leedy informed the Board they have looked at a number of options particularly with respect to the entrance; this was the one that rose to the top. He suggested there may be opportunities to cooperate with the mall. He spoke of the configuration of the parcel and the fact the site entrance is essentially established by law. He commented they have constraints with the site and he believes they have done as well as they can under the circumstances.

Mr. Millns remarked for that type of intersection, most places in New Hampshire would require another set of traffic signals. He stated the intersection has exiting vehicles trying to turn left facing traffic entering the site, and traffic coming down to the restaurants from the mall area. He commented he was initially of the belief only right hand turns should be permitted exiting the site. Now he is hearing discussion about a stacking area. He suggested stacking would result in vehicle operators becoming frustrated, inching out, and blocking the lanes to the mall, at the same time you could have traffic trying to enter the site as well as pedestrian traffic. He believes the access point to be dangerous and is against it. He stated a desire to see a completely different configuration for that access point. He commented he is not aware of whether the police or fire departments have provided input, but he does not believe he can be convinced the area is a safe entrance/exit. He reiterated he is in favor of the idea and wants to see it made safe.

Mr. Leedy stated his belief that the intersection would not meet traffic warrants for the installation of a traffic signal. He offered to provide the Board with information on traffic volumes and could do a quick queue analysis on the driveway and provide information as to what they believe conditions would be.

Mr. Millns commented when the Premium Outlets application was first before the Board there was a great deal of discussion around traffic. It was stated Continental Blvd. was capable of handling mall traffic yet suddenly in November Continental Blvd. had an additional lane put in. Mr. Leedy stated the additional lane was part of mitigation and has been in the drawings from the start.

Councilor Koenig questioned the number of cars that could be in the stacking area, and was informed 2 cars could be in each lane. Councilor Koenig remarked if four cars are exiting the site in one direction, traffic from the two drive-throughs and the restaurants would be at a standstill. Mr. Leedy noted that scenario assumes there would be four cars all wanting to leave at the same time. Councilor Koenig responded there are four operating facilities in the area so that is not an unlikely scenario.

Mr. Leedy again suggested a queue analysis be performed. He stated he was not necessarily in disagreement but believed it easy to overstate the real issue. Councilor Koenig agreed, on average, there won't be a problem; however there will be enough times when there are great problems. He provided an example of an instance where 8 vehicles could be attempting to exit; someone not wanting to go through the drive-thru lane, which was queued up across the back of the building, went in and came out at the same time as someone was released from the drive-through, at the same time 1 or 2 people come out of the bank, and someone leaves the sandwich shop. He stated a belief there are opportunities for serious problems just trying to exit the site. He added without anything to control traffic, the sidewalk is not a safe situation.

Mr. Leedy remarked it remains to be seen how much pedestrian traffic there will be. Chairman Best commented with a very large mall development, it is likely to be patronized by a great deal of teenagers who tend to walk. It is his belief both areas will see a great deal of both vehicular and pedestrian traffic.

He is of the belief having three restaurants and a bank on the parcel results in funny traffic patterns and islands. He provided the example of a site on Amherst Street in Nashua where there is a Wendy's restaurant and a CVS. As you turn in to go to Wendy's, there is no parking as you enter and then when exiting you have to go all the way up to the front of CVS to make a U-turn. He suggested the proposed traffic pattern would defy anybody's natural instincts to go anywhere. Then you add to that parking located in areas where people will not want to park. He stated he likes the idea of having a restaurant there; the economics are there for it, but there are some definite challenges with both vehicular and pedestrian traffic on the site. He noted the addition of the drive-thru adds a tremendous amount of traffic that is looping around in the same place you want patrons to park and walk.

Mr. Leedy suggested if the Board were willing to consider approving a parking waiver to a lesser amount than what was initially requested, there might be the opportunity to take another look at moving the building back. Chairman Best stated he has no doubt the parking calculation at 210 spaces is higher than is needed, and he could be convinced 120 or even a lower number would be appropriate; however, his larger issue with the site is not the number of spaces but where they are located. Mr. Leedy stated there are 30 spaces shown on the site that are in excess of what they believe reasonable demand might be. He remarked if that is the issue, they could take another look at it. Chairman Best responded in terms of pedestrian and vehicular traffic flow, if the restaurant structure were shifted and additional parking added in the front of the building eliminating the need for the traffic islands and forcing the flow of traffic around the drive-through, the development would likely have a much more natural traffic pattern. Mr. Leedy noted there would still be a four-way at the entrance/exit.

Mr. Leedy spoke to a 200' setback requirement from a residential zone, which is located in the center of Industrial Drive. He explained when Digital rezoned they rezoned to a line, not the entire parcel. As a result the frontage along Continental Blvd. remains zoned residential as well as a strip along Industrial Drive.

When asked for clarification, Mr. Morrisette stated he would have to research it, but it is possible based on the current map. Mr. Millns agreed that the Board should be able to work with the applicant on the number of parking spaces required, and he would be happy to provide some relief on the parking, but he would want to see some relief on the entrance/exit of the site.

Mr. Leedy informed the Board one thing they looked at was having a one-way entrance so that people exiting the site would have to go around the area and out. Mr. Millns suggested making the exit right turn only. Mr. Bonislowski remarked eliminating the ability to turn left would be viewed as a nuisance for those who wished to

patronize the restaurants. Chairman Best suggested those wishing to turn left would likely do so regardless of posted restrictions; therefore, it is best to try to accommodate.

Mr. Leedy informed the Board adequate conforming warning and advanced warning signage would be put in place. Mr. Disco suggested serious consideration be given to a lesser number of parking spaces and increased open space to eliminate some of the congestion that would occur at the entrance/exit. Mr. Leedy noted there are tenant requirements for parking. Mr. Disco suggested they look into the possibility and determine if there is a more agreeable configuration.

Mr. Leedy stated he would be comfortable standing behind the 1 per 3 seats (90 space) requirement, and stated that as typical. Chairman Best commented if the applicant were of the belief 90 parking spaces is the right number, he believes the argument could be made and he could be convinced of it if the traffic flow pattern and the tightness around the entrance/exit is resolved. Mr. Leedy stated a willingness to look into the possibility.

Dr. Segedy spoke of his concern with the safety of pedestrians crossing the crosswalk. When brought up again, Mr. Leedy reiterated it is not the desire to make the exit a right turn only. Dr. Segedy spoke to the problems associated with left turns. Mr. Leedy responded the positive thing about the configuration is there is a space of refuge because they have the left turn in, e.g., you don't have to wait for four lanes of traffic to clear to exit. He reiterated his belief it would be helpful to be able to review the actual anticipated volumes of these lanes, and stated information is available and could be provided to the board. He added there will clearly be congestion; however, 95% of the time he would not expect it to be as big an issue as some may think. Chairman Best noted the need for signage to accompany crosswalks.

Mr. Disco stated a willingness to recommend to the Zoning Board of Adjustment, consideration of a variance with regard to the areas that remain zoned residential, if that would assist in the site configuration. Mr. Leedy stated his appreciation and noted, although it limits where the bank sits, they have in the area of 20', which is all that would be picked up if some parking spaces were eliminated; therefore, it would likely not provide any additional relief.

Speaking again to the sidewalk waiver, Chairman Best remarked the statement made with regard to the elevation difference between the site and Industrial Drive would suggest nobody from the site could use the sidewalk. However, in order to be satisfied with the pedestrian traffic on the site, handling how people will get around the parking lot and into the restaurants better and internal sidewalks would assist him in feeling more comfortable with the overall plan for pedestrian traffic.

Chairman Best stated a desire for CLD to be able to conduct a meaningful review, e.g., changes related to parking and sidewalks could alter their opinion/recommendation. He questioned whether the applicant had any feedback as to the best way to proceed. Mr. Leedy responded it would be helpful to have a sense of where the Board is comfortable in terms of the number of parking spaces; if the Board would be comfortable waiving the parking space requirement down to 90 spaces they would have the option of looking at the site to see what kind of modifications could be made.

Chairman Best stated the Board could take up a question of a waiver down to that size with the caveat that it still requires the layout be suitable to the board.

MOTION BY MEMBER DISCO TO WAIVE THE PARKING REQUIREMENT OF SECTION 7.01, TABLE I, AND STIPULATE THAT 90 PARKING SPACES ARE SUFFICIENT FOR THIS USE, PROVIDED THE APPLICANT RETURNS WITH AN ACCEPTABLE RECONFIGURATION OF THE PARKING, PEDESTRIAN, AND VEHICLE ACCESS, DUE TO SPECIFIC CIRCUMSTANCES RELATIVE TO THE SITE PLAN, OR CONDITIONS OF THE LAND IN SUCH SITE PLAN, WHICH INDICATE THAT THE WAIVER WILL PROPERLY CARRY OUT THE SPIRIT AND INTENT OF THE REGULATIONS
MOTION SECONDED BY MEMBER MILLNS
MOTION CARRIED

6/1/0

Councilor Koenig Opposed

MOTION BY MEMBER MILLNS TO WAIVE THE SIDEWALK REQUIREMENT OF SECTION 7.04(4)(R) ALONG INDUSTRIAL DRIVE, PROVIDED THE APPLICANT RETURNS WITH AN ACCEPTABLE RECONFIGURATION OF THE PARKING, PEDESTRIAN, AND VEHICLE ACCESS, DUE TO THE SPECIFIC CIRCUMSTANCES RELATIVE TO THE SITE PLAN, OR CONDITIONS OF THE LAND IN SUCH SITE PLAN, WHICH INDICATE THAT THE WAIVER WILL PROPERLY CARRY OUT THE SPIRIT AND INTENT OF THE REGULATIONS

MOTION SECONDED BY MEMBER DISCO

MOTION CARRIED

6/1/0

Member Segedy Opposed

Mr. Thompson informed the board, given the board's favorable motions on the first two waiver requests; staff is comfortable and supportive of the waiver requests for driveway width and irrigation.

MOTION BY MEMBER DISCO TO WAIVE THE IRRIGATION REQUIREMENT OF SECTION 10.01(1)(G), DUE TO THE SPECIFIC CIRCUMSTANCES RELATIVE TO THE SITE PLAN, OR CONDITIONS OF THE LAND IN SUCH SITE PLAN, WHICH INDICATE THAT THE WAIVER WILL PROPERLY CARRY OUT THE SPIRIT AND INTENT OF THE REGULATIONS

MOTION SECONDED BY MEMBER BONISLAWSKI

MOTION CARRIED

7/0/0

With regard to the request for waiver on driveway width, Mr. Millns stated he would be unhappy granting the waiver given his dissatisfaction with the entrance/exit configuration. He reiterated his hope the applicant will return to the Board with proposed revisions to the plan. Mr. Leedy stated that would be the case, and noted a waiver for driveway width would still be required.

MOTION BY MEMBER MILLNS TO WAIVE THE DRIVEWAY WIDTH REQUIREMENT OF SECTION 7.04(3)(S)(3) AND ALLOW A 46' DRIVEWAY WIDTH, PROVIDED THE APPLICANT RETURNS WITH AN ACCEPTABLE RECONFIGURATION OF THE PARKING, PEDESTRIAN, AND VEHICLE ACCESS.

MOTION SECONDED BY MEMBER BONISLAWSKI

ON THE QUESTION

Mr. Bonislowski stated the driveway width itself would not be altered.

AMENDED MOTION BY MEMBER MILLNS TO WAIVE THE DRIVEWAY WIDTH REQUIREMENT OF SECTION 7.04(3)(S)(3) AND ALLOW A 46' DRIVEWAY WIDTH, PROVIDED THE APPLICANT RETURNS WITH AN ACCEPTABLE RECONFIGURATION OF THE PARKING, PEDESTRIAN, AND VEHICLE ACCESS DUE TO THE SPECIFIC CIRCUMSTANCES RELATIVE TO THE SITE PLAN, OR CONDITIONS OF THE LAND IN SUCH SITE PLAN, WHICH INDICATE THAT THE WAIVER WILL PROPERLY CARRY OUT THE SPIRIT AND INTENT OF THE REGULATIONS

MOTION SECONDED BY MEMBER BONISLAWSKI

ON THE QUESTION

Mr. Redding stated his support of a waiver and his belief a wider than permitted driveway is an improvement. Mr. Disco noted what was being discussed was not a public road but an internal driveway plan for the site. The regulation was written mainly for along Route 3 to narrow down some of the driveways that created perpetual curb cuts.

MOTION CARRIED
7/0/0

Public Testimony – None

Mr. Morrisette informed the Board there are other possible waivers that may be required, some of which may have been addressed by recent materials received and others that could be addressed by a revised plan. He suggested the Board postpone any action.

Mr. Millns spoke to the latitude the Board showed with regard to signage in the Premium Outlets application. Although he understands the applicant is entitled to two signs because of the size of the site, he requested serious consideration be given to placement of a sign on the corner of the parcel.

Chairman Best questioned how snow storage/removal would be addressed. Mr. Leedy identified two areas where storage could occur and stated, as with most commercial sites, snow tends to overwhelm the area and has to be trucked offsite. Mr. Thompson suggested the Board could stipulate excess snow be removed in accordance with NHDES standards. Chairman Best was in agreement with such a stipulation.

Mr. Disco spoke to the appearance of the site from Industrial Boulevard; questioned what would be visible and whether it was intended to install a fence on the perimeter of the site. Mr. Leedy responded what will be seen from Industrial Boulevard is the tops of the buildings. The plan shows a fence and a guardrail. The fencing will be a vinyl coated chain link (up to 6' high, typically 4') security fence. He commented the area where the fence will be installed is quite a ways off of Industrial Drive and this type of fencing is not particularly obtrusive. The guardrail will be inside the fencing.

Mr. Disco spoke to the likelihood the area would be a no salt site. Mr. Leedy informed the Board the same issue was raised by the Conservation Commission Issue and would likely also be raised by the MVD. He noted Premium Outlets Boulevard is currently a no salt area from the Wellhead Protection Zone line to the West. They anticipate that same requirement would apply to the site. When asked, he stated the lighting plan has been submitted and meets all requirements.

Chairman Best noted staff has recommended the Board table the application to a date certain to allow CLD to conduct their review. Mr. Leedy requested the application be taken up at the May 1st meeting. Chairman Best noted CLD would be in a position of reviewing a plan that could have substantial changes. Mr. Leedy agreed it would be best to be able to provide revised plans to CLD.

**MOTION BY MEMBER MILLNS TO TABLE THE APPLICATION UNTIL THE BOARD'S MAY 1st MEETING,
TO BE CONDUCTED AT 7:30 PM IN THE TOWN HALL MEETING ROOM**
MOTION SECONDED BY MEMBER DISCO

ON THE QUESTION

Mr. Morrisette noted it is very likely the Board would not be in receipt of CLD comments in advance of the meeting. Mr. Leedy stated his desire to review the direction the Board is headed in and then address any comments that may come from CLD.

MOTION CARRIED
7/0/0

4. **Performance Bond Release** Request for Linda Lane – Public Works Department recommends the \$51,908.00 performance bond be released and proposes Planning Board recommend acceptance of the 1,292 linear foot roadway by Town Council.

Chairman Best stated the Board has been provided with a communication addressed to Nancy Larson, Planning & Zoning Administrator and Tim Thompson, Community Development Director, from Kyle Fox,

Deputy Public Works Director/Town Engineer, which provided the appropriate information for the recommendation of release of the Performance Bond (\$51,908) as well as a separate communication addressed to Mr. Thompson from Mr. Fox indicating the Department of Public Works has completed their final inspection (April 6, 2012) and stating the right-of-way improvements were found to be in substantial accordance with the requirements of the Town of Merrimack Subdivision Regulations and the approved plans. The department has recommended release of the bond. The department further recommended the two-year maintenance bond requirement for this project be waived.

MOTION BY MEMBER SEGEDY TO RELEASE THE PERFORMANCE BOND, WAIVE THE REQUIREMENT FOR THE TWO-YEAR MAINTENANCE BOND, AND RECOMMEND ACCEPTANCE OF THE 1,292 LINEAR FOOT ROADWAY

MOTION SECONDED BY MEMBER MILLNS

MOTION CARRIED

7/0/0

5. DISCUSSION AND POSSIBLE ACTION REGARDING OTHER ITEMS OF CONCERN

Mr. Millns congratulated Councilor Koenig on his re-election and requested he consider continuing in his role on the Planning Board.

Mr. Disco spoke of two flood lights in the parking area located between the Burger King and the gas station at exit 11. He commented when coming up Greeley Street the lights shine into oncoming traffic. He stated his uncertainty of whether they were intended to be cut off fixtures, and questioned whether staff could look into the situation.

Mr. Redding questioned the board's feeling regarding the no salt requirement; whether there was something more the Board could do to ensure such requirements are adhered to. Chairman Best provided the examples of the Home Depot and PC Connection; both have no salt limitations on their sites and manage to comply. He recognized the point being made and suggested there may be some time in the future where the Board has enough knowledge to separate one kind of compound for treating ice from another; however, at present it is a blanket no salt requirement.

Mr. Bonislowski questioned when Board members could expect to receive a copy of MVD's salt study report, and stated a desire to be provided with the report as well as an explanation of the meaning of the numbers. He questioned whether the author of the study could be available to answer questions the Board might have. It was suggested the Board first address receipt of the report. Mr. Thompson was asked to contact MVD and request a copy of the report.

When asked for an update from the Town Center Committee, Mr. Disco informed the Board efforts are underway to seek a grant under the State's Safe Routes to School Program, through the NRPC. The initial effort is in the form of a study of a sidewalk route with the intent of bringing pedestrians from the High School to the area of Watson Park and that section of town along Woodbury Street, Loop Road, and O'Gara Drive all the way out to connect with Baboosic Lake Road. The study would be a feasibility study with regard to associated costs and what would be appropriate in the area.

Another area of review is a trail that might someday connect from the High School down along the Souhegan River, come out next to the fire station, and ultimately travel under Route 3 through the old Sluiceway and connecting to Watson Park. The committee is presently looking to acquire a Deed to the Sluiceway property. The property continues to be owned by Pennichuck Water Company; thus the City of Nashua. Through the Town Council, the committee is working on a Deed transfer of that property. That would allow a trail to pass under there.

The committee is also looking into a means of crossing a wetland (mostly dry) between the Souhegan banks and the fire station. They are considering the construction of an elevated wooden walkway.

Mr. Bonislowski questioned whether the efforts associated with the Safe Routes to School Grant would encompass other school areas or simply those located within the town center. He spoke specifically to the lack of sidewalks in the area of the Junior High School at the end of Baboosic Lake Road. Mr. Disco explained the committee is the Town Center Committee and has been tasked to address issues within the town center. Their efforts would not address areas outside of the town center.

Chairman Best complimented staff for their efforts in addressing the flashing sign epidemic and remarked the situation seems to have calmed. He noted there remains one such sign located at the convenience store next to Walgreens. Mr. Millns noted the Pacific Fusion restaurant has one as well.

Chairman Best addressed the viewing public with regard to vacancies, which will exist on the Planning Board at the end of the summer. A link to open volunteer positions and associated information is available on the Town's website, MerrimackNH.gov. Mr. Thompson informed the Board of a letter of interest received from a graduating law student who resides in town and is interested in serving on the Planning Board.

Councilor Koenig noted the Planning Board and the Zoning Board of Adjustment are the more challenging boards in terms of laws governing the areas of responsibility.

6. **APPROVAL OF MINUTES** – None

7. **ADJOURNMENT**

MOTION BY MEMBER MILLNS TO ADJOURN
MOTION SECONDED BY MEMBER BONISLAWSKI
MOTION CARRIED
7/0/0

The April 17, 2012 meeting of the Merrimack Planning Board was adjourned at 9:28 p.m.