



Town of Merrimack, New Hampshire

Community Development Department

603 424-3531

6 Baboosic Lake Road

Fax 603 424-1408

Town Hall - Lower level - East Wing

www.merrimacknh.gov

Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

TUESDAY MAY 15, 2012

APPROVED MEETING MINUTES

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, May 15, 2012 at 7:30 p.m. at the Town Hall Meeting Room.

Chairman Robert Best presided:

Members of the Board Present: Alastair Millns, Secretary
Lynn Christensen
Councilor Thomas Koenig
Michael Redding
Dr. John Segedy
Stanley Bonislawski, Alternate

Members of the Board Absent: Nelson Disco
Pete Gagnon, Alternate

Also in Attendance: Timothy Thompson, AICP, Community Development Director
Jeff Morrissette, Assistant Planner
Dawn MacMillan, Recording Secretary
Richard Landry, President, Thurloe Kensington Corporation
Gordon Leedy, Jr., Dir. of Land Devel., Vanasse Hangen Brustlin, Inc.
Ms. Robin Bousa, Dir. of Transportation Systems, Vanasse Hangen Brustlin, Inc.
Patrick Colburn, Project Manager, Keach-Nordstrom Associates

1. CALL TO ORDER

Chairman Best appointed Alternate Bonislawski as a voting member in the absence of Member Disco.

Chairman Best informed the Board and members of the public the applicants for agenda items 3, 4, and 7 had requested the items be continued, and he anticipated the Board would vote favorably on the requests.

2. Planning & Zoning Administrator's Report

None.

3. Parker Village Condominium Association – Review for consideration for Final Approval of a request to modify a condition of a previous site plan approval regarding de-icing operations at Parker Village. Parcel is located off of Front Street in the R (Residential) and Aquifer Conservation Districts, and the Elderly and Planned Residential Overlay Districts, and the Wellhead Protection Area. Tax Map 5D-2, Lot 004. This agenda item is continued from the February 21, 2012 meeting. Applicant requests that this item be continued to the June 19, 2012 meeting.

Member Bonislawski recused himself.

MOTION BY MEMBER SEGEDY TO CONTINUE UNTIL JUNE 19, 2012 AT 7:30 P.M. IN THE TOWN HALL MEETING ROOM WITH NO FURTHER NOTIFICATION TO ABUTTERS

MOTION SECONDED BY MEMBER MILLNS

MOTION CARRIED

6-0-0

4. **JPM Real Estate, LLC (applicant/owner)** – Review for consideration of Final Approval to construct a 3,456 s.f. building consisting of a 23-seat 1,956 s.f. Dunkin Donuts restaurant with drive-thru and 1,500 s.f. of retail space. Parcel is located at 80 Continental Boulevard in the R (Residential) and Aquifer Conservation Districts. Tax Map 3C, Lot 040-1. **This agenda item is continued from the April 3, 2012 meeting.**

MOTION BY MEMBER MILLNS TO CONTINUE UNTIL JUNE 5, 2012 AT 7:30 P.M. IN THE TOWN HALL MEETING ROOM WITH NO FURTHER NOTIFICATION TO ABUTTERS
MOTION SECONDED BY MEMBER SEGEDY
MOTION CARRIED
7-0-0

There being no objection, the Board went out of the regular order of business and took up Item #7.

7. **Stephen T. Lyons (Applicant/Owner) & John E. & Elaine T. Lyons Revocable Trust, Stephen T. Lyons, Trustee (Applicant/Owner)** – Review for Acceptance and consideration for Final Approval of a proposed Lot Line Adjustment and Consolidation plan. The parcels are located at 12 & 14 Shore Drive in the R – Residential Zoning District. Tax Map 6A-2, Lots 003, 004 & 006.

MOTION BY MEMBER MILLNS TO CONTINUE UNTIL JULY 10, 2012 7:30 P.M. IN THE TOWN HALL MEETING ROOM WITH NO FURTHER NOTIFICATION TO ABUTTERS
MOTION SECONDED BY MEMBER SEGEDY
MOTION CARRIED
7-0-0

5. **Thurloe Kensington Corporation (applicant) & Merrimack Premium Outlets, LLC (owner)** – Review for consideration of Final Approval of an application proposing construction of a commercial development consisting of three restaurants in a single building (70-seat, 2,540 sf; 70-seat, 1,760 sf; 50-seat, 1,758 sf. with drive-thru window) and a 4,845 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. **This item is continued from the May 1, 2012 Planning Board Meeting.**

Mr. Gordon Leedy, Jr., Director of Land Development, Vanasse Hangen Brustlin, Inc. (VHB) remarked, at the Board's last meeting, a good deal of discussion took place around Board concerns related to traffic and internal circulation on the site. He informed the Board of his receipt of review materials from both CLD Consulting Engineers (CLD) and James M. Emery, P.G., President and CEO of Emery & Garrett Groundwater, Inc. (EGGI) relative to the Aquifer Protection District.

The following summary of Mr. Emery's comments was provided:

According to parking calculations, there are a certain number of spaces required (83); however, the site plan shows a total of 121 spaces or 38 more than required. This number adds 6,100 s.f. of impervious cover. EGGI strongly recommends minimizing the amount of impervious cover, particularly for cover that is subject to winter maintenance, to minimize stormwater. **VHB's response:** The project has in fact reduced the proposed parking from the original proposal of 121 to 111 parking spaces.

The site plan shows main public entrances to the three proposed restaurants located on the North side of the building, assuming the building is 20' tall, the front sidewalk and parking spaces will be shaded by 40'-50' long shadows in the winter. EGGI recommends public entrances to the restaurants face south toward Industrial Drive to enhance melting and evaporation thereby reducing winter maintenance requirements. **VHB's response:** Indicated on the plan is the developer's preferred orientation and measures will be taken to adequately maintain the sidewalks notwithstanding the salt prohibition on the site.

Salt is not to be used for winter maintenance. **VHB's response:** The prohibition is understood and agreed to. Since ongoing water quality monitoring will be performed at Monitoring Well #6 and Surface Sampling Location #5 for several years after construction of the Premium Outlet Mall, EGGI does not recommend that additional monitoring wells be installed for this project.

Mr. Leedy stated CLD's comments were received late in the day, a cursory review was conducted, and the applicant is happy to comply with the suggestions and comments.

Mr. Leedy informed the Board of a change to the site plan since it was last before the Board: the entry island has been reconfigured (reduced 1 parking space and gained additional space for queues) allowing for adequate space for three cars to queue in each lane before pinching down. He commented the ability for three cars to queue in each lane is significant as it represents the 95% queue on the Saturday mid-day peak hour.

Mr. Millns questioned whether CLD was in receipt of the Traffic Operations Assessment provided to the Board and whether they have had an opportunity to review it. Mr. Leedy responded the information was forwarded the previous day and he has not received a response. Director Thompson informed the Board when the escrow for the review of the project was set up, no escrow was set for traffic review; therefore, if there is to be a traffic review performed by CLD, a review of the escrow would have to take place.

Ms. Robin Bousa, Director of Transportation Systems, Vanasse Hangen Brustlin, Inc., spoke to the Traffic Operations Assessment. The roadway system is proposed to be two lanes in each direction on Premium Outlets Boulevard as well as a center median area with a dedicated left-turn lane for vehicles entering the site. She commented when dealing with a busy roadway, particularly with multiple lanes, having the extra wide median in the roadway helps vehicles cross traffic one direction at a time.

In identifying trip generation, rates published by the Institute of Transportation Engineers (ITE) in the latest version of Trip Generation (8th Edition) were used. She stated the bank facility trip generation to be most straightforward (8th Edition takes into account current banking industry practices, e.g. electronic banking) and the restaurant uses to be somewhat challenging in identifying. She remarked the size and types of uses fall between two different ITE categories. The first is a typical sit down type restaurant, which ranges from 5,000 – 6,000 s. f. in size (proposed facilities are substantially smaller) and the second is fast food restaurants such as McDonalds, Burger King, etc., all having drive-thrus. The proposed uses fall somewhere in the middle of those two categories. As a result, the approach taken was to average the two categories. In doing so, they arrived at the following calculations (bank and all three restaurant uses): during the weekday evening peak hour approximately 135 trips in and out for a total of 270 and approximately 175 trips in and out for a total of 350 on a Saturday mid-day peak hour.

Ms. Bousa commented, having been informed of the Board's concerns with regard to anticipated traffic volume, she wanted to perform as conservative an analysis as she possibly could to identify a worst case scenario. She remarked, based on the assumptions made, she believes what is being presented is a very unrealistic scenario. She explained further the number of trips could have been reduced based upon an internal trip capture, e.g. a motorist that enters the site, visits the bank and then a restaurant would be considered one trip. That discount was not considered in the information provided, and could have resulted in a discount of up to 20% of the volume identified. A discount for pass-by trips was similarly not considered in order to present a conservative analysis.

Ms. Bousa stated the traffic volume networks were developed based on trip calculation to the Merrimack Premium Outlets (MPO) project. For analysis purposes, it was assumed both Phase I and Phase II of the MPO were complete (worst case). Added to those figures was the number of trips generated for each one of the individual uses. An unsignalized intersection capacity analysis was performed for the weekday evening and Saturday mid-day peak hour conditions at the intersection of Premium Outlets Boulevard and the proposed site driveway. She provided the following summary: left turns coming down from the outlets turning left into the site have a level of service (LOS) of B or better (avg. delay of 10-12 seconds per vehicle), which would result in a maximum queue of 1 vehicle. Right turns have a LOS of B during the weekday evening peak hour and C during the Saturday mid-day peak hour (avg. delay of 10-15 seconds per vehicle), which would result in a maximum queue of 1 vehicle. For left turns coming out of the site a LOS of C during the weekday evening peak hour and F during the Saturday mid-day peak hour (52 second delay). She added although the worst rating in terms of LOS, 52 seconds of delay is consistent with any type of delay presently experienced along Continental Boulevard during those peak hours for unsignalized driveways. Average queues would be 1-2 vehicles and a maximum of 3.

Ms. Bousa continued; once the analysis is complete, the next step is to consider if improvements can be made. The first check in that process is the geometric check. The proposal is for two through lanes in each direction on the main line, separate left turn coming in and separate left coming out. That is the optimal geometry for the intersection. The second check is traffic control. The site driveway operates under stop controls. In this particular case, even under the Saturday peak hour, the levels of traffic do not reach the minimum volume to meet

the requirements identified within the Manual of Uniform Traffic Control Devices (MUTCD) for a signalized intersection.

The conclusion is the condition proposed is adequate. Ms. Bousa reiterated the analysis is that of a worst case scenario (very conservative) and remarked she feels comfortable the situation will be similar to what is seen in other areas of town. She referred to the prior Shaws project as an example of the volumes and geometrics at the unsignalized driveway. She commented that driveway did not meet signal warrants, but there were long delays projected for the left turns coming out, and the Board required the applicant to build the left turn lane coming in to break up the traffic flow.

Mr. Millns remarked the Shaws site has a McDonalds, and when the Board took up the matter of the McDonalds it specifically prevented a left turn from going South on Continental Boulevard as well as preventing traffic from coming out turning towards the South. He questioned, if the example was stated to match the level of traffic volumes, why did the developer not attempt to persuade the Board to allow a left access out of the McDonald's site. He suggested the reason to be it was considered dangerous.

Ms. Bousa responded there were two reasons; there were alternative means to exit the McDonalds site and the site is closer to the traffic light. In the case of the current project, the closest traffic light is over 1,000' away so there will not be any interruption or queuing between the two intersections whatsoever. Mr. Bonislowski commented the Shaws plaza has three areas for entering/exiting and, from his own experience, he knows which to utilize during particular times of the day. Ms. Bousa clarified the reference she was trying to make was with regard to the traffic analysis and the traffic volumes and operations projected are similar to those projected in the current proposal and the mitigation required for the Shaws project is similar to the roadway geometrics and traffic control proposed for the current site.

Mr. Millns stated his disagreement and commented if sitting at the Shaws site on a Saturday morning mid-day you will not see 1 car every 6 seconds. Chairman Best remarked he does not believe noon to be the peak hour for the Shaws location. He added, he has never witnessed any motorist having difficulty turning left to go South on Continental Boulevard. Mr. Millns questioned whether it is believed the volumes are comparable. Ms. Bousa provided another example of comparable volumes as the intersection of Camp Sargent Road and Continental Boulevard; unsignalized intersection, multiple lanes on Continental Boulevard, similar volumes (through and side street), same levels of service. Chairman Best restated Continental Boulevard compares to Premium Outlets Boulevard and Camp Sargent Road comings and goings match this site during peak hours. Ms. Bousa remarked they are not exact but in the same ballpark in comparing delays and overall gaps becoming available. She added in the case of the proposal there is the signal at Industrial Drive, which will create some gaps and platooning in the traffic flow at least coming up the hill, which will help traffic exiting the site.

Dr. Segedy questioned whether there are warrants for traffic lights or similar controls for pedestrian crossings. Ms. Bousa responded there is a signal warrant for pedestrians, which the project would not come close to meeting. It is in the volume of hundreds of pedestrians crossing in a single location and is typically done in downtown urban areas. Other than that, there are no warrants that would call for a pedestrian light to activate when a pedestrian is crossing.

Mr. Millns questioned what the comparison would be to the volumes of traffic on 101A in Nashua heading in the direction of Milford at 5:00 p.m. Mr. Leedy responded NH DOT 2010 figures state the volume of traffic on 101A East of NH 122 to be 26,000 vehicles per day, and noted the rule of thumb is 10% of the total volume or 2,600 vehicles would be present each hour. Ms. Bousa added, with both phases complete and two lanes of traffic, the proposal anticipates approximately 1,000 vehicles per hour in each direction (500 cars per lane) on a Saturday.

Mr. Bonislowski questioned if the project was approved and for one reason or another, the traffic situation was troublesome, who would be responsible for addressing it. Ms. Bousa responded the area is part of the MPO; therefore, the Town would not be able to address any issues. She added if the traffic pattern was not believed appropriate she believes the tenants would want it addressed. She added there is always the opportunity for motorists to exit the site to the right and travel up the hill and turn around.

Chairman Best commented the Board has not yet had the opportunity to review comments made by CLD, and questioned whether staff had the opportunity to review information provided by the Merrimack Village District

(MVD). Mr. Morrisette responded staff had a brief opportunity to review MVD's comments, which refer to the memorandum from EGGI, which he believed Mr. Leedy accurately summarized.

Councilor Koenig spoke to the average of the two ITE categories referred to as being utilized to determine the trip generation volume and questioned whether, for the evening peak hour calculation, consideration was given to the anticipated varying peak hours for each of the different restaurant uses. Ms. Bousa responded all three uses were weighted the same. Similarly, in looking at the Saturday mid-day peak hour, they applied the trip generation for the peak hour of the user, and noted those peaks will not occur concurrently. When asked how she would rate the estimated numbers to those associated with the peak hour of a single use 5,000 s.f. restaurant, Ms. Bousa responded the estimates for peak hour of a 5,000 s.f. restaurant would be approximately 70 trips during a weekday evening peak hour and 80 during a Saturday mid-day peak hour. To estimate the average for their calculations, they doubled the number of trips for the weekday evening peak hour (140) and raised the estimated number of trips for a Saturday mid-day peak hour to 220. When asked, Ms. Bousa stated the hours of the day represented as the weekday evening peak hour to be between 4:00 – 6:00 p.m. and the Saturday mid-day peak hour to be between 10:00 a.m. – 2:00 p.m.

Mr. Millns stated his belief there is in place an agreement between Chelsea Property Group, Inc. and the Town of Merrimack with regard to a future review of the traffic pattern. Mr. Leedy stated the agreement to be related to parking not traffic.

Chairman Best touched upon the Board's request for information pertaining to the eight MUTCD warrants related to signalized intersections. Mr. Leedy stated he had been informed CLD would be requested to provide the information. Ms. Bousa explained the MUTCD states meeting 1 warrant in itself is not sufficient to justify the installation of a signal. The NH DOT rule of thumb is to start with a minimum of a four-hour warrant although they prefer any given project meet a warrant for a period of eight consecutive hours. The eight-hour warrants, based on the geometrics of the site, would require there to be 150 left turns coming out of the site per hour for eight consecutive hours. Under the worst case, unrealistic scenario provided, there would be fewer than 100 cars per hour. The uses combined would never hit the eight-hour warrant. The four-hour warrant is 115 left turns per hour for four consecutive hours. If not meeting the warrant in a one-hour period, the intersection would not be meet it in a four-hour period.

The peak hour warrant is 100 left-hand turns per hour, which would also not be met. The number of left turns on a Saturday is just under the required using the projections provided; however, given how the figures were formulated, a 20% reduction would have to be taken to make the number realistic. Even utilizing the conservative approach in determining trip generation, the area does not meet the peak hour warrant where you would even go on to investigate the additional warrants.

Ms. Bousa stated all other warrants are not applicable. She stated them as a pedestrian warrant, which is utilized in urban areas where hundreds of pedestrians are crossing over the course of an hour, a school warrant, a railroad crossing warrant, a systems warrant where if you had two traffic lights in a road and a busy intersection in the middle that didn't quite meet a warrant, but by putting a new signal in and connecting the three, you helped progress traffic flow on the main line, and a crash history warrant. She noted without an existing condition, that would not apply.

Mr. Millns stated as a private road with public access, neither the Town or anyone else would have the authority to make adjustments to the layout once the project is approved, and questioned what action the developer would be prepared to commit to in the event accidents, either pedestrian or vehicular, take place on the site. Ms. Bousa responded the applicant does not own the roadway; however, she felt comfortable stating the owner of the larger project would address any situations that arose.

Public Comment – None.

Mr. Bonislowski commented he found it interesting, at the last meeting, a member of the Board suggested consideration be given to entrances to the restaurants facing south toward Industrial Drive to assist with traffic flow, which is similar to what was recommended by EGGI as a means of reducing winter maintenance requirements, and questioned whether that has been considered. Mr. Leedy stated the desire of the tenants for exposure to the main road. Speaking to the EGGI recommendation related to no salt use, Mr. Leedy stated they have been aware of that restriction from the start of the project, and there are a number of alternatives that could be utilized. Mr. Bonislowski commented EGGI has recommended sanding and frequent sweeping rather than salting, and commented he has heard that recommendation in the past, and is not certain it is followed. Mr. Leedy responded there is an Operations and Maintenance Plan in place for the overall project that calls for frequent sweeping. He stated his recollection that the Conservation Commission recommended a regular maintenance program to ensure drainage facilities are maintained on a regular basis and that catch basins are inspected and maintained on a regular basis, which is something they would include in a maintenance plan.

Mr. Bonislowski spoke of differing interpretations of frequent and suggested establishing a definitive timeframe. Mr. Leedy responded the pavement maintenance would be more subjective with regard to the term frequent than catch basin maintenance would be. He added with a 3'-4' sump in the catch basin, if it were to fill it would stop functioning properly. They require inspection on a regular basis and cleaning when necessary. He remarked the interest is really in preventing sand and debris from entering the catch basin and in having an attractive and functioning site.

Chairman Best commented he feels fairly confident the snow removal issue will be addressed by the applicant and remarked even if you were to alter the configuration of the buildings, the back area would require snow removal to accommodate the service entrance. He reiterated his preference for a means of eliminating the need for motorists to circle the building twice to go through the drive-thru. Mr. Leedy stated they had looked at the possibility of pulling the area straight out. Doing so would not work well for the tenant and would make the queue significantly shorter. He reiterated they are not concerned with motorists having to traverse the building twice, and believe the advantages of the longer queue outweigh the inconvenience of having to drive around the building.

Dr. Segedy stated his biggest concern is with pedestrian safety crossing Premium Outlets Boulevard. He asked whether yield to pedestrian in crosswalk signage could be put in place. Mr. Leedy's response was "absolutely, and we would propose adding to the plans for Premium Outlets Boulevard advance signage saying just that, warning of pedestrians, because I couldn't agree with you more".

Councilor Koenig stated he remains frustrated with the traffic patterns with regard to the need to circle the building twice and traffic having to use all of the parking lot to get in and out of the three shops. He believes there to be a great deal of use being placed on the site with one entrance/exit area. He remarked the original concept was for a single use on the lot. He questioned whether it is truly believed four separate uses have no greater impact on entrance/exit. Mr. Leedy's response was there are higher volumes than anticipated, but the site still functions within acceptable parameters. He added an unsignalized intersection operating at level of service C is pretty good. Councilor Koenig clarified his concern is more with the internal traffic flow.

Mr. Richard Landry, President, Thurloe Kensington Corporation, informed the Board the area has been reviewed, and after reading the traffic report Ms. Bousa put together, he started questioning whether or not the one-way was even necessary because the queues are probably going to not hit a point that would block traffic. He stated he has worked with one-way traffic flow patterns around buildings with drive-thrus in projects he has done with over 2,000 McDonalds, and stated there are many, many projects having one-way traffic patterns such as this that operate well and function perfectly. He added the fact of the matter is it makes it a better flowing pattern of traffic to do it that way.

Mr. Landry continued by stating he does not believe there are any improvements that could be made to the site to do anything more than has been done. He remarked every comment the Board has made they have tried to address in the most efficient way possible. The current configuration addresses the matter of safety and how the site functions at the exit, which was the Board's biggest concern from day one. He added, in the peak hours, it will work better than having two-way traffic all the way around the building. Councilor Koenig stated a concern with motorists getting out of the bank drive-thru and trying to take a left turn if there is traffic at the intersection. Mr. Landry responded, during that one peak hour, were the 20% reduction applied to the unrealistic worst case

scenario of the three car queue, it could be the queue would only be 2 cars deep in which case if someone was going from the bank to the restaurants he/she would have no problem doing so.

Mr. Landry stated in reality, banks today utilize drive-thrus mostly for ATM drive-thrus, which is why the bank desires their ATM in that location as they expect that to be a major generator. A very high percentage of people going to the ATM would be going to the drive-thru ATM and continuing to the outlets and would be making a right turn out of the area, which would be almost a free flow exit. Mr. Leedy spoke to previous iterations of the plan, which presented difficulties for motorists to turn left or right coming out of the area where cars are queued, resulting in vehicles becoming hung up across the intersection. That is one reason the one-way patterns make a tremendous amount of sense. He remarked, even in busy times there would only be one car exiting every few minutes; therefore, he does not believe there would be a backup. He did not agree with forcing motorists to exit the site to the right as the vast majority of the time there would be no issue. He suggested forcing motorists into a condition where you are addressing the worst hour of the week means there will be motorists that would be doing something illegal out of the entrance, which is a far greater safety hazard than what is believed would be the case.

Dr. Segedy questioned how motorists parked on the North side of the building would be instructed of the need to circle around the building to exit, and was informed there would be pavement markers with arrows and do not enter signs at the entrance. Mr. Millns questioned the possibility of angle parking to which Mr. Leedy responded it was reviewed; however, would result in a loss of parking spaces.

Mr. Redding noted a concern with motorists quickly and clearly identifying how to navigate the exit to prevent blocking right turns coming into the facility. Mr. Leedy stated there would be signage in the area, which should be sufficient. Mr. Landry added, in the area of the island, there would also be a drive-thru this way sign.

Mr. Landry, speaking to concerns related to pedestrian safety, commented since the project has started, 1,000 s.f. of restaurant has been taken out of the project to make room for sidewalks. Chairman Best noted the crosswalk in the drive-thru area was not depicted on the plan. Mr. Leedy stated the crosswalk across the drive-thru lane has been agreed to and would be added to the plan.

MOTION BY MEMBER MILLNS TO WAIVE THE TRUE NORTH ARROW STANDARDS UNDER SECTION 7.04(4)(e) AND THE SOIL TYPES AND SOIL BOUNDARIES STANDARDS UNDER SECTION 7.04(4)(g), NOTING SPECIFIC CIRCUMSTANCES RELATIVE TO THE SITE PLAN, OR CONDITIONS OF THE LAND IN SUCH SITE PLAN, INDICATE THAT THE WAIVER WILL PROPERLY CARRY OUT THE SPIRIT AND INTENT OF THE REGULATIONS

MOTION SECONDED BY MEMBER CHRISTENSEN

MOTION CARRIED

7-0-0

MOTION BY MEMBER MILLNS TO GRANT FINAL APPROVAL FOR THE USE WITH THE FOLLOWING CONDITIONS TO BE FULFILLED WITHIN 6 MONTHS AND PRIOR TO PLAN SIGNING UNLESS OTHERWISE SPECIFIED:

1. Final plans and mylars to be signed by the applicant and property owner. The Professional Engineer, Licensed Land Surveyor and other qualified professionals shall also sign and seal final plans and mylars as appropriate. In addition to the recordable mylar sheet, the applicant to provide 1 mylar, and 4 paper copies of the final plan set,
2. The applicant is responsible for all fees (including \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) associated with recording the plan at the Hillsborough County Registry of Deeds,
3. Unless granted a waiver from Section 7.04(4)(e) of the Subdivision and Site Plan Regulations, the plan shall be revised to provide a true north arrow,
4. Unless granted a waiver from Section 7.04(4)(g), the plan shall be revised to provide Soil Types and Soil Boundaries,

5. Unless granted a waiver from Section 7.04(4)(r) of the Subdivision and Site Plan Regulations, the plan shall be revised to provide for a paved pedestrian way or sidewalk along Industrial Drive.
6. Unless granted a waiver from Section 7.04(4)(s)(3) of the Subdivision and Site Plan Regulations, the plan shall be revised to provide for 25'-minimum curb radii at driveway entrance,
7. Unless granted a waiver from Section 11 – Outdoor Lighting Standards - of the Subdivision and Site Plan Regulations, the plan shall be revised so as to comply with Sections 11.04(2) – Lighting Plans, 11.04(3) – Luminaire Designs, and 11.05 – Parking Lot Lighting,
8. Unless granted waivers from Sections 12.04(2) and 12.05, the applicant shall submit architectural plans demonstrating compliance with the aforementioned Sections; (Please pay particular attention to Section 12.04(2)(e), as a waiver may be required.),
9. Any waivers granted shall be listed and fully described on the Final Plan set on a recordable sheet,
10. The Applicant to receive an amended Driveway Permit, if required, from the NHDOT. If NHDOT review is required, the Driveway Permit Number and expiration date shall be added to a recordable plan sheet;
11. As the parcel lies within the Aquifer Conservation District, the applicant shall satisfactorily address any forthcoming comments from the Merrimack Conservation Commission,
12. Due to the project's location within the Wellhead Protection Area, the applicant shall satisfactorily address any forthcoming comments from the Merrimack Village District,
13. The applicant shall satisfactorily address any forthcoming comments from the Merrimack Fire Department,
14. The Applicant shall satisfactorily address any forthcoming comments from the Merrimack Health Inspector,
15. The applicant shall satisfactorily address any forthcoming comments from the Wastewater Division of the Public Works Department,
16. The applicant shall satisfactorily address peer review comments from the Town's review consultant, CLD,
17. As access to the site is provided via Premium Outlets Boulevard (a Private Driveway), draft access, drainage and utility (and other required) easement documents shall be provided to the Community Development Department for review prior to plan endorsement. Final executed easement documents to be recorded at the Hillsborough County Registry of Deeds; and
18. Address planning staff technical comments:
 1. The Licensed Land Surveyor shall verify that plan text, hatching and shading conforms to Registry standards for any recordable sheets; (Staff suggests modifying Sheet C-2 of 9 as appropriate to meet Registry standards and provide for Planning Board endorsement and signatures of applicant and property owner,
 2. Plan to be revised (graphically and Zoning Summary Chart) to include the 25' No Disturb Wetland Buffer and 40' Building Setback to Wetlands,
 3. Plan to be revised to indicate size (area) and character (illumination, if any) of proposed exterior signs. If such information is not yet available, an appropriate note shall be added to a recordable sheet stating that Memo for April 17, 2012 Planning Board Meeting – Thurloe Kensington Page 6 of 6 proposed signs shall comply with Section 17 – Signs - of the Town of Merrimack Zoning Ordinance,
 4. The plan shall indicate the street status of Premium Outlets Boulevard,

5. The plan shall be revised to note the Map/Lot information of abutting parcel(s),
6. The plan shall be revised to provide correct utility service provider information (Cable TV – Comcast, Gas – National Grid) listed in “Utilities” note 1 on Sheet C-1 of 9,
7. A note shall be added to a recordable plan sheet stating that a copy of the full plan set is available at the Town of Merrimack Community Development Department,
8. The plan shall be revised to provide clearance height for the canopy for the proposed bank,
9. The plan shall be revised so as to include the Statement of Plan as required by Section 7.04(4)(o) of the Subdivision and Site Plan Regulations,
10. The applicant shall submit written confirmation to the satisfaction of Community Development Department that a depth of 18-feet for an accessible parking space complies with ADA requirements,
11. The plan shall be revised so as to include a reference to the Lot Line Adjustment Plan recently recorded at the Hillsborough County Registry of Deeds (Plan No. 37374),
12. The applicant to add a note to a recordable plan sheet regarding necessary compliance with Chapter 412 Stormwater Management Standards adopted by the Town of Merrimack Town Council on July 21, 2011; and
13. The applicant to incorporate the following construction note to the final plan: “A pre-construction meeting with the Community Development Department and Department of Public Works 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”.

MOTION SECONDED BY MEMBER BONISLAWSKI

ON THE QUESTION

Mr. Bonislowski remarked he had been concerned with the applicant being aware of concerns of the Board, and noted the applicant has been in attendance at every meeting. Councilor Koenig questioned whether any reviews were pending. Chairman Best stated the Board has received the information from CLD. Although staff has not had the opportunity to review the information, the applicant has stated they would address all items and a condition of approval is that all items be addressed.

Chairman Best remarked the applicant has performed a great deal of work to accommodate the Board’s comments and he is satisfied with the science and information on traffic numbers, warrants, etc. Although not supportive of the requirement for motorists to circle around the building, that is more of a customer service issue than a site plan issue. He stated his support of the motion.

MOTION CARRIED

6-1-0

Dr. Segedy Opposed

6. **Joseph M. Annutto (Applicant/Owner)** – Review for Acceptance and consideration of Final Approval of a waiver of full site plan review for a change of use to convert a single family residence to a commercial massage therapy center. Parcel is located at 575 D.W. Highway in the C-1 (Limited Commercial) and Aquifer Conservation Districts and the Wellhead Protection Area. Tax Map 6D-1, Lot 102.

Mr. Patrick Colburn, Project Manager, Keach-Nordstrom Associates, informed the Board the property is located in the Southwest corner of the intersection of Daniel Webster Highway and Rainbow Avenue, which surrounds the property on two sides. There exists a one story, wood framed single-family residence and driveway, which has two curb cuts onto Rainbow Avenue (East and South). The site is sloping and has at-grade access on two levels (along D.W. Highway to the first story and around the South side to the basement level). The site is located in the

C1 Commercial District as well as the Well Head Protection and Aquifer Protection Overlay Districts. It is serviced by Merrimack Village District water and municipal sewer. The only outbuilding is an existing shed in the Southwest corner of the property.

Mrs. Annutto is a Massage Therapist. She and her husband purchased the property with the intent of changing the use to a massage therapy center. They approached his office and together with Community Development staff they have put together the plan being presented. The plan proposes two phases. Phase I consists of a Change of Use Site Plan. The idea is for Mrs. Annutto to get her business going and start building clientele. Earth work during this phase is limited to the construction of a walkway that will lead patrons from the lower level, where parking exists, to the first floor level along Daniel Webster Highway. In addition to construction of a walkway would be the painting of two employee parking spaces (back to back and parallel to one another) and two side-by-side parking spaces with a handicap accessible door next to them.

The intent is to have two massage therapists and the hope is for the business to grow and for the need to hire additional therapists. Because of that, staff has suggested the applicant come forward with a Phase II plan (sheet 3). This phase assumes two additional therapists coming on board requiring a total of 8 parking spaces and would include the expansion of the existing driveway.

The intent would be to retain the walkway constructed in Phase I and close the Southerly Rainbow Avenue driveway and rebuild it, adding approximately 1,000 s.f. of impervious surface, to accommodate full access in and out onto Rainbow Avenue to the East. Due to the increase in impervious surface, a small infiltration area has been designed to treat and mitigate stormwater generated over the increased impervious area. There is an existing leaching catch basin at the corner of Rainbow Avenue, which provides a similar level of treatment and mitigation for those portions of Rainbow Avenue that flow into it as well as existing impervious surface onsite.

Because of the limited nature of the scope of the project, no new site lighting or landscaping is proposed. Mr. Colburn noted there are at least 5 mature Maple trees surrounding the property. The site is located in an area of mixed use, and it is believed this use would be in like nature with its surroundings. No State permitting is required.

Mr. Colburn stated the applicant requests Change of Use and a waiver from full site plan review. He added also requested are two additional waivers from site plan regulations; Section 10.01(4) – Landscape Buffer Standards and Section 7.04(4)(r) – Sidewalks. Mr. Colburn stated the justification to be, in Phase I there is no earthwork proposed aside from the construction of a short walkway to get clients from one level of the building around to the front door. Phase II proposes a minor improvement (addition of 1,000 s.f. of impervious surface); however with existing Maple trees being maintained wherever possible (at least 4), there remains little room for increased landscaping. With regard to the sidewalk requirement, he remarked there is approximately 290' of road frontage, and the construction of sidewalk along that length of frontage would be a financial burden given the limited scope of work proposed.

Director Thompson informed the Board of staff's recommendation that the Board accept the application as complete as it contains sufficient information for the Board to make an informed decision. Assuming the Board accepts the application as complete, staff further recommends granting of the waiver for full site plan review.

MOTION BY MEMBER SEGEDY TO ACCEPT JURISDICTION

MOTION SECONDED BY MEMBER MILLNS

MOTION CARRIED

7-0-0

MOTION BY MEMBER MILLNS TO GRANT THE WAIVER OF FULL SITE PLAN REVIEW

MOTION SECONDED BY MEMBER SEGEDY

MOTION CARRIED

7-0-0

Director Thompson remarked there are two options for Board consideration. Staff suggested the applicant seek approval on both phases of the overall project thereby eliminating the requirement to come before the Board when they reach the point for expansion where they require additional capacity for parking. They have also requested the applicant provide escrow for a drainage calculation review by CLD. Peer review, limited to

drainage, is the one area both the Community Development and Public Works Departments believe is necessary in order to ensure the requirements of the Regulations are met. The other alternative is for the Board to limit its decision to Phase I of the application at this time.

Chairman Best questioned what conditions would be required to be placed upon approval should the Board wish to consider the request for a waiver of the sidewalk regulations in Phase I of the project and require some sidewalk work in Phase II. Director Thompson recommended a condition indicate at which phase the sidewalk would be required and to what extent a sidewalk would need to be constructed, e.g., approval of a waiver of the sidewalk regulations for the full extent of frontage of the parcel but require a paved pedestrian way or sidewalk be constructed along Daniel Webster Highway in Phase II.

Mr. Millns questioned the desire of the applicant and was informed the applicant would prefer the Board give consideration to both phases of the overall project. Mr. Colburn stated his belief the applicant would be amenable to a condition of the construction of a limited segment of sidewalk in Phase II if that would result in approval for both phases at this time and avoid additional costs associated with addressing the phases separately.

Dr. Segedy spoke to past practice of addressing multi-phased projects a single phase at a time. Mr. Millns provided examples of multi-phased projects being approved simultaneously.

Mr. Colburn questioned the difference between a walkway and a paved pedestrian way. Chairman Best stated his belief ordinances allow for either one, and a paved pedestrian way is less stringent from an engineering standpoint. Director Thompson noted, if required, an easement would have to be granted to the Town as the paved pedestrian way would be located on the applicant's property as opposed to the Town's right-of-way. When asked for the applicant's preference, Mr. Colburn stated his belief the applicant would be amendable to a short easement in the front yard setback.

Public Comment - None

Section 10.01(4) – Landscape Buffer Standards

Mr. Millns noted the Board's receipt of a communication from a direct abutter, James Lajoie, 573 Daniel Webster Highway, stating he does not wish to see any additional boundaries, buffers, etc.

MOTION BY MEMBER MILLNS TO WAIVE THE LANDSCAPE BUFFER STANDARDS UNDER SECTION 10.01(4) NOTING STRICT CONFORMITY WOULD POSE AN UNNECESSARY HARDSHIP TO THE APPLICANT AND WAIVER WOULD NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE REGULATIONS

MOTION SECONDED BY MEMBER SEGEDY

MOTION CARRIED

7-0-0

Section 7.04(4)(r) – Sidewalks

Chairman Best stated his opinion requiring sidewalks surrounding the parcel would be a great deal for one site to be required to construct. He added he is in favor of a sidewalk along the section of Daniel Webster Highway.

Ms. Christensen questioned whether there are paved pedestrian ways in the area or sidewalks. Chairman Best responded he believes there to be sidewalk all the way down to the location of Southern New Hampshire Medical Center on the other side of the street. Mr. Morrisette believed that to be correct and noted regulations require either or but do not require they match nearby type.

MOTION BY MEMBER MILLNS TO WAIVE THE SIDEWALKS STANDARDS UNDER SECTION 7.04(4)(r) ENTIRELY FOR PHASE I AND ON RAINBOW AVENUE FOR PHASE II, REQUIRE THE CONSTRUCTION OF EITHER A SIDEWALK OR PAVED PEDESTRIAN WAY ON D.W. HIGHWAY, AND GRANT AN EASEMENT TO THE TOWN OF MERRIMACK, AS NECESSARY, AS A CONDITION OF APPROVAL OF PHASE II NOTING STRICT CONFORMITY WOULD POSE AN UNNECESSARY HARDSHIP TO THE APPLICANT AND WAIVER WOULD NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE REGULATIONS
MOTION SECONDED BY MEMBER CHRISTENSEN

MOTION CARRIED

6-1-0

Member Bonislawski Opposed

Mr. Bonislawski stated his opposition to the motion was based upon an understanding should the project not progress to Phase II, there would be no sidewalk constructed. Chairman Best remarked, if Phase II were not undertaken, there would be very little physical change to the site, and in such instances, past practice has been not to impose the sidewalk regulation.

Ms. Christensen questioned whether a specific timeframe would be associated with commencement of Phase II if approved. Director Thompson noted RSA 674:39 states as long as there is active and substantial development pursuant to the approval within 24 months, they would be vested from any changes in regulations or ordinances for a period of five years. Essentially, they would have two years to vest the approval from any changes in regulations. If the regulations don't change, there would be no concern as the project would comply with regulations in place today. Councilor Koenig questioned whether there were concerns related to drainage calculations for Phase II. Chairman Best stated a condition of approval would be that the applicant provides the drainage calculations and escrow funds for peer review.

MOTION BY MEMBER MILLNS TO GRANT FINAL APPROVAL FOR PHASE I AND PHASE II WITH THE FOLLOWING CONDITIONS TO BE FULFILLED WITHIN 6 MONTHS AND PRIOR TO PLAN SIGNING

1. Final plans to be signed by the Applicant and Property Owner,
2. Any waivers granted shall be listed and fully described on the Final Plan,
3. Applicant to provide appropriate drainage calculations (prepared by a professional engineer), which shall be reviewed by the Town's peer review consultant for conformance to the requirements of the regulations (Applicant will be required to provide escrow for this review, which will be limited to the drainage analysis only),
4. Address any forthcoming comments from the Fire Department,
5. Address any forthcoming comments from the Conservation Commission (relative to Phase II as the project is located in the Aquifer Conservation District),
6. Address any forthcoming comments from Merrimack Village District (as the project is located in the Wellhead Protection Area); and
7. Address planning staff technical comments:
 1. Please address the following on the existing conditions plan:
 - a. Label the existing structure as a "single family residence";
 - b. Please revise note 4 relative to the setbacks. For the existing residential use, setbacks are as follows: 30' front, 20' side, and 60' rear. For commercial use the setbacks are as follows: 30' front, 50' adjacent to DW Highway, 20' side, and 40' rear;
 2. Please address the following relative to the Phase I improvements plan:
 - a. Please revise note 4 relative to the setbacks, indicating the 30' front setback in addition to the 50' front setback where adjacent to DW Highway;
 - b. Indicate proposed snow storage areas on the plan;
 - c. Label the two parallel parking spaces as employee parking;
 3. Please address the following relative to the Phase II improvements plan:
 - a. Please revise note 4 relative to the setbacks, indicating the 30' front setback in addition to the 50' front setback where adjacent to DW Highway;
 - b. Indicate proposed snow storage areas on the plan;
 - c. Please label the shed and adjacent deck as "to be removed in Phase II."

- 4. The applicant has not indicated any proposed signage. Please clarify the plans by either indicating proposed signage (with appropriate details) or (if no signage is proposed) add a note to the plan indicating no signage is proposed.

MOTION SECONDED BY MEMBER REDDING

MOTION CARRIED

6-1-0

Councilor Koenig Opposed

8. Annual Meeting – Election of Officers and Review of the Bylaws.

Chairman Best called for nominations.

MOTION BY MEMBER SEGEDY TO ELECT ROBERT BEST AS CHAIRMAN AND ALASTAIR MILLNS AS SECRETARY OF THE MERRIMACK PLANNING BOARD FOR A ONE-YEAR TERM

MOTION SECONDED BY MEMBER BONISLAWSKI

MOTION CARRIED

5-0-2

Councilor Koenig and Alastair Millns Abstained

9. Discussion and Possible Action Regarding Other Items of Concern

Director Thompson noted Atrium Medical of Hudson has announced their intent to relocate their facility to 40 Continental Boulevard. Staff is working with their site engineer, Hayner/Swanson, Inc., and were scheduled to conduct a kickoff meeting the following day. In an effort to expedite and provide a thorough review process in a compressed timeframe, staff requested the Board consider scheduling a special meeting for the reserve date of June 26th, which would be dedicated solely to the Atrium Medical site plan review. Chairman Best stated a meeting would be set.

Director Thompson reminded the viewing public, volunteers continue to be sought to serve on the Board. Ms. Christensen questioned the status of the replanting of the buffer at Premium Outlets Boulevard, and was informed the plans amended for signage changes have been revised to incorporate a variety of different construction changes that have occurred over the course of several months as well as the replanting of the buffer. The Board Chairman and Secretary have signed off on the plan. The Occupancy Permit will not be issued if the requirements are not met.

Mr. Millns remarked there is supposed to be a triple right lane off the Fidelity parcel, which does not yet exist. Director Thompson stated he would look into the status.

Director Thompson informed the Board and the viewing public the next regular meeting of the Merrimack Planning Board is scheduled for June 5th and the next Master Plan Steering Committee meeting is scheduled for June 12th.

10. Approval of Minutes

Merrimack Planning Board April 17, 2012

MOTION BY MEMBER SEGEDY TO APPROVE WITH CHANGES

MOTION SECONDED BY MEMBER MILLNS

MOTION CARRIED

7-0-0

11. Adjournment

MOTION BY MEMBER MILLNS TO ADJOURN

MOTION SECONDED BY MEMBER SEGEDY

MOTION CARRIED

The May 15, 2012 meeting of the Merrimack Planning Board was adjourned at 9:25 p.m.