



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, SEPTEMBER 25, 2012

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Stanley Bonislawski, Desirea Falt, and Alternates Nelson Disco and Matthew Passalacqua.

Planning Board members absent: Lynn Christensen, Michael Redding, and Alternate Pete Gagnon.

Community Development staff: Community Development Director Tim Thompson.

1. Call to Order

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

Chairman Best designated Matt Passalacqua and Nelson Disco to sit for Lynn Christensen and Michael Redding, respectively.

2. Announcements

Chairman Best announced that there would be no Planning Board meeting on October 2, 2012. The next Master Plan Steering Committee and Planning Board meetings are scheduled for October 9 and 16, respectively.

3. Planning & Zoning Administrator's Report

Tim Thompson presented an update of the Master Plan process. The plan is almost finished. The transportation and energy sections are being fleshed out by VHB. The next two meetings are scheduled for October 9 and 30, 2012. A public forum will be held in November 2012. On October 30, 2012, the committee will look at an overview of the entire plan for consistency among chapters. At the end of the year, a joint meeting will be held with Town Council and the Planning Board. The Planning Board will hold a public hearing in either January or February 2013. The plan will be posted on the Town's website. Chairman Best added that it is the Planning Board that will ultimately adopt, reject, or change the plan.

Alastair Millns asked the date for reviewing the Capital Improvement Plan (CIP). Tim Thompson said the submission deadline is September 26, 2012, with a tentative Planning Board meeting on November 13, 2012. The Community Facilities section of the Master Plan will make recommendations about a comprehensive CIP process. The committee will meet with representatives of the Planning Board, Town Council, School Board, Financial Director, School Business Administrator, and the Community Development Director to make recommendations.

- 4. Children's Quest Academy, Inc. (Applicant) and Christopher Ross, LLC. (Owner)** Review for Acceptance and Final Approval of an application requesting a waiver of full site plan review to permit a change of use to convert 1,100 SF (Unit 4) of retail space (formerly Eye-Q Vision Therapy) and 1,900 SF (Unit 5) of office space, to Children's Quest Academy offering toddler, Pre-School, Pre-Kindergarten, and Kindergarten programs. The parcel is located at 401 D.W. Highway and lies within the C-1, Limited Commercial District. Tax Map 4D-3, Lot 083.

Christopher Ross, owner, 401 D.W. Highway, no longer wants the previously approved café as a tenant. Alfred Carl, co-owner, Children's Quest Academy, said hours of operation would be 9:00 a.m.-2:00 p.m. Approval is being sought for both years 1 and 2.

Nelson Disco wanted to see a current plan rather than the 2003 plan, which Chris Ross said he had submitted to the Community Development Department. Tim Thompson said that staff recommends that it is not an issue for accepting the plan for review, but submission of a revised plan could be made a condition of approval.

Chris Ross said the Synergy parking plan is not yet finished.

Chairman Best asked the applicant to address the five staff concerns: estimated vehicle trips, parking requirements and parking waiver, drop-off/pick-up times and how they would be coordinated with current tenants in building, location of outside play area, access by teachers and children to outside play area. Chris Ross said he submitted estimated vehicles trips and a parking study and that there would be no problem with drop-offs and pick-ups. His photos of the lot show that over 50% of the parking spaces are available. Drop-off and pickup times will be addressed at this meeting. There is more than enough space for the outside play area, which is outlined in color. Access is taken care of. Although they were approved, the 2005 plans were not signed. Nor was the 2012 Synergy application, which the Board extended. Chris Ross does not want the pre-school on the Synergy plan because it would slow State approval. Nelson Disco said the Board needs either a completed or approved plan.

Chris Ross said the fenced-in play area could be outlined on the plan. It would be 16'x50' with a 4'-high chain link fence. There would be no playground equipment.

Tim Thompson explained that, if the Planning Board does not waive full site plan review, submission of a new plan would be necessary. The previous 2005 plan lapsed because the conditions were not satisfied. Nelson Disco said the Planning Board needs that first. Chairman Best said Chris Ross might decide not to erect the Synergy building, making this the only plan. Tim Thompson said the pre-school would open before Synergy meets the conditions and before there is a signed final Synergy plan. Chris Ross said there would be little change on the pre-school section and Synergy is on a separate lot.

Stanley Bonislowski added that building in back of the property would not affect the pre-school and the parking lot would not change. Nelson Disco noted that the Board has not seen the play area yet. Chris Ross pointed out the proposed location. He would fence 800 square feet (16'x50') out of an 1800 square foot area, which is 50' more than needed. A large area 100'x21' would include the play area.

Nelson Disco noted a retaining wall and grade changes since the 2003 plan was approved. Chris Ross said the wall would not protrude into the play area. He would probably give excess fill to his neighbor to use for the slope and grass area.

Stanley Bonislowski pointed out that children would have to walk from the building through the parking lot to get to the play area. He asked whether it would be seasonal.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision. *(More importantly, this will allow discussion so Board members may provide the applicant with some direction.)*

The Board voted 6-1-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Matt Passalacqua. Nelson Disco voted in the negative.

Chairman Best said the play area is heavily impacted by Synergy, the guardrail and slope changes. Chris Ross responded that the retaining wall would not reach or impact the play area. The State would approve children crossing the parking lot if there is a crosswalk. Alternatively, after the building is up, the large flat area in front of Synergy could be a play area that children could reach from the unit without going onto the parking lot. Chris Ross showed the new plan.

Tracy Carl, co-owner, Children's Quest Academy, said the play area is not a playground and is not seasonal. It would extend classroom learning to the outside.

Chairman Best noted that the 1800 square foot area is not on the Synergy plan. Chris Ross said it is and pointed it out. The area would not be disturbed.

Alastair Millns agreed with Chairman Best's suggestion to use the 1500 square feet in front of Synergy, which Chris Ross said is flat. Nelson Disco noted that no contours are shown on the plan.

Desirea Falt stated that perhaps only the short-term plan should be used rather than the entire site plan. Chairman Best noted that the State requires a play area. Chris Ross said the area at the south of the building has adequate lawn for a play area, but he would prefer that traffic on the road see shrubs and trees there.

Stanley Bonislowski suggested switching the employee parking lot and the play area. Chris Ross said using the south side of the building would solve the problem, but he would have to rip up many shrubs and trees and install four stairs. Stanley Bonislowski countered that Chris Ross must decide to remove shrubs for a playground because space is limited. He said the 1800 square foot area is not practical and he favors using the area in front.

Chairman Best suggested using the triangular area in front of Synergy for parking or a play area. Chris Ross reiterated that he wants green space in front of the parking lot. The slope would be a triangle of flat grass across the school unit. The parking lot and the grass would be on the same level. A new vinyl fence would replace the chain link fence.

Chairman Best suggested switching the asphalt and dumpster pad area with the play area. The play area would be close to the building and nothing would have to be ripped up. The only change would be moving the dumpster. Chris Ross said he could remove

the back-out bump and create owner spaces with a “reserved” sign, with which staff may have concerns.

Stanley Bonislowski showed where the applicant could use less than 1800 square feet and keep the shrubs and trees. Chris Ross said that would require two retaining walls.

Chris Ross preferred Chairman Best’s suggestion.

Chairman Best said the Board would need a new plan (not an engineering plan) showing where everything would be located in order to grant final approval. Alastair Millns wanted a complete view of the site, either as a picture or as a plan. Tom Koenig, noting the work on the neighbor’s property, a significant slope and a steep drop by the 1800 square foot area, wanted the plan to show how the play area could be put near such slopes. Chris Ross said his neighbor gave him a slope easement to flatten the area near the dumpster. The play area would be several feet away from the hill on flat land. Following Chairman Best’s suggestion would remove that issue. Nelson Disco wanted the plan to show contours and more detail about washout on the neighbor’s property. Chris Ross said there are no washout problems on his property. He showed the elevations.

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

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

Alastair Millns asked about the 6:00 p.m. pick-up in year 2. Alfred Carl said he revised the plan so that the pre-school would be open 9:00 a.m.-2:00 p.m. rather than 9:00 a.m.-6:00 p.m. in year 2. Tim Thompson stated that the narrative would have to be updated.

Chairman Best asked how much parking would be needed when the pre-school is fully operational. Alfred Carl said there would be three employees by the end of year 1 and 5 when fully operational. Tracy Carl said there would be six toddlers maximum with one staff member, two classes of 12 children each in the pre-school with two staff members, and 15 children in pre-kindergarten with 1 staff member, for a total of 45 children and 5 teachers. Chris Ross said there are now 39 spaces. The building would be fully occupied. Tim Thompson said 28 spaces would be required for an educational use and 11 for a daycare use in the draft proposed parking regulations. Desirea Falt said the parking lot is tight. Tim Thompson agreed with Chairman Best that basing parking on daycare rather than educational use is appropriate. Chairman Best said the applicant has the 11 spaces, which is more than enough. Nelson Disco said that losing spaces in front leaves 31 rather than 39 spaces. Chris Ross said that the giant lot in the rear makes up for it. If necessary, employees could park in back and below as they did before. That would leave 33 spaces. There would be 18 more than on the old site plan when the building is erected. A second back-up plan is to use the old house next door. Stanley Bonislowski agreed that there are plenty of parking spaces. Nelson Disco wanted the number on the plan. Chairman Best said the photos show a maximum of 17 vehicles at one time.

Desirea Falt asked if there would be parent volunteers, an open house or parental meetings that would need parking spaces. Tracy Carl and Chris Ross said they could be scheduled on Mondays when Mirabella is closed or Tuesdays when there is little business. Tracy Carl said parent meetings are scheduled twice a year.

Alastair Millns asked if there are differences in State requirements between school and day care use. Alfred Carl said different departments license them. School/college is long term; day care is more transitory. Pre-school is licensed by the childcare division and is open a maximum of five hours a day, which is less than day care.

There was no public comment.

Nelson Disco asked whether the Carls had operated other pre-schools. Alfred Carl was a director and Tracy Carl worked at other schools.

The Carls plan to open in the fall of 2012, as soon as possible.

Tom Koenig wanted the plan to show how long it would take to get cars in and out and how many trips there would be. Tracy Carl said several parents would bring more than one child, totaling 15-20 trips rather than 45. Alfred Carl said drop-off takes 1-2 minutes. Chairman Best noted that pick-up takes longer. He wanted information about trips. Nelson Disco wanted a traffic study. Tim Thompson said morning drop-off is bigger concern than afternoon pick-up because of latter is an off-peak hour for Route 3. Alastair Milns disagreed, noting high school dismissal from 2:00-3:00 p.m.

Staff suggest that the applicant work with staff to prepare a final plan that clearly describes the proposed use, lists the total square footage, the location of the proposed use, the maximum number of employees and children, and detailed parking calculations.

The Board voted 7-0-0 to continue this item to October 16, 2012, in the Town Hall Meeting Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Stanley Bonislowski.

5. **Inland Diversified Real Estate Services, LLC. (Applicant) and Inland Diversified Merrimack Village, LLC. (Owner)** – Discussion and action regarding a request for a six-month extension for compliance with conditions of final site plan approval granted by the Planning Board on January 17, 2012 to permit a proposed change of use to convert 1,400 SF of retail space to a take out/sit-down restaurant use for Sweet Ginger Thai restaurant, located at 6 Dobson Way, Suite E, in the C-2, General Commercial and Aquifer Conservation Districts. Tax Map 3D, Lot 003-2.

Robert Best recused himself from discussing and voting on this item and passed the gavel to Alastair Millns to chair the meeting for this item.

Tim Thompson explained that, at its January 17, 2012, meeting, the Planning Board granted final conditional approval to permit the change of use. The applicant was unaware that the conditions of approval needed to be made to the plans on file in the Community Development Department. They mistakenly believed that the plans submitted to the Building Department had addressed the conditions of approval, which technically lapsed on July 17, 2012. Given that the tenant had proceeded with permits issued from the Building Department, Tim Thompson made a decision that balanced the planning and economic development responsibilities of his position and signed off on occupancy for the restaurant, with the *caveat* that the sign-off can be revoked should the Board not grant the reinstatement/extension of the approval. The plans are complete and ready to be signed. Alastair Millns stated that the mistake is not the applicant's fault and that Tim Thompson made the right decision.

The Board voted 6-0-0 to reinstate conditional final approval, on a motion made by Nelson Disco and seconded by Desirea Falt.

The Board voted 6-0-0 to grant a six-month extension for compliance with conditions of final site plan approval (to start from July 17, 2012), on a motion made by Nelson Disco and seconded by Desirea Falt.

6. Discussion of Draft Language of Amendments to Section 7, Table I Parking Requirements of the Subdivision Regulations (Postponed from the August 21, 2012 Planning Board Meeting).

Robert Best returned to the Board.

Tim Thompson said the draft corrects and makes subsection numbers consistent and adds new sections. Restaurant parking is now based on number of tables and is out of date compared with other New Hampshire communities. There is no need to wait for a complete Master Plan in order to make changes. Tim Thompson explained the new sections. Section 7.03.B lists minimum stacking space requirements, D states loading space standards, E lists minimum parking requirements (The number of uses was expanded and they are grouped differently.), F gives flexibility to off-street parking and loading standards with new criteria, H concerns traffic circulation and prohibits backing out onto public and private roads, I concerns ADA compliance, and J lists optional requirements for bicycle parking. Some current requirements are excessive and require more impervious surface. Tim Thompson showed examples of the number of parking spaces that would be required comparing existing vs. proposed regulations for 18 site plans recently approved by the Planning Board. There will be a November 13, 2012, workshop, followed by a public hearing at a later date, then adoption into the Subdivision Regulations. The draft tries to differentiate between small and large retail use to avoid overkill.

Alastair Millns said that the proposed stacking for drive-thrus for banks and restaurants is excessive. The draft must also distinguish between education and training facilities. Some have students aged 16 and over who can drive and have cars. Matthew Passalacqua asked if there could be an escrow account or impact fee for bicycle racks so the Town could decide where to put them. Chairman Best asked about marking spaces for motorcycles. Nelson Disco wanted to separate buses, taxis and railroad terminals. Flexibility should be allowed if additional parking could be provided with off-site agreements. Tim Thompson said the draft includes shared parking as an option with no requirement for a waiver. Chairman Best asked if sharing is effective if remote parking is too far away. No waiver should be required if it is within a reasonable/certain distance. Tom Koenig noted that the draft says the Planning Board is not required to grant a waiver; it may permit shared parking by means of an approved site plan. Chairman Best explained that licensing hospitals by number of beds is becoming outdated with the increase in outpatient facilities. Tim Thompson said he would look at an alternative to using beds as the parking criterion. Nelson Disco wanted a definition for “compact vehicles”, which Tim Thompson said is covered in “Dimensional Requirements” as 8’x15’. Matthew Passalacqua suggested putting up a compact vehicle sign. Tim Thompson said ADA compliance is referenced but not spelled out in the draft. Alastair Millns asked how not backing out onto a road could be enforced. Tim Thompson said the Planning Board should

ensure that parking is designed appropriately on a site plan; it cannot change what has already been approved. Desirea Falt wanted set standards for bicycle parking. Tim Thompson said it was negotiated with the Public Works Department but could be made stricter. Chairman Best suggested bicycle parking in certain areas of Town. Stanley Bonislowski asked whether truck terminal requirements match the new application, which Tim Thompson said is a warehouse. A truck terminal is for overnight parking. Tom Koenig noted that sometimes retail parking overflows. Chairman Best said the Board could not approve a plan for one day a year. Matthew Passalacqua asked about Town Center parking. Tim Thompson said the Town would have to deal with it. The Planning Board can do it as needed, since it approves site plans. Nelson Disco wanted to encourage shared parking in that area. Tim Thompson explained that might be put in the Zoning Ordinance. He said the draft would be put on the Town website.

7. Discussion and possible action regarding other items of concern.

First Baboosic Realty Trust, Toni S. Paul, Trustee – Voluntary Lot Merger for Tax Map 6A-2, Lots 159 and 162, also known as 312 & 312-A Baboosic Lake Road, respectively.

William J. Grinley – Voluntary Lot Merger for Tax Map 6A-2, Lot 090, also known as 22 Carter Road, and Tax Map 6A-2, Lot 090-01 (no address).

Chairman Best explained that the mergers have been signed and are listed on the agenda as notification only.

The Board voted 7-0-0 to invite Dan DelGreco to a meeting to discuss his interest and qualifications for appointment to the Nashua Regional Planning Commission (NRPC).

8. Approval of Minutes

None.

9. Adjourn

The meeting adjourned at 10:16 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Nelson Disco.