



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, NOVEMBER 13, 2012

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig (arrived 7:40 p.m.), Michael Redding (left 8:40- and returned 8:43 p.m.), Lynn Christensen, Stanley Bonislawski, Desirea Falt (arrived 7:32 p.m.).

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

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

1. Call to Order

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

2. Announcements

Chairman Best announced the next Planning Board and Master Plan Steering Committee meetings scheduled for December 4 and 11, 2012, respectively.

Desirea Falt arrived at 7:32 p.m.

3. Planning & Zoning Administrator's Report

Tim Thompson presented an update of the Master Plan. At its last meeting, the Steering Committee reviewed a compilation of all the elements in the Plan. On November 20, 2012, Community Development Director Tim Thompson, his staff, Committee Chairman Nelson Disco, and consultants VHB will go over edits and comments. They hope to review further comments in December 2012 and hold a public hearing in January or early February 2013, with the first Planning Board discussion shortly thereafter. Chairman Best explained that the Plan is the Planning Board's document to adopt, modify or reject.

Tim Thompson said that Merrimack Premium Outlets has formally requested Black Friday opening hours and has met with emergency services. Tentatively, one-third of the stores will open at 9:00 p.m. on Thanksgiving night; another 1/3 will open at midnight; and the last 1/3 will open at 9:00 a.m. the next day. Starbucks is open and Qdoba Mexican Grill will open this week. The same traffic protocol as for grand opening weekend will be followed for Black Friday. There will be an employee shuttle from 40 Continental Boulevard.

A sound and noise study will be done on Black Friday weekend, and light shields have been ordered, but they have not yet arrived.

4. Cloud K9, LLC., c/o Laura Federspiel (applicant) and Leo & Aline Fortier (owners) – 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 approximately

1,545 s.f. of first floor retail space (formerly Paul's Cleaners; Unit 1 & Ryly's Gourmet; Unit 2) to Cloud K9, a business offering grooming, home-based boarding & daycare services for dogs, and a portion of the upstairs (Unit 4) to office and storage space for Cloud K-9. The parcel is located at 385 D.W. Highway and lies within the C-1 (Limited Commercial) and Aquifer Conservation Districts. Tax Map 4D-3, Lot 090.

Chairman Best asked about the square footage discrepancy. Tim Thompson said that, without specific floor plans, assessing records are approximate. Staff considers the first two units to be 966 square feet and is comfortable with the change of use.

Tom Koenig arrived at 7:40 p.m.

Mark Roy, Realtor, Elm Grove Real Estate, said the business is currently located at Columbia Circle. There will be no change to the building's exterior. There will be an incredible decrease in traffic and use. The current owners are at this meeting to support the application. The applicant will buy the facility.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

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

Stanley Bonislowski noted that the Merrimack Conservation Commission (MCC) requested but did not require that no salt or de-icing materials be used. He recommended that the applicant not agree to such a condition.

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 Lynn Christensen and seconded by Alastair Millns.

Alastair Millns asked about tree removal. Mark Roy stated that all trees were cut and removed five years ago.

Stanley Bonislowski asked how many of the eight parking spaces are used by the electric company. Mark Roy said it uses perhaps 1-2 a month. It is mostly for signage and truck storage. Stanley Bonislowski said he thought that the electric company uses three spaces and that the applicant would have 2-3 employees. Mark Roy explained that the electric company would be just a mailing address with on-site employee parking in the future and its van would be removed to the owner's home. The work vehicles will move around. Tim Thompson explained that there is no parking requirement for this use in the regulations, but eight is very close to the proposed requirement in the draft amendments to be discussed later in the evening. Mark Roy said dog grooming/boarding is a "personal service". It would take one month for Cloud K9 to have the amount of traffic that Paul's Cleaner's has in a day. Appointment times are staggered. Parking would be a much smaller issue than it is now.

Michael Redding asked about fencing. Laura Federspiel, Applicant and Owner of Cloud K9, showed on the plan where there would be a 6' chain link fence covered with fence fabric, which is rated for construction site noise. It would be on the side abutting the dance studio and act as a barrier for the dogs in the back and for the abutter on the side. Michael Redding's concern is that dogs might need a solid fence as a noise and visibility barrier also and so that children at the dance academy not excite them. Laura Federspiel

said dogs would not exercise and play during dance academy hours. She would have a maximum of five dogs in day care. Bushes, or a wood or stockade fence are also possible. Alastair Millns said a fence might help because barking might make little girls nervous. Lynn Christensen noted a drop-off would be between the dance academy and the back of the building. Mark Roy said it is within 1'-2'. There would be room for shrubbery between the fence and the lot line. Lynn Christensen said that cars would also act as a buffer. Children exit away from the property line. There would not be an impact or interaction between the dance academy and the dogs. Mark Roy said that no one would be able to put a finger through the tightly woven mesh. Lynn Christensen added that mesh is more sound absorbent than other materials.

Tom Koenig asked for the maximum number of employees and dogs. Laura Federspiel said there would be one groomer and one receptionist in addition to herself. The two units upstairs may be rented to businesses that complement hers. They may have employees. Tom Koenig asked if there would be enough parking. Tim Thompson repeated that Cloud K9 is only ½ a space short of the proposed regulations. Laura Federspiel said her customers stay for only five minutes to drop off their dogs. The spaces rotate. Tom Koenig asked about the possibility of the new businesses needing more spaces. Mark Roy said the building is a very small old home. The upstairs tenants could use the back of proposed Yards 2 and 3. Desirea Falt agreed that the rooms upstairs are small and would house perhaps two people in each one; the parking is adequate. Tim Thompson said the upstairs requires ½ a parking space for each unit. Chairman Best noted the potential to add more spaces. Mark Roy stated that the applicant wants to have green space and does not want to over-pave.

Chairman Best asked how many spaces Cloud K9 has on Columbia Circle. Laura Federspiel said she has two parking spaces and 1,200 square feet for her business, but a lot of it is used as a warehouse. She uses 500 square feet. She works alone on 4-6 dogs a day. Operating hours would be 8:00 a.m.-4:00 p.m.

Chairman Best asked about night hours and clearing snow. Laura Federspiel said she would clear two dog yards of snow all winter and scoop up after the dogs every day. If the Planning Board approves boarding and day care, operating hours would be 6:00 a.m.-6:00 p.m. with walking the dogs at 8:00 p.m. if necessary. She would never let dogs out unattended. Mark Roy said no dogs would be outside at night except to relieve themselves. They would board in interior kennels.

Alastair Millns asked if there would be a filtration system to satisfy proposed Condition #5. Mark Roy said strainers could be removed and cleaned out daily. As to proposed Condition #3, the MCC is extremely concerned about salt, which is not good for paws. The applicant will abide by the plan note and will seek an eco-friendly de-icer. Stanley Bonislawski repeated that the applicant should not agree to no de-icers because that would prevent using a potential new product in the future. Mark Roy said the MCC did not rule out all de-icers. The applicant will work with the MCC. Chairman Best suggested adding a note to the plan when agreement is reached stating that no sodium or chloride would be used. That leaves other options open.

Michael Redding asked if trash bins would have closed tops, which Laura Federspiel said would be the case.

Public comment

Paul Fortier, Owner, Paul's Cleaners, 385 D.W. Highway, said there are seven spaces in front and on the side and six more unmarked in back, for a total of 13; the parking should be adequate. There is a maximum of three vehicles there now, usually only 1-2 during the day. He took no applications for the two units upstairs while the building was on the market. From 1985-2001 before the dry cleaner came, it was strictly a laundry that used no chemicals, only water. The back spaces were empty even on busy Saturday mornings. There is no parking issue. If the application is approved, the cleaner will have to move.

Michael Redding supports a solid fence/barrier. In addition to blocking shadows and car lights and protecting children, it would be a windbreak preventing smells from getting out. Chairman Best said a solid fence is usually better for both children and dogs. Alastair Millns agreed that the Planning Board should add this as a condition. Chairman Best, with the approval of the Board, said the plan should state that no sodium or chloride rather than no de-icing materials should be used. Tom Koenig objected that the condition is overly restrictive.

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

Stanley Bonislowski wanted de-icing regulations to pertain to the entire Town rather than just one applicant. He withdrew his second from a motion to grant final approval made by Alastair Millns. Chairman Best said this applicant should not go through the wringer because of problems in other parts of Town.

Mark Roy said that, if a solid vinyl fence cannot contain the dogs or prevent them from digging under it, he would install a 78' section of chain link/screen fence.

The Board voted 5-2-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Lynn Christensen. Tom Koenig and Stanley Bonislowski voted in the negative.

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. Address two comments received from the Merrimack Conservation Commission per correspondence dated November 6, 2102. The applicant shall not utilize sodium and/or chloride for deicing on the property;
4. Final outdoor fencing (including provision of a solid wood or vinyl "stockade" style fence along the northerly extent of the area shown on the plans as "yard 2") and gate configuration to be approved by the Merrimack Fire Department and incorporated into the final plan sheet;
5. Address comment received from the Public Works Wastewater Division relating to the concern about excessive amounts of dog hair entering the town sewer collection system and potentially plugging the line;
6. Address planning staff technical comments. (Below)

Planning Staff Technical Comments

1. The applicant shall add a note to the plan acknowledging that any proposed signage or modifications to existing signage shall require a sign permit from the

Building Department and shall comply with Section 17 – Signs – of the Zoning Ordinance and Section 11.10 – Illuminated Signs – of the Subdivision and Site Plan Regulations, as applicable;

2. The applicant shall add an applicable note to the final plan regarding the use (or non-use) of deicers (including salt, sodium and chloride).

5. **Valleyview Drive Revocable Trust (applicant/owner)** – Review for Acceptance and consideration of Final Approval of a subdivision application proposing to subdivide one lot into a total of three residential lots. The property is located at 15 Valleyview Drive and lies within R (Residential) District. Tax Map 5C, Lot 142.

At applicant's request, the Board voted 7-0-0 to postpone this item to December 4, 2012, in the Matthew Thornton Room, at Town Hall, at 7:30 p.m., on a motion made by Lynn Christensen and seconded by Desirea Falt.

6. **Two-Year Maintenance Bond Release Request for Greenfield Farms – Phase XII, Public Works Department recommends the release of the \$102,762.00 two-year maintenance bond.**

Michael Redding left at 8:40 p.m.

The Board voted 6-0-0 to release the Greenfield Farms – Phase XII \$102,762.00 two-year maintenance bond, on a motion made by Lynn Christensen and seconded by Tom Koenig.

7. **Recommended** road acceptance for Portside Drive (part of the Holts Pond Estates subdivision), in accordance with Section 5.01.1(f) of the Subdivision Regulations.

The Board voted 5-0-1 to recommend acceptance of Portside Drive to Town Council, on a motion made by Lynn Christensen and seconded by Alastair Millns. Tom Koenig abstained.

8. **Portside Drive Bond Release** – Discussion/possible action regarding the release of performance bond for Portside Drive, subject to the posting of a maintenance bond.

Michael Redding returned to the Board at 8:43 p.m.

The Board voted 7-0-0 to release the \$395,872.00 performance bond subject to posting of \$39,587.00 two-year maintenance bond, on a motion made by Lynn Christensen and seconded by Alastair Millns.

9. Discussion of Proposed Amendments to the Parking Regulations

Tim Thompson summarized the changes. He hopes to hold a public hearing in two months.

7.03.C.1. and 3: Stacking Chairman Best agreed that a drive-thru restaurant differs from a bank and should have different stacking requirements. Tim Thompson said the size of a stacking space is like a standard parking space, 9'x18'. Michael Redding agreed with 10 stacking spaces. A site must be suited to the need rather than try to squeeze spaces into small sites. Desirea Falt said that, since there are long lines at a drive-thru at peak hours with more of a demand for quick service than at a bank, the proposed 10 stacking spaces work. Tim Thompson said it is rare for a bank to have only one drive-thru lane. If

the minimum were eight stacking spaces with four for each additional window/terminal then two lanes would require 12 stacking spaces. Chairman Best said 16 spaces for three lanes is a lot. Lynn Christensen agreed with Desirea Falt that 10 spaces is reasonable for a drive-thru, but she prefers four per window at a bank. Michael Redding agreed because, with more electronic services, there is less need to go to a bank window. Alastair Millns said no fast food outlet can cope with 10 stacking spaces without endangering people jamming the road; 10 is excessive. Chairman Best said that is the point: in the future, a site must be designed for 10 in order to eliminate the problem of cars lining up on the street. Stanley Bonislowski agreed because it is a safety issue. Lynn Christensen said eight is the minimum. A site would determine whether it could fit eight or 10. Tim Thompson noted that the Planning Board could always waive the requirement.

The Planning Board agreed to 10 stacking spaces for a restaurant drive-thru window and four for a bank window.

7.03.G.4.a: Shared Parking The Planning Board agreed that the location of any off-site parking area shall be within 1,000’ of the property containing the use the parking is intended to serve.

7.03.B.5: Dimensional Requirements The Planning Board agreed to change “accessible” to “ADA accessible”.

7.03.E. Table 1: Minimum Parking Required: Correct typo to differentiate Wholesale Businesses up to 100,000 s.f. from Wholesale Businesses more than 100,00 s.f.

The Board voted 7-0-0 to thank staff for its considerable effort on the document and to hold a public hearing, on a motion made by Alastair Millns and seconded by Lynn Christensen.

10. Discussion and possible action regarding other items of concern

Tim Thompson agreed to the Planning Board’s suggestion that the following be added to next year’s meeting calendar: “The Planning Board reserves the right to have an additional meeting the fourth week of the month.” He explained there is only one meeting scheduled for November 2013 because of when Thanksgiving falls and because the entire calendar was scheduled so that staff would not have two meeting deadlines (Planning and Zoning Boards) in the same week.

Prior to a public hearing on parking regulations, Tim Thompson will edit the draft and send it to engineering firms who regularly do business in Town for their feedback. If there are significant concerns, he will hold another workshop.

11. Approval of Minutes

The minutes of September 25, 2012, were approved, with changes, by a vote of 7-0-0, on a motion made by Stanley Bonislowski and seconded by Desirea Falt.

The minutes of October 16, 2012, were approved, with changes, by a vote of 7-0-0, on a motion made by Stanley Bonislowski and seconded by Alastair Millns.

12. Adjourn

The meeting adjourned at 9:20 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Stanley Bonislowski.