



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY NOVEMBER 1, 2022**

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, November 1, 2022 in the Matthew Thornton Room.

### **Members Present:**

- Robert Best (Chair)
- Lynn Christensen
- Neil Anketell
- Brian Dano
- Haleem Mediouni – Alternate
- Maureen Tracey – Alternate
- Nelson Disco – Alternate

### **Members Absent:**

- Paul McLaughlin
- Town Councilor Barbara Healey - Ex-Officio
- Jaimie von Schoen

Staff Present: Tim Thompson, AICP, Community Development

### **1. Call to Order**

Chair Robert Best called the meeting to order at 6:30 p.m. and led everyone in the Pledge of Allegiance. He then seated Alternates Nelson Disco and Haleem Mediouni for Paul McLaughlin, and Jamie von Schoen respectively.

### **2. Planning & Zoning Administrator's Report**

Tim Thompson provided an update on the vacant Assistant Planner position.

### **3. Consent Agenda**

- Regional Impact Determinations*
- Maintenance Bond Release Request for Barbie Court*
- Extension Request: six month conditional approval extension for the Gilbert Crossing Expansion project located on Gilbert Drive (case # PB2021-44).*

**The Board voted 5-0-1 to approve the consent agenda on a motion made by Lynn Christensen and seconded by Nelson Disco. Robert Best abstained.**

**4. Howe Distribution, LLC (applicant) and Ootzie Properties-MHT, LLC (owner)** – Continued review for final approval of a Site Plan Review to construct a 340,000 square foot warehouse building and associated site improvements. The parcel is located on Crow’s Nest Circle in the I-1 (Industrial) and Aquifer Conservation Districts Tax Map 2D, Lot 21. Case # PB2022-33. ***This item is continued from the October 4, 2022 Planning Board Meeting.***

Mr. Thompson prefaced the presentation by advising the Board that peer review comments have now been received for this project and although there are still several updates needed to the plan, staff supports granting final conditional approval. Mr. Thompson also stated that the applicant has submitted a revised waiver request letter, and is now requesting 5 waivers (Section 3.11.l.1 – Internal Parking Lot Landscaping, 3.11.l.3 – Tree setback from pavement, Section 3.08.c.6 –Sight Distance, Section 3.07.g.1 – Minimum Pipe Size of 15”, and Section 4.12.c.18.viii – Locations of Trees greater than 15” in diameter). Community Development Staff is comfortable with 3 of the waivers (for landscaping, tree setback, and trees greater than 15”). Staff does not support the waiver for sight distance information, as staff believes it is important to ensure that the proposed driveways will be safe for not only the applicant, but for any future development of the second lot in the subdivision. Preserving adequate sight distance is also a standard requirement of individual operations and maintenance plans for each property and will need to be an ongoing part of annual site maintenance. Public Works does not have a specific recommendation regarding the pipe size waiver, but did note to staff that had this been a pipe in a public right-of-way or public property, that 15” is the minimum acceptable pipe for such a situation.

Matt Routhier (TF Moran) and Ashoke Rampuria (applicant) presented the application to the Board. Mr. Routhier began by reviewing some of the revisions that have been made to the plan including several revisions that came as a result of meeting with the Conservation Commission. He briefly discussed the reasons they feel that sight distance information is not necessary and a discussion ensued regarding the town’s regulations. Chairman Best concluded the conversation by stating that it can be discussed further when the Board is ready to review the waiver requests. Mr. Routhier then shared a copy of the revised site plan with the Board to show where directional signs and parking lot landscaping have been added. He also shared the Truck Movement Exhibit plan and indicated that interstate hauler trucks (WB-62) were used for the design because they are the largest truck that would visit the site.

Nelson Disco asked for clarification on what was added for interior landscaping because nothing appears to be added to the plan as far as trees and shrubs. Mr. Routhier explained that a strip of green space was added between the rows of parking but the space is too small for plantings so it will just be ground cover or grass. Mr. Routhier reviewed the landscaping plan in detail including the plans for snow removal. Mr. Disco expressed his displeasure with the landscaping plan and Chairman Best agreed that there is not much landscaping being added but given the location of the parcel, he is ok with the proposal. Brian Dano asked if there has been any consideration in adding a railroad switch given the proximity to the railroad. Mr. Routhier responded that it is not something they are pursuing at this time.

Mr. Disco asked what is going to be stored at the warehouse and Chairman Best confirmed that the applicant stated that they do not have a tenant at this time. Mr. Disco asked how the Board can ensure that the appropriate departments are alerted if there are hazardous materials being stored in the building. Mr. Thompson explained that there is a building permit and building occupancy process that any tenant would have to go through. Mr. Disco requested a note be added to the plan stating all materials stored in the warehouse must be reviewed by public safety personnel in accordance with all applicable local regulations prior to occupancy of the building.

The three landscaping waivers (Section 3.11.l.1 – Internal Parking Lot Landscaping, 3.11.l.3 – Tree setback from pavement, and 4.12.c.18.viii – Locations of Trees greater than 15” in diameter) were discussed together. Chairman Best asked if there are any concerns with the trees damaging the pavement if they are too close to the road and Mr. Routhier responded that it is not a concern given the type of tree being proposed. Chairman Best asked if any of the existing forested area will remain intact once the site is developed and Mr. Routhier used the plan to demonstrate a small area that might not be disturbed during construction. He clarified that the area in question contains a water easement so Pennichuck may want it cleared for their use. Chairman Best stated that he sees no sense in requiring trees to be located on the plan if they are just going to be removed.

**The Board voted 6-0-0 to grant the landscaping related waivers on a motion made by Brian Dano and seconded by Neil Anketell, because strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.**

Mr. Routhier discussed the site distance waiver request next (Section 3.08.c.6) indicating that they do not feel that provision of sight distance information is necessary given the speed limit of the road and the types of vehicles that will travel it. He added that they have taken the measurements and feel that there is not a safety concern but Chairman Best argued that if they have the measurements then why not just show them on the plan. Mr. Routhier stated that a waiver would be preferred but if the Board wants to see them, they can be added.

*The applicant withdrew the requested waiver for sight distance.*

Mr. Routhier cited the reasons why the minimum pipe size waiver (Section 3.07.g.1) is being requested and Chairman Best asked if the peer review comments included any concerns with using a 12 inch pipe as opposed to a 15 inch pipe. Mr. Thompson responded that there were no concerns with the pipe size raised in the peer review.

**The Board voted 6-0-0 to grant the pipe size waiver on a motion made by Neil Anketell and seconded by Brian Dano, because 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.**

#### **Public comment**

Philip Gault (21 Meetinghouse Road), after stating that his comments could take hours and being told that the Board would likely limit the amount of time to express those comments, asked for clarification on why the applicant withdrew the pipe size waiver and expressed concerns with the potential for contaminating ground water.

**The Board voted 6-0-0 to make a finding that with the granted waivers and the proposed conditions of approval, the application meets all applicable regulatory requirements necessary, and to grant conditional final approval to the application with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified, on a motion made by Nelson Disco and seconded by Haleem Mediouni:**

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;

2. The applicant shall obtain all required State approvals/permits, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;
3. The applicant shall provide draft copies of any applicable legal documents for review at the applicant's expense, by the Town's Legal Counsel;
4. Any waivers granted (including Section and date granted) and/or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable;
5. The applicant shall address the comments from the town's peer review consultant, Fuss & O'Neill, and any final review comments from peer review following conditional approval;
6. The applicant shall add a note on the plan that any materials stored in the warehouse must be reviewed by public safety personnel in accordance with all applicable local regulations prior to occupancy of the building and storage of the materials in the building;
7. The applicant shall address the following comments from the Fire Department relative to the site design necessary for final site plan approval:
  - a. Fire Department water supply (pressurized hydrants) are required. In keeping with the compliance of state fire codes, NFPA codes and continued practices with other subdivisions and residential complexes within the community the installation of Fire Hydrants on a minimum of an eight inch water main will be required with Fire Hydrants located every 500 feet along all roadways and no more than 250 feet to a driveway as calculated along the new road starting at the nearest hydrant located on Daniel Webster Highway. Final drawings showing the locations of the fire hydrants must be submitted to the Fire Marshal's Office for approval;
    - i. Due to the large size of this building as well as the uncertainty of what may be stored within the building additional hydrants may be required. The number and locations of the hydrants will be determined by this office with input from the developers engineering consultant;
8. The applicant shall meet with Pennichuck Water Works staff and address any of their comments or requirements related to the proposed connection to the public water system (providing verification to the Town);
9. The applicant shall address the following comments from the Public Works Department, as applicable:
  - a. Section 3.02.b (Monuments) - Lot corners and points of curvature along the ROW line shall be marked by a stone or concrete monument 4"x4"x36" minimum. There is one monument along Mast Road at the angle point that is not noted on sheet C-3 and also one PRC at the entrance to Crow's Nest Circle that isn't noted either;
  - b. Section 3.06.b (Individual Disposal System) - The site is going to be serviced by an onsite ISDS Individual Sewerage Disposal System that requires NH DES approval. The site will not be serviced by the Municipal Sewerage System therefore no comment is required for Wastewater;

c. Section 3.07 (Storm Drain System):

- i. All requirements per the Fuss & O'Neill Peer Review report item #5 shall be addressed;
- ii. On sheet C-2, Town of Merrimack Notes, Note 4 shall also include a Post Construction Meeting prior to the Issuance of the Certificate of Occupancy shall be requested and held;

d. Section 3.08 (Driveway Entrance):

- i. There are 2 driveways being proposed only one is allowed without permission from the Planning Board, Town Engineer and/or Highway Department;
- ii. The driveway is located on a Town approved road and will require a Right of Way permit from the Town of Merrimack Highway Department prior to any work being done. A note shall be added to the plan;
- iii. The typical Bituminous Curb shown on sheet C-29 should be a Miller CFD#1144 Berm and shall be 12 inches wide and not 9 inches;
- iv. Sight Distance Plan and Profiles have not been included in the plan set;
- v. The second access off of the Cul-De-Sac does not show any radius distances (on sheet C-9). Driveway widths at the ROW have not been shown on the plans (C-8 & C-9);

10. The applicant shall address the following comments from the Conservation Commission, as applicable:

- a. Please make sure all references to the construction and landscaping phases specify that straw will be used and not hay. Some of the site plan map notes did correctly call out this requirement while others did not;
- b. This parcel is in the Aquifer Conservation District and as such the Commission recommends "no phosphate" fertilizers be used; the plan called for low-phosphate. Additionally, the Commission urges the parties to complete testing prior to using any fertilizers as the soils on this parcel probably have sufficient nutrient value that fertilizing won't be necessary;

11. The applicant shall address the following Community Development Staff Technical Comments:

- a. The plans do not show the required front setback of 50' correctly from the Crow's Nest Circle front property line. The setback is 50 feet and shall be revised to indicate such *(the variance for reduced setback granted for XTL in 2013 has long since expired, as construction associated with the XTL project never occurred in the required 2 year timeframe outlined in the Zoning Ordinance to vest the variance, see attached minutes*

*from 2013 and the applicable Zoning Ordinance language. The setback line needs to be revised to 50'. No new variance appears to be necessary, as the building is set back 53.6' from the property line).* In addition, please remove the note referring to the 2013 variance from Sheet C-7 and correct the setback to reflect the 50' requirement;

- b. The applicant shall provide all required monuments such that they are no further than 500' apart per the requirements of Section 3.02.a of the regulations. This requirement applies regardless of the existence of monuments on the site, when a site plan is proposed, the 500' distance requirement applies;
- c. The plans continue to indicate a 4 foot high retaining wall within the front and side setback of the property. A retaining wall of this height is considered a structure and subject to setback requirements (*the Building code states that anything 4 feet and taller is considered structural*). The applicant will either need to revise the design such that the wall is less than 4' in height (and then no longer considered structural) or obtain a variance from the ZBA for the encroachment in the setbacks as previously requested and the applicant has not yet addressed;
- d. The applicant shall address the following relative to the Cover Sheet (C-1):
  - i. Revise Planning/Zoning Department to read Community Development Department;
  - ii. For Public Works, the contact person should be Dawn Tuomala, PE, Town Engineer/Deputy Director;
  - iii. For the Fire Department, the contact person should be John Manuele, Fire Marshal
  - iv. The water provider for this part of Merrimack is Pennichuck Water Works, not Merrimack Village District. Please update the contact information;
- e. The applicant has not provided (or has provided incomplete information for) the following required plan notes (from Section 4.11) on either Sheet C-2 or C-7):
  - i. Existing and proposed use;
  - ii. Minimum lot area, frontages and setback dimensions required for district(s) (the "provided column is incomplete);
  - iii. List of Planning Board waivers;
  - iv. The note reading "This project is subject to the requirements of the Town of Merrimack Stormwater Management Standards (Chapter 167 of the Merrimack Town Code). A pre-construction meeting with the Community Development Department and Public Works Department shall take place at least two weeks prior to commencement of earth disturbance." is combined with another note on Sheet C-2 (Town of Merrimack Note 3);
- f. On Sheet C-2:
  - i. General note 5 indicates "City/Town of XXX." Please revise;
  - ii. The legend does not indicate linetypes for setbacks and buffers (and no other legends appear to contain this information elsewhere in the plans set);

- iii. General Note 18.M can be removed, since the requirement for an as-built plan will need to be noted as a general/subsequent condition of the approval at the appropriate time using language specific to this project;
- g. On Sheet C-7:
  - i. Note 7 appears to be from another community, as Merrimack does not have impact fees;
  - ii. Note 8 appears to be incomplete, indicating “sheet C-xx;”
  - iii. Note 9 shall be removed, as it is a statutory requirement, and need not be on the plan;
  - iv. Note 19 shall be edited to read “Town,” not “City or Town;”
- h. The applicant shall note that all lighting fixtures are full cut-off and indicate the U-Ratio for the site to ensure compliance with Section 3.13 of the regulations.

**The following general and subsequent conditions are placed on the approval:**

1. The applicant is responsible for recording the plan (including recording fee and the LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. The applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of the final Certificate of Occupancy.
  - a. Given the proposed phasing of the plan, an as-built for each phase of the project will be required prior to the issuance of a certificate of occupancy for that phase;
  - b. All improvements in each phase must be completed prior to the issuance of a certificate of occupancy for that phase, unless a phasing/improvements development agreement between the applicant and Community Development Department is approved;
3. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
4. The project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of New Hampshire, including all amendments:
  - a. The applicant will be required to submit a complete building permit application, provide the job location, indicate the scope of work, proposed use and estimated construction value;
  - b. All building construction plans and construction documents (associated with the building permitting process) shall prepared by a NH design professional engineer and shall be submitted to the Building Division with the application for code compliance review, prior to the Pre-Construction Meeting with Community Development;

- c. The Town of Merrimack reserves the right to require that all commercial and industrial construction projects are subject to Third Party Inspections, per Chapter 17 of the International Building Code to include but not exclusively limited to: verification of soils, material proctor, bearing compaction, cast in place concrete, reinforcing, masonry, structural steel, draft and freestopping, manufactured trusses, engineered floor systems and fire rated assemblies;
5. The applicant shall comply with the following comments from the Fire Department:
- a. The Town of Merrimack, Department of Fire Rescue, Office of the Fire Marshal requires (NFPA 1 Chapter 18) that fire department access roads be constructed and maintained so that fire apparatus can effectively operate during an emergency. The location of the access road(s) must provide for positioning of the fire apparatus to allow access to all sides of the structure. Unique building or occupancy conditions may trigger additional requirements from the Office of the Fire Marshal;
    - i. The building access road shall be maintained to remain passable throughout the year, which includes the timely removal of snow and ice;
    - ii. Due to the large size of this building multiple Knox lockboxes shall be required for emergency access. The number and location of these boxes will be determined by this office upon review of building plans;
  - b. The entire building shall be protected by an approved NFPA-13 compliant fire sprinkler system. (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11). Plans shall be provided to this office for review and approval before a permit can be issued;
  - c. The entire building shall be protected by an approved NFPA-72 fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued;
  - d. The entire building shall be surveyed by the developer to determine if bi-directional radio amplification is needed to ensure that proper radio reception for Merrimack emergency responders both inside and outside the proposed building. If it is determined that amplifiers are necessary then the developer shall install and successfully test the amplifiers before a C of O can be signed;
  - e. In keeping with other buildings of this type recently approved by this office interior and/or exterior stairs shall be required for emergency roof access. The number and locations of the stairs will be determined by this office with input from the developers engineering consultant;
  - f. The address for this proposed warehouse shall be 7 Crow's Nest Circle.

**5. Ultimate Bimmer Services (applicant) and BTC Realty, LLC (owner)** – Review for acceptance and consideration of final approval of a Site Plan to construct an automobile dealership and repair facility. The parcel is located at 106 Herrick Street in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 3D-2, Lot 021. Case #PB2022-39.



Mr. Thompson prefaced the presentation by advising the Board that this project was originally granted conditional approval in December 2020 and then withdrawn by the applicant before the conditions of approval were met. The applicant then purchased the old DCU building on DW Highway and received all necessary approvals to construct an automobile repair station at that location which is currently under construction. The applicant is before the Board tonight to resurrect the original plans for 106 Herrick Street and has provided the same plans that were approved back in 2020. Staff notes that the plan shows proposed landscaping within the right-of-way (ROW) adjacent to Herrick Street. As some Board members may recall, the applicant was originally requested to seek permission from the Public Works Department to allow plantings in this area since the ROW is uniquely large. Public Works was amenable to these plantings so long as a driver's line of sight does not get impeded, and DPW assumes no maintenance responsibility for them. Additionally, staff remains concerned about the proposed improvements located within the NHDOT slope easement adjacent to Daniel Webster Highway. This concern was never fully addressed prior to plan withdrawal originally, but the applicant has since expressed optimism that they can obtain written concurrence from NHDOT that the proposed improvements can be located within the easement. The applicant has not submitted any new waiver requests, however the following waivers were determined necessary (and granted by the Board) in 2020; Section 3.11.1.1.ii regarding parking lot landscaping; and Section 4.12.c.18.viii regarding the depiction of trees greater than 15" in diameter on the plan. Since the time of the original submittal, the applicant has clear-cut the property which would nullify the waiver from Section 4.12.c.18.viii. However, since this is being treated as a new application due to the withdrawal, the waiver from Section 3.11.1.1.ii would still be necessary and requires action by the Board.

Jeff Kevan (TF Moran) presented the application to the Board. He began by advising the Board that the plan being presented, was the one that was originally conditionally approved in December 2020. He continued to explain that the applicant is proposing to construct a 9,459 s.f. automobile dealership and repair facility and that a Special Exception was granted by the Zoning Board of Adjustment in August 2020 for the proposed uses. He walked through the utilities that are being proposed onsite and parking requirements before turning his attention to the parking lot landscaping waiver request (Section 3.11.1.1.ii). The site regulations would require 2,422 square feet of landscaping and the plan is proposing roughly half of that (1,223 square feet). In order to comply with the standards, the applicant would have to install islands in the middle of the parking lot which would make snow plowing more difficult. Mr. Thompson interjected to remind the Board that the waiver for internal landscaping was granted by the Board in the original application. Mr. Kevan then briefly walked through the stormwater management plan, traffic analysis and lighting plan before addressing the slope easement concern that Mr. Thompson mentioned in his project summary. Mr. Kevan stated that when the DW Highway was created, the NH DOT was granted a slope easement that extends over the property on 106 Herrick Street. The easement and plans for the property were discussed with NH DOT District 5 and they feel confident that they can get a letter allowing them to construct as planned within the easement. Mr. Kevan concluded his presentation by reminding the Board that the plans do not include a sidewalk as there is nothing in the area to walk to. The Board determined the sidewalk to be unnecessary when the plans were originally approved.

Mr. Kevan handed out architectural elevations to the Board. Mr. Disco asked about runoff from the site and where it goes. Mr. Kevan explained that they did not trace it all the way back but reassured the Board that the drainage was designed so that it will either be better than or the same as what is existing today. Mr. Dano asked if signage has been considered yet as the property sits below street level and Mr. Kevan stated that the only signage will be on the building. Mrs. Tracey asked why the Board determined that a sidewalk was not required since there is a big push to have sidewalks added throughout town. Mr. Disco explained that the problem is that there is not another sidewalk to

connect to on either side of Daniel Webster Highway in the immediate area, and the road is too busy to safely cross.

**The Board voted 6-0-0 to accept the application as complete for review, on a motion made by Nelson Disco and seconded by Brian Dano.**

**The Board voted 6-0-0 to grant the landscaping waiver on a motion made by Lynn Christensen and seconded by Haleem Mediouni, because 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.**

#### **Public comment**

Philip Gault (21 Meetinghouse Road), after being corrected as to the location of the subject property, discussed the history of the parcel in question and stated that he thinks that the State should require businesses to clean up their sites.

**The Board voted 6-0-0 to make a finding that with the granted waivers and the proposed conditions of approval, the application meets all applicable regulatory requirements necessary, and to grant conditional final approval to the application with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified, on a motion made by Nelson Disco and seconded by Lynn Christensen:**

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;
2. The applicant shall obtain all required State approvals/permits, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;
3. The applicant shall provide draft copies of any applicable legal documents for review at the applicant's expense, by the Town's Legal Counsel;
4. The applicant shall address the comments from the town's peer review consultant, Fuss & O'Neill, and any final review comments from peer review following conditional approval, as applicable;
5. The applicant shall meet with Merrimack Village District staff, address any of their comments or requirements related to the proposed connection to the public water system and provide written correspondence from Merrimack Village District that their concerns have been addressed;
6. The applicant shall provide a new letter from Merrimack Village District indicating the availability of public water to the project;
7. The applicant shall address the following comments from the Public Works Department & Wastewater Division:
  - a. Sheet 18 -- Non-Shrink Mortar Detail - grout shall not be used as the means of connection to the manhole. This reference is to be changed;

- b. Provide for a lateral stub across the street to lot 3D-2-20-1 per standards. The stub shall be extended to the Right of Way line and not left under or at the edge of the pavement, (see requirement Per SSES 3.07);
  - c. Provide lateral stubs to any properties not currently served by municipal sewer if the proposed sewer extension passes in front of the property (Lot 3D-2-23) Per SSES S3.01.c;
  - d. Sheet 7 the Merrimack General Sewer Notes, add note 8 into the list and renumber the remaining notes to match the note numbers in SSES S2-04.8;
  - e. The sewer manhole frame and cover detail on sheet 14 shall be changed to the proper detail. The detail lists the proper frame and cover but the detail is incorrect;
8. The applicant shall address the following Planning Staff Technical Comments:
- a. On the Cover Sheet:
    - i. Update owner information for Map 3D-2, Lot 20-1 as Zero King Street, LLC no longer owns this property;
    - ii. Update owner information for Map 3D-2, Lot 20 as Lizzie Borden, LLC no longer owns this property;
    - iii. Under Waiver, delete mention of the waiver from Section 4.12.c.18.viii;
    - iv. Under Waiver, revise granted date to the applicable date waivers were granted for the current application;
    - v. Update the “owned by” portion of the cover sheet to current owner (BTC Realty);
    - vi. Under General Information, change Fire Chief from Matthew Duke to Mark DiFronzo;
    - vii. Under Permits/Approvals, please indicate the ZBA approval as N/A under expiration (with the conditional approval from the prior application the variance has been deemed vested);
  - b. On the Existing Conditions Plan (Sheet 2):
    - i. The existing conditions plan was prepared prior to significant tree clearing having taken place on the lot. Therefore, it no longer represents the existing condition of the site, and will need to be updated;
    - ii. Clarify if the owner’s signature the current or previous owner given the date of the plan;
  - c. On the Site Layout Plan (Sheet 5):

- i. Staff notes that 25 parking spaces and a paved drive aisle are located within the NHDOT's Slope Easement for DW Highway. Applicant shall provide written correspondence from NHDOT that these site improvements are acceptable to be located within the easement, or provide revised easement language to be reviewed by legal counsel at the applicant's expense and subsequently recorded alongside the plan at the Hillsborough County Registry of Deeds;
    - ii. Revise Note 7 to delete last sentence regarding utilization of parking spaces for snow storage;
    - iii. Revise Note 14 to add "unless otherwise waived by the Planning Board" to the end of the sentence;
    - iv. Add Notes 27, 28 & 29 that are located on the Grading & Drainage Plan (Sheet 6) to the Site Layout Plan (Sheet 5);
    - v. Add the following note per Section 4.11.v: "In accordance with Section 6.01 of the Merrimack Site Plan Regulations and RSA § 676:12, all off-site improvements specified on these site plans shall be constructed, completed, inspected and approved by the Town of Merrimack (and/or the NHDOT, if applicable) prior to the issuance of a certificate of occupancy";
    - vi. Update abutter information on this sheet and all other sheets;
  - d. On the Landscape Plan (Sheet 10):
    - i. Applicant shall note that the Town of Merrimack assumes no maintenance responsibility for the plantings proposed within the right-of-way;
  - e. Other Staff Comments:
    - i. The applicant shall provide a stormwater report bearing an engineer's stamp;
9. The applicant shall address any conditions imposed by the Planning Board at the hearing, as applicable.

**The following general and subsequent conditions are placed on the approval:**

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. The applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of the final Certificate of Occupancy;

3. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
4. The applicant shall address any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions);
5. The applicant shall satisfy the following comments from the Fire Department:
  - a. The Town of Merrimack, Department of Fire Rescue, Office of the Fire Marshal requires (NFPA 1 Chapter 18) that fire department access roads be constructed and maintained so that fire apparatus can effectively operate during an emergency. The location of the access road(s) must provide for positioning of the fire apparatus to allow access to all sides of the structure. Unique building or occupancy conditions may trigger additional requirements from the Office of the Fire Marshal. All roadways and parking areas shall be maintained at all times, including the timely removal of all snow and ice.
  - b. The entire building shall be protected by an approved NFPA-13 compliant fire sprinkler system. (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11) Plans shall be provided to this office for review and approval before a permit can be issued;
  - c. The building shall be protected by an approved NFPA-72 fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued;
  - d. The entire building shall be surveyed by the developer to determine if bi-directional radio amplification is needed to ensure that proper radio reception for Merrimack emergency responders both inside and outside the proposed building. If it is determined that amplifiers are necessary then the developer shall install and successfully test the amplifiers before a C of O can be signed;
  - e. The proposed building shall be assigned the address of 106 Herrick Street.

#### **6. Discussion/possible action regarding other items of concern**

Chairman Best stated that he's glad that the staff memos include the suggested language for the motion that includes the findings but requested that it be spelled out in the memo as "proposed motion." Mr. Disco commented that it should be read to get it into the record and Chairman Best countered that it is part of the record if it is in the memo.

#### **7. Approval of Minutes — October 18, 2022**

**The Board voted 5-0-1 to approve the minutes of October 18 2022, as amended, on a motion made by Brian Dano and seconded by Haleem Mediouni. Lynn Christensen abstained.**

#### **8. Adjourn**

**The Board voted 6-0-0 to adjourn at 7:56 p.m. on a motion made by Lynn Christensen and seconded by Brian Dano.**