



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: May 28, 2015

To: Robert Best, Chairman, & Members, Planning Board

From: Donna Pohli, Assistant Planner

Subject: **Madi Choueiri (applicant/owner)** – Review for acceptance and consideration of Final Approval for a waiver of full site plan review for a restaurant located at 480 D.W. Highway in the C-1 (Limited Commercial), Elderly and Town Center Overlay and Aquifer Conservation Districts. Tax Map 5D-3, Lot 046.

Background: The subject property is located at 480 Daniel Webster Highway (Tax Map 5D-3, Lot 046) and is comprised of approximately 0.36 acres of land according to the assessing database. The subject property is located in the C-1 (Limited Commercial), Elderly and Town Center Overlay, and Aquifer Conservation Districts and is serviced by MVD water and public sewer.

The applicant is seeking a waiver of full site plan review to permit the use of the existing 1,357 s.f. building as a restaurant, a permitted use by Special Exception (received December 17, 2014), in the C-1 (Limited Commercial) District. The restaurant is proposed to have 40 seats, but would need to be approved by the Fire Department. The applicant states in his application that he does not plan on changing the footprint of the building. The applicant should clarify if outdoor seating is proposed and if so, is included in the seat count.

The applicant has annotated the previous site plan (CDD #1082), titled “480 DW Realty Trust Site” which was signed by the Board on June 28, 1994, however, the Board may want to discuss lighting, landscaping, etc. with the applicant.

Completeness: Staff recommends that the Board determine if it is substantially complete and contains sufficient information to invoke the Board’s jurisdiction and to allow the Board to make an informed decision. The planning staff also recommends that the Board determine if annotations to a previous plan is sufficient to justify the waiver of full site plan review. The Board will need to determine if the presented plan is satisfactory, if the applicant can make additional changes to make it satisfactory, or if a fully engineered plan is more appropriate for this use.

Waivers: Other than the a waiver of full site plan review, the applicant is not requesting any additional waivers at this time, however, should any be requested, Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:44:

- 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; or
- 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.

Parking: Based on the calculation of 1 space per 3 seats, plus 1 per employee, Staff has determined that at least 16 spaces shall be provided if the applicant continues to propose 40 seats and 2 employees. The applicant is not proposing any street parking. The Police and Public Works Departments wants to remind the Board and applicant that parking is not allowed on D.W. Highway. The applicant has proposed 15 spaces in the rear of the building although 17 appear to be drawn out. Staff encourages the Board to have a thorough discussion of the proposed parking layout with the applicant, as the site is constrained area-wise for any reconfiguration of parking. The Board should verify that the applicant understands that only 2 employees would be allowed for the 40-seat restaurant, otherwise fewer seats, additional parking, or a parking waiver would be required.

Recommendation:

Based upon the information available to date and if the Board grants the waiver of full site plan review, Staff recommends that the Board approve the site plan with the following conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified (should the Board deny the waiver of full site plan review and require a fully engineered plan, staff recommends tabling the application to allow the applicant to obtain a fully engineered site plan):

1. Final plans to be signed by the Applicant and Property Owner;
2. Any waivers granted shall be listed with the section number and date of approval on the Final Plan;
3. Applicant shall address any forthcoming comments from the Conservation Commission (as applicable);
4. Applicant shall address any forthcoming comments from the Public Works Department;
5. Applicant shall address any forthcoming comments from the Building and Health Division (as applicable);
6. Applicant shall address the following comments from the Wastewater Division:
 - a. The plan as submitted does not indicate where the sewer lateral is located;
 - b. The restaurant will be required to have a properly sized, installed, and maintained grease trap (preferably outdoor);
7. Applicant shall address any forthcoming comments from the Fire Department (as applicable);
8. Address planning staff technical comments. (Below)

Planning Staff Technical Comments

1. Applicant to add “C-1 (Limited Commercial), Elderly and Town Center Overlay, and Aquifer Conservation Districts” to zoning notes;
2. Applicant to revise parking note to include that 16 spaces are required based on 40 seats and 2 employees, have the word “handicap” properly spelled, and say “Please view floor plan for specifics” rather than “site plan”;

3. Please add “Plan annotated by Madi Choueiri” with the date (and existing signature) under the notes;
4. Please add a note that the “Final restaurant design and capacity must be approved by the Fire Department, including Building and Health Divisions”;
5. Please add a note referencing CDD Plan #1082 which was annotated;
6. Please indicate the locations of any proposed signs, and verify compliance with the requirements of the Zoning Ordinance;
7. Please add a note indicating the source of water and sewer services.

Staff also recommends that the following general and subsequent conditions be placed on the approval:

1. Applicant shall address the following comments from the Fire Department:
 - a. As this proposal is for a change of use to a mixed use combining a residence and restaurant 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;
 - b. 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;
2. Applicant shall address the following comment from the Waste Water Division:
 - a. A plumbing plan indicating the location of the grease trap per precedent condition #6.b is required.

Ec: Madi Choueiri, Applicant/Owner
George Keller, Land Surveyor
Carol Miner and Fred Kelley, Building Department
Al Turner, Health Official
Ken Conaty and Jim Taylor, Wastewater Division
Kyle Fox, Deputy Director of Public Works/Town Engineer
John Manuele, Captain, Merrimack Fire Department
Tim Tenhave, Chairman, Conservation Commission

Cc: Planning Board File
Correspondence