



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY APRIL 19, 2022

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, April 19, 2022 in the Matthew Thornton Room.

Members Present:

- Paul McLaughlin (Vice Chair)
- Lynn Christensen
- Neil Anketell
- Brian Dano
- Nelson Disco – Alternate
- Maureen Tracey - Alternate

Members Absent:

- Robert Best (Chair)
- Jaimie von Schoen
- Town Councilor Barbara Healey - Ex-Officio

Staff Present: Casey Wolfe, Assistant Planner

1. Call to Order

Vice Chair Paul McLaughlin called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance. Mr. McLaughlin appointed Nelson Disco & Maureen Tracey to vote for Jaimie von Schoen and Robert Best, respectively.

2. Planning & Zoning Administrator's Report

- 3. John Flatley Company (applicant/owner)** – Continued review for acceptance and consideration of final approval for a site plan to construct two 48 unit apartment buildings (in addition to the existing 240 units), in accordance with the most recently amended Flatley Mixed Use Conditional Use Permit. The parcel is located at 5 Gilbert Crossing in the I-1 (Industrial), Aquifer Conservation & Elderly Housing Overlay Districts and Wellhead Protection Area. Tax Map 6E, Lot 003-07. Case # PB2022-07. **This item is continued from the January 18, March 1, and April 5, 2022 Planning Board meetings. Discussion/possible action regarding other items of concern**

Nathan Chamberlain (P.E., Fieldstone Land Consultants, PLLC) was in attendance to discuss the project with the Board). Mr. Chamberlain began by providing an overview of the lot in question stating that the applicant recently gained approval to update their Conditional Use Permit to

allow for 2 additional multi-family residential buildings to be constructed as soon as the industrial flex site is underway. He shared a copy of the site plan to demonstrate the location of the flex site in relation to the apartments. Mr. Chamberlain then showed the location of the two new apartment buildings that are being proposed along with new parking spaces to accommodate them. He indicated that the required number of spaces for the site is 471 and with the new spaces being proposed, the site will have 629. Mr. Chamberlain then stated that the two emergency access roads that the Fire Department wants shown on the plan are in place and he demonstrated where they are located and stated that they will have them added to the plan. He also pointed out a few other minor changes that will be made to the final plans including a change to a treatment swale behind building #2.

The discussion turned to infiltration on the site and Mr. Chamberlain gave a thorough explanation of how the drainage system was designed. Vice Chair McLaughlin asked if Merrimack Village District Water Works had any concerns with adding two additional buildings to the water supply and Mr. Chamberlain responded that there were not any concerns from MVD. During the discussion, Mr. Chamberlain also shared the elevations of the buildings, spoke briefly about lighting/utilities, conveyed to the Board that the Alteration of Terrain permit has been received and confirmed that the plan has gone through the Town's engineering peer review process.

Maureen Tracey stated she has seen the school aged children being picked up on DW Highway and wondered if any consideration has been given to having a bus stop in the development. Lynn Christensen shared that there are probably less than a dozen school aged children in the development.

The Board voted 6-0-0 to accept the application as complete on a motion made by Lynn Christensen and seconded by Neil Anketell.

The Board voted 6-0-0 to grant a waiver from Section 4.12.c.18.viii pertaining to the identification of existing trees greater than 15 inches in diameter, on a motion made by Nelson Disco and seconded by Neil Anketell.

Mr. Disco asked what the outstanding Fuss & O'Neill comments are that are mentioned in the staff memo. Casey Wolfe indicated that they were mostly minor items that needed to be added or removed from the plans but indicated that she would pull the information from the project file to provide a more precise answer shortly.

Mr. Anketell asked if the flex site has to be started or completed prior to the apartments being built if they are approved. Ms. Wolfe stated that the flex site needs to be substantially underway before any construction can begin on the apartments. Mr. Chamberlain asked if the applicant would be allowed to begin earth work and place the concrete pads for the two new buildings prior to the substantial completion of the flex site and prior to final approval. The Board was not in favor of allowing any work to be started for the apartments until the flex site is substantially under construction.

Mr. Anketell shared his concerns with the traffic analysis that was conducted and asked if it includes the entire Flatley property. Mr. Chamberlain explained that each individual site within the property as a whole has its own traffic study and the one for the apartments was already approved for the initial units but now needs to be re-approved with the proposed additions. He also shared that the levels of service conveyed in the study are wait times to get out of the site and have nothing to do with traffic on DW Highway. Mr. Anketell argued that any traffic leaving

the site will end up on DW Highway so there is an impact. The discussion continued regarding the traffic in and around the site and Brian Dano asked if there is anything being done about it since these are high end apartments and they want to keep them rented. Mr. Chamberlain explained that there is not much that can be done because the levels do not warrant a signal and DOT will not approve a signal unless one is required. Mr. Chamberlain added that the Town probably would not even want another light on DW Highway and several Board members agreed.

Ms. Wolfe read the comments from Fuss and O'Neill regarding the traffic which indicated that they agree that a signal is not needed and one should only be considered if a lot of accidents begin occurring in that area. Mr. Disco asked if the peer review feedback included any recommendations for a right turn lane into the development and Ms. Wolfe confirmed that a right turn lane was not mentioned. Mrs. Tracey asked if there has been any consideration to a second entrance for the site to alleviate some of the congestion caused by just having one entry and exit point. Mr. Chamberlain showed the plan for the entire site to demonstrate that once all of the construction is complete, the sites will be connected, which will lead to a secondary entry and exit point. Mr. Disco stated that in previous presentations they were told that the residential site would not be connected to the commercial and Mr. Chamberlain concluded that they would at least be connected for emergency purposes.

Mrs. Christensen argued that the entire development leads to DW Highway so an additional entrance will not help without a signal. The Board continued to discuss the traffic concerns along that section of DW Highway and the connectivity of the sites.

There was no public comment.

The Board voted 5-1-0 to grant conditional final approval on a motion made by Lynn Christensen and seconded by Brian Dano. Neil Anketell voted in opposition. The following condition apply:

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 proposed access/drainage easement), at the applicant's expense, by the Town's Legal Counsel.
4. As required by the Mixed Use Conditional Use Permit governing this project, the applicant shall provide an updated fiscal impact analysis to show the impacts of the proposed site plan to the satisfaction of the Community Development Department.
5. The applicant shall provide a letter from Merrimack Village District indicating the availability of public water to the project.
6. The applicant shall address the comments from the town's peer review consultant, Fuss & O'Neill, as applicable.

7. The applicant shall address the following comments from the Fire Department:
 - a. There are 2 gravel emergency access roads associated with this site that are not noted on this revision of the plan. The 2 access roads are required for both the existing apartment buildings and the newly proposed 2 buildings and shall be identified clearly on the plan. These 2 roads are to be graded and maintained to allow emergency access to the railroad track access road east of the development. The emergency access roads shall be capable of supporting the weight of fire apparatus and have an approved turn around at the end. Minimum width shall be 16 feet and roads shall be passable in all weather conditions, including being plowed of snow. These conditions shall be noted on the recorded site plans.
 - b. An additional fire hydrant shall be installed close to building 7, 14 Gilbert Dr. Final drawings showing the locations of the fire hydrants must be submitted to the Fire Marshal's Office for approval.
8. The applicant shall address any forthcoming comments from the Public Works Department, as applicable.
9. The applicant shall address any forthcoming comments from the Wastewater Department, as applicable.
10. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
11. The applicant shall address the following Planning Staff Technical Comments:
 - a. Add a note to the plans that reads: "Development of this project cannot proceed until such time as substantial construction has commenced for either the Industrial/Flex or High-Bay Warehouse projects, as per Note 13.2 of the approved Conditional Use Permit signed by the Planning Board on December 7, 2021."
 - b. Sheet 2 – Sheet 2, Note 16 appears to be a carryover from the original site plan and references incorrect sheets.
 - c. Remove Sheet 5 (the lot line adjustment exhibit plan) from the plan set.

The following general and subsequent condition are also 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 Certificates of Occupancy, unless a phasing agreement is made with the Community Development Department for phasing the sign-offs by the Department prior to completion of the As-Built.

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. Development of this project cannot proceed until such time as substantial construction has commenced for either the Industrial/Flex or High-Bay Warehouse projects, as per Note 13.2 of the approved Conditional Use Permit signed by the Planning Board on December 7, 2021.
5. 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).
6. The applicant shall address 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.
 - i. The 2 indicated access roads are required for both the existing apartment buildings and the newly proposed 2 buildings. These 2 roads are to be graded and maintained to allow emergency access to the railroad track access road east of the development. The emergency access roads shall be capable of supporting the weight of fire apparatus and have an approved turn around at the end. Minimum width shall be 16 feet and roads shall be passable in all weather conditions, including being plowed of snow.
 - ii. Unique building or occupancy conditions may trigger additional requirements from the Office of the Fire Marshal.
 - b. 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 roads starting at the nearest hydrant located on Daniel Webster Highway.
 - c. As this proposal is for new multi-tenant residential buildings 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.
 - d. The buildings shall be protected by an approved independent NFPA-72 fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued.
 - e. The buildings located in this new development shall be addressed as follows, based on the requirements of NH-911 and the Merrimack Fire Department.

- i. The building identified as Building 6 on the master site plan shall be addressed as #4 Gilbert Drive.
- ii. The building identified as Building 7 on the master site plan shall be addressed as #14 Gilbert Drive.

- 4. Portofino Italian Restaurant (applicant) and Orrin Connell Family Trust (owner)** - Review for acceptance and consideration of final approval of a Waiver of Full Site Plan Review to eliminate 5 existing parking spaces to allow for a permanent outdoor seating area. The parcel is located at 458 Daniel Webster Highway in the C-2 (General Commercial) and Town Center Overlay Districts. Tax Map 5D-4, Lot 054-A. Case #PB2022-18

Withdrawn by owner.

5. Discussion/possible action regarding other items of concerns

Mr. Anketell asked if storage containers are allowed on site because Tomahawk Tavern has a couple that they are using as a waitress staging area for the outdoor patio. The Board discussed the potential dangers involved in crossing the parking lot at this location because of the through traffic from Woodbury Street. Ms. Wolfe indicated that staff is aware of this issue and has recently visited the site to take some pictures to send a violation notice to the owner of the property.

6. Approval of Minutes — April 5, 2022

The Board voted 5-0-1 to approve the minutes of April 5, 2022, with amendments, on a motion made by Lynn Christensen and seconded by Maureen Tracey. Paul McLaughlin abstained.

7. Adjourn

The Board voted 6-0-0 to adjourn at 8:02 p.m. on a motion made by Lynn Christensen and seconded by Brian Dano.