



# Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, DECEMBER 19, 2023**

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, December 19, 2023 in the Matthew Thornton Room.

### **Members Present:**

- Lynn Christensen (Vice Chair)
- Town Councilor Barbara Healey (Ex-Officio)
- Haleem Mediouni
- Nelson Disco – Alternate
- Mark Williams – Alternate

### **Members Absent:**

- Robert Best (Chair)
- Jaimie von Schoen
- Kevin Peters
- Maureen Tracey – Alternate

### **Staff Present:**

- Casey Wolfe-Smith, Planning and Zoning Administrator

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

Vice Chair Lynn Christensen called the meeting to order at 6:31 p.m. and led everyone in the Pledge of Allegiance. She then seated Alternates Nelson Disco for Robert Best and Mark Williams for the currently-vacant member seat, respectively.

### **2. Consent Agenda**

- *Extension Request* - Conditional approval extension request for the L&W Supply site plan at 17 Smith Road (#PB2021-46) for an additional 12 months (to expire on 12/21/2024).

**The Board voted 5-0-0 to approve the consent agenda, on a motion made by Haleem Mediouni and seconded by Barbara Healey.**

### **3. Colt Refining Inc. (applicant) and King Herrick, LLC and Evan Realty, LLC (owners) –**

Continued review for acceptance and consideration of final approval for a site plan to construct a 97,600 s.f. light industrial facility with associated site improvements. The parcels are located at 12A Star Drive, and unnumbered parcels off Herrick Street and King Street in the in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-1, Lots 2-1 & 20-1 and Tax Map 3D-2, Lot 20-1. Case #PB2023-27. ***This item is continued from the October 17, 2023 and November 7, 2023 Planning Board meetings.***

Jason Hill on behalf of TF Moran presented the application. They are seeking conditional approval. Mr. Hill explained that they received an updated second review from peer review consultant Fuss & O'Neill, and that there are some technical comments regarding the drainage design and sewer design which should not cause any serious changes to the plan. They are also working on the technical comments they received from the sewer department and the town. Mr. Hill stated that at the last meeting, there was screening that was discussed for the abutting property off of King Street that would be provided by the applicant. He also stated that there were comments regarding architectural waivers that needed to be looked into. With these comments, he made minor changes to the site plan since the last meeting in November.

Mr. Hill showed the changes to the site plan to the Board. They added an exterior wall outside of the proposed light industrial warehouse to break it in half. In addition, there were columns and towers added to break up the north face area. The west face had a wall plane projection added. The handicap parking and sidewalk sequences were adjusted to be consistent with the architectural plan. A six-foot vinyl privacy fence was added for the abutting property on King Street. Mr. Hill stated that they have agreed to prohibit snow storage along the Northern abutter line. The snow storage instead will be along the railroad track and the perimeter of the proposed light industrial warehouse.

Mr. Hill showed the architectural perspective view of the site. He stated that they're asking for a waiver for the East and South elevations of the building. Adding projections in strict conformity with the site plan regulations would introduce unnecessary dead space and interfere with the manufacturing processes as well as truck maneuvering. He explained that the regulation would pose an unnecessary hardship against the applicant but the waiver would not be contrary to the intent of the regulations.

Another waiver was identified in the Fuss & O'Neill review regarding a requirement to show existing trees that are 15 inches or greater in caliber on a site plan. There is a significant amount of pine trees that are located adjacent to the loading dock expansion. Some of these may be exceeding 15 inches in caliber. Mr. Hill plans to completely remove these because they are of no benefit to the facility since they are not using them for any zoning relief, i.e buffering of abutting properties or wetland areas. He stated that it would be an unnecessary burden to survey that and asked for a request for the requirement to be waived.

Nelson Disco asked for clarification regarding landscaping on the property (he held up a site plan to show Mr. Hill what he was referring to). He wanted to know what type of trees were being planted and how many and what was being changed. Mr. Hill clarified that the site plan Mr. Disco was holding was not a landscaping plan. The landscaping plan was previously submitted and it specified what was being planted. Mr. Hill went into detail to describe the specifics.

Mr. Disco also had questions regarding the staff memorandum with the recommended conditions of approval. One of the items is "the applicant shall address the remaining comments in the drainage, sewer water, and utility design conflicts of the letter dated December 14<sup>th</sup> from Fuss & O'Neill." Mr. Disco was unsure if he had previously seen this letter. Planning and Zoning Administrator Casey Wolfe-Smith advised Mr. Disco that every section of the peer review letter was clean and that the only sections of the letter that needed more attention were both the drainage and sewer design sections. Mr. Hill stated that he is the drainage and sewage designer

and that the comments will not result in any change in any surface features. He feels comfortable that he can comply with the comments.

Mark Williams asked what the hardships were that Mr. Hill was referring to when he asked for a waiver request. Mr. Hill stated that the more irregular you make a building, the more the structural cost goes up. Mark Williams asked if it was a cost avoidance he was referring to, in which Mr. Hill confirmed yes as well as inefficiencies and dead space. Mr. William's other question was about the potential for kids wandering from the area on the south side of King Street. Mr. Hill clarified that that property is a vacant commercial building and that there was no need to have an extra fence there.

Nathaniel "Bud" Durgin, owner of 111 Herrick Street, spoke in favor of the proposal. He asked if the existing gate on the fence was being removed. Mrs. Christensen advised that the gate was not being removed. Another question was that at the end of King Street there is a turn-around and he thought it was the property of the Town of Merrimack. Mrs. Christensen asked Mrs. Wolfe-Smith to confirm that the easement had been abandoned. She stated that that was part of the comments that Public Works had in the memo, that the easement needed to be abandoned before Town Council. Mr. Durgin then stated that there is a drainage problem in the area and that there are no storm drains on Herrick Street or King Street and expressed his concerns. His last question was regarding the exit onto Herrick Street and if it will be a one way or two-way entrance.

Mr. Hill addressed Mr. Durgin's questions. He advised that the existing fence and gate will not be removed. Regarding the turn-around easement, the next step would be to go to Town Council for an extinguishment. Regarding the drainage, he stated that the site drains to the culvert on the railroad tracks. It will help by reducing the flow to that point by infiltrating the run off and detaining it. Mr. Hill then stated that the street will be a two-way drive for staff and the trucking will continue off of Star Drive.

Richard Kalika, owner of an unnumbered parcel located off Star Drive, spoke against the proposal with concerns regarding agreements and easements and waivers. He believes that a waiver request due to costs is really not a hardship for a waiver. He also expressed that regarding the drainage, the only property that has a right to send its draining through the train tracks is the old Agway property. He passed out copies of the deed to the Board and stated that the Agway easement states that the property is allowed to use the culvert to drain its drainage through that culvert. Any additional drainage that the Agway doesn't use, belongs to CMI and therefore they do not have the legal rights to drain all this water through the culvert. His next concern is that there are easements that were retained by the owner which is on page 42 of the packet. There is nothing on the record that would either remove the easements or allow additional drainage through the pipe on CMI's property. He added that he does believe that the development is good for the town, but he thinks that it needs to be done without violating the rights of others.

In response to these issues, Mr. Hill states that regarding the waiver requests he wanted to reiterate the not only were costs an issue, but also inefficiencies within the operating procedures, dead spaces within the building and redundancies among other things. The culvert rights were discussed at length during the last month's meeting. He stated that there are prescriptive rights to the flowage which he had shown within the context of the existing drainage patterns.

**The Board voted 5-0-0 to grant the following waivers, citing that specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that each waiver will properly carry out the spirit and intent of the regulations, on a motion made by Nelson Disco and seconded by Haleem Mediouni:**

- 1. Section 3.12.d.2.ii to allow for the East elevation of the proposed building to be 244 feet in length with no projections whereas building facades exceeding 200 feet in length, measured horizontally, are required to incorporate wall plane projections or recesses;**
- 2. Section 3.12.d.2.ii to allow for the South elevation of the proposed building to be 410 feet in length with no projections whereas building facades exceeding 200 feet in length, measured horizontally, are required to incorporate wall plane projections or recesses; and**
- 3. Section 4.12.c.18.viii to allow for not showing trees greater than 15 inches in diameter on the existing conditions plan.**

**The Board voted 5-0-0 to find that with the granted waivers and proposed conditions of approval, the application meets all applicable regulatory requirements necessary and further, to grant conditional final approval to the application subject to the recommended conditions of approval presented in the staff memo dated December 15, 2023, on a motion made by Haleem Mediouni and seconded by Barbara Healey.**

1. Final plans and mylars to be signed by the actual property owner, not the authorized party. 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 applicable to the project and provide copies to the Community Development Department, as applicable;
3. The applicant shall note any waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;
4. The applicant shall provide draft copies of any applicable legal documents for review at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address the remaining comments in the "Drainage Design" and "Sewer/Water Design/Conflicts & Utility Design/Conflicts" sections of the letter dated December 14, 2023 from the town's peer review consultant, Fuss & O'Neill, as applicable;
6. The applicant shall address any forthcoming comments from the Conservation Commission, as applicable;
7. The applicant shall address the following comments from the Public Works Department:
  - a. Please note in the drawing C-2, General Note 3, that a Right of Way permit must be obtained from the Town of Merrimack Public Works Highway Division;

- b. Please note in the drawing C-2, General Note 13.H, that the Town of Merrimack Waste Water Division and Merrimack Village District Water are not part of the 811 Dig Safe contact list and must be notified prior to any site disturbance;
- c. Previously, there have been multiple easements given for various purposes on top of other easements, most notably the easements labeled as Numbers 5, 6 (multiple parts), 9, and 10. No structure shall be built on top of the sewer easement areas, to the extent possible. Utility easements must remain accessible, and use of those easements for utility repair, installation or removal must be allowed at all times. Impediment of onsite activities due to access to the easements will be the responsibility of the land owner;
- d. Permission to construct the project features on the King Street cul-de-sac Right of Way must be approved by the Town Council. Once conditional approval has been granted by the Planning Board, the applicant must go to the Town Council for the release of the King Street Cul-De-Sac Right of Way Easement;
- e. Drawings C-3-1 appears to show monuments along the property lines however some corners are missing (north east) and they are not defined either as labeled or in the legend;
- f. All monuments shall be set per the Town of Merrimack Site Plan Regulations Section 3.02;
- g. Stormwater throughout the project appears to be collected and slowed/filtered through various onsite devices. Upon exiting the devices, the overflow outfalls at the southeast corner of the existing industrial facility. Stormwater discharge due to development must not impact abutting property owners on Star Drive;
- h. The proposed truck parking area discharges stormwater to a proposed fore-bay and detention basin. Due to the intended use of the parking area, the Town requests that a pre-treatment structure be placed in the parking area immediately before the fore-bay in order to capture pollutants that are typical of a commercial truck parking area such as oils, greases, debris, etc.;
- i. Significant off-site stormwater volume drains to the property. Has this been incorporated into the stormwater design and calculations? Specifically from King Street;
- j. An easement must be created to allow for drainage from King Street to be treated and along with the project drainage;
- k. Sheet C-18 has a detail of the wick drain that has conflicting dimensions shown; and
- l. Public Works will review the sight distance information for the proposed Herrick Street driveway on the plans.

8. The applicant shall address the following comments from the Wastewater Division of Public Works, as applicable;
  - a. Sheet C-2: Utility Note 8 Add the sewer construction shall be compliant with the Town of Merrimack SSES 2015 or the latest revision;
  - b. Sheet C-3-1 Note 14 Add all work to be compliant with the Town of Merrimack Public Works Specification and The Town of Merrimack SSES 2015 or latest revision;
  - c. Sheet 6-1 Note 3: Please add to the Note that the Town of Merrimack Wastewater does not participate in Dig Safe, must be notified separately;
  - d. Sheet 6-1 Note 8: Please added that Sewer Manhole will be constructed to Town of Merrimack Sanitary Sewer Engineering Standards latest revision, and NHDES Env-wq. 700;
  - e. Sheet 7-1 Sewer Plan and Profile do not show required back water valve as per Town of Merrimack SSES S3-07. Must be with 2 feet of the foundation and have at grade access to service the valve;
  - f. Sheet C-14 Manhole Frame and Cover Detail: All manholes in cross country areas (non-paved surface) shall be EJ Iron Works Ergo XL with cam locking mechanism, 6 inches above finish grade with concrete seal. As per Town of Merrimack SSES S4-08;
  - g. Sheet C-17 General Notes Remove note 5 or strike through since connection is being made to a manhole not a pipe connection;
  - h. Sheet C-17 General Notes Remove Note 11 or strike through since connection is being made to a manhole not a pipe connection;
  - i. Sheet C-17 General Note 7: Testing shall be completed to the Town of Merrimack SSES S5-12;
  - j. Sheet C-17 Sewer Service Detail, does not show required backwater valve, as per Town of Merrimack SSES S3-07;
  - k. Must add all applicable notes from Town of Merrimack SSES section S2-04.8;
  - l. General Note 6 and Trench Cross Section do not match, correct discrepancy;
  - m. Must add note to plan that all sewer infrastructure on this project is private and to remain private up to and including the point of connection to the Town owned sewer system. As per the Town of Merrimack Sewer Use Ordinance Article VI Sec.03;
  - n. A note shall be added to the plans that excludes floor drain of any type being connected to the sanitary sewer. The sewer shall be for sanitary waste only, and or waters that are approved separately from the Town of Merrimack Pretreatment Manager;

- o. This property is already categorized as an industrial user and subject to the Industrial Permitting process through the Pretreatment Manager and this building will be subject to the same review and permitting process;
  - p. Consolidate sewer details onto 1 sheet of plan set;
  - q. For each separate tenant a separate sewer service and sampling manhole is required on the exterior of the building. All tenants will be subject to review/permitting by the Town of Merrimack Pretreatment Manager; and
  - r. Grease trap detail shown on plan details but not reflected on any sheet describing potential location of installation. Please clarify intended design and use.
9. The applicant shall address the following comments from the Fire Department:
- a. The access road around the building should have a minimum width of 24 feet to allow for proper turning movement of the fire apparatus; and
  - b. The plan does not show the locations of any hydrants, please show proposed locations of hydrants for review.
10. The applicant shall meet with Merrimack Village District staff and address any of their comments or requirements;
11. The applicant shall address any conditions imposed by the Planning Board at the hearing, as applicable;
12. The applicant shall address the following Planning Staff Technical Comments:
- a. Please provide documentation demonstrating that construction is allowed within each of the existing easements across each of the subject properties, or provide documentation that each easement will be extinguished, as may be applicable;
  - b. Note 3 on Sheet C-3-1 shall be revised to reflect the five ADA parking spaces, not seven;
  - c. Applicant shall merge Map 3D1, Lot 20-1 with Map 3D1, Lot 2-1 and with Map 3D2 Lot 20-1 prior to obtaining final approval for the site plan; and
  - d. The applicant shall revise the plan to address the exceedance of 0.2 footcandles of lighting over the property line at the northeast corner of the site.

**The following general and subsequent conditions 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 is responsible for recording any proposed easements and/or applicable legal documents at the Hillsborough County Registry of Deeds at the expense of the applicant. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
3. Prior to the issuance of a Certificate of Occupancy or Unit Completion, as applicable, the applicant shall submit a mylar copy of an As-Built Plan, prepared by a NH Licensed Land Surveyor to the Community Development Department. The plan shall contain the information outlined for an Existing Conditions Plan under Section 4.12 of the Site Plan Regulations;
4. The applicant shall provide the .dwg files of the as-built plan to the Public Works Department, and provide paper copies of the as-built plan to any municipal Department that may require them;
5. The applicant shall address the following comments from the Building Department, as related to building code compliance and permit application:
  - a. The project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of New Hampshire, including all amendments;
  - b. Submit a complete building permit application provide the job location indicate the scope of work, proposed use and estimated construction value;
  - c. All plans and construction documents shall be submitted with the application and available for code compliance review, prior to the Pre-Construction Meeting with Community Development; and
  - d. All soils and compaction, cast in place concrete, concrete block, structural steel reinforcing, roof truss, engineered floor systems and fire rated wall assemblies are subject to Third Party Inspections per Chapter 17 of the International Building Code, as adopted by the State of New Hampshire.
6. The applicant shall address the following comments from the Fire Department, as related to property addressing and fire code compliance:
  - a. The access roads shall be maintained to remain passable throughout the year, which includes timely removal of snow and ice;
  - b. Due to the large size of the proposed building, multiple Knox Key boxes shall be required for emergency access. The number and location of these boxes will be determined by this office upon review of the building plans at time of permit issuance;
  - c. 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 entire building shall be protected by an approved NFPA-72 compliant fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued;
- e. The developer shall have the entire building surveyed 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. (NFPA 1, section 11.10);
- f. 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 developer's engineering consultant;
- g. The developer shall have all plans reviewed by a New Hampshire licensed Fire Protection Engineer for compliance in all State and NFPA fire codes. This review shall include sprinkler, fire alarm, emergency communication, access and emergency egress, etc. The FPE's report shall be forwarded to this office for review; and
- h. As this proposed building has direct access from Herrick Street, the address for the proposed building shall be 109 Herrick Street.

**3. Dougherty Zibolis, LLC (applicant/owner) - Continued review for acceptance and consideration of final approval for a site plan to construct a two story, 15,000 SF office/warehouse building with associated site improvements. The parcel is located at 101 Herrick Street in the C-2 (General Commercial), I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-2, Lot 20. Case #PB2023-20. *This item is continued from the July 18, September 5 & October 3, 2023, and November 7, 2023 Planning Board meetings.***

*Christopher A. Guida, Fieldstone Land Consultants and Kurt Lauer, Lauer Architects, presented the application.*

Mr. Guida explained that this property was previously approved by the Planning Board for a MI-BOX facility. Since then, the property has been sold. Now the applicant is proposing a smaller building that uses the exact same proposed drainage structures off of the State highway, as well as the storm water and drainage facilities previously designed for his box. Part of this proposal has gone before the Conservation Commission and the Zoning Board and got the associated approvals. The Zoning Board approved a variance for parking to be closer to Daniel Webster Highway and a use variance for warehousing in the district. He stated there were no issues with the review with the staff comments. The only other outstanding item is the Wetland permit which was originally approved through the State. They are working with the State to get it either hopefully renewed, and if not, resubmitted and reapproved.

He stated that they are requesting a few waivers. The first two should actually be one due to a formatting error; 3.11.l.1 and 3.11.l.3. He feels as though the requirements for landscaping features in the middle of a parking lot with commercial vehicles would be a hardship and would not provide any benefit to the Town. He would like to withdraw the second waiver for required parking spaces. The next waiver is regarding the location of the trees which are 15 inches in

diameter. This site plan was previously approved and at that time this condition was not part of the requirements. He said that any trees that were previously there, are no longer because they were cut two years ago. They respectfully request that waiver. As far as the building façade, there is a bump out in the front and there were comments that it didn't meet the 50% requirement as well as some dressage around the windows.

Mr. Guida discussed that they have gone through review with all the boards and departments as well as Fuss & O'Neill. There was a traffic analysis through VHB in which it was determined that there would be no significant change to the roadway from the facility.

Kurt Lauer of Lauer Architects came up to speak. Mr. Disco asked Mr. Lauer to explain the architectural rendering of the building, in which he did. Mr. Disco then asked if the current status satisfies the regulation with the breakup and color change of the building. Mrs. Wolfe-Smith advised that it does not meet the requirements and therefore the waiver was needed.

Mr. Disco's next question was regarding the entrance onto Route 3. He asked if they had considered combining their entrance driveway with the neighbor to the South who already has an entrance on their property line to help get DOT permission. Mr. Guida responded that he believes he previously had approval with DOT. He is aware there are easements that will need to be addressed as well as the need for a DOT driveway permit. Mr. Lauer responded that it's something they could look into.

Mrs. Healey questioned what was planned for the south side of the proposed building because it didn't look like there was any wall breaks. Mr. Guida responded that there is nothing required there because it is only 60 feet. Her next question was as to where the storm water was being drained. Mr. Guida explained that there's existing drainage going across the Daniel Webster Highway and that the proposal would be for it to be directed elsewhere. In addition, Mrs. Healey also requested that he adds a plan for snow storage to the plan.

Mr. Williams asked about the colors of the metal paneling on the front of the building. His concern is that with the proposal for the tree elimination paired with the similar color of the pavement to the building. He would like to know if there is anything to break that up. Mr. Guida explained that there is a landscape plan that would include green ash, red oak, rhododendron and white lilac to be planted to help with this matter. Page 8 shows the landscaping plans but not the above stated shrubbery. His next question is if the sign that is above the entrance would be lit up. Mr. Lauer explained that it was just a representation of a sign and that if he had any intention of adding something like that, then they would comply with any regulations.

**The Board voted 5-0-0 to accept the application as complete, on a motion made by Barbara Healey and seconded by Haleem Mediouni.**

*No public comments were received.*

**The Board voted 5-0-0 to grant the following waivers, citing that 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, on a motion made by Haleem Mediouni and seconded by Barbara Healey:**

1. **Section 3.11.1.1, which outlines requirements for minimum coverage of the overall interior area of a parking lot with landscaping;**
2. **Section 3.11.1.3, which outlines requirements for deciduous shade tree placement within parking lots;**
3. **Section 3.12.d.3.ii, which stipulates no uninterrupted length of any façade shall exceed 100 horizontal feet. The proposed building is 200' long; and**
4. **Section 3.11.e, regarding required parking spaces.**

**The Board voted 4-1-0 to find that with the granted waivers and the proposed conditions of approval, the application meets all applicable regulatory requirements necessary and further, to grant conditional final approval to the application subject to the recommended conditions of approval presented in the staff memo dated December 11, 2023, on a motion made by Haleem Mediouni and seconded by Barbara Healey. Nelson Disco voted in opposition.**

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 (slope easement and/or drainage easements), at the applicant's expense, by the Town's Legal Counsel;
4. Applicant shall provide written correspondence from NHDOT that these site improvements are acceptable to be located within the existing NHDOT Slope 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;
5. 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;
6. The applicant shall provide a letter from Merrimack Village District indicating the availability of public water to the project;
7. The applicant shall meet with Merrimack Village District staff and address any of their comments or requirements, and subsequently provide written concurrence from MVD that their concerns have been satisfactorily addressed;
8. The applicant shall address the comments from the town's peer review consultant, Fuss & O'Neill, as applicable;
9. The applicant shall address the following comments from the Conservation Commission:

- a. The final site plans should replace all uses of “hay” for erosion control purposes with either “silt socks” or “straw”; and
- b. The applicant shall submit an operations and maintenance plan for the proposed Stormtech SC-740 Chamber infiltration system.

10. The applicant shall address the following comments from the Fire Department:

- a. The access road shall have a minimum width of 24 feet to allow proper turning movement of fire apparatus. Currently sections of the access road are 20 feet in width and will need to be adjusted; and
- b. The plan shows a single hydrant located on Daniel Webster Highway. Previous plans for development of this site required that a hydrant be placed on Herrick Street and this is still required.

11. The applicant shall address the following comments from the Public Works Department:

- a. Please note that the NHDOT must grant approval for the driveway placement on Daniel Webster Highway, utility work within the road, as well as the encroachment of the building and features within the slope easement;
- b. Note 26 indicates NHDOT review (and pending approval) of the drainage modification on the property. It states that the property owner will be responsible for drainage beyond the drainage manholes. However the next sheet EA-1 is an easement plan showing the two areas of a new proposed NHDOT drainage easement. Please re-word the note on sheet SP-1 to reference the easement plan, verify that NHDOT’s review is based upon sheet EA-1, and reference the plan on sheet SP-1. The Easement deed will need to be recorded in the Hillsborough County Registry of Deeds;
- c. Note 25 on sheet SP-1 is missing language. It should read "On-site drainage shall be the responsibility of the owner and a long term inspection and maintenance plan shall be provided at the time of the pre-construction meeting. Every year semi-annual or annual reports shall be submitted to the Community Development Department";
- d. Please verify that the NHDES wetlands permit (as noted in note 27 on sheet SP-1) 2017-03280 is not expired and is valid for the current project and applicant;
- e. A sight distance plan and profile shall be provided for the driveway entrance on Herrick St. to ensure adequate sight distance for traffic. Any necessary tree removal and/or required easements shall be noted on the plan and recorded in the Hillsborough County Registry of Deeds;
- f. Curb shall be placed on both sides of the driveway entrance on Herrick Street; and
- g. A Long-Term Operations and Maintenance Plan for the drainage system shall be provided at the time of the Pre-Construction meeting and revised for the Post Construction Meeting. Annual O&M reports shall be provided to Community

Development. This plan shall be recorded in the Hillsborough County Registry of Deeds.

12. The applicant shall address the following comments from the Wastewater Division of Public Works:

- a. Page 6- Building is listed as 15,000 SQF building, but dimensions of upper and lower levels are greater than 15,000 SQF. Please clarify SQF total of all sections of building and submit projected flows accordingly;
- b. Proposed pump station wet well must have 2 hours of detention time, with the submitted sewer design flow. As required by the Town of Merrimack SSES S3-06;
- c. All applicable general sewer notes shall be added to plan set as per Town of Merrimack SSES S2-04.8;
- d. Low pressure force mains shall not be allowed when gravity is an option except on a case by case basis as per the Town of Merrimack SSES S3-05. Supporting documentation for the request shall be submitted to the Public Works Director;
- e. Pump station design must be compliant with Town of Merrimack SSES S3-06 Concrete construction with H2O Load ratings. Please refer to Town of Merrimack S3-06 for the requirements for Pump Stations;
- f. Page 11- Minimum diameter for an interior drop manhole shall be 5 feet. As per Town of Merrimack SSES S3-08.2;
- g. Page 11- Force main must transition to gravity 10 feet prior to sewer manhole;
- h. When connecting to existing manhole it is required that all present construction standards will apply to the altered manhole and all required revisions shall be called out. If the manhole cannot meet the present constructions standards it shall be renovated or replaced. As per Town of Merrimack SSES S3-08;
- i. Remove non shrink mortar as sole means of connection to manhole;
- j. No sewer manhole cover was submitted with the plans must be Neenah Foundry 1743 LM 30 inch clear opening in 4 foot diameter manholes less than 14 feet in depth and 36 inch clear opening in 5 foot diameter opening manhole or those greater than 14 feet in depth. All manhole in unpaved areas shall use 30 opening EJ Iron works Ergo XL cam locking hinged cover in less than 14 feet in depth or EJ Iron Works 36 inch Ergo XL cam locking in 5 foot diameter or great than 14 feet in depth. All manhole in unpaved areas shall be consider cross country and all applicable provisions of the Town of Merrimack SSES shall apply;
- k. A note shall be added stating that the building occupants shall coordinate with the Town of Merrimack Pretreatment Manager for all applicable permitting and sampling as determined in the application process as per Town of Merrimack Code Chapter 158 sub 134;

- l. Page 11- Drop manhole detail receiving bell shall come to height of crown of influent pipe. As per detail in Town of Merrimack detail in the SSES construction detail section; and
  - m. Page 11- All details and design of pumping station shall be compliant with Town of Merrimack SSES S3-06.
13. The applicant shall address the following conditions imposed by the Planning Board at the hearing:
- a. Dedicated snow storage areas shall be clearly delineated on the plan; and
  - b. The landscape plan shall be amended to show proposed greenery in front of the proposed building.

**The following general and subsequent conditions also apply:**

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. *Please note: HCRD requires the site plan bear both a licensed land surveyor's stamp and professional engineer's stamp to be recorded;*
2. The applicant is responsible for recording any proposed easements and/or applicable legal documents at the Hillsborough County Registry of Deeds at the expense of the applicant. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
3. Prior to the issuance of a Certificate of Occupancy or Unit Completion, as applicable, the applicant shall submit a mylar copy of an As-Built Plan, prepared by a NH Licensed Land Surveyor to the Community Development Department. The plan shall contain the information outlined for an Existing Conditions Plan under Section 4.12 of the Site Plan Regulations;
4. The applicant shall provide the .dwg files of the as-built plan to the Public Works Department, and provide paper copies of the as-built plan to any municipal Department that may require them;
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, as related to property addressing and fire code compliance:
  - a. The building access road shall be maintained to remain passable throughout the year, which includes the timely removal of snow and ice;

- b. Due to the large size of this building multiple Knox key boxes shall be required for emergency access. The number and location of these boxes will be determined by this office upon review of building plans;
- c. 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 entire building shall be protected by an approved NFPA-72 compliant fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued;
- e. The developer shall have the entire building surveyed 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. (NFPA 1, section 11.10);
- f. 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; and
- g. As this proposed building has direct access to Daniel Webster Highway the assigned address shall be 263 Daniel Webster Highway.

5. **Serenity Development (applicant) and Paul Gilbert (owner)** – Review for consideration of a Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU) with a basement and garage. The parcel is located at 170 Camp Sargent Road in the R-4 (Residential, by soils) & Aquifer Conservation Districts and the Wellhead Protection Area. Tax Map 2B, Lot 311-4. Case # PB2023-32.

*Kevin Munroe, Serenity Development, LLC and Paul Gilbert, property owner presented the conceptual plan to the Board.*

Mr. Munroe stated that there are 3.1 acres on the property. They would like to open the tree line and add the ADU to the back of the property. The driveway would go down the left side of the property. They would be relocating the meter off the house to another portion of the property to bring 400-amp service in and split 200 to each side. The plan is to take down minimal trees.

Mr. Disco questioned where the sewage line on the property led to and if it was part of the Nashua or Merrimack system. Mr. Munroe responded that he believes it's Merrimack. It used to be on septic but the prior owner tied into the Merrimack sewage and that's what their plan is. It was recommended by Mrs. Christensen to look into possible restrictions. The Board then clarified that since this is an ADU, the owner of the property must live in the primary house. Mr. Munroe was in agreement and had no intention of selling in the near future.

*Public Comment was received via email from Mary McDonald, 178 Naticook Road (a copy of Ms. McDonald's email is on file with the Community Development Department).*

**The Board voted 5-0-0 to grant final approval to the Conditional Use Permit on a motion made by Nelson Disco and seconded by Barbara Healey.**

1. The applicant shall adhere to the criteria listed under Section 2.02.1.C.2 of the Zoning Ordinance pertaining to conditional use permits for a detached ADU;
2. The applicant shall receive a driveway permit from the Highway Department for the proposed driveway access;
3. The applicant shall ensure sewer availability for the detached Accessory Dwelling Unit with the City of Nashua; and
4. If this Conditional Use Permit approval is not acted upon within a period of two (2) years from the date of the final endorsement by the Planning Board, then the approval shall be null and void. Issuance of a building permit shall be considered a sufficient action to vest an approval for a conditional use permit for a detached ADU. However, should any building permit expire unused after the conclusion of the two-year validity period provided for herein, the conditional use permit granted shall become void as well. Should the applicant need to extend the two-year validity period, the applicant shall demonstrate to the satisfaction of the Planning Board that it was impossible or impractical to receive the necessary approvals to move forward in reliance on the permit granted within two years. Any renewal/extension application shall be filed with the Planning Board no sooner than 90 days, nor later than 30 days, prior to the expiration of the Conditional Use Permit

**6. Planning & Zoning Administrator's Report & Discussion/possible action regarding other items of concern**

Ms. Wolfe-Smith stated there were no items of concern.

**7. Approval of Minutes- December 5, 2023**

**The Board voted 5-0-0 to approve the minutes of December 5, 2023, as amended, on a motion made by Lynn Christensen and seconded by Barbara Healey.**

**8. Adjourn**

**The Board voted 5-0-0 to adjourn at 8:09 p.m., on a motion made by Barbara Healey and seconded by Nelson Disco.**