



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD**

### **APPROVED MINUTES**

**TUESDAY, DECEMBER 5, 2017**

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, December 5, 2017 at 7:00 p.m. in the Matthew Thornton Room.

Robert Best, Chairman presided:

Members of the Board Present: Alastair Millns, Vice Chairman

Desirea Falt

Paul McLaughlin

Nelson Disco, Alternate

Councilor Thomas Koenig

Members of the Board Absent: Lynn Christensen

Michael Redding

Vincent Russo, Alternate

Also in Attendance:  
Director

Tim Thompson, AICP, Community Development

Kellie Shamel, Assistant Planner

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

The next meeting of the Planning Board will be conducted on December 19, 2017 at 7:00 p.m. in the Matthew Thornton Room.

Chairman Best designated Nelson Disco to sit for Michael Redding.

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

Timothy Thompson, Director, Community Development Department, introduced Kellie Shamel, the Department's new Assistant Planner.

### **3. Presentation by the Highway Garage Committee on construction of the new Highway Garage**

Kyle Fox, Director, Public Works Department (PWD), identified the members of the Highway Garage Committee (Committee) as Eileen Cabanel, Town Manager, Paul Micali, Assistant Town Manager/Finance Director, Councilors Jackie Flood and Finlay Rothhaus, Kyle Fox, Director, PWD, and Lori Barrett, Operations Manager, PWD.

The project began with public outreach seeking input on what the residents expected out of the building, and working with the H.L. Turner Group on concepts. Three options were developed.

The April vote approved the bond (\$3.3 million). From there, the Committee started in earnest with the design team. Shortly thereafter a number of construction management firms were interviewed resulting in the selection of Turnstone Corporation out of Milford, NH.

The desire is for a space large enough to accommodate current staffing (designed in 1970 to house 10 people). The current design will accommodate existing staff, and is believed will accommodate the department 40-50 years into the future.

The strategy consists of constructing a new building that will house maintenance staff, which includes highway staff, parks maintenance staff, and equipment maintenance staff who maintain the Town fleet, which includes Police, Fire, Public Works, and Town Hall equipment and vehicles.

The core structure of the existing building will be renovated and used for vehicle storage. Indoor storage during the winter months will improve the expected lifespan of vehicles, and allow for a faster response during storms. Because the trucks are currently stored outdoors and are diesel, they are plugged into block heaters. Once warmed, they are loaded with materials, and then move out onto the road. Indoor storage would allow them to be preloaded thereby allowing drivers to climb into the cab of warm truck, and get out on the road.

Bill Hickey, H.L. Turner Group, remarked one of the things learned early on was the desire to minimize the building given its location in a residential district. The front portion of the building is the office building. The portion behind the overhead doors is the bays. The ridge was rotated to try to minimize the look of an industrial building. The office building will be a wood frame, vinyl siding, and asphalt shingled roof. The maintenance bays will be a pre-engineered metal building, but will have an asphalt shingle roof to try to keep with the aesthetic of the neighborhood.

Displayed were plans highlighting existing conditions, as well as one identifying the proposed new site configuration. To the north of the existing building is the proposed new highway maintenance building. The office will be closest to Turkey Hill Road. To the north side there will be visitor parking, and a new driveway on the northern most side of the property for public access. The yard will be gated.

Mr. Hickey spoke of the fuel island, which was not depicted on the plan. The tanks will remain in place. A new canopy will be constructed, and new fuel pumps will be onsite.

There is a large berm between Turkey Hill Road and the highway maintenance yard. The desire is to extend that berm where the driveway is now, and plant trees, which will create a buffer between the yard and the road.

A conceptual plan for site lighting was displayed. Mr. Hickey spoke of photometrics that were done. The intent is for a few small pole lights on the driveway on the north side. As you come down the driveway, where the island ends, will be a lit flagpole. The remainder of the lighting will be wall packs off the building. There is very little spillover; all cutoff fixtures, etc.

Mr. Hickey commented there will likely be a few lights on the new fuel island. As part of the renovation to the existing building, they will probably add new LED wall packs.

Mr. Hickey displayed the new floorplan of the building. Sheet A1.1 shows the maintenance bays on the right-hand side of the plan (4 double bays), 2 maintenance bays, and the office portion of the building. The large room depicted at the bottom of the plan is a training room. There are conference rooms, offices, and suitable locker room and bathroom facilities as well as various storage areas.

The west elevation of the building is the portion that will face the road; vinyl sided, asphalt shingled double-hung windows. The maintenance bays will have an insulated metal siding and asphalt roof shingles. Windows will be double-hung like what you would see in a residence. They are in the process of identifying options for the color scheme of the building.

Regarding the second floor of the existing building, Mr. Hickey noted the wood frame mezzanine would be removed, and the area would be used for equipment storage.

When asked if consideration was given to utilizing solar photovoltaic panels as a means of generating electricity, Director Fox stated it to be a goal of the Committee to consider that. He noted the meeting scheduled for the following week would include a visit by a provider of such equipment to discuss the possibilities. It would have to be cost effective as the budget is limited. If an economical renewable energy source could fit in, it would be done. The Committee has discussed the desire to design the roof so that it could accept panels in the future.

Member Disco questioned if the existing fuel tanks are to code, and was informed they are; double-walled tanks that are inspected yearly, and have about 15-20 years of lifespan remaining. Part of the reason the Committee reached the decision to build the new pumps and

the canopy off of the tanks is so that future replacement will be simpler and there will not be the need to demolish what is being constructed today.

Councilor Koenig asked for additional clarification of the proposed gate to limit public access to the yard. Mr. Hickey responded there will be a sliding gate that limits public access to the area where trucks will be located, and maintenance is occurring. Councilor Koenig commented it does not appear to be an obvious area to place a gate. Mr. Hickey stated it will be probably be partly coming off the building with a chain link fence with a rolling or sliding gate. Director Fox stated it to be typical to what exists currently.

Member Disco questioned where the fleet would exit for storm management, and was informed the Committee has not reached that stage of analysis. The site plan is still being finalized. Originally, the space to the east of the new building was considered for detention for drainage. They came to understand real estate is valuable. As a result, the drainage will be converted to under pavement detention. The area could be retained for future expansion.

Chairman Best spoke of being pleased with the idea of redoing the streetscape, doing some landscaping to try to block the view of the yard, and the relocation of the driveways. He noted the floorplan depicts trench drains, and stated the need to ensure they are equipped with oil/water separators, etc.

He questioned signage, and spoke of the need to consider the neighborhood, e.g., not internally illuminated, bright, etc. Director Fox stated the desire for a standalone, externally illuminated sign. He stated full agreement message boards can distract drivers. If there is an issue that requires public attention, the department has portable message signs that can be rolled out.

Chairman Best commented he hears in the community the notion of why does the old building need replacement. One of the things that keeps being thrown out by others is maybe we have not maintained it the way we should have. Although he does not believe that to be the case, he wished to give Director Fox the opportunity to respond. Director Fox stated it is not for lack of maintenance. The building was built in 1970 when the Town's population was approx. 10,000, and there were 10 employees in the Highway Department. Population is now more than 25,000 and there are 30± employees working out of the garage. There is simply not enough space. Over that time, building codes have changed a good deal. He spoke of the breakroom and bathroom facilities, which do not meet the needs of the building. There are ventilation and electrical issues in the building. Chairman Best commented on the increased number of vehicles that must be maintained in Town. Director Fox stated there to be over 100 vehicles and pieces of equipment maintained by the department.

Director Thompson stated the project, because it is a government use of property, falls under RSA 674:54, which permits the Planning Board, if it so desires, to have a Public Hearing to go

through the normally applicable site plan regulations, and make non-binding recommendations. The Board is under no obligation to do that.

Chairman Best stated there to be a lot of public interest in the project, and this would provide a great opportunity to discuss what is occurring, but at the same time he would not want to put undue work on employees that are already very busy. Director Thompson stated there could be a middle ground where a similar presentation to the one provided this evening could be given, which would not be a formal public hearing process.

Member Disco questioned Director Fox's opinion agreeing with the desire not to unnecessarily increase workload. Director Fox stated he would be happy to provide a presentation noting the Committee has tried to be very transparent throughout the process. The video clips from last month's Town Council meeting as well as the one generated from this meeting would be placed on the website for public viewing. The plans are also posted to the website.

Chairman Best stated his preference for an informational presentation. Vice Chairman Millns commented when presented in a public forum it provides the opportunity for members of the community to provide input. He was pleased with the idea of an informational presentation. Director Fox noted the intent to comply with every regulation.

Director Fox commented the committee met with representatives from Liberty Utilities and Eversource to talk about rebates and incentive programs related to energy savings. Liberty Utilities will pay 75% of improvements over standard building codes, e.g., if extra insulation is placed in the roof, they will cover 75% of the incremental cost. Those type of opportunities will be looked for. The desire is to construct the most economical long-term building. They want to construct it out of good materials that result in low maintenance costs going forward.

*Chairman Best opened the floor for public comment.*

No public comment was offered.

*There being no objection, the Board went out of the regular order of business to take up Item # 8.*

## **8. Workshop Discussion with NRPC – Route 3 Pedestrian Plan**

Member Disco remarked around mid-summer the Board decided to move forward on developing a Master Plan for sidewalks and bicycles along Route 3. It was spurred by both the recommendations of the 2013 Town Master Plan and a letter received from the State indicating they no longer wished to approve piecemeal sidewalks on their roadways unless there was a Master Plan for the completion of those sidewalks; a plan prepared and endorsed by the Town.

The Planning Board received approval from the Town Council to work with the Nashua Regional Planning Commission (NRPC). A Statement of Work was established for the development of the plan. What will be presented is the completion of Phase I of the plan, which was an inventory of existing conditions and identification of some critical spots along the road where sidewalk gaps exist, which are a safety hazard. He spoke of a map provided, which outlined walking and bicycling conditions in Merrimack. There will be a Phase II that will likely carry into mid-summer.

Matt Waitkins, Senior Transportation Planner, NRPC, stated Phase I of the Route 3 bike/pedestrian corridor plan is the mapping component.

The purpose of Phase 1 of the project is to develop a map of existing bicycle and pedestrian infrastructure along the corridor and to identify gaps in that infrastructure.

The process for developing the map has included the following steps:

- Develop a base map using existing geographic information system (GIS) data layers to show sidewalks, crosswalks, bicycle lanes, paths, trails, and other significant information in order to plan for future needs in the corridor.
- Conduct a windshield survey of the Route 3 corridor in order to verify existing conditions that may not be evident in the GIS data layers.
- Develop a Level of Traffic Stress (LTS) analysis for the corridor which is intended to analyze the comfort of bicyclists with varying experience levels depending on the physical characteristics of a street. A similar analysis was performed for pedestrians.
- Participation in a workshop with the Planning Board using the draft map and LTS analysis. The purpose of the workshop will be to review the map, verify the gaps in bicycle and pedestrian infrastructure, and identify priority connections and areas of need.

Sara Siskavich, GIS Manager, NRPC, spoke of the map that was displayed for the Board noting it includes an overview of existing conditions within the corridor, town line to town line. There are two key feature classes on the map (purple lines; existing sidewalks) and throughout the corridor there are crosswalks noted in differing colors.

An analysis of walkability and bikeability was done throughout the corridor. Within the map were smaller maps, depicting those aspects. Ms. Siskavich remarked the criteria that go into assessing pedestrian friendliness are variables such as speed limit, presence of a sidewalk, presence and type of buffer that exists between the sidewalk and flow of traffic, and the roadway functional class (road type). For bikeability, criteria include presence and width of bike

lanes, the number of traffic lanes, and surrounding land uses. Those items are fed into a composite score and then ranked. Pedestrian stress; what you would expect a pedestrian to experience if walking, ranges from very low to moderate to high. Those rankings are color coded on the map. That is similar for bikeability; the color coding identifies trails that range from suitable for bikers of all abilities including children to only suitable for very confident, strong fearless riders.

Chairman Best commented some of the sections in the walkability map appearing in yellow are areas where there are sidewalks (southern section), and questioned what results in it being moderate stress when a sidewalk is present. Ms. Siskavich responded one of the main influences would be the speed of traffic. Anything 25 mph or lower would generally be a pedestrian friendly condition.

Ms. Siskavich stated the NRPC, in conference with Member Disco, started inspecting what they had. The main map includes 7 ovals, which represent areas of concern. They are areas that are generally uniform and characteristic of the deficiencies they were seeing. Area #1 is the area from the Bedford Town line to the bowling alley; absence of sidewalks and higher speeds limit walkability. Area #2; the area from the Homestead restaurant past Walgreens to the northerly Shaw's, has absence of sidewalk or general patchiness of the network. There they also saw evidence of pedestrian traffic. There is a clear demand for improved sidewalk connectivity. Area #3; from Tractor Supply northward, not continuous sidewalk network, an area that is fairly residential in nature providing high opportunity to invest in sidewalks and gain immediate benefit.

Area #4; Town Center; echoing some of the recommendations in the 2009 Town Center Plan, there is more to be done with respect to sidewalk infrastructure. They noted this area has projects in progress, which include installation of sidewalks. To the south by the river, the footbridge and pedestrian underpass, and sluiceway project, are all positive developments. Area #5 is the residential and commercial areas to the west of Horseshoe Pond. In that area, there is an absence of sidewalks, but there are a lot of opportunities for origins and destinations for pedestrians within that stretch. Area #6, NRPC area/Common Man area; there is some existing infrastructure. Area #7, to the south, is the area centered along BAE. There is quite a bit of sidewalk, but it is on both sides of the road, and there is no crosswalk.

Ms. Siskavich spoke of key deficiencies noted in terms of bicycling; near Area #4 there is a very narrow shoulder. The same is the case in the BAE area; no shoulder coupled with traffic speed. As they started reviewing the results they noted areas where crosswalks would make a lot of sense. They came to the realization they needed to speak with the Board about what the goals are, what the Board would like to see for the corridor, which is a segway into a Phase II analysis of the corridor. There are different things that could be strived for, part of which could be prioritizing what should be done first. That cannot be done in a vacuum. They are seeking the Board's feedback.

Chairman Best suggested a public forum for community members to provide input. He remarked the few areas where the map denotes existing pedestrian traffic and shortfalls in infrastructure would be his highest priority.

Member Disco stated the NRPC has conversed with, to a limited extent, the NHDOT, District 5, who were the triggers for setting this off. District 5 has agreed to work with the NRPC on completion of the plan.

Mr. Waitkins noted he spoke with the district engineer questioning their criteria, and learned they don't have any real set criteria. They thought this Phase II planning process would be a planning document. They were told to identify areas along the corridor that need improvement, identify the gaps that need to be connected, and prioritize those improvements. They are willing to participate in the process.

Chairman Best questioned which of the areas where it is indicated a crosswalk could be helpful, are within the Town's control versus the State's control. Director Thompson responded about half of Area 2, Areas 3, 4, 5, and the very northern part of Area 6 are within the Urban Compact (Town jurisdiction). Areas 1 and 7 are entirely within the State's jurisdiction.

Chairman Best questioned if suggestions for crosswalks include incorporating it into a signalized intersection where there is a pedestrian phase in the red light or striping it where there is no signal at all, etc. Mr. Waitkins stated those details would be worked out, but generally they noted where there were already signals, and where possible, is where you would want to incorporate a crosswalk.

Director Thompson noted the area where Flatley's mixed use project will be located will have an off-road pedestrian path that would connect Areas 1 and 2 together. Mr. Waitkins questioned if there is a design for that, and was informed it is part of the conditional use permit. They have not done the site planning for the entirety of that yet (in concept stage).

Chairman Best commented the reason for asking about the intent for how the crosswalks would be designed is thinking about how easy is it to do that; if it is an existing light where you are not changing anything to the dynamics of the way the light is working, and you are just talking about paint on pavement, it seems to be a real easy thing to propose, and if you are changing the way a light works or putting a light where there isn't a light that is different, and also affects traffic when you allow the pedestrian to affect the way the signal works. It requires a different level of analysis.

Director Thompson commented the one that strikes him is the one at Area 7 where there is the sidewalk on the west side of D.W. where it ends, and then it is on the east side basically all the

way to the Town line; does not believe there is any signalized intersection there, but that is the logical spot.

Chairman Best commented the one at Greeley Street (Area 6) is the one that has the most impact for traffic where you have to figure out how to put a pedestrian crossing in there without jamming the intersection up any worse than it already is.

Councilor Koenig commented he is cautious of getting too strong in prioritizing as he would hate to exclude any or put them lower on the list, and then have someone come up before the Board wanting to do a project, and try to argue with the Board that they are low on the priority, and the Board has not addressed those high on the priority, so they shouldn't have to do anything. He would want to be able to say this is the entire plan, this is where we are going, every opportunity we have. Director Thompson suggested when actually writing the plan document itself there is written documentation that says this is intended to be two-fold; one is prioritizing municipal expenditures and the other is providing guidance for developers who are developing within the corridor these are the expectations that the Town has for pedestrian/bicycle development.

Chairman Best remarked to the extent that the Board would continue the payment in lieu of concept, the 7 circles that are drawn out are probably good estimations of a focal area where you could have a sidewalk project within that circle, a development within that circle is going to impact that, and the two could be tied together and moved forward. The idea of creating some of those focal areas is a good foundation for some of the discussion that needs to occur.

In terms of Phase II and prioritizing, he questioned how the NRPC wished to proceed in that process.

Mr. Waitkins stated they were looking for input from the Board on direction. Ms. Siskavich commented they would like to finalize the static map. They could make a second version of it, which encapsulates the take-home messaging you want from a planning document. That could be another outcome of the project that would be a little bit more of a presentable show and tell item. She offered to provide links to examples.

Chairman Best suggested an electronic posting of the map that could generate online discussion/feedback. Director Thompson commented a captive audience of residents will be present on Election Day, and suggested a table could be set up at voting locations, copies of the map could be available to view, and feedback solicited. Chairman Best and Member Drisco volunteered to stand at tables on Election Day.

Director Thompson suggested Board members review the map, and forward comments/concerns to him to be compiled and forwarded to the NRPC. They can return in February to begin Phase II before getting to April and the public input portion.

*The Board returned to the regular order of business.*

- 4. SRS Petroleum Services, LLC (applicant/owner)** - Review for acceptance and consideration of final approval of a proposed 694 sq. ft. office space addition, along with the installation of two above ground fuel storage tanks and associated site improvements. The parcel is located at 6 Wright Avenue in the I-1 (Industrial), C-1 (Limited Commercial), and Aquifer Conservation Districts. Tax Map 4D-3, Lot 091.

**This item is continued from the October 3, 2017 Planning Board meeting.**

Director Thompson stated at the October meeting there was a decision to require the applicant have the drainage reviewed by the peer review consultant (CLD). The escrow was received. Plans are currently being reviewed. Revised plans have addressed all comments raised by both the PWD and the Conservation Commission. The department is confident any conditions or comments that come from CLD should be able to be addressed, and feel the project is ready to move forward.

Garrett Piccirillo, EIT, MFH Design Consultants, Inc., noted the site walk conducted with the Board on October 21<sup>st</sup> to review drainage areas, wetland locations, etc. Since that time, they hired Gove Environmental Services to locate and delineate wetlands. They have been updated on the plans and encompass the entire northeast corner of the site.

The applicant was before the Conservation Commission on October 2<sup>nd</sup>. The Commission had serious concerns regarding general overall site drainage. They were concerned with the overall use of the site, and the fact that drainage improvements hadn't been done in quite some time. The Board seemed to echo that as well. Since that time the wetlands were located, a full drainage study of the parcel was conducted, a drainage report provided, and improvements were proposed. Those have gone to CLD for comment.

The applicant has satisfied all comments from the PWD, and received a few comments earlier in the day from the Fire Department, which they plan on addressing.

Regarding proposed drainage improvements, south of the wetland is a proposed bioretention basin, which will provide full stormwater treatment and detention. It is a recharged groundwater infiltration basin, meets all Town requirements as well as DES requirements (although not required).

The site runs off over land flow from the southeast corner to the wetland in the northeast. Mr. Piccirillo displayed a grading plan. He noted the large cut slope along the western property line. The slope is wooded, and everything drains down into the site, sheetflows into the corner, and gets into the wetland. What they have done is mimicked those drainage patterns, but are proposing some grading improvements that will direct the flow more directly to the basin. A

drainage swale will capture runoff, and direct it into the basins where it enters a sediment forebay (pre-treatment device). The embankment down to the wetland would be regraded.

When asked about existing lighting, Andy Bissonnette, SRS Petroleum Services, LLC, stated there to be a few yard lights towards the end of the property (3 in total). There are lights off the building, and a light off the utility pole. When asked if the plan calls for the addition of lights, it was indicated it does not. Mr. Piccirillo stated there to be no light spillover, and that the existing lighting is adequate for the improvements being made.

When asked, he stated the comments received from the Fire Department were:

Relative to access to the building in case of an emergency - stated access is acceptable.

Regarding the fire alarm system - noted the existing NFPA72 compliant fire alarm system in the existing portion of the building shall remain in service and the new addition shall be fully protected by an approved, compliant fire alarm system as well.

Spill control plan for above-ground tanks.

Director Thompson noted those comments would become general conditions of approval.

Member Disco commented at one point there was discussion of landscaping along Wright Avenue, and questioned if there were any plans in that regard. Mr. Bissonnette responded there are not many located on Wright Avenue. They will continue with the buffer area, but because Wright Avenue drains onto the property, he is reluctant to do anything until something further develops in that area. It was noted the property across the street belongs to the YMCA of Manchester. It is not likely to be developed anytime soon given the amount of floodplain within that property. Any development was contemplated to be open space and athletic fields. Chairman Best commented they could sell it, and someone else could come with some creative ideas for it. The challenge is in not knowing the future of that parcel across the street, and if anything came forward, they would be the ones before the Board not this applicant. Director Thompson noted this was part of the trust that originally required that property to be for recreational purposes for the children of Nashua and Merrimack. That has now been released by the Probate Court for the reason that they have tried to do different options for development, none of which have been realistically viable. The Probate Court released that trust so that it no longer has to be tied to the development of the other property.

Chairman Best remarked he would not have a problem, as part of a waiver of a full site plan review, not requiring the standard buffer that you would normally put between that kind of site and residential, but would not mind a tree or two being planted up in that grass area. Director Thompson stated, in addressing the PWD comments, the large, continuous curb cut will be narrowed and loamed and seeded resulting in additional green area.

**The Board voted 6-0-0 to accept the application as complete, on a motion made by Alastair Millns and seconded by Desirea Falt.**

*Chairman Best opened the floor for public comment at 8:27 p.m.*

Chris Ross, 403 D.W. Highway

Owns the abutting property with the right-of-way going out to Wright Avenue. He spoke of being thankful for the efforts made to try to remedy the problem of water coming from the site being discussed onto his property. This is a situation he has tried to get rectified for years without success. He believes the proposed plan addresses all of his concerns. It captures the water from Wright Avenue all the way to the back of the parcel, puts it in the detention pond, and gets it into the wetlands so that it doesn't go onto his site. He requested the Board, in its review of the plan, ensure water is captured from Wright Avenue all the way to the back side of the parcel in question, and does not go onto his right-of-way.

*Chairman Best declared the public hearing closed 8:29 p.m.*

**Member Millns cited the criterion that 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.**

**The Board voted 6-0-0 to grant waivers to Sections 7.05.D.19 (Sidewalks) and 11.04.2 (Outdoor Lighting), on a motion made by Alastair Millns and seconded by Paul McLaughlin.**

**Member Millns cited the criterion 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.**

**The Board voted 6-0-0 to grant a waiver of full site plan review, on a motion made by Alastair Millns and seconded by Desirea Falt.**

Member Disco spoke of a comment included in the memorandum from Robert Price, Planning & Zoning Administrator, relative to parking, which reads: "While the applicant has reconfigured some of the parking spaces, which were noted of concern by Public Works in their initial review, Community Development staff remains concerned with the proposed placement of a few of those spaces due to the high potential for vehicular conflict and forced awkward turn movements in a scenario where the spaces are all filled to capacity. Staff recommends the Board discuss this with the applicant, and that an alternative design be requested, if the Board deems it appropriate." Director Thompson stated Mr. Price's concern is that if all of the parking spaces are full there may be some issue with people backing and making turning movements.

He suggested the question that should be asked of the applicant is if there is the likelihood that all spaces would be full at any one point in time. He noted regardless of the concern, this is a compliant design meeting all of the dimensional requirements of the regulation.

Chairman Best commented they are minimally compliant, but there are nevertheless some awkward or narrow areas where the traffic will have some potential to be a little bit difficult. He commented the site does not really involve customers or the public coming onsite. They are spaces entirely for employees (approx. 20). There are about 6 that are active in the building throughout the day.

**The Board voted 6-0-0 to grant conditional final approval, on a motion made by Alastair Millns and seconded by Desirea Falt, with the following precedent conditions to be met within 6 months and prior to plan signing, unless otherwise specified:**

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 note all waivers granted by the Board (Section 7.05.D.19 – Sidewalks and Section 11.04.2 – Outdoor Lighting) 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 any forthcoming comments from the town's peer review consultant, CLD, as applicable;
6. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable;
7. The applicant shall address the following Planning Staff Technical Comments:
  - a. Add a Planning Board signature block to the site plan with space for Chair and Vice Chair signatures and dates;
  - b. Add the "statement of plan" to the site plan per Section 7.05.D.16;
  - c. Add snow storage areas per Section 7.05.D.17 or provide a written waiver request;

- d. Revise Sheet 5, Note 3 to include Elderly Housing Overlay District;
- e. Revise Sheet 5, Note 5 to include the proposed fuel storage tanks;
- f. Add to Sheet 5, a Note that reads as follows, OR a statement that there is less than 20,000 square feet of disturbance proposed:
  - i. In accordance with Chapter 167 of the Merrimack Town Code, prior to disturbance a Stormwater Management Plan shall be submitted to the Community Development Department for any tract(s) of land that results in a total disturbance of 20,000 or more square feet of land. In addition, the responsible party and its engineer or technical representative shall attend a mandatory pre-construction meeting with the Community Development Department and the Public Works Department at least two (2) weeks prior to commencement of disturbance.

**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 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 a 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 the following comments from the Fire Department:
  - a. This building has an existing NFPA-72 compliant fire alarm system. This system shall remain in service during all times the building is occupied by the public. System shutdowns and modifications due to demolition and construction will be permitted only after the Merrimack Fire Marshal has received notice and approved said shutdown;
  - i. The new addition shall be fully protected by an approved NFPA-72 compliant fire alarm system. This system may be connected to the existing building fire alarm system, however due to the age of the building a full system inspection of the existing system by a qualified fire alarm contractor or fire protection engineer is required to ensure that the system is designed for the existing hazard and in proper working order;

- ii. The proposed 6,000 gallon above ground oil storage tank is located just outside the special flood hazard area (100-year flood) but is within the 500-year flood plain. This area has flooded as recently as 2005 and 2006. Due to the proximity of the tank to this flood area a comprehensive spill control plan (SPCC) with details on how the tank will be protected from floodwaters and what measures will be taken to contain a spill from this tank during all weather conditions shall be provided to this office for approval before tank construction can begin.
5. The applicant shall address the following comments from the Building Department:
- 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.
- 5. William Lastowka (applicant) and Land of Goshen, LLC. (owner) – Continued review for consideration of final approval of a Subdivision Plan for a twelve-lot cluster subdivision. The parcel is located at 6 Watkins Road in the R-1 (Residential) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 4C, Lot 449.**
- This item is continued from the June 20th, July 18th, August 15th, September 5th, October 3rd, and November 7, 2017 Planning Board meetings.**

Director Thompson stated when the applicant was last before the Board, he was directed to obtain the necessary relief from the Zoning Board of Adjustment (ZBA) for the encroachment of the existing barn and house into the 100' perimeter buffer. At the November 17<sup>th</sup> ZBA meeting, the variance was approved by a 3-2 vote. That said, there has been a request for rehearing received by the Community Development Department, which will be brought forth to the ZBA at its December meeting. That does not have any real impact in terms of process with the Planning Board as during the appeal period the applicant is moving forward at his own risk.

Director Thompson noted there remain a number of comments to be addressed but no revised plans have been received since the September 5<sup>th</sup> meeting. He noted the applicant has granted a couple of extensions to the 65-day clock under RSA 676:4, and should the Board determine a further continuance is needed, there would be the need for another extension granted by the applicant to do so. There are a number of proposed conditions, but if the Board is comfortable with that, the department would recommend conditional approval.

Chad Branon, Civil Engineer, Fieldstone Land Consultants, stated the proposal to be for a 12-lot single-family cluster subdivision with 1 open-space lot. The project received a favorable vote of the ZBA on the request for a variance to allow the existing buildings on the proposed lot to exist within the 100' buffer, which is a requirement as outlined for cluster developments. The plans, submitted on September 14<sup>th</sup>, address review comments from the PWD, CLD, Merrimack Village District (MVD), Fire Department, staff comments, and comments from the Conservation Commission.

Revisions in the current plans consist of widening the roadway from 22' to 24', adding a sidewalk on the south side of the roadway, modifying roadway grading to prevent drainage onto the adjacent lots, revised cul-de-sac design to address Fire Department comments (landscaped island in center removed and radius increased to 42'), graded all lots and potential houses and driveways to prove conformance with regulations, extended the water line out to Amherst Street rather than tying into the water line that currently extends past the site along Watkins Road, added hydrants to the plan, provided effluent disposal areas on each one of the lots, a number of drainage revisions to address comments from the PWD and CLD, e.g., providing additional stormwater treatment in locations; added two treatment swales, and addressed various project details and notes.

Mr. Branon stated the goal of the development has been to provide an environmentally responsible design by clustering the lots on the north side of the jurisdictional wetland areas. The design does not contemplate any wetland impacts for any individual lot construction. The only wetland impacts contemplated relate to the extension of Watkins Road and improvements to the existing manmade pond. The project proposes to improve the existing wetland crossing (in the Town right-of-way for Watkins Road), replace the outlet structure to the pond, which is in disrepair, and berm improvements.

The proposed lots will be serviced by a 1,170' linear foot dead-end road as measured from the intersection of Amherst and Watkins Roads all the way to the end of the proposed cul-de-sac. The lots will be serviced by municipal water, onsite effluent disposal areas, and underground electric and communications.

The drainage design for the development, through these revisions, will be handled by open and closed drainage systems, which will ultimately convey the stormwater runoff to the existing manmade pond onsite. The pond will be utilized to meter the runoff so that the post-construction peak rates are no more than pre-development rates. Existing stormwater pond onsite meets NHDES Alternation of Terrain (AoT) treatment standards; however, to address some additional treatment requests from the PWD, they have added two treatment swales to the project design. The project does not trigger an AoT permit. Total disturbance is just over 80,000 sq. ft. The project has been designed to meet local stormwater requirements.

Proposed open space will consist of 12.69 acres of land, which exceeds the minimum requirement by 1.68 acres. The open space area is adjacent to surrounding cluster developments, Town owned land, land owned by the MVD, and a property that is owned by Fish & Game. The open space is very similar to other open space areas as it will provide for passive recreation opportunities. Wetlands in the open space area consist of approx. 2.28 acres, but are all traversable as they are standard NH forested wetlands with the exception of the pond and the outlet to the pond. The wetlands do not restrict passive recreation uses on the property.

The applicant believes the plan meets the local requirements as outlined under the cluster residential development regulations as well as the objectives in the Ordinance.

Chairman Best referred to the colored map displayed, and questioned if the former turnaround for Watkins Road is part of the open space area. Mr. Branon stated that land is owned by the Town, and, therefore, not included in the calculation. The locations for the added fire hydrants and treatment swales were identified. Mr. Branon noted one of the PWD comments addressed an existing drainage culvert that comes off of Amherst Road and daylight into the pond. The request was made to daylight that drainage culvert into an open area and provide some pretreatment before it goes into the existing manmade pond. They have graded in a treatment swale and, because they have added a sidewalk along the entire south end of Watkins Road, they have had to propose some small sections of closed drainage.

Chairman Best noted the revised plan includes theoretical footprints of houses for illustration purposes, and noted on Sheet 6 where the effluent disposal areas are. When asked, Mr. Branon went through each lot identifying the location of effluent disposal area. He explained the State regulation requires that each cluster lot provide for a leach field area twice the size of what needs to be built (labeled Field 1 and Field 2 on the plan).

Chairman Best remarked although understanding the footprint of the structure could be constructed differently than what is depicted on the plan, he questions if the effluent disposal areas in lots 8 and 9 are far enough from the wetlands. Mr. Branon noted the setbacks are shown on the plan. He stated his belief the setback is 50', which he believes the plan meets.

Director Thompson noted in a subdivision plan there is no requirement, nor can the Board require that the actual house locations be shown on the plan. Single-family homes and duplexes within the State of New Hampshire are not subject to site plan review. They can build them, as long as they meet the setback requirements, anywhere on the lot.

When asked, Mr. Branon detailed the connectivity of the open space noting the characteristics of the abutting properties.

Member Disco spoke of the wetland impact resulting from the roadwork, and questioned whether the project was reviewed by the Conservation Commission and/or NHDES. Mr. Branon stated what is proposed is an upgrade of Watkins Road crossing an existing culvert. The existing culvert would be upgraded, and an engineering design would contemplate headwalls, inlet controls, and appropriate outlet control (1,800 sq. ft. impact). It is a manmade feature. That area has all been disturbed in the past. They will submit to NHDES for a wetlands permit.

An old outlet structure to the manmade pond is in disrepair, and will be repaired as part of the project. The berm will be widened and a headwall will be put on the outlet with some erosion control (400 sq. ft. impact). Total impact of 2,200 sq. ft. falls into a minimum expedited permit. They did not receive any feedback from the Conservation Commission that was of concern relative to that, and they don't anticipate any concerns with the State in obtaining a permit.

When asked about ownership of the area of open space, Mr. Branon stated there to be no preference on the direction of ownership; could be owned by the Homeowners' Association with everyone having a 1/12 interest or could be owned by the Town. When asked how that is resolved, Director Thompson responded ultimately it is the property owner's decision as long as it complies with one of the options of the ordinance. It is reviewed by legal counsel, in a review of the legal documents. Mr. Branon stated the Conservation Commission is recommending it be owned by the Town. Director Thompson noted that would ultimately be a Town Council decision.

Vice Chairman Millns noted the memo dated November 30<sup>th</sup> from Director Thompson. He spoke of the volume of comments provided, and questioned if there is a comfort level the issues can be addressed. Mr. Branon remarked many of the comments outlined have been addressed in the September 14<sup>th</sup> plan submission. Director Thompson stated he has not received responses from the departments. Mr. Branon stated they have no issue with the outstanding items.

When asked if he is comfortable staff can manage determining whether the conditions have been met, Director Thompson stated staff can handle whatever the Board feels is appropriate.

When asked to comment on the waiver request, Mr. Branon stated the scale of the plan and profile is the vertical scale. The regulation states it should be 1" = 5'. The profile in this project was done at 1" = 10'. That allowed them to fit all of the profile on 1 sheet so that it becomes an easy review of the plan. Because the roadway design is pretty simplistic in nature, all of the details remain legible in the profile. The PWD did not raise any concerns relative to that.

Member Disco commented in the initial plans it appeared as though there may be an encroachment into lot 4C-450. Mr. Branon responded there is no encroachment from this development on that property. There are existing encroachments on that property such as at the intersection of Watkins Road and Amherst Road. They submitted a copy of the existing

easement, which essentially goes across parcel 4C-450 and benefits MVD and the Town relative to the existing gravel road and access to an old water tower. They have revised the plan so that they are not tying into that waterline. The MVD requested, because it is an old line, that the project extend out to Amherst Road and tie in there. That revision was made. The PWD has asked that they provide additional information on that easement as they want clarification they have the ability to go in and maintain that existing culvert, and ultimately the culvert being upgraded as part of the project.

***The Board took a five-minute recess at 9:25 p.m.***

***The Board reconvened at 9:30 p.m.***

*Chairman Best opened the floor for public comment at 9:30 p.m.*

Dan Ricker, 12 Merrill Road

Stated he is an abutter to the project. Referring to the November 30<sup>th</sup> staff memo, he questioned #4, which recommends the applicant note all variances granted on the final plans and mylars; specifically, how that works with a project that is in a rehearing. Chairman Best stated the applicant makes a choice regarding whether to proceed before the Board and ultimately with the actual project. If his variance is reheard by the ZBA and ultimately turned down, then the applicant has to suffer whatever consequence that brings him. As things stand now, he expects the applicant will likely proceed on the basis that they have a variance, and will note such variance on the plans. If they get to the point where they have met all conditions of approval and the plans are ready to sign, that is what the plans that are signed would indicate. Director Thompson added if, for whatever reason, the rehearing request is granted, they do the rehearing and change the decision, the Planning Board would not be able to sign the plan with the condition it is in because it would no longer comply with the language.

When asked if the Board could grant conditional final approval at this time even with a rehearing request pending, Director Thompson stated the Board could as the conditions for approval would be valid for 6 months minimum.

Mr. Ricker spoke of recommendation #6 related to the applicant addressing all remaining comments. He questioned, and was told he could have access to view any documentation in the file. He asked if final approval could be granted with items outstanding, and was informed it could, and that the applicant would be taking the risk of having a requirement to satisfy conditions that have not yet been provided/identified.

Mr. Ricker stated his recollection there was a variance to decrease the width of the road. Director Thompson stated the application had originally proposed the roadway be 22' wide. The pushback from both the Fire Department and PWD was that would not be acceptable. The width of the travel way of the roadway has been increased to the required 24'.

Mr. Ricker stated concern with Lot 4C-449-4 noting the requirement for the 100' landscape buffer and the total area of about 37,000 sq. ft. He questioned if the lot becomes unbuildable at about 9,000 sq. ft. Director Thompson stated it is correct that the area within the buffer is not buildable. However, there is no restriction within the zoning ordinance, which states that the landscape buffer has to be excluded from calculation of lot size. The fact that you can't build in there does not preclude that lot from being developed.

Mr. Ricker questioned what would occur in terms of snow removal/storage. Chairman Best stated the PWD has reviewed the plan to identify the radius and what their plows need and can do. Had they asked the Board to take that into consideration it would. Director Thompson remarked that is one of the reasons they increased the radius of the cul-de-sac; to ensure sufficient turning area (island removed).

Mr. Ricker noted the plan set indicates elevation at 270'. A map obtained through the Community Development Office indicates the elevation is 550'. He questioned which is correct, and was informed it is dependent upon what is used for zero; whether sea level or some reference data that is put out by the U.S. Geological survey, etc. The applicant initially used the wrong reference point, which has been corrected. It was noted the GIS is not on any established datum, it is an assumed datum for the entire Town because it wasn't flown using the survey quality datum that a survey would have.

*Chairman Best declared the public hearing closed 9:47 p.m.*

Mr. Branon spoke of the reviews that are conducted noting the last submission consisted of a response letter to CLD and PWD comments. They have gone through and made all revisions to the plans to address current comments for the Conservation Commission, MVD, and Fire Department. He stated the elevation concern was one of the first issues addressed. With regard to the question pertaining to the lot geometry, they believe they have done their part to represent that the lots are buildable and conform with all regulations. They have also addressed the cul-de-sac geometry.

Mr. Disco commented on the size of the lots with onsite disposal, and his memory of subdivisions in Town that were built to these kind of standards, and later had to go back and sewer the developments. He stated concern. Mr. Branon responded DES requires that each lot provide for 2 effluent disposal areas. Test pits have been done on all of the lots, and there is information available that supports the fact that these lots can adequately handle onsite disposal systems that meet current standards, which differ greatly from those that existed in the '70s.

**Member Disco cited the criterion that 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.**

Chairman Best commented on the earlier discussion of the PWD and CLD being satisfied with being able to review it.

**The Board voted 6-0-0 to grant a waiver to Section 4.06.2 (scale of plan/profile), on a motion made by Nelson Disco and seconded by Desirea Falt.**

Director Thompson stated he noticed a few of the specific cluster subdivision general conditions regarding legal documents, and things of that nature were omitted from his memo, and requested, if the desire of the Board to grant final approval that those be added.

**The Board voted 4-2-0 to grant conditional final approval, on a motion made by Desirea Falt and seconded by Paul McLaughlin (Alastair Millns and Nelson Disco voted in opposition) with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:**

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 note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;
4. The applicant shall note both of the variances granted by the Zoning Board on the final plans and mylars (including Section, and date granted);
5. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
6. The applicant shall address any remaining comments from the town's peer review consultant, CLD, from their June 27, 2017 memo, as applicable;
7. The applicant shall address any forthcoming comments from the Conservation Commission, as applicable;
8. The applicant shall address the following comments from the Fire Department:

- a. 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 shall be required with Fire Hydrants spaced every 500 feet and no more than 300 feet to a driveway as calculated along the approved roadway (driveway meeting the roadway). Sheet PP-1, Watkins Road Plan and Profile shows the proposed locations for 2 hydrants, and is acceptable for this condition;
  - b. The construction of all roads and access ways must be completed to the Town of Merrimack Specifications allowing access and supporting the weight of fire and emergency medical apparatus throughout the construction period. (NFPA 1, Chapter 18) The plans as drawn show a proposed show the road ending in a cul-de-sac. This cul-de-sac as drawn is the minimum acceptable diameter for operating fire apparatus, however due to the inclusion of a center island and the narrow approach and departure from the roadway it is unacceptable for fire apparatus use and will need to be redesigned;
9. The applicant shall address the following comments from the Public Works Department, as applicable;
- a. Under Section 4.05(f) & 4.05(g) the existing drainage line, roadway, cross culvert, power lines and street signs all appear to be located on Map 4C Lot 450 and do not have an existing or proposed easement for their locations. They must be either relocated off of private property or an easement obtained from the owners. The easement listed on the plan for this lot lists the water line easement and emergency access only;
    - i. Updated commentary from 10/3/17 Public Works Memo: *The applicant states that there is a blanket easement that includes the utilities. The easement is vague and appears to pertain to the water line only and does not cover the drainage on the new easement. The easement is only as wide as the gravel road and the culvert ends are beyond this location. Either this deed should be given to the attorney for a legal opinion or a new drainage easement provided to clarify. The inlet location is presently located on Lot 4C-450;*
  - b. Section 4.09, all easements and Rights of Way dedicated to the Town shall have the appropriate Legal Data submitted for legal review prior to recording in the registry of deeds;
  - c. The existing drainage line from Amherst Road should be revised to provide additional treatment such as constructing a grassed swale and level spreader in the existing cul-de-sac area. This will provide adequate treatment prior to it entering into the existing pond;

- i. Updated commentary from 10/3/17 Public Works Memo: *This has been shown however the existing contour labels have been left in place and they conflict with the proposed grading numbers so it is difficult to determine what the elevations actually should be. Also the grading extends beyond the ROW line so there should be an easement given to accommodate any future repairs that will be needed within the open space area;*
- d. There are 2 - DMH#1, one proposed and one existing; these should have different numbers or designations. The existing drainage line between the 2 DMH structures should be videoed to check for the condition of the pipe. The video shall be performed by a third party that is acceptable to the Department of Public Works (DPW) and the information shall be provided to the DPW. The pipe should be replaced if there are deficiencies in the line. The drain line should stay within the ROW unless an easement is provided. The proposed DMH#1 should terminate in the existing cul-de-sac with a drainage treatment option such as a grassed treatment swale and overflow provisions;
  - i. Updated commentary from 10/3/17 Public Works Memo: *The labeling has been corrected and note 21 added to sheet 6 to require camera work to be done. The existing drain line is located outside of the ROW therefore an easement should be obtained from the owners of lot 4C-450. The existing Watkins Road and Dead End signs are also located on private property;*
- e. Due to the proposed grading of the road, adequate drainage shall be provided at the intersection with Amherst Road to prevent ponding and runoff into the neighboring property. Curbing shall be required to collect the drainage and then provide treatment prior to entering the pond;
  - i. Updated commentary from 10/3/17 Public Works Memo: *It is unclear what is happening at the intersection of Watkins Road and Amherst Road. A catch basin has been added to the south side of the intersection but not to the north side. The sidewalk is taking a sharp turn at this point. Will there be ponding of water on the north side of the street? Drainage should not be crossing the road at the intersection creating a potential for an icing situation. Will there be adequate sight distance from the proposed road approach?;*
- f. Underdrains will be required in all cut sections per section 4.16.3. Locations and details should be shown on the plans and so noted on the Typical Cross-Section – Subdivision Street;
  - i. Updated commentary from 10/3/17 Public Works Memo: *The underdrains appear to be shown on the plan but they are not indicated in the legend. On page 8 of 12 there is only one underdrain shown on the detail but there should be underdrains on both*

- sides of the road in a cut location. Access points shall be provided along the line so that the line can be cleaned when needed. Exact underdrain locations, access points and termination points can be determined during construction. The termination points shall be within the catch basins where possible as indicated on sheet 7 of 12;*
- g. A street sign detail shall be provided per Section 4.19;
    - i. Updated commentary from 10/3/17 Public Works Memo: *The street sign location is on private property and needs to be moved or an easement granted. The sign presently indicated that the road is accepted and Town maintained but due to the extensive road work that will be done the entire road will need to be accepted once work is completed. The Town will not maintain the road after the road construction has begun until after the road is accepted;*
  - h. An LED street light shall be provided at the Amherst Road intersection per section 4.21;
    - i. The pavement turning radii, as proposed, crosses over the neighboring property line;
  - i. Updated commentary from 10/3/17 Public Works Memo: *The entrance configuration is not clear on the plans. Curbing is required on both sides of the entrance;*
  - j. Drainage calculations should be reviewed by the consulting engineer;
  - k. The Stump Disposal area shown on sheet 4 of 12 is in the same location as the drainage outfall is shown on sheet 6 of 12. The Stump Disposal Area should be relocated. The stump disposal area between lots 2 and 3 is shown within a future driveway cut. This disposal area should be shown in an area that will not have to be disturbed in the future. The stump disposal area on lot 5 should not be located under the driveway section. There will not be any remaining trees within the stump disposal area as indicated on sheet 6 of 12;
  - l. Drainage Easements should be given to the Town on Lots 9, 10, and 11 unless the road will be private and maintained by home owners;
  - m. There shall be a Drainage Easement on Lot 4C-449 to allow for the repair of the ditch line and slopes etc.;
  - n. Notes 7 and 9 under general road construction notes on sheet 8 of 12 are exactly the same and any duplicate notes removed;
  - o. The foot path and the 30" RCP along the foot path in the open space shall be maintained by the owners of the open space and shall not be the responsibility of the Town per Section 3.08.13.b. This should be noted and recorded on the plans;

- p. Both sides of the entrance of Watkins Road and Amherst Road shall be curbed. The northern radius of Watkins Road has not been defined;

10. The applicant shall address the following comments from Merrimack Village District:

- a. All house First Floor Elevations must be supplied;
- b. The existing 12" ACP must be abandoned back to the connection point on Amherst rd. The valve and the tee must be removed and replaced with a solid length of pipe;
  - i. The existing main is outside of the right of way in places;
  - ii. The existing 12" water main is too large for the quantity of houses being proposed;
- c. Water main must be installed five (5) feet in pavement or five (5) feet off of edge of pavement on opposite side of right of way than underground electric and communication facilities;
- d. Individual residential booster pumps cannot be utilized, per NHDES Env-Dw 404.01;
- e. All mechanical joints to be restrained glands;
- f. When Ductile iron pipe is installed brass wedges at each bell must be driven to ensure conductivity;
- g. All blocking for assembly purposes must be removed prior to backfill;
- h. Hydrant Shown at station 04+00 must be moved and located at property boundary between lots 4c-449 & 4C-449-1 approximately Station 05+50;
- i. Sheet DT-4:
  - i. Detail 2:
    - 1. Thrust block call out remove PWW and add MVD;
    - 2. Thrust blocks size to be calculated By New Hampshire Registered Professional Engineer;
  - ii. Detail 3:
    - 1. All mechanical joint to be restrained glands, eliminates need for rodding;
    - 2. All valves to be Open Right, Resilient Wedge, with stainless steel bolts;
  - iii. Detail 4:

1. Note 7; Hydrants will be draining hydrants, See MVD specification;
  - iv. Detail 7:
    1. Note 5, 10' horizontal separation between sanitary sewer and Water main;
    2. Note 10, See Merrimack Village District Tracer Wire specification;
  - j. New plans must be submitted to MVD and reflect changes addressed in all comments;
11. The applicant shall address the following Planning Staff Technical Comment: Please revise Sheet 2,
- Note 22 to read exactly as follows, as per Section 4.06.1.k:
- "The Subdivision Regulations of the Town of Merrimack are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Board or any variances granted by the Zoning Board of Adjustment and attached hereto."*
- 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. All proposed easements and any applicable legal documents (including the required Homeowners Association/Condominium Declaration from Section 3.08.18 of the Zoning Ordinance) shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant. If possible, the applicant shall include in the Association documents (as recommended by the Conservation Commission) references or specific language on best management practices (related to fertilizer use, lawn and related debris storage, and potential improvements) when owning property abutting or in the vicinity of a protected brook/river;
  3. As required by Section 3.08.13(f) of the Zoning Ordinance, all deeds transferring any interest in the real property included in the development shall specify that the common land/open space parcels in the development are acknowledged to be part of the residential use and do not qualify for "current use" real estate tax appraisal and assessment under NH RSA 79-A;
  4. As stipulated in Section 3.08.18 of the Zoning Ordinance, any proposed changes to the project's Articles of Association or the Condominium Declaration following the final approval of the project shall require the prior written approval of the Planning Board;
  5. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;

6. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways.
7. A roadway deed (in a format acceptable to the Public Works Department and Town's Legal Counsel) shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant prior to the posting of a Maintenance Surety as required by Section 5.01.1 of the Subdivision Regulations. The Planning Board will not act upon establishment of any Maintenance Surety or recommend Roadway Acceptance to the Town Council until such time that the roadway deed is recorded, unless otherwise stipulated by the Public Works Department;
8. Due to the extensive road work that will be done the entire road will need to be accepted once work is completed. The Town will not maintain any portion of the road or drainage after the road construction has begun until after the road is accepted. Responsibility shall be that of the owner of record;
9. The applicant shall address the following comments from Merrimack Village District:
  - a. All Customers must adhere to MVD By-Laws;
  - b. All water services/ piping installed after first valve in Right of Way are owned by the property owner;
  - c. All water line plans and construction must comply with Merrimack Village District's current Specifications for Water Main Installation, Extensions, Service and Distribution System in addition to Approval by Town of Merrimack;
  - d. Third Party Review by an Engineering Firm, Of Merrimack Village District Choosing, at the expense of the Owner/ Contractor(s), must be completed at the request of Merrimack Village District;
  - e. All fees must be paid & all applications must be completed prior to start of construction;
  - f. Two business days, Prior notice must be given to Merrimack Village District for all inspections and commencement of work;
  - g. Anti-seep collars/dams, clay, or approved equivalent, must be utilized at the request of MVD's Inspector to slow travel of water along water main trench;
  - h. As-built record drawings must be stamped by New Hampshire Surveyor or P.E. (Specifications for Water Main Installation, Extensions, Service and Distribution System;

Sec. Z Record Drawings, 4/r) and supplied to MVD in print and electronically via CAD and PDF;

- i. Any planned disruption of service due to construction must be planned with MVD as to allow a minimum of 7 calendar days' notice to current MVD Customers, and, at the request of Merrimack Village District must be accomplished between 10:00 pm – 7:00 am;
- j. Any financial loss due to loss of service, planned or unplanned, to current Merrimack Village District Customers is the responsibility of the Owner/ Contractor(s);
- k. Once plan is accepted by Merrimack Village District, New Hampshire Department of Environmental Services review, at the discretion of Merrimack Village District, must be completed. Merrimack Village District will coordinate State review;

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

- 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.

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

- a. The current New Hampshire E-911 addressing guidelines require that all streets have odd number homes on the right side of the street and even numbers on the left. As there is currently a single home on this street that is numbered incorrectly, the address of the existing home shall be re-addressed as shown below:
  - i. The existing home located on lot 4C-449 shall be re-addressed as 5 Watkins Road
  - ii. Lot 4C-449-1 shall be 7 Watkins Road
  - iii. Lot 4C-449-2 shall be 9 Watkins Road
  - iv. Lot 4C-449-3 shall be 11 Watkins Road
  - v. Lot 4C-449-4 shall be 13 Watkins Road
  - vi. Lot 4C-449-5 shall be 15 Watkins Road
  - vii. Lot 4C-449-6 shall be 16 Watkins Road
  - viii. Lot 4C-449-7 shall be 14 Watkins Road

- ix. Lot 4C-449-8 shall be 12 Watkins Road
- x. Lot 4C-449-9 shall be 10 Watkins Road
- xi. Lot 4C-449-10 shall be 8 Watkins Road
- xii. Lot 4C-449-11 shall be 6 Watkins Road

**6. NeighborWorks Southern New Hampshire (applicant) and The Granite YMCA (owner) -**

Conceptual discussion of a potential site plan for a redesign of a previously approved elderly housing development into a conventional multi-family development. The parcel is located at 315 Daniel Webster Highway in the R-4 (Residential) and Aquifer Conservation Districts and portions in the 100 and 500 year Flood Hazard Areas. Tax Map 4D-4, Lot 043-01. **This item is continued from the November 7, 2017 Planning Board meeting.**

Director Thompson stated the location of the project was the site that on two different occasions was approved for a 57-unit elderly housing project. That project has essentially met all the conditions of approval, however the approval for the elderly project was tied to the development of the associated athletic fields lot (which has not been completed). The parcels were tied up in the trust of Reverend Wright whose property it was before being obtained by the YMCA. That condition from the Trust has been released through Probate Court providing for more flexibility for this property. He stated his understanding the YMCA is entertaining other potential developers of the property. Before the Board is NeighborWorks of Southern New Hampshire, which is looking at converting this from an elderly project to a conventional multi-family (65 units). If receiving positive feedback from the Board, this project would require variances from the ZBA. Multi-family residential is permitted in this district; however, not at the density that is requested. This is a non-binding discussion at this time.

Kevin Anderson, Meridian Land Services, stated the intent to be to enter into a design review discussion with the Board to review an old project, and secondly to introduce NeighborWorks, their operations and association, and what they do throughout Southern New Hampshire, and receive feedback from the Board and abutters in attendance.

The parcel was before the Board in 2006, 2007, and 2013 for a 57-unit elderly housing complex. They were a mix between two-family, three-family, and small flat type units. What they are seeking is a zoning variance to have the age restriction removed. The density has not yet been determined. The plan shows 65 units although the number will likely be more in the area of 50; they have not done the economics on the project as of yet. There are new factors on the project including a shoreland permit, which is now required, and might restrict the number of units.

Mr. Anderson stated the former project had a number of 2 and 3-family units along the steeper bank, some garden style units, and parking garages in the back section. They filled the entire lot. Regular standard pavement was used and an extension down to Island Drive.

Using the same guidelines, they met with planning staff to get feedback on concerns. The big items were stormwater management and providing access from D.W. Highway to Island Drive.

Displayed was a conceptual drawing, which identified usable spaces on the property (not the density being proposed). The drawings displayed 5-unit buildings in a multitude of areas. The style is to have parking in front. It was noted they are looking to connect D.W. Highway to Island Drive.

Robert Tourigny, Executive Director, NeighborWorks Southern New Hampshire, stated NeighborWorks is a private non-profit community development corporation. They have been actively engaged in developing affordable housing and revitalizing neighborhoods in southern New Hampshire for the 25 years they have been in operation. They have essentially been involved in preserving and revitalizing existing housing stock in the more urban areas; Manchester and Nashua, and in the more suburban communities, engaged in development through new construction. Quite often the sites they have chosen for development have been sites that were approved for one purpose that didn't work out. They work with the Town to come up with a new development plan to make the site work. Photos were displayed and descriptions provided of local examples of such developments. Mr. Anderson requested feedback from the Board.

Member Disco questioned if what has been approved could be usable for the intended purposes if the age restriction were removed. Mr. Anderson stated it could. It would need to be tweaked and adjusted. Some new permitting through the State has been implemented, but he does not believe it to be something that would completely void the project. The larger concern would be Shoreland. Additional research would have to be done to see how that would be applied.

Councilor Koenig spoke of the sensitivity of the area in terms of population density, traffic, and environmental concerns. He believes it would be a high hill to climb to be able to put anything in there of the density being discussed. He was never happy with the desires of the previous plan, but they had approvals in place. He would not want to see that level of density in an area located near wetlands and the pond. They argued that wetlands below the steep hill to the east of the project was not a big deal, but if you go by there and look at it, it is flooded half or most of the time. The elderly aspect of it, seemed to him, to result in a little less traffic. He is uncertain that the Town wants a connection to Island Drive. Chairman Best questioned if the desire was for a connection in the context of there being a development or in the abstract. Mr. Anderson stated it to be in conjunction with the development. He had questioned if it could be gated for emergency access only, which was not well received. Director Thompson stated, from his perspective, he wants to see multiple access points for any development.

Member Disco remarked if considering removing the age restriction, it may be that the Board would look for amenities that would be more appropriate to the general population. When

asked about what has been put in place at other locations, Mr. Tourigny stated the most common request has been for community garden space. Chairman Best commented on concerns given the vicinity to wetlands, e.g., fertilizer use. When asked about rental range, it was stated to be approx. 60% of median income or in the area of \$1,100 - \$1,400 for predominantly 2 and 3-bedroom townhouses roughly 1,000 - 1,100 sq. ft.

Chairman Best commented the difference between 2 and 3-bedroom units represents a significant jump in the number of kids expected per unit. Having those types of units provides the audience for the amenities being considered. Director Thompson cautioned that is true when talking about single-family residential development. When talking about multi-family, the numbers are still significantly less than they would be for a single family.

Chairman Best commented the neighbors on Island Drive are very sensitive to having the traffic flow inserted into that street. That section of D.W. Highway, on a late afternoon, is really quite congested. Although 50-60 homes don't generate a world of traffic, it is feedback that should be heard in conceptual stages that understanding traffic flow is important. Director Thompson reiterated comments regarding comparing that with what was approved previously.

Chairman Best remarked if able to satisfy questions relative to traffic and wetlands, he does not see the difference between an elderly project and non-elderly project. When talking about density, if considering fewer units than previously approved, even if there are more trips per unit, those numbers start to balance out. Director Thompson spoke of the ordinance and the significant density bonus given to elderly that is not afforded to conventional multi-family units. There would be the need for a variance for density.

When asked if the driveway that goes to the property is anticipated to be a public road or remain private, it was indicated it would most likely remain private. Director Thompson stated the general consensus from initial discussions amongst Staff was that it would remain private.

*Chairman Best opened the floor for public comment.*

Wayne Johnson, 79 Island Drive

Spoke of having read and heard the project is similar to what was approved previously. He reminded the Board, the previous project was extremely contentious. The Board meetings were very well attended, and there was a great deal of public opposition to the project.

He spoke of the previous issues around amount of impervious surface, which did not meet requirements. Eventually some information was discovered around permeable asphalt, which met requirements. Director Thompson stated his belief that related to what the Town's shoreland ordinance was at that time, and not specific to State shoreland requirements.

Now they are calling it revitalizing the neighborhood, which he does not understand. The intent of that property left by Reverend Wright was always to protect it forever undeveloped. The courts overturned the Will without public awareness. The proposed project would pack a bunch of homes into an area that is environmentally sensitive. The diagrams show the buildings at the slope down into the pond.

There are about 40 homes on Island Drive, and being proposed is the addition of 75 families going through that road that exits onto Island Drive. That road has flooded during times of bad weather.

Chairman Best commented the question about density has to be decided by the ZBA. The process that occurred in the past seems as though it was a battle of force to see who could have the loudest voice. Ultimately, to shape the Board's decision, what they are looking at is whether the project meets site plan regulations. The Board is not legally allowed to base its decision solely on public opinion. Public comment can be most helpful by pointing to issues regarding compliance with the Town's regulations.

Mr. Johnson commented one of the biggest problems was runoff into the pond. That seemed to be avoided with the permeable pavement. Vice Chairman Millns noted one of the problems with porous asphalt is the requirement for it to be cleaned. When maintained properly, it works. When the previous project was approved it was made clear they had to have the equipment needed and schedule in place for regular maintenance in addition to satisfying Town staff that both occurred.

Ann Goldman, 79 Island Drive

Stated one of the issues the Board was never able to answer her on was that the portion of the road that connected from the old project to Island Drive could not be owned by the property owner because the stipulation in the overturning of the Will was that they could not own any wetlands. That part was still controlled under the terms of the Will, and would not be maintained by the Town or the owner(s). That was the exit out to Island Drive. That road goes under water every other year or more. Their solution was to build it up a little, which would not be enough. In the winter, if the road floods, it freezes. She does not see how that could serve as an emergency access. She spoke of the dangerous road conditions when water freezes.

One of the solutions for the flooding had been identified as slip lining the culvert, which was already too small. She was never against a development, simply felt the scale of what was proposed was too great.

Chairman Best stated the issue of the ownership of the road would have to be resolved before he would be comfortable voting on the project. He stated his understanding all of the

restrictions of the Will are gone. Director Thompson stated, in short, the Probate Court stipulated that proceeds from sale of the property go to a Trust.

Director Thompson noted there was a different peer review engineer utilized by the Town at the time this project first came forward. It would be reviewed by CLD | Fuss & O'Neill if an application were to be submitted.

Chairman Best commented the science about the number of kids that are produced in multi-family units is extraordinarily well settled and understood. Director Thompson stated, based on New Hampshire examples, the average number of school-aged children in multi-family units is 0.17 per unit.

When the issue was raised, Chairman Best stated the Board receives traffic studies with virtually every application. Regardless of the time of year the study is performed, the projection is adjusted to the peak month of the year.

Christine Hugh, 333 D.W. Highway

The current proposed development of multi-family units would change the demographics of the inhabitants of the units. The probability of increased traffic is a concern. The two planned entrances/exits would be on Angelo Drive and Island Drive. Without any access to traffic light assistance, at either street, cars wanting to get onto D.W. Highway to exit the units or turn onto Angelo Drive or Island Drive to get into the proposed units during rush hour traffic will experience difficulties. She feels the level of difficulty residents would have entering/exiting the neighborhood would be unjust. She believes there to be great potential for unsafe driving conditions.

She spoke of changes that have occurred since the previous approval; the potential for a 280-unit multi-family residential project, which will impact traffic in that intersection, and the newly developed plaza at 360 D.W. Highway, which she believes will include a gym facility, etc., which will also generate additional traffic in that area. She echoed concerns stated around the issue of flooding.

Chairman Best remarked the comments provided echoed the issues of environmental and traffic concerns. The issues of flooding are engineering problems that will have to be part of the resolution to the satisfaction of CLD, etc. In addition, if the proximity to the wetlands and requirements of the Shoreland Protection Act mean that the proposal has pervious pavement, then the requirements for purchase of equipment and a maintenance plan, and ensuring the engineering solution is viable would be items discussed in a final application process.

Mr. Anderson stated appreciation for the comments received. He remarked, as an engineer, flooding is one of his primary concerns; how the site works with existing conditions. Environmental aspects and permitting are other large items on his list.

Chairman Best remarked the model of being an owner of the property and landlord for rentals makes the dynamic a little different with respect to potential for flooding, e.g., you are not a developer that will build it, walk away, and let the buyer beware.

He noted it is likely the location would have a no salt use restriction. Director Thompson noted Horseshoe Pond is an impaired water body per the MS4 requirements. There is additional scrutiny that will go into drainage.

***The Board took a five-minute recess at 11:06 p.m.***

***The Board reconvened at 11:11 p.m.***

**7. Don Ramon, LLC. (applicant) and Twin Coast Properties, LLC. (owner) –** Review for acceptance and consideration of a waiver of full site plan review for the addition of a 32-seat maximum outdoor seating area. The parcel is located at 6 Whitney Street in the C-2 (General Commercial) and Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 4D-4, Lot 005-01.

Kellie Shamel, Assistant Planner, noted, per site plan regulations, staff has determined 48 parking spaces are required. The plan identifies a total of 49. Should the Board grant the waiver of full site plan review, staff recommends granting conditional final approval with the conditions outlined in the staff memo.

Francisco Hymis, Don Ramon, LLC, spoke of clearing that occurred of the bushes that were in the front of the building, and the installation of a patio (32 seats/8 tables). The plans were presented to the Town, but it was never changed on the existing plan. When asked he stated there to be a half-wall in place.

Councilor Koenig questioned if the patio has already been constructed, and was informed it has. Director Thompson stated this to have been brought to staff's attention during the building permit process. The Building Department questioned if there were any steps that had to be taken, which is why the application was before the Board; expansion beyond what was inside the building. Had it been just within the building it could have gone forward with the building permit alone.

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

*Chairman Best opened the floor for public comment at 11:13 p.m.*

No public testimony was offered.

*Chairman Best declared the public hearing closed 11:14 p.m.*

**Member Millns cited the criterion 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.**

**The Board voted 5-1-0 to grant a waiver of full site plan review, on a motion made by Alastair Millns and seconded by Nelson Disco. Tom Koenig voted in opposition.**

Councilor Koenig questioned if there are any other changes proposed to the site, and was informed there are not.

**The Board voted 6-0-0 to grant conditional final approval, on a motion made by Alastair Millns and seconded by Desirea Falt with the following precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified:**

1. Final plan to be signed by the property owner.

#### **9. Discussion/possible regarding other items of concern.**

Vice Chairman Millns spoke of having visited a site in Massachusetts that utilized a peer-to-peer traffic signal network. He felt he could visibly see that it was working effectively. Although, on one occasion people jumped the traffic light, and when blocking the area in between it caused absolute chaos as the system doesn't know what to do with that.

#### **10. Approval of Minutes - November 7, 2017.**

**The minutes of November 7, 2017, were approved as submitted, by a vote of 6-0-0, on a motion made by Desirea Falt and seconded by Alastair Millns.**

#### **11. Adjourn.**

**The meeting was adjourned at 11:20 p.m., by a vote of 6-0-0, on a motion made by Alastair Millns and seconded by Tom Koenig.**

Submitted by Dawn MacMillan