



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY FEBRUARY 15, 2022

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, February 15, 2022 in the Matthew Thornton Room.

Robert Best, Chairman, presided.

Members Present:

- Paul McLaughlin (Vice Chairman)
- Jaimie von Schoen
- Neil Anketell
- Brian Dano
- Nelson Disco – Alternate
- Town Councilor Barbara Healey - Ex-Officio

Members Absent:

- Lynn Christensen

Staff Present: Robert Price, Planning and Zoning Administrator

1. Call to Order

Chair Robert Best called the meeting to order at 7:00 p.m., led the pledge of allegiance, and appointed Nelson Disco into a voting position for Lynn Christensen.

2. Planning & Zoning Administrator's Report

None

- 3. Aubrey Duplease (applicant/owner)** – Continued review of a Conditional Use Permit for a Level II Holistic Wellness Home Occupation. The parcel is located at 66 Tinker Road in the R-1 (Residential, by soils) and Aquifer Conservation Districts. Tax Map 2C, Lot 056. Case # PB2022. **This item is continued from the January 4, and February 1, 2022 Planning Board meetings.**

At the applicant's request, the Board voted 7-0-0 to continue this item to March 15, 2022 at 7:00 p.m. in the Matthew Thornton Room, on a motion made by Jaimie von Schoen and seconded by Barbara Healey.

4. Brady Sullivan Properties, LLC (applicant) and Solon Properties, LLC and Innovation Acquisition, LLC (owners) – Continued review for consideration of final approval for a site plan to convert a former corporate headquarters building into a 90 unit residential apartment building and associated site improvements. The parcel is located at 1 Innovation Way in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2D, Lot 041-15. Case # PB2022-06. This item is continued from the January 18, 2022 Planning Board meeting.

Robert Price reminded the Board that the project was first heard at the January 18th Planning Board meeting and at that time, the Board offered the applicant feedback on the site plan that was presented. Hayner Swanson then revised the plans based on that feedback and is ready to present those revised plans to the Board.

The Applicant was represented by Tom Zajac (Hayner/Swanson, Inc.) and Chris Lewis (Brady Sullivan Properties). Mr. Zajac began by summarizing the 4 major feedback points from the last meeting as reduction of existing parking/adding greenspace, emergency access behind the building, pedestrian connectivity and lighting. He shared an aerial photo of the site to remind the board members of how the site currently looks. He went on to explain that they revised the plans to eliminate 123 parking spaces (or 32,000 square feet) and used the aerial photo to demonstrate where the elimination of parking spaces will occur. He indicated that the new area will be left as grass for passive recreation but a paved walkway will remain intact around the recreation area to help maintain the current drainage flow. Mr. Zajac went on to explain that additional green space will be also be added to the remaining parking area by way of end cap islands. The new plans call for the expansion of three existing islands and the addition of two new ones at the far end of the parking area near the tree line.

Mr. Zajac then turned his attention to the emergency access topic and explained that he worked with Captain Manuele and a Fire Protection consultant to determine the best course of action for access to the rear of the building. He explained that because of the severe drop off behind the building, vehicular access is not possible, so they agreed that widening the pedestrian walkway and expanding the vehicular access on the westerly side of the building will be sufficient.

Pedestrian connectivity was discussed next and Mr. Zajac started by demonstrating where the existing sidewalks are within the site (i.e. along Industrial Drive leading to Henry Clay Drive and in the front of the building). He then stated that the revised plans call for the existing sidewalk in the front of the building to be extended all the way around the building and that a walking area will be added to the new greenspace area which also leads to an existing natural path down to Manchester Street. He added that they looked at what exists today along Manchester Street and there is a sidewalk in front of the HCOP office building but it sits approximately thirty feet back from the road. This is probably due to the topography in that area so, Brady Sullivan would encounter similar challenges if they attempted to add a sidewalk which would not be worthwhile as there is nothing else on that side of the street to connect to.

Mr. Zajac then briefly touched on the lighting plan for the site. He indicated that the existing lighting plan, which includes both pole and bollard lights, meets the site plan regulations so the applicant has no plans on making any changes to what is in place today. The current system runs on a timer that turns the lights on approximately 4:30 pm and off at 6:30 am.

Mr. Zajac wrapped up his presentation by discussing the staff feedback that has been received. He referenced the comments from the Fire Department and explained that the access issues (that were discussed previously) have been resolved to the Fire Department's satisfaction and all other

feedback can be addressed as a condition of approval. The feedback from DPW was received after the revised plans were drawn up, however, their main request was to expand the sewer pipe leading to the building from a 6 inches to 8. This change along with the other standard requests from DPW can be addressed in the conditions of approval.

Mr. Disco asked if the applicant looked into adding a pedestrian walkway connecting to the adjacent condo development. Mr. Zajac explained that he looked at the plans for the condo development as well as aerial photos and did not see any existing easements or connection points. He added that it would most likely be a legal difficulty to get an existing condo association to agree to an access easement. Mr. Disco then asked if the applicant is agreeable with making the sewer updates outlined by DPW or if they are planning on debating it and Mr. Zajac responded that they are ok with making the changes that were requested. Mr. Disco also asked about the newly proposed greenspace and whether or not they considered doing more than just seeding it. He suggested adding trees, a playground or even a picnic area. Mr. Zajac reiterated that the plans are to keep the land as open recreation space and reminded the Board that there will also be a patio in the rear of the building that can also be used for outdoor recreation. Mr. Disco added that he feels that trees should also be added to the parking lot islands and Mr. Zajac explained that since they applied for a Waiver of full site plan, they did not submit a landscape plan but believes some plantings will be added to the islands. He then asked about the lighting plan and Mr. Price explained that the Brookstone photometric plan was included in the packets added that it is sufficient since the applicant is not proposing any changes and the previous plan was approved by the Board.

Chairman Best commented that he likes the idea of the greenspace being left open because it provides an area for kids to toss around a football or baseball. Mr. McLaughlin agreed with Chairman Best's feedback on the open space but asked why the decision was made to maintain some of the parking in that area. Mr. Zajac replied that the spots in question were kept to keep some parking closer to the building. Councilor Healey asked what the plans are for signage. Chairman Best advised Councilor Healey that the applicant can address the question but signage is not within the Planning Board's jurisdiction and are handled separately. Chris Lewis responded to the question by explaining that they have not developed a signage plan yet and are still working through branding. Councilor Healey went on to add that at the last meeting, it was suggested that the applicant try to make the building look less commercial but the revised plans do not indicate that any changes are being made to soften the facade. Mr. Lewis responded by explaining that some additional landscaping will be added along the front of the building but there are no plans to change the overall appearance of the building.

Mr. Anketell asked how wide the pedestrian walkway is around the building and questioned if it is enough space for a ladder to be utilized if needed. Mr. Zajac explained that the pedestrian walkway sits about 10-22 feet off of the building and is approximately five feet wide. Due to the steep slope behind the building, this is all that can be provided. Mr. Anketell then asked about access on the Easterly side of the building and if the Fire Department was ok with it being limited. Mr. Zajac responded that both the Fire Marshal and Fire Protection consultant agreed that the access would meet NFPA standards. Mr. Disco asked if the cistern that was discussed at the last meeting is going to remain in place and Mr. Zajac explained that it is "to be determined" because all of the existing systems need to be evaluated to determine if they meet current standards.

Ms. Von Schoen asked what the lighting plans are for the rear of the building as the plans do not reflect any lights on that space. Mr. Zajac and Mr. Lewis confirmed that there is not currently any lighting in the rear of the building and Mr. Lewis added that since there are so many windows in

the building the lights from inside do a decent job lighting the exterior as well. Chairman Best countered that when the use is changed to residential and curtains are added this may change and recommended that the applicant address the lighting issue in the rear of the building to make the walking path & patio safe for residents that will be using them. Chairman Best then noted that since the path is also an access point for the Fire Department, they need to ensure it is always accessible which will include a plan for snow removal. Mr. Lewis replied that sidewalk clearing is generally part of their snow removal contract and added that the building will also have maintenance staff on site during business hours. Chairman Best asked if the walkway to Henry Clay Drive will be included in the snow removal plan and Mr. Lewis confirmed that it will be. Mr. Disco asked if the walkway in the rear of the building will have a railing to protect residents from the drop off that has been mentioned. Mr. Zajac explained that the grading has not been reviewed at this point to determine if it is needed but if it is determined to be too close to the slope protection will be added. Chairman Best consulted with Mr. Price regarding the wording of a condition of approval for the safety measures and which department would be responsible for follow through.

There was no public comment.

The Board voted 6-1-0 to grant conditional final approval on a motion made by Paul McLaughlin and seconded by Brian Dano. Nelson Disco voted in opposition. The following conditions apply:

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars.
2. The applicant shall obtain all required State approvals/permits, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department.
3. The applicant shall provide draft copies of any applicable legal documents for review (proposed access/drainage easement), at the applicant's expense, by the Town's Legal Counsel.
4. The applicant shall add bollard lighting or an alternative type of lighting as appropriate to illuminate the sidewalk around the building and patio area, as deemed acceptable by the Community Development Department.
5. The applicant shall address the following comments from the Public Works Department and Wastewater Division, as applicable:
 - a. The applicant shall set the monuments in accordance with Section 3.02 of the regulations, including PC and PT points along Manchester Street and Henry Clay Drive. If a stone or concrete monument cannot be set, Community Development and the DPW Administration can approve these monuments being marked by some other means such as a nail/spike/other or as offsets.
 - b. There shall be a note on the plans that states: "The engineering design, construction and testing of the sewer line shall conform to the Town of Merrimack Sewer Use Ordinance currently adopted, Chapter 158 of the Town of Merrimack Code and the Town of Merrimack Department of Public Works – Wastewater Treatment Facility –

Sanitary Sewerage Engineering Standards (SSES) as last revised. Also the State of New Hampshire Department of Environmental Services (NHDES) Standards for Design and Construction of Sewerage and Wastewater Treatment Facilities, Env-Wq 700, latest revision.”

- c. All applicable Sanitary Sewerage General Notes as outlined in SSES S2-04.8 shall be added to the sewer plans.
- d. A note shall be added to the plans stating that under no circumstances shall stormwater, surface water, ground water, roof runoff subsurface drainage, geothermal discharge or untreated industrial process water be discharged into any public sanitary sewer system. There shall be no footing or floor drains connecting into the sewer system (SSES S3-01.1.e).
- e. The onsite sewerage system shall remain private and shall be noted on the plans.
- f. A sewer manhole shall be provided for access to the sewer lateral line at SSES S03-02.8.b:
 - i. Due to the change in alignment in the line.
 - ii. A sampling station that is required for all commercial users.
 - iii. There shall be a lateral cleanout also provided as per section S3-02.9.
- g. The Sewerage Lateral Under SSES S3-07.1 shall be:
 - i. Shall be a minimum of 8 inches.
 - ii. The minimum slope shall be 2 percent.
 - iii. All lateral sewer clean-outs on commercial and multi-family projects shall include at-grade access with covers. Cleanouts shall be the same diameter as the lateral.
 - iv. A detail and profile shall be shown of the lateral service line and all of the components.
- h. Clearances to other utilities shall be per SSES Section S3-13 and shall be noted/detailed on the plans as applicable.
- i. A backwater valve shall be provided per section SSES S4-12. A detail provided on the plans and it shall be shown on the profile section. Construction shall be per section SSES S5-19. There shall be access to the unit from the surface.
- j. A note shall be added to the plans that all Sewer construction, inspections, testing, quality control shall conform to the methods and requirements under SSES S5.
- k. The engineer shall provide calculations that the existing stormwater management area meets or exceeds the Town of Merrimack Stormwater Requirements.
- l. It shall be noted on the plan that the stormwater management area shall remain private and be the responsibility of the owner and future owners and will not be the responsibility of the Town of Merrimack.

- m. A note shall be added to the plan that if any construction or utility work required within the Town's Right of Ways will require a Right of Way permit. The Permit shall be obtained from the Merrimack Highway Department prior to beginning any work and prior to obtaining any other building permits.
 - n. An Operations and Maintenance Plan for the on-site drainage systems shall be prepared and submitted for the drainage system.
 - o. There shall be provisions noted on the plans to ensure that the line of sight is always maintained. This shall include during the winter months by keeping the piles at the driveway entrances as low as possible. The line of sight shall be noted within the Operations and Maintenance Plan and set out as a requirement to be checked and maintained each year.
6. The applicant shall address any forthcoming comments from Pennichuck Water Works, as applicable;
7. The applicant shall address the following Planning Staff Technical Comments:
- a. The applicant has not provided the required plan notes (from Section 4.11) which should be added to the master site plan sheet:
 - i. Existing and proposed use;
 - ii. List of Planning Board waivers (if any additional beyond the waiver of full site plan are deemed applicable).
 - iii. Note the following: "If, during construction, it becomes apparent that additional erosion control measures are required to stop any erosion on the construction site due to actual site conditions, the Owner shall be required to install the necessary erosion protection at no expense to the Town."
 - iv. A note stating: "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."
 - v. For parcels within the Aquifer Conservation District and/or a Wellhead Protection Area, a note stating that no salt or chemical de-icers are to be used for winter maintenance, and that winter maintenance shall be performed by a Green Sno-Pro certified (or functional equivalent certification) contractor.
 - b. The applicant shall add that the site is in the Aquifer Conservation District in note 2 on the master site plan sheet.

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 the final Certificate of Occupancy.
3. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.
4. The applicant shall work with the appropriate municipal department to achieve a satisfactory design of the sidewalk around the building & patio area in terms of safety & building code compliance (hand rail requirements, retaining wall requirements, etc).
5. The applicant shall address the following comments from the Public Works Department:
 - a. Under section SSES S3-02.2 of the Sewer Use Ordinance the design engineer shall submit demand projection calculations for the sanitary sewerage system connection in Henry Clay Drive for both the existing and proposed conditions as required. The engineer shall confirm the size, type, depth of the sewer manholes and lines of the existing sanitary sewer system on site and its connection into the Town maintained system. The demand calculation has been submitted (proposed 25,050 GPD) and the property will require an allocation increase to the property of 10,050 GPD over the original 15,000 GDP allocated to this property for the prior office building. An allocation increase request will have to be submitted and authorized by the DPW.
 - b. The existing lateral line shall be videoed to assure the condition of the pipe is still in good working properly and can take the increase in load and also to ensure that there is no groundwater infiltration/inflow. Any part of the system not meeting the requirement standards today shall be designed and updated as part of the project. A sewer Plan and Profile or an as-built plan along with applicable details and notes shall be submitted.
 - c. An Operations and Maintenance Plan for the on-site drainage systems shall be followed to provide yearly inspection reports on the drainage system. The annual report shall be due by June 30th of each year regarding the maintenance of the On-site Stormwater System to the Town of Merrimack Community Development Department for the life of the system. These requirements will be run with the property and shall be transferred in the event of a sale of the property to be continued in the future. This shall be noted on the plans and in any future deeds.
 - d. There shall be no pushing of snow across the Town Rights of Way including Manchester Street and Henry Clay Drive. All snow storage must be maintained on site or shall be trucked away if/when needed. Snow shall be stored in the areas designated on the original site plan.
 - e. Parking lots and driveway accesses shall be swept yearly or as needed and recorded in the required annual report to the Town.

6. The project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of New Hampshire, including all amendments:
 - a. The applicant will be required to submit a complete building permit application, provide the job location, indicate the scope of work, proposed use and estimated construction value.
 - b. All building construction plans and construction documents (associated with the building permitting process) shall be prepared by a NH design professional engineer and shall be submitted to the Building Division with the application for code compliance review, prior to the Pre-Construction Meeting with Community Development.
7. The applicant shall address the following comments from the Fire Department:
 - a. The building shall be protected by an approved NFPA-13 fire sprinkler system. The existing office building has a water supply cistern that may still be required for the new use. This will need to be determined by an approved New Hampshire licensed Fire Protection Engineer.
 - b. The building shall be protected by an approved NFPA-72 fire alarm system ;
 - c. Due to the unique conditions of this proposed change of use, the entire building shall be surveyed by and all plans reviewed by a New Hampshire licensed fire protection engineer to ensure that all emergency access, life safety, sprinkler and fire alarm systems are correctly designed for the new residential use of this building. It has also been noted that the building's windows are fixed in place, and therefore do not open for emergency egress and the code review will need to comment on this also.

5. **Powell Realty of Merrimack (applicant) and Thomas K Powell (owner)** – Review for acceptance and consideration of final approval for a waiver of full site plan review to allow a caretaker/accessory dwelling unit within an existing restaurant. The parcel is located at 595 Daniel Webster Highway in the C-1 (Limited Commercial), Elderly Housing Overlay and Aquifer Conservation Districts, and Wellhead Protection Area. Tax Map 6D-1, Lot 041. Case # PB2022-10. The applicant has requested this item be continued to the March 1, 2022 meeting.

The Board voted 7-0-0 to continue this item to March 15, 2022, on a motion made by Paul McLaughlin and seconded by Nelson Disco.

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

Mr. Price asked the Board members to try and respond to meeting attendance emails as soon as possible so staff can address quorum issues in a timely manner.

Mr. Anketell asked if anyone remembers what was approved for snow storage for the 360 DW Highway plaza because he visited the site last week and the snow storage is taking up approximately three rows of parking. Mr. Price commented that he does not specifically recall what was approved for snow removal but knows the site has a parking waiver so they would not have been allowed to block parking spaces with snow storage. Chairman Best stated that he has no comment on the topic since the owner is a client of his firm.

7. Approval of Minutes — February 1, 2022

The Board voted 5-0-2 to approve the minutes of February 1, 2022, as drafted, on a motion made by Nelson Disco and seconded by Barbara Healey. Paul McLaughlin & Neil Anketell abstained.

8. Adjourn

The Board voted 7-0-0 to adjourn at 7:53 p.m. on a motion made by Barbara Healey and seconded by Nelson Disco.