



Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, JANUARY 19, 2016

Planning Board members present: Robert Best, Alastair Millns, Tom Mahon, Lynn Christensen (arrived 7:07), Desirea Falt, and Alternates Nelson Disco and Jeff Sebring.

Planning members absent: Michael Redding and Vincent Russo.

Staff present: Planning and Zoning Administrator Jillian Harris, Assistant Planner Robert Price and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:00 p.m. and designated Nelson Disco and Jeff Sebring to sit for Michael Redding and Lynn Christensen, respectively.

2. Planning & Zoning Administrator's Report

Jillian Harris reported that Shawn Farrell (applicant) and Brett W. Vaughn Revocable Trust (owner) seek review for acceptance and consideration of Final Approval of an application for a three-lot minor subdivision located on Wilson Hill Road in the R-1 (Residential) and Aquifer Conservation Districts and Wellhead Protection areas. Tax map 4A, Lot 004. Staff recommends that the Board determine that the project is not of regional impact.

The Board voted 6-0-0 to determine that that Farrell/Vaughn Subdivision is not of regional impact, on a motion made by Alastair Millns and seconded by Jeff Sebring.

3. Discussion of Capital Improvement Program for Merrimack Village District

Lynn Christensen arrived at 7:07 p.m. Robert Best designated Jeff Sebring to sit for Vincent Russo.

Keith Pratt, President, Underwood Engineers, said that most projects are the same as in previous years. The Master Plan was updated with an asset management group to help get grants to develop projects. He listed ongoing projects and proposed future improvements with funding sources through 2019-2020.

Merrimack Village District Superintendent Ron Miner said MVD is looking at Mitchell Woods and one other site for a possible new well that may be acquired in the next fiscal year. Keith Pratt added that it would produce a new volume of 600 gallons per. minute, like wells 6 and 7. He did a preliminary plan for the Mitchell Woods site, but he does not know whether the Town granted an easement. Tom Mahon said it is under Merrimack Conservation Commission (MCC) management. He asked about the Route 3 Bridge.

Keith Pratt will check to see if it is on the list. He noted that small items are listed as “budget items” only for 10-year planning and rate adjustment purposes; they are not really Capital Improvement Program (CIP) items. Rate studies look three years back and five years ahead. Due to good management, budgeting and increased revenues, the next rate increase will be 6% rather than 10%. Chairman Best noted that all CIP items are supported by ratepayer charges.

Keith Pratt discussed the production of various wells and which projects are on hold, which are moving forward and in what years.

Nelson Disco asked the status of salt monitoring, whose high levels had previously been reported. Ron Miner replied that monitoring is ongoing and salt levels have not changed much. He will provide the Planning Board with a report, which is also included in the Master Plan.

The Board voted 7-0-0 to recommend MVD to add the Route 3 bridge to the CIP, delete “rate update”, rank new well installation as “Urgent” and all other Merrimack Village District Capital Improvement items as “Necessary”, on a motion made by Nelson Disco and seconded by Lynn Christensen.

4. The Monahan Companies (applicant) and Merrimack Premium Outlets, LLC. (owner) - Conceptual discussion of a Mixed Use Development Conditional Use Permit (CUP) on a lot in the I-2 District. The parcel is located at 10 Premium Outlets Boulevard in the I-2 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lot 191-02.

Jillian Harris reported that, on November 18, 2015, the Zoning Board of Adjustment (ZBA) granted three variances: to allow a Mixed Use Development Conditional Use Permit (CUP) in the I-2 District (whereas it is permitted only in the I-1 District), to contain approximately 20 acres (rather than the required 50 acres), and the location (whereas the Ordinance requires 500’ of contiguous footage on the State-maintained portion of D.W. Highway). Since then, it appears the applicant has modified the overall square footage and parking plan.

Tom Monahan, President, The Monahan Companies, presented the history of the property and renewed his promise made before the Outlets were constructed to do something special with the 160 acres.

Gordon Leedy, Managing Director of Land Development, Vanasse Hangen Brustlin, Inc., gave an overview of the plan for the outparcel. The original plan envisioned a 200-room hotel and three family-themed restaurants and included NH Department of Transportation (DOT) permitting and water supply certification from MVD. After speaking with large businesses and many employees in Merrimack, such as Fidelity, BAE, Kollsman and Atrium about their needs, and residents near the parcel, Tom Monahan proposes a mixed-use development. It would consist of a 120-room hotel, up to 180 bedrooms of multi-family residential use, 165,000 square feet of office space, and up to 100,000 square feet of retail and restaurant uses. Some of the buildings would include retail on the first floor and office or residential uses on the upper floors.

Parking would be provided both with surface parking within the development and in an 860-car parking structure. Shared trips and parking would reduce peak traffic flow and overall parking demand. Nothing like this exists today in Merrimack: a vital place that would attract young professionals who would walk to restaurants, bars, service shops, and residences near where they work. The residences would be mostly one-bedroom with some two-bedroom apartments. The need for a hotel with meeting, training and office space is unmet in Merrimack. The project would have more density than suburban projects. The modification in the plan from the one that was presented to the ZBA is a reduction of overall square footage and parking. It would be built in phases over 5-7 years. Customers are needed to help with the financing.

Although 1,530 spaces are required, per the typical requirements in the regulations, shared parking studies project 1,150 spaces would be needed at peak; 1,215 spaces would be provided. A roundabout at the front is proposed. There is adequate traffic capacity on Continental Boulevard, Industrial Drive and at the interchange. A full traffic impact study will be done as part of the formal application process.

The project would have a positive fiscal impact by creating a projected \$40 million of additional assessed valuation for the Town of Merrimack and an additional \$1 million in tax revenue, with \$200,000 going to the Town and \$620,000 to school taxes. Impact to schools will be minimal given the type of housing being proposed.

Fidelity Investments to the center line of Industrial Drive and the remainder of the Camp Sargent Road right-of-way are still zoned “residential”. There is a 100’ buffer on Continental Boulevard and the Camp Sargent Acres right-of-way and a 200’ building setback from the residential zone line and the center line of Industrial Drive. Gordon Leedy suggested that building buffers are not necessary on Continental Boulevard and on Industrial Drive because of the industrial character of the neighborhood. He proposed reducing the setback from edge of pavement from 200’ to 180’.

Fidelity says it needs one or more quality restaurants for gatherings and the residential captive audience. Retail space would be 25,000-30,000 square feet likely being a mix of small shops rather than mall-type stores. 80% would be retail/service-oriented and 20% would be restaurants. They would not be built unless they would be utilized, which is the reason for phasing.

Tom Monahan stated that the surrounding industrial and commercial uses asked for these specific uses (e.g., haircutter, cleaner, day care) in downtown-type shops. He made an agreement with Simon, owner of Merrimack Premium Outlets, that there would be no outlet-type shops. Patrons from outside the residential buildings are expected as well. Phasing would allow seeing what types of shops are wanted. Tom Monahan will not build what is not needed. Most surrounding industrial and commercial uses requested a hotel and residences. A huge request is for a hotel with meeting space for 300 people, which is unavailable at present. Tom Monahan hired the same architects who built PortWalk in Portsmouth.

Chairman Best said the Planning Board wants more sidewalks, especially leading from the surrounding industries to the site. Gordon Leedy said all buildings would be

connected; no one would have to go outside. Plants could be grown on parking structure walls to make them more attractive. The gated emergency access on Camp Sargent Road would not change. Chairman Best thought the buffer suggestion is reasonable and wanted to see a parking analysis. Nelson Disco was also amenable to changing the setback requirement. Gordon Leedy said it was his understanding the Planning Board could waive the buffers and setbacks during the CUP process.

Nelson Disco wanted a pedestrian- and bicycle-friendly project and suggested a bicycle connection to Camp Sargent Road.

Lynn Christensen asked for a report about any significant parking issues at PortWalk. She asked whether the Fire Department would allow pedestrian and bicycle access to Camp Sargent Road. Gordon Leedy said he would meet Fire Department needs. The 16'-wide road would be 30' wide.

Alastair Millns also wanted to see a traffic analysis, especially for the Industrial Drive intersection.

Tom Mahon stated that businesses want after-work informal gathering places. He asked if there would be public transportation impact on shared parking. Gordon Leedy said voluminous data on parking utilization by use are available. Rail would reduce the number of vehicles to any site, especially if there were a (shuttle) bus going to the site. It would also mean that many more people would come to the site. Tom Mahon added that the development would create a critical mass of people using public transportation and using the facilities on the site.

Chairman Best wanted a crosswalk or some way to cross Continental Boulevard.

Jeff Sebring asked why there would be so much ground level parking. He suggested putting all parking on the deck or under the residences and turning the ground parking into a pedestrian area. Gordon Leedy said it would not work. Emergency vehicles access is needed and retailers and offices want to be seen from streets. Many pedestrian malls fail. It should not be a burden to go to the site. Americans have an aversion to walking. Jeff Sebring noted that there would be no snow on cars if they were in a garage.

Chairman Best asked about truck deliveries. Gordon Leedy said there is only one door, which is in front. There would have to be delivery bays. Chairman Best wanted them to be made less visible, adding that there would also have to be dumpsters.

Jeff Sebring suggested reversing the office and hotel buildings. Why make residents walk through a hotel to get to their work sites? Gordon Leedy said that was how the plan began; many versions were discussed and more changes could be made.

Nelson Disco asked about the sewer and subsurface conditions. Gordon Leedy has not discussed sewer yet, but he believes there is plenty of capacity. He could always put in a pump station. 100'+ borings were done when Merrimack Premium Outlets was built. There is some unsuitable material in one area that must be addressed. There is some ledge, but not of the magnitude as at Merrimack Premium Outlets. Perhaps there would

be some trench or localized blasting of thousands rather than millions of yards. He knows the area is very sensitive. He will discuss the water supply with MVD.

Tom Mahon asked about a buffer at Camp Sargent Acres. Gordon Leedy replied that there is a 100' wooded buffer there now that is semi-transparent in winter. When he changes the road he may be able to augment the berm with additional evergreens. 100' is more than adequate. He wants to treat storm water there, which limits the berm on the edge. Tom Monahan said the Camp Sargent Acres neighbors would be part of the CUP process. He wants to ensure an acceptable buffer.

Lynn Christensen stated that there is a huge need for small residential units rather than homes. There is also a huge demand for a good hotel with function facilities. There is a synergy between residences and hotels; many hotels include residential units.

Desirea Falt suggested a trail around the buildings, more landscaping to soften so many (high) buildings and green screens on buildings and garages. She has no issues with the buffer as long as it stays wooded on Continental Boulevard.

Public comment

Nancy Harrington, 11 Spruce Street, said the neighbors have no problem with the proposal. Everything but the residences were already permitted uses. The direct abutters will come to a consensus with Tom Monahan. An architectural wall is more of a possibility than a berm for combatting noise. The project is "classy", but it is too dense and needs landscaping.

Barb Amaral, 1 Spruce Street, is concerned about noise and light pollution.

Gordon Leedy explained how he is trying to control noise and light pollution. This is an integrated development that is different from what the Merrimack ordinances foresee. There could be six units per. acre or 120 units/with 240 bedrooms, but there would not be that many. Chairman Best noted that the CUP allows a balance of uses. Density regulations are about water, sewer and traffic. If those are solved, a development can be denser. Nelson Disco agreed.

- 5. Shawn Farrell (applicant) and Brett W. Vaughn Revocable Trust (owner) -**
Review for acceptance and consideration of Final Approval of an application for a three lot minor subdivision. The parcel is located on Wilson Hill Road in the R-1 (Residential), and Aquifer Conservation Districts, and Wellhead Protection areas. Tax Map 4A, Lot 004.

Robert Price reported that, on November 18, 2015, the ZBA granted a variance to permit the subdivision with the largest lot (Lot 4) having only 209.9' of frontage whereas 250' are required. Staff suggests a condition of approval be a shared driveway, which the Board should discuss with the applicant. The Assessing Department proposes renumbering Lot 4-1, which already exists.

Chad Branon, Project Engineer, Fieldstone Land Consultants, PLLC, said the parcel consists of approximately 28.03 acres abutted by residential properties and largely vacant land to the north, east and west and by the Souhegan River to the south. There

would be three new residential lots: Lot 4-2 would be ± 2.38 acres; Lot 4-1 would be ± 2.99 acres with a driveway easement across it to benefit Lot 4, and Lot 4 would retain the remaining ± 22.67 acres. The parcel slopes south to the wetland and the Souhegan River.

A wetland permit is needed for a crossing. The impact on the wetland would be 683 square feet, which the wetland scientist calls a reasonable impact. He says the wetland is not of high value. On January 15, 2016, the MCC made two recommendations, with which the applicant has no issue. However it does not agree with the MCC's suggestion that the house shown on Lot 4 be located outside the Shoreland Setback. The applicant is not fixing the homes; location is up to individual homeowners, who must get their own permits.

Staff condition 10a. recommends "creating a shared driveway for Lots 4 & 4-1 so as to eliminate the curb cuts so close to one another on Wilson Hill Road and minimize the wetland impact for driveway construction". The three individual driveways meet regulations. The applicant, who would live on the large lot, wants privacy and security. Common driveways do not always work. The wetland would be impacted even with a shared driveway. Private driveways would create negligible wetland impact. The applicant has no issues with all the other staff conditions.

Staff condition 7a. states that, "due to the length of the new proposed driveway on Lot A-4, which is over 1,000' in length, it must also meet the above standard as well as maintain a minimum clear width of 16' throughout its length and have an acceptable Fire Apparatus Turn around area at the far end of the driveway". Chad Branon said the longest driveway would be 1,300' long. He will work with the Fire Department about whether the clear width of the driveway could be 14' rather than 16' wide. It is currently an unpaved gravel driveway. The applicant wants flexibility to finalize a design. He will satisfy the Fire Department.

Chairman Best agreed that neighbors should not be made to maintain shared driveways. Chad Branon said the driveways are 70' apart center-to-center on Wilson Hill Road.

Nelson Disco would have sized and shaped the lots differently. Chad Branon said that Shawn Farrell wants to be sure he has as much privacy and separation from the frontage lots as possible. Chad Branon explained how he created the parcels. The driveways would be close to avoid wetland impact. Otherwise a new wetland crossing and fill would be needed. He wants to take advantage of the existing impact; anything else would create more wetland impact. Chairman Best agreed.

Alastair Millns suggested making the driveways almost parallel where they are closest to the road. Chad Branon said he could do so if the Board so desires, but the main purpose is to have separate driveways. He located both on the gravel area. Chairman Best said it is better for traffic if the driveways are farther apart. Alastair Millns said two driveways would necessitate an extra school bus stop. Lynn Christensen agreed to separate driveways.

Nelson Disco asked about the maximum slope on the long driveway, which Chad Branon said would be 12%. He will ask for a waiver from the required 10% maximum. He wants to match the existing grade and minimize disturbance to the wetland and existing access to the back of property.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

The Board voted 7-0-0 to accept the application for review, on a motion made by Desirea Falt and seconded by Jeff Sebring.

Chad Branon said the length of the 12% grade would be 350'. It would level off as far as the house, which is at a 2% grade. That is why a 10% grade would require a substantial amount of fill. Many communities allow a 12% grade; DOT allows 15%. This design is safe. Nelson Disco suggested rerouting runoff and trying to follow the topography rather than making a steep grade. Chad Branon replied that he is already cutting on the uphill side. He would have to cut more if he rerouted runoff. He is trying to follow the topography and not make it too steep. Jillian Harris reported that the Public Works Department (PWD) commented about the slope, but the Fire Department did not. Chad Branon said he never saw PWD's comments. Chairman Best suggested making the Fire Chief's approval of a 12% grade a condition of approval.

Alastair Millns cited 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 7-0-0 to waive the requirements of Section 4.13.1(a) – Driveways - of the Subdivision Regulations, conditional upon Fire Department approval, on a motion made by Alastair Millns and seconded by Tom Mahon.

Chad Branon asked for a waiver from the requirements of Section 4.06.1(r) – Sidewalks – because this is a minor subdivision with no adjacent subdivisions. There will be no new connections. The drainage is not conducive to constructing a sidewalk.

The Board voted 7-0-0 that a sidewalk waiver is not necessary under Section 4.07, on a motion made by Alastair Millns and seconded by Lynn Christensen.

Public comment

Amy Wood, 119 Wilson Hill Road, said she also spoke at the ZBA meeting. Her concern is the wetland that is also on her property. The cart path altered the terrain and created a backup. She wanted her and her neighbor's flooding to improve. The culvert is a 12" pipe. Chad Branon replied that a 12" metal pipe goes under Wilson Hill Road and through the wetland to the proposed crossing. He would install a 15" corrugated plastic pipe. There would be a 6' elevation difference from the Wilson Hill Road culvert and the proposed inlet/culvert, so there would be no issue. He would install a headwall on the inlet side. The culvert would adequately address storm water. There would be no backup.

James Wood, 119 Wilson Hill Road, said leaves clog the culvert. The water must keep flowing. Water runoff comes to his house. Debris makes a pocket on the other side that makes the water rise (as high as his knees). He does not want the applicant to build a dam and back the water up more. Chad Branon explained the design. He said the problem is not the culvert but a low spot near the wetland area. He is not making conditions worse. The culvert would be maintained when there are homeowners. Chad Branon said he would create no impoundments. The water would be diverted downstream. Lynn Christensen agreed the design would improve the situation. Nelson Disco wanted PWD to look at the drainage situation. Jill Harris said staff would see to it.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

The Board voted 6-1-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Nelson Disco. Nelson Disco voted in the negative.

1. The applicant shall obtain all required State approvals/permits (NHDES Subdivision, NHDES Wetlands, and any others as may be applicable), note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;
2. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;
3. 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;
4. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address the following comments from the Assessing Department:
 - a. Referencing the Vaughn/Farrell property on Wilson Hill Road, the tax map numbering shall be corrected, as deemed appropriate by the Assessing Department.
6. The applicant shall address any forthcoming comments from the Building Department, as applicable;
7. The applicant shall address the following comments from the Fire Department:
 - a. 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. Due to the length of the new proposed driveway on lot 4A-4 (as originally numbered), which is over 1,000 feet in length, it must also meet the above standard, as well as maintaining a minimum clear width of 16 feet throughout its length and having an acceptable Fire Apparatus Turn around area at the far end of the driveway. (NFPA 1, Chapter 18)

- b. The new lots created by this subdivision shall have the following addresses assigned **(please coordinate with Item 5a above)**:
 - i. Lot 4A-4-2 (as originally numbered) shall be # 120 Wilson Hill Road.
 - ii. Lot 4A-4-1 (as originally numbered) shall be # 122 Wilson Hill Road
 - iii. Lot 4A-4 (as originally numbered) shall be # 124 Wilson Hill Road
- 8. The applicant shall address the following comments from the Public Works Department:
 - a. A right of way easement should be granted to the town along the frontage of the property to a distance of 25' from the existing road centerline where that distance does not currently exist to the property line (lot 4A-4-2 (as originally numbered)? – it is difficult to determine on a 100 scale plan).
 - b. The driveways should be checked for sight distance using a 40 mph design speed on Wilson Hill Road. Should site distance not be sufficient due to tree growth, trees should be removed and a sight distance easement be granted to the Town.
 - c. Based on the contours, it appears that portions of the driveway servicing lot 4 may have grades in the range of 20%. Subdivision regs. stipulate that driveway grades are to be less than 8%. The engineer should provide a driveway profile to determine the existing and proposed driveway grades **(This condition will not apply if the Fire Department approves the driveway slope waiver granted by the Planning Board)**.
- 9. The applicant shall address the following comments from the Conservation Commission:
 - a. The use of hay and mention of hay be removed from the plans and substituted with straw if that type of erosion control or mulch is required.

- b. The Commission recommends that only no phosphate, slow release nitrogen fertilizers be used if required at all. This is due to proximity of the site to the Souhegan River and more significant wetlands that abut the river on this overall parcel. The Commission further recommends that the applicant's contractor first utilize a soil testing facility to determine what levels and applications rates may be necessary before doing any application of fertilizes on the site.

10. The applicant shall address the following Planning Staff Technical Comments:

- a. Revise ownership information for Map 4A/Lot 23 to correct spelling of "Breet" to "Brett" on all sheets;
- b. Revise Note 5 spelling of "exist" to "exists" on all sheets;
- c. Revise Sheet 1, Note 17 spelling of "Adjustments" to "Adjustment";
- d. Applicant to add a note to the plan indicating that the plan is to be recorded at HCRD and that a copy is on file with the Community Development Department;

General and subsequent conditions

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. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
 3. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways.
- 6. Brett W. Vaughn for the Brett W. Vaughn Revocable Trust (owner) and Allison Jenkins (owner)** - Conceptual discussion of a 17-lot cluster subdivision on 2 lots in the R-1 (Residential) District located at 123 Wilson Hill Road and South Grater Road. Tax Map 4A, Lot 023 and Tax Map 5A, Lot 001.

At the applicant's request, the Board voted 7-0-0 to continue this item to February 2, 2016, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Lynn Christensen.

7. Discussion/possible action regarding other items of concern

None.

8. Approval of Minutes –December 15, 2015

These minutes were inadvertently placed on the agenda. No action taken.

9. Adjourn

The meeting adjourned at 9:45 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Desirea Falt.