



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, JANUARY 20, 2015

Board members present: Robert Best, Alastair Millns, Tom Koenig (arrived 7:32 p.m.), Michael Redding, Lynn Christensen, Desirea Falt, and Alternate Nelson Disco.

Staff present: Community Development Director Tim Thompson and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:30 p.m. and designated Nelson Disco to sit for the vacant member position.

2. Planning & Zoning Administrator's Report

Staff recommends that the Board determine that JBD Realty and Boomer McCloud Site Plans do not meet the criteria for regional impact.

The Board voted 6-0-0 that JBD Realty and Boomer McCloud Site Plans are not of regional impact, on a motion made by Lynn Christensen and seconded by Nelson Disco.

Tim Thompson informed the Board that, at its January 28, 2015, meeting, the Zoning Board of Adjustment (ZBA) will hear a petition to use the former Shaw's Supermarket and CVS for commercial recreation through a Special Exception. Staff has determined that, with coordination with Chairman Best, administrative approval would be appropriate, should the ZBA grant the Special Exception. Parking more than exceeds the requirement and there will be no physical changes to the building.

Tom Koenig arrived at 7:32 p.m.

3. Old Blood Properties, LLC and Joseph K. and Mary El Kareh (co applicants/co-owners) – Review for acceptance and consideration of Final Approval of an application for a cluster subdivision proposing 72 cluster residential lots and 4 open space lots located at Old Blood Road in the R-1 (Residential) District. Tax Map 5B, Lots 001-01, 002, 003, 003-01, 005, 006, 007, 008, 009 and 231. *This item is continued from the December 16, 2014, and January 6, 2015, Planning Board meetings.*

Tim Thompson said that representatives from the School, Fire, Police, Public Works (PWD) and Community Development Departments met with the applicant on January 16, 2015, to discuss the traffic report. Their consensus concerning the Madeline Bennett Lane intersection was that, although it is oversized, it accomplishes the goals of both sides. CLD has not yet reviewed the plans for the subdivision.

Ken Clinton, President, Meridian Land Services, Inc., said a roundabout at the Madeline Bennett intersection was the School Board's preferred design, but that plan did not meet with consensus at the December 15, 2014, meeting. It was agreed to hire Traffic Engineer Steve Pernaw to do an independent review of whether a roundabout is necessary and to comment on traffic. Steve Pernaw recommended a potential third alternative, a T intersection. He found that a roundabout is not necessary and that the curve has the proper alignment, but the School Board has an issue with school buses exiting the driveway in the afternoon.

It is now the consensus between the developer, school, and Town departments to keep the curve, but to add three signal posts with either a single red or yellow blinking light there for vehicles coming from Madeline Bennett Lane and from the subdivision. Buses would have the right-of-way on the blinking yellow. All traffic would stop at the driveway. The School could trigger the signals by remote control, turning them solid red and halting traffic until all the school buses exit the driveway. Then the lights would revert to the normal pattern. The developer will pay to install the lights. The School Board will hear the plan at its next meeting.

There will be a "school zone" sign on the subdivision road and on Madeline Bennett Lane behind where 16 school buses queue on the shoulder. A sidewalk comes down the subdivision road on the west side. There will be a separation between the crosswalk and the stop line. It is a low volume crossing that does not warrant more signs or a push signal. There will be sidewalks, although it is unlikely that children would walk from the subdivision. Tim Thompson and Ken Clinton opined that very few middle-school-age children would live in the subdivision.

Ken Clinton will apply for State Wetland, Alteration of Terrain and Sewer permits and complete the drainage design once the intersection is approved. The NH Department of Environmental Services (DES) requires a conservation easement as mitigation for the wetland impact. In a letter of December 1, 2014, the Merrimack Conservation Commission (MCC) accepted a request to hold and manage a conservation easement on 86 acres of open space to the south and 23 acres to the north, pending Town Council approval. The MCC prefers an easement to owning the land. DES is comfortable with MCC overseeing and enforcing the easement conditions.

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 Alastair Millns and seconded by Desirea Falt.

Public comment

Scott Messina, 36 Old Blood Road, is concerned about privacy and about traffic, fearing that his backyard will become like a front yard when the road goes behind his house. He asked about a noise barrier, road treatment and road salt in his well. His house and propane tank are 70' from the road center line and his garage and well are 100' from the road, which will be close to the his driveway. Scott Messina is concerned about drainage and whether the vernal pool would still exist after a culvert is installed. Chairman Best

explained that a developer is not allowed to make runoff worse and that DES must protect a vernal pool.

Ken Clinton said he had spoken with Scott Messina within the last year. The right-of-way location was already set by the previous consultant because it is the best location due to the gradient and wetland impact. The stand-alone lot was to be removed from the 72 subdivision lots to accommodate the slope and drainage requirements. It was already in the plan when Scott Messina bought his home. The owner is willing to add a buffer of plantings. The road is curved. Catch basins outlet away from the Messina home onto the opposite side of the road. The culvert would be at the discontinued woods road. The gravel surface road bed currently acts as a dam. The applicant is required to maintain the integrity of the vernal pool. A spillway enters an oversized culvert. There is no real flow. It is mostly for "critters". DES requires a 4'x5' box buried in the ground so they can walk on a wetland-type surface.

Nelson Disco and Lynn Christensen worried that someone at the school might forget to phase the lights back from solid red to blinking yellow after the buses leave. They preferred setting an automatic default time. Ken Clinton will suggest it to the School Board. It could be a condition of approval. Robert Best doubted there would be much traffic coming from the subdivision at 2:30 p.m., he, too, did not want someone to forget to phase back the light.

Nelson Disco asked whether the Sewer Department agrees to the plan. Ken Clinton stated that it has no issues with volume if the developer does the sewer repair on Baboosic Lake Road.

Nelson Disco asked about the disposition of the four tracts of open space. Ken Clinton said that the MCC will hold a conservation easement on two of them and the homeowners association would own the other two, one of which buffers Merrymeeting Drive. There is no benefit to the MCC to hold an easement for them. No MCC conservation property abuts the proposed MCC easement property.

When Ken Clinton said the school could use the light at times other than when the buses leave in the afternoon, such as for major functions, Michael Redding was concerned that an untrained person would manage traffic and public safety. Nelson Disco said that is why he wanted an automatic over-ride. Ken Clinton replied that it is out of his hands. Robert Best opined the system would probably be automated. Lynn Christensen wanted it limited to bus times only. Tim Thompson added that the Police and Public Works Departments could also control the sequencing. Michael Redding did not want volunteers controlling non-bus times. Chairman Best said there would be built-in transition times for light changes. Tim Thompson said the plan has not yet been officially submitted. The Police and Fire Departments and PWD still have time to address concerns. Robert Best said the problem of someone forgetting to phase the lights back could be addressed by eliminating solid red. Ken Clinton noted that public traffic must have a solid red stop to let all buses go through. All departments will comment on the formal design. Because it is a Town road, the Town rather than the school has ultimate authority on how the intersection works. Alastair Millns noted that police currently stop traffic in all directions; this would be the same, only without police presence. He reminded Ken Clinton that, in June 2014, he recommended fitting

school buses with RFID devices to do the switching. That is one way to address Board concerns. He explained that 18 buses must leave without delay in order to meet schedules. Chairman Best said the plan is as over-designed as possible. Weather or an accident could affect the timing, but the Board can adjust the plan.

Tom Koenig opposed installing more lights and asked who would own and maintain them. Ken Clinton said the Town would. It has already been discussed, but there has been no decision as of yet. Tom Koenig asked why there is a flashing yellow "school zone" light there now. Ken Clinton explained that it is now a through road with public traffic and it is normal for school zones to have such a light. He explained the rationale for its location. It is better to have a larger than a narrower sign in a 20-mile per hour school zone. Chairman Best said it is either that or a timer. Ken Clinton said this is different from intersection lights. The shoulder on the right is paved for stacking buses. What used to be the middle lane will become the paved shoulder and a lane line will be painted.

The Board voted 7-0-0 to endorse the general concept of the Madeline Bennett intersection layout, with final details to be worked out as part of the final approval of the project, on a motion made by Alastair Millns and seconded by Lynn Christensen.

The applicant asks for a continuance until February 17, 2015.

Staff recommends that the Planning Board continue the application in order to allow for the receipt of peer review comments and to allow time for the applicant to address comments from the peer review as well as the various Town departments, boards, and commissions.

At the applicant's request, the Board voted 7-0-0 to continue this item to February 17, 2015, in the Matthew Thornton Meeting Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Desirea Falt.

4. Discussion/possible action regarding other items of concern

Chairman Best said he received an e-mail from Rep. Chris Christensen that a NH Legislative committee will hear a bill about requiring 100' wetland buffers. Rep. Christensen asked if the Planning Board has anything to offer the committee. Nelson Disco said larger buffers would affect many lots in Merrimack. Technical engineering and analysis are needed to justify requiring a 100' buffer. Tim Thompson reminded the Board that Merrimack requires a 40' building and 25' no-disturb buffer. This would be a State-set rather than a Town-set requirement. He opined that it could be onerous and would be more restrictive than any current local NH ordinances. It seems to be targeted at communities with no regulations. The NH Planners Association will likely have no position or oppose the bill because it takes local control away from communities and gives it to the State. Local control is the primary issue for Tim Thompson. Permits for dredge and fill and new development in a wetland would require a 100' buffer. There is potential impact for economic development and significant impact on tax revenue in an industrial zone. Chairman Best listed Merrimack developments that could no longer be built because there would not be enough upland left after imposing a 100' buffer. He stated that there was never an instance when he wanted a larger buffer. Michael Redding stated that 25' is the minimal standard, although some states require 50'. Headwater streams/key habitats must

be protected. There has never been a State standard before. Michael Redding saw no reason for a 100' buffer. Chairman Best said it is hard to figure out what is and is not allowed in the bill. A layman could not understand the complicated wetland scoring system for an exemption. Tom Koenig wanted the Board to say it is okay for the State to require a buffer, but it should be no larger than what a town already requires. Desirea Falt suggested that every town have a minimum buffer rather than require 100'. Chairman Best is satisfied with Merrimack's standard.

The Board agreed not to comment before the sponsor's intent is known.

Lynn Christensen informed the Board that the NH Legislature will consider a bill to give a developer rather than a town the ability to select an engineering firm for plan review. Tim Thompson said this may be because there have been complaints in other communities that some firms are too expensive and the process too time-consuming. Merrimack uses CLD because of its quick turnaround and cost.

Tim Thompson said that, at its February 17, 2015, meeting, the Planning Board could discuss whether bond releases should be on an agenda with a public hearing and notice.

Nelson Disco asked whether the Planning Board would ever be called upon to review construction of a gas pipeline coming through Merrimack. Tim Thompson explained that a municipality can comment to State and Federal bodies. Town Council will hear a presentation from a citizens group at its January 22, 2015, meeting. Tom Koenig said there would be a presentation by a committee of interested citizens about the pipeline, but there would be no official Town effort at the January 22, 2015, meeting.

5. Approval of Minutes – January 6, 2015

The minutes of January 6, 2015, were approved, with one change, by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Lynn Christensen.

6. Adjourn

The meeting adjourned at 9:23 p.m., by a vote of 7-0-0, on a motion made by Lynn Christensen and seconded by Alastair Millns.