



# Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

## **MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, JULY 20, 2021**

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, July 20, 2021 in the Matthew Thornton Room.

Robert Best, Chairman, presided.

### Members Present:

- Paul McLaughlin (Vice Chairman)
- Lynn Christensen
- Councilor Barbara Healey, Ex-Officio
- Neil Anketell
- Jaimie von Schoen (via phone)

### Members Absent:

- Alternate Nelson Disco

Staff Present: Tim Thompson, AICP, Community Development Director

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

Robert Best called the meeting to order at 7:01 p.m.

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

**The Board voted 6-0-0 by roll call to determine that the Flatley Access Road Site Plan is not of regional impact, on a motion made by Lynn Christensen and seconded by Neil Anketell.**

### **3. Thomas More College (applicant) and Thomas More Foundation (owners) – Continued**

Review for consideration of a Site Plan amendment to improve parking and pedestrian walkways within the campus grounds. The parcel is located at 6 Manchester Street in the I-1 (Industrial) and the Aquifer Conservation District. Tax Map 2D, Lot 041-04. Case #PB2021-23. **This item is continued from the June 15, 2021 Planning Board meeting.**

Tim Thompson provided some history of the project by reminding the Board that the site plan was presented at the June 15, 2021 meeting and accepted as complete at that time. Since that meeting, peer review comments have been received and revised plans were submitted to staff on July 8, 2021. The majority of the review comments have been addressed with the plan revisions, so staff is now recommending conditional approval. Mr. Thompson also added that a new waiver for parking has also been submitted and staff does support granting this waiver due to the unique operations of the college.

Austin Turner (Bohler Engineering) was present to discuss the project with the Board. He reiterated what Mr. Thompson said about the majority of the peer review comments already being addressed and added that they have no doubt that the remaining items can also be addressed relatively quickly. He offered to either review the peer review comments or discuss the waivers and the Board suggested that they go through the waivers that are being requested for this project first. Mr. Turner provided a description of each waiver being requested, (see below) and the Board then discussed them together.

- **3.08.c.2: There shall only be one driveway entrance per lot:** The existing campus contains a total of three (3) driveways including a gravel access drive from Henry Clay Drive that is proposed to be maintained; an entrance only drive from Manchester street that is proposed to be converted to an exit-only drive and expanded for fire access; and an exit-only drive proposed to be expanded and converted to full access drive. As part of the project the connection from the student lot to the existing Henry Clay Drive Driveway to the west is proposed to be removed and an additional full access driveway is proposed along Henry Clay Drive to the south, providing access to the new student parking lot. They believe the proposed layout will be an improvement to traffic circulation from existing conditions. Mr. Thompson clarified that a waiver is not necessary for multiple driveways (3.08.c.2) because that section allows the Planning Board flexibility to permit more than one driveway.
- **3.11.k.1: Curbing shall be provided as needed to control traffic and to direct drainage:** As previously discussed at the staff meeting with the town on 3/5/21, no curbing is proposed along the perimeter of the proposed parking areas or drive aisles in an effort to maintain the desired campus feel of the college. A 'Country Style' stormwater management system is designed to have stormwater runoff sheet flow across the paved parking areas into vegetated grass swales. The grass swales are designed to discharge into the sediment forebay of the proposed detention/infiltration basins.
- **3.11.e: Minimum Required Parking:** The college feels that the number of parking spaces being proposed (54 whereas 82 are required) exceeds their current needs and meets the needs for any future expansion plans.
- **3.11.l.3: Internal Parking Lot Landscaping:** The proposed parking areas are located strategically throughout the campus area which is surrounded and screened by existing woodlands. Due to the intended use and limited area for parking, no internal landscape islands are proposed.
- **3.13.e: Outdoor Lighting Design Standards – Parking Lot Lighting:** No parking lot lighting is proposed as part of the campus improvements project. The existing campus parking areas do not contain parking lot lighting and the college is proposing to keep this condition to maintain the desired feel of the campus.
- **4.16: Illumination Plans:** No parking lot lighting is proposed as part of the campus improvements project. The existing campus parking areas do not contain parking lot lighting and the college is proposing to keep this condition to maintain the desired feel of the campus. Three (3) light poles are proposed to provide residential lighting within the internal campus area consisting of cedar posts and colonial style fixtures.
- **4.17: Traffic Impact Analysis:** No significant changes to the existing traffic generation is anticipated as a result of the proposed project.

Councilor Healey questioned the parking and whether or not 54 spaces will be enough once the college expands their enrollment as discussed in the 6/15 meeting. Mr. Turner explained that they spent a great deal of time working with the college on this plan and they do feel that it will meet their expansion needs. He added that not all students receive parking passes so it is not necessary to have a spot for every student.

**The Board voted 5-1-0 by roll call to grant waivers to Sections 3.11.e (minimum required parking), 3.11.k.1 (curbing), 3.11.l.c (internal parking lot landscaping), 3.13.e (parking lot lighting), 3.14 (traffic impact analysis), 4.16 (illumination plans), and 4.17 (traffic impact analysis), because strict conformity would pose an unnecessary hardship to the applicant and the waivers would not be contrary to the spirit and intent of the regulations, on a motion made by Lynn Christensen and seconded by Barbara Healey. Paul McLaughlin voted in opposition.**

There was no public comment.

**The Board voted 6-0-0 by roll call to grant conditional final approval to the application to the application with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified, on a motion made by Lynn Christensen and seconded by Barbara Healey.**

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, at the applicant's expense, by the Town's Legal Counsel.
4. The applicant shall address any final (post conditional approval) comments from the town's peer review consultant, Fuss & O'Neill, as applicable.
5. The applicant shall address the following comments from the Conservation Commission:
  - a. As this parcel is within the Aquifer Conservation District, only low phosphate, slow release nitrogen fertilizers shall be used, if needed. While not required, it is recommended that the applicant utilize a soil testing facility to determine what levels and application rates are necessary prior to applying any fertilizers to the site.
  - b. Only non-invasive plants may be planted.
6. The applicant shall address any forthcoming comments from the Public Works Department:
7. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable.
8. The applicant shall address any forthcoming comments from Pennichuck Water Works, as applicable.

9. The applicant shall work with staff to ensure that some typical plan notes be added to the plan to make it acceptable for final approval:
  - a. A proper existing conditions plan and all required plan notes (see required notes listed below) to the plan set per Section 4.12.
10. Map # and Lot #, name, addresses, and zoning of all abutting land owners.
11. Existing Street.
  - a. Name labeled.
  - b. Status (Class in accordance with RSA 229:5) noted or labeled.
  - c. Right-of-way dimensioned.
  - d. Pavement width dimensioned.
12. Wetland scientist certification.
13. Owner signature block.
14. All required setbacks (including any applicable buffers).
15. Abutting land uses shall be noted.
  - a. The wording for Note #6 (purpose of the plan) on Sheet C-301 should be re-worded to add the word "site".
  - b. Clarify Sheet C-301, Note 9 to indicate what the 1984 variance was for.
  - c. Add snow storage areas to the plan, and note that excess snow shall be removed from the site.
  - d. Add a note that snow storage shall not take place on top of parking spaces.
  - e. A 25' wetland buffer and 40' wetland setback around the wetland area shall be delineated on the plan.
  - f. Sheet C-301 – Revise Note 5 to indicate the FEMA flood map panel used to make the noted determination.
  - g. Sheet C-301 - Staff does not understand the meaning of "See Note 11" in the shaded approx. location of drainage & sewer easement area under the "edge of wetland" text. Note 11 refers to a pre-construction meeting. Please review and clarify the intended reference.
  - h. Sheets C-201 and C-301 need the appropriate professional endorsement from a wetland scientist.

**The following "General and Subsequent Conditions of Approval" also be 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; xx
  4. The applicant shall address any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions);
  5. The applicant shall address any forthcoming comments from the Fire Department, as related to building fire code compliance, sprinkler systems, building addressing, etc., as applicable (that are not deemed precedent conditions).
4. **Garrett Burbee (applicant) and 385 DW Highway, LLC (owner)** – Review for consideration of a Waiver of Full Site Plan Review to permit a mixed use development consisting of a single-family dwelling and contractor storage yard. The parcel is located at 385 Daniel Webster Highway in the C-1 (General Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 4D-3, Lot 090. Case #PB2021-10.

Applicant did not attend to present the application.

**The Board voted 6-0-0 by roll call to continue the application to August 3, 2021, on a motion made by Lynn Christensen and seconded by Paul McLaughlin.**

*Robert Best recused himself from Items #5 & #6, Paul McLaughlin assumed the Chair.*

5. **John Flatley Company (applicant/owner)** - Continued review for acceptance and consideration of a Site Plan to construct a 120,000 sq.ft. warehouse/distribution building, per the requirements of the Flatley Mixed Use Conditional Use Permit. The parcel is located at 707 Daniel Webster Highway in the I-1 (Industrial) District and Aquifer Conservation area. Tax Map 6E, Lot 003-06. Case #PB2021-24. **This item is continued from the June 15, 2021 Planning Board meeting.**

Tim Thompson prefaced the presentation by explaining that this project was first discussed at the June 15, 2021 meeting but was continued without a presentation because peer review comments had not been received for the traffic analysis. Since that time, all peer review comments have been received. Mr. Thompson went on to explain that a similar project was conditionally approved behind St. Gobain approximately 9 years ago but that plan was never finalized and has since expired. The new proposal has the warehouse located to the north of St. Gobain with the access being the existing St. Gobain driveway on DW Highway. Staff has not received a revised plan that addresses any of the peer review comments so the recommendation from staff is that the application is accepted as complete but not conditionally approved at this time.

Nate Chamberlain (Fieldstone Land Consultants) shared the site plan and walked through the dimensions of the property and the location of the proposed warehouse. He mentioned that a waiver for locating trees greater than 15 inches in diameter has been submitted because the majority of the land has already been clear-cut and surveyed and would need to be re-surveyed in order to meet the requirement. Mr. Thompson interjected to remind the Board that this same waiver as granted for the flex site project that was recently conditionally approved.

Mr. Chamberlain then shared the Site layout plan to demonstrate that the parking and office space will be positioned in the front of the building and the bays and truck access will be in the rear. He explained that there is currently a discrepancy between this plan and the architectural plan regarding the placement of the warehouse doors that needs to be worked out and that staff noted a possible side setback encroachment in their comments. Fieldstone does feel that the side setback is being met but is open to making an adjustment to allow for a cushion. He mentioned an access easement that will be granted for lot 6E-3/005 which is also Flatley property and briefly discussed the drainage system. Mr. Chamberlain commented that underground utilities will be utilized, water will be supplied by Merrimack Village District, and the warehouse will be connected to town sewer. The lighting plan was shared and discussed and Mr. Chamberlain mentioned that a lighting waiver will be forthcoming because the current proposal casts some light onto an adjacent property (due to the property line configuration, the property line runs through the parking area and has an access/utility easement over it). Mr. Thompson interjected to add that staff has no concerns with the lighting waiver being granted once it is received given the circumstances/location of the property line in the middle of the parking area.

Mr. Chamberlain wrapped up his presentation by sharing the landscaping plan and explaining that no waivers will be needed as their plan exceeds the town's requirements.

**The Board voted 4-0-1 by roll call to accept the application as complete, on a motion made by Lynn Christensen and seconded by Neil Anketell. Jaimie von Schoen abstained.**

There was no public comment.

Lynn Christensen asked if they needed to make a motion on waivers and Mr. Thompson recommended that the Board hold off on hearing the waivers until they have all been received. Neil Anketell asked for clarification on why the lighting waiver is necessary. Mr. Thompson explained that the regulations call for no more than 0.2 foot candles at property lines but since there is also an access easement for this area, it requires illumination for safety reasons. Because of this, staff is recommending and supporting a waiver.

Councilor Healey stated that there are several mature trees (greater than 15 inches in diameter) on the lot now and asked what the plan is to replace those trees with new mature trees. Mr. Chamberlain shared the landscaping plan again and explained that the trees being proposed are 2 ½-3 inch caliber which meets the town's requirements. She then asked how many businesses will occupy the building and Mr. Thompson answered by explaining that these buildings are designed so they can be subdivided internally to allow more than one tenant so this building could fit anywhere from 1 to 8-9 businesses. Councilor Healey expressed concerns that the number of tenants could impact the traffic study because the one that was done only called for 152 car trips. She feels that this number could be much higher if there are multiple tenants in the unit.

**The Board voted 5-0-0 by roll call to continue the public hearing to August 17, 2021, on a motion made by Lynn Christensen and seconded by Barbara Healey.**

6. **John Flatley Company (applicant/owner)** - Review for acceptance and consideration of a Site Plan to construct an internal access road per the requirements of the Flatley Mixed Use Conditional Use Permit. The parcels are located at 645, 673, 685, and 703 Daniel Webster Highway in the I-1 (Industrial) District and Aquifer Conservation area. Tax Map 6E, Lots 003-01, 003-03-05. Case #PB2021-29.

Mr. Thompson provided an overview of the project and explained that the applicant is proposing to construct approximately 3,800 feet of new access road that will be internal to the Flatley parcels. The road will loop around the existing St. Gobain driveway, around the site and then back to DW Highway. In addition to the road construction, this application also includes a proposal for grading changes and stormwater improvements at the site. The stormwater improvements being proposed do not include an infiltration component which is consistent with the requirements that NHDES has put forth for this site due to the PFOA contamination. He added that the access road is consistent with the approved CUP so staff has no objections to the proposal at this time, however, since peer review comments have not been received, they are recommending that the application be accepted as complete but the conditional approval discussion be continued to the August 17, 2021 meeting.

**The Board voted 4-0-1 by roll call to accept the application as complete, on a motion made by Lynn Christensen and seconded by Neil Anketell. Jaimie von Schoen abstained.**

There was no public comment.

**The Board voted 5-0-0 by roll call to continue the public hearing to August 17, 2021, on a motion made by Lynn Christensen and seconded by Neil Anketell.**

7. **Discussion/possible action regarding other items of concern**

- Neil Anketell asked for an update on what is happening at Vault Storage because it looks like they are preparing the site for construction and he thought they were not moving forward because the applicant did not want to install the sidewalk. Mr. Thompson explained that they are moving forward with construction and that a sidewalk will need to be installed prior to the applicant receiving a certificate of occupancy for the building because the Board did require it. Mr. Anketell stated that the condition of the existing gravel sidewalk is poor and asked if the new one will run the length of the property and Mr. Thompson confirmed that it will.

*Robert Best resumed as chair.*

- Tim Thompson brought up the topic of traffic studies because the Board had discussed it as an area of concern at the July 6<sup>th</sup> meeting. He explained that from an Economic Development perspective he is not in favor of requiring a larger traffic study on some of projects where it is not warranted because they cost significantly more than a traffic analysis and we risk losing new development to other towns. He also reminded the Board that until 2019 the town did not require any traffic data and that he and the rest of the Community Development staff worked hard to develop something that is both fair and accurate for the community and applicants. After some general discussion, Mr.

Thompson said that an agenda item for the topic would be put on for a meeting later in the fall.

- Neil Anketell mentioned that there is a car stacking problem at the Haywards at the 360 Plaza and asked if there is anything that can be done about it. Mr. Thompson explained that the plaza was approved under the old regulations and there were no provisions for car stacking at that time so there is nothing we can do about it now unless they request a modification to the plan.
- Lynn Christensen made a plea to the public for volunteers to join either the Planning or Zoning Board of adjustment. Both Boards currently have open positions that need to be filled.

**8. Approval of Minutes — July 6, 2021**

**The Board voted 4-0-2 by roll call to approve the minutes of July 6, 2021 as submitted, on a motion made by Paul McLaughlin and seconded by Barbara Healey. Neil Anketell and Lynn Christensen abstained.**

**9. Adjourn**

**The Board voted 6-0-0 to adjourn at 8:09 p.m. on a motion made by Lynn Christensen and seconded by Barbara Healey.**