



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY JUNE 7, 2022

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, June 7, 2022 in the Matthew Thornton Room.

Members Present:

- Robert Best (Chair)
- Lynn Christensen
- Jaimie von Schoen
- Brian Dano
- Nelson Disco – Alternate
- Town Councilor Barbara Healey - Ex-Officio

Members Absent:

- Paul McLaughlin (Vice Chair)
- Neil Anketell
- Maureen Tracey – Alternate

Staff Present: Tim Thompson, AICP, Community Development Director

1. Call to Order

Chair Robert Best called the meeting to order at 7:02 p.m. and led the Pledge of Allegiance. Mr. Best appointed Nelson Disco to vote for Paul McLaughlin.

2. Planning & Zoning Administrator's Report

Tim Thompson advised the Board that he and the Town Manager decided to start the Capital Improvement Program (CIP) discussions earlier this year so that they don't take place during the holiday season. He has already contacted the necessary departments and requested that they submit their CIP project proposals by the end of July 2022 so the discussions can take place in the September timeframe.

Mr. Thompson also informed the Board that he will likely be utilizing the peer review firm (Fuss & O'Neill) for assistance with the engineering aspects of the subdivision regulation updates that are being made. The Public Works department was assisting with this process but the Environmental Engineer has left so they are currently short staffed.

Chairman Best reminded the Board members with appointments that are expiring at the end of June to contact the General Government office if they wish to apply for re-appointment.

3. Consent Agenda

- a. Regional Impact Determination for the UDM Group Site Plan, Boucher Subdivision, and Anagnost Site Plan*

The Board voted 6-0-0 to approve the consent agenda on a motion made by Lynn Christensen and seconded by Barbara Healey.

4. **UDM Group, LLC (applicant/owner)** – Review for acceptance and consideration of final approval of a Site Plan Review for a change of use (from a former bank to an automotive service use) and to construct a 9,250 s.f building addition with associated site improvements. The parcel is located at 105 Daniel Webster Highway in the I-1 (Industrial) and Aquifer Conservation District. Tax Map 2D, Lot 021-01. Case #PB2022-22.

Mr. Thompson prefaced the presentation by explaining that the site in question was previously the home of the old DCU credit union that has been vacant for almost 10 years now. The applicant had previously been in front of the Board for an automobile dealer and service station on Herrick Street (Ultimate Bimmer). That project was conditionally approved but due to some easement & engineering issues with the Herrick street location, the applicant has decided not to move forward with that location and is now proposing just the automotive service use at 105 DW Highway.

Matt Peterson (Keach-Nordstrom Associates, Inc.) and Corey Knight (Ultimate Bimmer/UDM Group, owner) presented the application to the Board. Mr. Peterson gave an overview of the site as it sits today, the location of the proposed building addition as well as changes to the site traffic flow. Mr. Peterson also briefly discussed the drainage landscaping, and erosion control plans before turning his attention to the illumination plan. He shared a copy of the illumination plan and explained that they had originally thought about requesting a waiver pertaining to minimum illumination levels of the parking area but have since reconsidered and plan on meeting the illumination requirements to protect the property against vandalism and theft.

Nelson Disco asked if there will be a car wash on site and if so, how that will work with the septic system. Mr. Peterson responded that there will be a bay to wash cars that have been serviced and the wastewater will be kept in a separate holding tank and emptied by a third party. Mr. Disco then asked if there is enough parking on site and Mr. Peterson replied that they have 44 spaces and are only required to have 24 per the parking requirements.

The discussion about fencing was raised because the lot next door has added one to their property and Mr. Disco was curious as to why. Mr. Peterson explained that businesses are doing it for security purposes but the owner of this parcel is proposing using lighting, cameras and possibly a nighttime security guard onsite for security measures.

Chairman Best shared his opinion that he will be happy to see a business occupy the space again as it is close to the Nashua line so it is one of the first things people see when coming into town. He also expressed his concerns that the color depicted in the renderings (white) would be too stark for the setting. Mr. Knight responded by explaining that the paneling he chose is textured so although it looks very white in the pictures, is more muted in person. He further explained that the color was chosen because the majority of BMW dealers are white and he wanted to keep the

brand recognition. Councilor Healey added her concerns that the white could cause solar glare issues for drivers in the afternoon sunlight but will believe Mr. Knight's testimony that the color is more muted in person.

Mr. Disco asked about the dumpster and whether or not it can be screened better because it is in front of the building. Mr. Peterson replied that they are currently working with staff to relocate the dumpster to the back of the building.

The Board voted 6-0-0 to accept the application as complete on a motion made by Nelson Disco and seconded by Lynn Christensen.

There was no public comment.

The Board voted 6-0-0 to grant conditional final approval on a motion made by Nelson Disco and seconded by Brian Dano. The following precedent 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 provide a letter from Pennichuck Water Works indicating the availability of public water to the project.
5. The applicant shall address the forthcoming comments from the town's peer review consultant, Fuss & O'Neill, as applicable.
6. The applicant shall address any forthcoming comments from the Fire Department, as applicable.
7. The applicant shall address any forthcoming comments from the Public Works Department, as applicable.
8. The applicant shall address the following Planning Staff Technical Comments:
 - a. The applicant shall add "Aquifer Conservation District" to Note 4 on Sheet 3, Non-residential Site Plan.
 - b. The applicant shall add a note indicating the water source as Pennichuck Water Works on Sheet 3.
 - c. The applicant shall add a note indicating the sewer source as private septic on Sheet 3.

- d. On Sheet 3, the southernmost corner adjacent to DW Highway is shown on the existing conditions plan to have an iron pin that was found. The applicant shall change this to a granite bound on the site plan sheet per the requirements of the regulations.
- e. Building renderings have been provided, but shall be made part of the main plan set when final plans are submitted.
- f. On Sheet 7, Lighting Plan – Minimum illumination level of the parking area is shown on the plan to be 0.1 footcandles. Section 3.13.e.3.i requires no less than 0.3 footcandles. The applicant shall revise the lighting plan to meet this requirement. Additionally, the applicant shall add minimum Color Rendering Index (CRI) information to the plan per Section 3.13.e.3.

The following general and subsequent conditions are 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 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 property addressing and fire code compliance, as applicable (that are not deemed precedent conditions).
- 5. Bernard Boucher Revocable Trust (applicant/owner)** – Review for acceptance and consideration of final approval for a two lot subdivision. The parcel is located at 69 Bean Road in the R-1 (Residential, by map) and Aquifer Conservation Districts. Tax Map 6B, Lot 141. Case #PB2022-23.

Mr. Thompson provided some background information on the project by explaining that the applicant had originally applied for variances that would allow for a three lot subdivision with the Zoning Board of Adjustment (ZBA) and the application was denied. The applicant then went back to the ZBA in April with variance request that would allow for a two lot subdivision and those variances were granted. Mr. Thompson added that there are not any concerns from staff and the only waiver being requested is for sidewalks and because this is considered a minor subdivision, the Board can determine whether or not the waiver is even necessary.

Matt Peterson (Keach-Nordstrom Associates, Inc.) and Bernard Boucher, owner presented the application. Mr. Peterson shared the subdivision plans and demonstrated how the land is being divided pointing out which lot has the frontage variance and which will have the variance for contiguous upland area.

The Board voted 6-0-0 to accept the application as complete on a motion made by Lynn Christensen and seconded by Nelson Disco.

The Board determined by consensus that the sidewalk waiver was not necessary utilizing the standards under Section 4.07 of the Subdivision Regulations.

Mr. Disco asked for clarification on the buffers shown on sheet two of the plan and Mr. Peterson demonstrated where the wetland and shore land buffers are in relation to Baboosic Brook. They also briefly discussed a temporary garage from a neighboring property that is encroaching on one of the lots that is going to be removed.

There was no public comment.

The Board voted 6-0-0 to grant conditional final approval on a motion made by Lynn Christensen and seconded by Nelson Disco. The following precedent 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 applicable to the project and provide copies to the Community Development Department, as applicable.
3. The applicant shall provide draft copies of any additional applicable legal documents for review (proposed access/drainage easement), at the applicant's expense, by the Town's Legal Counsel. Draft condominium documents were received, and the applicant shall address any forthcoming comments from Legal Counsel, as applicable.
4. The applicant shall address the following comments from the Public Works Department, as applicable.
 - a. Please add a note to indicate that prior to any work on the site, a Right of Way (ROW) permit from the Highway Division of Public Works will be required. Any driveway changes shall be reviewed and approved by Community Development and the Public Works Administration prior to construction.
 - b. The driveway entrance shall conform to Section 4.13.1 under the Roadway and Utility Standards and shall be noted on the plans. The proposed driveway entrance location shall be shown on the plans (see section 4.17 (c)).
 - c. The sight distance for the new driveway entrance shall be verified by the engineer. A policy on Geometric Design of Highways and Streets (AASHTO) shall be used along with a design speed of 40 MPH to determine the sight distance required at the entrance.

- d. Under section 4.12.1 there shall be a dedication by deed and plat to provide at least 25 feet from the center line of the existing town road or ROW for the future widening of streets where existing road widths are insufficient for present standards or are of such a nature as to cause traffic hazards.
 - e. Section 4.18 (a) monuments shall be set at all street intersections, points of curves and angle points along Woodward Road. The monuments shall be concrete or granite bound markers. These bounds shall be 4 inches square by 4 feet.
 - f. Erosion Control plans will need to be provided for the proposed construction on lot 6B/141-1. This shall be noted on the plans. The plans shall be reviewed by Community Development and Public Works prior to construction.
5. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
6. The applicant shall address the following Planning Staff Technical Comments:
 - a. Add Aquifer Conservation District to Note #5, Sheet 1.
 - b. Add owner's signature block to Sheet 2.
 - c. The applicant shall revise the Planning Board signature block on Sheets 1 & 2 to have lines for "Chair" and "Vice Chair" as per the Board's current structure (the position of Secretary was renamed Vice Chair in June 2017).
 - d. All lots shall be bounded with permanently set granite or precast concrete markers and iron pipes per Sections 4.17.f & 4.18.a of the Subdivision Regulations.
 - e. Under section 4.12.1 there shall be a dedication by deed and plat to provide at least 25 feet from the center line of the existing town road or ROW for the future widening of streets where existing road widths are insufficient for present standards or are of such a nature as to cause traffic hazards.
 - f. Section 4.18 (a) monuments shall be set at all street intersections, points of curves and angle points along Woodward Road. The monuments shall be concrete or granite bound markers. These bounds shall be 4 inches square by 4 feet.
 - g. Erosion Control plans will need to be provided for the proposed construction on lot 6B/141-1. This shall be noted on the plans. The plans shall be reviewed by Community Development and Public Works prior to construction.
7. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
8. The applicant shall address the following Planning Staff Technical Comments:
 - a. Add Aquifer Conservation District to Note #5, Sheet 1.
 - b. Add owner's signature block to Sheet 2.

- c. The applicant shall revise the Planning Board signature block on Sheets 1 & 2 to have lines for “Chair” and “Vice Chair” as per the Board’s current structure (the position of Secretary was renamed Vice Chair in June 2017).
- d. All lots shall be bounded with permanently set granite or precast concrete markers and iron pipes per Sections 4.17.f & 4.18.a of the Subdivision Regulations.

The following general and subsequent conditions are 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 obtain right-of-way permits from the Public Works Department for all new driveways.
 3. The temporary garage on Map 6B Lot 141-1 shall be removed prior to the issuance of a certificate of occupancy for the new residence.
 4. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.
 5. The applicant shall address the any forthcoming comments from the Fire Department, as related to property addressing, as applicable.
- 6. Kerner’s Car Care (applicant) and DKERN II, LLC (Owner)** – Review for consideration of an amendment to a previously approved Site Plan proposing to modify a condition of approval regarding the issuance of financial guarantee for the construction of a sidewalk. The parcel is located at 386 DW Highway in the C-2 (General Commercial), Elderly Housing Overlay & Aquifer Conservation Districts. Tax Map 4D-3, Lot 28. Case # PB2022-24.

Mr. Thompson prefaced the presentation by explaining that when this project was conditionally approved by the Board in January, there were two conditions placed on the construction of the sidewalk. These conditions would require the applicant to provide financial guarantee for the construction of the sidewalk and also construct the sidewalk prior to receiving his certificate of occupancy. Because it would be a financial hardship to essentially pay for the sidewalk twice, Mr. Koerner is requesting that the Board remove precedent condition #11 regarding the financial guarantee and modify subsequent condition #7 to specify the work must be completed within 6 months of the issuance of the certificate of unit completion.

David Koerner (owner) presented the application to the Board. Mr. Koerner spoke about the amount of money he has spent on this project and indicated that it is just too much of a financial burden to provide the financial guarantee in addition to the construction costs. There was general discussion about the hardships of finding a contractor to perform the work right now but Mr. Koerner assured the Board that the sidewalk will get completed.

There was no public comment.

The Board voted 6-0-0 to grant final approval on a motion made by Barbara Healey and seconded by Brian Dano. The following general and subsequent conditions apply:

1. All General and subsequent conditions placed on the original site plan conditional approval (conditionally approved on 1/4/2022) and shall continue to be in place with this amended approval, as applicable.

2. The applicant shall complete the required sidewalk within 6 months of the issuance of the certificate of unit completion.

7. **Dick Anagnost (applicant/owner)** – Review for acceptance and consideration of final approval of a Site Plan Review to construct two multi-family residential buildings totaling 48 units in accordance with the NH workforce housing statutes (RSA 674:58). The parcel is located on Twin Bridge Road in the in the R-4 (Residential), Aquifer Conservation, Town Center Overlay, Elderly Housing Overlay and Planned Residential Development Overlay Districts. Tax Map 5D-3, Lot 114. Case # PB2022-25.

At the applicant's request, the Board voted 6-0-0 to continue the application to July 5, 2022 on a motion made by Lynn Christensen and seconded by Barbara Healey.

8. Discussion/possible action regarding other items of concern

Mr. Thompson discussed a decision that was made at the May 17th meeting regarding a continuance request for the self-storage project at 702 DW Highway. At that meeting, the Board voted to find the application as incomplete. However, the project was noticed as both a Conditional Use Permit (CUP) and Site Plan and there is no completeness process for a CUP, and as such there was an error with the decision that was made. Mr. Thompson further explained that the applicant would have to pay over \$7,000 in application fees if they are made to re-apply and since the continuance request was due to the death of a family member, staff feels that granting an indefinite continuance would be justified.

Councilor Healey raised the concern that continuing something indefinitely means that the applicant could come back in two years. Chairman Best agreed that it could happen but feels that they should consider the hardship that the cost of the fees could have on the applicant. Mr. Thompson interjected that the timing is worded as indefinite but it is essentially a request to continue to a date uncertain because the applicant can't commit to a specific date at this time.

The Board voted 6-0-0 to reconsider their vote to find the Ross Self-Storage project incomplete on May 17, 2022 on a motion made by Lynn Christensen and seconded by Jaimie von Schoen.

The Board voted 6-0-0 to indefinitely continue both the Conditional Use Permit and site plan for the Ross Self-Storage project, with the applicant to re-notify abutters upon resubmission on a motion made by Brian Dano and seconded by Nelson Disco.

9. Approval of Minutes — May 17, 2022

The Board voted 5-0-1 to approve the minutes of May 17, 2022, as submitted, on a motion made by Lynn Christensen and seconded by Barbara Healey. Jaimie von Schoen abstained.

10. Adjourn

The Board voted 6-0-0 to adjourn at 8:04 p.m. on a motion made by Barbara Healey and seconded by Nelson Disco.