



Town of Merrimack, New Hampshire

Community Development Department

603 424-3531

6 Baboosic Lake Road

Fax 603 424-1408

Town Hall - Lower level - East Wing

www.merrimacknh.gov

Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

MAY 16, 2017

APPROVED MINUTES

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig (arrived 7:25 p.m.), Lynn Christensen (arrived 7:06 p.m.), Desirea Falt, and Alternates Nelson Disco and Paul McLaughlin.

Planning Board members absent: Michael Redding and Vincent Russo.

Staff present: Assistant Planner Robert Price and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:05 p.m. and designated Paul McLaughlin and Nelson Disco to sit for Michael Redding and Vincent Russo, respectively.

2. Planning & Zoning Administrator's Report

The Board voted 5-0-0 to determine that the Stanley Elevator site plan, Forma Beyond Wood waiver of site plan review and Hazen lot line adjustment and subdivision plan are not of regional impact, on a motion made by Alastair Millns and seconded by Nelson Disco.

Lynn Christensen arrived at 7:06 p.m.

3. Hoyle, Tanner & Associates, Inc. (applicant) and OV P Management, Inc. (owner) - Review for acceptance and consideration of final approval of a Site Plan for the renovation of an existing retail shopping plaza, including the addition of 4,650 square feet of new restaurant space. The parcel is located at 360 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation, Planned Residential Development Overlay and Elderly Housing Overlay Districts. Tax Map 4D-3, Lot 001.

Robert Best recused himself from discussing and acting on this item. Alastair Millns assumed the chair.

The proposed project consists of renovations to the existing 77,000 square foot building to accommodate 10 tenants and to construct two new pad sites within the existing parking area: a 4,000 square foot building proposed to be a sit-down restaurant and a 650 square foot building that is proposed to be a fast food restaurant. The site would be modernized with new paving, landscaping, lighting and drainage facilities.

Bill Davidson, Hoyle, Tanner & Associates, Inc., said the Merrimack Conservation Commission (MCC) set only minor conditions. The site is the former Shaw's Plaza. New paving would be installed in front and the paving in back would be crack seal

coated. Water flows south to D.W. Highway. Two catch basins would be added and curbing replaced to create a vastly improved closed drainage system. A landscape plan calls for a large green area and common space to be added to the drive-thru area in front. There would be greenery/planters in front of each unit in the main building.

Rob Barsamian, OVP Management, Inc., showed architectural plans. The existing structure would remain, but the overhang and the front would be removed and new material applied. Possible tenants are an independent food store, fitness center, restaurants, fashion shop, and a bank. The applicant will seek variances from the Zoning Board of Adjustment (ZBA) to allow larger signs. There would be ground signs both at the back and front of the site. To help drive interest, he is seeking a variance for a larger-than-allowed temporary sign featuring architectural renderings of the renovated building. It is hoped to begin construction this summer and to open in the first quarter of 2018. The applicant seeks long-term tenants and to be at least 60% leased upon opening.

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 5-0-0 to accept the application for review, on a motion made by Desirea Falt and seconded by Lynn Christensen.

Rob Barsamian agreed to Nelson Disco's request that measures be taken to ensure traffic entering the site from the northerly access drive that wishes to utilize the drive thru restaurant is directed in a manner so as to prevent internal traffic conflicts.

Alastair Millns explained that peer review is necessary only for the water supply because this is an existing and developed site. Bill Davidson said impervious cover would be reduced by 11,000 square feet. He described the catch basin/60-chamber system and maintenance program and agreed to outside peer review as may be required by Merrimack Village District (MVD).

Tom Koenig arrived at 7:25 p.m.

Nelson Disco suggested a fence rather than a guardrail in front to be more in keeping with the updated architectural design of the property.

Alastair Millns asked about signage on the back of the building facing the F.E. Everett Turnpike. Rob Barsamian said that no signage will be placed on the building itself as it wouldn't be seen from the Turnpike due to the difference in elevation. If the ZBA approves, there would be one free-standing sign on the hill closer to the Highway.

Bill Davidson stated he would like the Board to consider not requiring a small chamber drainage system, as requested by Public Works, because runoff would be reduced and an additional storm chamber would not be required. The Board agreed to the applicant's requests.

Nelson Disco requested that a pedestrian connection to the site from the abutting East Ridge Village condominiums be installed. Lynn Christensen asked about pedestrian

access to Horseshoe Pond and Island Drive across the street. Bill Davidson explained why it would be difficult to add a pedestrian phase to the traffic signal. The Planning Board agreed that access across the street is not feasible.

The reasons for not providing a traffic study are because there has already been a traffic study, there is a signal at the property, there would not be a large chain store, and there would be less traffic than there was when the plaza was occupied in the past. The Planning Board agreed that a traffic study is not necessary.

Desirea Falt cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

Regarding the requested waiver from 7.05(D)(19) – Sidewalks, Nelson Disco noted he would support the applicant's request if they agreed to grant a sidewalk easement to the Town if requested in the future for sidewalk installation.

The Board voted 5-1-0 to waive the requirements of Section 7.05(D)(19) - Sidewalks – of the Non-Residential Site Plan Regulations, on a motion made by Desirea Falt and seconded by Lynn Christensen. Tom Koenig voted in the negative.

The applicant requests a waiver to allow 359 rather than 478 parking spaces. Tenants would use them at various times, there would be more green space, there is extra parking on the side, a clear area for trucks to drive around, and no large supermarket. Parking cannot fit on ledge.

Lynn Christensen cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 6-0-0 to waive the requirements of Section 7.03.E – Parking – of the Non-Residential Site Plan Regulations, on a motion made by Lynn Christensen and seconded by Desirea Falt.

The Board granted the waiver with the applicant's understanding and agreement that snow storage shall not take place in any designated parking spaces.

Desirea Falt asked about greenery showing on the architectural plan but not on the site plan. Rob Barsamian stated the intent is to create a landscape similar to the one appearing on the architectural plan. He noted he prefers to use planters as opposed to installing trees for maintenance purposes, but the intent is to add greenery to the storefront areas.

Public comment

Pete Hinkle, 1 Pondview Drive, questioned reducing the number of parking spaces. He also felt there would be too much snow to remove from the site. Rob Barsamian repeated that there would be no large supermarket and that the tenants would use the parking at different times. Snow would be removed.

Virginia Healds, 3 Pondview Drive, suggested incentives to limit tenant turnover. Rob Barsamian said he is taking the time to get the right tenants, all of whom would sign long-term leases. The applicant is making a \$7-\$8 million investment in a brand-new shopping center.

John McDonald, 19 Pondview Drive, encouraged the applicant not to have runoff to Horseshoe Pond and to install an oil-water separator. Alastair Millns noted that the Wastewater Division is proposing conditions regarding grease traps. Bill Davidson said the loading dock would remain as is. The MCC suggested using low phosphate, slow-release nitrogen fertilizers and minimizing the use of salt and de-icers.

Gisele Scully, 370 D.W. Highway, who owns the building next door, noted that her property is accessed via the applicant's parking lot. She asked if access would still be available during construction. Rob Barsamian said there would be full access and promised to coordinate with her.

Pete Hinkle asked if the D.W. Highway would be widened and suggested synchronizing traffic lights so there could be a traffic break to allow vehicles from Horseshoe Pond to exit. Alastair Millns said D.W. Highway would not be widened nor the lights synchronized because the NH Department of Transportation (DOT), which controls the Greeley Street traffic lights, refuses to do so.

Jean Wiseman, 69 Pondview Drive, asked about site lighting. Alastair Millns explained that the Ordinance requires the applicant to shield lights downward and to avoid light spillage. Bill Davidson said the applicant is replacing the existing parking lot lights with new lights, which would not be as tall as those currently on site.

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 5-0-1 to grant final approval, with the following conditions, on a motion made by Nelson Disco and seconded by Desirea Falt. Tom Koenig abstained.

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 (if applicable), note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;
3. The applicant shall note all waivers granted by the Board (Section 7.05.D.19 – Sidewalks and Section 7.03.E – Parking) on the final plans and mylars (including Section, and date granted) as applicable;
4. The applicant shall address the following comments from the Conservation Commission:

- a. The Commission recommends the applicants minimize the use of salt and/or de-icing compounds on the site;
 - b. The Commission recommends that only no phosphate, slow release nitrogen fertilizers be used. The Commission further recommends that the applicant utilize a soil testing facility to determine what levels and applications rates are necessary prior to applying any fertilizes to the site;
 - c. The Commission recommends the use of native plantings for all new greenscape designs;
5. The applicant shall address the following comments from Merrimack Village District (MVD):
- a. All water line plans and construction must comply with MVD's current Specifications for Water Main Installation, Extensions, Service and Distribution System regardless of Approved plans by Town of Merrimack;
 - b. Third Party Review by an Engineering Firm, Of MVD choosing, at the expense of the Owner/ Contractor(s), must be completed at the request of MVD;
 - c. Flow Demands must be supplied to MVD in graphical format (X axis Hour of day, Y axis anticipated/estimated usage) with back up data (number of employees, peak/catastrophic fire flows etc.);
 - d. On Sheet C-2 Utility Notes, # 13 Delete (sizing of water line and location is to be designed and stamped by State of New Hampshire Registered Professional Engineer, conforming to Merrimack Village Districts Specifications and approved By Merrimack Village District.);
 - e. Address the following for Detail 2 - Gate Valve Detail:
 - i. Gate Valve to meet Merrimack Village District Specification;
 - ii. Valve box to be domestic;
 - f. Address the following for Detail 3 - Fire Hydrant Assembly Detail:
 - i. Hydrant to meet Merrimack Village District Specification;
 - ii. Anchor Tee to be used;
 - iii. Gate Valve to meet Merrimack Village District Specification;
 - iv. Thrust block bearing area to be determined by soil classification;
 - v. No Rebar around valve, all pipe to be haunched with existing material void of stones over 1" average mean size;
 - g. Address the following for Detail 4 - Water service Connection Detail:
 - i. Direct tap on Ductile Iron Water Main only, all others indirect tap required (saddle);

- ii. All services to be PE CTS 200 PSI tubing;
 - iii. Tracer Wire to be used; material and installation according to MVD Tracer wire spec;
 - h. Flow demands for both new buildings must be supplied to MVD;
- 6. The applicant shall address the following comments from the Wastewater Division:
 - a. A Town of Merrimack Flow Allocation Permit must be completed and approved by Ken Conaty before final plan can be approved by the Merrimack Wastewater Department. This permit also generates the appropriate sewer connection fees due the town before building permits can be issued;
 - b. On Sheet C1 - Utility Contacts should read: WASTEWATER:
Merrimack WWTF
36 Mast Rd
PO Box 235
Merrimack, NH 03054
Contact: Ken Conaty (603) 420-1625;
 - c. On Sheet C2:
 - i. General Note 7: Remove "without permission". No dewatering is allowed to the sanitary sewerage system;
 - ii. General Note 16: New restaurants will have EXTERNAL grease traps;
 - iii. Utility Note 7: Remove second sentence. Required amount of cover is 6' as it is all under pavement. Special exceptions can be made but not a general blanket assumption it will be allowed;
 - iv. Utility Note 18: Backflow preventers are required. Must be Clean-Check part number 97026 or equal;
 - v. Utility Note 19: All sewerage shall be constructed to meet NHDES Env-Wq-700 rules;
 - vi. Utility Note 20: All sewerage shall be constructed to meet Town of Merrimack Sanitary Sewerage Engineering Standards revised 2015 or latest;
 - vii. Utility Note 21: All sewerage within the property is and shall remain private. The Town of Merrimack accepts NO responsibility for the maintenance, repair, or installation of this private system;
 - d. On Sheet C6:
 - i. Show external grease traps for each restaurant;

- ii. Doghouse sewer manholes not allowed;
 - iii. Show backflow preventers should be shown immediately outside of buildings;
- e. On Sheet C13:
 - i. Remove doghouse sewer manhole detail-replace with standard manhole detail;
 - ii. Sewer trench detail-remove note on insulation-allowed only by special exemption;
 - iii. Sewer Service Detail:
 - 1. Remove cast iron-PVC only;
 - 2. Show pipe connecting to a manhole;
 - 3. Show 6' of cover as the entire line is under asphalt;
 - 4. Show backflow preventer on outside of foundation wall;
 - 5. Remove observation tee and plug;
 - iv. Add sewer manhole detail (no steps);
 - v. Add sewer manhole cover detail;
 - vi. Add grease trap detail;
- 7. The applicant shall address the following comments from the Public Works Department:
 - a. Sheet C1 – has 2 different addresses for the lot shown on the plan; 356 and 360 Daniel Webster Highway;
 - b. A note shall be added to the plans that any work to be performed within the Right of Way (ROW) shall have a ROW permit from the Highway Division of Public Works;
 - c. Sheet C4 – according to Section 7.19 all commercial/industrial non-residential site plans shall provide for a paved pedestrian way or sidewalk along all existing or proposed streets;
 - d. Under Section 4.16 (c) The statement certifying that Section 4.16 has been followed for the Storm Drainage System shall be added to the plan. The Stormwater Management Standards in the Town of Merrimack Code, Chapter 167 shall also be followed;
 - e. Sheet C15 – Detail 1/C14 please add the overall outside dimensions of the stone bed to the detail;
- 8. The applicant shall address the following Planning Staff Technical Comments:

- a. The applicant shall add a "purpose of the plan" note to the site plan (Sheet C4) as required by the regulations;
- b. The site plan indicates removal of the existing off-premise sign for the plaza and replacing it with a new off-premise sign. The applicant shall coordinate with the Community Development Department on the necessary relief from the Zoning Ordinance that will become necessary for the new off-premise sign. In addition, the applicant should determine the total square footage proposed as part of the off-premise freestanding signs to determine if it complies with Zoning Requirements or will need to be part of the relief necessary from the Zoning Board;
- c. The site plan indicates 2 proposed freestanding signs, where only 1 is permitted by the Zoning Ordinance. The applicant shall coordinate with the Community Development Department on the necessary variances from the Zoning Ordinance in order to permit the second freestanding sign. In addition, the applicant should determine the total square footage proposed as part of the 2 freestanding signs to determine if they comply with Zoning Requirements or will need to be part of the relief necessary from the Zoning Board;
- d. The applicant shall indicate the required landscape buffer requirements from the regulations. Given the existing developed nature of the site, the applicant could request a waiver to the specific buffer requirements (if they are unable to be met) for the Board to consider as part of the review of the project;
- e. The applicant should note the Uniformity Ratio and CRI on the illumination plan as required by the regulations;
- f. The applicant should note that the proposed lighting fixtures are full cut-off in the details on sheet C14;
- g. If more than 20,000 square feet of land is proposed to be disturbed by the project, a note regarding the requirements of the Stormwater Management Ordinance and a Pre-construction meeting should be added to the plans.

Staff also recommends that the following general and subsequent conditions 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. 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 any work associated with the driveways or within the DW Highway right-of-way;
4. The following conditions from the Fire Department are applicable to the project:
 - a. The existing building has an NFPA 13 fire sprinkler system installed. As this plaza has been vacant for an extended period of time the existing sprinkler system will need to be inspected and tested by a fire sprinkler contractor to ensure it is in proper operating condition. Any changes to the system due to the plaza renovations will require the issuance of a sprinkler permit from this office. Plans shall be provided to this office for review and approval before a permit can be issued;
 - b. The existing building has a fire alarm system installed. The current system is no longer compliant with the requirements of NFPA 72 or the Town of Merrimack fire alarm requirements and is in poor repair. This system shall be upgraded/repared as necessary to bring it into compliance. Plans shall be provided to this office for review and approval before a permit can be issued;
 - c. All illuminated emergency lighting and exit signage shall be repaired or replaced as necessary;
 - d. All fire extinguishers shall be tested and replaced as necessary;
 - e. The 2 proposed new buildings shall be protected by an approved NFPA-13 compliant fire sprinkler system (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11). Plans shall be provided to this office for review and approval before a permit can be issued;
 - f. The 2 proposed new buildings shall be protected by an approved NFPA-72 fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued;
5. The following conditions from the Building Division are applicable to the project:
 - a. The project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of New Hampshire, including all amendments;
 - b. The applicant shall submit a complete building permit application, provide the job location, indicate the scope of work, proposed use and estimated construction value;
 - c. All plans and construction documents shall be submitted with the application and available for code compliance review prior to the Pre-Construction Meeting with Community Development;
6. The following conditions from MVD are applicable to the project:
 - a. All Customers must adhere to MVD By-Laws;

- b. All water mains installed after first valve in Right of Way is owned by the property owner;
 - c. All fees must be paid & all applications must be completed prior to start of construction;
 - d. Two business days, Prior notice must be given to Merrimack Village District for all inspections and commencement of work;
 - e. As-built record drawings must be stamped by New Hampshire Surveyor or P.E. (Specifications for Water Main Installation, Extensions, Service and Distribution System; Sec. Z Record Drawings, 4/r) and supplied to MVD in print and electronically via CAD and PDF;
 - f. Any planned disruption of service due to construction must be planned with MVD as to allow a minimum of 7 calendar days' notice to current MVD Customers;
 - g. Any financial loss due to loss of service, planned or unplanned, to current Merrimack Village District Customers is the responsibility of the Owner/ Contractor(s);
7. The following conditions, as required by the Planning Board, are applicable to the project:
- a. The applicant shall install a pedestrian connection to the abutting East Ridge Village condominium development;
 - b. The applicant shall take the appropriate measures to ensure traffic entering the site from the northerly access drive that wishes to utilize the drive thru restaurant is directed in a manner so as to prevent internal traffic conflicts as much as possible.

- 4. Edgebrook Heights, LLC, Wigston Properties, LLC and Q. Peter Nash 1987 Rev. Trust I (co-applicants/co-owners)** - Request for consideration of re-instatement/extension of final approval of an application for a Conditional Use Permit to permit a future mixed-use development consisting of retail, office, multi-family residential and assisted living. Parcels are located at #1, 37, 39, 55 and an unnumbered parcel, D.W. Highway in the I-1 (Industrial), Aquifer Conservation and Flood Hazard Conservation Districts. Tax Map 1E, Lots 004-01 & 004-02 and Tax Map 2E, Lots 006-02, 007 & 008.

Alastair Millns relinquished the chair; Robert Best resumed the chair.

At the applicant's request, this item was continued to June 20, 2017, at 7:00 p.m., in the Matthew Thornton Meeting Room, by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Lynn Christensen.

- 5. Hayner/Swanson, Inc. and Stanley Elevator Co., Inc. (applicants) and 9 Henry Clay Drive, LLC. (owner)** - Review for acceptance and consideration of final

approval of a Site Plan for a 9,800 sf. Warehouse expansion with associated site improvements. The parcel is located at 9 Henry Clay Drive in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2D, Lot 041-02.

Tom Zajac, Jr., PE, Civil/Senior Engineer, Hayner/Swanson, Inc., said the 6+-acre site is mostly developed with an existing 25,000 square foot one-story office/warehouse building and associated parking/loading areas at the easterly portion. The westerly portion along Manchester Street is undeveloped and wooded. The site is serviced by public water and sewer as well as underground gas, power and telecommunication services. It is proposed to consolidate warehouse space by constructing a 9,800 square foot one-story warehouse expansion with associated site improvements that include a new loading area and overhead door, retaining wall, eight additional parking spaces, and dumpster pads. The site will maintain its current driveways off Henry Clay Drive. While the warehouse portion of the building will expand, Stanley Elevator does not anticipate hiring additional employees, so there would be no significant traffic impact. MCC is satisfied with plan notes regarding Green SnowPro and fertilizer uses. The land drains to a wetland at Henry Clay Drive. Runoff would be piped to a retrofitted catch basin.

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 Lynn Christensen and seconded by Nelson Disco.

The applicant requests a waiver to provide 45 rather than 51 parking spaces for the following reasons: There is ample parking for customers and employees, no additional employees would be hired, the 1998 approval for a 25,200 square foot warehouse was for 37 parking spaces rather than the required 27 based on employees and company vehicles rather than building area, the new 9,800 square foot warehouse requires eight parking spaces, five spaces would be placed on the master plan for future use, and additional spaces that are not needed would impose additional cost on the project. Neil Hussey, Stanley Elevator Co., Inc., said 37 spaces are sufficient for 30 employees. No customers would park on site; Stanley is strictly a construction service company. There is one shift, from 6:00 a.m.-5:00 p.m., Monday-Friday.

Tom Koenig cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 7.03.E – Parking – of the Non-Residential Site Plan Regulations, on a motion made by Tom Koenig and seconded by Nelson Disco.

The applicant requests a waiver from the sidewalk requirement for the following reasons: There is a sidewalk on the other side of the street, the entire Henry Clay Drive Industrial Park does not contain sidewalk along its roadways, the proposed warehouse expansion and associated site improvements would disturb about 20% of the property

and disturbance would be limited to the central portion of the site and would not impact frontage on either road, and constructing 745' of new sidewalks would prove difficult and expensive due to the length of the property's frontage and the likely need for retaining walls/guardrails based on topographic conditions.

Desirea Falt cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 7.05(D)(19) – Sidewalks – of the Non-Residential Site Plan Regulations, on a motion made by Desirea Falt and seconded by Lynn Christensen.

The applicant requests waivers from the requirements for landscaping and photometric site lighting plans because they both exist on site and were permitted as part of the 1998 approval. One wall pack would be added at the overhead door on the north side of the proposed addition facing the interior of the site. It would be located in the central portion of the site and would not affect any abutting properties.

Alastair Millns cited the criterion that 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 10.01 – Landscaping - and Section 11.04(2) – Photometric Site Lighting Plans - of the Non-Residential Site Plan Regulations, on a motion made by Alastair Millns and seconded by Paul McLaughlin.

Tom Zajac said he would show the snow storage areas on the plan.

Desirea Falt noted the proposed addition will create a façade length greater than 200', which does not comply with Section 12.04.2(b). The applicant asked for a waiver from the requirement to break up the façade of a building over 200' in length, since the building would not face the street.

Alastair Millns cited the criterion that 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 Section 12.04.2(b) - Façade Length – of the Non-Residential Site Plan Regulations, on a motion made by Alastair Millns and seconded by Nelson Disco.

There was no public comment.

Robert Price said staff has not yet reviewed the peer review comments provided by CLD. Tom Zajac said he has read CLD's comments and has no problems addressing them.

Nelson Disco asked whether there would be a transfer of material on- and off-site. Tom Zajac was not sure because a little blasting may be required.

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 7-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Desirea Falt.

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 note all waivers granted by the Board (Section 7.03.E – Parking, Section 7.05.D.19 Sidewalks, Section 10.01 – Landscaping, Section 11.04.2 – Photometric Site Lighting Plans, and Section 12.04.2.b – Façade Length) on the final plans and mylars (including Section, and date granted) as applicable;
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 any forthcoming comments from the town's peer review consultant, CLD, as applicable;
6. The applicant shall address the following comments from the Conservation Commission:
 - a. The Commission recommends the applicants minimize the use of salt and/or de-icing compounds on the site;
 - b. The Commission recommends that only no phosphate, slow release nitrogen fertilizers be used. The Commission further recommends that the applicant utilize a soil testing facility to determine what levels and applications rates are necessary prior to applying any fertilizes to the site;
 - c. The Commission recommends the use of native plantings for all new greenscape designs;
7. The applicant shall address any forthcoming comments from the Fire Department, as applicable;
8. The applicant shall address any forthcoming comments from Pennichuck Water Works, as applicable;
9. The applicant shall address the following comments from the Public Works Department:
 - a. Under Town of Merrimack Contacts, Public Works, change Kyle Fox to Dawn Tuomala;

- b. Under Town Code Section 167-4, a Pre-construction and Post-Construction Stormwater Management Plan is required. Including annual reporting under section 167-4(B)(5);
 - c. Under Section 7.19 – Non-residential Site Review all commercial/industrial non-residential site plans shall provide for a paved pedestrian way or sidewalk along all existing or proposed streets.
10. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable;
11. The applicant shall address the following Planning Staff Technical Comments:
- a. Update the signature block to include Vice Chair as opposed to Secretary;
 - b. Sheet 1 – Revise Note 3 to remove mention of the Wellhead Protection District and Elderly Zoning Overlay District;
 - c. Sheet 1 – Revise Note 7 regarding water service from MVD to Pennichuck Water Works;
 - d. Sheet 3 – Under Utility Contacts, replace information related to MVD with applicable information for Pennichuck Water Works;

Staff also recommends that the following general and subsequent conditions 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 a Certificate of Occupancy for the building addition;
- 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 following conditions from the Building Division are applicable to the project:
 - a. The project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of New Hampshire, including all amendments;
 - b. The applicant shall submit a complete building permit application, provide the job location, indicate the scope of work, proposed use and estimated construction value;
 - c. All plans and construction documents shall be submitted with the application and available for code compliance review prior to the Pre-Construction Meeting with Community Development.

6. Forma Beyond Wood, Inc. (applicant) and N&P Associated Realty Trust (owner) - Review for acceptance and consideration of final approval of a waiver of full site plan review for parking at an existing manufacturing /warehouse business. The parcel is located at 20 Star Drive in the I-1 (Industrial) Aquifer Conservation Districts. Tax Map 3D-1, Lot 012.

A manufacturing/warehouse granite business occupies an 8,500 square foot portion of the building; the remaining 12,000 square feet are vacant. The applicant proposes to lease 12,000 square feet of the 20,500 square foot building for light manufacturing and warehouse. MCC determined that there would be no hazardous storage and that there is a low spill threat.

Brian Keane, Forma Beyond Wood, Inc., said he currently has six employees at his present location in Wilton. The number of employees might increase to 12-14. Business hours would be 7:00 a.m.-4:00 p.m., Monday-Friday.

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 Nelson Disco and seconded by Tom Koenig.

Alastair Millns asked about the applicant's use of urethanes, which Brian Keane said the MCC approved: it would be moisture-cured and poured into a mold for 10-15 minutes. There would be no hazardous waste or blowing agent. The building has sprinklers. If required, a fire suppression system would be installed. Robert Price reported that the Fire Department issued comments today. Brian Keane said there would be no other chemicals, so no ventilation is necessary. Urethane is used to make custom wall coverings.

Chairman Best said the applicant would need either an easement for a permanent right to the parking spaces located off-site or a waiver for 18 rather than 26 spaces. Desirea Falt noted that the applicant would have to provide a handicap parking space. Wendy Keeler, Fairway Real Estate, LLC, did not know whether Bert Rouleau of Rouleau Realty Holdings (the abutting property owner), would want to tie up his property with an easement. Precision Granite, the building's other tenant, uses spaces across the street on a 10-year lease. Robert Price said that previous lessees did not come to the Planning Board or the Community Development Department for approval to use the site. Brian Keane said deliveries are made once a week on the side of the building. Box trucks would circle around and back into the lot. Discussion ensued about where to place the handicap space.

The applicant opted to proceed with their requested waiver to allow 18 rather than 26 parking spaces rather than to pursue an easement for off-site parking because Precision Granite has only three employees, including the owner, and has three parking spaces at 20 Star Drive and ample additional parking on the one-acre site it owns.

Alastair Millns cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 7.03.E – Parking – of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Lynn Christensen.

There was no public comment.

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 7-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Paul McLaughlin.

1. Final plans to be signed by all property owners;
 2. The applicant shall obtain all required State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department;
 3. Any waivers granted (including Section and date granted) and/or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable;
 4. The applicant shall address any forthcoming comments from municipal departments/boards/committees as applicable;
 5. The applicant shall address any forthcoming comments from the Merrimack Conservation Commission;
 6. The applicant shall address any conditions made by the Planning Board during the public hearing;
 7. The applicant shall address the following Planning Staff Technical Comments:
 - a. The applicant shall include the numbered notes/attachment on the annotated plan after finalization;
 - b. The applicant shall include in the notes the following information:
 - i. Required and proposed parking, including the existing business requirements;
 - ii. Applicant and Property Owner signatures.
 8. A signature block should be added that includes signature lines for the Planning Board Chair and Vice Chair.
- 7. KNA Associates, Inc. and Charles H. Hazen (applicants) and Richard P. and Juliana D. Hazen (owners) - Review for acceptance and consideration of final approval of a Lot Line Adjustment and Subdivision Plan for a five parcel minor**

subdivision. The parcels are located at 90 & 94 Wilson Hill Road in the R-1 (Residential) and Aquifer Conservation and Flood Hazard Conservation Districts. Tax Map 4B, Lots 114 and 114-02.

Brent Cole, Project Engineer, KNA Associates, Inc., said the applicant intends to adjust the lot lines of the existing lots and then subdivide revised Lot 114 into four residential lots, resulting in a total of five separate lots. Each would be serviced by private wells and septic systems. Improvements to Upham Road are also proposed. At PWD's request, a gravel turn-around that requires a Shoreland Permit would be constructed at the end of the existing roadway to provide emergency vehicles with safe access to the proposed lots and the existing 15" RCP culvert below Upham Road would be extended 4' at the inlet. New inlet and outlet headwalls would be constructed. A slope waiver is requested from the required 3:1 slopes at the culvert.

Chairman Best noted that the existing wetland was discovered to be a vernal pool, adding that the MCC requested the culvert under Upham Road be replaced after the seasonal cycle of the pool ends sometime in July.

The applicant requests a waiver from the slope requirement because there is not enough room to create the required slope since he does not own the abutting property.

The applicant will meet the Public Works Department's (PWD) minimum sight distance requirement looking to the west from the proposed Wilson Hill Road driveway. The 14'-wide driveway between the two wetlands would have no impact on them.

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 Lynn Christensen and seconded by Desirea Falt.

Brent Cole proposes a hammerhead rather than a cul-de-sac, which requires three times the space. It is gravel and not paved. PWD does not recommend pavement. There are only two new lots with access to Upham Road.

Nelson Disco asked how the Upham Road culvert would be upgraded. Brent Cole said that PWD wants the pipe replaced in kind. The existing culvert is blocked and holding back enough water that it created a state-recognized vernal pool with amphibian egg masses. Chairman Best noted that the new culvert would drain onto the neighbor's property. Brent Cole said drainage goes down to the Souhegan River. Chairman Best informed the applicant that he may not increase the flow to the neighbor when he unblocks the culvert, adding that despite the culvert's existence, flow has been blocked long enough to have established a vernal pool. Lynn Christensen added that he would create a new off-site drainage flow when the water leaves the property. Brent Cole stated that the flow would not increase to the neighbor's property during any peak storm because the culvert already exists and this was the anticipated condition. Nelson Disco opined that it would silt up again because the pitch would not change. Brent Cole said the town is responsible for its maintenance.

Public comment

David Bower, 97 Wilson Hill Road, was concerned about the applicant's proposal to place a driveway between two wetlands to access one lot from Wilson Hill Road. Instead of disturbing the wetland area, he proposed an easement to get to the lot via Upham Road. Chairman Best explained that the applicant proposes the placement of the driveway specifically to avoid having to create a driveway easement. David Bower said that digging the hump near the road would disturb the wetlands. Chairman Best said the applicant has proposed a lawful solution.

Nelson Disco preferred a cul-de-sac to a hammerhead at the end of the public road. Alastair Millns said the long driveway is on top of the wetland and that salt on the driveway would go into it. The driveway should come from a different direction. Chairman Best said the Planning Board does not usually control salt use on residential sites. Brent Cole said this is only a conceptual plan; this matter is up to whoever buys the lot. Chairman Best agreed with concerns about the hammerhead and the new culvert and wanted to hear from PWD. Staff indicated they thought Upham Road would be paved but the applicant has stated differently.

Brent Cole said that PWD Director Kyle Fox told him to request a waiver from the slope requirements to increase the slope at the culvert, although it is not in PWD's comments.

Richard Hazen, 94 Wilson Hill Road, described how water flows through the culvert to the vernal pool and to a stream.

David Bower still questioned how much wetland the driveway goes over to get to the back of the lot. Chairman Best said there is no better solution. The applicant must comply with wetland regulations. David Bower wanted to look at other alternatives to preserve the wetland, but Chairman Best stated that the Planning Board cannot make an applicant follow an alternative plan. A wetland scientist already looked at the plan and had no objection. Brent Cole said the wetlands are flagged.

The applicant requests a waiver from the sidewalk requirement for the following reasons: The two parent lots that are being subdivided and adjusted front Wilson Hill Road, which the town classifies as a collector street. The minor subdivision includes three lots that are subdivided from the parent parcel. All front Upham Road, a non-collector street, and not Wilson Hill Road. The two existing lots that front Wilson Hill Road will retain their existing frontage and remain unaltered. Wilson Hill Road is rural and has no sidewalks. Existing development in this area is largely residential. A sidewalk is not needed to support this certain use. Constructing a small segment of sidewalk in accordance with regulations on a roadway that does not contain a sidewalk would result in the expenditure of significant funds while providing no significant benefit to the town.

Lynn Christensen cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 7.05(D)(19) – Sidewalks – of the Subdivision Regulations, on a motion made by Lynn Christensen and seconded by Paul McLaughlin.

Chairman Best and Alastair Millns wanted to hear from PWD in writing about the culvert, side slopes and the turn-around: Why choose a hammerhead rather than a cul-de-sac? Why replace the culvert in kind rather than improve it? Is there any flow today? Where does it go? Why not pave Upham Road? Does PWD approve waiving the slope requirement?

Chairman Best suggested that Planning Board members visit the site individually rather than schedule a formal site walk.

The Board voted 7-0-0 to continue this item to June 20, 2017, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Nelson Disco.

8. Discussion of 2013 Master Plan Implementation

Nelson Disco reviewed Master Plan items for which the Planning Board is to take the lead and suggested grouping them. Now that Town Council has approved having NRPC assist with preparing a bicycle/pedestrian master plan of the Route 3 traffic corridor, he recommended a scope of work to develop that plan with NRPC's help. He announced that the Plymouth State College student has graduated and is no longer available to help. Chairman Best warned against making many changes while NRPC does its study. He suggested informing NRPC that the Planning Board is glad of its work plan and that the Board confine itself to the action items listed in the Master Plan. Nelson Disco will inform NRPC that the Planning Board will act as a committee rather than create a separate subcommittee. Alastair Millns suggested the Board work next on natural resource preservation.

9. Discussion/possible action regarding other items of concern

- **Helen M. Meyers - Zoning Ordinance changes**

Helen Meyers, 9 Sunrise Drive, proposed an ordinance to adopt standards and regulations retroactively in relation to keeping chickens or livestock on one's property and its impact on neighbors. She has been unsuccessful in resolving a situation with her neighbor, who intentionally places chicken manure piles close to her property and interferes with her family's quality of life. The Public Health Department has no rules or standards for such a situation and was unable to help. Chairman Best explained that a retroactive ordinance is not possible under State law. Even if ordinances are changed, the neighbor would be grandfathered as a pre-existing non-conforming use. The State has statutory protections for agricultural uses. Many residents consider Merrimack to be a rural community and would oppose such an ordinance. Lynn Christensen said "no offense to neighbor" cannot be enforced and suggested designated areas and setbacks for agricultural buildings. Chairman Best stated that there is no way to enforce where an agricultural building is placed, even if setbacks exist. The Community Development

Department responds on a complaint basis only. It can say the chicken coop is too close to the property line. He and Alastair Millns suggested speaking to the Department or initiating legal action.

10. Approval of Minutes – May 2, 2017

The minutes of May 2, 2017, were approved, with one change, by a vote of 7-0-0, on a motion made by Desirea Falt and seconded by Lynn Christensen.

11. Adjourn

The meeting was adjourned at 10:53 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Paul McLaughlin.