



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

JULY 22, 2014

APPROVED MEETING MINUTES

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, July 22, 2014 at 7:30 p.m. in the Matthew Thornton Room.

Chairman Robert Best presided:

Members of the Board Present: Alastair Millns, Secretary
Lynn Christensen
Desirea Falt
Councilor Thomas Koenig

Members of the Board Absent: Stanley Bonislowski
Michael Redding
Nelson Disco, Alternate

Also in Attendance: Timothy Thompson, AICP, Director, Community Development
Greg Michaels, Esq., Bernstein-Shur

1. Call to Order

Chairman Best noted the next Bicycle & Pedestrian Sub-Committee meeting will be conducted on August 12, 2014 at 7:30 p.m. in the Memorial Conference Room. The next meeting of the Planning Board is scheduled for August 5, 2014 in the Matthew Thornton Room.

2. Planning & Zoning Administrator's Report - None

3. Edgebrook Heights, LLC. Wigston Properties, LLC and Q. Peter Nash 1987 Rev. Trust I (co-applicants/co-owners) - Continued Public Hearing for consideration 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. This item is continued from the March 18, 2014, May 20, 2014, and June 17, 2014 Planning Board meetings.

Chairman Best spoke of a communication received from the Applicant requesting the matter be continued until the August 19, 2014 meeting.

MOTION BY MEMBER MILLNS TO GRANT THE APPLICANT'S REQUEST TO CONTINUE THE ITEM TO AUGUST 19, 2014 AT 7:30 P.M. IN THE MATTHEW THORNTON ROOM OF THE TOWN HALL WITH NO FURTHER PUBLIC NOTIFICATION TO ABUTTERS
MOTION SECONDED BY MEMBER FALT

ON THE QUESTION

Member Christensen questioned whether there is a limit to the number of times a particular item can be postponed. Director Thompson responded the item is not a site plan subject to the 65-day clock under RSA 676:4, but rather a Conditional Use Permit (CUP), which is governed by the requirements of the Zoning Ordinance. There are no specific timeframes.

When asked if the Applicant would be ready for the August 19th meeting, Director Thompson stated the Applicant had been prepared to move forward; however, has opted not to at this time. That decision was reached earlier in the day. Member Christensen questioned if the expectation is the Applicant will be in attendance at the August 19th meeting. Director Thompson stated that to be his expectation. Chairman Best commented his recollection the last few times the Applicant was before the Board different issues have been discussed for and with them. Director Thompson stated his belief there has been only one postponement that was requested by the Applicant; the other continuances were at the direction of the Board.

MOTION CARRIED

5-0-0

- 4. Brighter Horizons Environmental Corp. and James E. Longa & Son, Inc. and James E. Longa Revocable Trust** - Review for consideration of a six-month extension to comply with conditions of an approval granted by the Planning Board on June 18, 2013 for a waiver of full site plan review for an application proposing partial reclamation of a sand and gravel pit located at 17 Twin Bridge Road in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 5D-1, Lot 010 and Tax Map 5D-4, Lot 074-01.

Director Thompson stated the project was granted conditional final approval on June 18, 2013. Due to the complexity of the project, one year was given to meet the conditions of approval. One of the conditions was a State permit from the New Hampshire Department of Environmental Services (NHDES). That permit was initially denied, and the appeal process is underway. The Applicant is requesting an additional 6 months, which would end January 22, 2015. Because the project has technically lapsed, a vote is required.

Greg Michaels, Esq., Bernstein-Shur, remarked the memo provided the Board by Jillian M. Harris, AICP, Planning & Zoning Administrator and remarks made by Director Thompson detail the situation. The Applicant has been working diligently to try and work through the issue of NHDES approval. It is hoped the issue can be resolved within the next 6 months. He requested the Board reinstate and extend.

Chairman Best questioned whether 6 months' time is sufficient to resolve a NHDES appeal. Attorney Michaels responded he is unsure, and there may be the need to come before the Board again. If necessary, they will come back before the Board before the end of the 6-month period. When asked, he stated the permit is for the allowance of the Applicant to bring the proposed materials on-site.

Public Comment - None

MOTION BY MEMBER MILLNS TO REINSTATE AND EXTEND CONDITIONAL FINAL APPROVAL TO JANUARY 22, 2015

MOTION SECONDED BY MEMBER CHRISTENSEN

MOTION CARRIED

5-0-0

- 5. John J. Flatley Company (applicant/owner)** – Review for acceptance and consideration of Final Approval of an application for a Conditional Use Permit to permit a future mixed use development consisting of industrial, multi-family residential, commercial, restaurant, and retail uses. Parcels are located at # 645, 673, 685, 703 and 707 D.W. Highway in the I-1 (Industrial), Aquifer Conservation and Wellhead Protection Districts. Tax Map 6E, Lots 003-01, 003-03, 003-04, 003-05 & 003-06.

Chairman Best noted a request from the Applicant that the item be continued until the Board's August 5, 2014 meeting as the plans have changed and the Applicant has changed design firms.

Director Thompson stated the plans are in, staff has begun review, and it is expected they will be ready for the initial Public Hearing on August 5, 2014. The Applicant understands there is a bit of flux with this particular project; a significant industrial user looking at the parcel to the rear of Saint-Gobain, which Flatley would be subdividing off for an approximately 1 million square foot potential user. That subdivision would then reduce the amount of area that is available for the remainder of the property for the mixed-use development, which impacts density and other requirements. Until that is finalized, the Board is not in the position to approve anything. However, the Applicant wishes to begin the discussion understanding the mixed-use CUP process can be complex.

Chairman Best asked if the parcel for the 1 million square foot use is subdivided, would there remain the 50 acres required for the CUP? Director Thompson stated there to be roughly a total of 150 acres. With the current estimate, there would remain over 90 acres for the CUP.

Councilor Koenig spoke of another warehouse that had been approved behind Saint-Gobain, and questioned whether that has to come back before the Planning Board. Director Thompson responded that will be part of the CUP request; Applicant is proposing to shift that to the north of the driveway. There will be a new site plan for that following the CUP. They are not abandoning that project, rather shifting it elsewhere on the property. Councilor Koenig questioned whether the property being on the other side of the driveway would cause a problem as far as the CUP, and was informed by Director Thompson it would not.

Member Christensen questioned if the property is subdivided, would it significantly change the discussion; specifically whether the discussion is preliminary and should be delayed. Director Thompson responded the Applicant understands the Board will not be able to make a decision initially, and multiple meetings will be required. He does not expect there to be any need to withdraw the formal application. It is his belief they could continue through the public hearing process on a formal application. There remain enough items within the CUP for the different uses, residential density, etc. for which Board guidance is needed before finalization.

MOTION BY MEMBER MILLNS TO GRANT THE APPLICANT'S REQUEST TO CONTINUE THE ITEM TO AUGUST 5, 2014 AT 7:30 P.M. IN THE MATTHEW THORNTON ROOM OF THE TOWN HALL WITH NO FURTHER PUBLIC NOTIFICATION TO ABUTTERS
MOTION SECONDED BY MEMBER FALT
MOTION CARRIED
5-0-0

6. Discussion/possible action regarding other items of concern.

Member Falt stated the Bicycle & Pedestrian Sub-Committee met the prior Tuesday, and went over the master plan for sidewalks. The Sub-Committee is working towards getting its arms around the entirety of the task that is to be developed. There are two immediate items that have been identified as priorities to be addressed by year end; master planning in the area outside of the Urban Compact along the D.W. Highway and ensuring appropriate use of funds paid in lieu of sidewalks.

Director Thompson noted Atrium Medical, 40 Continental Boulevard, is nearing their Certificate of Occupancy. The Town is in receipt of the check (\$35,000) for payment in lieu of sidewalk. Chairman Best noted the monies from the Dunkin Donuts project have already been transferred into the fund.

Councilor Koenig questioned if the effort is to determine whether those monies could be utilized in the town center region as opposed to the area of the projects from which the funds were generated. Chairman Best responded he is unaware if anyone has ever come to terms with that or could without legal advice. He recommended the Sub-Committee utilize the funds in the quadrant from which they were generated. Director Thompson stated staff's interpretation of the Statute regarding off-site exactions and impact fees of this nature to be they have to be utilized in the same vicinity as the project. He added a legal opinion will be sought at some point in time. Chairman Best suggested the funds could be utilized in the same area by extending the existing sidewalk that currently ends in the vicinity of 30 Continental Boulevard, by bringing it as close to the outlet mall as funding will allow.

7. Approval of Minutes – July 8, 2014.

MOTION BY MEMBER MILLNS TO APPROVE AS SUBMITTED
MOTION SECONDED BY MEMBER CHRISTENSEN
MOTION CARRIED
5-0-0

8. Adjourn

MOTION BY MEMBER CHRISTENSEN TO ADJOURN
MOTION SECONDED BY MEMBER MILLNS
MOTION CARRIED
5-0-0

The July 22, 2014 meeting of the Merrimack Planning Board was adjourned at 7:47 p.m.